

Notes on Department of Administration (S.22)

As reported by the House Judiciary Committee

April 23, 2013

1. There are a variety of effective date provisions in the bill (pages 1, 2, 4-5, 65-66, 83-84, 103, 105, 116, and 123). In general, the House bill takes effect July 1, 2014, which is one year earlier than the Senate version. The later effective date may be prudent; it would be difficult to implement this and select senior leadership for a Department of Administration when the Governor's term would expire just a few months later. High-quality candidates would balk at taking an appointed position when it could render them unemployed so soon afterwards.
2. The House and Senate vary on the various thresholds for approving property transactions and permanent improvement projects. As a general rule, the Senate bill sets the threshold at \$1,000,000, as opposed to \$500,000 in the House bill. Below the limit, the Department of Administration would make decisions, while either the SFAA or SCAA would be left to decide for larger projects.
 - a. We would propose to change the following \$500,000 thresholds to \$1,000,000 to conform with the Senate version:
 - i. Page 16, lines 32-33: Transactions involving real property
 - ii. Page 19, lines 25 and 28-29: Approval of plans and specifications for PIPs
 - b. The House bill creates a new Section 2-47-15 regarding PIP approvals; it sets the threshold at \$500,000. This would also need to rise to \$1,000,000 to be consistent with the other proposed changes. (Page 89, lines 2, 10, and 17-18)
 - c. The House bill reduces the current \$1,000,000 thresholds for certain higher education PIPs to \$500,000. We would prefer to retain these figures at the current level (which is what is also used in the Senate bill). (Page 93, lines 24, 31-32, and 36)
3. The House Judiciary Subcommittee accelerated the legislative oversight review cycle from 7 years to 5 years per agency, per house. This will increase the number (and cost) of new legislative staffers who are required in order to support the legislative oversight process.
 - a. Page 5, lines 13 and 39; page 6, line 22
4. The bill requires that all testimony given to an investigating committee be given under oath. The proposed amendment would leave it to the investigating committee's chair to decide whether or not this is necessary.
 - a. Page 10, lines 21-22 (current bill): "All testimony given to an investigating committee must be given under oath."
 - b. (Proposed): "**The chairman of the investigating committee may require that any All** testimony given to an investigating committee **must** be given under oath."
5. The House bill includes text (Sections 2-2-100, -110, and -120) that was stricken from the Senate bill. These passages create a new felony charge for Contempt of the General Assembly and also compel the Attorney General to file charges upon receiving notice from a committee or subcommittee chair that false, misleading, or incomplete testimony has been given. These passages were also removed from last session's Department of Administration bill.
 - a. Page 10, line 34 through page 11, line 16 (current bill)
 - b. (Proposed): Delete lines

6. The House bill transfers the Confederate Relic Room to the Department of Administration; the Senate bill created a new commission to oversee that office.
 - a. Page 65, lines 35-38 and page 66, lines 12-29 (current bill)
 - b. The Relic Room is not connected to the provision of administrative or operational services and therefore has no nexus with the Department of Administration. There are a variety of alternatives to consider, such as Museum Commission or the Senate's approach.
7. The House bill creates SCAA as the successor to the Budget and Control Board, but expands its membership to seven, to include the Attorney General and the Lieutenant Governor. The existing board is already unmanageable with five members – adding more members would further dilute accountability and exacerbate the Executive Director's ongoing problem balancing the priorities of various members who may not have reconcilable priorities.
 - a. Page 82, lines 8-16 (current bill)
 - b. (Proposed): Change "seven" members to "five" and delete Lieutenant Governor and Attorney General from list of members. This change would also require that the bill's changes to the composition of the Procurement Review Panel (page 114, lines 13 and 22-25) be unwound.
8. The House bill compels the Department of Administration to provide a full range of administrative and operational services to the Rural Infrastructure Authority, which has no natural connection to back-office administrative or operational services. Furthermore, the authority is currently supported by the Department of Commerce, whose head chairs the authority.
 - a. Page 81, lines 34-40 (current bill): "Section 11-50-65. The Department of Administration shall provide such administrative support to the State Rural Infrastructure Authority or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support."
 - b. (Proposed): "Section 11-50-65. The Department of ~~Administration~~ Commerce shall provide such administrative support to the ~~State~~ Rural Infrastructure Authority or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support."
(The entity is referred to as the Rural Infrastructure Authority and not the State Rural Infrastructure Authority elsewhere in law. There are other adjacent passages where "State" should also be stricken.)
9. The House bill compels the Department of Administration to provide a full range of administrative and operational services to the Revenue and Fiscal Affairs Office, which will not be under the administration's control. RFAO should have to obtain its own appropriations to cover its expenses...although it should then be free to obtain those services from DOA (at cost) if they can mutually agree to such an arrangement. The solution is to replace the current text with the language the bill already incorporates regarding the SCAA.
 - a. Page 67, lines 5-10 (current bill): "The Department of Administration shall provide such administrative support to the Revenue and Fiscal Affairs Office or any of its divisions or

components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.”

- b. (Proposed): **“The General Assembly, in the annual general appropriations act, shall appropriate those funds necessary for the operations of the Revenue and Fiscal Affairs Office.”** (Taken from page 82, lines 33-35)

10. The House bill embeds the Office of Inspector General within the SCAA’s Office of Accountability and Auditing. This would compromise the Inspector General’s independence and objectivity. We prefer that the Inspector General remain truly independent.

11. The Senate bill included the following passages, which we would like to see in the version the House passes:

- a. **“No later than December 31, 2015, the department's director shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that contains an analysis of and recommendations regarding the most appropriate organizational placement for each component of the Office of Executive Policy and Programs as of the effective date of this act. The department shall solicit input from and consider the recommendation of affected constituencies while developing its report.”**
- b. **“No later than December 31, 2015, the (Department of Administration) shall undertake a strategic sourcing initiative through which it must analyze the state's current spending on various categories of goods and services, identify the greatest opportunities to leverage the state's purchasing power, and prioritize the state's subsequent efforts to maximize achievable savings.”**
- c. **“No later than June 30, 2016, the (Department of Administration) shall submit a report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives to recommend changes to statutes, policies, and procedures governing state procurement activities. The recommendations shall be formulated in order to reduce costs, accelerate processing times, and improve services provided to state agencies and their business partners.”**

12. TECHNICAL: Bill varies between “Department of Administration” (preferred) and “South Carolina Department of Administration”. Also switches between “State Contracts and Accountability Authority” (preferred) and “South Carolina Contracts and Accountability Authority.”