

Senate Bill No. 1488

An act relating to governmental reorganization; revising various statutory provisions relating to the Cabinet and to members of the Cabinet, which provisions were affected by the amendment of Article IV, Section 4 of the State Constitution; amending s. 13.05, F.S.; providing membership of the Governor's Committee on Interstate Cooperation; creating s. 14.2001, F.S.; providing that, in a tie vote of the Governor and Cabinet, the side on which the Governor voted will be considered the prevailing side in the absence of contrary statutory intent; amending s. 14.202, F.S.; conforming provisions relating to meetings of and voting by the Administration Commission; amending s. 14.24, F.S.; providing for selection of members of the Florida Commission on the Status of Women; amending s. 114.03, F.S.; conforming provisions relating to executive officers not absenting themselves from the capital without permission; amending ss. 121.0312, 121.055, F.S.; conforming provisions relating to the State Board of Administration; amending s. 121.4501, F.S.; deleting provisions that create the Public Employee Optional Retirement Program Advisory Committee; amending s. 215.44, F.S.; conforming provisions relating to duties of the State Board of Administration; amending s. 215.62, F.S.; conforming provisions relating to the Division of Bond Finance; amending s. 215.95, F.S.; conforming provisions relating to composition of the Financial Management Information Board; amending s. 215.96, F.S.; revising the membership of the coordinating council of the State Board of Administration; amending ss. 253.02, 253.034, F.S.; conforming provisions relating to the Board of Trustees of the Internal Improvement Trust Fund; reenacting s. 259.032, F.S., to incorporate the amendment of a statute referred to therein; amending s. 259.041, F.S.; conforming provisions relating to the Board of Trustees of the Internal Improvement Trust Fund; reenacting s. 260.016, F.S., to incorporate the amendment of a statute referred to therein; amending ss. 940.01, 940.03, F.S.; conforming provisions relating to executive clemency; amending s. 985.417, F.S.; conforming provisions relating to probation for certain juvenile offenders; providing an effective date.

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

Section 1. Subsection (1) of section 13.05, Florida Statutes, is amended to read:

13.05 Governor's Committee on Interstate Cooperation.—

(1) There is hereby established a committee of administrative officials of this state to be officially known as the Governor's Committee on Interstate Cooperation, and to consist of ~~four~~ seven members. Its members shall be the Governor, ~~Secretary of State~~, Attorney General, Chief Financial Officer, ~~Comptroller~~, ~~Treasurer~~, ~~Commissioner of Education~~, and Commissioner of Agriculture. Any member of the Governor's committee may designate an

alternate to serve in the member's place upon any occasion; such alternate shall be an administrative official or employee of the state.

Section 2. Section 14.2001, Florida Statutes, is created to read:

14.2001 Votes by Governor and Cabinet.—Unless otherwise provided by law, in the event of a tie vote of the Governor and Cabinet acting in any capacity, the side on which the Governor voted shall be deemed to prevail. For purposes of any vote of the Governor and Cabinet acting in any capacity, action taken pursuant to that side of a tie vote on which the Governor voted satisfies the requirement that action be taken by a “majority” vote or a “simple majority” vote.

Section 3. Section 14.202, Florida Statutes, is amended to read:

14.202 Administration Commission.—There is created as part of the Executive Office of the Governor an Administration Commission composed of the Governor and Cabinet. The Governor is chair of the commission. The Governor or Chief Financial Officer ~~Comptroller~~ may call a meeting of the commission promptly each time the need therefor arises. Unless otherwise provided herein, affirmative action by the commission shall require the approval of the Governor and at least two ~~three~~ other members of the commission. The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it.

Section 4. Subsection (1) of section 14.24, Florida Statutes, is amended to read:

14.24 Florida Commission on the Status of Women.—

(1) There is established in the Office of the Attorney General the Florida Commission on the Status of Women, consisting of 22 members. The Speaker of the House of Representatives, the President of the Senate, the Attorney General, and the Governor shall each appoint four ~~three~~ members, and the Chief Financial Officer and Insurance Commissioner, ~~the Comptroller, the Secretary of State, the Commissioner of Agriculture, and the Commissioner of Education~~ shall each appoint three ~~two~~ members, for a term of 4 years, ~~except that of the initial appointments, one-half shall be for a 2-year term and one-half shall be for a 4-year term.~~ The members appointed shall include persons who represent rural and urban interests and the ethnic and cultural diversity of the state's population. No member shall serve more than 8 consecutive years on the commission. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

Section 5. Section 114.03, Florida Statutes, is amended to read:

114.03 Certain executive officers not to absent themselves from the state.—~~The Secretary of State, Attorney General, Chief Financial Officer Comptroller, Treasurer, Commissioner of Education, and Commissioner of Agriculture~~ shall reside at the capital, and no member of the Cabinet shall absent himself or herself from the state for a period of 60 consecutive days or more without the consent of the Governor and a majority of the Cabinet.

If a Cabinet officer should refuse or fail to comply with and observe the requirements of this section, his or her office may be deemed vacant pursuant to paragraph (f) or paragraph (g) of s. 114.01(1), as appropriate.

Section 6. Section 121.0312, Florida Statutes, is amended to read:

121.0312 Review; actuarial valuation report; contribution rate determination process.—The Governor, Chief Financial Officer ~~Comptroller~~, and Attorney General ~~Treasurer~~, sitting as the Board of Trustees of the State Board of Administration, shall review the actuarial valuation report prepared in accordance with the provisions of this chapter. The board shall review the process by which Florida Retirement System contribution rates are determined and recommend and submit any comments regarding the process to the Legislature.

Section 7. Paragraph (e) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the “Senior Management Service Class,” which shall become effective February 1, 1987.

(1)

(e) Effective January 1, 1991, participation in the Senior Management Service Class shall be compulsory for the number of senior managers who have policymaking authority with the State Board of Administration, as determined by the Governor, Chief Financial Officer ~~Treasurer~~, and Attorney General ~~Comptroller~~ acting as the State Board of Administration, unless such member elects to participate in the Senior Management Service Optional Annuity Program as established in subsection (6) in lieu of participation in the Senior Management Service Class. Such election shall be made in writing and filed with the division and the personnel officer of the State Board of Administration within 90 days after becoming eligible for membership in the Senior Management Service Class.

Section 8. Subsection (12) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Public Employee Optional Retirement Program.—

(12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND ASSISTANCE.—The Investment Advisory Council ~~and the Public Employee Optional Retirement Program Advisory Committee~~ shall assist the board in implementing and administering the Public Employee Optional Retirement Program.

(a) The Investment Advisory Council, created pursuant to s. 215.444, shall review the board’s initial recommendations regarding the criteria to be used in selecting and evaluating approved providers and investment products. The council may provide comments on the recommendations to the board within 45 days after receiving the initial recommendations. The board

shall make the final determination as to whether any investment provider or product, any contractor, or any and all contract provisions shall be approved for the program.

~~(b)1. The Public Employee Optional Retirement Program Advisory Committee shall be composed of seven members. The President of the Senate shall appoint two members, the Speaker of the House of Representatives shall appoint two members, the Governor shall appoint one member, the Treasurer shall appoint one member, and the Comptroller shall appoint one member. The members of the advisory committee shall elect a member as chair. The appointments shall be made by September 1, 2000, and the committee shall meet to organize by October 1, 2000. The initial appointments shall be for a term of 24 months. Each appointing authority shall fill any vacancy occurring among its appointees for the remainder of the original term.~~

~~2. The advisory committee shall make recommendations on the selection of the third-party administrator, the education providers, and the investment products and providers. The committee's recommendations on the third-party administrator must be forwarded to the Trustees of the State Board of Administration by January 1, 2001. The recommendations on the education providers must be forwarded to the trustees by April 1, 2001.~~

~~3. The advisory committee's recommendations and activities shall be guided by the best interests of the employees, considering the interests of employers, and the intent of the Legislature in establishing the Public Employee Optional Retirement Program.~~

~~4. The staff of the state board and the department shall assist the advisory committee.~~

Section 9. Subsection (1) of section 215.44, Florida Statutes, is amended to read:

215.44 Board of Administration; powers and duties in relation to investment of trust funds.—

(1) Except when otherwise specifically provided by the State Constitution and subject to any limitations of the trust agreement relating to a trust fund, the Board of Administration, hereinafter sometimes referred to as "board," composed of the Governor as chair, the Chief Financial Officer Treasurer, and the Attorney General ~~Comptroller~~, shall invest all the funds in the System Trust Fund, as defined in s. 121.021(36), and all other funds specifically required by law to be invested by the board pursuant to ss. 215.44-215.53 to the fullest extent that is consistent with the cash requirements, trust agreement, and investment objectives of the fund. Notwithstanding any other law to the contrary, the State Board of Administration may invest any funds of any state agency or any unit of local government pursuant to the terms of a trust agreement with the head of the state agency or the governing body of the unit of local government, which trust agreement shall govern the investment of such funds, provided that the board shall approve the undertaking of such investment before execution of the trust

agreement by the State Board of Administration. The funds and the earnings therefrom are exempt from the service charge imposed by s. 215.20. As used in this subsection, the term “state agency” has the same meaning as that provided in s. 216.001, and the terms “governing body” and “unit of local government” have the same meaning as that provided in s. 218.403.

Section 10. Subsection (1) of section 215.62, Florida Statutes, is amended to read:

215.62 Division of Bond Finance.—

(1) There is ~~hereby~~ created a division of the State Board of Administration of the state to be known as the Division of Bond Finance. The Governor shall be the chair of the governing board of the division, the Attorney General ~~Comptroller~~ shall be the secretary of the board, and the Chief Financial Officer ~~Treasurer~~ shall be the treasurer of the board for the purposes of this act. The division shall be a public body corporate for the purposes of this act.

Section 11. Subsection (1) of section 215.95, Florida Statutes, is amended to read:

215.95 Financial Management Information Board.—

(1) There is created, as part of the Administration Commission, the Financial Management Information Board. The board shall be composed of the Governor, the Chief Financial Officer ~~Comptroller~~, and the Attorney General ~~Treasurer~~. The Governor shall be chair of the board. The Governor or the Chief Financial Officer ~~Comptroller~~ may call a meeting of the board at any time the need arises.

Section 12. Subsections (1) and (2) of section 215.96, Florida Statutes, are amended to read:

215.96 Coordinating council and design and coordination staff.—

(1) The Chief Financial Officer ~~Comptroller~~, as chief fiscal officer of the state, shall establish a coordinating council to function on a continuing basis. The coordinating council shall review and recommend to the board solutions and policy alternatives to ensure coordination between functional owners of the various information subsystems described in ss. 215.90-215.96 to the extent necessary to unify all the subsystems into a financial management information system.

(2) The coordinating council shall consist of the Chief Financial Officer ~~Comptroller~~; the ~~Treasurer~~; the secretary of the Department of Management Services; the Attorney General; and the Director of Planning and Budgeting, Executive Office of the Governor, or their designees. The Chief Financial Officer ~~Comptroller~~, or his or her designee, shall be chair of the coordinating council, and the design and coordination staff shall provide administrative and clerical support to the council and the board. The design and coordination staff shall maintain the minutes of each meeting and shall make such minutes available to any interested person. The Auditor General, the State Courts Administrator, an executive officer of the Florida Association of State Agency Administrative Services Directors, and an executive

officer of the Florida Association of State Budget Officers, or their designees, shall serve without voting rights as ex officio members on the coordinating council. The chair may call meetings of the coordinating council as often as necessary to transact business; however, the coordinating council shall meet at least once a year. Action of the coordinating council shall be by motion, duly made, seconded and passed by a majority of the coordinating council voting in the affirmative for approval of items that are to be recommended for approval to the Financial Management Information Board.

Section 13. Subsections (1) and (2) of section 253.02, Florida Statutes, are amended to read:

253.02 Board of trustees; powers and duties.—

(1) For the purpose of assuring the proper application of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund for the purposes of this chapter, the land provided for in ss. 253.01 and 253.03, and all the funds arising from the sale thereof, after paying the necessary expense of selection, management, and sale, are irrevocably vested in a board of four ~~seven~~ trustees, to wit: The Governor, ~~the Secretary of State,~~ the Attorney General, the Chief Financial Officer ~~Comptroller,~~ the State Treasurer, ~~the Commissioner of Education,~~ and the Commissioner of Agriculture and their successors in office, to hold the same in trust for the uses and purposes provided in this chapter, with the power to sell and transfer said lands to the purchasers and receive the power to sell and transfer said lands to the purchasers and receive payment for the same, and invest the surplus moneys arising therefrom, from time to time, in stocks of the United States, stocks of the several states, or the internal improvement bonds issued under the provisions of law; also, the surplus interest accruing from such investments. Said board of trustees have all the rights, powers, property, claims, remedies, actions, suits, and things whatsoever belonging to them, or appertaining before and at the time of the enactment hereof, and they shall remain subject to and pay, fulfill, perform, and discharge all debts, duties, and obligations of their trust, existing at the time of the enactment hereof or provided in this chapter.

(2) The board of trustees shall not sell, transfer, or otherwise dispose of any lands the title to which is vested in the board of trustees except by vote of at least three ~~five~~ of the four ~~seven~~ trustees.

Section 14. Subsection (6) of section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members ~~a two-thirds vote~~. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members ~~at least a two-thirds vote~~ that the exchange will result in a net

positive conservation benefit. For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by an affirmative vote of at least three members majority vote.

(a) For the purposes of this subsection, all lands acquired by the state prior to July 1, 1999, using proceeds from the Preservation 2000 bonds, the Conservation and Recreation Lands Trust Fund, the Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board, which lands are identified as core parcels or within original project boundaries, shall be deemed to have been acquired for conservation purposes.

(b) For any lands purchased by the state on or after July 1, 1999, a determination shall be made by the board prior to acquisition as to those parcels that shall be designated as having been acquired for conservation purposes. No lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those specifically managed for conservation or recreation purposes, or the State University System or the Florida Community College System shall be designated as having been purchased for conservation purposes.

(c) At least every 5 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each management entity shall evaluate and indicate to the board those lands that the entity manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the council for its recommendation as to whether such lands should be disposed of by the board.

(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) shall be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.

(e) Prior to any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusage. The council shall determine whether the request for surplusage is compatible with the resource values of and management objectives for such lands.

(f) In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 30 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; and governmental, judicial, or recreational centers. County or local government requests for surplus lands shall be

expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, then any surplusing determination involving other governmental agencies shall be made upon the board deciding the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.

(g) Lands determined to be surplus pursuant to this subsection shall be sold for appraised value or the price paid by the state or a water management district to originally acquire the lands, whichever is greater, except when the board or its designee determines a different sale price is in the public interest. However, for those lands sold as surplus to any unit of government, the price shall not exceed the price paid by the state or a water management district to originally acquire the lands. A unit of government which acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for a period of 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph shall first allow the board of trustees to reacquire such lands for the price at which they sold such lands.

(h) Where a unit of government acquired land by gift, donation, grant, quit-claim deed, or other such conveyance where no monetary consideration was exchanged, the price of land sold as surplus may be based on one appraisal. In the event that a single appraisal yields a value equal to or greater than \$1 million, a second appraisal is required. The individual or entity requesting the surplus shall select and use appraisers from the list of approved appraisers maintained by the Division of State Lands in accordance with s. 253.025(6)(b). The individual or entity requesting the surplus is to incur all costs of the appraisals.

(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or whether such lands are no longer needed. The board may require an agency to release its interest in such lands. For an agency that has requested the use of a property that was to be declared as surplus, said agency must have the property under lease within 6 months of the date of expiration of the notice provisions required under ss. 253.034(6) and 253.111.

(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies shall have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph shall not be required to be offered to local or state governments as provided in paragraph (f).

(k) Proceeds from any sale of surplus lands pursuant to this subsection shall be deposited into the fund from which such lands were acquired. However, if the fund from which the lands were originally acquired no longer

exists, such proceeds shall be deposited into an appropriate account to be used for land management by the lead managing agency assigned the lands prior to the lands being declared surplus. Funds received from the sale of surplus nonconservation lands, or lands that were acquired by gift, by donation, or for no consideration, shall be deposited into the Internal Improvement Trust Fund.

(l) Notwithstanding the provisions of this subsection, no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(m) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.

Section 15. For the purpose of incorporating the amendment made by this act to section 259.041, Florida Statutes, in references thereto, subsection (8) of section 259.032, Florida Statutes, is reenacted to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(8) Lands to be considered for purchase under this section are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 259.041, except as otherwise provided by the Legislature. An inholding or an addition to a project selected for purchase pursuant to this chapter is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed \$500,000. When at least 90 percent of the acreage of a project has been purchased pursuant to this chapter, the project may be removed from the list and the remaining acreage may continue to be purchased. Moneys from the fund may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the Department of Environmental Protection to condemn a specific parcel of land and such parcel has already been approved for acquisition under this section, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

Section 16. Subsection (15) of section 259.041, Florida Statutes, is amended to read:

259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.—

(15) The board of trustees, by an affirmative vote of at least three of its five members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to ss. 259.101(3)(a) and 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to this chapter, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

Section 17. For the purpose of incorporating the amendment made by this act to section 259.041, Florida Statutes, in references thereto, paragraph (b) of subsection (3) of section 260.016, Florida Statutes, is reenacted to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(b) Agreement to exchange, subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned lands. Any exchange of state-owned lands, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, for privately owned lands shall be subject to the requirements of s. 259.041.

Section 18. Subsection (1) of section 940.01, Florida Statutes, is amended to read:

940.01 Clemency; suspension or remission of fines and forfeitures, repleves, pardons, restoration of civil rights, and commutations.—

(1) Except in cases of treason and in cases when impeachment results in conviction, the Governor may, by executive order filed with the Secretary of State, suspend collection of fines and forfeitures, grant reprieves not exceeding 60 days, and, with the approval of two ~~three~~ members of the Cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

Section 19. Section 940.03, Florida Statutes, is amended to read:

940.03 Application for executive clemency.—When any person intends to apply for remission of any fine or forfeiture or the commutation of any punishment, or for pardon or restoration of civil rights, he or she shall request an application form from the Parole Commission in compliance with such rules regarding application for executive clemency as are adopted by the Governor with the approval of two ~~three~~ members of the Cabinet. Such application may require the submission of a certified copy of the applicant's indictment or information, the judgment adjudicating the applicant to be guilty, and the sentence, if sentence has been imposed, and may also require the applicant to send a copy of the application to the judge and prosecuting attorney of the court in which the applicant was convicted, notifying them of the applicant's intent to apply for executive clemency. An application for executive clemency for a person who is sentenced to death must be filed within 1 year after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later.

Section 20. Subsection (5) of section 985.417, Florida Statutes, is amended to read:

985.417 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(5) Any child who has been convicted of a capital felony while under the age of 18 years may not be released on probation without the consent of the Governor and two ~~three~~ members of the Cabinet.

Section 21. This act shall take effect upon becoming a law.

Approved by the Governor April 1, 2003.

Filed in Office Secretary of State April 1, 2003.