

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 1178

INTRODUCER: Policy and Steering Committee on Ways and Means and Senator Haridopolos

SUBJECT: Cost and Benefit Analysis of Legislation

DATE: March 10, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johansen	McKee	FT	Favorable
2.	Johansen	Coburn	WPSC	Fav/CS
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Chapter 216, Florida Statutes, the planning and budgeting law, provides guidelines to the Governor, the judicial branch and state agencies for developing and submitting legislative budget requests and administering legislative appropriations. Sections 216.133-137, F.S., provide for a consensus estimating conference process with 10 distinct consensus estimating conferences.

There are separate conferences responsible for economic, demographic and revenue forecasts, plus additional conferences focused on specific budgetary and program areas. These conferences develop official estimates of revenues, workload, expenditures, and other information related to budgeting. Executive agencies and the judicial branch are required to use official information developed by the conferences for planning and budgeting purposes. The principals of the conferences are professional staff of the Executive Office of the Governor and of the Legislature.

Paragraph (d) of subsection 216.137(1), F.S., provides for special impact sessions of consensus estimating conferences to develop estimates of the impacts of proposed changes to laws affecting revenues or budgetary programs. Subsection 216.136(3), F.S., charges the Revenue Estimating Conference (REC) with developing information related to state and local government revenues.

The CS for SB 1178 creates section 216.138, F.S., and allows the Speaker of the House or the Senate President to request that special impact sessions of consensus estimating conferences evaluate proposed legislation using dynamic scoring, return on investment or cost-benefit techniques, as appropriate. The Office of Economic and Demographic Research is tasked with recommending protocols and procedures which, upon approval by the Speaker and the President, will govern the application of the specified techniques when requested by the Speaker or the President.

II. Present Situation:

Chapter 216, Florida Statutes, the planning and budgeting law, provides guidelines to the Governor, the judicial branch and state agencies for developing and submitting legislative budget requests and administering legislative appropriations. Sections 216.133-137, F.S., provide for a consensus estimating conference process. Section 216.133 provides definitions applicable to the statutory sections governing consensus estimating conferences,

Section 216.136, F.S., establishes 10 consensus estimating conferences:

- (1) Economic Estimating Conference
- (2) Demographic Estimating Conference
- (3) Revenue Estimating Conference
- (4) Education Estimating Conference
- (5) Criminal Justice Estimating Conference
- (6) Social Services Estimating Conference
- (7) Workforce Estimating Conference
- (8) Early Learning Programs Estimating Conference
- (9) Self-Insurance Estimating Conference
- (10) Florida Retirement System Actuarial Assumptions Estimating Conference

These conferences develop official estimates of revenues, workload, expenditures, and other information related to planning and budgeting. The principals of the conferences include professional staff of the Executive Office of the Governor and of the Legislature.

Conference principals can convene conferences and are generally responsible for developing and choosing the forecasts. Participants may be requested to provide alternative forecasts and to generate supporting information. All conferences are open, public meetings. Consensus estimating conferences are deemed to be within the legislative branch.

Under Florida's consensus process, every forecast or estimate is adopted by unanimous agreement of the conference principals. (Subsection 216.133(3), F.S., defines "consensus" as "the unanimous consent of all of the principals.") The consensus process, in effect, gives each principal a veto over adopting any specific forecast or estimate.

All state agencies and the judicial branch must use the official results of the conference in carrying out their duties under the state planning and budgeting system; however, the Legislature is not bound to use the official consensus forecasts. Nevertheless, since the early 1970's, the Florida Legislature has consistently used the results of these conferences in its official duties.

Conference principals generally meet in a series of regularly scheduled estimating conferences to provide the forecasts needed to support the planning and budgeting process. Special impact conferences are held when estimates are needed to determine the impact of changes or proposed changes to current law or current administration.

The forecasts agreed to by consensus estimating conferences constitute “official information.” Subsection 216.134(1), F.S., provides that conference estimates be based on the assumption that current law and current administration remain in effect for the duration of the forecast period unless otherwise provided by law. Beyond the current law/current administration requirement, Chapter 216 does not generally specify the official information to be developed by any particular conference nor does it specify the techniques each conference must utilize to produce estimates and generate forecasts. Rather, subsection 216.134(1), F.S., states: “Each consensus estimating conference shall develop such official information within its area of responsibility as the conference determines, by consensus, is needed for purposes of the state planning and budgeting system.” This broad directive has allowed the consensus estimating conference process to adapt to needs of the planning and budgeting process as events warrant.

Section 213.053(2), F.S., declares all information contained in tax returns, reports, accounts, or declarations received by the Department of Revenue to be confidential, except for official purposes, and to be exempt from s. 119.07(1), F.S.

Section 213.053(8)(g), F.S., permits the executive director of the Department of Revenue to enter into a written agreement to disclose tax information to the principals, and their designees, of the Revenue Estimating Conference for the purpose of developing official revenue estimates. The principals and their designees are bound by the same confidentiality requirements as the Department of Revenue. A breach of confidentiality is a first degree misdemeanor.

III. Effect of Proposed Changes:

Section 1 creates section 216.138, F.S., to provide that, upon request of the Speaker of the House or the President of the Senate, special impact sessions of consensus estimating conferences will evaluate proposed legislation using specified tools, including dynamic scoring, return on investment or cost-benefit techniques, as appropriate. Information used to develop the analysis must be made available to the public, unless the information is confidential taxpayer information provided to the conference and exempt from s. 119.07(1), F.S.

Section 2 directs the Legislative Office of Economic and Demographic Research (EDR) to develop, by December 1, 2010, protocols and procedures specifying how consensus estimating conferences will implement the new approaches set forth in Section 1 of the bill. The “protocols and procedures” must establish the appropriate economic techniques to be used, reporting formats, linkages to appropriations and revenue forecasting processes, and any statutory changes needed. The “linkages” to appropriations and revenue forecasting processes must be consistent with Florida’s constitutional requirement to maintain a balanced budget. After EDR’s recommended protocols and procedures are approved by the President of the Senate and the Speaker of the House, they will be followed by the conferences for analyses undertaken pursuant to section 216.138, F.S., created in Section 1 of the bill.

Section 3 amends s. 216.133, F.S., to include a cross reference to the newly created s. 216.138, F.S., for purposes of the definitions applicable to the consensus estimating process.

Section 4 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislative Office of Economic and Demographic Research (EDR) estimates that it will need two FTEs and an appropriation of approximately \$502,000 in FY 2010-11 to comply with the legislation as written. The appropriation will support the development of Florida-specific economic models to be used by consensus estimating conferences when evaluating proposed legislation using the dynamic scoring, return on investment and cost-benefit techniques called for in the legislation.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Policy and Steering Committee on Ways and Means on March 10, 2020:

- Expands the range of alternative techniques that, upon request by the Speaker of the House of Representatives or the President of the Senate, special impact sessions of consensus estimating conferences will use to include dynamic scoring and return on investment.
- Deletes the requirement that requests for the alternative evaluation of proposed legislation by special impact sessions must be made no later than 90 days prior to, and completed before, the start of a legislative session.
- Excludes confidential taxpayer information from the requirement to provide all information to the public that was used to develop an analysis pursuant to this legislation.
- Makes all consensus estimating conferences subject to the request for the alternative evaluation rather than solely the Revenue Estimating Conference.
- Revises the directive to the Office of Economic and Demographic Research to develop protocols and procedures for implementation to be consistent with the other changes in the bill.
- Delays reporting of implementation recommendations to the Speaker and the President from October 1, 2010 to December 1, 2010. Amends s. 216.133, F.S., to provide that definitions applicable to consensus estimating conferences will also apply to s. 216.138, F.S., created in the bill.

- B. **Amendments:**

None.