

HB 3-E — Governmental Reorganization (Chief Financial Officer)

by Reps. Alexander, Flanagan, Brummer, and others (CS/SB's 42-E & 26-E by Banking and Insurance Committee and Senators Latvala, Geller, and Campbell)

CFO/Cabinet Reorganization Issues

This bill is in response to the amendment to the State Constitution approved by the voters in 1998 that merges two Cabinet positions, the Comptroller and the Treasurer, into one Chief Financial Officer (CFO), effective January 7, 2003. As a result of these modifications, the new state Cabinet will consist of the CFO, the Attorney General, and the Commissioner of Agriculture.

The constitutional amendment provides that the CFO serves as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities. In addition to the constitutional duties of the Comptroller, the Legislature had designated the Comptroller as head of the Department of Banking and Finance and had designated the Treasurer as head of the Department of Insurance, as well as State Fire Marshal. Therefore, the status of these departments must be determined legislatively, which this bill addresses. The bill:

- Creates a Department of Financial Services headed by the Chief Financial Officer, consisting of the following divisions:
 - Accounting and Auditing (which includes unclaimed property)
 - State Fire Marshal
 - Risk Management
 - Treasury (which includes State Employee Deferred Compensation)
 - Insurance Fraud
 - Insurance Agents and Agencies Services
 - Consumer Services (which includes Funeral and Cemetery Services)
 - Workers' Compensation
 - Administration
 - Legal Services
 - Information Systems
 - Insurance Consumer Advocate

- Creates the Financial Services Commission as an independent agency housed within the department. The Commission consists of the Governor and Cabinet. Three votes are required for any commission action.
 - Two "Offices" are created under the commission: the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation.

- The Office of Insurance Regulation is responsible for regulation of insurance companies and other risk bearing entities, including licensing, rates, policy forms, solvency, claims, adjusters, market conduct, viatical settlements, and premium financing, and administrative supervision of insurers, as provided under the Insurance Code or Chapter 636.
- The Office of Financial Institutions and Securities Regulation is responsible for banks, credit unions, other financial institutions, finance companies, and the securities industry.
- The Director of each Office is appointed by, and serves at the pleasure of, the commission, with a requirement that both the Governor and the CFO must concur in appointment and removal.
- Qualifications of directors: 5 years' relevant public sector or private sector experience.
- The Governor and Cabinet, sitting as the Financial Services Commission, sets policy through rulemaking and oversight, and the appointed Directors are responsible for final agency action under the Administrative Procedure Act in individual cases.
- A Transition Committee is created to oversee the transition and make recommendations. Committee consists of appointees of the Comptroller, Treasurer, Governor, and House and Senate fiscal chairs.
- Legislative staff are required to prepare a bill to conform the statutes to the policy decisions reflected in the bill. These policy decisions include legislative intent that the CFO will make appointments to the Citizens Property Insurance Corp. as provided in CS/SB 1418 as enacted in 2002, and that until June 1, 2003, the appointment powers of the Comptroller, Treasurer, Insurance Commissioner, and Fire Marshal will become powers of the CFO.

Other issues

- Creates the Firefighter Occupational Health and Safety Act, which authorizes the Division of State Fire Marshal (under the new Department of Financial Services headed by the CFO) to adopt rules regarding firefighter workplace safety applicable to cities and counties and other firefighter employers, and related requirements for such employers to provide a safe place of employment (as contained in CS/SB 1408, by Banking and Insurance Committee and Senators Posey and Smith, considered during the Regular Session).
- Provides that when the Commissioner of Agriculture declares an agricultural emergency, no county or municipal ordinance relating to any action intended to end the emergency shall be enforced.

- Clarifies the medical-related duties and positions that were assigned to the Agency for Health Care Administration as part of the Department of Labor and Employment Security transfer bill (CS/HB 1643; Chapter 2002-194, L.O.F.).
- Provides for appointments to the board of the Florida Healthy Kids Corporation by the CFO, and adds two members appointed from recommendations of the Florida Association of Counties, one appointed by the CFO to represent rural counties and one appointed by the Governor to represent urban counties.
- Moves the Small County Technical Assistance Program from the Comptroller to the Commissioner of Agriculture; updates provisions to reflect the 2000 census, expands the scope to address economic and community development issues, and eliminates the role of the Legislative Committee on Intergovernmental Relations.
- Creates a new program for Certified Capital Companies (CAPCOs) by providing insurance premium tax credits to insurers for investments by a CAPCO in qualified businesses, which would be implemented if certain insurance premium tax collection benchmarks are met. The new program (“Program Two”), like the current program, would provide annual tax credits of up to \$15 million and an aggregate amount of \$150 million over the life of the program to insurance companies that invest in CAPCOs. (These provisions are similar to CS/SB 1296 by Banking and Insurance Committee and Senator Latvala considered during the Regular Session.) In addition, the bill:
 - Establishes investment milestones for the second pool of funds;
 - Adds the requirement for a CAPCO to raise money from two or more unaffiliated certified investors;
 - Revises the definition of a “qualified business” that is an allowable investment for a CAPCO;
 - Revises the definition of a “qualified distribution” to exclude the payment of costs or expenses to a certified investor, with certain exceptions and to limit allowable management costs;
 - Revises the definition of an affiliate of an insurance company;
 - Allows the department to make an initial analysis of the CAPCO’s business plan prior to its certification;
 - Allows an insurance company to have less than 15 percent of a CAPCO’s equity ownership;
 - Sets forth the formula for allocation in the event that Program Two is over-subscribed, and caps the premium tax allocation at \$22.5 million for each Program Two certified investor and its affiliates; and
 - Authorizes the department to impose a late fee on renewal applications.
- Authorizes insurance agents to sell certain securities (investment contracts) without registering as securities dealers.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.

Vote: Senate 39-0; House 110-0