



# The Florida Legislature

## OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



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### SUNSET MEMORANDUM

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Report No. 07-S07

## Department of Environmental Protection Advisory Committees

September 5, 2007

### Summary

In response to a request from the Joint Legislative Sunset Committee, we have reviewed the advisory committees of the Department of Environmental Protection (DEP). We reviewed the department's advisory committees and identified and examined their purposes, activities, and related costs and assessed the need for continuation.<sup>1</sup>

We found that most Department of Environmental Protection Advisory Committees meet the criteria for continuation. Specifically, we found that the department had 16 advisory committees in Fiscal Year 2006-07 that incurred travel, staff, and other expenses totaling \$252,725. In general, these advisory committees served a public purpose by providing the department with stakeholder input or expertise in a variety of matters, including agency rule development and the purchase of conservation and recreation lands. Further, four of these committees are required by federal law or regulations and cannot be eliminated without jeopardizing federal funding to the state. Three advisory committees were dissolved by state law effective July 1, 2007.

The Legislature may wish to consider continuing 12 of the 13 remaining advisory committees because they generally provide useful citizen input into agency decision making. However, the Legislature should repeal the statute creating the Land Use Advisory Committee. This committee, which was created to evaluate the lands mined or disturbed by the severance of phosphate rock and develop a general reclamation plan, has achieved its purpose and is no longer active.

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<sup>1</sup> Included in our review were advisory committees that are defined in ss. [20.03\(3\)](#), (7), (8), (9), (10), and (12), *F. S.*, or were created through executive order.

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## Background

The Department of Environmental Protection's mission is controlling pollution, protecting natural resources, providing resourced-based recreation, and acquiring, managing, and divesting state-owned lands. The department also implements federal laws, such as the Clean Air Act, the Clean Water Act, and the Coastal Zone Management Act.

The department reported having 16 advisory committees, 10 created by statute and 6 created by the department, that incurred travel, staff, and other expenses totaling \$252,725 in Fiscal Year 2006-07 (see Exhibit 1).

### Exhibit 1

#### DEP Reported \$252,725 in Costs for Advisory Committees in Fiscal Year 2006-07

Advisory Committee	Reported Cost
Acquisition and Restoration Council	\$72,635
Florida Oceans and Coastal Council	38,900
Innovative Technologies Review Committee	36,000
Florida Water Resources Monitoring Council	26,900
Pollutant Trading Policy Advisory Committee	26,000
Florida Greenways and Trails Council	22,500
Environmental Regulation Commission	13,790
Committee on Landscape Irrigation and Florida-Friendly Design Standards	11,000
Non-Mandatory Land Reclamation Committee	1,220
Small Business Air Pollution Compliance Advisory Council	1,200
Technical Advisory Council for Water and Domestic Wastewater Operator Certification	1,120
Recreational Trails Program Advisory Committee	1,110
State Geologic Mapping Advisory Committee	350
Caloosahatchee-St. Lucie Rivers Corridors Advisory Committee	0
Big Cypress Swamp Advisory Committee	0
Land Use Advisory Committee	0
<b>Total</b>	<b>\$252,725</b>

Source: Department of Environmental Protection.

As shown in Exhibit 1, three committees, the Acquisition and Restoration Council, the Florida Oceans and Coastal Council, and the Innovative Technologies Review Committee, accounted for over half of the total cost reported during the fiscal year.

- The Acquisition and Restoration Council recommends conservation and recreation land for the Governor and Cabinet to purchase under the Florida Forever Program. This council meets several times a year and is supported by department staff and Florida Natural Areas Inventory employees.<sup>2</sup>
- The Florida Oceans and Coastal Council was required by statute to prepare a comprehensive oceans and coastal resource assessment during Fiscal Year 2006-07.
- The Innovative Technologies Review Committee evaluated projects intended to assist in beach preservation and nourishment until the committee's dissolution on July 1, 2007.

<sup>2</sup> The Florida Natural Areas Inventory (FNAI) is a non-profit organization administered by Florida State University. FNAI gathers, interprets, and disseminates information critical to the conservation of Florida's biological diversity and is funded through contracts and grants, which currently include work for the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, and other state and federal agencies.

However, three committees were either abolished or scheduled by law to be abolished by July 1, 2007 (Pollutant Trading Policy Advisory Committee, the Caloosahatchee-St. Lucie Rivers Corridors Advisory Committee, and the Innovative Technologies Review Committee). These committees incurred \$62,000 in costs during Fiscal Year 2006-07.

See Appendix A for more information on the department's advisory committees.

## ***Assessment***

In assessing department advisory committees, we considered various criteria, including whether the committees

- serve a public purpose;<sup>3</sup>
- facilitate public participation in an agency's activities and provide agency staff with stakeholder expertise without duplicating the efforts of other entities;
- are mandated by federal law; and
- fulfill their public purposes.<sup>4</sup>

We concluded that most of the department's advisory committees serve a public purpose by providing the department with stakeholder input or expertise in a variety of matters. For example, the Environmental Regulation Commission is the department's standard-setting body for air, water and solid waste pollution control rules and regulations; the Greenways and Trails Council advises the department on decisions and policies for developing the state's greenways and trails system; and the Non-Mandatory Land Reclamation Committee reviews landowners' reclamation plans for lands disturbed by phosphate mining prior to July 1, 1975.

Further, four of these advisory committees are required by federal laws or regulations (Small Business Air Pollution Compliance Advisory Council; Technical Advisory Council for Water and Domestic Wastewater Operator Certification; State Geologic Mapping Advisory Committee and Recreational Trails Program Advisory Committee). As these four advisory committees are mandated by federal law or regulations, abolishing them could result in the loss of approximately \$2 million in federal funds.

However, we recommend that the Legislature repeal s. 378.011, *Florida Statutes*, which would abolish the department's Land Use Advisory Committee. The Legislature initially created this committee to evaluate the lands mined or disturbed by the severance of phosphate rock, develop a general reclamation plan, and provide a report to the Department of Natural Resources, one of DEP's predecessor agencies, by July 1, 1979.<sup>5</sup> Department managers confirmed that the committee's purpose has been fulfilled and that it is no longer active. Further, the Legislature repealed the statutory provisions that specified the committee's duties in 2000.<sup>6</sup>

In conclusion, the Legislature and department may wish to consider continuing 12 of the department's remaining 13 committees. Although department staff could implement state policies without these committees, they generally provide useful citizen input into agency decision making and eliminating them would not significantly reduce state costs.

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<sup>3</sup> Section [20.052\(1\)](#), *F. S.*

<sup>4</sup> Section [20.052\(2\)](#), *F. S.*

<sup>5</sup> Ch. 78-136, *Laws of Florida*.

<sup>6</sup> Ch. [2000-158](#), *Laws of Florida*.

## Appendix A

# The Department of Environmental Protection Had 16 Advisory Committees in Fiscal Year 2006-07

Advisory committees are listed in order of costs (highest to lowest) incurred in Fiscal Year 2006-07.

Advisory Committee	Purpose	Agency Reported Activities	Impact of Abolition
Acquisition and Restoration Council	Reviews Florida Forever acquisition proposals, land uses, and management plans covering Board of Trustees lands. The council is authorized by s. 259.035, <i>F.S.</i>  The council's reported cost for Fiscal Year 2006-07 was \$72,635.	The council reviewed and recommended approximately 2 million acres for approval on the Florida Forever list; 610,000 acres have been acquired. The council also oversees management of 3.375 million acres of state lands. The council holds meetings and public hearings about 12 times each year.	Some entity would need to perform these activities if the Florida Forever Program is continued. Accordingly, it is doubtful whether eliminating the council would result in cost savings. Eliminating the council would require repealing s. 259.035, <i>F. S.</i> , and amending other related statutes.
Florida Oceans and Coastal Council	Assists the state in identifying new research strategies to maximize protection and conservation of ocean and coastal resources while recognizing their economic benefits. The council reviews existing research and prepares a Florida Ocean and Coastal Scientific Research Plan. Authorized by Ch. 161, Part IV, <i>F.S.</i>  The council's reported cost for Fiscal Year 2006-07 was \$38,900.	The council updates and publishes a research plan annually and recommends projects that meet certain criteria. It typically meets about six times per year.	Department managers assert that abolishing the council would reduce coordination of the state's ocean and coastal research activities.
Innovative Technologies Review Committee	Assists the department in evaluating projects and technologies that have the potential to reduce costs, conserve beach sediment, extend the life of beach nourishment projects, and improve sand bypassing on critically eroded beaches.  The committee's reported cost for Fiscal Year 2006-07 was \$36,000.	The committee has evaluated the projects.	None. The committee's work was completed by July 1, 2007, and the committee was abolished.

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Advisory Committee	Purpose	Agency Reported Activities	Impact of Abolition
Florida Water Resources Monitoring Council	<p>Improves the standardization and sharing of water quality information within state and local governments within Florida. Authorized by s. 373.026(3), <i>F. S.</i>, the council facilitates the sharing of water quality information among multiple entities.</p> <p>The council's reported cost for Fiscal Year 2006-07 was \$26,900.</p>	<p>The committee has developed a strategic plan that will standardize the required metadata elements within a water quality database. The council generally meets quarterly.</p>	<p>Would reduce public input into water resource monitoring and could hinder sharing of information among state agencies and local governments.</p>
Pollutant Trading Policy Advisory Committee	<p>Assists the department in developing a report to the Legislature regarding water pollutant trading and establishing and implementing total maximum daily loads (TMDL).</p> <p>The committee's reported cost for Fiscal Year 2006-07 was \$26,000.</p>	<p>The committee completed its report in December 2006.</p>	<p>None. This advisory committee was required by s. 403.067, <i>F. S.</i> Since the required report was completed, the committee has been abolished.</p>
Florida Greenways and Trails Council	<p>Advises the department in the execution of its powers and duties under the Florida Greenways and Trails Act. Provides stakeholder participation as required by s. 260.0142, <i>F. S.</i></p> <p>The council's reported cost for Fiscal Year 2006-07 was \$22,500.</p>	<p>The council reviews and approves all greenways and trails acquisitions, designations, and prioritization maps. The council meets four times a year.</p>	<p>Would reduce public input in the development of greenways and trails.</p>
Environmental Regulation Commission	<p>Adopts rules that set environmental standards for air, water quality, and solid waste. Section 403.804, <i>F. S.</i> establishes the commission as the department's standard-setting authority for pollution control rules.</p> <p>The commission's reported cost for Fiscal Year 2006-07 was \$13,790.</p>	<p>The commission complies with the legislative mandate to exercise the standard-setting authority for the department. The commission schedules monthly meetings, but may meet less often.</p>	<p>The Legislature would have to designate another entity to set standards relating to air pollution, water quality, and waste management.</p>

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Advisory Committee	Purpose	Agency Reported Activities	Impact of Abolition
Committee on Landscape Irrigation and Florida-Friendly Design Standards	<p>Develops landscape and xeriscape design standards for new construction. Required by s. 373.228, <i>F. S.</i> The committee is still working on guidelines. Standards are reviewed every five years and modified as needed.</p> <p>The committee's reported cost for Fiscal Year 2006-07 was \$11,000.</p>	<p>The committee developed design standards in early 2007. The committee will be reactivated when the standards are reviewed every five years.</p>	<p>No entity would periodically review the design standards unless the Legislature designated one. Continuation depends on legislative interest in standards.</p>
Non-Mandatory Land Reclamation Committee	<p>Advises the department on non-mandatory land reclamation; recommends approval, modification or denial of reclamation grant applications. The committee is required by s. 378.033, <i>F.S.</i></p> <p>The committee's reported cost for Fiscal Year 2006-07 was \$1,220.</p>	<p>The committee receives public input for the prioritization of funding of reclamation grant applications. The committee meets at least once a year.</p>	<p>Could result in loss of technical expertise and citizen input into land reclamation decisions.</p>
Small Business Air Pollution Compliance Advisory Council	<p>Advises the department on the effectiveness of its Small Business Environmental Assistance Program (SBEAP), including difficulties encountered by small businesses, and the degree and severity of enforcement; reviews regulatory information to ensure that the small business community understands it; makes periodic reports to the Administrator of the U.S. Environmental Protection Agency. This council is required by Section 507 (e) of the federal Clean Air Act.</p> <p>The council's reported cost for Fiscal Year 2006-07 was \$1,200.</p>	<p>The council renders advisory opinions concerning the effectiveness of the SBEAP, and reviews all compliance materials that the program creates for Florida businesses. In addition, the council provides a direct link to the small business community, which allows for a realistic perspective of issues and needs. It also provides a gauge of program effectiveness. The council meets annually.</p>	<p>Abolition would put the state out of compliance with federal law. Could result in loss of federal funds as council is required by federal regulations.</p>
Technical Advisory Council for Water and Domestic Wastewater Operator Certification	<p>Advises the department's Operator Certification Program. Authorized by s. 403.87, <i>F. S.</i></p> <p>The council's reported cost for Fiscal Year 2006-07 was \$1,120.</p>	<p>Meets statutory requirements by providing expertise on water and wastewater treatment. The council meets upon the request of the chair, a majority of its members, or the department secretary. The last meeting was in September 2006.</p>	<p>The U.S. Environmental Protection Agency strongly recommended such a council as a way to meet stakeholder requirements in federal regulations. Without a public participation element, the state could lose federal funds.</p>

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Advisory Committee	Purpose	Agency Reported Activities	Impact of Abolition
Recreational Trails Program Advisory Committee	<p>Advises the department's Office of Greenways and Trails on the Federal Highway Administration's Recreational Trails Program through development of scoring criteria, scoring of applications, and assisting with development of statewide trails education master plan. Required by 23 U.S.C. 206.</p> <p>The committee's reported cost for Fiscal Year 2006-07 was \$1,110.</p>	<p>The committee satisfies requirements of 23 U.S.C. 206 by recommending that certain entities receive grants from the federal Recreational Trails Program. Federal law requires the committee to meet at least once a year.</p>	<p>Abolishing the committee would make the state ineligible for federal funds under this program.</p>
State Geologic Mapping Advisory Committee	<p>Assists the State Geologic Survey in setting geologic mapping priorities for Florida. Required by the Federal Law to provide input to the State Geological Survey for STATEMAP funding.</p> <p>The committee's reported cost for Fiscal Year 2006-07 was \$350.</p>	<p>The committee has provided input to the State Geologic Survey to assist with statewide geologic mapping needs. The committee meets annually.</p>	<p>Abolishing the committee would make the state ineligible for federal funds under this program.</p>
Caloosahatchee-St. Lucie Rivers Corridors Advisory Council	<p>Prepares a report with recommendations regarding the high-level impacts of discharges from Lake Okeechobee on the St. Lucie and Caloosahatchee estuaries.</p> <p>There were no reported costs in Fiscal Year 2006-07.</p>	<p>The committee completed its report in February 2007.</p>	<p>None. The council expired in 2007.</p>
Big Cypress Swamp Advisory Committee	<p>Reviews hydrocarbon permit drilling applications and makes recommendations for permit conditions to the department's Florida Geological Survey (FGS). The committee is authorized by s. 377.42, F.S.</p> <p>There were no reported costs in Fiscal Year 2006-07.</p>	<p>The committee helps ensure that environmental concerns are considered with recommendations to the FGS for permit conditions as required by law. The committee meets only when a new oil exploration well is proposed. The last meeting was in 1989.</p>	<p>Although drilling applications are rare, the committee is available to review them when they materialize. Predicting the frequency of applications is difficult. An application was filed but withdrawn in 2006. Abolition would require repealing s. 377.42, F.S.</p>
Land Use Advisory Committee	<p>Evaluate the lands mined or disturbed by the severance of phosphate rock, develop a general reclamation plan, and provide a report by July 1, 1979. Authorized by s. 378.011, F.S.</p> <p>There were no reported costs in Fiscal Year 2006-07.</p>	<p>Report completed by July 1, 1979; committee has been inactive since that time.</p>	<p>None. The committee's purpose has been accomplished and it has not met since 1979. The Legislature would have to repeal s. 378.011, F.S.</p>

Source: OPPAGA review of the *Florida Statutes* and information from the Department of Environmental Protection.