

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: HB 739, First Eng.
 SPONSOR: Representative Kottkamp
 SUBJECT: Succession to the Office of Governor
 DATE: April 6, 2003 REVISED: 03/09/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends s. 14.055, F.S., to revise the public officials who would be in line for succession to the office of the Governor, if the office becomes vacant. The bill deletes the Comptroller, Treasurer, and Commissioner of Education, as persons who would succeed to the office of the Governor; keeps the Lieutenant Governor, the Attorney General, and the Secretary of State in the line of succession; and adds the Chief Financial Officer, the President of the Senate, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Speaker Pro Tempore of the House of Representatives in the line of succession. The bill also revises the procedures for a joint session of the Legislature, if a vacancy still exists.

In November 1998, the voters of Florida approved an amendment to Article IV, s. 4 of the State Constitution which substantially restructured the Cabinet by merging two cabinet offices, the Comptroller and the Treasurer, into the newly created Chief Financial Officer and eliminating the Secretary of State and Commissioner of Education from the Cabinet. As a result, the new state Cabinet consists of the Attorney General, Chief Financial Officer, and the Commissioner of Agriculture. These provisions were effective January 7, 2003.

This bill substantially amends section 14.055 of the Florida Statutes, and reenacts section 14.056 of the Florida Statutes.

II. Present Situation:

The Governor and the Cabinet

Article IV of the State Constitution establishes the executive branch of state government and provides that the “. . . supreme executive power shall be vested in a governor.” Nevertheless, the

State Constitution requires the Governor to share some executive powers with elected cabinet officers.

In addition to constitutional responsibilities, the Legislature has designated each cabinet member as a department head with statutory duties. Cabinet officers also share powers and duties when sitting as the Governor and Cabinet. When operating in this form, the Governor and Cabinet may constitute a department head or a board. This collegial form of state government is unique to Florida.

In November 1998, voters approved Constitutional Amendment No. 8 which restructured the Cabinet by reducing the number of offices from six to three members, effective January 7, 2003. This revision merged the Comptroller and Treasurer into the newly created Chief Financial Officer, and removed the Secretary of State and the Commissioner of Education from the Cabinet. The new Cabinet is composed of the Attorney General, Chief Financial Officer, and the Commissioner of Agriculture.¹ Article IV, s. 4 of the State Constitution further provides that in the event of a tie vote of the Governor and Cabinet, the side on which the Governor voted shall prevail.

Article XII, s. 24 of the State Constitution provides that "...in the event the Secretary of State is removed as a cabinet office in the 1998 general election, the term, "custodian of state records" will be substituted throughout the constitution and the duties previously performed by the Secretary of State will be provided by law." The Secretary of State was removed from the Cabinet due to Constitutional Amendment No. 8. The Secretary of State still serves as the head of the Department of State.² Due to the passage of Constitutional Amendment No. 8, the Commissioner of Education is no longer a Cabinet officer. Instead, the State Board of Education, comprised of members appointed by the Governor, appoints the Commissioner of Education.³

Succession to Office of Governor

The State Constitution provides that in the event of a vacancy in the Office of the Governor, the Lieutenant Governor would succeed the Governor.⁴ The statutes prescribe further succession to the Office of the Governor. Section 14.055, F.S., presently provides that upon a vacancy in the Office of the Governor, the following officers would fill that office in the following order:

- Lieutenant Governor
- Secretary of State
- Attorney General
- Comptroller
- Treasurer
- Commissioner of Education
- Commissioner of Agriculture
- If a vacancy still exists, then, the President of the Senate and the Speaker of the House of Representatives must convene the Legislature by joint proclamation within 15 days for

¹ Article IV, s. 4, State Constitution

² Section 20.10, F.S.

³ Article IX, s. 2, State Constitution

⁴ Article IV, s. 3, State Constitution

choosing a person, by a majority vote in a joint session of both houses, to serve as Governor for the remainder of the term.

Section 14.456, F.S. provides for succession to the office of Acting Governor, upon impeachment of the Governor and until completion of trial, or during the Governor's physical or mental incapacity. The law provides that the Attorney General shall become Acting Governor, but upon impeachment or physical or mental incapacity of an Acting Governor, or upon vacancy in the office of the person serving as Acting Governor, the powers and duties of Acting Governor "shall devolve upon the same officer as in the case of vacancy in the office of Governor." Thus, this section, in effect, cross-references the order of succession in s. 14.055, F.S. If succession as Acting Governor is not provided, the President of the Senate and the Speaker of the House must convene a joint session of the Legislature within 15 days for the purpose of choosing a person to serve as Acting Governor, by a majority vote in a joint session of both houses.

III. Effect of Proposed Changes:

Section 1 amends. s. 14.055, F.S., to revise the public officials who would be in line for succession to the office of the Governor, if the office becomes vacant. As amended, the order would be as follows:

- Lieutenant Governor
- Attorney General
- Chief Financial Officer
- Commissioner of Agriculture
- President of the Senate
- Speaker of the House of Representatives
- President Pro Tempore of the Senate
- Speaker Pro Tempore of the House of Representatives
- Secretary of State
- If a vacancy still exists, the presiding officers of the House of Representatives and the Senate must convene the Legislature by joint proclamation within 5 calendar days for choosing a person, by a majority vote of those present in a joint session of both houses, to serve as Governor for the remainder of the term

The above list of public officials includes the Secretary of State, who is no longer an elected official. It also includes four legislative officers who do not currently succeed to the office of the Governor, in the event of vacancy.

The bill also revises the procedures for the joint session of the Legislature to choose the person to serve as Governor for the remainder of the term. The bill provides that the "presiding officers" of the Senate and House shall convene the Legislature by joint proclamation, rather than referring to the President of the Senate and the Speaker of the House of Representatives. Also, the Legislature must be convened within 5 calendar days, rather than within 15 days. Further, the majority vote that is required is changed to a majority vote "of those present." The bill also specifies that the taking of the oath of office of Governor serves as a resignation from the office vacated in order to assume the office of Governor.

Section 2 reenacts s. 14.056, F.S., which provides for succession to the office of Acting Governor, upon impeachment of the Governor or due to mental or physical incapacity. The bill reenacts this section without change, to clearly incorporate by reference, the changes in s. 14.055, F.S.

Section 3 provides an effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1488 by the Banking and Insurance Committee makes various changes to the laws related to the Florida Cabinet in order to conform to the new membership of the Cabinet. As filed, SB 1488 amended s. 14.055, F.S., to revise the succession to the office of the Governor, in the event of vacancy, to delete references to the Comptroller and Treasurer, which offices no longer exist, and to delete references to Secretary of State and the Commissioner of Education, because such officials are no longer members of the Cabinet and are no longer elected. However, this section of the bill was deleted by a Senate floor amendment, in order to conform to the House

companion, HB 1627, which did not include this provision. On April 1, 2003, the Governor signed SB 1488 into law as ch. 2003-6, L.O.F. There is no Senate companion to HB 1627.

VIII. Amendments:

#1 by Banking and Insurance:

Amends. s. 14.055, F.S., to revise the public officials who would be in line for succession to the office of the Governor, if the office becomes vacant. As amended, the order would be as follows:

- Lieutenant Governor
- Attorney General
- Chief Financial Officer
- Commissioner of Agriculture
- Person chosen by joint session of the Legislature

The amendment differs from current law by deleting reference to the Treasurer and Comptroller and inserting Chief Financial Officer, to conform to the new constitutional office, and deletes reference to the Secretary of State and the Commissioner of Education because those officials are no longer elected members of the Cabinet.

The amendment differs from HB 739, by not providing for the following officers to be in line of succession: Speaker of the House of Representatives, President Pro Tempore of the Senate, Speaker Pro Tempore of the House of Representatives, and the Secretary of State. It further differs from HB 739 by not revising the current procedures for the joint session of the Legislature to choose the Governor if a vacancy still exists.

The amendment contains the same amendment to s. 14.055, F.S., as was contained in SB 1488 by Banking and Insurance, prior to that section being deleted by a floor amendment. The only difference is that this amendment to HB 739 maintains Section 2 of HB 739, which reenacts s. 14.056, F.S., without change, related to succession to the office of Acting Governor, to clearly incorporate by reference, the changes in s. 14.055, F.S. (WITH TITLE AMENDMENT)