

This bill creates an undesignated section of law.

II. Present Situation:

A. Organizational Structure of the Executive Branch of State Government

Chapter 20, F.S., provides for the organizational structure of the executive branch of government. The chapter reiterates the doctrine of the separation of powers within state government among the legislative, executive, and judicial branches of government.¹ Section 20.02, F.S., states:

. . . The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

A state agency, such as a department, is a creature of statute and, as such, it has only those rights and privileges given to it by the Legislature in statute.² A department is created in the executive branch and, therefore, is subject to the administrative control of an executive officer who is appointed by, and serves at the pleasure of, the Governor or a Cabinet officer. Nevertheless, the powers and duties which the department is authorized to execute are delegated by the Legislature:

An agency has only such power as expressly or by necessary implication is granted by legislative enactment. An agency may not increase its own jurisdiction and, as a creature of statute, has no common law jurisdiction or inherent power such as might reside in, for example, a court of general jurisdiction. When acting outside the scope of its delegated authority, an agency acts illegally and is subject to the jurisdiction of the courts when necessary to prevent encroachment on the rights individuals.³

Section 20.02, F.S., requires agencies that compose the executive branch to be consolidated into no more than 25 departments, exclusive of those specifically provided for or authorized in the State Constitution. The agencies in the executive branch should be integrated into one of the departments of the executive branch to achieve maximum efficiency and effectiveness.⁴

¹ Article II, s. 3 of the State Constitution provides: "The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein."

² *Seaside Properties, Inc., v. State Road Department*, 190 So.2d 391 (3rd DCA 1966).

³ *Lee v. Division of Florida Land Sales and Condominiums*, 474 So.2d 282 (5th DCA 1985).

⁴ Article IV, s. 6 of the State Constitution states: All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by serving at the pleasure of the governor, except: (a) when provided by law, confirmation by the senate or the approval of three members of the cabinet shall be required for appointment to or removal from any designated statutory

Section 20.04, F.S., provides the structure of the executive branch of state government. The department is the principal administrative unit of the executive branch.⁵ The principal unit of the department is the division, which may be further subdivided into bureaus.⁶ A bureau may be further divided into “sections” and “subsections.” Section 20.04, F.S., specifically authorizes departments to combine these various office subdivisions for field operations.

Section 20.04(3), F.S., specifically exempts the Department of Financial Services, the Department of Children and Family Services, the Department of Corrections, the Department of Management Services, the Department of Revenue, and the Department of Transportation from the standard organizational structure for executive branch departments that is established in that subsection.

Subsection 20.04(7)(a), F.S., explicitly forbids department heads from reallocating duties and functions specifically assigned by law to a specific unit of a department, unless otherwise authorized by law. Functions or agencies assigned generally to a department without specific designation to a unit of a department may be allocated and reallocated to a unit at the discretion of the agency head.

Further, an agency head is authorized to recommend the establishment of additional divisions, bureaus, sections, and subsections, within the limitations of the organizational structure provided in ch. 20, F.S., to promote efficient and effective operation of a department.

Section 20.04(7), F.S., permits new bureaus, sections, and subsections to be initiated by a department and established as recommended by the Department of Management Services and approved by the Executive Office of the Governor or as established by specific statutory enactment. The subsection explicitly limits initiation of new divisions and sub-units for the Department of Children and Family Services, the Department of Corrections, and the Department of Transportation except by specific statutory enactment.

Chapter 20, F.S., also contains definitions for executive branch entities that are not departments. For example, definitions are provided for “council,” “committee,” “commission” and “board of trustees.” A “commission” is defined as

“ . . . a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and *exercising limited quasi-legislative or quasi-judicial powers, or both, independently* of the head of the department or the Governor [*emphasis added*].”

A “board of trustees” is defined as

“ . . . a board created by specific statutory enactment and appointed to function adjunctively to a department, the Governor, or the Executive Office of the Governor to administer public property or a public program.”

office; (b) boards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate departments and their members appointed for fixed terms, subject to removal only for cause.

⁵ Section 20.04(1), F.S.

⁶ Section 20.04(3), F.S.

B. Advisory Bodies, Commissions, and Boards.

Section 20.052, F.S., establishes some parameters for the creation of advisory bodies, commissions and boards.⁷ That section requires that such an entity:

- < May be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.
- < It must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose.
- < The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies, commissions, boards of trustees, and other collegial bodies established as adjuncts to executive agencies.

Section 20.052(4), F.S., states that an advisory body, commission, board of trustees, and other collegial body may not be created or reestablished unless:

- < It meets a statutorily defined purpose.
- < Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.
- < Its members, unless expressly provided in the State Constitution, are appointed for 4-year staggered terms; and
- < Its members, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

Section 20.052(5), F.S., also requires that private citizen members of a commission or board of trustees that is adjunct to an executive agency must be appointed by the Governor unless otherwise provided by law, must be confirmed by the Senate, and must be subject to the dual-office holding prohibition provision of Art. II, of the State Constitution.

Section 20.052(5)(c), F.S., provides that unless an exemption is otherwise specifically provided by law, all meetings of these types of bodies are public meetings under s. 286.011, F.S., and that minutes, including a record of all votes cast, must be maintained for all meetings.

If such an entity is abolished, its records must be appropriately stored within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The entity is expressly prohibited from performing any activities after the effective date of its abolition. The section does not, however,

⁷ This provision is not, however, binding on the Legislature. As the Florida Supreme Court has ruled in a series of cases, the most recent of which is *Neu v. Miami Herald Publishing Company*, 462 So.2d 821 (Fla. 1985), one legislative body cannot bind a future Legislature to an obligation. In *Neu*, a case addressing the Public Meetings Law, the court stated “A legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law.” *See, Neu v. Miami Herald Publishing Company*, 462 So.2d 821, 824 (Fla. 1985). In an earlier case reviewing a challenge to establishment of geographic municipal boundaries, the court stated that, “[t]he Legislature cannot prohibit a future Legislature by proper enactment changing boundaries which it [the earlier Legislature] established” *Kirklands v. Town of Bradley*, 139 So. 144, 145 (Fla. 1932).

affect the right to institute or prosecute any cause of action by or against an abolished entity if the cause of action accrued before the date it was abolished. Any cause of action pending on the date the entity is abolished or instituted thereafter must be prosecuted or defended in the name of the state by the Department of Legal Affairs.

C. The Sunrise Act

Section 11.62, F.S., establishes the Sunrise Act. Subsection (2) of the act states:

It is the intent of the Legislature:

- (a) That no profession or occupation be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and
- (b) That no profession or occupation be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

Subsection (3) of the act requires the Legislature to take into consideration specific factors when considering whether to regulate a profession:

- < Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- < Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- < Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- < Whether the public is or can be effectively protected by other means; and
- < Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Section 11.62, F.S., requires the proponents of legislation that provides for the regulation of a profession or occupation not already expressly subject to state regulation to provide upon request the following information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred:

- < The number of individuals or businesses that would be subject to the regulation;
- < The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
- < Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any

- complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding 3 years;
- < A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
 - < A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
 - < A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
 - < A copy of any federal legislation mandating regulation;
 - < An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
 - < The cost, availability, and appropriateness of training and examination requirements;
 - < The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
 - < The details of any previous efforts in this state to implement regulation of the profession or occupation; and
 - < Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

The section also requires provision of information concerning the effect of the regulation regarding:

- < The departmental resources necessary to implement and enforce the proposed regulation;
- < The technical sufficiency of the proposal for regulation, including its consistency with the regulation of other professions and occupations under existing law;
- < Any alternatives to the proposed regulation which may result in a less restrictive or more cost-effective regulatory scheme.

Finally, the section provides that when a legislative committee makes a recommendation concerning proposed legislation providing for new regulation of a profession or occupation, the committee must determine:

- < Whether the regulation is justified based on the criteria specified by the section.
- < Whether it is the least restrictive and most cost-effective regulatory scheme that will adequately protect the public; and
- < The technical sufficiency of the proposed legislation, including its consistency with the regulation of other professions and occupations under existing law.

The 1999 Legislature transferred the Division of Blind Services from the Department of Labor and Employment Security to the Department of Education. Section 39, ch. 99-240, L.O.F. The transfer was effective January 1, 2002.

The Division of Blind Services is charged with the following powers and duties:

- Recommend personnel to implement its assigned duties;
- Compile a state registry of the blind describing the condition, cause, and capacity for education and industrial training;
- Inquire into the cause of blindness, establish preventive measures, and provide for the examination and treatment of the blind, or those threatened with blindness;
- Assist the blind in finding employment and in establishing self-employment enterprises with the assistance of federal funds;
- Establish training schools and workshops for the employment of blind persons;
- Provide special services and benefits for the blind for developing social life through community activities and recreational activities;
- Undertake any other action to assist blind citizens;
- Cooperate with other agencies to provide library service to the blind in conjunction with the Library of Congress and other entities;
- Recommend contracts and agreements;
- Receive funds or properties by gift or bequest;
- Prepare and make available to the blind, in Braille and on electronic recording equipment, applicable provisions in the Florida Statutes relating to blind services; and
- Adopt rules for the general administration of the division.

The division administers six programs: (1) Vocational Rehabilitation for the Blind, (2) Independent Living for the Adult Blind, (3) Braille and Talking Books Library, (4) Business Enterprises, (5) Early Intervention, a children's program, and (6) the Blind Babies Program. The programs are funded through a combination of state and federal dollars, usually on a matching basis.

Within the division an Advisory Council for the Blind assists the division in the planning and development of statewide rehabilitation programs and services, recommends improvements to the programs, and performs the following duties:

- Review, analyze, and advise the division regarding its responsibilities under Title I of the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797, particularly eligibility, effectiveness of the services provided, and functions performed by state agencies that affect the ability of blind individuals to achieve rehabilitation goals;
- Advise the Department of Education and the division, and as requested by the department or the division, assist in the preparation of applications, the state plan, the strategic plan, and amendments to the plans, reports, needs assessments, and evaluations required by Title I of the Rehabilitation Act of 1973;
- Conduct a review and analysis of the effectiveness and consumer satisfaction with the functions performed by state agencies in delivering services to blind individuals and certain vocational rehabilitation services;
- Prepare and submit an annual report on the status of vocational rehabilitation services for the blind;
- Coordinate with other councils within the state;
- Coordinate and establish working relationships among the department, the division, the Independent Living Council, and centers for independent living in the state;
- Perform any other function consistent with its mission;

- Prepare, in conjunction with the division, a plan for the provision of services, including staff and other personnel with disagreements resolved by the Governor;
- Supervise and evaluate staff and other personnel; and
- Meet at least four times a year.

The Governor appoints all members to the Advisory Council for the Blind with representatives of the various interest groups as provided in s. 413.011, F.S. Members are appointed to serve 3-year terms.

For fiscal year 2002-2003, the Division of Blind Services has 306 authorized positions with an operating budget of approximately \$38 million. The division's capital outlay budget for fiscal year 2002-2003 is approximately \$1.7 million.

III. Effect of Proposed Changes:

A. The Florida Council on Deafness

The bill creates the Florida Council on Deafness (council). The council is assigned to the Department of Education (DOE) for administrative purposes. The council, however, is independent of the DOE.

The council consists of 9 members appointed by the Governor and confirmed by the Senate. The Governor is to make his appointments after consulting with statewide not-for-profit professional organizations that represent deaf, hard-of-hearing, and late-deafened individuals. Appointments are to be made by July 1, 2003.

Terms will be 4 years long, though not all initial appointments will be for a full 4-year term in order to provide for staggered membership. Five of the initial appointees must be appointed to a 2-year term and 4 members will be appointed to a 4-year term. Vacancies are to be filled in the same manner as the original appointment. Council members may be reimbursed for per diem and travel expenses pursuant to s. 112.061, F.S.

The first council meeting is to be held by August 1, 2003. The council is required to meet at least once a quarter. All meetings are subject to the call of the chair. The chair is elected by a majority vote of the members for a 1-year term. The DOE is to assign staff to assist the council in the performance of its duties.

The council is an advisory and coordinating body that is to recommend policies that address the needs of deaf, hard-of-hearing, and late-deafened individuals and to recommend methods to improve coordination of services. The council is authorized to provide technical assistance, advocacy, and education. The council is to:

- < Provide information and assistance to the Legislature.
- < Provide technical assistance to other state agencies.
- < Provide information and referral services.
- < Promote public and individual advocacy for deaf, hard-of-hearing, and late-deafened citizens.

- < Conduct public hearings as needed.

The council is required to prepare a report that is to be filed with the Governor, the Legislature and the court system by January 1, 2004. The report is to include:

- < A review of state agencies to determine if they are in compliance with accessibility standards as they relate to services for deaf, hard-of-hearing, and late-deafened individuals.
- < A review of federal and state statutes, rules and regulations that establish requirements that agencies must comply with, including, but not limited to, equipment and communication accessibility standards in the provision of services to deaf, hard-of-hearing, and late-deafened individuals.
- < A comparison of licensure and accreditation requirements for sign-language interpreters, oral interpreters, and entities providing services, both directly and indirectly to individuals with hearing loss among the ten most populous states.
- < Recommendations for standards for and licensure of sign-language interpreters and providers of Computer-Aided Real-time Translation services (CART) and other service provider accreditation standards.

The council is authorized to:

- < Secure assistance from all state departments and agencies in order to avail itself of expertise at minimal cost.
- < Obtain information and assistance from the state or any political subdivision, municipal corporation, public officer, or governmental department or agency thereof.
- < Apply for and accept funds, grants, gifts, and services from local or state government or the Federal Government, or from any of their agencies, or any other public or private source and may use funds derived from those sources to for the purposes authorized by the section.

All executive branch state agencies are instructed, and all other state agencies are requested to assist the council in the accomplishment of its purposes.

B. The Florida Commission for the Blind

This committee substitute creates the Florida Commission for the Blind within the Department of Education. Section 20.03(10), F.S., defines a "commission," unless otherwise required by the State Constitution, as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Officer of the Governor. In addition, the body exercises limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

The commission is independent of the department but serves as the agency head of the Division of Blind Services within the department. The division is a separate budget entity. The department is required to provide administrative support and services to the commission and to the division when requested by the commission or the executive director of the commission. However, the division is not subject to control, supervision, or direction by the department in any matter

including personnel, purchasing, transactions involving real or personal property, and budgetary matters.

The commission is the designated state agency and the division is the designated state unit in accordance with the Rehabilitation Act of 1973, as amended.

The commission consists of nine members appointed by the Governor with confirmation by the Senate. A majority of the commission members must be blind. The Governor is directed to consult with recognized consumer groups of people who are blind to obtain recommendations for appointees. Each member must be qualified to serve based on his or her knowledge and experience in rehabilitation and related services for the blind. Members are appointed to serve staggered 3-year terms, with the exception of initial appointees. Three of the initial appointees shall serve 3-year terms, three of the initial appointees shall serve 2-year terms, and three of the initial appointees shall serve 1-year terms. The initial appointments shall be made by July 15, 2003.

A member of the commission may only be removed for cause. Members may not be employed by the division while serving on the commission, receive compensation for services on the commission, or receive financial benefit from any commission contracts. Members may be reimbursed for travel expenses and per diem as provided in s. 112.061, F.S.

The first meeting of the commission must take place by August 1, 2003. A majority of the members constitutes a quorum. The commission shall select a chair to serve for one year. Meetings of the commission are quarterly, upon the call of the chair, at the call of the majority of the commission, or at such other times as the commission designates.

The commission is subject to the public disclosure requirements of s. 24, Art. I of the State Constitution; ch. 119, F.S.; and s. 286.011, F.S.

The commission shall appoint an executive director, who serves at the pleasure of the commission, to serve as the chief administrative officer of the division. The executive director hires personnel and all division employees report to the executive director. The reorganization does not modify the status of current employees under chs. 110 and 121, F.S. All employees and applicants must undergo, at commission expense, a level one criminal background check as provided in ch. 435, F.S.

The purpose of the commission is amended to require establishing a coordinated program that maximizes employment opportunities for the blind and increases their independence.

The division is no longer required to maintain a register of the blind in the state, which described the condition, cause, and capacity for retraining for each blind individual.

The commission shall adopt rules for administering the programs of the commission.

The division is charged with the following responsibilities:

- Developing and implementing, in conjunction with the Florida Independent Living Council, a 3-year state plan for independent living services, independent living services for the blind and visually impaired individuals, and services for the blind elderly, pursuant to Title VII, chapter 2 of the Rehabilitation Act of 1973, as amended;
- Developing and implementing a state plan for vocational rehabilitation services for individuals who are blind, pursuant to section 101 of the Rehabilitation Act of 1973, as amended;
- Providing services that contribute to the maintenance of or the increased independence of the blind elderly;
- Establishing, equipping, and maintaining an orientation and adjustment center or centers to provide independent living skills training and other training including instruction in Braille, use of the long white cane for independent travel, homemaking and home-management skills, communication skills, and use of computer technology to prepare blind or visually impaired individuals for eventual vocational training, job placement, and independence;
- Establishing and implementing a small business enterprises program and serving as the state licensing agency for individuals who are blind, pursuant to the Randolph-Sheppard Act;
- Purchasing and distributing specialized equipment, devices, and technology, including low-vision aids, obtained directly from specialty vendors without using state centralized purchasing procedures. Property purchased by a state agency for the purpose of making accommodations for individuals who are blind is not subject to the record and inventory requirements of s. 273.02, F.S. A state agency may use funds from all possible sources to make accommodations for blind individuals;
- Providing, in cooperation with the Library of Congress, library services to persons who are blind and persons who have physical disabilities;
- Providing, in cooperation with other appropriate agencies, to employers, the state education agency, and local education agencies technical assistance in the provision of auxiliary aids and services to blind people, students, and their parents in compliance with the Americans with Disabilities Act and the Individuals with Disabilities Education Act, as amended;
- Participating, through the designation of the executive director or an appropriate staff member of the commission, on boards, commissions, or bodies in this state for the purpose of coordinating and planning services;
- Conducting a review of consumer satisfaction with programs of the commission and performing other functions of the statewide rehabilitation council specified in section 105(c) of the Rehabilitation Act of 1973, as amended;
- Applying for and receiving money from any state or federal agency to support the programs of the commission;
- Providing technical assistance to agencies within the state in order to assure that information technology purchased or used by such agencies is accessible and usable by blind individuals at the time the technology is purchased or used; and
- Developing and administering any other program that will further the provision of services to blind people and that the commission determines falls within its scope of responsibility.

A children's program is created within the division to serve blind children from five years of age through transition to the Vocational Rehabilitation Program. The program must supplement services offered by the school system to foster the child's learning and ability to function independently. The child's parents, guardian, and family members should be an integral part of the program in order to foster independence.

The division is directed to provide vocational rehabilitation services and independent living services to blind individuals in this state, pursuant to the Rehabilitation Act of 1973, as amended.

The commission is directed to publish an annual report that includes a list of accomplishments, findings, and recommendations for improvements based on the commission's performance during the year. The report must contain information needed to evaluate the progress of the commission in meeting the needs of blind individuals in the state.

An optional alternative dispute resolution procedure is established in which an applicant or recipient of services from the commission who is dissatisfied with an action by the commission may file a complaint. Upon receipt of the complaint, the executive director is required to notify the petitioner of a voluntary mediation procedure conducted by a qualified and impartial mediator. The cost of the mediation would be borne by the commission. If the complaint is not settled, the executive director, through a designee, notifies the petitioner of his or her rights for appeal under state and federal law. The commission must adopt rules to implement this procedure.

The division is required to issue identification cards to persons known to be blind or partially sighted, upon the written request of the individuals. The issuance was previously permissive.

A new budget procedure for the commission is established. The executive director of the commission recommends to the commission a budget. The commission submits an approved legislative budget request using the format and procedures of the Department of Education. The Commissioner of Education shall include the commission in the department's legislative budget request to the State Board of Education, the Governor, and the Legislature. Neither the Commissioner nor the State Board of Education may modify the budget request. The budget request and the appropriation for the commission must be a separate identifiable sum in the department's budget. Distribution of the annual appropriation to the commission must be in monthly payments that are nearly equal as possible. Appropriations for client services, instructional technology, and motor vehicles may be released and distributed as necessary to serve the instructional program for the clients. Fixed capital outlay needs of the commission must be requested in the public education capital outlay budget request of the department.

The commission is afforded management flexibility by exempting the commission from the requirements of targeted budget requests under s. 216.031, F.S., the amendatory process for budget requests under s. 216.181, F.S., authorized positions under s. 216.262, F.S., and salary rates under s. 216.251, F.S. The division may receive its appropriations within budget entities, program components, program categories, lump sums, or special categories. Funds may be transferred to traditional categories for expenditure by the commission.

The division retains title to any real or personal property acquired for use by people who have visual impairments or personnel employed in the operating programs of the commission. Any funds that the division receives from the sale of surplus property must be deposited in the Grants and Donations Trust Fund, are exempt from the State Treasury, and may be used for any purpose consistent with ss. 413.011-413.092, F.S. The commission retains exclusive rulemaking authority relating to records for property owned by the commission.

The commission may create a blind services direct-support organization. The direct-support organization is a not-for-profit corporation incorporated under ch. 617, F.S., organized and operated to conduct programs and activities; request and receive grants, gifts, and bequests, raise money; administer and hold in its own name, securities, funds, objects of value, or other property; and make expenditures for the benefit of the state and for blind residents. The seven member board of directors shall be initially appointed by the Governor. Two members shall be appointed to serve 2-year terms, three members shall be appointed to serve 3-year terms, and two members shall be appointed to serve 4-year terms. Subsequent boards shall be appointed as provided in the by-laws. The members of the commission would sit as the board of directors of the direct-support organization. The chair of the commission serves as an ex officio member of the board of directors. The direct-support organization is subject to the public disclosure requirements of s. 24, Art. I of the State Constitution; ch. 119, F.S.; and s. 286.011, F.S.

The direct-support organization is required to maintain all donations and direct service expenditures outside the State Treasury. Administrative costs of operating the direct-support organization must be paid by private funds. The purposes of the direct-support organization must be consistent with the priority objectives of the department and be in the best interests of the state. The division may authorize the appropriate use of the property and facilities of the state by the direct-support organization. Funds designated for the direct-support organization must be used for programs and projects of the division. All moneys received by the direct-support organization must be deposited in its own account and be used to further its purpose. The direct-support organization must comply with the audit requirements of s. 215.981, F.S. The executive director of the division may designate employees of the division to solicit donations to fund the authorized purposes of the direct-support organization. Upon dissolution of the direct-support organization, all properties revert to the commission.

Conforming changes are made in law to maintain current division and commission authority. In particular, the division may disclose confidential and exempt records to the commission, but the commission shall maintain the confidential and exempt status of such records.

The licensing procedure for the division that otherwise prohibits the solicitation of funds or anything of value by any means for the use and benefit of blind persons is repealed. These individuals and entities are already licensed by the Department of State.

The Advisory Council for the Blind within the Division of Blind Services is repealed.

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:

Unknown.

C. Government Sector Impact:

The cost to the government sector is unknown. However, there will be costs associated with council meetings, travel and per diem costs for the council members. Staff for council meetings is to be provided by the DOE; these costs are unknown.

The committee substitute would essentially eliminate Department of Education authority over blind services in the state and provide that the commission shall govern the Division of Blind Services. There may be cost savings associated with commission governance. In particular, the reduction in the size of the Advisory Council for the Blind from 18 individuals to a more manageable nine members would reduce the cost of conducting meetings alone. The elimination of bureaucratic approval of purchasing and personnel may provide additional savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
