

## House Bill No. 1123

An act relating to government accountability; creating s. 11.901, F.S., the Florida Government Accountability Act; creating s. 11.902, F.S.; providing definitions; creating s. 11.903, F.S.; authorizing the Legislature to create one or more Legislative Sunset Advisory Committees; providing for appointment, qualifications, and terms of committee members; providing for organization and procedure; creating s. 11.904, F.S.; providing for the employment of staff; creating s. 11.905, F.S.; providing a schedule for abolishing state agencies and advisory committees; creating s. 11.9055, F.S.; providing for the abolition of state agencies under certain circumstances; requiring legislative findings; providing requirements for certain legislative budget requests; creating s. 11.906, F.S.; prescribing required content for agency reports to the committee; amending s. 11.907, F.S.; providing for review of agencies and their advisory committees by the Office of Program Policy Analysis and Government Accountability; creating s. 11.908, F.S.; prescribing duties of the committee in reviewing reports, consulting with other legislative entities, holding public hearings, and making a report and recommendations to the legislative leadership with respect to agencies scheduled for abolition; creating s. 11.910, F.S.; providing review criteria; creating s. 11.911, F.S.; specifying recommendation options; creating s. 11.917, F.S.; providing procedures after termination; providing for issuance of subpoenas; creating s. 11.919, F.S.; providing for assistance of and access to state agencies; creating s. 11.920, F.S.; providing applicability with respect to certain rights, penalties, liabilities, and proceedings; amending s. 216.013, F.S.; providing requirements with respect to performance measures and standards identified as part of long-range program plans; amending s. 216.023, F.S.; requiring that performance measures and standards and outsourcing cost-benefit and business case analyses identify impacts on agency activities; creating a working group to develop instructions for agencies regarding the computation of activity and unit cost information required to be included in legislative budget requests; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.901, Florida Statutes, is created to read:

11.901 Short title.—Sections 11.901-11.920 may be cited as the “Florida Government Accountability Act.”

Section 2. Section 11.902, Florida Statutes, is created to read:

11.902 Definitions.—As used in ss. 11.901-11.920, the term:

(1) “State agency” or “agency” means a department as defined in s. 20.03(2) or any other administrative unit of state government scheduled for termination and prior review under this chapter.

(2) “Advisory committee” means any examining and licensing board, council, advisory council, committee, task force, coordinating council, commission, or board of trustees as defined in s. 20.03(3), (7), (8), (9), (10), or (12) or any group, by whatever name, created to provide advice or recommendations to one or more agencies, departments, divisions, bureaus, boards, sections, or other units or entities of state government.

(3) “Committee” means any Legislative Sunset Advisory Committee appointed pursuant to s. 11.903.

Section 3. Section 11.903, Florida Statutes, is created to read:

11.903 Legislative Sunset Advisory Committees.—

(1) The Senate and House of Representatives may, pursuant to the rules of each house, appoint one or more standing or select committees as a Legislative Sunset Advisory Committee to advise the Legislature regarding the agency sunsets required by ss. 11.901-11.920.

(2) The Senate and House of Representatives may, pursuant to the joint rules of both houses, appoint one or more joint committees as a Legislative Sunset Advisory Committee to advise the Legislature regarding the agency sunsets required by ss. 11.901-11.920.

(3) Members shall serve terms of 2 years.

(4) Initial appointments shall be made not later than November 30, 2006, and subsequent appointments shall be made not later than January 15 of the year following each organization session of the Legislature.

(5) If a legislative member ceases to be a member of the house from which he or she was appointed, the member vacates his or her membership on the committee.

Section 4. Section 11.904, Florida Statutes, is created to read:

11.904 Staff.—The Senate and the House of Representatives may each employ staff to work for the chair and vice chair of the committee on matters related to committee activities. The Auditor General and the Office of Program Policy Analysis and Government Accountability shall assist the committee in conducting its review under s. 11.910.

Section 5. Section 11.905, Florida Statutes, is created to read:

11.905 Schedule for reviewing state agencies and advisory committees.—The following state agencies, including their advisory committees, or the following advisory committees of agencies shall be reviewed according to the following schedule:

(1) Reviewed July 1, 2008:

(a) Statutorily created responsibilities of the Fish and Wildlife Conservation Commission.

- (b) Department of Agriculture and Consumer Services.
- (c) Department of Citrus, including the Citrus Commission.
- (d) Department of Environmental Protection.
- (e) Department of Highway Safety and Motor Vehicles.
- (f) Water management districts.
- (2) Reviewed July 1, 2009:
  - (a) Department of Children and Family Services.
  - (b) Department of Community Affairs.
  - (c) Department of Management Services.
  - (d) Department of State.
- (3) Reviewed July 1, 2010:
  - (a) Advisory committees for the Florida Community College System.
  - (b) Advisory committees for the State University System.
  - (c) Agency for Workforce Innovation.
  - (d) Department of Education.
  - (e) Department of the Lottery.
- (4) Reviewed July 1, 2011:
  - (a) Agency for Health Care Administration.
  - (b) Agency for Persons with Disabilities.
  - (c) Department of Elderly Affairs.
  - (d) Department of Health.
- (5) Reviewed July 1, 2012:
  - (a) Department of Business and Professional Regulation.
  - (b) Department of Transportation.
  - (c) Department of Veterans' Affairs.
- (6) Reviewed July 1, 2013:
  - (a) Advisory committees for the State Board of Administration.
  - (b) Department of Financial Services, including the Financial Services Commission.

(c) Department of Revenue.

(7) Reviewed July 1, 2014:

(a) Department of Corrections.

(b) Department of Juvenile Justice.

(c) Department of Law Enforcement.

(d) Department of Legal Affairs.

(e) Justice Administrative Commission.

(f) Parole Commission.

(8) Reviewed July 1, 2015:

(a) Executive Office of the Governor.

(b) Florida Public Service Commission.

Section 6. Section 11.9055, Florida Statutes, is amended to read:

Section 11.9055 Abolition of state agencies and advisory committees.—

(1) An agency subject to review by the Legislative Committee on Sunset Review shall be abolished on June 30 following the date of review specified in s.11.905, unless the Legislature continues the agency or advisory committee; however, an agency may not be abolished unless the Legislature finds, pursuant to law, that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made for the transfer to a successor agency of all duties and obligations relating to bonds, loans, promissory notes, lease purchase agreements, installment sales contracts, certificates of participation, master equipment financing agreements, or any other form of indebtedness such that security therefor and the rights of bondholders or holders of other indebtedness are not impaired.

(2) If the Legislature does not take action before the date of review to continue the agency or advisory committee, the agency shall submit its legislative budget request consistent with recommendations of the appropriate Legislative Committee on Sunset Review or any law transferring the agency's functions to other entities.

Section 7. Section 11.906, Florida Statutes, is created to read:

11.906 Agency report to committee.—Not later than January 1 of the year preceding the year in which a state agency and its advisory committees are scheduled to be reviewed, the agency shall provide the committee with a report that includes:

(1) The performance measures for each program and activity as provided in s. 216.011 and 3 years of data for each measure that provides actual

results for the immediately preceding 2 years and projected results for the current fiscal year.

(2) An explanation of factors that have contributed to any failure to achieve the legislative standards.

(3) The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

(4) The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which public participation has resulted in rules compatible with the objectives of the agency.

(5) The extent to which the agency has complied with applicable requirements of state law and applicable rules regarding purchasing goals and programs for historically underutilized businesses.

(6) A statement of any statutory objectives intended for each program and activity, the problem or need that the program and activity were intended to address, and the extent to which these objectives have been achieved.

(7) An assessment of the extent to which the jurisdiction of the agency and its programs overlap or duplicate those of other agencies and the extent to which the programs can be consolidated with those of other agencies.

(8) An assessment of less restrictive or alternative methods of providing services for which the agency is responsible which would reduce costs or improve performance while adequately protecting the public.

(9) An assessment of the extent to which the agency has corrected deficiencies and implemented recommendations contained in reports of the Auditor General, the Office of Program Policy Analysis and Government Accountability, legislative interim studies, and federal audit entities.

(10) The extent to which the agency enforces laws relating to potential conflicts of interest of its employees.

(11) The extent to which the agency complies with public records and public meetings requirements under chapters 119 and 286 and s. 24, Art. I of the State Constitution.

(12) The extent to which alternative program-delivery options, such as privatization or insourcing, have been considered to reduce costs or improve services to state residents.

(13) Recommendations to the committee for statutory or budgetary changes that would improve program operations, reduce costs, or reduce duplication.

(14) The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished.

(15) A list of all advisory committees, including those established in statute and those established by managerial initiative; their purpose, activities, composition, and related expenses; the extent to which their purposes have been achieved; and the rationale for continuing or eliminating each advisory committee.

(16) Agency programs or functions that are performed without specific statutory authority.

(17) Other information requested by the committee.

Information and data reported by the agency shall be validated by its agency head and inspector general before submission to the committee.

Section 8. Section 11.907, Florida Statutes, is created to read:

11.907 Legislative review.—Upon receipt of an agency report pursuant to s. 11.906, the Office of Program Policy Analysis and Government Accountability shall conduct a program evaluation and justification review, as defined in s. 11.513, of the agency and its advisory committees. The review shall be comprehensive in its scope and consider the information provided by the agency report in addition to information deemed necessary by the office and the Legislative Sunset Advisory Committee. The Office of Program Policy Analysis and Government Accountability shall submit its report to the committee and to the President of the Senate and the Speaker of the House of Representatives by October 31 of the year in which the agency submits its report. The Office of Program Policy Analysis and Government Accountability shall include in its report recommendations for consideration by the committee.

Section 9. Section 11.908, Florida Statutes, is created to read:

11.908 Committee duties.—No later than March 1 of the year in which a state agency or its advisory committees are scheduled to be reviewed, the committee shall:

(1) Review the information submitted by the agency and the report of the Office of Program Policy Analysis and Government Accountability.

(2) Consult with the Legislative Budget Commission, relevant substantive and appropriations committees of the Senate and the House of Representatives, the Governor's Office of Policy and Budgeting, the Auditor General, and the Chief Financial Officer, or their successors, on the application to the agency and its advisory committees of the criteria provided in s. 11.910.

(3) Hold public hearings to consider this information as well as other information and testimony that the committee deems necessary.

(4) Present to the President of the Senate and the Speaker of the House of Representatives a report on the agencies and advisory committees scheduled to be reviewed that year by the committee. In the report, the committee shall include its specific findings and recommendations regarding each of

the criteria prescribed by s. 11.910 and shall also make recommendations as described in s. 11.911.

Section 10. Section 11.910, Florida Statutes, is created to read:

11.910 Criteria for review.—The committee shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1) Agency compliance with the accountability measures, as analyzed by the Auditor General, the Office of Program Policy Analysis and Government Accountability, and the Office of Policy and Budget within the Executive Office of the Governor, pursuant to ss. 216.013 and 216.023(4) and (5).

(2) The efficiency with which the agency or advisory committee operates.

(3) The statutory objectives of the agency or advisory committee and the problem or need that the agency or advisory committee is intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities.

(4) An assessment of less restrictive or alternative methods of providing any regulatory function for which the agency is responsible while adequately protecting the public.

(5) The extent to which the advisory committee is needed and is used.

(6) The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

(7) Whether the agency has recommended to the Legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates.

(8) The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

(9) The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

(10) The extent to which the agency has complied with applicable requirements of state law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses.

(11) The extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section.

(12) The extent to which the agency adopts and enforces rules relating to potential conflicts of interest of its employees.

(13) The extent to which the agency complies with public records and public meetings requirements under chapters 119 and 287 and s. 24, Art. I of the State Constitution and follows records management practices that enable the agency to respond efficiently to requests for public information.

(14) The extent to which the agency accurately reports performance measures used to justify state spending on each of its activities, services, and programs.

(15) The effect of federal intervention or loss of federal funds if the agency is abolished.

(16) Whether any advisory committee or any other part of the agency exercises its powers and duties independently of the direct supervision of the agency head in violation of s. 6, Art. IV of the State Constitution.

Section 11. Section 11.911, Florida Statutes, is created to read:

11.911 Recommendations.—In its report on a state agency, the committee shall:

(1) Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees.

(2) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

(3) Include drafts of legislation necessary to carry out the committee's recommendations under subsection (1) or subsection (2).

Section 12. Section 11.917, Florida Statutes, is created to read:

11.917 Procedure after termination.—

(1) Any unobligated and unexpended appropriations of an abolished agency or advisory committee shall revert on the date of abolition.

(2) Except as provided in subsection (4) or as otherwise provided by law, all money in a trust fund of an abolished state agency or advisory committee is transferred to the General Revenue Fund. Any provision of law dedicating the money to a trust fund of an abolished agency becomes void on the date of abolition.

(3)(a) If not otherwise provided by law, property in the custody of an abolished state agency or advisory committee shall be transferred to the Department of Management Services.

(b) If not otherwise provided by law, records in the custody of an abolished state agency or advisory committee shall be transferred to the Department of State.



(4) The Legislature recognizes the state's continuing obligation to pay bonds and all other financial obligations, including contracts, loans, promissory notes, lease purchase agreements, certificates of participation, installment sales contracts, master equipment financing agreements, and any other form of indebtedness, incurred by the state or any state agency or public entity abolished under ss. 11.910-11.920, and ss. 11.910-11.920 do not impair or impede the payment of bonds and other financial obligations, or any other covenant contained in the legal documents authorizing the issuance of debt or the execution of any other financial obligation in accordance with their terms. If the state or an abolished state agency has outstanding bonds or other outstanding financial obligations, the bonds and all other financial obligations remain valid and enforceable in accordance with their terms and subject to all applicable terms and requirements contained in the legal documents authorizing the issuance of debt or the execution of any other financial obligation. If not otherwise provided by law, the Division of Bond Finance of the State Board of Administration shall carry out all covenants contained in the bonds and in the resolutions authorizing the issuance of bonds, and perform all obligations required thereby. The state or a designated state agency shall provide for the payment of the bonds and all other financial obligations from the sources of payment specified in the resolution or legal documents authorizing the issuance or execution thereof in accordance with the terms of the bonds or other financial obligations, whether from taxes, specified revenues, or otherwise, until the bonds and interest on the bonds are paid in full and all other financial obligations are performed and paid in full. All funds or accounts established by laws or legal documents authorizing the issuance of bonds, or the execution of other financial obligations, shall remain with the previously designated party, agency, or trustee. Any funds or accounts held by an abolished state agency shall be transferred to a designated successor agency or trustee in compliance with the resolution or legal documents applicable to the outstanding bonds or other financial obligations.

Section 13. Section 11.918, Florida Statutes, is created to read:

11.918 Subpoena power.—Any Legislative Sunset Advisory Committee may take under investigation any matter within the scope of a sunset review either completed or then being conducted by the committee, and, in connection with such investigation, may exercise the powers of subpoena by law vested in a standing committee of the Legislature pursuant to s. 11.143.

Section 14. Section 11.919, Florida Statutes, is created to read:

11.919 Assistance of and access to state agencies.—

(1) The committee may request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the committee.

(2) In carrying out its functions under ss. 11.901-11.920, the committee or its designated staff member may inspect the records, documents, and files of any state agency.

Section 15. Section 11.920, Florida Statutes, is created to read:

11.920 Saving provision.—Except as otherwise expressly provided by law, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the abolition.

Section 16. Paragraphs (h), (i), (j), and (k) are added to subsection (1) of section 216.013, Florida Statutes, and subsection (5) of that section is amended, to read:

216.013 Long-range program plan.—State agencies and the judicial branch shall develop long-range program plans to achieve state goals using an interagency planning process that includes the development of integrated agency program service outcomes. The plans shall be policy based, priority driven, accountable, and developed through careful examination and justification of all agency and judicial branch programs.

(1) Long-range program plans shall provide the framework for the development of budget requests and shall identify or update:

(h) Legislatively approved output and outcome performance measures. Each performance measure must identify the associated activity contributing to the measure from those identified in accordance with s. 216.023(4)(b).

(i) Performance standards for each performance measure and justification for the standards and the sources of data to be used for measurement. Performance standards must include standards for each affected activity and be expressed in terms of the associated unit of activity.

(j) Prior-year performance data on approved performance measures and an explanation of deviation from expected performance. Performance data must be assessed for reliability in accordance with s. 20.055.

(k) Proposed performance incentives and disincentives.

~~(5) Following the adoption of the annual General Appropriations Act, The state agencies and the judicial branch shall make appropriate adjustments to their long-range program plans, excluding adjustments to performance measures and standards, to be consistent with the appropriations ~~and performance measures~~ in the General Appropriations Act and legislation implementing the General Appropriations Act. Agencies and the judicial branch have 30 days subsequent to the effective date of the General Appropriations Act and implementing legislation until June 30 to make adjustments to their plans as posted on their Internet websites.~~

Section 17. Subsections (4) of section 216.023, Florida Statutes, is amended to read:

216.023 Legislative budget requests to be furnished to Legislature by agencies.—

(4)(a) The legislative budget request must contain for each program:

1. The constitutional or statutory authority for a program, a brief purpose statement, and approved program components.
2. Information on expenditures for 3 fiscal years (actual prior-year expenditures, current-year estimated expenditures, and agency budget requested expenditures for the next fiscal year) by appropriation category.
3. Details on trust funds and fees.
4. The total number of positions (authorized, fixed, and requested).
5. An issue narrative describing and justifying changes in amounts and positions requested for current and proposed programs for the next fiscal year.
6. Information resource requests.
- ~~7. Legislatively approved output and outcome performance measures and any proposed revisions to measures.~~
- ~~8. Proposed performance standards for each performance measure and justification for the standards and the sources of data to be used for measurement.~~
- ~~9. Prior-year performance data on approved performance measures and an explanation of deviation from expected performance. Performance data must be assessed for reliability in accordance with s. 20.055.~~
- ~~10. Proposed performance incentives and disincentives.~~

7.11. Supporting information, including applicable cost-benefit analyses, business case analyses, performance contracting procedures, service comparisons, and impacts on performance standards for any request to outsource or privatize agency functions. The cost-benefit and business case analyses must include an assessment of the impact on each affected activity from those identified in accordance with paragraph (b). Performance standards must include standards for each affected activity and be expressed in terms of the associated unit of activity.

~~8.12.~~ An evaluation of any major outsourcing and privatization initiatives undertaken during the last 5 fiscal years having aggregate expenditures exceeding \$10 million during the term of the contract. The evaluation shall include an assessment of contractor performance, a comparison of anticipated service levels to actual service levels, and a comparison of estimated savings to actual savings achieved. Consolidated reports issued by the Department of Management Services may be used to satisfy this requirement.

(b) It is the intent of the Legislature that total accountability measures, including unit-cost data, serve not only as a budgeting tool but also as a policymaking tool and an accountability tool. Therefore, each state agency and the judicial branch must submit a ~~one-page~~ summary of information for the preceding year in accordance with the legislative budget instructions.

Each ~~one-page~~ summary must provide a one-page overview and must contain:

1. The final budget for the agency and the judicial branch.
2. Total funds from the General Appropriations Act.
3. Adjustments to the General Appropriations Act.
4. The line-item listings of all activities.
5. The number of activity units performed or accomplished.
6. Total expenditures for each activity, including amounts paid to contractors and subordinate entities. Expenditures related to administrative activities not aligned with output measures must consistently be allocated to activities with output measures prior to computing unit costs.
7. The cost per unit for each activity, including the costs allocated to contractors and subordinate entities.
8. The total amount of reversions and pass-through expenditures omitted from unit-cost calculations.

At the regular session immediately following the submission of the agency unit cost summary, the Legislature shall reduce in the General Appropriations Act for the ensuing fiscal year, by an amount equal to at least 10 percent of the allocation for the fiscal year preceding the current fiscal year, the funding of each state agency that fails to submit the report required under this paragraph.

Section 18. To assist in the development of legislative budget request instructions for agencies regarding the computation of activity and unit cost information required to be included in legislative budget requests under s. 216.023(4)(b), Florida Statutes, a working group consisting of representatives from the Executive Office of the Governor, the Office of Program Policy Analysis and Government Accountability, the Auditor General, the Department of Financial Services, and legislative appropriations committees shall be created, effective July 1, 2006, to develop a cost-allocation methodology for agencies to use in the computation of activity and unit costs. The working group, in developing the cost-allocation methodology, shall consider the standards and guidelines identified in the Federal Office of Management and Budget Circular A-87. In addition, this working group shall recommend procedures to ensure that the recommended cost-allocation methodology produces auditable activity and unit cost information that can be produced currently by the state accounting system and that can be used to compare the performance of each reported activity over time and of agencies and private entities that perform similar activities. The working group shall submit its recommendations, including the associated implementation and operating costs, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2006.

Section 19. The sum of \$400,000 is appropriated from the General Revenue Fund to the Office of Program Policy Analysis and Government Account-

ability for the purpose of carrying out the provisions of this act during the 2006-2007 fiscal year.

Section 20. For the purposes of carrying out the provisions of this act during the 2006-2007 fiscal year, the sum of \$400,000 is appropriated from the General Revenue Fund and five full-time equivalent positions and associated rate are authorized in a lump-sum category in Administered Funds.

Section 21. This act shall take effect July 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.