

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5709      PCB CEED 10-08      Joint Legislative Organizations  
**SPONSOR(S):** Full Appropriations Council on Education & Economic Development and Weatherford  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Full Appropriations Council on Education & Economic Development	13 Y, 5 N	Kramer	Voyles
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

**SUMMARY ANALYSIS**

This bill repeals sections of statute which create the following legislative commissions, councils or committees:

- Legislative Committee on Intergovernmental Relations
- Joint Legislative Committee on Everglades Oversight
- Joint Legislative Sunset Committee
- Commission on Interstate Cooperation
- Law Revision Council
- Technology Review Workgroup
- Legislative Commission on Migrant and Seasonal Labor
- Council for Education Policy Research and Improvement

The bill repeals sections of statute relating to the Office of Program Policy and Governmental Analysis (OPPAGA) and the Auditor General and creates the Legislative Accountability Office. The bill directs the Division of Statutory Revision to prepare a reviser’s bill to substitute the term “Legislative Accountability Office” for the terms Auditor General or OPPAGA where those terms appear in the Florida statutes. The bill also repeals portions of the statute relating to the Legislative Auditing Committee and repeals a section of statute relating to the Administrative Procedures Committee but provides in a newly created section of statute that these committees may be designated by a Joint Rule of the Legislature or by agreement between the President of the Senate (President) and Speaker of the House of Representatives (Speaker).

HCR 5711 is a separate concurrent resolution that is also being considered during the 2010 session. The concurrent resolution would:

- Keep operative the statutory provisions relating to the Auditor General and OPPAGA until superseded by joint rule, concurrent resolution or agreement of the Speaker and the President;
- Require the Speaker and the President, to the extent that they agree that particular legislative activities are useful and beneficial, to assign to appropriate legislative offices any activities referenced in the statutes relating to the Joint Administrative Procedures Committee; the Legislative Committee on Intergovernmental Relations and the Technology Review Workgroup;
- Authorize the Legislative Auditing Committee to continue in operation until superseded by joint rule, concurrent resolution or agreement of the Speaker and President;
- Require the Speaker and the President to appoint a joint select committee to recommend joint rules regarding the Administrative Procedures Committee; the Legislative Auditing Committee, the Legislative Accountability Office and the Office of Economic and Demographic Research.

The bill provides an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### ***Office of Program Policy Analysis and Governmental Accountability***

Section 11.51, F.S. creates the Office of Program Policy Analysis and Government Accountability (OPPAGA) within the Legislature and provides that the office must perform independent examinations of state programs.<sup>1</sup> The section sets forth the process by which the director must share the findings of an examination with the program examined and provides a timeline for the program to subsequently inform OPPAGA of what the program has done to respond to the recommendations made in the report.

Section 11.511, F.S. provides that the Legislative Auditing Committee shall appoint the director of OPPAGA by majority vote of the committee, subject to confirmation by a majority vote of the Senate and the House of Representatives. The section sets forth the qualifications of the director and the process for reappointment and termination of the director. The section also sets forth qualifications for staff of the office and the duties of the office. Section 11.513, F.S. requires OPPAGA to conduct a program evaluation and justification review of each state agency and sets forth what must be included in the review.

The bill repeals sections 11.51, 11.511 and 11.513, F.S.

##### ***Auditor General***

Article III, s. 2 of the Florida Constitution provides that "the legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution." Currently, s. 11.42, F.S. sets forth the process for appointment and required qualifications of the Auditor General.<sup>2</sup> The bill repeals s. 11.42, F.S. and amends s. 11.45, F.S. to provide that the term "Auditor General" means the auditor appointed pursuant to s. 2, Art. III of the State Constitution.

##### ***Legislative Accountability Office***

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<sup>1</sup> Joint Rules of the Legislature are generally adopted during the first organizational session of each Legislature through a concurrent resolution. OPPAGA is provided for in Joint Rule Six – Office of Program Policy and Government Accountability.

<sup>2</sup> See also, Joint Rule Five – Auditor General.

The bill amends s. 1.01, F.S., relating to definitions to create a definition of the term “Legislative Accountability Office” to mean an entity designated by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives.

The bill amends s. 11.45, F.S. to provide that the Legislative Accountability Office will be organized as directed by the Legislature or by the agreement of the presiding officers.<sup>3</sup> Unless renewed or replaced following a general election, the agreement or direction will expire on December 31 following each biennial general election unless an earlier expiration is provided by the Legislature. In the absence of such agreement or direction, each presiding officer will have independent discretion to assign statutory powers, roles, and responsibilities of the Legislative Accountability Office to the Auditor General or to any office under the authority of the respective presiding officer. Unless otherwise directed or agreed, the Auditor General will be assigned to the Legislative Accountability Office. Either presiding officer will be authorized to assign roles and responsibilities to the Auditor General provided that such assignment does not conflict with any unexpired provision of joint rule, concurrent resolution, or agreement of the presiding officers.

The bill provides that the purposes and functions of the Legislative Accountability Office may include:

1. Investigating all matters relating to the receipt and expenditure of public funds.
2. Analyzing the economy, effectiveness, and efficiency of government entities.
3. Providing relevant, timely work product to assist the Legislature in its budgeting, lawmaking, and oversight functions.

Currently, s. 11.45, F.S. sets forth the types of audits that must be conducted by the Auditor General. The bill replaces the references to the Auditor General in this section with references to the Legislative Accountability Office. The bill also modifies the definition of the term “performance audit” and modifies language regarding the types of audits that must be performed and how often they are to be conducted.

The bill provides that upon recommendation of the Legislative Accountability Office, the Auditor General may adopt reasonable rules and regulations necessary to facilitate audits that the Legislative Accountability Office is authorized to perform. The Legislative Accountability Office will be authorized to enforce such rules.

The bill amends s. 11.905, 112.313, 112.324, 189.428, 215.981, 218.32, 259.1053, and 1001.453, F.S. to replace references to either the Auditor General or OPPAGA with references to the Legislative Accountability Office. The bill requests the Division of Statutory Revision within the Office of Legislative Services to prepare, before the 2011 Regular Session, a reviser’s bill to substitute the term “Legislative Accountability Office” for the terms “Auditor General”, “Office of Program Policy and Governmental Accountability” and “OPPAGA” where those terms appear in the Florida statutes.

### ***Legislative Auditing Committee***

Section 11.40, F.S. creates the Legislative Auditing Committee, comprised of members of the Senate and House of Representatives which is authorized to take under investigation any matter within the scope of an audit, review, or examination conducted by the Auditor General or OPPAGA.<sup>4</sup> The bill repeals the portions of s. 11.40, F.S. that sets forth the composition of the committee and in a newly created section of statute, provides that the Legislative Auditing Committee means a committee designated by Joint Rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives. The bill retains other references to the duties of the committee in s. 11.40, F.S. The bill also replaces references to OPPAGA and the Auditor General within s. 11.40, F.S. with references to the Legislative Accountability Office.

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<sup>3</sup> The term “presiding officer” is defined to mean the President of the Senate or Speaker of the House.

<sup>4</sup> See also, Joint Rule Four – Joint Legislative Auditing Committee.

## ***Reports of Misuse, Waste or Fraud***

The bill provides that an employee<sup>5</sup> may report directly to the Legislative Accountability Office any act or suspected act of gross misuse, waste or fraud of public funds. Upon finding misuse or fraud of public funds in any agency after an investigation, or upon receipt of a final report from the Chief Inspector General demonstrating misuse or fraud, the Legislative Accountability Office must recommend an amount of an agency's appropriation to withhold to the Legislative Budget Commission, until the violation is remedied. The recommendation must not jeopardize the critical functions of the agency and reasonably relate to the amount of misuse or fraud. The Legislative Budget Commission may approve, disprove or modify the recommendation.

## ***Administrative Procedures Committee***

Section 11.60, F.S. creates the Administrative Procedures Committee, a joint standing committee of the Legislature. The section sets forth the composition of the committee, the appointment of the chair and the duties of the committee which generally relate to reviewing agency administrative rules. The section also provides for the appointment of an executive director and general counsel by a majority vote of the members of the committee.

The bill repeals section 11.60, F.S. and in a new section of statute, provides that the Administrative Procedures Committee means a committee designated by Joint Rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives.

## ***Office of Economic and Demographic Research***

Legislative Joint Rule 3.1 provides that:

The Office of Economic and Demographic Research shall provide research support services, principally regarding forecasting economic and social trends that affect policymaking, revenues, and appropriations.

The Office of Economic and Demographic Research is referenced in several sections of statute but its duties are not set forth in statute. The bill amends s. 1.01 to provide that the term "Office of Economic and Demographic Research" means an entity designated by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives.

## ***Committee on Intergovernmental Relations***

Section 11.70, F.S. creates the "Legislative Committee on Intergovernmental Relations Act" and provides that "the purpose of this section to improve coordination and cooperation among state government and local governments, other states, and the Federal Government through the establishment of a Florida Legislative Committee on Intergovernmental Relations." The section creates the committee, sets forth its composition and duties and provides for an executive director and staff.

The bill repeals section 11.70, F.S. and removes references to the Committee on Intergovernmental Relations found in sections 29.0085, 112.313, 112.324, 163.055, 163.3245 and 287.0943, F.S. and when appropriate, references the President of the Senate and the Speaker of the House of Representatives.

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<sup>5</sup> The definition of "employee" is defined in conformity with s. 112.3187, F.S. as "a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration. direction of, or contracts with, an agency or independent contractor for wages or other remuneration."

## ***Joint Legislative Committee on Everglades Oversight***

Section 11.80, F.S. creates the Joint Legislative Committee on Everglades Oversight to monitor the implementation of the Everglades Forever Act. This section provides that the joint committee shall be responsible for monitoring all funding and expenditures, agreements, schedules of projects, land acquisition, and plans for acquisition, permits, and permit modifications associated with the implementation of the Everglades Forever Act.

The South Florida Water Management District is required to give notice to the Joint Legislative Committee on Everglades Oversight of any plan, or modification of such plan, developed by the district for implementation of the Everglades Forever Act, or of any associated permit, permit modification, agreement, agreement modification, land acquisition, or land acquisition plan to which the district is a party.

The bill repeals s. 11.80, F.S. and makes conforming changes to s. 373.026, F.S.

## ***Governmental Accountability Act***

Sections 11.901 – 11.920, F.S. are titled the Florida Governmental Accountability Act. The act was created in 2006.<sup>6</sup> Section 11.903, F.S. creates the Joint Legislative Sunset Committee, comprised of members of the Senate and House of Representatives. Section 11.905, F.S. sets forth a schedule of agency reviews that the committee is required to conduct. The committee is required to make a report to the Legislature that contains recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees. The Legislature can then reenact, abolish or reorganize the agency under review. The bill repeals sections 11.901 – 11.920, F.S. and makes conforming changes to s. 288.7001, F.S.

## ***Commission on Interstate Cooperation***

Section 13.01, F.S. creates the Commission on Interstate Cooperation. Sections 13.02, 13.03 and 13.04 create the Committees on Interstate Cooperation within the Senate, the House of Representatives and the Governor's Office. The function of the commission is to carry forward the participation of this state as a member of the Council of State Governments and to facilitate the adoption of compacts, the enactment of uniform statutes and to "encourage and assist the legislative, executive, administrative and judicial officials and employees of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other states, of the federal government, and of local units of government."<sup>7</sup>

The commission was created in law in 1953.<sup>8</sup> There is no record of recent meetings or reports by the commission. The bill repeals sections 13.01 – 13.09, F.S. and makes corresponding changes to s. 590.33, F.S. The bill renumbers s. 13.10, F.S. relating to the commissioners to the National Conference of Commissioners on Uniform State Laws as s. 11.249, F.S.

## ***Legislative Law Revision Council***

Sections 13.90 – 13.994, F.S. were created in 1967<sup>9</sup> and relate to the Legislative Law Revision Council. The council is required to:

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<sup>6</sup> Ch. 2006-146, Laws of Fla.

<sup>7</sup> Section 13.07, F.S.

<sup>8</sup> ss. 1, 8, ch. 28292, 1953

<sup>9</sup> Ch. 67-472, Laws of Fla.

- Examine the common law, constitution and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms;
- Recommend, from time to time, such changes in the law as it deems proper to modify or eliminate antiquated and inequitable rules of law, and to bring the law of the state into harmony with modern conditions; and
- Conduct such surveys or research of the law of Florida as the Legislature may request.

There is no record of recent meetings or reports by the commission. The bill repeals sections 13.90-13.994, F.S.

### ***Technology Review Workgroup***

Section 216.0446, F.S. creates the Technology Review Workgroup (TRW) within the Legislature.<sup>10</sup> According to this section, the workgroup is required to “review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information technology resources needs and with respect to agencies' legislative budget requests for information technology and related resources.”

Pursuant to this section, the TRW is also required to review and make recommendations to the Legislative Budget Commission on proposed budget amendments and agency transfers associated with information technology initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, that exceed \$500,000 in total cost over a 1-year period, or that are requested by the Legislative Budget Commission to be reviewed. Section 282.322, F.S. sets forth a special monitoring process for certain information resources management projects and requires the TRW to contract with the project monitor when required in the General Appropriations Act.

The bill repeals s. 282.322, 216.163(2)(f) and 216.0446, F.S. The bill also amends s. 216.181, F.S. to remove reference to the TRW.

### ***Legislative Commission on Migrant and Seasonal Labor***

Section 450.201, F.S. creates the Legislative Commission on Migrant and Seasonal Labor, comprised of members of the Legislature. Section 450.221, F.S. sets forth the duties of the commission and provides that it is intended to “develop plans relative to particular migrant programs, and ultimately a comprehensive plan, which will permit the operation in this state, and cooperatively in participating states, of concerted action on problems relating to migrant labor, with the ultimate purpose of improving the conditions for migrant labor and of the reduction of problems relating thereto.”

The commission was created in 1970.<sup>11</sup> During the 2004 session, s. 450.201, F.S. was amended to require appointments to be made to the commission no later than March 1, 2005 and a meeting of the commission to occur no later than July 1, 2005.<sup>12</sup> In February 2006, the commission issued a report and has not met or issued any further reports since that date.<sup>13</sup>

The bill repeals sections 450.201-450.241, F.S. and makes corresponding changes to s. 450.261, F.S.

### ***Council for Education Policy Research and Improvement***

Section 1000.01, F.S. creates the Council for Education Policy Research and Improvement within the Office of Legislative Services. This section provides that all personnel, unexpended balances of

<sup>10</sup> This section of statute was created in 1997. s. 5, ch. 97-286

<sup>11</sup> s. 1, ch. 70-131

<sup>12</sup> s. 8, ch. 2004-64

<sup>13</sup> [http://www.leg.state.fl.us/data/committees/joint/Jcml/Report\\_To\\_The\\_Legislature.pdf](http://www.leg.state.fl.us/data/committees/joint/Jcml/Report_To_The_Legislature.pdf)

appropriations and allocations of the Postsecondary Education Planning Commission are transferred to this council. The bill removes these provisions from s. 1000.01, F.S.

***Provisions of concurrent resolution***

HCR 5711 is a concurrent resolution that is also being considered during the 2010 session. The concurrent resolution would:

- Keep operative the statutory provisions relating to the Auditor General and OPPAGA until superseded by joint rule, concurrent resolution or agreement of the Speaker and the President;
- Require the Speaker and the President, to the extent that they agree that particular legislative activities are useful and beneficial, assign to appropriate legislative offices any activities referenced in the statutes relating to the Joint Administrative Procedures Committee; the Legislative Committee on Intergovernmental Relations and the Technology Review Workgroup;
- Authorize the Legislative Auditing Committee to continue in operation until superseded by joint rule, concurrent resolution or agreement of the Speaker and President;
- Require the Speaker and the President to appoint a joint select committee to recommend joint rules regarding the Administrative Procedures Committee; the Legislative Auditing Committee, the Legislative Accountability Office and the Office of Economic and Demographic Research.

**B. SECTION DIRECTORY:**

Section 1. Repealing s. 11.42, F.S.

Section 2. Repealing ss. 11.51, 11.511 and 11.513, F.S.

Section 3. Repealing s. 11.60, F.S.

Section 4. Repealing s. 11.70, F.S.

Section 5. Repealing s. 11.80, F.S.

Section 6. Repealing ss. 11.901, 11.902, 11.903, 11.904, 11.905, 11.9055, 11.906, 11.907, 11.908, 11.910, 11.911, 11.917, 11.918, 11.919 and 11.920, F.S.

Section 7. Repealing ss. 13.01, 13.02, 13.03, 13.04, 13.05, 13.06, 13.07, 13.08, and 13.09, F.S.

Section 8. Repealing ss. 13.90, 13.91, 13.92, 13.93, 13.94, 13.95, 13.96, 13.97, 13.98, 13.99, 13.992, 13.993, 13.994, 13.995 and 13.996, F.S.

Section 9. Repealing 216.163(2)(f), 216.0446, and 282.322, F.S.

Section 10. Repealing ss. 450.201, 450.221, 450.231 and 450.241, F.S.

Section 11. Renumbering s. 13.10, F.S. as 11.249, F.S.

Section 12. Amending s. 1.01, relating to definitions.

Section 13. Amending s. 11.40, F.S. relating to the Legislative Auditing Committee.

Section 14. Amending s. 11.45, F.S. relating to definitions; duties; authorities; reports; rules.

Section 15. Amending s. 11.47, F.S. relating to penalties; failure to make a proper audit or examination; making a false report; failure to produce documents or information.

Section 16. Amending s. 11.9005, F.S., relating to Government Efficiency Task Force.

Section 17. Amending s. 29.0085, F.S. relating to annual statement of certain revenues and expenditures.

Section 18. Amending s. 112.313, F.S., relating to standards of conduct for public officers, employees of agencies, and local government attorneys.

Section 19. Amending s. 112.3187, F.S. relating to adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.

Section 20. Amending s. 112.3189, F.S. relating to investigative procedures upon receipt of whistleblower information from certain state employees.

Section 21. Amending s. 112.324, F.S. relating to procedures on complaints of violations; public records and meeting exemptions.

Section 22. Amending s. 163.055, F.S. relating to Local Government Financial Technical Assistance Program.

Section 23. Amending s. 163.3245, F.S. relating to optional sector plans.

Section 24. Amending s. 189.421, F.S., relating to failure of district to disclose financial reports.

Section 25. Amending s. 189.428, F.S. relating to special districts; oversight review process.

Section 26. Amending s. 215.981, F.S., relating to audits of state agency direct-support organizations and citizen support organizations.

Section 27. Amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay

Section 28. Amending s. 218.32, F.S. relating to annual financial reports; local governmental entities.

Section 29. Amending s. 218.38, F.S., relating to notice of bond issues required; verification.

Section 30. Amending s. 259.1053, F.S., relating to Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.

Section 31. Amending s. 287.0943, F.S. relating to certification of minority business enterprises.

Section 32. Amending s. 288.7001, F.S., relating to Small Business Regulatory Advisory Council.

Section 33. Amending s. 288.9610, F.S., relating to annual reports of Florida Development Finance Corporation.

Section 34. Amending s. 373.026, F.S., relating to general powers and duties of the department.

Section 35. Amending s. 373.036, F.S., relating to Florida water plan; district water management plans.

Section 36. Amending s. 373.45926, F.S., relating to Everglades Trust Fund; allocation of revenues and expenditure of funds for conservation and protection of natural resources and abatement of water pollution.

Section 37. Amending s. 450.261, F.S., relating to Interstate Migrant Labor Commission; Florida membership.

Section 38. Amending s. 590.33, F.S. relating to state compact administrator; compact advisory committee.

Section 39. Amending s. 1000.01, F.S. relating to Florida K-20 education system; technical provisions.

Section 40. Amending s. 1001.453, F.S., relating to direct-support organization; use of property; board of directors; audit.

Section 41. Amending s. 1004.28, F.S., relating to direct-support organizations; use of property; board of directors; activities; audit; facilities.

Section 42. Amending s. 1004.70, F.S., relating to community college direct support organizations.

Section 43. Directing the Division of Statutory Revision within the Office of Legislative Services to prepare reviser's bill.

Section 44. Provides effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

The proposed 2010-2011 House budget for the legislative branch contains a \$4,734,079 general revenue reduction – \$1,860,268 is a nonrecurring general revenue reduction and \$2,873,811 is a recurring general revenue reduction.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**