

Tab 1	SB 666 by Mayfield; Florida Development Finance Corporation						
139688	A	S	RCS	CM, Mayfield	Delete L.79 - 114:	01/21	01:53 PM

Tab 2	SB 1112 by Taddeo (CO-INTRODUCERS) Stewart; (Identical to H 00861) Bottled Water Excise Tax						
689478	D	S	UNFAV	CM, Gruters	Delete everything after	01/21	01:54 PM
840230	A	S	FAV	CM, Taddeo	Delete L.65 - 186:	01/21	01:54 PM

Tab 3	SB 1244 by Albritton; (Compare to H 01271) State Workforce Development Boards						
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Tab 4	SB 1310 by Mayfield (CO-INTRODUCERS) Hutson; (Compare to H 00777) Hunting and Fishing Sales Tax Holiday						
876374	A	S		CM, Mayfield	Delete L.39:	01/17	09:43 AM

Tab 5	SB 922 by Gruters; (Similar to H 00779) Economic Development						
818472	A	S	RCS	CM, Gruters	btw L.114 - 115:	01/21	01:54 PM
694026	A	S	RCS	CM, Gruters	btw L.114 - 115:	01/21	01:54 PM
460038	AA	S	RCS	CM, Gruters	Delete L.10:	01/21	01:54 PM

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 666

INTRODUCER: Commerce and Tourism Committee and Senator Mayfield

SUBJECT: Florida Development Finance Corporation

DATE: January 21, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 666 modifies the governance and administration of the Florida Development Finance Corporation (FDFC) by:

- Requiring the FDFC and Department of Economic Opportunity (DEO) to provide additional annual reporting on the FDFC’s activities;
- Redesigning the FDFC’s board of directors to include the executive director of the DEO, who will serve as the chair of the board, and the director of the State Board of Administration’s Division of Bond Finance; and
- Instituting a sunset repeal, effective October 1, 2022, and every four years thereafter, unless reviewed and saved from repeal by the Legislature.

II. Present Situation:

Florida Development Finance Corporation

Operation

The FDFC is a statewide development financing authority created by the Legislature in 1993.¹ The original purpose of the FDFC was to foster the growth of manufacturing and other strong

¹ Chapter 288, Part X, F.S. The corporation was created as a “public body corporate and politic” meaning that it is a legal entity or corporation with a public function. Ch. 93-187, ss. 24-45, Laws of Fla.

job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions.²

In the 2010 legislative session, the FDFC's responsibilities were broadened to allow it to participate in a federal Department of Energy guaranteed loan program for the development of renewable energy infrastructure projects, and related energy projects that may be eligible under federal law.³ The FDFC has the power to function within the corporate limits of any public agency including local governments with which it enters into an inter-local agreement.⁴

Pursuant to s. 288.9605, F.S., the FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers.⁵ While the FDFC functions as a mechanism to help borrowers access capital markets, it does not take on responsibility of debt repayment, even when a borrower fails to repay.⁶ Conversely, the FDFC does not guarantee the bonds it issues but certain borrowers may opt in to the guaranty fund established by the FDFC pursuant to s. 288.9607, F.S., which guarantees that the bonds issued will be repaid. This guaranty fund consists of premiums paid by businesses that wish to participate in the fund and by a property interest in the infrastructure built with the insured bond's proceeds.⁷

A majority of the FDFC's financial assistance results from the issuance of municipal bonds, of which it may issue either a taxable revenue bond or a tax-exempt bond.⁸ The bonds issued can provide financing for projects that further public purposes and are issued on behalf of a range of organizations.

Tax exempt bonds, known also as Private Activity Bonds, require additional borrower qualification processes, including approval pursuant to the Tax Equity and Fiscal Responsibility Act of 1986 (TEFRA) and allocation from the Florida State Board of Administration's Division of Bond Finance. These bonds are more lucrative financing options because they tend to have a lower interest rate than bank loans or taxable fixed-income securities, and investors benefit by not paying income taxes on interest payments.⁹ The FDFC helps its borrowers pursue Private Activity Bonds by assisting them with the additional qualification processes.¹⁰

In the fiscal year ending June 30, 2019, the FDFC facilitated the issuance of \$2,885,710,000 in eight new money bonds. The borrowers served by these bonds include two charter schools, one

² Section 288.9602, F.S., generally expresses the legislative intent of the FDFC.

³ Sections 2-10, ch. 2010-139, Laws of Fla.

⁴ Section 288.9605(2)(e), F.S.

⁵ “[The] FDFC facilitated the issuance of debt obligations...[t]hese bonds do not constitute a general debt, liability or obligation of FDFC, the state, or any local government.” Florida Development Finance Corporation, *Financial Statements for the Year Ended June 30, 2019*, 12 (on file with the Senate Committee on Commerce and Tourism). See also, Florida Development Finance Corporation, *Bond Financing*, <https://www.fdfcbonds.com/traditional-bonds> (last visited Jan. 21, 2020).

⁶ *Id.*

⁷ The guaranty may not exceed 5 percent of the aggregate principal amount of bonds or other indebtedness relating to any capital project. Section 288.9607, F.S.

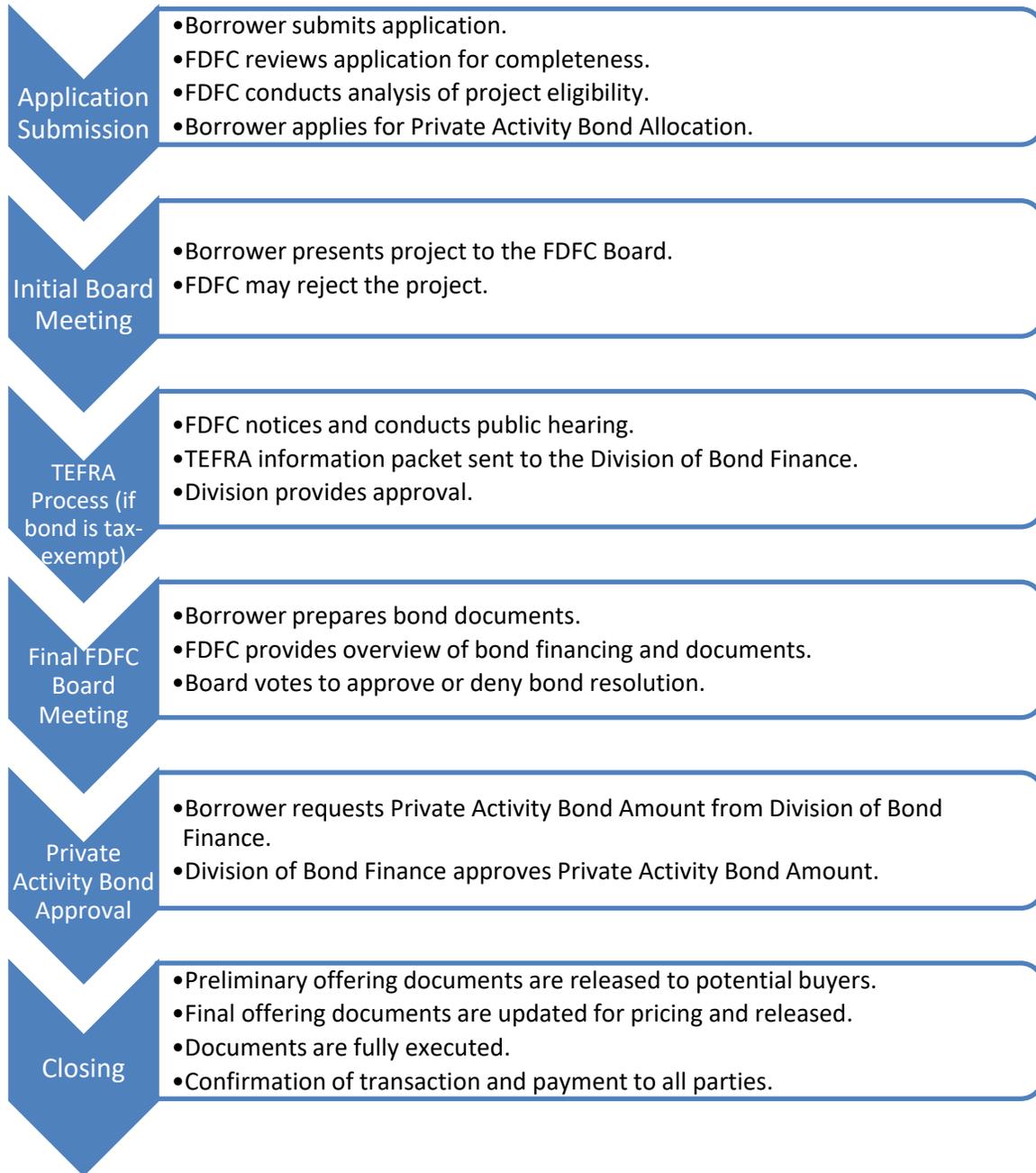
⁸ Florida Development Finance Corporation, *About Us*, <https://www.fdfcbonds.com/copy-of-about-us> (last visited Jan. 21, 2020).

⁹ Steven Maguire and Joseph Hughes, Congressional Research Service, *Private Activity Bonds: An Introduction* (July 13, 2018), available at <https://fas.org/sgp/crs/misc/RL31457.pdf> (last visited Jan. 21, 2020).

¹⁰ Florida Development Finance Corporation, *Bond Financing*, note 5.

solid waste disposal, two surface transportation, one healthcare, one student housing, and one not-for-profit business.¹¹

More generally, an applicant who wishes to work with the FDFC must submit an application, meet board approval for its project, and in cases of tax-exempt bonds, undergo a public hearing and receive approval from the State Board of Administration’s Division of Bond Finance, and then have bonds issued for its project. (See exhibit below).¹²



¹¹ Florida Development Finance Corporation *Financial Statements for the Year Ended June 30, 2019*, *supra* note 5 at 3.

¹² OPPAGA, *Florida Development Finance Corporation has Recently Taken Steps to Improve Accountability* (Nov. 15, 2017) (on file with the Senate Committee on Commerce and Tourism).

The FDFC also administers the Property Assessed Clean Energy (PACE) program, for which it also may issue bonds and other financial assistance that supports energy conservation.¹³ The PACE Program was launched June 29, 2017 and allows a property owner to use equity accrued from the original purchase as the basis for an extension of credit.¹⁴ The PACE Program facilitated \$19,353,886 in five taxable residential bonds for the 2019 fiscal year.¹⁵

FDFC's revenues are generated exclusively by fees it charges for the issuance of bonds.¹⁶ The fees assessed are a \$1,500 application fee and a tiered issuance fee due at the time of closing (sale of bonds). The tiered issuance fee is based on the face value of the bond issued: bonds valued from \$0 -\$2.5 million pay 75 basis points (0.75%); bonds valued from \$2.5-\$32.5 million pay 25 basis points (0.25%); and bonds valued over \$32.5 million pay 10 basis points (0.10%).¹⁷

Governance and Administration

The FDFC is governed by a five-member board of directors who are appointed by the Governor and confirmed by the Senate for four-year terms.¹⁸ At least three of the FDFC's directors must be bankers selected from a list of candidates nominated by the Enterprise Florida, Inc. (EFI), and one must be an economic development specialist.¹⁹ The directors are vested with the FDFC's powers, and may take action on behalf of the corporation by a vote of a majority of the directors present at a meeting, unless otherwise required by the FDFC's bylaws.²⁰ The directors do not receive compensation for their service, but are entitled to necessary expenses, including travel expenses.²¹ Lastly, the board is empowered to employ a staff to facilitate the FDFC's functions.²²

The FDFC must provide an annual report to the Governor, the Legislature, the Auditor General, and the governing body of each public entity with which it has an interlocal agreement which details:

- The FDFC's activities, operations, and accomplishments, including the specific number of businesses that the FDFC assisted;
- The FDFC's assets, liabilities, income, and operating expenses, including a description of all outstanding revenue bonds; and
- Any findings made by the Auditor General in an audit conducted pursuant to s. 11.45, F.S.

¹³ Florida Development Finance Corporation, *Property Assessed Clean Energy "PACE"- Commercial PACE*, <https://www.fdfcbonds.com/pace-commercial> (last visited Jan. 21, 2020). See also, s. 288.9606(7), F.S.

¹⁴ *Id.*

¹⁵ Florida Development Finance Corporation, *Financial Statements for the Year Ended June 30, 2019*, *supra* note 5 at 3.

¹⁶ Florida Development Finance Corporation, *Financial Statements for the Year Ended June 30, 2019*, *supra* note 5 at 6.

¹⁷ Florida Development Finance Corporation, *Conduit Issuance Policy*, 6-7 (Feb. 26, 2019), available at https://ca5cce56-0e6c-4988-82a7-74892bf1d07e.filesusr.com/ugd/b1b27e_0b227d45ff2b4e139bb36f2846f70b4b.pdf (last visited Jan. 21, 2020).

¹⁸ Section 288.9604(2), F.S.

¹⁹ Section 288.9604(2), F.S.

²⁰ Section 288.9604(3), F.S.

²¹ Section 288.9604(3)(a)1., F.S.

²² Section 288.9604(3)(c), F.S.

Department of Economic Opportunity

The Department of Economic Opportunity (DEO) was created to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.²³ Within the DEO, the Division of Strategic Business Development evaluates business prospects; administers tax refund, tax credit, and grant programs; develops performance measures for state incentive programs and contracted entities; and develops and updates a 5-year statewide strategic plan for business expansion and economic development, consulting with EFI and CareerSource Florida, Inc. (CareerSource). The Division of Community Development assists local governments with community planning, administers state and federal community development grant programs, and assists in the development of the 5-year statewide strategic plan. The Division of Workforce Services submits a unified budget request for workforce development in conjunction with CareerSource, ensures that the state appropriately administers federal and state workforce funding, implements the state's reemployment assistance program, and assists in developing the 5-year statewide strategic plan.²⁴

The DEO, with assistance from EFI, must, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of the business climate and economic development in the state. The report must include the identification of problems, a prioritized list of recommendations, and the annual reports of specified other programs.²⁵ The DEO must establish annual performance standards for EFI, CareerSource, VISIT FLORIDA, and Space Florida, and report annually on how these performance measures are being met in the annual report.²⁶

The head of the DEO is the executive director, who is appointed by the Governor, subject to confirmation by the Senate. The executive director serves at the pleasure of and reports to the Governor.²⁷ The executive director manages all activities and responsibilities of the DEO, and serves as the manager for the state with respect to contracts with EFI, and all applicable direct-support organizations.²⁸

The Division of Bond Finance

The Division of Bond Finance (Division) was created by the Legislature in 1969 to issue bonds on behalf of local governments and agencies of the State of Florida. It assumed the powers of its predecessor, the Florida Development Commission. The Division has been administratively housed within the State Board of Administration since 1992, and operates under the control of a governing board which consists of the Governor and Cabinet.²⁹ The Division has the power to:

- Sue and be sued;
- Issue any bonds of the state, and to issue bonds on behalf of any state agency;

²³ Section 20.60(4), F.S.

²⁴ Section 20.60(5), F.S.

²⁵ Section 20.60(10), F.S.

²⁶ Section 20.60(11), F.S.

²⁷ Section 20.60(2), F.S.

²⁸ Section 20.60(9), F.S.

²⁹ Information from <https://www.sbafla.com/bond/Home/About-the-Division-of-Bond-Finance>, last visited January 21, 2020.

- Exercise all of the powers relating to the issuance of bonds of any state agency;
- Employ a director of the division to be designated by the Governor;
- Employ or retain persons, firms, or corporations;
- Prepare resolutions and other necessary proceedings relating to the issuance and sale of bonds;
- Sell all state bonds authorized by law;
- Request assistance related to bond issuance from any state agency;
- Exercise the power of eminent domain;
- Remit the proceeds of any bonds sold for any state agency;
- Exercise control over the state's arbitrage compliance program; and
- Undertake investigations.³⁰

The Division also determines the allocations for private activity bonds permitted to be issued in Florida under the Internal Revenue Code.³¹

III. Effect of Proposed Changes:

Board of Directors

The bill reconstructs the FDFC board to add two new seats that will be filled by the DEO's executive director, or his or her designee, who will serve as chair of the board, and the State Board of Administration's director of the Division of Bond Finance, or his or her designee, who will serve as a board director. The bill makes conforming changes to s. 288.9604, F.S., to transition the remaining five board seats, which are filled by gubernatorial appointees, to board director roles exclusively. Specifically, those members who serve as the chair and vice chair of the FDFC's board of directors as of June 30, 2020, will lose their titles and serve as regular directors beginning on July 1, 2020.

The bill also broadens the board of director eligibility requirement to allow three of the appointed board directors to be either a banker, or an individual with experience in finance.

Additionally, the bill removes the role of the EFI from the appointment process, thereby allowing individuals to apply directly to the Governor or FDFC to serve as board directors, rather than going through a nomination process that involves the EFI.

Reporting Requirements

The bill requires the FDFC to furnish a copy of its annual report to the DEO on or before 90 days after the close of its fiscal year. Additionally, the bill amends the DEO's annual reporting requirement in s. 20.60, F.S., to require the Department to include both a summary of the FDFC's annual report and an additional detailed report on the FDFC's performance in its own annual report, due on November 1 of each year to the Governor, Senate President, and Speaker of the House of Representatives.

³⁰ Section 215.64, F.S.

³¹ Section 159.804, F.S. See also, Division of Bond Finance, *Tax Equity and Fiscal Responsibility Act (TEFRA) Approval*, <https://www.sbafla.com/bondfinance/Other-Functions/TEFRA>, last visited Jan. 21, 2020.

Effective Date and Sunset Provision

The bill takes effect on July 1, 2020, and is subject to sunset on October 1, 2022, and every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, 288.9604, and 288.9610. The bill also creates an unnumbered section of law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on January 21, 2020:

- Substituted “directors” for the term “members” to provide for consistent use of terminology; and
- Removed from the bill the transfer of the FDFC’s officers, employees, and administrative and support staff to the DEO.

- B. **Amendments:**

None.



139688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/21/2020	.	
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	.	
	.	

The Committee on Commerce and Tourism (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 79 - 114
and insert:
of seven directors. The executive director of the department, or his or her designee, shall serve as chair of the board of directors of the corporation. The director of the Division of Bond Finance of the State Board of Administration, or his or her designee, shall serve as a director of the board of directors of the corporation. The Governor, subject to confirmation by the



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11 Senate, shall appoint the remaining five directors of the board
12 of directors of the corporation, ~~who shall be five in number.~~
13 The terms of office for the appointed directors shall be for 4
14 years from the date of their appointment. A vacancy occurring
15 during a term of an appointed director shall be filled for the
16 unexpired term. A director shall be eligible for reappointment.
17 At least three of the appointed directors of the corporation
18 shall be bankers or individuals with experience in finance ~~who~~
19 ~~have been selected by the Governor from a list of bankers who~~
20 ~~were nominated by Enterprise Florida, Inc.,~~ and one of the
21 directors shall be an economic development specialist.

22 (3) (a) 1. A director may not receive compensation for his or
23 her services, but is entitled to necessary expenses, including
24 travel expenses, incurred in the discharge of his or her duties.
25 Each appointed director shall hold office until his or her
26 successor has been appointed.

27 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
28 and (15); 112.3135; and 112.3143(2). For purposes of applying
29 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
30 112.3143(2) to activities of directors, directors shall be
31 considered public officers and the corporation shall be
32 considered their agency.

33 (c) ~~The directors of the corporation shall annually elect~~
34 ~~one of their members as chair and one as vice chair.~~ The
35 corporation may employ a president, technical experts, and such
36 other agents and employees, permanent and temporary, as it
37 requires and determine their qualifications, duties, and
38 compensation. For such legal services as it
39



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40 ===== T I T L E A M E N D M E N T =====

41 And the title is amended as follows:

42 Delete lines 19 - 22

43 and insert:

44 corporation; making conforming changes; providing for

45 future repeals;

By Senator Mayfield

17-00208C-20

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1 A bill to be entitled
 2 An act relating to the Florida Development Finance
 3 Corporation; amending s. 20.60, F.S.; requiring the
 4 executive director of the Department of Economic
 5 Opportunity to serve as the chair of the board of
 6 directors of the Florida Development Finance
 7 Corporation; requiring that the annual report of the
 8 corporation be incorporated into the department's
 9 annual report on the condition of the business climate
 10 and economic development in the state; requiring the
 11 department to develop performance standards for the
 12 corporation and include certain information relating
 13 to the standards in the department's annual report;
 14 amending s. 288.9604, F.S.; revising the membership of
 15 the board of directors of the corporation; requiring
 16 that the director of the Division of Bond Finance of
 17 the State Board of Administration, or his or her
 18 designee, serve on the board of directors of the
 19 corporation; making conforming changes; specifying
 20 that all officers, employees, and administrative and
 21 support staff for the corporation shall be employees
 22 of the department; providing for future repeals;
 23 requiring the chair and vice chair of the board of
 24 directors of the corporation to serve as regular
 25 members of the board after a specified date; providing
 26 construction; amending s. 288.9610, F.S.; requiring
 27 the corporation to submit an annual report containing
 28 specified information to the department; providing for
 29 the continuation of certain contracts and interlocal

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 agreements; providing an effective date.

31

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

33

34 Section 1. Paragraph (c) is added to subsection (9) of
 35 section 20.60, Florida Statutes, and paragraph (b) of subsection
 36 (10) and subsection (11) of that section are amended, to read:
 37 20.60 Department of Economic Opportunity; creation; powers
 38 and duties.—

39

(9) The executive director shall:

40

(c) Serve as the chair of the board of directors of the
 Florida Development Finance Corporation.

41

42

(10) The department, with assistance from Enterprise
 Florida, Inc., shall, by November 1 of each year, submit an
 annual report to the Governor, the President of the Senate, and
 the Speaker of the House of Representatives on the condition of
 the business climate and economic development in the state.

43

(b) The report must incorporate annual reports of other
 programs, including:

44

1. Information provided by the Department of Revenue under
 s. 290.014.

45

2. Information provided by enterprise zone development
 agencies under s. 290.0056 and an analysis of the activities and
 accomplishments of each enterprise zone.

46

3. The Economic Gardening Business Loan Pilot Program
 established under s. 288.1081 and the Economic Gardening
 Technical Assistance Pilot Program established under s.
 288.1082.

47

48

4. A detailed report of the performance of the Black

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59 Business Loan Program and a cumulative summary of quarterly
60 report data required under s. 288.714.

61 5. The Rural Economic Development Initiative established
62 under s. 288.0656.

63 6. The Florida Unique Abilities Partner Program.

64 7. A detailed report of the performance of the Florida
65 Development Finance Corporation and a summary of the
66 corporation's report required under s. 288.9610.

67 (11) The department shall establish annual performance
68 standards for Enterprise Florida, Inc., CareerSource Florida,
69 Inc., the Florida Tourism Industry Marketing Corporation, ~~and~~
70 Space Florida, and the Florida Development Finance Corporation
71 and report annually on how these performance measures are being
72 met in the annual report required under subsection (10).

73 Section 2. Subsection (2), paragraphs (a) and (c) of
74 subsection (3), and subsection (4) of section 288.9604, Florida
75 Statutes, are amended, and subsection (5) is added to that
76 section, to read:

77 288.9604 Creation of the authority.-

78 (2) The board of directors of the corporation shall consist
79 of seven members. The executive director of the department, or
80 his or her designee, shall serve as chair of the board of
81 directors of the corporation. The director of the Division of
82 Bond Finance of the State Board of Administration, or his or her
83 designee, shall serve as a member of the board of directors of
84 the corporation. The Governor, subject to confirmation by the
85 Senate, shall appoint the remaining five members of the board of
86 directors of the corporation, ~~who shall be five in number~~. The
87 terms of office for the appointed directors shall be for 4 years

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88 from the date of their appointment. A vacancy occurring during a
89 term of an appointed director shall be filled for the unexpired
90 term. A director shall be eligible for reappointment. At least
91 three of the appointed directors of the corporation shall be
92 ~~bankers or individuals with experience in finance who have been~~
93 ~~selected by the Governor from a list of bankers who were~~
94 ~~nominated by Enterprise Florida, Inc.,~~ and one of the directors
95 shall be an economic development specialist.

96 (3)(a)1. A director may not receive compensation for his or
97 her services, but is entitled to necessary expenses, including
98 travel expenses, incurred in the discharge of his or her duties.
99 Each appointed director shall hold office until his or her
100 successor has been appointed.

101 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
102 and (15); 112.3135; and 112.3143(2). For purposes of applying
103 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
104 112.3143(2) to activities of directors, directors shall be
105 considered public officers and the corporation shall be
106 considered their agency.

107 (c) ~~The directors of the corporation shall annually elect~~
108 ~~one of their members as chair and one as vice chair.~~ The
109 corporation may employ a president, technical experts, and such
110 other agents and employees, permanent and temporary, as it
111 requires and determine their qualifications, duties, and
112 compensation; however, all officers, employees, and
113 administrative and support staff for the corporation shall be
114 employees of the department. For such legal services as it
115 requires, the corporation may employ or retain its own counsel
116 and legal staff.

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117 (4) The board may remove an appointed ~~a~~ director for
 118 inefficiency, neglect of duty, or misconduct in office. Such
 119 director may be removed only after a hearing and only if he or
 120 she has been given a copy of the charges at least 10 days before
 121 such hearing and has had an opportunity to be heard in person or
 122 by counsel. The removal of a director shall create a vacancy on
 123 the board which shall be filled pursuant to subsection (2).

124 (5) This section is repealed October 1, 2022, and October 1
 125 of every fourth year thereafter, unless reviewed and saved from
 126 repeal by the Legislature.

127 Section 3. In order to implement the changes made by this
 128 act to s. 288.9604, Florida Statutes, the chair and vice chair
 129 of the board of directors of the Florida Development Finance
 130 Corporation as of June 30, 2020, shall serve as regular members
 131 beginning July 1, 2020. Nothing in this act may be construed to
 132 affect the terms of the directors serving on the board on July
 133 1, 2020.

134 Section 4. Section 288.9610, Florida Statutes, is amended
 135 to read:

136 288.9610 Annual reports of Florida Development Finance
 137 Corporation.—On or before 90 days after the close of the Florida
 138 Development Finance Corporation's fiscal year, the corporation
 139 shall submit to the Governor, the Legislature, the Auditor
 140 General, the Department of Economic Opportunity, and the
 141 governing body of each public entity with which it has entered
 142 into an interlocal agreement a complete and detailed report
 143 setting forth:

144 (1) The results of any audit conducted pursuant to s.
 145 11.45.

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146 (2) The activities, operations, and accomplishments of the
 147 Florida Development Finance Corporation, including the number of
 148 businesses assisted by the corporation.

149 (3) Its assets, liabilities, income, and operating expenses
 150 at the end of its most recent fiscal year, including a
 151 description of all of its outstanding revenue bonds.

152 Section 5. Any contract or interlocal agreement existing
 153 before July 1, 2020, between the Florida Development Finance
 154 Corporation, or any entity or agent of the corporation, and any
 155 other entity or person shall continue as a contract or agreement
 156 on the successor department or entity responsible for the
 157 program, activity, or function relative to the contract or
 158 agreement.

159 Section 6. This act shall take effect July 1, 2020.

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**FLORIDA DEVELOPMENT
FINANCE CORPORATION**

FINANCIAL STATEMENTS

For the Year Ended June 30, 2019

And Report of Independent Auditor

FLORIDA DEVELOPMENT FINANCE CORPORATION
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Report of Independent Auditor

To the Board of Directors,
Florida Development Finance Corporation:

Report on the Financial Statements

We have audited the accompanying financial statements of Florida Development Finance Corporation ("FDFC") as of and for the year ended June 30, 2019 and the related notes to the financial statements, as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Florida Development Finance Corporation as of June 30, 2019, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 – 6 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated September 18, 2019 on our consideration of FDFC's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of FDFC's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering FDFC's internal control over financial reporting and compliance.

A handwritten signature in black ink that reads "Cheryl Behrman CPA". The signature is written in a cursive style.

Orlando, Florida
September 18, 2019

MANAGEMENT'S DISCUSSION AND ANALYSIS

FLORIDA DEVELOPMENT FINANCE CORPORATION MANAGEMENT'S DISCUSSION AND ANALYSIS

JUNE 30, 2019

This discussion and analysis of Florida Development Finance Corporation's ("FDFC") financial performance provides an overview of its financial activities for the fiscal year ended June 30, 2019. Please read it in conjunction with the independent auditor's report and the basic financial statements.

Financial Highlights

FDFC facilitated the authorization and issuance of \$2,885,710,000 in (8) new money bonds for the fiscal year ending June 30, 2019. The types of borrowers served by the FDFC bond process were charter schools (2), solid waste disposal (1), surface transportation (2), healthcare (1), student housing (1) and not for profit (1). In all, the FDFC received application and issuance fees totaling \$3,117,760. 85% of these fees came from two large bond issuances.

In addition, FDFC's Property Assessed Clean Energy ("PACE") Program was launched on June 29, 2017 and the FDFC facilitated the authorization and issuance of \$19,353,886 in (5) taxable residential PACE bonds for the fiscal year ending June 30, 2019. In all, the FDFC received issuance fees totaling \$178,378 for the PACE Program.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to FDFC's basic financial statements. The basic financial statements also include notes that explain in more detail some of the information in the financial statements.

Required Basic Financial Statements

FDFC utilizes an enterprise fund for financial reporting purposes. This fund includes all activities of FDFC.

The financial statements of FDFC report information about FDFC using accounting methods similar to those used by private sector companies. These statements offer short-term and long-term financial information about its activities. The statement of net position includes all of FDFC's assets and liabilities and provides information about the nature and amounts of investments in resources (assets) and the obligations to FDFC's creditors (liabilities). The statement of net position also provides the basis for computing rate of return, evaluating the capital structure of FDFC and assessing liquidity and financial flexibility of FDFC.

All of the current year's revenues and expenses are accounted for in the statement of revenues, expenses, and changes in net position. This statement measures the success of FDFC's operations over the past year and can be used to determine whether FDFC has successfully recovered all of its costs through its services provided, as well as its profitability, and credit worthiness.

The final required financial statement is the statement of cash flows. The primary purpose of this statement is to provide information about FDFC's cash receipts and payments during the reporting period. The statement reports cash receipts, cash payments, and net changes in cash resulting from operating, investing, non-capital financing and financing activities and provides answers to such questions as where did cash come from, what was cash used for, and what was the change in the cash balance during the reporting period.

FLORIDA DEVELOPMENT FINANCE CORPORATION MANAGEMENT'S DISCUSSION AND ANALYSIS

JUNE 30, 2019

Financial Analysis

Net Position

Net position may serve over time as a useful indicator of FDFC's financial position. FDFC's assets exceeded liabilities by \$3,370,303, representing an increase in net position for the year of \$2,252,541. The largest portion of FDFC's net position reflects cash received from bond issuance fees.

**Table A-1:
Statements of Net Position
(In thousands of dollars)**

	<u>Fiscal Year 2019</u>	<u>Fiscal Year 2018</u>	<u>Dollar Change</u>
Assets			
Cash	\$ 3,331	\$ 1,100	\$ 2,231
Accounts receivable	-	7	(7)
Prepaid expenses	31	15	16
Capital assets, net	31	33	(2)
Total assets	<u>3,393</u>	<u>1,155</u>	<u>(2,238)</u>
Liabilities			
Accounts payable	12	27	(15)
Accrued expenses	11	10	1
Total liabilities	<u>23</u>	<u>\$ 37</u>	<u>(14)</u>
Net Position			
Investment in capital assets	31	33	(2)
Unrestricted	<u>3,339</u>	<u>1,085</u>	<u>2,254</u>
Total net position	<u>\$ 3,370</u>	<u>\$ 1,118</u>	<u>\$ 2,252</u>

Total cash increased in fiscal 2019 due mostly to large surface transportation bonds and multiple PACE bonds.

**FLORIDA DEVELOPMENT FINANCE CORPORATION
MANAGEMENT'S DISCUSSION AND ANALYSIS**

JUNE 30, 2019

Changes in Net Position

The changes in net position displayed below shows FDFC's activities during the past two fiscal years. The increase in net position for each year represents the extent to which revenues exceeded expenses during the year.

**Table A-2:
Statements of Revenues, Expenses, and Changes in Net Position
(In thousands of dollars)**

	Fiscal Year 2019	Fiscal Year 2018	Dollar Change
Revenue:			
Fees	\$ 3,329	\$ 907	\$ 2,422
Other revenue	484	66	418
Total revenue	<u>3,813</u>	<u>973</u>	<u>2,840</u>
Expenses:			
General and administrative			
Salaries and wages	653	462	191
Professional fees	116	142	(26)
Other	663	231	432
Program:			
PACE program	96	68	28
FRED	33	43	(10)
Total expenses	<u>1,561</u>	<u>946</u>	<u>615</u>
Change in Net Position	2,252	27	2,225
Net Position, beginning of year	<u>1,118</u>	<u>1,091</u>	<u>27</u>
Net Position, end of year	<u>\$ 3,370</u>	<u>\$ 1,118</u>	<u>\$ 2,252</u>

The increase in revenue is due to the issuance of the two very large Virgin Train USA bonds. In addition, more PACE residential bonds were issued during current year.

The increase in expenses is due to increase in reimbursable expenses related to bond issuance. In addition, there were salary and wages increases due to promotion, bonuses, and raises.

FLORIDA DEVELOPMENT FINANCE CORPORATION MANAGEMENT'S DISCUSSION AND ANALYSIS

JUNE 30, 2019

Economic Factors

FDFC's primary business is the issuance of tax exempt revenue bonds, which are permissible under the U.S. Internal Revenue Service's private activity regulations and Chapter 288, Part X, Florida Statutes. Those regulations, subject to a number of limitations and restrictions, allow small manufacturers and non-profit corporations to finance capital assets with tax exempt bond proceeds.

FDFC's revenues are exclusively generated by fees charged for issuance of bonds, and the volume of bond issuance can be directly impacted by general economic and perception of policies for conduit issuance by potential borrowers and their finance team.

Requests for Information

This financial report is designed to provide a general overview of FDFC's finances for all those with an interest in FDFC's finances. Questions concerning any of the information provided in this report or requests for additional information should be addressed to:

Bill Spivey
Executive Director
156 Tuskawilla Road, Suite 2340
Winter Springs, Florida 32708

BASIC FINANCIAL STATEMENTS

FLORIDA DEVELOPMENT FINANCE CORPORATION
STATEMENT OF NET POSITION

JUNE 30, 2019

ASSETS

Current Assets:

Cash and cash equivalents	\$	3,331,063
Prepaid expenses		31,480
Capital assets, net		
Leasehold improvements		6,361
Computer software		25,015

Total Assets 3,393,919

LIABILITIES

Current Liabilities:

Accounts payable		12,335
Accrued expenses		11,281

Total Liabilities 23,616

NET POSITION

Net investment in capital assets		31,376
Unrestricted		3,338,927

Total Net Position 3,370,303

Total Liabilities And Net Position \$ 3,393,919

FLORIDA DEVELOPMENT FINANCE CORPORATION
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

YEAR ENDED JUNE 30, 2019

Revenues

Conduit debt issuance fees	\$	3,117,760
Conduit debt reimbursement revenues		452,713
PACE program fees		211,414
Interest and other		31,838
Total Revenues		<u>3,813,725</u>

Expenses

Salaries and wages		652,855
Reimbursement expenses		452,713
Professional fees		115,932
PACE program direct expenses		129,264
Other		210,420
Total Expenses		<u>1,561,184</u>

Increase in Net Position 2,252,541

Net Position, Beginning of Year 1,117,762

Net Position, End of Year \$ 3,370,303

FLORIDA DEVELOPMENT FINANCE CORPORATION
STATEMENT OF CASH FLOWS

YEAR ENDED JUNE 30, 2019

Cash Flows From Operating Activities:

Receipts from fees and expense reimbursements	\$ 3,799,924
Payments to service providers	(1,576,424)
Interest received	20,581
Net Cash Provided by Operating Activities	<u>2,244,081</u>

Cash Flows From Investing Activities:

Purchase of equipment	(12,947)
Net Cash Used in Investing Activities	<u>(12,947)</u>

Net Decrease in Cash and Cash Equivalents	2,231,134
Cash and Cash Equivalents, Beginning of Year	<u>1,099,929</u>
Cash and Cash Equivalents, End of Year	<u>\$ 3,331,063</u>

Reconciliation of Increase in Net Position to Net Cash

Used in Operating Activities:	
Increase in net position	\$ 2,252,541
Adjustments to reconcile increase in net position to net cash provided by operating activities:	
Depreciation	14,490
Changes in:	
Accounts receivable	6,780
Prepaid expenses	(16,468)
Accounts payable	(14,884)
Accrued expenses	1,622
Net Cash Used in Operating Activities	<u>\$ 2,244,081</u>

FLORIDA DEVELOPMENT FINANCE CORPORATION

NOTES TO FINANCIAL STATEMENTS

YEAR ENDED JUNE 30, 2019

Note 1 – Summary of Significant Accounting Policies

A. Reporting Entity

Florida Development Finance Corporation ("FDFC") is an independent entity constituted as a public instrumentality of local government, created to facilitate economic development in Florida by working in partnership with the Florida financial services industry and local development organizations to create access to competitive sources of finance for creditworthy borrowers and other firms contributing to job creation and the economic base of Florida. FDFC's bond programs provide access to capital for project development through tax exempt and taxable financing. This includes financing to stimulate and assist in the expansion of all kinds of for-profit and not-for-profit business activity, a portion of which consists of residential and commercial bonds through the Property Assessed Clean Energy ("PACE") Program.

FDFC was formed pursuant to Florida Statutes, Chapter 288, Part X and all acts supplemental thereto and amendatory thereof.

FDFC is governed by a five member board of directors, appointed by the Governor, subject to confirmation of the Senate. Each board member is appointed by the Governor and serves a term of four years. The current statutory provisions reflect a related party relationship with the State of Florida, whereas the State of Florida does not impose its will on FDFC. Accordingly, FDFC does not meet the criteria provided by the Governmental Accounting Standards Board for being a component unit of the State of Florida.

The accompanying basic financial statements comply with the provisions of Governmental Accounting Standards Board ("GASB") Statement No. 14, as amended, The Financial Reporting Entity, in that the financial statements include all organizations, activities, and functions that comprise FDFC. Component units are legally separate entities for which FDFC (the primary entity) has financial accountability. Financial accountability is defined as the ability of the primary entity to appoint a voting majority of an organization's governing body and either (1) impose its will over the organization or (2) there is a potential that the organization will provide a specific financial benefit to, or impose a specific financial burden on the primary entity. Financial accountability may also arise if an organization is fiscally dependent on and has a fiscal benefit or burden relationship with the primary government. Using these criteria FDFC has no component units.

B. Measurement Focus and Basis of Accounting

FDFC is accounted for as an enterprise fund. The basic financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are reported when the liability is incurred, regardless of the timing of the related cash flows.

FDFC financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America, including application of all relevant GASB pronouncements.

C. Deposits and Investments

FDFC places its cash on deposit with financial institutions in the United States. The Federal Deposit Insurance Corporation (FDIC) covers \$250,000 for substantially all deposit accounts.

FDFC's cash and cash equivalents are considered to be cash on hand, demand deposits, and short-term, highly liquid investments with original maturities of three months or less. Investments classified as cash equivalents include amount placed with the Florida Surplus Asset Fund Trust ("FL SAFE").

FDFC's investment in the FL SAFE is a qualifying local government investment pool and was assigned a rating of "AAAm" by the Standard and Poor's Rating Service. As of June 30, 2019, FDFC had a balance of \$3,160,526 in the FL SAFE. FDFC's position in the pool is valued based on amortized cost, which approximates fair value, and is treated as a cash equivalent in financial statement presentation. The FL SAFE has no limitations or restrictions on withdrawals.

FLORIDA DEVELOPMENT FINANCE CORPORATION

NOTES TO FINANCIAL STATEMENTS

YEAR ENDED JUNE 30, 2019

Note 1 - Summary of Significant Accounting Policies (continued)

C. Deposits and Investments (continued)

FDFC follows the investment policy of Florida Statute §218.415, which states that units of local government electing not to adopt a written investment policy may invest or reinvest any surplus public funds in their control or possession in (1) the Local Government Surplus Funds Trust Fund, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act of 1969, (2) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency, (3) interest-bearing time deposits or savings accounts in qualified public depositories, and (4) direct obligations of the U.S. Treasury.

D. Capital Assets

Capital assets consist of computer software and leasehold improvements, stated at cost when purchased or constructed. The threshold for capitalization of assets is \$1,000. Expenses for maintenance and repairs are charged to operations. Provisions for depreciation are made using the straight-line method, based upon either the useful life of assets or the term of the associated lease.

E. Conduit Debt Issuance Fees

Issuance fees paid by borrowers for conduit debt obligations are generally recognized as revenue in the period the bonds are issued; however, application fees are not refundable and are typically recognized when received.

F. Reimbursement Revenues

Revenues recognized as reimbursement for conduit debt projects and the PACE program are recorded as related expenses are incurred.

G. Use of Estimates

The preparation of basic financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the basic financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

H. Income Taxes

FDFC is a not-for-profit corporation and has been determined by the Internal Revenue Service to be a 501(c)(4) organization exempt from taxes under Section 501(a) of the Internal Revenue Code. Accordingly, no provision has been made for income taxes.

I. FDFC PACE Program Agreement with FRED

During fiscal 2017, FDFC entered into an agreement with the Florida Resiliency and Energy District ("FRED"), a separate legal entity authorized to facilitate PACE financing pursuant to Section 163.01(14), Florida Statutes. Under the agreement, FDFC serves as FRED's agent for purposes of executing Financing Agreements with property owners on behalf of FRED pursuant to Section 163.08(6), Florida Statutes, for purposes of administering the FDFC PACE Program within the boundaries of FRED and for ensuring compliance with the Florida PACE Act.

FLORIDA DEVELOPMENT FINANCE CORPORATION
NOTES TO FINANCIAL STATEMENTS

YEAR ENDED JUNE 30, 2019

Note 2 - Related Party Transactions

FDFC enters into bond financing transactions on behalf of borrowers with various financial institutions who have been approved by FDFC's Board of Directors. Certain Board members are affiliated with these financial institutions, which issue letters of credit that secure payment of the bonds. It is management's opinion that these transactions have been conducted at arm's length.

Note 3 – Commitments and contingencies

FDFC is obligated under an operating lease for the office building. At June 30, 2019, future minimum lease payments under the operating lease are as follows for the years ending June 30:

2020	\$ 46,207
2021	47,593
2022	49,020
2023	24,871
	<u>\$ 167,691</u>

FDFC's total lease expenses were \$56,275 for the year ended June 30, 2019, and are included in other expenses.

Note 4 - Conduit Debt

In accordance with its mission and Chapter 288, Part X, Florida Statutes, FDFC has facilitated the issuance of debt obligations whereby FDFC is merely a conduit issuer of bonds issued on behalf of borrowers. These bonds do not constitute a general debt, liability or obligation of FDFC, the state, or any local government.

Additionally, FDFC has assigned all rights to receive payments from the borrowers to the bond purchaser in all bond financing transactions. Assigned payments are not included in the accompanying basic financial statements.

Changes in PACE residential bonds conduit debt outstanding for the year ended June 30, 2019 are as follows:

	Balance at July 1, 2018	Additions	Reductions	Balance at June 30, 2019
2019 PACE Residential Bonds	* \$ 1,660,513	\$ 19,353,886	\$ 79,041	\$ 20,935,357
Total PACE Residential Bonds	<u>\$ 1,660,513</u>	<u>\$ 19,353,886</u>	<u>\$ 79,041</u>	<u>\$ 20,935,357</u>

* The July 1, 2018 balance consists of one bond issuance; the June 30, 2019 balance consists of six bond issuances.

FLORIDA DEVELOPMENT FINANCE CORPORATION
NOTES TO FINANCIAL STATEMENTS

YEAR ENDED JUNE 30, 2019

Note 4 - Conduit Debt (continued)

Changes in other bonds conduit debt outstanding for the year ended June 30, 2019 are as follows:

	Balance at July 1, 2018	Additions	Reductions	Balance at June 30, 2019
1999 Series B5 Composite Investor, LLC	\$ 140,000	\$ -	\$ 60,000	\$ 80,000
2000 Series A2 R.L. Smith Investments, LLC	290,000	-	140,000	150,000
2001 Series C1 Kelray Realty, Inc. (Glaspro)	90,000	-	60,000	30,000
2002 Series C4 Serigraphics Arts, Inc.	240,000	-	45,000	195,000
2007 Series A Learning Gate	6,320,000	-	6,320,000	-
2008 Series A Sculptor Charter School	4,470,000	-	85,000	4,385,000
2009 Series Center Court Properties, Inc.	1,490,000	-	90,000	1,400,000
2009 Series Airport Properties Partners, LLC	11,025,000	-	200,000	10,825,000
2010 Series Lake Eola Charter Schools Foundation, Inc.	1,438,373	-	85,001	1,353,372
2010 Series A&B Renaissance Charter Schools, Inc.	62,880,000	-	1,210,000	61,670,000
2011 Series A&B Renaissance Charter Schools, Inc.	83,670,000	-	1,375,000	82,295,000
2011 Series A&B Bay Area Charter Foundation	34,045,000	-	1,095,000	32,950,000
2012 Series Sculptor Charter School	695,000	-	10,000	685,000
2012 Series A&B Montverde Academy	4,410,000	-	315,000	4,095,000
2012 Series A&B Renaissance Charter Schools	55,365,000	-	930,000	54,435,000
2013 Series A&B Out of Door Academy, Inc.	16,932,203	-	16,932,203	-
2013 Series A&B Renaissance Charter School, Inc.	77,030,000	-	1,190,000	75,840,000
2013 Series A&B UF Health-Jacksonville	107,755,000	-	5,395,000	102,360,000
2014 Series A&B Miami Arts, Inc.	33,275,000	-	560,000	32,715,000
2014 Series A&B Renaissance Charter Schools, Inc.	50,705,000	-	825,000	49,880,000
2014 Series A&B Downtown Doral Charter School, Inc.	21,825,000	-	-	21,825,000
2014 Series A&B FL Charter Educational Foundation, Inc.	14,005,000	-	185,000	13,820,000
2014 Series A American Public Media Group	9,565,000	-	335,000	9,230,000
2015 Series A&B Tuscan Isle Property, LLC	43,580,000	-	43,580,000	-
2015 Series A Divine Savior Lutheran Academy	28,769,617	-	850,397	27,919,220
2015 Series A&B Renaissance Charter Schools, Inc.	92,840,000	-	2,160,000	90,680,000
2015 Series A&B UF Health- Jacksonville	85,000,000	-	-	85,000,000
2015 Series A&B Tuscan Isle Property, LLC	51,170,000	-	-	51,170,000
2016 Cypress Point Living, LLC	27,050,000	-	-	27,050,000
2016 Series A&B The Pepin Academies	12,165,000	-	2,655,000	9,510,000
2016 Series A&B Franklin Academy	50,030,000	-	880,000	49,150,000
2016 Series A The Pine School	6,835,980	-	205,925	6,630,055
2016 Series A&B Florida Charter Educational Foundation	40,760,000	-	1,370,000	39,390,000
2017 Series A&B Classical Preparatory, Inc.	10,205,000	-	145,000	10,060,000
2017 Series A&B Palm Bay Academy	8,000,000	-	-	8,000,000
2017 Series A&B Southwest Charter Foundation	40,630,000	-	510,000	40,120,000
2017 Series A&B Downtown Doral Charter School, Inc.	6,300,000	-	-	6,300,000
2017 Series C&D Downtown Doral Charter School, Inc.	39,245,000	-	-	39,245,000
2017 Series Waste Pro USA, Inc.	32,500,000	-	-	32,500,000
2017 Series A All Aboard Florida - Operations LLC	600,000,000	-	600,000,000	-
2018 Series A&B Classical Preparatory, Inc.	4,550,000	-	65,000	4,485,000
2018 Series A&B Learning Gate Community School, Inc.	9,130,000	-	90,000	9,040,000
2018 Series A Midtown Campus Properties	-	77,820,000	-	77,820,000
2018 Series A Central Florida Fair	-	5,000,000	-	5,000,000
2019 Series A&B Image School Broward	-	19,175,000	-	19,175,000
2019 Series A&B Athenian Academy	-	7,200,000	-	7,200,000
2019 Series A Virgin Trains USA	-	1,750,000,000	-	1,750,000,000
2019 Virgin Trains USA Escrow	-	950,000,000	-	950,000,000
2019 Series A&B UF Jacksonville Physicians, Inc.	-	30,000,000	21,994,132	8,005,868
2019 Series Waste Pro USA, Inc.	-	46,515,000	-	46,515,000
Total Other Bonds	\$ 1,786,421,173	\$ 2,885,710,000	\$ 711,947,658	\$ 3,960,183,515

**SUPPLEMENTARY REPORT OF
INDEPENDENT AUDITOR**

Report of Independent Auditor on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

To the Board of Directors,
Florida Development Finance Corporation:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Florida Development Finance Corporation ("FDFC") as of and for the year ended June 30, 2019 and the related notes to the financial statements, and have issued our report thereon dated September 18, 2019 for the purpose of compliance with Section 218.39(2), Florida Statutes, and Chapter 10.550, *Rules of the Auditor General – Local Government Entity Audits*.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered FDFC's internal control over financial reporting ("internal control") to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of FDFC's internal control. Accordingly, we do not express an opinion on the effectiveness of FDFC's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether FDFC's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in black ink that reads "Cheryl Behrman CPA". The signature is written in a cursive style.

Orlando, Florida
September 18, 2019

Florida Development Finance Corporation Has Recently Taken Steps to Improve Accountability

November 15, 2017

Summary

As directed by the Legislature, OPPAGA reviewed the revenue bond issuance function of the Florida Development Finance Corporation (FDFC) and answered five questions.

1. How does the FDFC operate as a conduit bond issuer?
2. What mechanisms are in place to protect taxpayers and investors?
3. How does the FDFC use industry best practices when issuing debt?
4. How is the FDFC unique from other conduit bond issuers
5. What do bond project participants think about their experiences with the FDFC?

Background

The Florida Development Finance Corporation is a statewide development financing authority created by the Legislature in 1993.¹ The corporation's purpose is to assist for-profit and not-for-profit businesses with financing capital projects that promote economic development.² The corporation has the power to function within the corporate limits of any public agency including local governments with which it enters into an inter-local agreement. FDFC has established 41 agreements with 35 counties, 5 cities, and 1 town.

FDFC is governed by a five-member board appointed by the Governor and confirmed by the Senate for four-year terms. State law requires that at least three members are bankers and one member is an economic development specialist.³ An executive director oversees the daily operations of the FDFC.

FDFC offers traditional revenue bonds and bonds for an energy conservation program. FDFC is a conduit bond issuer, meaning it issues bonds on behalf of borrowers. In this capacity, the FDFC has been granted authority by the Legislature to issue municipal bonds, either tax-exempt or taxable revenue bonds.^{4,5} These bonds can provide financing for projects that further public purposes and are issued on behalf of a range of organizations, including charter schools, small manufacturers, and health care facilities. Tax-exempt bonds have advantages because they tend to have a lower interest rate than bank loans or taxable fixed-income securities such as corporate bonds. Moreover, investors benefit by not paying income taxes on interest payments. FDFC may issue tax-exempt bonds providing that the corporation meets certain requirements, including public notice and hearings required under federal Tax Equity and Fiscal Responsibility Act (TEFRA).

¹ Chapter 288 Part X, *F.S.* The corporation was created as a "public body corporate and politic" meaning that it is a legal entity or corporation with a public function.

² Section 288.9605 (2) (f), *F.S.*

³ Section 288.9604 (2), *F.S.*

⁴ Municipal bonds are debt securities issued by states, cities, counties, and other governmental entities to finance capital projects such as building schools or sewer systems.

⁵ Tax-exempt bonds issued under this act means the interest from the bond is exempt from federal income taxes as well as most state taxes. Section 288.9606 (2), *F.S.*

Bonds issued by the FDFC are typically sold through a private placement process or through a negotiated sale following a public offering.⁶

The corporation also has responsibilities under the Property Assessed Clean Energy (PACE) program created by the 2010 Legislature. The program allows property owners to place a voluntary non-ad valorem special assessment on their property. A property owner can use the equity accrued over time as an extension of credit for financing home improvements pertaining to energy conservation. FDFC’s role in the program includes overseeing PACE providers as well as structuring and creating revenue bonds.⁷ Since FDFC has not issued any bonds for the PACE program, our review focused only on the corporation’s issuance of traditional revenue bonds.

The corporation issued bonds for 80 projects totaling \$1.5 billion between Fiscal Years 1996-97 and 2016-17. Of the \$1.5 billion in bonds issued, \$932.8 million (64.1%) occurred in the last five fiscal years. A project can have multiple bond transactions involving different borrowers, locations, dollar amounts, and tax conditions (i.e., tax-exempt or taxable). The 80 projects involved 117 bond transactions with 98 different borrowers.

A majority of projects (63.8%) involved only tax-exempt bonds. Almost one-third of projects had a combination of tax-exempt and taxable bonds. In those projects, the majority of the bond funds were tax exempt. Four projects had only taxable bonds. Moreover, most FDFC projects involved issuances of non-rated bonds. Of the 80 FDFC projects, 69 (86.3%) had bonds issued that were not rated by rating firms evaluating credit worthiness.

The type of projects funded by FDFC bonds has changed over time. Manufacturing projects comprised 91% of the FDFC bond funds issued in the first 10 years (1997-2006); these manufacturing projects involved multiple borrowers. Starting in 2006, most FDFC bond funds went to charter school projects. Charter schools have received \$759.3 million and the majority (52.2%) of bond funds issued since Fiscal Year 1996-97. (See Exhibit 1.)

**Exhibit 1
Charter Schools Received the Majority of FDFC Bond Funds From Fiscal Years 1996-97 to 2016-17**

Use	Number of Projects	Total Issuance
Charter School	23	\$759,318,500
Health Care	3	208,645,000
Manufacturing	35	186,080,499
Senior Living Facility	5	147,600,000
Private School	7	78,577,130
Radio Station	3	33,450,000
Solid Waste	1	32,500,000
Day Care	1	1,955,000
College	1	1,800,000
Multiple Uses ¹	1	4,970,000
Total	80	\$1,454,896,129

¹ This project involved both a college and a manufacturing company.

Source: OPPAGA Analysis of Florida Development Finance Corporation data.

⁶ Private placements are bond issuances to banks or financial institutions. These financial institutions purchase the bonds for their own accounts and intend to hold the bonds as investors.

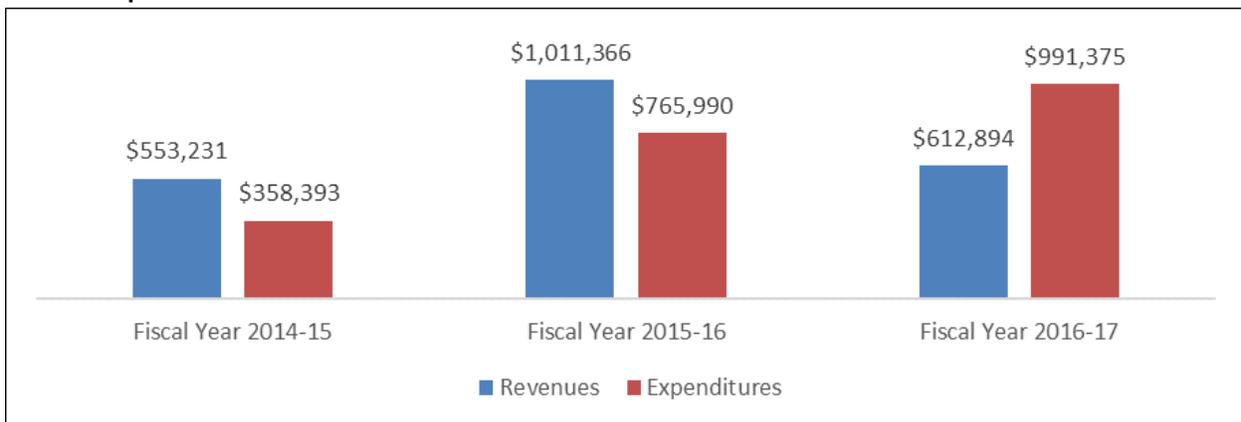
⁷ As of September 2017, FDFC has contracted with one residential PACE program administrator and 16 projects are moving forward in the process. FDFC expects that the first bond issuance for PACE will occur in November 2017. FDFC plans to increase the number of residential PACE program administrators and move forward with its commercial PACE program in 2018.

Of the 80 projects, 52 were located in 19 counties throughout the state. Most FDFC projects were located in single counties. Of projects located in single counties, Brevard and Hillsborough had the most with six each. Duval received the most bond funds with four projects totaling \$208.6 million. Over one-third (35%) of all FDFC projects were located in multiple counties. For instance, one project can have charter schools located in multiple counties. (See Appendix A for more information on FDFC projects.)

FDFC revenues have fluctuated, while expenses have increased in the last three fiscal years. FDFC receives no state funds and is funded from bond issuance fees. The corporation requires applicants to submit a non-refundable processing fee of \$1,500. FDFC does not require an annual fee, but a one-time issuance fee after the bonds are closed.⁸ The corporation’s revenues have varied over the last three fiscal years, ranging from \$553,231 to \$1.0 million. (See Exhibit 2.)

FDFC’s expenses consist of administrative and professional fees for staff and contractors, including bond counsel, financial advisor, and lobbyist. The corporation currently has four full-time staff. FDFC has also expended funds in establishing the PACE program. Expenses have increased over the last three fiscal years. Expenses in Fiscal Year 2016-17 exceeded revenues by \$378,481 due to higher than expected expenses for the PACE program, an increase in personnel costs, and project-related reimbursable expenses.

Exhibit 2
FDFC’s Expenses Have Increased Over the Last Three Fiscal Years



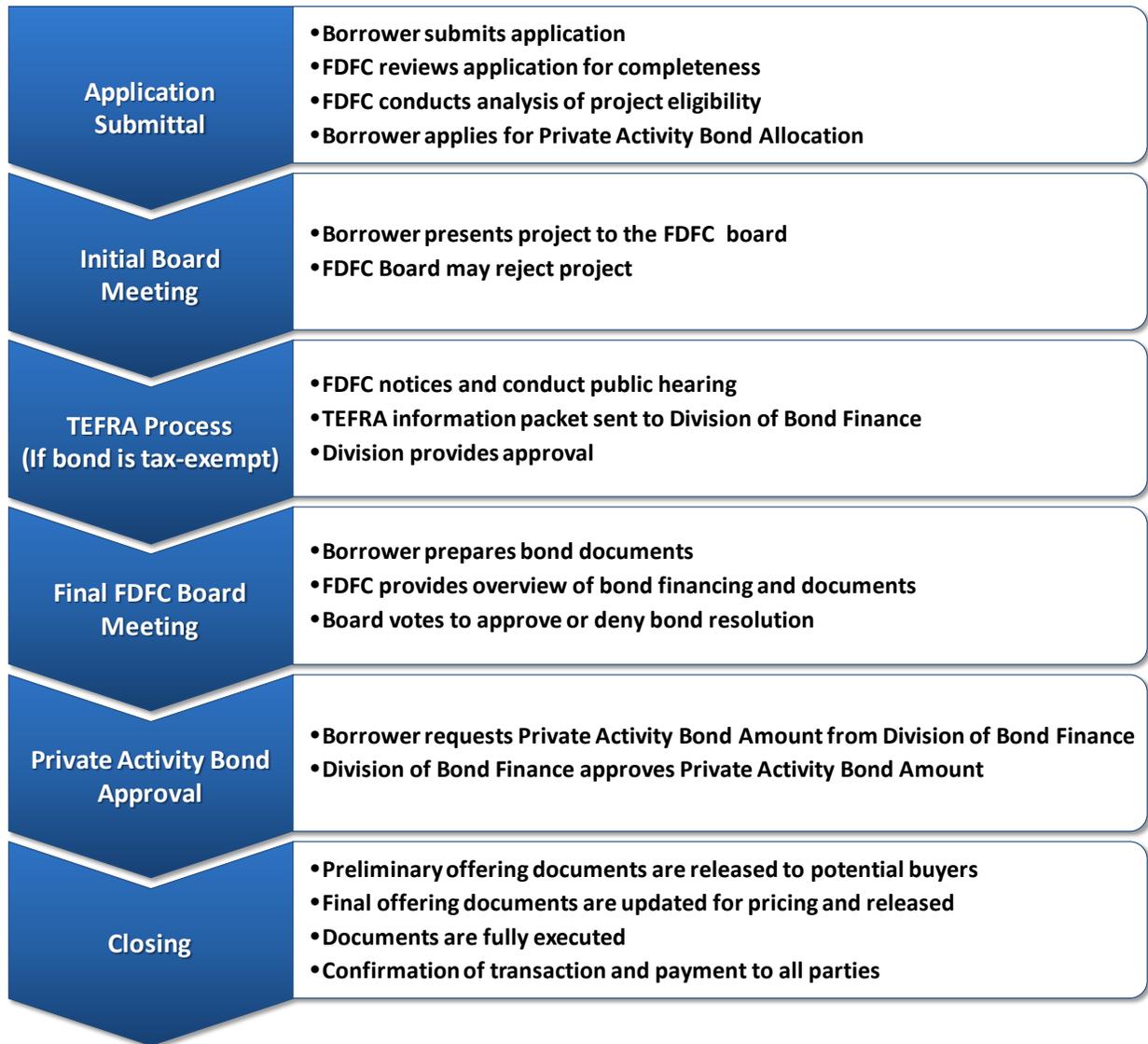
Source: OPPAGA analysis of Florida Development Finance Corporation audited financial statements.

How does the FDFC operate as a conduit bond issuer?

The FDFC process involves multiple steps that include application submittal, two FDFC board meetings for project consideration and approval, and in cases of tax-exempt bonds, public hearings and approval by the State Board of Administration’s Division of Bond Finance. Once these steps are completed, the closing process involves completion of documents and sale of bonds. (See Exhibit 3.)

⁸ FDFC has established a tiered issuance fee schedule based on the face value of the bond. Bonds valued from \$0-\$2.5 million pay 75 basis points (0.75%); bonds valued from \$2.5-\$32.5 million pay 25 basis points (0.25%); and bonds valued over \$32.5 million pay 10 basis points (0.10%).

**Exhibit 3
FDFC’s Bond Issuance Process Includes Reviewing Application Completeness and Board Approval**



Source: OPPAGA analysis of US Census Bureau data, and data provided by St. Johns River State College and First Coast Technical College. Students identified with any other county of residence were excluded.

FDFC staff is responsible for analyzing information provided by the borrower and managing TEFRA and FDFC board review. Before an application is submitted, FDFC staff conducts a pre-submittal discussion with the borrower. FDFC staff discusses the uses of the bonds, whether the project qualifies for tax-exempt bonds, and the length of the bond issuance process. The borrower then submits an application to FDFC, and corporation staff reviews it for completeness.

FDFC also ensures that the borrower has provided documents to demonstrate that the proposed project is financially feasible and has the ability to repay investors. FDFC staff also makes initial assessments regarding whether the bonds will constitute qualified private activity bonds for tax-exempt purposes and whether a private activity bond allocation will be required. FDFC staff makes these determinations with the assistance of their contracted financial advisor and bond

counsel. If required, the borrower then applies to the Division of Bond Finance for a Private Activity Bond allocation to determine if funding is available for the project.⁹

The FDFC board meets at this stage in the process to receive an overview of the project. FDFC staff and the borrower present a preliminary review of the proposed project and financing details to provide an opportunity for questions and determine support to continue with the process. The FDFC board considers the borrower's presentation and documentation as well as staff's project summary. The board has the ability to reject a project if it does not meet the corporation's criteria, including whether the

- project is located in Florida;
- project benefits a Florida corporation, business, or organization;
- project or Florida entity qualify for tax-exempt bonds per the Internal Revenue Service code;
- borrower has the ability to repay the debt; and
- financial institution or broker-dealer has committed to financing the project.¹⁰

If a project involves the issuance of tax-exempt bonds, the FDFC is also responsible for conducting the federal Tax Equity and Fiscal Responsibility Act review process. FDFC staff notices the public hearing in the county where the project is located and conducts the hearing, which allows the public to comment on the proposed project. Board members do not attend the hearings and no board action is taken after the hearing. FDFC sends the TEFRA packet, including the public hearing advertisement, meeting minutes, and attendance sheet, to the Division of Bond Finance for approval. The division requires the FDFC to provide additional documentation, including the project summary, authorizing bond resolution, borrower financial statements for the prior three years, cost of issuance breakdown, and feasibility study.

The FDFC board meets a second time to provide final project approval for all bond projects. The borrower's bond counsel and financial advisor prepare the final bond resolution documents, along with any financial and legal reviews by FDFC's financial advisor and bond counsel. FDFC staff, financial advisor, and counsel provide an overview of the project and its financial structure as well as bond documents to the FDFC board. The FDFC board will vote to approve or deny the bond resolution.

The Division of Bond Finance approves the allocation of Private Activity Bonds prior to project closing. At this stage, the borrower's financial team requests the actual funding amount of Private Activity Bonds and submits documentation to the Division of Bond Finance. The division approves the Private Activity Bond allocation if there are sufficient funds. Upon receiving the TEFRA approval and Private Activity Bond Allocation, the borrower and underwriter can market the bonds.

The closing process involves several steps to ensure all documentation is complete, which facilitates the payment of bond proceeds. Before the closing, FDFC's counsel and financial advisor review the closing documents to ensure that all terms and conditions are being met. FDFC requires that the borrower certify the accuracy of the offering document, which includes details of the project and financing. The FDFC also requires the underwriter to provide certification of its

⁹ Every year, the federal government allocates each state the amount of tax-exempt Private Activity Bonds that can be issued. Private Activity Bonds are municipal financing arrangements that are exempt from federal taxes. Borrowers seeking tax-exempt bond financing need to request use of this state-allocated bonding authority from the Division of Bond Finance. A borrower does not apply for a specific amount, just a share of the allocation. The division reports that the Private Activity Bond allocation for Florida in calendar year 2017 was \$2.1 billion.

¹⁰ Since its inception, the FDFC has rejected only one project at this stage. The board rejected the project because it felt that the project was highly speculative and not consistent with the financing of capital expenses for construction.

compliance with sales restrictions and applicable securities regulations. When investors and the borrower agree to the interest rate, the bond purchase agreement is executed and preliminary offering documents are updated and sent to all parties. The bond will close the following day after the closing documents are executed. The borrower confirms payment by the investors and all other parties receive payments.

What mechanisms are in place to protect taxpayers and investors?

Previously, FDFC policies were designed to safeguard taxpayers from being obligated to pay for FDFC-issued bonds that go into default. Recently adopted FDFC policies are intended to add protections for unsophisticated taxpayers from the risks involved in purchasing these types of bonds. Federal entities may also provide safeguards for investors.

FDFC policies protect the state from default and investors from the risks of non-rated bonds. All bonds issued by FDFC are conduit bonds, payable solely from the revenues and assets of the conduit borrowers or from assets or security otherwise provided by such borrowers. According to corporation officials, neither the revenues nor the assets of FDFC, the state, or any local governmental entity are pledged to repay FDFC bonds that are in default. FDFC ensures that provisions protecting it and the state from default are written into bond documents. However, Division of Bond Finance staff noted that defaults on any bond issued by a state-authorized entity have the potential to affect the state's and corporation's reputation.

The rate of defaults for FDFC projects has been low. FDFC reports that as of October 2017, 3 out of 117 (2.6%) bond transactions have defaulted. A default typically is managed between the investor and the borrower. In cases of default, the trustee will notify all parties to the bond after exhausting all means to remedy the situation. The FDFC is notified but is not party to any default process.

Most bonds issued for FDFC projects are non-rated and privately placed or placed through a negotiated sale following a public offering. These bonds have a higher degree of risk of default than rated bonds. FDFC's current conduit issuance policy limits the sale of non-rated bonds to Qualified Institutional Buyers (QIB) or Accredited Investors who have the appropriate knowledge and sophistication to understand the risks involved in investing in non-rated and non-investment grade rated bonds.¹¹ FDFC is required to confirm the identity of the initial QIBs or Accredited Investors or obtain investor letters with support as needed from the underwriter. Data reported by FDFC shows that all bond transactions were only sold to QIBs since Fiscal Year 2012-13.

To further limit the risk to investors, FDFC revised its policy in May 2017, increasing the limit of minimum denominations of non-rated or non-investment grade rated bonds sold. (See Exhibit 4.) FDFC officials reported that the increase to \$250,000 for minimum denomination is above industry standards for comparable conduit issuers at \$100,000.

The FDFC also changed its policy on traveling investor letters. An investor signs the investor letter acknowledging the risks associated with the bond being purchased. The letter "travels" from one bond purchaser to another. The FDFC executive director may require such a letter based on the nature of the project financing and borrower's credit history. A traveling investor letter is tied to a particular minimum denomination. Under the former policy, this amount was \$25,000 to be sold to QIBs and Accredited Investors. However, the FDFC increased the minimum denomination to \$100,000 with a traveling investor letter to be sold only to QIBs.

¹¹ A Qualified Institutional Buyer is a corporation that owns and invests a minimum of \$100 million in securities on a discretionary basis. An Accredited Investor is an individual with earned income that exceeded \$200,000 (or \$300,000 together with a spouse) in each of the prior two years or has a net worth over \$1 million. Both definitions are covered under the Securities Act of 1933.

Exhibit 4

Changes in FDFC Bond Policy Increases Minimum Denominations for Non-Rated Bonds, Limiting Risk to Investors

Sales Restriction	Former Policy (July 16, 2014)	New Policy (May 3, 2017)
Limited offering or public offering to be sold only to Qualified Institutional Buyers	None	\$100,000 with a traveling investor letter; or \$250,000
Limited offering or public offering to be sold to Qualified Institutional Buyers and Accredited Investors	\$25,000 with a traveling investor letter; or \$100,000	< \$10,000,000 (Par Amount): \$250,000 ≥ \$10,000,000 (Par Amount): \$500,000

Source: OPPAGA analysis of FDFC documents.

In addition, the new policy requires verification by the borrower and the underwriter that all bond documents are factual and no material facts have been omitted. FDFC staff reviews and analyzes the application for evidence that the project is financially feasible and demonstrates the ability to repay the investors. The bond offering documents must include the disclosure of this policy. The policy also requires FDFC to confirm the identity of the initial QIBs or Accredited Investors. These sales restrictions apply to the initial and subsequent sale of bonds.

Division of Bond Finance’s involvement in the TEFRA process helps reduce investor risk; federal entities may also provide safeguards. The Division of Bond Finance’s interface with FDFC is limited to the TEFRA process. The FDFC provides the division a packet of information that includes the public hearing advertisement, meeting minutes, and attendance sheet for TEFRA approval. The division also requests that the FDFC provide additional non-TEFRA documentation such as the project summary, the authorizing bond resolution, borrower financial statements for the prior three years, cost of issuance breakdown, and the feasibility study. The division reports that its review is intended to ensure that FDFC has conducted an adequate credit analysis and financial diligence before it approves the project’s financing. In addition, the division’s review may assess whether FDFC is using industry best practices in connection with managing the transaction and adhering to its policies regarding measuring the project’s performance and the minimum denominations of non-rated and non-investment grade bonds.

At the federal level, a borrower could be subject to an enforcement action by the U.S. Treasury Department related to compliance with the provisions of the Internal Revenue Code for tax-exempt bonds, or the Securities and Exchange Commission related to compliance with applicable federal securities regulations. For example, federal security laws prohibit fraud in the offering or sale of securities and proscribe rules for fair dealing and disclosure by municipal security professionals.

How does the FDFC use industry best practices when issuing debt?

Florida law authorizing the FDFC and its operations does not require the corporation to follow any specified best practices. However, several entities have developed best practices for bond issuance, and FDFC officials reported that they are using some of these practices. Our evaluation of these criteria suggests that FDFC could take additional steps to report the economic effects of the projects funded by the corporation and improve its marketing efforts.

Several entities have developed best practices for bond issuance; FDFC is generally meeting best practice areas. Our research identified two organizations that have issued best practices for bond issuance: the Council of Development Finance Agencies and the Government Finance Officers Association. The Council of Development Finance Agencies issued guiding principles for developing or implementing an Industrial Development Bond program. The three main best practice areas are program management, marketing, and oversight. Recommendations within

these areas include proper oversight, public access to program material, marketing to the community and target audiences, and building relationships with realtors, banks, and other financial institutions. Additional recommendations included producing annual reports and performing regular independent audits.

The Government Finance Officers Association's best practice areas include debt issuance transition costs, pricing bonds in a negotiated sale, selecting and managing municipal advisors, selecting and managing the method of sale of bonds, and selecting bond counsel. Within these areas are best practices that include obtaining needed services from auditors and others at a fair and reasonable cost, understanding marketing conditions, and hiring municipal advisors unless there is sufficient in-house expertise. The Division of Bond Finance has recommended that FDFC consider adopting several of the association's best practices.

FDFC officials reported that the corporation adheres to the practices outlined by the council, and their documentation generally supports this assertion. For example, FDFC provides annual reports such as an annual financial audit and information on bond transactions. While FDFC contends that the association's guidance focuses primarily on state and local government debt issuance rather than conduit bond issuance, our research found that it has adopted several policies that generally address the best practice areas. These policies include using a competitive process to select bond professionals and a municipal advisor on bond issuances. (Additional information on the best practices and FDFC efforts in these areas are contained in Appendix B.)

However, FDFC could further their adherence to industry best practices for marketing and oversight. As noted above, the council recommends marketing of programs and services to state and local community business groups. We found that the corporation allows the public access to program materials through its website. However, it does not conduct an active outreach program to market its services statewide. Instead, it relies on professional relations with public finance professionals.

In addition, the association's best practices for oversight include a report on performance compared to expectations. As specified in state law, projects financed by FDFC are expected to benefit Florida's economy. One economic benefit to the state is job creation. As part of a project's application, the FDFC collects data on projected jobs. FDFC reports that 38 projects funded from 2009 to 2017, for which data were available, were projected to create 4,681 jobs; however, there is no available data to confirm these projections. As part of its revised Conduit Issue Policy, FDFC plans to report on jobs created (temporary and permanent) for future projects for a minimum of seven years.

How is the FDFC unique from other conduit bond issuers?

FDFC's scope is unlike most other conduit bond issuers. FDFC is authorized to issue tax-exempt or taxable bonds in multiple counties of the state and for multiple purposes when FDFC has an interlocal agreement with the local jurisdiction. We found only one other similar Florida entity, the Capital Trust Agency, which can issue revenue bonds for multiple purposes statewide. One difference between FDFC and the agency is the fee structure. The agency charges a one-time and an annual fee rather than the one-time fee assessed by the FDFC.

Other entities can only issue bonds within a limited geographic area. For example, cities and counties can only issue bonds in their jurisdictions, except where an interlocal agreement with another local government exists. There are 122 Industrial Development Authorities that are created by counties and can only issue bonds for projects in that county.

Some conduit issuers can issue bonds statewide, but only for specific purposes. For example, the Florida Housing Finance Corporation issues conduit bonds for affordable housing projects. Similarly, the Higher Educational Facilities Financing Authority of Florida is a statewide tax-exempt conduit bond issuer for non-profit institutions of higher education that are located in Florida and that are accredited by the Southern Association of Schools and Colleges. The Florida League of Cities' Florida Municipal Loan Council can issue bonds across the state, but only for local governments, not private companies.

What do bond project participants think about their experiences with the FDFC?

Participants involved in FDFC projects were generally satisfied with the FDFC's process. There are several entities participating in the bond issuance process. The main participants include the borrower, underwriter, and trustee.

- *Borrower* hires the finance team, provides information for application and support materials, approves the prices of the bonds, and signs the bond purchase agreement and other bond documents. The borrower's finance team may include bond counsel, financial advisor, and disclosure counsel.
- *Underwriter* advises the borrower and finance team on the bond structure. The underwriter buys the bonds from the borrower and sell the bonds to investors.
- *Trustee* maintains lists of the bondholders in addition to receiving and distributing interest payments. The trustee also monitors the borrower's compliance with the bond agreements and communicates with the bondholders when the borrower is not in compliance.

We interviewed four borrowers, three underwriters, and two trustees for four projects with bonds issued in the last three fiscal years. These projects included a charter school, senior living facility, hospital, and solid waste company. These participants indicated that they were generally satisfied with FDFC's process and FDFC staff's responsiveness. Some participants stated that the FDFC process was faster and less costly than other bond conduit issuers. Most respondents stated that they would be interested in using FDFC's services again.

However, some participants expressed concerns. For example, some respondents expressed concerns about the FDFC requirement for the use of interlocal agreements for bond projects. They stated that the FDFC did not have agreements with all local governments within their project's scope. As a result, they were not able to get funds for the project sites because of delays in establishing interlocal agreements. In addition, some participants stated that the use of a traveling investor letter would limit the number of potential investors. Participants indicated that the traveling investor letter delays a bond transaction because the buyer's legal counsel generally reviews the letter before it is signed.

Options for Legislative Consideration

FDFC's recent policy changes help protect the state from default and investors from the risks of non-rated bonds. In addition, FDFC has adopted some industry best practices, including competitive bidding for bond professionals and contracting for financial and municipal advisors. To further improve FDFC's adherence to best practices for oversight and marketing, the Legislature could consider directing the FDFC to do the following.

- Annually report on the economic effects of funded projects. The information could include actual versus projected jobs created, capital investments made, and average

wages. This information could help the Legislature assess the economic benefits of FDFC projects.

- Conduct more active statewide outreach to economic development organizations, industry associations, and local governments about their conduit bond issuance services. This outreach may include presentations to business groups or print and electronic media. Increasing outreach could help FDFC establish more interlocal agreements with local governments, which could address concerns raised by past participants. In addition, enhanced outreach could assist in expanding the types of economic development projects for which FDFC issues bonds.

Appendix A

Florida Development Finance Corporation Projects Funded From Fiscal Years 1996-97 to 2016-17

Since Fiscal Year 1996-97, the corporation funded 80 projects throughout the state. Of the 80 projects, 52 projects were located in 19 counties. Most FDFC projects were located in single counties with the largest amount issued in Duval County. However, 49% of the bond funds issued went to projects located in multiple counties.

**Exhibit A-1
Almost Half of FDFC Bond Funds Issued Involved Projects Located in Multiple**

County	Number of Projects	Total Issuance
Multiple	28	\$714,820,000
Duval	3	\$208,645,000
Osceola	2	\$94,750,000
Miami-Dade	4	\$92,835,000
Hillsborough	6	\$76,715,000
Sarasota	5	\$41,706,499
Brevard	6	\$35,570,000
Lee	2	\$31,550,000
Pasco	2	\$30,275,000
Seminole	4	\$30,175,000
Martin	3	\$23,934,000
Okeechobee	1	\$18,750,000
St. Lucie	2	\$15,200,000
Orange	3	\$14,843,500
Lake	3	\$12,300,000
Marion	2	\$5,100,000
Manatee	1	\$3,250,000
Volusia	1	\$2,700,000
Pinellas	1	\$1,200,000
Broward	1	\$577,130
Total	80	\$1,454,896,129

Source: OPPAGA analysis of FDFC data.

Appendix B

Best Practices for Conduit Bond Issuers

**Exhibit B-1
Recent Policy Changes by the FDFC Board of Directors Include Elements of Many Best Practices**

BEST PRACTICES	EXAMPLES OF FDFC’S EFFORTS IN THESE AREAS
Council of Development Finance Agencies	
<p>Program Management</p> <ul style="list-style-type: none"> ▪ Having trained and competent staff and resources involved in the issuance process ▪ Having public access to applications and informational materials on the program ▪ Developing a mission statement 	<p>FDFC manages its conduit bond programs through staff and a contracted industry professional (e.g., bond counsel). While not having a formal mission statement, the primary purpose of the program is contained in <i>Florida Statutes</i>. FDFC allows the public access to program materials through its website.</p>
<p>Marketing</p> <ul style="list-style-type: none"> ▪ Marketing the bond issuer’s ability to meet financial needs through bonding to the state and local community business groups ▪ Building relationships with local financial institutions and economic development organizations 	<p>FDFC does not market its bond services to business groups, manufacturers, or other industries through traditional marketing efforts (e.g., presentations to business groups or print/electronic media). Rather, FDFC’s executive director has built relationships with bond industry professionals in Florida to make them aware of FDFC’s services. These professionals have referred their clients to FDFC. Referrals from bond industry professionals are how FDFC gets all its bond applications. Most applicants have used FDFC in the past.</p>
<p>Oversight</p> <ul style="list-style-type: none"> ▪ Having clearly defined goals and objectives with measurable results ▪ Documenting a detailed oversight process that ensures the bond financing process complies with laws and regulations ▪ Producing an annual report including performance compared to expectations along with a regular independent audit as necessary 	<p>FDFC produces annual reports, which include the annual audit, a list of bonds issued, amounts paid on the bonds during the year, and the balance of the bonds. A new FDFC policy should improve oversight by requiring the measurement of performance against projections as well as the performance of certain quantitative metrics within the resolution approving the project for a minimum of seven years. FDFC requires that the borrower provide annual reports on economic and financial performance.</p>
Government Finance Officers Association	
<p>Debt Issuance Transaction Costs</p> <ul style="list-style-type: none"> ▪ Obtaining needed services from financial advisors, bond counsels, auditors, and others at a fair and reasonable cost ▪ Reviewing all invoices to ensure that expenses are not billed to multiple parties 	<p>Board policy requires FDFC to use a competitive process to select all service providers (such as bond counsel, issuer’s counsel, and municipal advisors) involved in the review and approval of transactions and the offering and sale of bonds.</p>
<p>Pricing Bonds in a Negotiated Sale</p> <ul style="list-style-type: none"> ▪ Understanding market conditions and indicators and assessing how these factors will likely affect the timing and outcome of the pricing ▪ Evaluating whether features such as call features will result in greater overall borrowing costs ▪ Developing a database with pricing performance information on each issue sold 	<p>In the past, FDFC depended on internal staff for the evaluation of market conditions and features of issued bonds. When dealing with non-typical companies, such as new companies or those who are not financially strong, FDFC would use financial advisors. Current policy (as of May 3, 2017) is to retain a municipal advisor on all transactions.</p>

BEST PRACTICES	EXAMPLES OF FDFC'S EFFORTS IN THESE AREAS
<p>Selecting and Managing Municipal Advisors</p> <ul style="list-style-type: none"> ▪ Hiring a municipal advisor, unless there is sufficient in-house expertise and access to current bond market information ▪ Selecting municipal advisors using a competitive merit-based process and reviewing those relationships periodically ▪ Municipal advisor fees should be on an hourly or retainer basis, reflecting the nature of the services to the issuer 	<p>FDFC has used municipal advisors on bond issuances involving new companies or those that were not financially strong, with other bond issuances handled internally by staff. Municipal advisors are now required for all transactions with selection of the advisor made using a competitive process.</p>
<p>Selecting and Managing the Method of Sale of Bonds</p> <ul style="list-style-type: none"> ▪ Selecting a method of sale such as a competitive or negotiated sale that is more likely to result in the lowest cost of borrowing 	<p>Bonds issued by FDFC typically are sold through a private placement process or through a negotiated sale.</p>
<p>Selecting Bond Counsel</p> <ul style="list-style-type: none"> ▪ Selecting bond counsel using a competitive merit-based process ▪ Ongoing contracts should be reviewed regularly and re-subjected to competitive selection periodically 	<p>Current FDFC policy is that bond counsel is selected using a competitive process such as a Request for Proposals or Request for Qualifications.</p>

Source: OPPAGA analysis of documents from the Council of Development Finance Agencies, the Government Finance Officers Association, and FDFC.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20
Meeting Date

SB 666
Bill Number (if applicable)

Topic Florida Development Finance Corp (SB 666)

Amendment Barcode (if applicable)

Name Brian Sullivan

Job Title Legislative Affairs Manager

Address 1801 27th Street

Phone 810-335-0150

City Vero Beach State FL Zip _____

Email bsullivan@reyer.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Indian River County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1112

INTRODUCER: Senator Taddeo

SUBJECT: Bottled Water Excise Tax

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 1112 creates part III of chapter 211, F.S., imposing an excise tax of 12.5 cents per gallon on bottled water operators engaged in the business of bottling or packing for sale water extracted from waters of the state. The bill also provides for filing requirements, penalties on unpaid or underpaid taxes, and administrative procedures.

The bill takes effect July 1, 2020.

II. Present Situation:

Water Resources in Florida

Chapter 373 of the Florida Statutes, known as the Florida Water Resources Act of 1972, governs the management of water and related land resources. In order to promote the proper usage of surface and groundwater as a statewide public resource, water is managed on the state and regional basis. The Department of Environmental Protection (DEP) is responsible for the administration of water resources at the state level and exercises general supervisory authority over the state's five water management districts, which are responsible for the administration of water resources at the regional level.¹ Though the DEP may exercise any power authorized to be exercised by a water management district, such power should be delegated to the governing board of a water management district to the greatest extent practicable.²

¹ Florida Department of Environmental Protection, Office of Water Policy – Water Management Districts, *available at* <https://floridadep.gov/water-policy/water-policy/content/water-management-districts> (last visited Jan. 17, 2020). The state's five water management districts are the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.

² Section 373.016(5), F.S.

Water Use Permits

Water use permits, or consumptive use permits, establish the duration of and type of water use permitted as well as the maximum quantity of water that may be withdrawn. Water use permits allow the holder to withdraw a specified amount of water from the ground or a canal, lake, or river for reasonable-beneficial uses.³ The DEP and the water management districts are authorized to issue water use permits and impose reasonable conditions as necessary to ensure such use is not harmful to the water resources of the area.⁴ This authority is primarily delegated to the water management districts, which implement extensive water use permit programs within their respective jurisdictions.⁵ The districts have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.⁶

Bottled Water

Bottled water is water intended for human consumption that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents.⁷ The processing and bottling of drinking water is regulated by the Florida Department of Agriculture and Consumer Services, Division of Food Safety, and is subject to the Food and Drug Administration's requirements.⁸ Additionally, s. 500.12(c), F.S., provides guidelines for applications for a food permit for operating a bottled water plant. There are currently no statutory authorizations for the taxation of the processing and bottling of water extracted within the state.

III. Effect of Proposed Changes:

Section 1 renames chapter 211 of the Florida Statutes, "Tax on Production of Oil and Gas and Severance of Solid Minerals," as "Tax on Production of Oil and Gas, Severance of Solid Minerals, and Extraction of Water for Bottling."

Section 2 directs the Division of Law Revision to create part III of ch. 211, F.S., consisting of ss. 211.40 through 211.45, F.S., entitled "Tax on Extraction of Water for Bottling."

Section 3 creates s. 211.40, F.S., providing definitions. "Bottled water operator" means a person engaged in the business of bottling or packaging for sale water extracted from waters of the state. The term does not include a person who bottles or packages water from a public water system, as defined in s. 403.852(2), F.S.⁹ "Water of the state" is synonymous with "waters," defined in s.

³ Section 373.019(16), F.S., defines "reasonable-beneficial use" as the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

⁴ Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.

⁵ Section 373.216, F.S.; Fla Admin. Code R. 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2 (2019).

⁶ See Fla. Admin. Code R. 40C-1.603 (2019), St. Johns River Water Management District's permit fees, for an example of various fees associated with water use permits.

⁷ Section 500.03(1)(d), F.S.

⁸ 21 C.F.R. §§ 129 and 165.110 (2019)

⁹ Section 403.852(2), F.S, defines "public water system" as a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. The term includes: (1) any collection, treatment, storage, and distribution facility or facilities under control of the operator of such system and used primarily in connection with such

403.031(13), F.S., as including, but not limited to “rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters.” “Department” means the Department of Revenue.

Section 4 creates s. 211.41, F.S., establishing an excise tax levied on every person who acts as a bottled water operator at a rate of 12.5 cents per gallon of water extracted from waters of the state. Funds from the tax must be deposited in the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund and used to provide grants and loans to local governmental agencies to accelerate the implementation of water pollution control projects pursuant to s. 403.1835, F.S.

Section 5 creates s. 211.42, F.S. Each bottled water operator must submit, by the 25th day of each month, a return stating the amount of water extracted in the previous month, the source and county of extraction, and the location of all facilities water was extracted from. The return must also include a statement of the tax due. Any taxes due must be remitted with the return, and returns must be submitted even if no taxes are due. Bottled water operators (operators) must also file a declaration of estimated tax by the 25th day of each month following the month taxable water extraction occurred. Operators must remit 90 percent of the estimated tax. An operator’s declaration may be amended and the estimated tax payment will be adjusted to reflect the change. The Department of Revenue (DOR or department) is authorized to provide credits for any overpayments.

All related forms will be created by the DOR. If the submission due date falls on a Saturday, Sunday, or state or federal holiday, the due date is moved to the next day that is not a Saturday, Sunday, or holiday. The department is permitted to grant extensions upon written request.

Section 6 creates s. 211.43, F.S., providing penalties for the failure to pay the tax or file a return. A bottled water operator that does not pay the imposed taxes on or before the due date must pay interest at the rate of 12 percent per year until the payment is due. If taxes are due and an operator does not file a return, the operator must pay a delinquency penalty of 10 percent of the taxes due each month, not to exceed 50 percent. The penalty is \$50 each month, not to exceed \$300, if an operator does not file a return when taxes are not due.

The bill provides that an operator that makes a *substantial* underpayment of taxes, a payment of least 35 percent less than the total taxes due, must pay a penalty of 30 percent of the underpayment. This penalty is assessed in addition to the aforementioned delinquency penalty. An operator that makes an underpayment of estimated tax is liable for interest and a penalty, both at the rate of 12 percent per year. The bill provides a formula for determining an underpayment of estimated tax.

The bill also contains provisions limiting the imposition of penalties or interest for underpayment in certain circumstances. Any penalty imposed may be settled or compromised by the DOR for reasonable cause; interest imposed may only be settled or compromised as authorized by s. 213.21, F.S.

system and (2) any collection or pretreatment storage facility or facilities not under control of the operator of such system but used primarily in connection with such system.

Section 7 creates s. 211.44, F.S., relating to administrative procedures and enforcement of the tax. The bill authorizes the department to adopt rules to administer part III of ch. 211, F.S. All state, county, and municipal agencies, boards, bureaus, departments, and districts must supply any information the department deems necessary for the administration, collection, and enforcement of the excise tax. Each bottled water operator must keep “suitable books and records relating to the extraction of taxable waters of the state” to allow the department to determine the amount of taxes due. These records must be preserved for three years after the tax is due, in accordance with s. 213.35, F.S. The DOR is entitled to inspect the “books, records, or papers of any bottled water operator which are reasonably required for the purposes of this part” and to require such a person to testify under oath regarding the extraction of taxable waters. The bill also allows the department to issue subpoenas to compel third parties to testify or to produce records or other evidence. A circuit court having jurisdiction over such a person is permitted to issue orders necessary to secure compliance. All required books and records must be available for the department to inspect, upon written request, during normal business hours.

To determine whether returns have been properly filed and tax has been properly paid, the bill allows the DOR to audit or examine the books and records of a bottled water operator. Audits must be commenced by a written notice of intent delivered to a bottled water operator either in person or by certified mail. The department may, without an audit, assess the nonpayment or underpayment of taxes, interest, or penalties; the failure to file a return; the filing of a grossly incorrect or fraudulent return; or the refusal to permit the inspection of records based upon the best information available to the department or an estimate of amounts due. In the event of such a deficiency, the DOR shall issue a written notice to a bottled water operator for the tax, penalties, or interest due; the notice shall include the manner in which full payment of the total amount assessed must be made. The burden of showing any errors in an assessment lies with an operator.

The bill permits the department to credit or refund any overpayment revealed by an audit or for which a timely claim for refund has been filed, the period for which is specified in s. 215.26(2), F.S., as 3 years after the date the tax is paid.

Amounts due to the department remain as a lien upon the property, assets, and effects of a bottled water operator until paid or collected. The department may issue a warrant for the amount due, directed to the sheriff, if such a tax becomes delinquent or in jeopardy. Tax executions are permitted to be levied upon any third party in possession of any assets of, or is indebted to, a delinquent bottled water operator. The bill provides that any suit brought against any person for violating part III of ch. 211, F.S, must be brought in circuit court.

Section 8 creates s. 211.45, F.S., establishing certain criminal penalties. A person who willfully fails to file a return, fails to keep books or records on the extraction of water, files a fraudulent return, willfully fails or refuses to produce said books or records, or willfully violates any provision of this part, or any rule adopted by the department under this part, commits a first degree misdemeanor. A person who withholds tax due under this part and willfully fails to make remittance or purports to make remittance but willfully fails to do so commits a third degree felony.

Section 9 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19(a), Article VII of the Florida Constitution limits the authority of the legislature to enact legislation that imposes a new state tax or fee by requiring such legislation to be approved by a 2/3 vote in each chamber of the legislature. SB 1112 imposes a 12.5 cent per gallon excise tax on bottled water operators extracting water from waters of the state. Because the Department of Revenue does not currently have the authority to impose such a tax, the voting requirements found in Section 19(a), Article VII of the Florida Constitution appear to apply.

Section 19(e), Article VII of the Florida Constitution provides that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. SB 1112 imposes a state tax and creates provisions for the administration of said tax. It is unclear whether the bill meets the single-subject requirement or if a separate bill is necessary.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet met regarding the bill.

B. Private Sector Impact:

Bottled water operators extracting water from state waters will be required to remit to the Department of Revenue an excise tax of 12.5 cents per gallon of water extracted.

C. Government Sector Impact:

The Department of Revenue estimates that \$124,306 in nonrecurring funds will be required in Fiscal Year 2020-2021 to modify the department's tax systems in order to comply with the bill's provisions. The department would also require \$18,000 in recurring funding, beginning in Fiscal Year 2020-2021, to continue supporting the necessary modifications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 3 of the bill defines a bottled water operator as a "person engaged in the business of bottling or packaging for sale water extracted from water of the state." Section 4 levies an excise tax on "every person who acts as a bottled water operator at a rate of 12.5 cents per gallon of water extracted from waters of the state." The definition of "bottled water operator" explicitly refers not to persons *extracting* the water but persons *bottling or packing* the water. Because the bill seems to intend to impose the tax on persons extracting and bottling or packaging water, the definition of "bottled water operator" may need to be revised to include such language.

Section 5 of the bill contains misleading language that could imply bottled water operators do not have to submit taxes along with the return required by the section and that the return is simply a report of the previous month's water extraction. The Department of Revenue recommends the following change to line 91 for clarity:

"(1) Each bottled water operator shall remit tax due ~~prepare~~ and submit to..."

Similarly, the provisions regarding both forms required to be submitted to the department use similar language; both refer to forms prescribed by the department due on or before the 25th day of the month. The current language does not provide a clear enough distinction between the two forms.

Section 5 of the bill requires each bottled water operator to file a "declaration of estimated tax." It is unclear how an operator is to calculate estimated tax. Section 212.11, F.S., provides three methods for taxpayers to calculate estimated tax, and s. 211.33, F.S., defines estimated tax and prescribes an annual installment schedule for payment of estimated tax.

Lines 263-267 authorize the department to credit or refund any overpayment revealed by an audit. Operators must submit a claim for refund within a certain period of time. The bill does not provide a date by which the department must notify an operator of any overpayments. Without such a notification deadline, an operator may not be notified of an overpayment within the period of time the operator is able to submit a claim for refund.

The Department of Revenue has stated that it will be difficult to fully implement a new tax by the bill's effective date of July 1, 2020 and instead suggests an effective date of January 1, 2021.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 211.40, 211.45, 211.41, 211.42, 211.43, and 211.44.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



689478

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/21/2020	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 373.123, Florida Statutes, is amended to
read:

373.123 Penalty.—

(1) Any person, real or artificial, that shall construct or
enlarge, or cause to be constructed or enlarged, a canal or
shall enlarge or deepen a natural stream in such a manner as to



689478

11 permit salt water to move inland of an established saltwater
12 barrier line, shall be guilty of a misdemeanor of the second
13 degree, punishable as provided in s. 775.083. Each day such
14 movement of salt water shall continue, shall constitute a
15 separate offense of the provisions of this law.

16 (2) Notwithstanding s. 373.129(5), if a bottled water
17 operator withdraws quantities that exceed the quantities
18 authorized in its consumptive use permit issued under part II of
19 this chapter, the bottled water operator is subject to a civil
20 penalty equal to a rate of 12.5 cents per gallon of water
21 withdrawn above such authorized quantities. The civil penalty
22 must be paid by the bottled water operator to the water
23 management district that issued the consumptive use permit and
24 such fees must be used solely by the water management district
25 for the purposes of aquifer replenishment and creating
26 alternative water supplies. As used in this subsection, the term
27 "bottled water operator" means a person engaged in the business
28 of bottling or packaging for sale water extracted from waters of
29 the state who has received a permit in accordance with part II
30 of this chapter. The term does not include a person who bottles
31 or packages water from a public water system as defined in s.
32 403.852(2).

33 Section 2. This act shall take effect upon becoming a law.

34
35 ===== T I T L E A M E N D M E N T =====

36 And the title is amended as follows:

37 Delete everything before the enacting clause
38 and insert:

39 A bill to be entitled



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40 An act relating to bottled water consumptive use
41 permit violations; amending s. 373.123, F.S.;
42 specifying a civil penalty for a bottled water
43 operator that withdraws quantities of water exceeding
44 its consumptive use permit; requiring such penalty to
45 be paid to the water management district issuing the
46 permit, to be used for certain purposes; defining the
47 term "bottled water operator"; providing an effective
48 date.



840230

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/21/2020	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Taddeo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 65 - 186
and insert:
business of extracting water from waters of the state and
bottling or packaging the water for sale. The term does not
include a person who extracts and bottles or packages water from
a public water system as defined in s. 403.852(2).

(2) "Department" means the Department of Revenue.

(3) "Waters of the state" has the same meaning as the term



11 "waters" as defined in s. 403.031(13).

12 Section 4. Section 211.41, Florida Statutes, is created to
13 read:

14 211.41 Bottled water excise tax; distribution and use of
15 tax proceeds.-

16 (1) An excise tax is levied upon every person who acts as a
17 bottled water operator at a rate of 12.5 cents per gallon of
18 water extracted from waters of the state.

19 (2) The proceeds of the tax imposed by this section must be
20 deposited in the Wastewater Treatment and Stormwater Management
21 Revolving Loan Trust Fund and must be accounted for separately
22 within the fund. The tax proceeds must be used to provide grants
23 and loans to local governmental agencies pursuant to s.
24 403.1835, with priority to projects to connect existing onsite
25 sewage treatment and disposal systems to central sewerage
26 systems.

27 Section 5. Section 211.42, Florida Statutes, is created to
28 read:

29 211.42 Returns; filing requirements.-

30 (1) Each bottled water operator shall remit tax due and
31 submit to the department a return on or before the 25th day of
32 each month showing the total amount of water extracted from
33 waters of the state during the previous month, the source and
34 county of extraction, the location of all facilities from which
35 taxable water was extracted, and other information required by
36 department rule. The department shall prescribe the form of the
37 return by rule. The return must be filed on or before the last
38 day prescribed for payment of the tax and must be signed and
39 verified under oath by the bottled water operator or the bottled



40 water operator's authorized representative.

41 (a) The return must include a statement of the tax due
42 under this part and such other information as the department may
43 reasonably require.

44 (b) A return must be filed even though no tax is due. Any
45 tax, penalty, or interest due must be remitted with the return.

46 (2) If any due date prescribed by this section falls on a
47 Saturday, Sunday, or state or federal holiday, the last date
48 prescribed for filing or payment is the next day that is not a
49 Saturday, Sunday, or holiday. The date of receipt by the
50 department, or the postmark date if mailed, determines the
51 timeliness of payment or filing.

52 (3) The department may grant an extension of time for
53 payment or filing of a return upon written request submitted on
54 or before the due date.

55 Section 6. Section 211.43, Florida Statutes, is created to
56 read:

57 211.43 Interest and penalties; failure to pay tax or file
58 return.-

59 (1) If any part of the tax imposed by this part is not paid
60 on or before the due date, interest must be added to the amount
61 due at the rate of 12 percent per year from the due date until
62 the date of payment.

63 (2) A bottled water operator who fails to file the return
64 required under s. 211.42 by the due date shall pay a delinquency
65 penalty. If tax is due with the return, the delinquency penalty
66 is 10 percent for each month, or portion thereof, of the amount
67 of tax due with the return, not to exceed 50 percent. If no tax
68 is due with the return, the delinquency penalty is \$50 for each



69 month, or portion thereof, during which the return was not
70 filed, not to exceed \$300 in aggregate. The amount of tax due
71 with a return must be reduced by amounts properly creditable
72 against the tax liability shown on the return on the date the
73 return was due.

74 (3) A bottled water operator who makes a substantial
75 underpayment of the tax due under this part shall pay a penalty
76 of 30 percent of the underpayment in addition to the delinquency
77 penalty imposed under subsection (2). For purposes of this
78 subsection, a substantial underpayment of tax is a deficiency of
79 tax in an amount exceeding 35 percent of the total tax due for a
80 month.

81 (4) Any penalty or interest imposed under this section is
82 deemed assessed upon the assessment of the tax and must be
83 collected and paid in the same manner as the tax.

84 (5) Any penalty imposed by this section may be settled or
85

86 ===== T I T L E A M E N D M E N T =====

87 And the title is amended as follows:

88 Delete lines 13 - 26

89 and insert:

90 monthly returns with the Department of Revenue;
91 authorizing the department to grant extensions for
92 filing and payment under certain circumstances;
93 specifying the department's rulemaking authority;
94 creating s. 211.43, F.S.; specifying interest payable
95 on unpaid taxes; specifying the delinquency penalty
96 for failure to timely file a return; specifying the
97 penalty for the substantial underpayment of taxes;



840230

98

providing construction;

By Senator Taddeo

40-00351C-20

20201112__

1 A bill to be entitled
 2 An act relating to a bottled water excise tax;
 3 revising the title of ch. 211, F.S.; creating part III
 4 of ch. 211, F.S., entitled "Tax on Extraction of Water
 5 for Bottling"; creating s. 211.40, F.S.; defining
 6 terms; creating s. 211.41, F.S.; imposing an excise
 7 tax upon bottled water operators; specifying the rate
 8 of the tax and the trust fund where tax proceeds are
 9 to be deposited; requiring that tax proceeds be
 10 separately accounted for and be used for certain
 11 purposes; creating s. 211.42, F.S.; specifying
 12 requirements for bottled water operators in filing
 13 monthly returns and declarations of estimated tax
 14 with, and remitting estimated taxes to, the Department
 15 of Revenue; authorizing the department to provide for
 16 credits of overpaid taxes and to grant extensions for
 17 filing and payment under certain circumstances;
 18 specifying the department's rulemaking authority;
 19 creating s. 211.43, F.S.; specifying interest payable
 20 on unpaid taxes; specifying the delinquency penalty
 21 for failure to timely file a return; specifying the
 22 penalty for the substantial underpayment of taxes;
 23 specifying the interest payable on underpayments of
 24 estimated taxes; providing that a penalty or interest
 25 for underpayment of estimated tax may not be imposed
 26 under certain circumstances; providing construction;
 27 authorizing the department to settle or compromise
 28 taxes in accordance with certain provisions; creating
 29 s. 211.44, F.S.; authorizing the department to adopt

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20201112__

30 rules; requiring local governments to cooperate with
 31 the department and furnish information without cost to
 32 the department for certain purposes; specifying
 33 recordkeeping requirements for bottled water
 34 operators; specifying the department's authority to
 35 inspect, examine, and audit bottled water operator
 36 books and records, issue subpoenas, require testimony
 37 under oath or affirmation of certain persons, and
 38 apply for certain judicial orders; specifying
 39 requirements and procedures for the department in
 40 conducting audits, assessing deficiencies, and
 41 crediting or refunding overpayments; specifying
 42 procedures and requirements for claiming refunds;
 43 providing that amounts due remain a lien on certain
 44 property; specifying requirements and procedures for
 45 warrants and alias tax executions issued by the
 46 department; requiring that suits brought by the
 47 department for violations be brought in circuit court;
 48 creating s. 211.45, F.S.; providing criminal penalties
 49 for certain violations; providing an effective date.

50
 51 Be It Enacted by the Legislature of the State of Florida:
 52

53 Section 1. Chapter 211, Florida Statutes, entitled "Tax on
 54 Production of Oil and Gas and Severance of Solid Minerals," is
 55 retitled "Tax on Production of Oil and Gas, Severance of Solid
 56 Minerals, and Extraction of Water for Bottling."

57 Section 2. The Division of Law Revision is directed to
 58 create part III of chapter 211, Florida Statutes, consisting of

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59 ss. 211.40-211.45, Florida Statutes, to be entitled "Tax on
 60 Extraction of Water for Bottling."
 61 Section 3. Section 211.40, Florida Statutes, is created to
 62 read:
 63 211.40 Definitions.—As used in this part, the term:
 64 (1) "Bottled water operator" means a person engaged in the
 65 business of bottling or packaging for sale water extracted from
 66 waters of the state. The term does not include a person who
 67 bottles or packages water from a public water system as defined
 68 in s. 403.852(2).
 69 (2) "Department" means the Department of Revenue.
 70 (3) "Waters of the state" has the same meaning as the term
 71 "waters" as defined in s. 403.031(13).
 72 Section 4. Section 211.41, Florida Statutes, is created to
 73 read:
 74 211.41 Bottled water excise tax; distribution and use of
 75 tax proceeds.—
 76 (1) An excise tax is levied upon every person who acts as a
 77 bottled water operator at a rate of 12.5 cents per gallon of
 78 water extracted from waters of the state.
 79 (2) The proceeds of the tax imposed by this section must be
 80 deposited in the Wastewater Treatment and Stormwater Management
 81 Revolving Loan Trust Fund and must be accounted for separately
 82 within the fund. The tax proceeds must be used to provide grants
 83 and loans to local governmental agencies pursuant to s.
 84 403.1835, with priority to projects to connect existing onsite
 85 sewage treatment and disposal systems to central sewerage
 86 systems.
 87 Section 5. Section 211.42, Florida Statutes, is created to

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88 read:
 89 211.42 Returns; filing requirements; estimated tax
 90 declarations.—
 91 (1) Each bottled water operator shall prepare and submit to
 92 the department a return on or before the 25th day of each month
 93 showing the total amount of water extracted from waters of the
 94 state during the previous month, the source and county of
 95 extraction, the location of all facilities from which taxable
 96 water was extracted, and other information required by
 97 department rule. The department shall prescribe the form of the
 98 return by rule. The return must be filed on or before the last
 99 day prescribed for payment of the tax and must be signed and
 100 verified under oath by the bottled water operator or the bottled
 101 water operator's authorized representative.
 102 (a) The return must include a statement of the tax due
 103 under this part and such other information as the department may
 104 reasonably require.
 105 (b) A return must be filed even though no tax is due. Any
 106 tax, penalty, or interest due must be remitted with the return.
 107 (2) (a) Each bottled water operator subject to the tax under
 108 this part shall file, on a form prescribed by the department, a
 109 declaration of estimated tax on or before the 25th day of the
 110 month following the month taxable water extraction occurred and
 111 shall remit to the department an amount equal to 90 percent of
 112 the estimated tax.
 113 (b) The declaration may be amended under rules prescribed
 114 by the department. The installment due must be increased or
 115 decreased to reflect the change in estimated tax occasioned by
 116 the amendment.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20201112__

117 (c) The department may provide for credit of any
 118 overpayment of amounts due under this part which the department
 119 determines to have been made against the installment required
 120 under this subsection.

121 (d) Any estimated tax paid for a month is deemed assessed
 122 upon the last date for payment of the tax imposed under this
 123 part.

124 (3) If any due date prescribed by this section falls on a
 125 Saturday, Sunday, or state or federal holiday, the last date
 126 prescribed for filing or payment is the next day that is not a
 127 Saturday, Sunday, or holiday. The date of receipt by the
 128 department, or the postmark date if mailed, determines the
 129 timeliness of payment or filing.

130 (4) The department may grant an extension of time for
 131 payment or filing of a return upon written request submitted on
 132 or before the due date.

133 Section 6. Section 211.43, Florida Statutes, is created to
 134 read:

135 211.43 Interest and penalties; failure to pay tax or file
 136 return; estimated tax underpayments.-

137 (1) If any part of the tax imposed by this part is not paid
 138 on or before the due date, interest must be added to the amount
 139 due at the rate of 12 percent per year from the due date until
 140 the date of payment.

141 (2) A bottled water operator who fails to file the return
 142 required under s. 211.42 by the due date shall pay a delinquency
 143 penalty. If tax is due with the return, the delinquency penalty
 144 is 10 percent for each month, or portion thereof, of the amount
 145 of tax due with the return, not to exceed 50 percent. If no tax

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20201112__

146 is due with the return, the delinquency penalty is \$50 for each
 147 month, or portion thereof, during which the return was not
 148 filed, not to exceed \$300 in aggregate. The amount of tax due
 149 with a return must be reduced by amounts properly creditable
 150 against the tax liability shown on the return on the date the
 151 return was due.

152 (3) A bottled water operator who makes a substantial
 153 underpayment of the tax due under this part shall pay a penalty
 154 of 30 percent of the underpayment in addition to the delinquency
 155 penalty imposed under subsection (2). For purposes of this
 156 subsection, a substantial underpayment of tax is a deficiency of
 157 tax in an amount exceeding 35 percent of the total tax due for a
 158 month.

159 (4) (a) Except as provided in paragraph (c), a bottled water
 160 operator is liable for interest at the rate of 12 percent per
 161 year and a penalty at the rate of 12 percent per year on any
 162 underpayment of estimated tax determined under this subsection.

163 (b) An underpayment of estimated tax is the excess of:
 164 1. An amount equal to 90 percent of the tax for a month
 165 which is shown to be due on a return or, if no return is filed,
 166 90 percent of the tax finally due for the month, over

167 2. The amount, if any, paid on or before the due date of
 168 the installment.

169 (c) The period of underpayment of estimated tax begins on
 170 the date the installment is due and ends on the date the
 171 underpayment is paid. A payment of estimated tax is deemed a
 172 payment of a previous underpayment only to the extent the
 173 payment exceeds the amount of estimated tax installment due
 174 under subparagraph (b)1.

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175 (d) A penalty or interest for underpayment of estimated tax
 176 may not be imposed if the total amount of estimated tax paid on
 177 or before the installment due date equals or exceeds the lesser
 178 of:

179 1. Ninety percent of the tax finally due for the month; or
 180 2. The amount of tax determined by the tax rate applicable
 181 for the month times the taxable production for the previous
 182 month.

183 (5) Any penalty or interest imposed under this section is
 184 deemed assessed upon the assessment of the tax and must be
 185 collected and paid in the same manner as the tax.

186 (6) Any penalty imposed by this section may be settled or
 187 compromised by the department for reasonable cause in accordance
 188 with s. 213.21. Interest imposed by this section may be settled
 189 or compromised only as authorized by s. 213.21.

190 Section 7. Section 211.44, Florida Statutes, is created to
 191 read:

192 211.44 Administration and enforcement; books and records;
 193 refunds.—

194 (1) The department may adopt rules to administer this part,
 195 including prescribing the form and content of returns and
 196 reports.

197 (2) All state, county, or municipal agencies, boards,
 198 bureaus, departments, or districts shall cooperate with the
 199 department and furnish any information the department deems
 200 necessary, without cost to the department, for the purposes of
 201 administering, collecting, or enforcing the tax imposed under
 202 this part.

203 (3) (a) Each bottled water operator shall keep suitable

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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204 books and records relating to the extraction of taxable waters
 205 of the state to enable the department to determine the amount of
 206 tax due under this part. Such books and records must be
 207 preserved until the time within which the department may make an
 208 assessment with respect thereto has expired in accordance with
 209 s. 213.35.

210 (b) The department may inspect or examine the books,
 211 records, or papers of any bottled water operator which are
 212 reasonably required for the purposes of this part and may
 213 require such person to testify under oath or affirmation or to
 214 answer competent questions regarding such person's business or
 215 extraction of taxable waters of the state.

216 1. The department may issue subpoenas to compel third
 217 parties to testify or to produce records or other evidence held
 218 by them.

219 2. Any duly authorized representative of the department may
 220 administer an oath or affirmation.

221 3. If any person fails to comply with a request of the
 222 department for the inspection of records, fails to give
 223 testimony or respond to competent questions, or fails to comply
 224 with a subpoena, a circuit court having jurisdiction over such
 225 person may, upon application by the department, issue orders
 226 necessary to secure compliance.

227 (c) All books and records required to be kept under this
 228 subsection must be available for inspection by the department
 229 upon written request during normal business hours.

230 (4) The department may audit or examine the books and
 231 records of a bottled water operator to determine whether returns
 232 have been properly filed and tax has been properly paid. An

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233 audit may be commenced for any month for which the power of the
 234 department to make an assessment of amounts due under this part
 235 is available. An audit must be commenced by service of a written
 236 notice of intent to audit upon the bottled water operator,
 237 either in person or by certified mail. The date of personal
 238 contact or the date of the notice governs the period subject to
 239 audit. If there is jeopardy to the revenue and jeopardy is
 240 asserted in or with an assessment, the department must proceed
 241 in the manner specified for jeopardy assessment in s. 213.732.

242 (5) (a) The department may assess, with or without an audit,
 243 any deficiency resulting from nonpayment or underpayment of the
 244 tax, interest, or penalties imposed by this part. The department
 245 shall inform the bottled water operator by written notice of the
 246 amount of any deficiency or overpayment revealed by an audit,
 247 including the tax, interest, or penalties due, and shall explain
 248 the basis for the determination.

249 (b) The department may make an assessment under this part
 250 based upon the best information available to it. The department
 251 may make an assessment based upon an estimate of amounts due
 252 under this part if a bottled water operator fails to file a
 253 return, files a grossly incorrect or fraudulent return, or
 254 refuses to permit inspection of records. An assessment of the
 255 amounts due under this part is deemed prima facie correct and
 256 the bottled water operator has the burden of showing any error
 257 in it.

258 (c) In the event of a deficiency, the department shall
 259 issue its written notice to a bottled water operator for the
 260 tax, penalties, or interest due. Full payment of the total
 261 amount assessed must be made in the manner prescribed by the

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262 department in its notice.

263 (6) (a) The department may credit or refund any overpayments
 264 of amounts due under this part which are revealed by an audit or
 265 for which a timely claim for refund has been properly filed.

266 (b) A claim for refund may be filed within the period
 267 specified in s. 215.26(2).

268 (c) A claim for refund must be signed by the bottled water
 269 operator or the bottled water operator's duly authorized
 270 representative, successor, or assignee and must include
 271 information the department requires to determine the correctness
 272 of the claim.

273 (7) (a) Amounts due under this part remain a lien upon the
 274 property, assets, and effects of a bottled water operator until
 275 paid or until collection thereof is barred under s. 95.091 and
 276 may be recovered by the department, on behalf of the state, by
 277 an action in any county where the property, assets, or effects
 278 of the bottled water operator are located.

279 (b) When any tax imposed by this part becomes delinquent or
 280 is otherwise in jeopardy, the department may issue a warrant for
 281 the full amount due or estimated to be due, including the tax,
 282 penalties, interest, and costs of collection. The warrant must
 283 be directed to each sheriff and may be recorded with the clerk
 284 of the circuit court in any county where the bottled water
 285 operator's property is located. Upon recording, the clerk of the
 286 circuit court shall execute the warrant in the same manner
 287 prescribed by law for executions upon judgments and is entitled
 288 to the same fees for this service. Upon payment of the warrant,
 289 the department shall satisfy the lien of record within 30 days.
 290 Thereafter, any interested person may compel the department to

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291 satisfy the lien of record.

292 (c) An alias tax execution may be issued whenever the
 293 department deems it necessary. Each alias tax execution must be
 294 so designated on its face and has the same force and effect as
 295 the original.

296 (d) Tax executions may be levied upon any third party who
 297 is in possession or control of any assets of a delinquent
 298 bottled water operator or who is indebted to a delinquent
 299 bottled water operator. Such tax executions have the force and
 300 effect of a writ of garnishment. The third party shall pay the
 301 debt or deliver the assets of the delinquent bottled water
 302 operator to the department, and receipt by the department
 303 discharges the third party completely to the extent of the debt
 304 paid or assets surrendered to the department.

305 (e) When any tax execution becomes void, the department may
 306 cancel it of record and shall do so upon the request of any
 307 interested person.

308 (8) Any employee of the department may be designated by the
 309 executive director to make and sign assessments, tax warrants,
 310 and satisfactions of tax warrants.

311 (9) Any suit brought by the department against any person
 312 for violating this part must be brought in circuit court.

313 Section 8. Section 211.45, Florida Statutes, is created to
 314 read:

315 211.45 Criminal penalties.—

316 (1) A person who willfully fails to file a return or keep
 317 books or records on the extraction of taxable waters of the
 318 state, who files a fraudulent return, who willfully fails or
 319 refuses to produce books or records, or who willfully violates

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320 any provision of this part or any rule adopted by the department
 321 under this part commits a misdemeanor of the first degree,
 322 punishable as provided in s. 775.082 or s. 775.083.

323 (2) A person who withholds tax due under this part and
 324 willfully fails to make remittance as required by this part or
 325 who purports to make payments due under this part but willfully
 326 fails to do so because the remittance fails to clear the bank or
 327 depository institution against which it is drawn commits a
 328 felony of the third degree, punishable as provided in s.
 329 775.082, s. 775.083, or s. 775.084.

330 Section 9. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-19

Meeting Date

1112

Bill Number (if applicable)

Topic Bottled Water Tax

Name Lane Stephens

Job Title Partner, SC& Govt Affairs

Address 111 N Calhoun St. Ste G

Street Tallahassee

City

32301

State FL

Zip

Phone 850-513-0004

Email lane@scgfla.com

Speaking: For Against

Information

In Support Against

Waive Speaking: (The Chair will read this information into the record.)

Representing Nestle Waters USA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

1112
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____
Name DAVID GILLEN

Job Title _____

Address 104-2 Street St Phone 941-323-2404

FL City FE State 32301 Zip 201.COM Email sdg@senate.fl.gov

Speaking: For Against Information Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SERRA CLUB FLORIDA

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20
Meeting Date

1112
Bill Number (if applicable)

Topic Bottled Water Extraction Tax Amendment Barcode (if applicable) _____

Name Ryan Smart

Job Title Executive Director

Address 209 Tallwood Rd. Phone 561-358-7191

Jax Beach City FL State 32250 Zip Smart@Floridasprings Email dundley

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Springs Council

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

1112

Bill Number (if applicable)

Topic Bottled Water Excise Tax

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against

Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020
Meeting Date

SB1112
Bill Number (if applicable)

Topic Bottled Water Tax Amendment Barcode (if applicable) _____

Name Amy Datz

Job Title Activist

Address _____ Phone _____

Tallahassee Fl. 32303
City State Zip

Email amy.datz@ma.com

Speaking: For Against Information Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Environmental Caucus of Florida (Post Party)

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

1113

Bill Number (if applicable)

689478

Amendment Barcode (if applicable)

Topic _____

Name DAVID CULLEN

Job Title _____

Address 10412 Crest St

Street

TLH City

State

33301 Zip

Phone 941-373-2404

Email cullen@q.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SEERAS CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20
Meeting Date

1112
Bill Number (if applicable)
689478
Amendment Barcode (if applicable)

Topic Bottled Water Tax

Name Ryan Smart

Job Title Executive Director

Address 209 Tallwood Rd.

Tax Beach FL 32250
City State Zip

Phone 561-358-7191

Email smart@florida.gov; smart@ry

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Springs Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1244

INTRODUCER: Senator Albritton

SUBJECT: State Workforce Development Boards

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.			IT	
3.			RC	

I. Summary:

SB 1244 amends the structure of Florida’s Workforce Development System. The bill:

- Replaces CareerSource Florida, Inc. (CareerSource) with the state board or the Department of Economic Opportunity (DEO) in provisions relating to the implementation of the WIOA;
- Clarifies the purpose, operation, and structure of CareerSource and the state board;
- Requires the state board, rather than CareerSource, to produce a state plan that creates an educated and skilled workforce;
- Clarifies the duties of the local workforce development boards;
- Replaces CareerSource with the state board or the DEO in provisions relating to Florida’s Youth Summer Jobs Pilot Program;
- Authorizes the state board to create and administer the Workforce Training Institute;
- Restructures the organization of the one-stop delivery system;
- Replaces CareerSource with the DEO in provisions relating to workforce information systems and transitional services;
- Requires the DEO to consult with the state board in provisions relating to workforce information systems; and
- Replaces CareerSource with the state board in provisions relating to individual development.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida’s Workforce Development System

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation’s workforce through implementation of a comprehensive

workforce investment system.¹ The WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.² The WIA also called for the delivery of workforce development services through a system of “one-stop” centers in local communities.³ Some key principles of the WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.⁴

In response to the WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.⁵ The act aimed to better connect the state’s economic development strategies with its workforce development system and to implement the principles of the federal WIA.⁶

Federal Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.⁷ The WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.⁸ In general, the WIOA maintains the one-stop framework of the WIA, and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.⁹ The WIOA officially became effective on July 1, 2015, the first full program year after enactment.

Core Programs

The WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.¹⁰ The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

Performance Measures

In an effort to promote transparency and accountability, the WIOA created a single set of common measures for the evaluation of core programs.¹¹ The WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:

- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;

¹ Workforce Investment Act of 1998, 29 U.S.C. § 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, H.R. 803, 113th Cong. (July 22, 2014)(codified at 29 U.S.C. § 3101, et seq.).

² *See* 29 U.S.C. § 2821 and 29 U.S.C. § 2832 (1998).

³ *See* 29 U.S.C. § 2841 (1998).

⁴ *See* 29 U.S.C. § 2811 (1998).

⁵ Chapter 2000-165, Laws of Fla.

⁶ *See* s. 445.003, F.S.

⁷ Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 et seq. (2014).

⁸ *See* 29 U.S.C. § 3112(a).

⁹ *See* 29 U.S.C. § 3111.

¹⁰ *See* 29 U.S.C. § 3102(13).

¹¹ *See* 29 U.S.C. § 3141.

- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

State Workforce Development Plan

Using the common performance measures for core programs, the WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.¹² The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.¹³ The WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.¹⁴

Regional Planning and Local Workforce Development Boards

The WIOA requires states to identify regional planning areas for workforce development strategies.¹⁵ Within each area, a local workforce development board must be established.¹⁶ Each local workforce development board is required to coordinate planning and service delivery strategies within their area.¹⁷ Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.¹⁸

One-Stop Delivery System

The WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.¹⁹ A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.²⁰ The WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.²¹

Florida's Implementation of The WIOA

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by the WIOA.²² Under the current workforce development system, the DEO, CareerSource, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

¹² See 29 U.S.C. § 3112(a).

¹³ See 29 U.S.C. § 3112(b).

¹⁴ See 29 U.S.C. § 3113.

¹⁵ See 29 U.S.C. § 3121.

¹⁶ *Id.*

¹⁷ See 29 U.S.C. § 3122.

¹⁸ See 29 U.S.C. § 3123.

¹⁹ See 29 U.S.C. § 3151.

²⁰ Other mandatory partners may include programs under the Older Americans Act, Adult Education and Literacy, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, and the Community Service Block Grant Act. 29 U.S.C. § 3151(b).

²¹ See 29 U.S.C. § 3151(2).

²² Chapter 2016-216, Laws of Fla.

The Department of Economic Opportunity

The DEO serves as Florida’s lead workforce agency.²³ The DEO is responsible for the fiscal and administrative affairs of the workforce development system.²⁴ The DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.²⁵ Additionally, under the direction of CareerSource, the DEO must annually meet with each local workforce development board to review the board’s performance and to certify that the board is in compliance with applicable state and federal law.²⁶

CareerSource Florida, Inc.

CareerSource Florida, Inc., a not-for-profit corporation, serves as Florida’s *state-level* workforce development board.²⁷ CareerSource is responsible for the development of a 4-year plan that is consistent with the requirements of the WIAO²⁸ and collaborates with the DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.²⁹ CareerSource also provides state-level policy direction, planning, and performance evaluation of the delivery of workforce services.³⁰

Local Workforce Development Boards

Twenty-four local workforce development boards deliver Florida’s workforce development services through over 100 one-stop service providers.³¹ The one-stop service providers give Floridians access to available workforce services; including job placement, career counseling, and skills training.³² Collectively, the local workforce development boards operate under a charter approved by CareerSource.³³ Each local workforce development board formulates a local budget and oversees the one-stop delivery system within its local area.³⁴

III. Effect of Proposed Changes:**Workforce Services**

Section 1 amends s. 445.002, F.S., to define the terms “for cause” and “state board.”

- “For cause” includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance. The “for cause” standard is used in ch. 445, F.S., as a standard by which:
 - the Governor may remove a member of a local board; and,

²³ Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.

²⁴ Section 445.009(3)(c), F.S.

²⁵ *See* s. 445.003, F.S.

²⁶ *See* s. 445.007(3), F.S.

²⁷ Section 445.004(5)(a), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

²⁸ Section 445.003(2), F.S.

²⁹ *See* s. 445.004, F.S.

³⁰ *Id.*

³¹ Florida Department of Economic Opportunity, *CareerSource Florida Network Directory*, <http://lcd.floridajobs.org/> (last visited Jan. 17, 2020).

³² *See* s. 445.009, F.S.

³³ *See* s. 445.004, F.S.

³⁴ Section 445.007(12), F.S.

- a chief elected official may remove a member of a local board.
- “State board” means the state workforce development board established pursuant to the Workforce Innovation and Opportunity Act. The state board shall be supported by CareerSource, which works at the direction of the state board in consultation with the DEO as required by ch. 445, F.S.

Implementation of the Federal Workforce Innovation and Opportunity Act

Section 2 makes numerous changes to the procedures relating to the implantation of the WIOA in s. 445.003, F.S.

The bill replaces CareerSource with the state board or the DEO in provisions relating to the implementation of the WIOA.

- The state board must prepare and submit a 4-year plan, consistent with the requirements of the WIOA.
- Title I, WIOA, Wagner-Peyser, and NAFTA/Trade Act funds will be expended based on the 4-year plan of the state board.
- A local workforce board must use at least 50 percent of the Title I funds for Adults and Dislocated Workers on Individual Training Accounts³⁵ unless a waiver is obtained from the state board.
- State administration costs include the costs of funding for the state board and state board staff; operating fiscal, compliance, and management accountability systems though the department conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to local workforce development areas at the direction of the state board.
- Individual Training Accounts and other workforce development strategies for other training is designed and tailored by the DEO in consultation with the state board.
- Individual Training Accounts for distressed urban and rural communities must be designed, adopted, and funded by the DEO in consultation with the state board.
- The state board may establish guidelines necessary to implement the Incumbent Worker Training Program.
- The DEO must maintain an Emergency Preparedness Fund from Rapid Response funds.
- All Rapid Response funds must be expended based on a plan developed by the state board in consultation with the DEO.
- The state board, in consultation with the DEO may make modifications to the state’s plan, policies, and procedures to comply with federally mandated requirements the must be complied with to maintain funding.
- The state board must enter into a memorandum of understanding with the Florida Department of Education to ensure that federally mandated requirements are met and are in compliance with the state plan for workforce development.
- The state board may recommend workforce related divisions, bureaus, units, programs, duties, commissions, boards, and councils for elimination, consolidation, or privatization.

³⁵ Individual Training Account expenditures include tuition, books, and fees of training providers and other training services authorized by the WIOA. *See* s. 445.003, F.S.

The bill permits \$2 million of the Title I funds retained at the state level to be reserved for the Incumbent Worker Training Program.³⁶

The bill creates a new subsection (6) in s. 445.003, F.S., which authorizes the state board to hire a director and staff that must be authorized by the state board to work with the DEO in carrying out the functions of the WIOA.

CareerSource and the State Board

Section 3 amends s. 445.004, F.S., to revise provisions relating to the purpose, operation, and organizational structure of CareerSource and the state board.

- CareerSource must operate at the direction of the state board, and under an agreement with the DEO.
- CareerSource provides administrative support for the state board.
- The purpose of the state board is to design and implement strategies to foster Florida’s workforce development system.
- CareerSource must implement the policy directives of the state board and administer state workforce development programs.
- All provisions stating that CareerSource must be governed by a board of directors are removed, and “board of directors” is replaced with the “state board.”
- The state board is the board of directors of CareerSource.
- The state board is required to hire an executive director, and the executive director is the president, the chief executive officer, and an employee of CareerSource.
- The president of CareerSource serves at the pleasure of the Governor.
- The state board is authorized to provide policy direction to ensure the DEO is properly administering workforce development activities to conform to approved plans.³⁷
- The DEO may consult with the state board to issue technical assistance letters on the operation of federal programs and the expenditure of federal funds by the state board or any workforce development board.³⁸
 - A technical assistance letter must be in writing, posted on the DEO’s website, and remains in effect until superseded or terminated.
- The state board is authorized to notify the Governor and the DEO of statewide or local workforce development and training needs that may require policy changes or an update to the state plan.
- The state board must have a policy that all resources and equipment purchased for training WIOA clients be available for use at all times by eligible populations.
- The state board may make expenditures to recognize performance and for promotional items.

³⁶ The Incumbent Worker Training Program helps workers by providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. *See* s. 445.003, F.S.

³⁷ Authorized workforce development activities include the following: Programs authorized under Title I of the WIOA, the Wagner-Peyser Act of 1993, Title II of the Trade Act of 2002, employment and training activities carried out under funds awarded to Florida by the United States Department of Housing and Urban Development, welfare transition services funded by the Temporary Assistance for Needy Families Program, the Florida Bonding Program, the Food Assistance Employment and Training Program, the Quick-Response Training Program, and the Work Opportunity Tax Credit. *See* s. 445.004, F.S.

³⁸ The bill establishes that a technical assistance letter is not a declaratory statement issued pursuant to s. 120.565, F.S., an order issued pursuant to s. 120.569, F.S., or a rule of general applicability under s. 120.54, F.S. Section 120.53, F.S., does not apply to technical assistance letters.

- The state board must submit a complete and detailed annual report by December 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- The Auditor General is authorized to conduct an audit of the state board and CareerSource, or the programs and entities created by the state board.
- The state board must establish uniform performance accountability measures that monitor the performance of the state and local workforce development boards in achieving the workforce development strategy.
 - The performance accountability measures of success that are adopted by the state board, or the local workforce development boards must provide an equitable comparison of the relative success or failure of any service provider.
- The workforce development strategy for Florida must be designed by the state board, in consultation with the DEO, and approved by the Governor.
- The workforce development system must encourage local design and control of service delivery and targeted activities.
- The state board, in consultation with the DEO, must ensure that local workforce development boards have a valid membership and have developed an adequate plan.

The bill establishes that the state board must establish proper incentives, outline rewards for successful job placements, and institute collaborative approaches among local service providers.

The bill clarifies that CareerSource, under the direction of the state board, must enter into an agreement with Space Florida and collaborate with vocational institutes, community colleges, colleges, and universities in Florida to develop and implement a workforce development strategy.

State Plan for Workforce Development

Section 4 amends s. 445.006, F.S., to require the state board, rather than CareerSource, to take actions relating to the state plan for workforce development.

The bill provides that the state board in conjunction with state and local partners, must produce a state plan that creates an educated and skilled workforce, as well as develop strategic planning elements and operational planning elements for the state plan.

Local Workforce Development Boards

Section 5 amends s. 445.007, F.S., to clarify the structure and duties of the local workforce development boards.³⁹

- The state board is authorized to waive the requirement that a local board must appoint a representative of a private education provider to the local board, as long as, a local workforce board requests a waiver, and it is demonstrated that a representative of a private education provider does not exist in the region.
- The DEO must assign staff to meet with each local workforce development board annually to review performance and compliance with state and federal law.

³⁹ The bill also refers to “local workforce development boards” as “local boards.”

- The DEO approves a local workforce development board’s administrative entity.
- The DEO, in conjunction with the state board, must provide a training program for the local workforce development boards to familiarize them with the state’s workforce development goals.
- The state board is required to create procedures for the local workforce development boards to request permission to operate under s. 445.007, F.S.
- The local workforce development boards are required to adopt a committee structure consistent with state policies and federal law established by the state board.
- The local workforce development boards are required to apply the procurement and expenditure procedures required by federal law, as well as, policies created by the DEO and the state board.
- Unless authorized by state law, the state board and the DEO may not use state and federal funds provided to the local workforce development boards to pay for food or beverages for board members, staff, or employees of the local workforce development boards.
- The DEO must monitor and provide fiscal or programmatic guidance to the state board, CareerSource, and all workforce development boards.
- A local workforce development board is required to receive approval from the DEO before contracting with a member of the local board, a relative of a member of the local board, or an employee of the local board.
 - A contract under \$25,000 between a local workforce development board and a member of that board, a relative of a local board member, or an employee of the local board is not required to receive prior approval by the DEO.⁴⁰
- Each local workforce development board is required to submit its annual budget to the DEO for review.

The bill deletes a provision defining the term “cause.”⁴¹

The bill creates a provision that allows the chief elected official for the local workforce development board to remove a member of the local board, the executive director of the local board, or the designated person responsible for the operation and administration of the local board for cause.

Florida Youth Summer Jobs Pilot Program

Section 6 amends s. 445.0071, F.S., to replace CareerSource with the state board or the DEO in provisions relating to the Florida Youth Summer Jobs Pilot Program.⁴²

- The Broward Workforce Development Board, in consultation with the state board, must provide a program offering at-risk and disadvantaged children summer jobs.
- The pilot program must be administered by the local workforce development board in consultation with the state board.

⁴⁰ Such contracts must be approved by a two-thirds vote of the local board, and must be reported to the DEO and the state board within 30-days of approval. *See* s. 445.007, F.S.

⁴¹ The bill amends s. 445.002, F.S., to define the term “for cause.”

⁴² The Florida Youth Summer Jobs Pilot Program was developed within workforce development district 22, which is served by the Broward Workforce Development Board. The program offers at-risk and disadvantaged children summer jobs in partnership with local communities and public employees. *See* s. 445.0071, F.S.

- The Broward Workforce Development Board must report to the state board and the DEO.⁴³
- The state board must report the performance of the program to the Legislature by November 1 of each year.

Workforce Training Institute

Section 7 makes numerous changes to the organization and procedures of the Workforce Training Institute in s. 445.008, F.S.

The bill authorizes the state board, through CareerSource, to create the Workforce Training Institute and to engage in necessary administrative functions. Additionally, the bill requires CareerSource to report all donations and grants they receive to the state board and the DEO.

One-stop Delivery System

Section 8 amends s. 445.009, F.S., to replace CareerSource with the state board or the DEO in provisions relating to one-stop delivery systems.

- Subject to a process designed by the state board, local workforce development boards must designate one-stop delivery system operators.
- The DEO approves the designation of one-stop delivery system operators.⁴⁴
- The state board, in conjunction with the DEO, may notify the Governor of any one-stop delivery system partners that fail to enter into an understanding with the local workforce development board.
- The state board, the DEO, and local workforce development boards must create a centralized help center to assist local workforce development boards.
- The state board must develop an implementation plan for intensive services and training that is provided to individuals through Intensive Service Accounts and Individual Training Accounts.
- The DEO must periodically review Individual Training Account pricing schedules and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives.
- The state board must develop a system to foster the leveraging of appropriated resources for the workforce system and must report on such efforts in the annual report.
- The state board and the DEO must coordinate a plan among the agencies for a One-Stop Electronic Network.

Workforce Information Systems

Section 9 amends s. 445.011, F.S., to replace CareerSource with the DEO and to require the DEO to consult with the state board in provisions relating to workforce information systems.

⁴³ The report must include the number of at-risk and disadvantaged children who enter the program, the types of work activities they participate in, and the number of children who return to school, go on to postsecondary school, or enter the workforce full time at the end of the program. *See* s. 445.0071, F.S.

⁴⁴ The bill provides that the DEO must require the local workforce development board to demonstrate that safeguards are in place to ensure fair competition and practices.

- The DEO, in consultation with the state board, must implement automated information systems.
- The DEO is authorized to procure independent verification and validation services associated with developing and implementing any workforce information system.
- The DEO must coordinate development and implementation of workforce information systems with the state chief information officer.

Transitional Benefits and Services

Section 10 amends s. 445.028, F.S., to replace CareerSource with the DEO in provisions relating to transitional benefits and services.

- In cooperation with DEO, the Department of Children and Families (DCF) must develop procedures to ensure that families leaving the temporary cash assistance program (TCA)⁴⁵ receive transitional benefits and services.
- The DEO and the DCF must develop procedures to maximize the utilization of transitional Medicaid by families who leave the TCA program.

Individual Development Accounts

Section 11 amends s. 445.051, F.S., to replace CareerSource with the state board in provisions relating to individual development.

- The state board must establish procedures for local workforce development boards to include in their annual program and financial plan an application to offer an individual development account program⁴⁶ as part of their Temporary Assistance for Needy Families (TANF)⁴⁷ allocation.
- The state board must establish policies and procedures to ensure that funds held in an individual development account are not withdrawn without a qualified purpose.
- The state board must establish procedures for controlling the withdrawal of funds for uses other than qualified purposes.
- Pursuant to policy direction by the state board, the DEO must adopt the rules necessary to implement s. 445.051, F.S.

Authority for Audits

Section 12 amends s. 11.45, F.S., to clarify that the Auditor General may conduct audits of CareerSource, the state board, and the programs created by the state board.

⁴⁵ The Temporary Cash Assistance Program provides cash assistance to families with children under the age of 18 or under the age of 19 if the child is a full time high school student. The program helps support families while allowing children to remain in their homes. See Florida Department of Children and Families, *Temporary Cash Assistance (TCA)* <https://www.myflfamilies.com/service-programs/access/temporary-cash-assistance.shtml> (last visited Jan. 17, 2020).

⁴⁶ An Individual Development Account is a special bank account that helps low income families save for the purchase of a home, education expenses, or to start a business. See Social Security Administration, *Spotlight on Individual Development Accounts* (2019) <https://www.ssa.gov/ssi/spotlights/spot-individual-development.htm> (last visited Jan. 17, 2020).

⁴⁷ The Temporary Assistance for Needy Families program is a federal grant that provides funding for cash welfare to needy families with children. See Florida Department of Children and Families, *Temporary Assistance for Needy Families* (January 2016) <https://www.myflfamilies.com/service-programs/access/docs/TANF%20101%20final.pdf> (last visited Jan. 17, 2020).

DEO Powers and Duties

Section 13 amends s. 443.171, F.S., to provide that the DEO must submit information to the state board annually as required by law.

Effective Date

Section 14 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The impacted governmental organizations will have to update their internal structures or policies in the administration and oversight of Florida's Workforce Development System. The costs are indeterminate, but expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 249-255 permit, but do not require, the state board to hire a “director.” However, lines 346-350 require the state board to hire an “executive director.” If the terms refer to the same position, the bill would be less susceptible to misinterpretation by using the same term.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 445.002, 445.003, 445.004, 445.006, 445.007, 445.0071, 445.008, 445.009, 445.011, 445.028, 445.051, 11.45, 443.171.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Albritton

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1 A bill to be entitled
 2 An act relating to state workforce development boards;
 3 amending s. 445.002, F.S.; defining the terms "for
 4 cause" and "state board"; amending s. 445.003, F.S.;
 5 replacing CareerSource Florida, Inc., with the state
 6 board or the Department of Economic Opportunity in
 7 provisions relating to the implementation of the
 8 federal Workforce Innovation and Opportunity Act;
 9 authorizing, rather than requiring, certain funds to
 10 be reserved for the Incumbent Worker Training Program;
 11 conforming provisions to changes made by the act;
 12 authorizing the state board to hire a director and
 13 staff; requiring the state board to authorize the
 14 director and staff to work with the department for
 15 specified reasons; amending s. 445.004, F.S.; revising
 16 provisions relating to the operation of CareerSource
 17 Florida, Inc.; revising the purpose of CareerSource
 18 Florida, Inc.; providing purpose for the state board;
 19 revising the organizational structure of CareerSource
 20 Florida, Inc.; providing requirements for the
 21 organizational structure of the state board; providing
 22 the state board with powers and authority previously
 23 held by CareerSource Florida, Inc.; revising the
 24 requirements related to such powers and authority;
 25 authorizing the department to consult with the state
 26 board to issue certain technical assistance letters;
 27 requiring the state board, rather than CareerSource
 28 Florida, Inc., to submit an annual report to the
 29 Governor and the Legislature; authorizing the Auditor

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30 General to conduct an audit of the state board and
 31 programs or entities created by the state board;
 32 requiring the state board, rather than CareerSource
 33 Florida, Inc., to establish certain uniform
 34 performance accountability measures; requiring the
 35 state board, in consultation with the department, to
 36 design the workforce development strategy for the
 37 state; requiring that the strategy be approved by the
 38 Governor; revising requirements relating to the
 39 workforce development system; amending s. 445.006,
 40 F.S.; requiring that the state board, rather than
 41 CareerSource Florida, Inc., take certain actions
 42 relating to the state plan for workforce development;
 43 amending s. 445.007, F.S.; replacing CareerSource
 44 Florida, Inc., with the state board or the department
 45 in provisions relating to local workforce development
 46 boards; deleting the definition of the term "cause";
 47 authorizing a chief elected official for a local
 48 workforce development board to remove certain persons
 49 from the board for cause; requiring the department to
 50 provide certain guidance to specified entities;
 51 deleting an obsolete provision; making technical
 52 changes; amending s. 445.0071, F.S.; replacing
 53 CareerSource Florida, Inc., with the state board or
 54 the department in provisions relating to the Florida
 55 Youth Summer Jobs Pilot Program; amending s. 445.008,
 56 F.S.; revising authority relating to the Workforce
 57 Training Institute; requiring that certain donations
 58 and grants be reported to the state board and the

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59 department; amending s. 445.009, F.S.; replacing
 60 CareerSource Florida, Inc., with the state board or
 61 the department in provisions relating to one-stop
 62 delivery systems; deleting an obsolete provision;
 63 amending s. 445.011, F.S.; replacing CareerSource
 64 Florida, Inc., with the department in provisions
 65 relating to workforce information systems; requiring
 66 the department to consult with the state board in
 67 implementing certain automated information systems;
 68 deleting a provision requiring CareerSource Florida,
 69 Inc., to take certain actions when procuring workforce
 70 information systems; amending s. 445.028, F.S.;
 71 replacing CareerSource Florida, Inc., with the
 72 department in provisions relating to transitional
 73 benefits and services; amending s. 445.051, F.S.;
 74 replacing CareerSource Florida, Inc., with the state
 75 board in provisions relating to individual development
 76 accounts; amending ss. 11.45 and 443.171, F.S.;
 77 conforming provisions to changes made by the act;
 78 providing an effective date.

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

81
 82 Section 1. Present subsections (2) and (3) of section
 83 445.002, Florida Statutes, are redesignated as subsections (3)
 84 and (5), respectively, and new subsections (2) and (4) are added
 85 to that section, to read:

86 445.002 Definitions.—As used in this chapter, the term:
 87 (2) “For cause” includes, but is not limited to, engaging

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88 in fraud or other criminal acts, incapacity, unfitness, neglect
 89 of duty, official incompetence and irresponsibility,
 90 misfeasance, malfeasance, nonfeasance, or lack of performance.
 91 (4) “State board” means the state workforce development
 92 board established pursuant to the Workforce Innovation and
 93 Opportunity Act, Pub. L. No. 113-128, Title I, s. 101. The state
 94 board shall be supported by CareerSource Florida, Inc., which
 95 works at the direction of the state board in consultation with
 96 the department as required by this chapter.

97 Section 2. Subsections (2) and (3), paragraphs (b) and (c)
 98 of subsection (4), and subsection (5) of section 445.003,
 99 Florida Statutes, are amended, and subsection (6) is added to
 100 that section, to read:

101 445.003 Implementation of the federal Workforce Innovation
 102 and Opportunity Act.—

103 (2) FOUR-YEAR PLAN.—The state board CareerSource Florida,
 104 ~~Inc.,~~ shall prepare and submit a 4-year plan, consistent with
 105 the requirements of the Workforce Innovation and Opportunity
 106 Act. Mandatory and optional federal partners shall be fully
 107 involved in designing the plan’s one-stop delivery system
 108 strategy. The plan must clearly define each program’s statewide
 109 duties and role relating to the system. The plan must detail a
 110 process that would fully integrate all federally mandated and
 111 optional partners.

112 (3) FUNDING.—

113 (a) Title I, Workforce Innovation and Opportunity Act
 114 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be
 115 expended based on the 4-year plan of the state board
 116 ~~CareerSource Florida, Inc.~~ The plan must outline and direct the

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117 method used to administer and coordinate various funds and
 118 programs that are operated by various agencies. The following
 119 provisions apply to these funds:

120 1. At least 50 percent of the Title I funds for Adults and
 121 Dislocated Workers which are passed through to local workforce
 122 development boards shall be allocated to and expended on
 123 Individual Training Accounts unless a local workforce
 124 development board obtains a waiver from the state board
 125 ~~CareerSource Florida, Inc.~~ Tuition, books, and fees of training
 126 providers and other training services prescribed and authorized
 127 by the Workforce Innovation and Opportunity Act qualify as
 128 Individual Training Account expenditures.

129 2. Fifteen percent of Title I funding shall be retained at
 130 the state level and dedicated to state administration and shall
 131 be used to design, develop, induce, and fund innovative
 132 Individual Training Account pilots, demonstrations, and
 133 programs. Of such funds retained at the state level, \$2 million
 134 ~~may shall~~ be reserved for the Incumbent Worker Training Program
 135 created under subparagraph 3. Eligible state administration
 136 costs include the costs of funding for the state board and state
 137 board staff of CareerSource Florida, Inc.; operating fiscal,
 138 compliance, and management accountability systems through the
 139 department CareerSource Florida, Inc.; conducting evaluation and
 140 research on workforce development activities; and providing
 141 technical and capacity building assistance to local workforce
 142 development areas at the direction of the state board
 143 ~~CareerSource Florida, Inc.~~ Notwithstanding s. 445.004, such
 144 administrative costs may not exceed 25 percent of these funds.
 145 An amount not to exceed 75 percent of these funds shall be

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146 allocated to Individual Training Accounts and other workforce
 147 development strategies for other training designed and tailored
 148 by the department in consultation with the state board
 149 ~~CareerSource Florida, Inc.~~, including, but not limited to,
 150 programs for incumbent workers, nontraditional employment, and
 151 enterprise zones. The department, in consultation with the state
 152 board CareerSource Florida, Inc., shall design, adopt, and fund
 153 Individual Training Accounts for distressed urban and rural
 154 communities.

155 3. The Incumbent Worker Training Program is created for the
 156 purpose of providing grant funding for continuing education and
 157 training of incumbent employees at existing Florida businesses.
 158 The program will provide reimbursement grants to businesses that
 159 pay for preapproved, direct, training-related costs.

160 a. The Incumbent Worker Training Program will be
 161 administered by CareerSource Florida, Inc., which may, at its
 162 discretion, contract with a private business organization to
 163 serve as grant administrator.

164 b. The program shall be administered pursuant to s.
 165 134(d)(4) of the Workforce Innovation and Opportunity Act.
 166 Priority for funding shall be given to businesses with 25
 167 employees or fewer, businesses in rural areas, businesses in
 168 distressed inner-city areas, businesses in a qualified targeted
 169 industry, businesses whose grant proposals represent a
 170 significant upgrade in employee skills, or businesses whose
 171 grant proposals represent a significant layoff avoidance
 172 strategy.

173 c. All costs reimbursed by the program must be preapproved
 174 by CareerSource Florida, Inc., or the grant administrator. The

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175 program may not reimburse businesses for trainee wages, the
 176 purchase of capital equipment, or the purchase of any item or
 177 service that may possibly be used outside the training project.
 178 A business approved for a grant may be reimbursed for
 179 preapproved, direct, training-related costs including tuition,
 180 fees, books and training materials, and overhead or indirect
 181 costs not to exceed 5 percent of the grant amount.

182 d. A business that is selected to receive grant funding
 183 must provide a matching contribution to the training project,
 184 including, but not limited to, wages paid to trainees or the
 185 purchase of capital equipment used in the training project; must
 186 sign an agreement with CareerSource Florida, Inc., or the grant
 187 administrator to complete the training project as proposed in
 188 the application; must keep accurate records of the project's
 189 implementation process; and must submit monthly or quarterly
 190 reimbursement requests with required documentation.

191 e. All Incumbent Worker Training Program grant projects
 192 shall be performance-based with specific measurable performance
 193 outcomes, including completion of the training project and job
 194 retention. CareerSource Florida, Inc., or the grant
 195 administrator shall withhold the final payment to the grantee
 196 until a final grant report is submitted and all performance
 197 criteria specified in the grant contract have been achieved.

198 f. The state board ~~CareerSource Florida, Inc.,~~ may
 199 establish guidelines necessary to implement the Incumbent Worker
 200 Training Program.

201 g. No more than 10 percent of the Incumbent Worker Training
 202 Program's total appropriation may be used for overhead or
 203 indirect purposes.

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204 4. At least 50 percent of Rapid Response funding shall be
 205 dedicated to Intensive Services Accounts and Individual Training
 206 Accounts for dislocated workers and incumbent workers who are at
 207 risk of dislocation. ~~The department CareerSource Florida, Inc.,~~
 208 shall also maintain an Emergency Preparedness Fund from Rapid
 209 Response funds, which will immediately issue Intensive Service
 210 Accounts, Individual Training Accounts, and other federally
 211 authorized assistance to eligible victims of natural or other
 212 disasters. At the direction of the Governor, these Rapid
 213 Response funds shall be released to local workforce development
 214 boards for immediate use after events that qualify under federal
 215 law. Funding shall also be dedicated to maintain a unit at the
 216 state level to respond to Rapid Response emergencies and to work
 217 with state emergency management officials and local workforce
 218 development boards. All Rapid Response funds must be expended
 219 based on a plan developed by the state board in consultation
 220 with the department ~~CareerSource Florida, Inc.,~~ and approved by
 221 the Governor.

222 (b) The administrative entity for Title I, Workforce
 223 Innovation and Opportunity Act funds, and Rapid Response
 224 activities is the department ~~of Economic Opportunity,~~ which
 225 shall provide direction to local workforce development boards
 226 regarding Title I programs and Rapid Response activities
 227 ~~pursuant to the direction of CareerSource Florida, Inc.~~

228 (4) FEDERAL REQUIREMENTS, EXCEPTIONS AND REQUIRED
 229 MODIFICATIONS.—

230 (b) The state board, in consultation with the department
 231 ~~CareerSource Florida, Inc.,~~ may make modifications to the
 232 state's plan, policies, and procedures to comply with federally

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233 mandated requirements that in its judgment must be complied with
 234 to maintain funding provided pursuant to Pub. L. No. 113-128.
 235 The state board shall provide written notice to the Governor,
 236 the President of the Senate, and the Speaker of the House of
 237 Representatives within 30 days after any such changes or
 238 modifications.

239 (c) ~~The state board CareerSource Florida, Inc.,~~ shall enter
 240 into a memorandum of understanding with the Florida Department
 241 of Education to ensure that federally mandated requirements of
 242 Pub. L. No. 113-128 are met and are in compliance with the state
 243 plan for workforce development.

244 (5) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—The
 245 state board CareerSource Florida, Inc., may recommend workforce-
 246 related divisions, bureaus, units, programs, duties,
 247 commissions, boards, and councils for elimination,
 248 consolidation, or privatization.

249 (6) AUTHORITY TO HIRE DIRECTOR AND STAFF.—The state board
 250 may hire a director and staff to assist in carrying out the
 251 functions of the Workforce Innovation and Opportunity Act and in
 252 using funds made available through the act. The state board
 253 shall authorize the director and staff to work with the
 254 department in carrying out the functions of the Workforce
 255 Innovation and Opportunity Act.

256 Section 3. Section 445.004, Florida Statutes, is amended to
 257 read:

258 445.004 CareerSource Florida, Inc., and the state board;
 259 creation; purpose; membership; duties and powers.—

260 (1) CareerSource Florida, Inc., is created as a not-for-
 261 profit corporation, which shall be registered, incorporated,

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262 organized, and operated in compliance with chapter 617 and shall
 263 operate at the direction of the state board. CareerSource
 264 Florida, Inc., is not a unit or entity of state government and
 265 is exempt from chapters 120 and 287. CareerSource Florida, Inc.,
 266 shall apply the procurement and expenditure procedures required
 267 by federal law for the expenditure of federal funds.
 268 CareerSource Florida, Inc., shall be administratively housed
 269 within the department and shall operate under agreement with the
 270 department of Economic Opportunity; however, CareerSource
 271 Florida, Inc., is not subject to control, supervision, or
 272 direction by the department in any manner. The Legislature finds
 273 that public policy dictates that CareerSource Florida, Inc.,
 274 operate in the most open and accessible manner consistent with
 275 its public purpose. To this end, the Legislature specifically
 276 declares that CareerSource Florida, Inc., its board, councils,
 277 and any advisory committees or similar groups created by
 278 CareerSource Florida, Inc., are subject to the provisions of
 279 chapter 119 relating to public records, and those provisions of
 280 chapter 286 relating to public meetings.

281 (2) CareerSource Florida, Inc., provides administrative
 282 support for the state board, is the principal workforce policy
 283 organization for the state. The purpose of the state board
 284 CareerSource Florida, Inc., is to design and implement
 285 strategies that help Floridians enter, remain in, and advance in
 286 the workplace, so that they may become more highly skilled and
 287 successful, which benefits these Floridians, Florida businesses,
 288 and the entire state, and fosters the development of the state's
 289 business climate. CareerSource Florida, Inc., shall, consistent
 290 with its agreement with the department, implement the policy

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291 directives of the state board and administer state workforce
 292 development programs as authorized by law.

293 (3) (a) ~~CareerSource Florida, Inc., shall be governed by a~~
 294 ~~board of directors, whose membership and appointment must be~~
 295 ~~consistent with Pub. L. No. 113-128, Title I, s. 101(b).~~ Members
 296 of the state board described in Pub. L. No. 113-128, Title I, s.
 297 101(b)(1)(C)(iii)(I)(aa) shall be nonvoting members. The number
 298 of directors shall be determined by the Governor, who shall
 299 consider the importance of minority, gender, and geographic
 300 representation in making appointments to the board. When the
 301 Governor is in attendance, he or she shall preside at all
 302 meetings of the state board of directors.

303 (b) The state board of directors of CareerSource Florida,
 304 ~~Inc.,~~ shall be chaired by a board member designated by the
 305 Governor pursuant to Pub. L. No. 113-128. A member may not serve
 306 more than two terms.

307 (c) Members appointed by the Governor may serve no more
 308 than two terms and must be appointed for 3-year terms. However,
 309 in order to establish staggered terms for board members, the
 310 Governor shall appoint or reappoint one-third of the board
 311 members for 1-year terms, one-third of the board members for 2-
 312 year terms, and one-third of the board members for 3-year terms
 313 beginning July 1, 2016. Subsequent appointments or
 314 reappointments shall be for 3-year terms, except that a member
 315 appointed to fill a vacancy on the board shall be appointed to
 316 serve only the remainder of the term of the member whom he or
 317 she is replacing, and may be appointed for a subsequent 3-year
 318 term. Private sector representatives of businesses, appointed by
 319 the Governor pursuant to Pub. L. No. 113-128, shall constitute a

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320 majority of the membership of the board. Private sector
 321 representatives shall be appointed from nominations received by
 322 the Governor, including, but not limited to, those nominations
 323 made by the President of the Senate and the Speaker of the House
 324 of Representatives. Private sector appointments to the board
 325 must be representative of the business community of this state;
 326 no fewer than one-half of the appointments must be
 327 representative of small businesses, and at least five members
 328 must have economic development experience. Members appointed by
 329 the Governor serve at the pleasure of the Governor and are
 330 eligible for reappointment.

331 (d) The board must include the vice chairperson of the
 332 board of directors of Enterprise Florida, Inc., and one member
 333 representing each of the Workforce Innovation and Opportunity
 334 Act partners, including the Division of Career and Adult
 335 Education, and other entities representing programs identified
 336 in the Workforce Innovation and Opportunity Act, as determined
 337 necessary.

338 (e) A member of the state board of directors of
 339 ~~CareerSource Florida, Inc.,~~ may be removed by the Governor for
 340 cause. Absence from three consecutive meetings results in
 341 automatic removal. The chair of the state board CareerSource
 342 ~~Florida, Inc.,~~ shall notify the Governor of such absences.

343 (f) Representatives of businesses appointed to the state
 344 ~~board of directors~~ may not include providers of workforce
 345 services.

346 (g) The state board serves as the board of directors of
 347 CareerSource Florida, Inc. The state board shall hire an
 348 executive director. The executive director is the president, the

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349 chief executive officer, and an employee of CareerSource
 350 Florida, Inc.

351 (4) (a) The president of CareerSource Florida, Inc., ~~shall~~
 352 ~~be hired by the board of directors of CareerSource Florida,~~
 353 ~~Inc., and shall serve at the pleasure of the Governor in the~~
 354 ~~capacity of an executive director and secretary of CareerSource~~
 355 ~~Florida, Inc.~~

356 (b) The state board ~~of directors of CareerSource Florida,~~
 357 ~~Inc.,~~ shall meet at least quarterly and at other times upon the
 358 call of its chair. The board and its committees, subcommittees,
 359 or other subdivisions may use any method of telecommunications
 360 to conduct meetings, including establishing a quorum through
 361 telecommunications, if the public is given proper notice of the
 362 telecommunications meeting and is given reasonable access to
 363 observe and, if appropriate, participate.

364 (c) A majority of the total current membership of the state
 365 ~~board of directors of CareerSource Florida, Inc.,~~ constitutes a
 366 quorum.

367 (d) A majority of those voting is required to organize and
 368 conduct the business of the board, except that a majority of the
 369 entire board of directors is required to adopt or amend the
 370 bylaws.

371 (e) Except as delegated or authorized by the state board ~~of~~
 372 ~~directors of CareerSource Florida, Inc.,~~ individual members have
 373 no authority to control or direct the operations of CareerSource
 374 Florida, Inc., or the actions of its officers and employees,
 375 ~~including the president.~~

376 (f) Members of the state board ~~of directors of CareerSource~~
 377 ~~Florida, Inc.,~~ and its committees serve without compensation,

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378 but these members, the president, and the employees of
 379 CareerSource Florida, Inc., may be reimbursed for all
 380 reasonable, necessary, and actual expenses pursuant to s.
 381 112.061.

382 (g) The state board ~~shall of directors of CareerSource~~
 383 ~~Florida, Inc.,~~ may establish an executive committee consisting
 384 of the chair and at least six additional board members selected
 385 by the chair, one of whom must be a representative of organized
 386 labor. The executive committee and the president have such
 387 authority as the board delegates to them, except that the state
 388 ~~board of directors~~ may not delegate to the executive committee
 389 authority to take action that requires approval by a majority of
 390 the entire state board ~~of directors~~.

391 (h) The chair may appoint committees to fulfill the board's
 392 responsibilities, to comply with federal requirements, or to
 393 obtain technical assistance, and must incorporate members of
 394 local workforce development boards into its structure.

395 (i) Each member of the state board ~~of directors~~ who is not
 396 otherwise required to file a financial disclosure pursuant to s.
 397 8, Art. II of the State Constitution or s. 112.3144 must file
 398 disclosure of financial interests pursuant to s. 112.3145.

399 (5) The state board ~~CareerSource Florida, Inc.,~~ shall have
 400 all the powers and authority not explicitly prohibited by
 401 statute which are necessary or convenient to carry out and
 402 effectuate its purposes as determined by statute, Pub. L. No.
 403 113-128, and the Governor, as well as its functions, duties, and
 404 responsibilities, including, but not limited to, the following:

405 (a) Serving as the state's Workforce Development Board
 406 pursuant to Pub. L. No. 113-128. Unless otherwise required by

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407 federal law, at least 90 percent of workforce development
 408 funding must go toward direct customer service.
 409 (b) Providing ~~oversight and~~ policy direction to ensure that
 410 the following programs are administered by the department
 411 ~~consistent in compliance with approved plans and under contract~~
 412 ~~with CareerSource Florida, Inc.:~~
 413 1. Programs authorized under Title I of the Workforce
 414 Innovation and Opportunity Act, Pub. L. No. 113-128, with the
 415 exception of programs funded directly by the United States
 416 Department of Labor under Title I, s. 167.
 417 2. Programs authorized under the Wagner-Peyser Act of 1933,
 418 as amended, 29 U.S.C. ss. 49 et seq.
 419 3. Activities authorized under Title II of the Trade Act of
 420 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade
 421 Adjustment Assistance Program.
 422 4. Activities authorized under 38 U.S.C. chapter 41,
 423 including job counseling, training, and placement for veterans.
 424 5. Employment and training activities carried out under
 425 funds awarded to this state by the United States Department of
 426 Housing and Urban Development.
 427 6. Welfare transition services funded by the Temporary
 428 Assistance for Needy Families Program, created under the
 429 Personal Responsibility and Work Opportunity Reconciliation Act
 430 of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403,
 431 of the Social Security Act, as amended.
 432 7. The Florida Bonding Program, provided under Pub. L. No.
 433 97-300, s. 164(a)(1).
 434 8. The Food Assistance Employment and Training Program,
 435 provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss.

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436 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198;
 437 and the Hunger Prevention Act, Pub. L. No. 100-435.
 438 9. The Quick-Response Training Program, provided under ss.
 439 288.046-288.047. Matching funds and in-kind contributions that
 440 are provided by clients of the Quick-Response Training Program
 441 shall count toward the requirements of s. 288.904, pertaining to
 442 the return on investment from activities of Enterprise Florida,
 443 Inc.
 444 10. The Work Opportunity Tax Credit, provided under the Tax
 445 and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, and
 446 the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.
 447 11. Offender placement services, provided under ss.
 448 944.707-944.708.
 449 (c) The department may adopt rules necessary to administer
 450 this chapter which relate to implementing and administering the
 451 programs listed in paragraph (b) as well as rules related to
 452 eligible training providers and auditing and monitoring
 453 subrecipients of the workforce system grant funds. The
 454 department may consult with the state board to issue technical
 455 assistance letters on the operation of federal programs and the
 456 expenditure of federal funds by the state board or any local
 457 workforce development board. A technical assistance letter must
 458 be in writing, must be posted on the department's website, and
 459 remains in effect until superseded or terminated. A technical
 460 assistance letter is not a declaratory statement issued pursuant
 461 to s. 120.565, an order issued pursuant to s. 120.569, or a rule
 462 of general applicability under s. 120.54. Section 120.53 does
 463 not apply to technical assistance letters.
 464 (d) Contracting with public and private entities as

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465 necessary to further the directives of this section. All
 466 contracts executed by CareerSource Florida, Inc., must include
 467 specific performance expectations and deliverables. All
 468 CareerSource Florida, Inc., contracts, including those
 469 solicited, managed, or paid by the department pursuant to s.
 470 20.60(5)(c) are exempt from s. 112.061, but shall be governed by
 471 subsection (1).

472 (e) Notifying the Governor and the department of statewide
 473 or local workforce development and training needs that may
 474 require policy changes or an update to the state plan required
 475 under s. 445.003, and notifying the Governor, the President of
 476 the Senate, and the Speaker of the House of Representatives of
 477 noncompliance by the department or other agencies or obstruction
 478 of the state board's efforts by such agencies. Upon such
 479 notification, the Executive Office of the Governor shall assist
 480 agencies to bring them into compliance with board objectives.

481 (f) Ensuring that the state does not waste valuable
 482 training resources. The state board's policy shall be ~~board~~
 483 ~~shall direct~~ that all resources, including equipment purchased
 484 for training Workforce Innovation and Opportunity Act clients,
 485 be available for use at all times by eligible populations as
 486 first priority users. At times when eligible populations are not
 487 available, such resources shall be used for any other state-
 488 authorized education and training purpose. The state board
 489 ~~CareerSource Florida, Inc.,~~ may authorize expenditures to award
 490 suitable framed certificates, pins, or other tokens of
 491 recognition for performance by a local workforce development
 492 board, its committees and subdivisions, and other units of the
 493 workforce system. The state board ~~CareerSource Florida, Inc.,~~

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494 may also authorize expenditures for promotional items, such as
 495 t-shirts, hats, or pens printed with messages promoting the
 496 state's workforce system to employers, job seekers, and program
 497 participants. However, such expenditures are subject to federal
 498 regulations applicable to the expenditure of federal funds.

499 (g) Establishing a dispute resolution process for all
 500 memoranda of understanding or other contracts or agreements
 501 entered into between the department and local workforce
 502 development boards.

503 (h) Archiving records with the Bureau of Archives and
 504 Records Management of the Division of Library and Information
 505 Services of the Department of State.

506 (6) The state board ~~CareerSource Florida, Inc.,~~ may take
 507 action that it deems necessary to achieve the purposes of this
 508 section, including, but not limited to:

509 (a) Creating a state employment, education, and training
 510 policy that ensures that programs to prepare workers are
 511 responsive to present and future business and industry needs and
 512 complement the initiatives of Enterprise Florida, Inc.

513 (b) Establishing policy direction for a funding system that
 514 provides incentives to improve the outcomes of career education,
 515 registered apprenticeship, and work-based learning programs and
 516 that focuses resources on occupations related to new or emerging
 517 industries that add greatly to the value of the state's economy.

518 (c) Establishing a comprehensive policy related to the
 519 education and training of target populations such as those who
 520 have disabilities, are economically disadvantaged, receive
 521 public assistance, are not proficient in English, or are
 522 dislocated workers. This approach should ensure the effective

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523 use of federal, state, local, and private resources in reducing
524 the need for public assistance.

525 (d) Designating Institutes of Applied Technology composed
526 of public and private postsecondary institutions working
527 together with business and industry to ensure that career
528 education programs use the most advanced technology and
529 instructional methods available and respond to the changing
530 needs of business and industry.

531 (e) Providing policy direction for a system to project and
532 evaluate labor market supply and demand using the results of the
533 Workforce Estimating Conference created in s. 216.136 and the
534 career education performance standards identified under s.
535 1008.43.

536 (f) Reviewing the performance of public programs that are
537 responsible for economic development, education, employment, and
538 training. The review must include an analysis of the return on
539 investment of these programs.

540 (g) Expanding the occupations identified by the Workforce
541 Estimating Conference to meet needs created by local emergencies
542 or plant closings or to capture occupations within emerging
543 industries.

544 (7) By December 1 of each year, the state board
545 ~~CareerSource Florida, Inc.~~, shall submit to the Governor, the
546 President of the Senate, the Speaker of the House of
547 Representatives, the Senate Minority Leader, and the House
548 Minority Leader a complete and detailed annual report setting
549 forth:

550 (a) All audits, including any audit conducted under
551 subsection (8).

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552 (b) The operations and accomplishments of the board,
553 including the programs or entities specified in subsection (6).

554 (8) Pursuant to his or her own authority or at the
555 direction of the Legislative Auditing Committee, the Auditor
556 General may conduct an audit of the state board and CareerSource
557 Florida, Inc., or the programs or entities created by the state
558 board ~~CareerSource Florida, Inc.~~. The Office of Program Policy
559 Analysis and Government Accountability, pursuant to its
560 authority or at the direction of the Legislative Auditing
561 Committee, may review the systems and controls related to
562 performance outcomes and quality of services of CareerSource
563 Florida, Inc.

564 (9) The state board ~~CareerSource Florida, Inc.~~, in
565 collaboration with the local workforce development boards and
566 appropriate state agencies and local public and private service
567 providers, shall establish uniform performance accountability
568 measures that apply across the core programs to gauge the
569 performance of the state and local workforce development boards
570 in achieving the workforce development strategy.

571 (a) The performance accountability measures for the core
572 programs consist of the primary indicators of performance, any
573 additional indicators of performance, and a state-adjusted level
574 of performance for each indicator pursuant to Pub. L. No. 113-
575 128, Title I, s. 116(b).

576 (b) The performance accountability measures for each local
577 area consist of the primary indicators of performance, any
578 additional indicators of performance, and a local level of
579 performance for each indicator pursuant to Pub. L. No. 113-128.
580 The local level of performance is determined by the local board,

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581 the chief elected official, and the Governor pursuant to Pub. L.
582 No. 113-128, Title I, s. 116(c).

583 (c) Performance accountability measures shall be used to
584 generate performance reports pursuant to Pub. L. No. 113-128,
585 Title I, s. 116(d).

586 (d) The performance accountability measures of success that
587 are adopted by the state board ~~CareerSource Florida, Inc.,~~ or
588 the local workforce development boards must be developed in a
589 manner that provides for an equitable comparison of the relative
590 success or failure of any service provider in terms of positive
591 outcomes.

592 (10) The workforce development strategy for the state shall
593 be designed by the state board, in consultation with the
594 department, and approved by the Governor ~~CareerSource Florida,~~
595 ~~Inc.~~ The strategy must include efforts that enlist business,
596 education, and community support for students to achieve long-
597 term career goals, ensuring that young people have the academic
598 and occupational skills required to succeed in the workplace.
599 The strategy must also assist employers in upgrading or updating
600 the skills of their employees and assisting workers to acquire
601 the education or training needed to secure a better job with
602 better wages. The strategy must assist the state's efforts to
603 attract and expand job-creating businesses offering high-paying,
604 high-demand occupations.

605 (11) The workforce development system must encourage use a
606 ~~charter process approach aimed at encouraging~~ local design and
607 control of service delivery and targeted activities. The state
608 board, in consultation with the department ~~CareerSource Florida,~~
609 ~~Inc.,~~ shall be responsible for ensuring that ~~granting charters~~

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610 ~~te~~ local workforce development boards ~~that~~ have a membership
611 consistent with the requirements of federal and state law and
612 have developed a plan consistent with the state's workforce
613 development strategy. The plan must specify methods for
614 allocating the resources and programs in a manner that
615 eliminates unwarranted duplication, minimizes administrative
616 costs, meets the existing job market demands and the job market
617 demands resulting from successful economic development
618 activities, ensures access to quality workforce development
619 services for all Floridians, allows for pro rata or partial
620 distribution of benefits and services, prohibits the creation of
621 a waiting list or other indication of an unserved population,
622 serves as many individuals as possible within available
623 resources, and maximizes successful outcomes. The state board ~~As~~
624 ~~part of the charter process, CareerSource Florida, Inc.,~~ shall
625 establish incentives for effective coordination of federal and
626 state programs, outline rewards for successful job placements,
627 and institute collaborative approaches among local service
628 providers. ~~Local decisionmaking and control shall be important~~
629 ~~components for inclusion in this charter application.~~

630 (12) CareerSource Florida, Inc., under the direction of the
631 state board, shall enter into agreement with Space Florida and
632 collaborate with vocational institutes, community colleges,
633 colleges, and universities in this state to develop a workforce
634 development strategy to implement the workforce provisions of s.
635 331.3051.

636 Section 4. Section 445.006, Florida Statutes, is amended to
637 read:

638 445.006 State plan for workforce development.—

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639 (1) STATE PLAN.—The state board ~~CareerSource Florida, Inc.~~,
 640 in conjunction with state and local partners in the workforce
 641 system, shall develop a state plan that produces an educated and
 642 skilled workforce. The state plan must consist of strategic and
 643 operational planning elements. The state plan shall be submitted
 644 by the Governor to the United States Department of Labor
 645 pursuant to the requirements of Pub. L. No. 113-128.

646 (2) STRATEGIC PLANNING ELEMENTS.—The state board
 647 ~~CareerSource Florida, Inc.~~, in conjunction with state and local
 648 partners in the workforce system, shall develop strategic
 649 planning elements, pursuant to Pub. L. No. 113-128, Title I, s.
 650 102, for the state plan.

651 (a) The strategic planning elements of the state plan must
 652 include, but need not be limited to, strategies for:

653 1. Fulfilling the workforce system goals and strategies
 654 prescribed in s. 445.004;

655 2. Aggregating, integrating, and leveraging workforce
 656 system resources;

657 3. Coordinating the activities of federal, state, and local
 658 workforce system partners;

659 4. Addressing the workforce needs of small businesses; and

660 5. Fostering the participation of rural communities and
 661 distressed urban cores in the workforce system.

662 (b) The strategic planning elements must include criteria
 663 for allocating workforce resources to local workforce
 664 development boards. With respect to allocating funds to serve
 665 customers of the welfare transition program, such criteria may
 666 include weighting factors that indicate the relative degree of
 667 difficulty associated with securing and retaining employment

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668 placements for specific subsets of the welfare transition
 669 caseload.

670 (3) OPERATIONAL PLANNING ELEMENTS.—The state board
 671 ~~CareerSource Florida, Inc.~~, in conjunction with state and local
 672 partners in the workforce system, shall develop operational
 673 planning elements, pursuant to Pub. L. No. 113-128, Title I, s.
 674 102, for the state plan.

675 Section 5. Subsection (1), paragraph (b) of subsection (2),
 676 and subsections (3) through (7) and (9) through (13) of section
 677 445.007, Florida Statutes, are amended, and paragraph (c) is
 678 added to subsection (2) of that section, to read:

679 445.007 Local workforce development boards.—

680 (1) One local workforce development board shall be
 681 appointed in each designated service delivery area and shall
 682 serve as the local workforce development board pursuant to Pub.
 683 L. No. 113-128. The membership of the local board must be
 684 consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a
 685 public education or training provider is represented on the
 686 local board, a representative of a private education provider
 687 must also be appointed to the local board. The state board
 688 ~~CareerSource Florida, Inc.~~, may waive this requirement if
 689 requested by a local workforce development board if it is
 690 demonstrated that such representatives do not exist in the
 691 region. The importance of minority and gender representation
 692 shall be considered when making appointments to the local board.
 693 The local board, its committees, subcommittees, and
 694 subdivisions, and other units of the workforce system, including
 695 units that may consist in whole or in part of local governmental
 696 units, may use any method of telecommunications to conduct

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697 meetings, including establishing a quorum through
 698 telecommunications, provided that the public is given proper
 699 notice of the telecommunications meeting and reasonable access
 700 to observe and, when appropriate, participate. Local workforce
 701 development boards are subject to chapters 119 and 286 and s.
 702 24, Art. I of the State Constitution. If the local workforce
 703 development board enters into a contract with an organization or
 704 individual represented on the local board ~~of directors~~, the
 705 contract must be approved by a two-thirds vote of the local
 706 board, a quorum having been established, and the local board
 707 member who could benefit financially from the transaction must
 708 abstain from voting on the contract. A local board member must
 709 disclose any such conflict in a manner that is consistent with
 710 the procedures outlined in s. 112.3143. Each member of a local
 711 workforce development board who is not otherwise required to
 712 file a full and public disclosure of financial interests
 713 pursuant to s. 8, Art. II of the State Constitution or s.
 714 112.3144 shall file a statement of financial interests pursuant
 715 to s. 112.3145. The executive director or designated person
 716 responsible for the operational and administrative functions of
 717 the local workforce development board who is not otherwise
 718 required to file a full and public disclosure of financial
 719 interests pursuant to s. 8, Art. II of the State Constitution or
 720 s. 112.3144 shall file a statement of financial interests
 721 pursuant to s. 112.3145.

(2)

723 (b) The Governor may remove a member of the local board,
 724 the executive director of the local board, or the designated
 725 person responsible for the operational and administrative

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726 functions of the local board for cause. ~~As used in this~~
 727 ~~paragraph, the term "cause" includes, but is not limited to,~~
 728 ~~engaging in fraud or other criminal acts, incapacity, unfitness,~~
 729 ~~neglect of duty, official incompetence and irresponsibility,~~
 730 ~~misfeasance, malfeasance, nonfeasance, or lack of performance.~~

731 (c) The chief elected official for the local workforce
 732 development board may remove a member of the local board, the
 733 executive director of the local board, or the designated person
 734 responsible for the operational and administrative functions of
 735 the local board for cause.

736 (3) The department ~~of Economic Opportunity, under the~~
 737 ~~direction of CareerSource Florida, Inc.,~~ shall assign staff to
 738 meet with each local workforce development board annually to
 739 review the local board's performance and to certify that the
 740 local board is in compliance with applicable state and federal
 741 law.

742 (4) In addition to the duties and functions specified by
 743 the state board CareerSource Florida, Inc., and by the
 744 interlocal agreement approved by the local county or city
 745 governing bodies, the local workforce development board shall
 746 have the following responsibilities:

747 (a) Develop, submit, ratify, or amend the local plan
 748 pursuant to Pub. L. No. 113-128, Title I, s. 108 and this act.

749 (b) Conclude agreements necessary to designate the fiscal
 750 agent and administrative entity. A public or private entity,
 751 including an entity established pursuant to s. 163.01, which
 752 makes a majority of the appointments to a local workforce
 753 development board may serve as the local board's administrative
 754 entity if approved by the department CareerSource Florida, Inc.,

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755 based upon a showing that a fair and competitive process was
756 used to select the administrative entity.

757 (c) ~~Complete assurances required for the charter process of~~
758 ~~CareerSource Florida, Inc.,~~ and Provide ongoing oversight
759 related to administrative costs, duplicated services, career
760 counseling, economic development, equal access, compliance and
761 accountability, and performance outcomes.

762 (d) Oversee the one-stop delivery system in its local area.

763 (5) The department, in conjunction with the state board
764 ~~CareerSource Florida, Inc.,~~ shall implement a training program
765 for the local workforce development boards to familiarize local
766 board members with the state's workforce development goals and
767 strategies.

768 (6) The local workforce development board shall designate
769 all local service providers and may not transfer this authority
770 to a third party. Consistent with the intent of the Workforce
771 Innovation and Opportunity Act, local workforce development
772 boards should provide the greatest possible choice of training
773 providers to those who qualify for training services. A local
774 workforce development board may not restrict the choice of
775 training providers based upon cost, location, or historical
776 training arrangements. However, a local board may restrict the
777 amount of training resources available to any one client. Such
778 restrictions may vary based upon the cost of training in the
779 client's chosen occupational area. The local workforce
780 development board may be designated as a one-stop operator and
781 direct provider of intake, assessment, eligibility
782 determinations, or other direct provider services except
783 training services. Such designation may occur only with the

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784 agreement of the chief elected official and the Governor as
785 specified in 29 U.S.C. s. 2832(f)(2). The state board
786 ~~CareerSource Florida, Inc.,~~ shall establish procedures by which
787 a local workforce development board may request permission to
788 operate under this section and the criteria under which such
789 permission may be granted. The criteria shall include, but need
790 not be limited to, a reduction in the cost of providing the
791 permitted services. Such permission shall be granted for a
792 period not to exceed 3 years for any single request submitted by
793 the local workforce development board.

794 (7) Local workforce development boards shall adopt a
795 committee structure consistent with applicable federal law and
796 state policies established by the state board ~~CareerSource~~
797 ~~Florida, Inc.~~

798 (9) For purposes of procurement, local workforce
799 development boards and their administrative entities are not
800 state agencies and are exempt from chapters 120 and 287. The
801 local workforce development boards shall apply the procurement
802 and expenditure procedures required by federal law and policies
803 of the department ~~of Economic Opportunity~~ and the state board
804 ~~CareerSource Florida, Inc.,~~ for the expenditure of federal,
805 state, and nonpass-through funds. The making or approval of
806 smaller, multiple payments for a single purchase with the intent
807 to avoid or evade the monetary thresholds and procedures
808 established by federal law and policies of the department ~~of~~
809 ~~Economic Opportunity~~ and the state board ~~CareerSource Florida,~~
810 ~~Inc.,~~ is grounds for removal for cause. Local workforce
811 development boards, their administrative entities, committees,
812 and subcommittees, and other workforce units may authorize

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813 expenditures to award suitable framed certificates, pins, or
 814 other tokens of recognition for performance by units of the
 815 workforce system. Local workforce development boards; their
 816 administrative entities, committees, and subcommittees; and
 817 other workforce units may authorize expenditures for promotional
 818 items, such as t-shirts, hats, or pens printed with messages
 819 promoting Florida's workforce system to employers, job seekers,
 820 and program participants. However, such expenditures are subject
 821 to federal regulations applicable to the expenditure of federal
 822 funds. All contracts executed by local workforce development
 823 boards must include specific performance expectations and
 824 deliverables.

825 (10) State and federal funds provided to the local
 826 workforce development boards may not be used directly or
 827 indirectly to pay for meals, food, or beverages for board
 828 members, staff, or employees of local workforce development
 829 boards, the state board CareerSource Florida, Inc., or the
 830 department ~~of Economic Opportunity~~ except as expressly
 831 authorized by state law. Preapproved, reasonable, and necessary
 832 per diem allowances and travel expenses may be reimbursed. Such
 833 reimbursement shall be at the standard travel reimbursement
 834 rates established in s. 112.061 and shall be in compliance with
 835 all applicable federal and state requirements. The department
 836 shall provide fiscal and programmatic guidance CareerSource
 837 Florida, Inc., shall develop a statewide fiscal policy
 838 applicable to the state board, CareerSource Florida, Inc., and
 839 all local workforce development boards, to hold both the state
 840 and local workforce development boards strictly accountable for
 841 adherence to the policy and subject to regular and periodic

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842 monitoring by the department ~~of Economic Opportunity, the~~
 843 ~~administrative entity for CareerSource Florida, Inc.~~ Local
 844 boards are prohibited from expending state or federal funds for
 845 entertainment costs and recreational activities for local board
 846 members and employees as these terms are defined by 2 C.F.R.
 847 part 200 230.

848 (11) To increase transparency and accountability, a local
 849 workforce development board must comply with the requirements of
 850 this section before contracting with a member of the local board
 851 or a relative, as defined in s. 112.3143(1)(c), of a local board
 852 member or of an employee of the local board. Such contracts may
 853 not be executed before or without the prior approval of the
 854 department CareerSource Florida, Inc. Such contracts, as well as
 855 documentation demonstrating adherence to this section as
 856 specified by the department CareerSource Florida, Inc., must be
 857 submitted to the department ~~of Economic Opportunity~~ for review
 858 and approval recommendation according to criteria to be
 859 ~~determined by CareerSource Florida, Inc.~~ Such a contract must be
 860 approved by a two-thirds vote of the local board, a quorum
 861 having been established; all conflicts of interest must be
 862 disclosed before the vote; and any member who may benefit from
 863 the contract, or whose relative may benefit from the contract,
 864 must abstain from the vote. A contract under \$25,000 between a
 865 local workforce development board and a member of that board or
 866 between a relative, as defined in s. 112.3143(1)(c), of a local
 867 board member or of an employee of the local board is not
 868 required to have the prior approval of the department
 869 ~~CareerSource Florida, Inc.~~, but must be approved by a two-thirds
 870 vote of the local board, a quorum having been established, and

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871 must be reported to the department of Economic Opportunity and
 872 the state board CareerSource Florida, Inc., within 30 days after
 873 approval. If a contract cannot be approved by the department
 874 CareerSource Florida, Inc., a review of the decision to
 875 disapprove the contract may be requested by the local workforce
 876 development board or other parties to the disapproved contract.

877 (12) Each local workforce development board shall develop a
 878 budget for the purpose of carrying out the duties of the local
 879 board under this section, subject to the approval of the chief
 880 elected official. Each local workforce development board shall
 881 submit its annual budget for review to the department
 882 CareerSource Florida, Inc., no later than 2 weeks after the
 883 chair approves the budget.

884 ~~(13) By March 1, 2018, CareerSource Florida, Inc., shall~~
 885 ~~establish regional planning areas in accordance with Pub. L. No.~~
 886 ~~113-128, Title I, s. 106(a)(2). Local workforce development~~
 887 ~~boards and chief elected officials within identified regional~~
 888 ~~planning areas shall prepare a regional workforce development~~
 889 ~~plan as required under Pub. L. No. 113-128, Title I, s.~~
 890 ~~106(e)(2).~~

891 Section 6. Subsections (1) and (4) of section 445.0071,
 892 Florida Statutes, are amended to read:

893 445.0071 Florida Youth Summer Jobs Pilot Program.—

894 (1) CREATION.—Contingent upon appropriations, there is
 895 created the Florida Youth Summer Jobs Pilot Program within
 896 workforce development district 22 served by the Broward
 897 Workforce Development Board. The board shall, in consultation
 898 with the state board CareerSource Florida, Inc., provide a
 899 program offering at-risk and disadvantaged children summer jobs

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900 in partnership with local communities and public employers.

901 (4) GOVERNANCE.—

902 (a) The pilot program shall be administered by the local
 903 workforce development board in consultation with the state board
 904 CareerSource Florida, Inc.

905 (b) The local workforce development board shall report to
 906 the state board and the department CareerSource Florida, Inc.,
 907 the number of at-risk and disadvantaged children who enter the
 908 program, the types of work activities they participate in, and
 909 the number of children who return to school, go on to
 910 postsecondary school, or enter the workforce full time at the
 911 end of the program. The state board CareerSource Florida, Inc.,
 912 shall report to the Legislature by November 1 of each year on
 913 the performance of the program.

914 Section 7. Subsections (1) and (2) of section 445.008,
 915 Florida Statutes, are amended to read:

916 445.008 Workforce Training Institute.—

917 (1) The state board, through CareerSource Florida, Inc.,
 918 may create the Workforce Training Institute, which shall be a
 919 comprehensive program of workforce training courses designed to
 920 meet the unique needs of, and shall include Internet-based
 921 training modules suitable for and made available to,
 922 professionals integral to the workforce system, including
 923 advisors and counselors in educational institutions.

924 (2) The state board, through CareerSource Florida, Inc.,
 925 may enter into a contract for the provision of administrative
 926 support services for the institute and shall adopt policies for
 927 the administration and operation of the institute and establish
 928 admission fees in an amount which, in the aggregate, does not

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929 exceed the cost of the program. CareerSource Florida, Inc., may
 930 accept donations or grants of any type for any function or
 931 purpose of the institute. All donations and grants received by
 932 CareerSource Florida, Inc., must be reported to the state board
 933 and the department.

934 Section 8. Subsections (2), (3), and (4), paragraph (b) of
 935 subsection (6), subsection (7), paragraphs (a), (c), and (d) of
 936 subsection (8), and subsection (9) of section 445.009, Florida
 937 Statutes, are amended to read:

938 445.009 One-stop delivery system.—

939 (2) (a) Subject to a process designed by the state board
 940 ~~CareerSource Florida, Inc.~~, and in compliance with Pub. L. No.
 941 113-128, local workforce development boards shall designate one-
 942 stop delivery system operators.

943 (b) A local workforce development board may designate as
 944 its one-stop delivery system operator any public or private
 945 entity that is eligible to provide services under any state or
 946 federal workforce program that is a mandatory or discretionary
 947 partner in the local workforce development area's one-stop
 948 delivery system if approved by the department ~~CareerSource~~
 949 ~~Florida, Inc.~~, upon a showing by the local workforce development
 950 board that a fair and competitive process was used in the
 951 selection. As a condition of authorizing a local workforce
 952 development board to designate such an entity as its one-stop
 953 delivery system operator, the department ~~CareerSource Florida,~~
 954 ~~Inc.~~, must require the local workforce development board to
 955 demonstrate that safeguards are in place to ensure that the one-
 956 stop delivery system operator will not exercise an unfair
 957 competitive advantage or unfairly refer or direct customers of

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958 the one-stop delivery system to services provided by that one-
 959 stop delivery system operator. A local workforce development
 960 board may retain its current one-stop career center operator
 961 without further procurement action if the board has an
 962 established one-stop career center that has complied with
 963 federal and state law.

964 (c) The local workforce development board must enter into a
 965 memorandum of understanding with each mandatory or optional
 966 partner participating in the one-stop delivery system which
 967 details the partner's required contribution to infrastructure
 968 costs, as required by Pub. L. No. 113-128, s. 121(h). ~~If the~~
 969 ~~local workforce development board and the one stop partner are~~
 970 ~~unable to come to an agreement regarding infrastructure costs by~~
 971 ~~July 1, 2017, the costs shall be allocated pursuant to a policy~~
 972 ~~established by the Governor.~~

973 (3) Local workforce development boards shall enter into a
 974 memorandum of understanding with the department of ~~Economic~~
 975 ~~Opportunity~~ for the delivery of employment services authorized
 976 by the federal Wagner-Peyser Act. This memorandum of
 977 understanding must be performance based.

978 (a) Unless otherwise required by federal law, at least 90
 979 percent of the Wagner-Peyser funding must go into direct
 980 customer service costs.

981 (b) Employment services must be provided through the one-
 982 stop delivery system, under the guidance of one-stop delivery
 983 system operators. One-stop delivery system operators shall have
 984 overall authority for directing the staff of the workforce
 985 system. Personnel matters shall remain under the ultimate
 986 authority of the department. However, the one-stop delivery

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987 system operator shall submit to the department information
 988 concerning the job performance of employees of the department
 989 who deliver employment services. The department shall consider
 990 any such information submitted by the one-stop delivery system
 991 operator in conducting performance appraisals of the employees.

992 (c) The department shall retain fiscal responsibility and
 993 accountability for the administration of funds allocated to the
 994 state under the Wagner-Peyser Act. An employee of the department
 995 who is providing services authorized under the Wagner-Peyser Act
 996 shall be paid using Wagner-Peyser Act funds.

997 (4) One-stop delivery system partners shall enter into a
 998 memorandum of understanding pursuant to Pub. L. No. 113-128,
 999 Title I, s. 121, with the local workforce development board.
 1000 Failure of a local partner to participate cannot unilaterally
 1001 block the majority of partners from moving forward with their
 1002 one-stop delivery system, and the state board, in conjunction
 1003 with the department, may notify the Governor CareerSource
 1004 Florida, Inc., pursuant to s. 445.004(5)(e), may make
 1005 notification of a local partner that fails to participate.

1006 (6)

1007 (b) To expand electronic capabilities, the state board and
 1008 the department CareerSource Florida, Inc., working with local
 1009 workforce development boards, shall develop a centralized help
 1010 center to assist local workforce development boards in
 1011 fulfilling core services, minimizing the need for fixed-site
 1012 one-stop delivery system centers.

1013 (7) Intensive services and training provided pursuant to
 1014 Pub. L. No. 113-128 shall be provided to individuals through
 1015 Intensive Service Accounts and Individual Training Accounts. The

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1016 state board CareerSource Florida, Inc., shall develop an
 1017 implementation plan, including identification of initially
 1018 eligible training providers, transition guidelines, and criteria
 1019 for use of these accounts. Individual Training Accounts must be
 1020 compatible with Individual Development Accounts for education
 1021 allowed in federal and state welfare reform statutes.

1022 (8) (a) Individual Training Accounts must be expended on
 1023 programs that prepare people to enter high-wage occupations
 1024 identified by the Workforce Estimating Conference created by s.
 1025 216.136, and on other programs recommended by the state board
 1026 and approved by the department as approved by CareerSource
 1027 Florida, Inc.

1028 (c) The department CareerSource Florida, Inc., shall
 1029 periodically review Individual Training Account pricing
 1030 schedules developed by local workforce development boards and
 1031 present findings and recommendations for process improvement to
 1032 the President of the Senate and the Speaker of the House of
 1033 Representatives.

1034 (d) To the maximum extent possible, training providers
 1035 shall use funding sources other than the funding provided under
 1036 Pub. L. No. 113-128. The state board CareerSource Florida, Inc.,
 1037 shall develop a system to encourage the leveraging of
 1038 appropriated resources for the workforce system and shall report
 1039 on such efforts as part of the required annual report.

1040 (9) (a) The state board CareerSource Florida, Inc., working
 1041 with the department, shall coordinate among the agencies a plan
 1042 for a One-Stop Electronic Network made up of one-stop delivery
 1043 system centers and other partner agencies that are operated by
 1044 authorized public or private for-profit or not-for-profit

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1045 agents. The plan shall identify resources within existing
 1046 revenues to establish and support this electronic network for
 1047 service delivery that includes Government Services Direct. If
 1048 necessary, the plan shall identify additional funding needed to
 1049 achieve the provisions of this subsection.

1050 (b) The network shall assure that a uniform method is used
 1051 to determine eligibility for and management of services provided
 1052 by agencies that conduct workforce development activities. The
 1053 Department of Management Services shall develop strategies to
 1054 allow access to the databases and information management systems
 1055 of the following systems in order to link information in those
 1056 databases with the one-stop delivery system:

1057 1. The Reemployment Assistance Program under chapter 443.

1058 2. The public employment service described in s. 443.181.

1059 3. The public assistance information system used by the
 1060 Department of Children and Families and the components related
 1061 to temporary cash assistance, food assistance, and Medicaid
 1062 eligibility.

1063 4. The Student Financial Assistance System of the
 1064 Department of Education.

1065 5. Enrollment in the public postsecondary education system.

1066 6. Other information systems determined appropriate by the
 1067 state board in consultation with the department CareerSource
 1068 Florida, Inc.

1069 Section 9. Section 445.011, Florida Statutes, is amended to
 1070 read:

1071 445.011 Workforce information systems.—

1072 (1) The department, in consultation with the state board
 1073 CareerSource Florida, Inc., shall implement, subject to

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1074 legislative appropriation, automated information systems that
 1075 are necessary for the efficient and effective operation and
 1076 management of the workforce development system. These
 1077 information systems shall include, but need not be limited to,
 1078 the following:

1079 (a) An integrated management system for the one-stop
 1080 service delivery system, which includes, at a minimum, common
 1081 registration and intake, screening for needs and benefits, case
 1082 planning and tracking, training benefits management, service and
 1083 training provider management, performance reporting, executive
 1084 information and reporting, and customer-satisfaction tracking
 1085 and reporting.

1086 1. The system should report current budgeting, expenditure,
 1087 and performance information for assessing performance related to
 1088 outcomes, service delivery, and financial administration for
 1089 workforce programs pursuant to s. 445.004(5) and (9).

1090 2. The information system should include auditable systems
 1091 and controls to ensure financial integrity and valid and
 1092 reliable performance information.

1093 3. The system should support service integration and case
 1094 management by providing for case tracking for participants in
 1095 welfare transition programs.

1096 (b) An automated job-matching information system that is
 1097 accessible to employers, job seekers, and other users via the
 1098 Internet, and that includes, at a minimum:

1099 1. Skill match information, including skill gap analysis;
 1100 resume creation; job order creation; skill tests; job search by
 1101 area, employer type, and employer name; and training provider
 1102 linkage;

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1103 2. Job market information based on surveys, including
 1104 local, state, regional, national, and international occupational
 1105 and job availability information; and

1106 3. Service provider information, including education and
 1107 training providers, child care facilities and related
 1108 information, health and social service agencies, and other
 1109 providers of services that would be useful to job seekers.

1110 (2) The department ~~In procuring workforce information~~
 1111 ~~systems, CareerSource Florida, Inc., shall employ competitive~~
 1112 ~~processes, including requests for proposals, competitive~~
 1113 ~~negotiation, and other competitive processes to ensure that the~~
 1114 ~~procurement results in the most cost effective investment of~~
 1115 ~~state funds.~~

1116 ~~(3) CareerSource Florida, Inc.,~~ may procure independent
 1117 verification and validation services associated with developing
 1118 and implementing any workforce information system.

1119 (3)(4) The department ~~CareerSource Florida, Inc.,~~ shall
 1120 coordinate development and implementation of workforce
 1121 information systems with the state chief information officer to
 1122 ensure compatibility with the state's information system
 1123 strategy and enterprise architecture.

1124 Section 10. Section 445.028, Florida Statutes, is amended
 1125 to read:

1126 445.028 Transitional benefits and services.—In cooperation
 1127 with the department ~~CareerSource Florida, Inc.,~~ the Department
 1128 of Children and Families shall develop procedures to ensure that
 1129 families leaving the temporary cash assistance program receive
 1130 transitional benefits and services that will assist the family
 1131 in moving toward self-sufficiency. At a minimum, such procedures

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1132 must include, but are not limited to, the following:

1133 (1) Each recipient of cash assistance who is determined
 1134 ineligible for cash assistance for a reason other than a work
 1135 activity sanction shall be contacted by the workforce system
 1136 case manager and provided information about the availability of
 1137 transitional benefits and services. Such contact shall be
 1138 attempted prior to closure of the case management file.

1139 (2) Each recipient of temporary cash assistance who is
 1140 determined ineligible for cash assistance due to noncompliance
 1141 with the work activity requirements shall be contacted and
 1142 provided information in accordance with s. 414.065(1).

1143 (3) The department, in consultation with the board of
 1144 directors of CareerSource Florida, Inc., shall develop
 1145 informational material, including posters and brochures, to
 1146 better inform families about the availability of transitional
 1147 benefits and services.

1148 (4) The department ~~CareerSource Florida, Inc.,~~ in
 1149 cooperation with the Department of Children and Families shall,
 1150 to the extent permitted by federal law, develop procedures to
 1151 maximize the utilization of transitional Medicaid by families
 1152 who leave the temporary cash assistance program.

1153 Section 11. Subsections (6), (8), and (13) of section
 1154 445.051, Florida Statutes, are amended to read:

1155 445.051 Individual development accounts.—

1156 (6) The state board ~~CareerSource Florida, Inc.,~~ shall
 1157 establish procedures for local workforce development boards to
 1158 include in their annual program and financial plan an
 1159 application to offer an individual development account program
 1160 as part of their TANF allocation. These procedures must include,

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1161 but need not be limited to, administrative costs permitted for
 1162 the fiduciary organization and policies relative to identifying
 1163 the match ratio and limits on the deposits for which the match
 1164 will be provided in the application process. The state board
 1165 ~~CareerSource Florida, Inc.~~, shall establish policies and
 1166 procedures necessary to ensure that funds held in an individual
 1167 development account are not withdrawn except for one or more of
 1168 the qualified purposes described in this section.

1169 (8) The state board ~~CareerSource Florida, Inc.~~, shall
 1170 establish procedures for controlling the withdrawal of funds for
 1171 uses other than qualified purposes, including specifying
 1172 conditions under which an account must be closed.

1173 (13) Pursuant to policy direction by the state board
 1174 ~~CareerSource Florida, Inc.~~, the department of ~~Economic~~
 1175 ~~Opportunity~~ shall adopt such rules as are necessary to implement
 1176 this act.

1177 Section 12. Paragraph (p) of subsection (3) of section
 1178 11.45, Florida Statutes, is amended to read:

1179 11.45 Definitions; duties; authorities; reports; rules.—

1180 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
 1181 General may, pursuant to his or her own authority, or at the
 1182 direction of the Legislative Auditing Committee, conduct audits
 1183 or other engagements as determined appropriate by the Auditor
 1184 General of:

1185 (p) CareerSource Florida, Inc.; the state board, as that
 1186 term is defined in s. 445.002;~~7~~ or the programs or entities
 1187 created by the state board ~~CareerSource Florida, Inc.~~, created
 1188 pursuant to s. 445.004.

1189 Section 13. Subsection (1) of section 443.171, Florida

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1190 Statutes, is amended to read:

1191 443.171 Department of Economic Opportunity and commission;
 1192 powers and duties; records and reports; proceedings; state-
 1193 federal cooperation.—

1194 (1) POWERS AND DUTIES.—The Department of Economic
 1195 Opportunity shall administer this chapter. The department may
 1196 employ persons, make expenditures, require reports, conduct
 1197 investigations, and take other action necessary or suitable to
 1198 administer this chapter. The department shall annually submit
 1199 information to the state board, as defined in s. 445.002
 1200 ~~CareerSource Florida, Inc.~~, covering the administration and
 1201 operation of this chapter during the preceding calendar year for
 1202 inclusion in the strategic plan under s. 445.006 and may make
 1203 recommendations for amendment to this chapter.

1204 Section 14. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

SB 1244

Bill Number (if applicable)

Topic State Workforce Development Boards

Amendment Barcode (if applicable)

Name Ken Lawson

Job Title Director

Address 107 E. Madison St.

Phone 850-245-7370

Street

Tallahassee

FL

32399

Email Ken.Lawson@deo.myflorida.com

City

State

Zip

Speaking: For Against

Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Economic Opportunity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1310

INTRODUCER: Senator Mayfield

SUBJECT: Hunting and Fishing Sales Tax Holiday

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 1310 establishes a 1-day hunting and fishing sales tax holiday, on September 5, 2020, for firearms, ammunition for firearms, camping tents, and fishing supplies.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue for the 2019-2020 fiscal year.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴ Sales tax receipts accounted for approximately 77 percent of the state's General Revenue in Fiscal Year 2018-2019.⁵

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S.

⁵ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Jan. 17, 2020).

Section 212.055, F.S., authorizes counties to impose local discretionary sales surtaxes in addition to the state sales tax. A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Hunting and Fishing in Florida

The Florida Fish and Wildlife Conservation Commission (FWC) estimates that recreational hunting, fishing, and wildlife-viewing annually contribute over \$10 billion to Florida’s economy.⁸ Florida has one of the largest public-hunting systems in the country, and there are approximately 242,000 hunters within the state. According to the FWC, over 2.3 million of the 3.6 million anglers fishing in Florida are residents of the state.⁹

III. Effect of Proposed Changes:

The bill establishes that the following items are exempt from the state sales tax and local discretionary sales surtaxes on September 5, 2020:

- Firearms, including rifles, shotguns, spearguns, crossbows, and bows but excluding destructive devices as defined in s. 790.001(4), F.S.;
- Ammunition for firearms;
- Camping tents; and
- Fishing supplies, including rods, reels, bait, and fishing tackle but excluding supplies used for commercial fishing purposes.

The exemptions provided for in the bill do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27, F.S.

The bill appropriates, for the 2019-2020 fiscal year, \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue (DOR) to administer the hunting and fishing sales tax holiday.

The DOR is authorized to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the purpose of implementing the bill.

The bill takes effect upon becoming law.

⁶ Section 212.054(2)(a), F.S.

⁷ *Supra* note 5, at 225-226.

⁸ Florida Fish and Wildlife Conservation Commission, FWC Overview—Economics, *available at* <https://myfwc.com/about/overview/economics/> (last visited Jan. 17, 2020).

⁹ Florida Fish and Wildlife Conservation Commission, FWC Overview, *available at* <https://myfwc.com/about/overview/> (last visited Jan. 17, 2020).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{10, 11} which is \$2.1 million or less for Fiscal Year 2019-2020.¹²

SB 1310 limits the ability of counties to collect local discretionary sales surtaxes on certain items on September 5, 2020. The Revenue Estimating Conference has not met regarding the bill, so it is not yet known if the bill will have a significant fiscal impact on local revenues.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

¹⁰ FLA. CONST. art. VII, s. 18(d).

¹¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 17, 2020).

¹² Based on the Demographic Estimating Conference's population adopted on July 8, 2019, available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 17, 2020).

B. Private Sector Impact:

Persons purchasing exempt items during the sales tax holiday will realize savings.

C. Government Sector Impact:

The bill appropriates, for the 2019-2020 fiscal year, \$237,000 in nonrecurring funds from the General Revenue Fund to the DOR to administer the hunting and fishing sales tax holiday. The DOR estimates that \$60,000 in nonrecurring funds would be required to mail a Tax Information Publication (TIP) to sales tax dealers notifying taxpayers of the sales tax holiday.

The Revenue Estimating Conference has not yet met regarding the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not specify whether funds remaining unexpended from the \$237,000 appropriation will revert back to the General Revenue Fund after a certain date.

The bill appropriates funds to the DOR for Fiscal Year 2019-2020. However, the DOR has stated that the cost of printing and mailing the TIP would be incurred in Fiscal Year 2020-2021.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



876374

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Commerce and Tourism (Mayfield) recommended the following:

Senate Amendment

Delete line 39

and insert:

(4) For the 2020-2021 fiscal year, the sum of \$60,000 in

By Senator Mayfield

17-01604-20

20201310__

1 A bill to be entitled
 2 An act relating to a hunting and fishing sales tax
 3 holiday; providing an exemption from the sales and use
 4 tax for the retail sale of firearms, firearm
 5 ammunition, camping tents, and fishing supplies during
 6 a specified timeframe; defining the terms "firearms"
 7 and "fishing supplies"; specifying locations where the
 8 exemptions do not apply; authorizing the Department of
 9 Revenue to adopt emergency rules; providing an
 10 appropriation; providing an effective date.

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

14 Section 1. Hunting and fishing sales tax holiday.—

15 (1) The tax levied under chapter 212, Florida Statutes, may
 16 not be collected during the period from 12:01 a.m. through 11:59
 17 p.m. on September 5, 2020, on the retail sale, as defined in s.
 18 212.02(14), Florida Statutes, of:

19 (a) Firearms. As used in this subsection, the term
 20 "firearms" means rifles, shotguns, spearguns, crossbows, and
 21 bows, but does not include destructive devices as defined in s.
 22 790.001(4), Florida Statutes.

23 (b) Ammunition for firearms.

24 (c) Camping tents.

25 (d) Fishing supplies. As used in this paragraph, the term
 26 "fishing supplies" means rods, reels, bait, and fishing tackle,
 27 but does not include supplies used for commercial fishing
 28 purposes.

29 (2) The tax exemptions provided in this section do not

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 apply to sales within a theme park or entertainment complex as
 31 defined in s. 509.013(9), Florida Statutes, within a public
 32 lodging establishment as defined in s. 509.013(4), Florida
 33 Statutes, or within an airport as defined in s. 330.27, Florida
 34 Statutes.

35 (3) The Department of Revenue may, and all conditions are
 36 deemed to be met to, adopt emergency rules pursuant to ss.
 37 120.536(1) and 120.54, Florida Statutes, to implement this
 38 section.

39 (4) For the 2019-2020 fiscal year, the sum of \$237,000 in
 40 nonrecurring funds is appropriated from the General Revenue Fund
 41 to the Department of Revenue for the purpose of implementing
 42 this section.

43 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-13
Meeting Date

1310

Bill Number (if applicable)

Topic Hunting & Fishing Subs Tax
Name Lane Stephens

Amendment Barcode (if applicable)

Job Title _____

Address 111 N. Calhoun St Phone 850-513-0004
Tallahassee FL 01
City State Zip

Email lane@scgga.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Fla Arboeat Association, South East Dog Hunters Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 922

INTRODUCER: Senator Gruters

SUBJECT: Economic Development

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 922 makes changes to the Qualified Target Industry Tax Refund Program. Specifically, the bill provides that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased tax refund and authorizes certain businesses located in a county affected by Hurricane Michael to apply for an economic recovery extension. The bill removes the scheduled repeal date for the tax refund program.

The bill also exempts specified surf pools from supervision by the Department of Health if the surf pool meets certain investment requirements and is permitted by a local government pursuant to a special use permit process.

The bill takes effect July 1, 2020.

II. Present Situation:

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994 to encourage the creation and retention of high-quality, high-wage jobs by providing state tax refunds to eligible businesses creating jobs in certain target industries. Tax refunds awarded through the program are determined by the number of jobs created, the average annual wages

paid, and the location of the eligible business. Under current law, the tax refund program will expire on June 30, 2020.¹

In order to be eligible to receive a tax refund, a business must apply to be certified as a qualified target industry business by the Department of Economic Opportunity (DEO). Businesses must be engaged in one of Florida's target industries as identified by DEO and Enterprise Florida, Inc. (EFI).² The current qualified targeted industries are aviation and aerospace; life sciences; manufacturing; defense and homeland security; information technology; financial and professional services; logistics and distribution; research and development; cleantech; and corporate headquarters.³

Additionally, a business applying for certification as a qualified target industry business must meet the following requirements:

- A business's project must create at least 10 new jobs, or create a net employment increase of at least 10 percent in the case of an expansion of an existing business. The DEO is authorized to waive this requirement for a business in a rural community or an enterprise zone;⁴
- New jobs must pay an annual average wage of at least 115 percent of the average private sector wage in a business's area or the statewide private sector average wage. The DEO is authorized to waive this requirement for a business in a brownfield area, a rural city, a rural community, or an enterprise zone.⁵ Jobs created by a manufacturing project in any location within the state may pay an annual average wage of at least 100 percent of the average private sector wage in a business's area;⁶ and
- A business must receive a local funding match, paid by public or private sources, equal to 20 percent of the annual tax refund. The existence of local financial support must be confirmed by a resolution adopted by the governing body of the county or municipality where the business is located.⁷ A business located in a brownfield area, a rural city, or a rural community is authorized to exercise an exemption from the local financial support requirement, but the business would not be eligible for more than 80 percent of the total tax refunds originally allowed.⁸

Under s. 288.106(3)(d), tax refunds may be claimed for one or more of the following taxes paid:

- Sales and use tax;
- Corporate income taxes;
- Insurance premium taxes;
- Intangible personal property taxes;

¹ Section 288.106(9), F.S.

² Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

³ Enterprise Florida, Inc., *Qualified Targeted Industries for Incentives*, available at https://www.enterpriseflorida.com/wp-content/uploads/SI_Targeted_Industries.pdf (last visited Jan. 22, 2020).

⁴ Section 288.106(4)(b)2., F.S.

⁵ Section 288.106(4)(b)1.a., F.S.

⁶ Section 288.106(4)(b)1.b., F.S.

⁷ Section 288.106(4)(a)10., F.S.

⁸ Section 288.106(2)(k), F.S.

- Ad valorem taxes;
- Certain state communication services taxes; and
- Excise taxes on documents.

Qualified target industry businesses are eligible to receive a tax refund equal to \$3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the refund amount is increased to \$6,000 per created job.⁹ Qualified target industry businesses may also be eligible for the following additional tax refund payments under s. 288.106(3)(b):

- \$1,000 per created job if such jobs pay an average annual wage of at least 150 percent of the average private sector wage in a business's area;
- \$2,000 per created job if such jobs pay an average annual wage of at least 200 percent of the average private sector wage in a business's area;
- \$1,000 per created job if a business's local financial support is equal to the state's incentive award; and
- \$2,000 per created jobs if a business falls within one of the designated high-impact sectors¹⁰ or increases exports of its goods through a seaport¹¹ or airport in the state by at least 10 percent by value or tonnage in each of the years the business receives a tax refund.

A qualified target industry business cannot receive more than \$1.5 million in tax refunds in any fiscal year, or more than \$2.5 million in any fiscal year if the business is located in an enterprise zone.¹² The total state share of tax refund payments may not exceed \$35 million.¹³

In the event of negative economic conditions in a business's industry, a named hurricane or tropical storm, or specific acts of terrorism, a qualified target industry business may request an economic recovery extension. The request must provide evidence detailing how the aforementioned conditions have prevented a business from carrying out the terms of its tax refund agreement. Upon approval, the DEO will renegotiate a business's tax refund agreement. Agreements may not be extended for more than 2 years, and a business that receives an extension may not receive a tax refund for the period covered by the extension. Requests for an economic recovery extension were permitted in lieu of any tax refund claim scheduled between January 1, 2009, and July 1, 2012.¹⁴

In response to the Deepwater Horizon oil spill, the Legislature enacted a special incentive within the QTI program to encourage business investment in the counties disproportionately affected by

⁹ Section 288.106(3)(b)1., F.S.

¹⁰ Pursuant to s. 288.108(6), F.S., EFI must consult with the DEO, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists every three years, beginning January 1, 2011, to review the designated high-impact sectors. The sectors currently designated as high impact are transportation equipment (including aviation and aerospace), information technology, life sciences, financial services, corporate headquarters, and clean energy. See Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 7*, 17 (2019), available at <http://www.opppa.state.fl.us/MonitorDocs/Reports/pdf/1916rpt.pdf> (last visited Jan. 22, 2020).

¹¹ Section 288.106(3)(b)4.b., F.S., limits seaports to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

¹² Section 288.106(3)(c), F.S.

¹³ Section 288.095(3)(a), F.S.

¹⁴ Section 288.106(5)(b)1., F.S.

the disaster.¹⁵ DEO was authorized to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County. During this period, a qualified target industry business that relocated all or part of its business to one of such counties from another state was also eligible for a tax refund of \$6,000 per job created.¹⁶

To date, 1,360 businesses have been approved to participate in the QTI program and over \$260 million has been awarded in tax refunds. According to the DEO, the 321 businesses actively participating in the program in the 2018-2019 fiscal year created 7,462 jobs in total and exceeded the number of total new jobs expected to be created by 3,184.¹⁷

After June 30, 2020, a business may not become certified as a qualified target industry business. Tax refund agreements already in existence before then will remain in effect.

Hurricane Michael

Hurricane Michael made landfall in the Florida Panhandle as a Category 5 Hurricane on October 10, 2018. The storm, the fourth most powerful hurricane to hit the country, remained at category 3 strength as it traveled into southwest Georgia. Storm surge and 160 mph winds caused destruction and losses of almost \$7 billion along the hurricane's path.¹⁸ In the year following the storm, FEMA has provided \$1.9 billion in federal funds for housing assistance, disaster loans, public assistance grants, and hazard mitigation grants.¹⁹ Businesses have been slow to reopen, largely due to a shortage of workers worsened by the lack of affordable housing in the area.

Public Swimming and Bathing Facilities

Chapter 514, F.S., governs public swimming and bathing facilities. The Department of Health (DOH) and county health departments are jointly responsible for administering the permitting, safety, and sanitation regulations for public swimming pools set forth in this chapter.²⁰

¹⁵ Chapter 2011-142, s. 150, Laws of Fla.

¹⁶ Section 288.106(8), F.S.

¹⁷ Florida Department of Economic Opportunity, *2019 Incentives Report*, 7-8, available at http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited Jan. 22, 2020).

¹⁸ "A year after Michael, Florida community still in crisis" *Associated Press*, October 9, 2019, available at <https://apnews.com/Od260a9ec44545458ab1f25b6f969a5a> (last visited Jan. 22, 2020).

¹⁹ Federal Emergency Management Agency, *Florida Hurricane Michael*, available at <https://www.fema.gov/disaster/4399> (last visited Jan. 22, 2020).

²⁰ Section 514.011, F.S., defines "public swimming pool" or "pool" as a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.

Anyone wishing to construct, develop, or modify a public swimming pool in Florida must submit an application for an operating permit before filing an application for a building permit under s. 553.79, F.S. Applications must include:²¹

- A description of the structure, its appurtenances, and its operation;
- A description of the source or sources of water supply, and the amount and quality of water available and intended to be used;
- The method and manner of water purification, treatment, disinfection, and heating;
- The safety equipment and standards to be used; and
- A copy of the final inspection from the local enforcement agency, as defined in s. 553.71, F.S.

The DOH is authorized to establish a schedule of fees for plan approval and permitting.²² Operating permits must be renewed annually and may be transferred from one name or owner to another.²³

Public swimming pools must be equipped with an anti-entrapment system or device pursuant to s. 514.0315, F.S.

The DOH is authorized to deny an application for a permit, suspend or revoke a permit, or impose an administrative fine upon the failure to comply with the provisions of ch. 514, F.S. The DOH may, at any reasonable time, enter any and all parts of a public swimming pool to examine and investigate the pool's sanitary and safety conditions.²⁴ Any public swimming pool that presents a significant risk to public health by failing to meet sanitation and safety standards is declared a public nuisance. Such nuisances may be abated in an action brought by the DOH or a county health department.²⁵

If a county health department is staffed with qualified engineering personnel, the DOH shall assign a county health department the functions of: (1) reviewing applications and plans for the construction, development, or modification of public swimming pools, (2) conducting inspections, and (3) issuing all permits. County health departments are also responsible for the routine surveillance of water quality in all public swimming pools.²⁶

III. Effect of Proposed Changes:

CS/SB 922 amends certain provisions in s. 288.106, F.S., regarding economic recovery extensions and additional tax refunds for qualified businesses in Disproportionally Affected Counties. The bill also creates a provision in Chapter 514, F.S., regarding public swimming and bathing facilities, to authorize a supervisory exemption for certain surf pools.

²¹ Sections 514.03 and 514.031, F.S.

²² Section 514.033, F.S.

²³ Sections 514.031(2) and (3), F.S.

²⁴ Section 514.04, F.S.

²⁵ Section 514.06, F.S.

²⁶ Section 514.025, F.S.

Qualified Target Industry Tax Refund Program

Under current law, a qualified target industry business was authorized to submit a request for an economic recovery extension in lieu of any tax refund claim scheduled to be submitted between January 1, 2009, and July 1, 2012. The bill amends s. 288.106(5)(b)4, F.S., which would allow a qualified target industry business located in a county affected by Hurricane Michael to apply for an economic recovery extension in lieu of any tax refund claim scheduled to be submitted after January 1, 2021, but before July 1, 2023. A business that receives an economic recovery extension may not receive a tax refund for the period covered by the extension, which is not to exceed 2 years.

Section 288.106(8), F.S., authorized the DEO to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in a “Disproportionally Affected County.” During this period, a qualified target industry business relocating all or part of its business to a “Disproportionally Affected County” from another state was also eligible for a tax refund of \$6,000 per job created. The bill would replace all references to a “Disproportionally Affected County” in s. 288.106, F.S., with a “county affected by Hurricane Michael” and update the period during which requirements can be waived and businesses can receive an additional tax refund to between July 1, 2020, and June 30, 2023. DEO’s decision to waive wage or financial support eligibility requirements would also have to be stated in writing. The bill would increase the additional tax refund to \$10,000 per created job and entitle a business that “relocates from another state to, or establishes its business or expands its existing business in, a county affected by Hurricane Michael” to such a refund. The bill defines a “county affected by Hurricane Michael” as Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Wakulla, Walton, or Washington County.

Section 189.033, F.S., relating to independent special district services in disproportionately affected counties, refers to the definition of “disproportionally affected county” found in s. 288.106(8), F.S. The bill removes this cross-reference and provides that, as used in s. 189.033, F.S., the term “disproportionally affected county” retains its original definition of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County.

The bill removes the tax refund program’s expiration date of June 30, 2020, and would permanently reauthorize the program.

Swimming and Bathing Facilities

The bill creates a provision in ch. 514, F.S., regarding public swimming and bathing facilities, to authorize a supervisory exemption for certain surf pools. Under the bill, a surf pool that is larger than 4 acres and certified by the DEO as part of a new development with an investment value of at least \$100 million would be exempt from supervision under ch. 514, F.S., provided that it is permitted by a local government pursuant to a special use permit process. Through the special use permitting process, the local government asserts regulatory authority over the construction of the surf pool, and in consultation with the Department of Health, establishes the conditions for the surf pool’s operation, water quality, and necessary lifesaving equipment. These provisions do not affect the DOH’s ability to enter any and all premises of public swimming pools to examine

sanitary and safety conditions, or its authority to seek an injunction to restrain the operation of a surf pool if it presents significant public health risks.

The bill defines “surf pool” as “a pool designed to generate waves dedicated to the activity of surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport, as opposed to general play intent for wave pools, other large-scale public swimming pools, or other public bathing places.”

Effective Date

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article III, Section 6 of the State Constitution requires every law to “embrace but one subject and matter properly connected therewith.” This single subject requirement is intended to prohibit logrolling, in which multiple unrelated measures are combined in one bill in order to secure passage of a measure that is unlikely to pass on its own merits.²⁷ An act may be as broad as the Legislature chooses, provided the matters included in the act have a natural or logical connection.²⁸ The requirement is violated if an act is written to accomplish separate and disassociated objects of legislative intent.²⁹ The Florida Supreme Court has opined that the single subject clause contains three requirements. First, each law shall embrace only one subject. Second, the law may include any matter that is properly connected with the subject. The third requirement, related to the first, is that the subject shall be briefly expressed in the title.³⁰

²⁷ *Santos v. State*, 380 So.2d 1284 (Fla. 1980).

²⁸ *Chenoweth v. Kemp*, 396 So.2d 1122 (Fla. 1981).

²⁹ *State ex rel. Landis v. Thompson*, 163 So. 270 (Fla. 1935).

³⁰ *Franklin v. State*, 887 So.2d 1063, 1072 (Fla. 2004).

The subject matter which should be considered when determining whether an act embraces a single subject is the subject expressed in the title.³¹ The test is whether the bill is designed to accomplish separate objectives which have no natural or logical connection to each other.³² An act that contains subjects designed to accomplish separate and disassociated objects of legislative effort violates single subject.³³

The bill is entitled “an act relating to economic development.” Section 1 of the bill amends the qualified target industry program in Ch. 288, F.S., relating to commercial development and capital improvements. Section 2 of the bill amends Ch. 514, F.S., relating to public swimming and bathing facilities, to exempt from DOH supervision the construction of a surf pool certified by the DEO as part of a new development with an investment value of at least \$100 million, if a local government has permitted the surf pool pursuant to a special use permit process.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet met regarding the bill.

The bill increases the amount of tax refunds that certain qualified target industry businesses in specified counties are eligible to receive. However, the annual funding cap of \$35 million, pursuant to s. 288.095(3)(a), F.S., would still apply. This could decrease the total number of tax refunds the DEO is able to award through the program.

B. Private Sector Impact:

The amount of tax refunds available to a qualified target industry business that relocates to or expands into to a county affected by Hurricane Michael is increased from \$6,000 to \$10,000 per created job, which could incentivize certain businesses to relocate to or expand into those areas.

C. Government Sector Impact:

The Department of Economic Opportunity and the Department of Health have not yet analyzed the bill’s potential impact.

VI. Technical Deficiencies:

None.

³¹ *Ex parte Knight*, 41 So. 786 (Fla. 1906).

³² *Board of Pub. Instruction v. Doran*, 224 So.2d 693 (Fla. 1969).

³³ *State ex rel. Landis v. Thompson*, 163 So. 270, 283 (Fla. 1935).

VII. Related Issues:

The bill gives the DEO new authority to “certify” whether a surf pool larger than 4 acres is part of a new development with an investment value of at least \$100 million. The bill does not specify the process for this certification.

VIII. Statutes Affected:

This bill substantially amends sections 288.106 and 514.0115 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on January 21, 2020:**

- Deletes a cross-reference to the definition of “disproportionally affected county”;
- Defines “disproportionally affected county” in place of the cross-reference;
- Defines “surf pool”;
- Provides that certain surf pools are exempt from supervision established in ch. 514, F.S., if a local government has permitted such a surf pool through a special use permit process; and
- Updates a reference to a redesignated statute.

B. Amendments:

None.



818472

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/21/2020	.	
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	.	
	.	

The Committee on Commerce and Tourism (Gruters) recommended the following:

Senate Amendment (with title amendment)

Between lines 114 and 115

insert:

Section 2. Section 189.033, Florida Statutes, is amended to read:

189.033 Independent special district services in disproportionately affected county; rate reduction for providers providing economic benefits.—If the governing body of an independent special district that provides water, wastewater,



818472

11 and sanitation services in a disproportionately affected county~~7~~
12 ~~as defined in s. 288.106(8)~~, determines that a new user or the
13 expansion of an existing user of one or more of its utility
14 systems will provide a significant benefit to the community in
15 terms of increased job opportunities, economies of scale, or
16 economic development in the area, the governing body may
17 authorize a reduction of its rates, fees, or charges for that
18 user for a specified period of time. A governing body that
19 exercises this power must do so by resolution that states the
20 anticipated economic benefit justifying the reduction as well as
21 the period of time that the reduction will remain in place. As
22 used in this section, the term "disproportionally affected
23 county" means Bay County, Escambia County, Franklin County, Gulf
24 County, Okaloosa County, Santa Rosa County, Walton County, or
25 Wakulla County.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete line 17

30 and insert:

31 qualified target industry businesses; amending s.
32 189.033, F.S.; conforming a cross-reference to changes
33 made by the act; providing an



694026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/21/2020	.	
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	.	
	.	

The Committee on Commerce and Tourism (Gruters) recommended the following:

Senate Amendment (with title amendment)

Between lines 114 and 115

insert:

Section 2. Present subsection (7) of section 514.0115, Florida Statutes, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

514.0115 Exemptions from supervision or regulation; variances.—

(7) A surf pool that is larger than 4 acres is exempt from



694026

11 supervision under this chapter provided that it is permitted by
12 a local government pursuant to a special use permit process in
13 which the local government asserts regulatory authority over the
14 construction of the surf pool and, in consultation with the
15 department, establishes through the local government's special
16 use permitting process the conditions for the surf pool's
17 operation, water quality, and necessary lifesaving equipment.
18 This subsection does not affect the department's or a county
19 health department's right of entry pursuant to s. 514.04 or its
20 authority to seek an injunction pursuant to s. 514.06 to
21 restrain the operation of a surf pool permitted and operated
22 under this subsection if it presents significant risks to public
23 health. For the purposes of this subsection, the term "surf
24 pool" means a pool designed to generate waves dedicated to the
25 activity of surfing on a surfboard or analogous surfing device
26 commonly used in the ocean and intended for sport, as opposed to
27 general play intent for wave pools, other large-scale public
28 swimming pools, or other public bathing places.

29 Section 3. Subsection (7) of section 553.77, Florida
30 Statutes, is amended to read:

31 553.77 Specific powers of the commission.—

32 (7) Building officials shall recognize and enforce variance
33 orders issued by the Department of Health pursuant to s.
34 514.0115(8) ~~s. 514.0115(7)~~, including any conditions attached to
35 the granting of the variance.

36
37 ===== T I T L E A M E N D M E N T =====

38 And the title is amended as follows:

39 Delete line 17



694026

40 and insert:
41 qualified target industry businesses; amending s.
42 514.0115, F.S.; exempting certain surf pools from
43 supervision under ch. 514, F.S.; providing exceptions,
44 defining the term "surf pool"; amending s. 553.77,
45 F.S.; conforming a cross-reference to changes made by
46 the act; providing an



460038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/21/2020	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Gruters) recommended the following:

Senate Amendment to Amendment (694026)

Delete line 10

and insert:

(7) A surf pool that is larger than 4 acres and is certified by the Department of Economic Opportunity to be a part of a new development with an investment value of at least \$100 million is exempt from

By Senator Gruters

23-00630B-20

2020922__

1 A bill to be entitled
 2 An act relating to economic development; amending s.
 3 288.106, F.S.; authorizing a qualified target industry
 4 business located in a county affected by Hurricane
 5 Michael to submit a request to the Department of
 6 Economic Opportunity for an economic recovery
 7 extension in lieu of a tax refund claim scheduled to
 8 be submitted during a specified timeframe; authorizing
 9 the department to waive certain requirements during a
 10 specified timeframe; requiring the department to state
 11 any waiver in writing; providing that certain
 12 businesses are eligible for a specified tax refund
 13 payment; defining the term "county affected by
 14 Hurricane Michael"; deleting obsolete provisions;
 15 deleting a provision relating to the future expiration
 16 of certification for the tax refund program for
 17 qualified target industry businesses; providing an
 18 effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Paragraph (b) of subsection (5) and subsections
 23 (8) and (9) of section 288.106, Florida Statutes, are amended to
 24 read:

25 288.106 Tax refund program for qualified target industry
 26 businesses.—

27 (5) TAX REFUND AGREEMENT.—

28 (b) Compliance with the terms and conditions of the
 29 agreement is a condition precedent for the receipt of a tax

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00630B-20

2020922__

30 refund each year. The failure to comply with the terms and
 31 conditions of the tax refund agreement results in the loss of
 32 eligibility for receipt of all tax refunds previously authorized
 33 under this section and the revocation by the department of the
 34 certification of the business entity as a qualified target
 35 industry business, unless the business is eligible to receive
 36 and elects to accept a prorated refund under paragraph (6) (e) or
 37 the department grants the business an economic recovery
 38 extension.

39 1. A qualified target industry business may submit a
 40 request to the department for an economic recovery extension.
 41 The request must provide quantitative evidence demonstrating how
 42 negative economic conditions in the business's industry, the
 43 effects of a named hurricane or tropical storm, or specific acts
 44 of terrorism affecting the qualified target industry business
 45 have prevented the business from complying with the terms and
 46 conditions of its tax refund agreement.

47 2. Upon receipt of a request under subparagraph 1., the
 48 department has 45 days to notify the requesting business, in
 49 writing, whether its extension has been granted or denied. In
 50 determining whether an extension should be granted, the
 51 department shall consider the extent to which negative economic
 52 conditions in the requesting business's industry have occurred
 53 in the state or the effects of a named hurricane or tropical
 54 storm or specific acts of terrorism affecting the qualified
 55 target industry business have prevented the business from
 56 complying with the terms and conditions of its tax refund
 57 agreement. The department shall consider current employment
 58 statistics for this state by industry, including whether the

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 business's industry had substantial job loss during the prior
60 year, when determining whether an extension shall be granted.

61 3. As a condition for receiving a prorated refund under
62 paragraph (6) (e) or an economic recovery extension under this
63 paragraph, a qualified target industry business must agree to
64 renegotiate its tax refund agreement with the department to, at
65 a minimum, ensure that the terms of the agreement comply with
66 current law and the department's procedures governing
67 application for and award of tax refunds. Upon approving the
68 award of a prorated refund or granting an economic recovery
69 extension, the department shall renegotiate the tax refund
70 agreement with the business as required by this subparagraph.
71 When amending the agreement of a business receiving an economic
72 recovery extension, the department may extend the duration of
73 the agreement for a period not to exceed 2 years.

74 4. A qualified target industry business located in a county
75 affected by Hurricane Michael, as defined in subsection (8), may
76 submit a request for an economic recovery extension to the
77 department in lieu of any tax refund claim scheduled to be
78 submitted after January 1, 2021 ~~2009~~, but before July 1, 2023
79 ~~2012~~.

80 5. A qualified target industry business that receives an
81 economic recovery extension may not receive a tax refund for the
82 period covered by the extension.

83 (8) SPECIAL INCENTIVES.—If the department determines it is
84 in the best interest of the public for reasons of facilitating
85 economic development, growth, or new employment opportunities
86 within a Disproportionally Affected county affected by Hurricane
87 Michael, the department may, between July 1, 2020 ~~2011~~, and June

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88 30, 2023 ~~2014~~, may waive ~~any or all~~ wage or local financial
89 support eligibility requirements. If the department elects to
90 wave wage or financial support eligibility requirements, the
91 waiver must be stated in writing, and allow A qualified target
92 industry business that relocates from another state to, or
93 establishes which relocates all or a portion of its business or
94 expands its existing business in, a to a Disproportionally
95 Affected county affected by Hurricane Michael is eligible to
96 receive a tax refund payment of up to \$10,000 ~~\$6,000~~ multiplied
97 by the number of jobs specified in the tax refund agreement
98 under subparagraph (5) (a)1. over the term of the agreement.
99 ~~Prior to granting such waiver, the executive director of the~~
100 ~~department shall file with the Governor a written statement of~~
101 ~~the conditions and circumstances constituting the reason for the~~
102 ~~waiver. Such business shall be eligible for the additional tax~~
103 ~~refund payments specified in subparagraph (3) (b)4. if it meets~~
104 ~~the criteria. As used in this section, the term~~
105 ~~"Disproportionally Affected county affected by Hurricane~~
106 ~~Michael" means Bay County, Calhoun County~~ Escambia County,
107 Franklin County, Gadsden County, Gulf County, Holmes County,
108 Jackson County, Jefferson County, Leon County, Liberty County,
109 Okaloosa County, Santa Rosa County, Walton County, or Wakulla
110 County, Walton County, or Washington County.

111 ~~(9) EXPIRATION.—An applicant may not be certified as~~
112 ~~qualified under this section after June 30, 2020. A tax refund~~
113 ~~agreement existing on that date shall continue in effect in~~
114 ~~accordance with its terms.~~

115 Section 2. This act shall take effect July 1, 2020.

10am
Commer

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

922

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

City

State

Zip

Email bbevis@aif.com

Speaking: For

Against

Information

In Support

Against

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020

Meeting Date

922

Bill Number (if applicable)

Topic Reauthorization of Qualified Targeted Industry

Amendment Barcode (if applicable)

Name Kelly Smallridge

Job Title ~~President~~ CEO Florida Economic Development Council

Address 310 Evernia Street

Phone 561-835-1008

Street

West Palm Beach, FL 33407

City

State

Zip

Email KSmallridge@fdcb.org

Speaking: For

Against

Information

In Support

Against

(The Chair will read this information into the record.)

Representing Florida Economic Development Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

SB 922

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Ken Lawson

Job Title Director

Address 107 E. Madison St.

Phone 850-245-7370

Street

Tallahassee

32399

Email Ken.Lawson@deo.myflorida.com

City

State

Zip

Speaking: For Against

Information

Waive Speaking:

In Support

Against
(The Chair will read this information into the record.)

Representing Department of Economic Opportunity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

922

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 130 S Bronough St

Phone 521-1200

Tallahassee FL

Email cjohnson@flcourts.com

State

Zip

Speaking: For Against

Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21

Meeting Date

922

Bill Number (if applicable)

SB 922

Topic

Amendment Barcode (if applicable)

Name Atsuko Kato

Job Title Lobbyist

Address 35 S Calumet St Suite 930 Phone _____

Street

City Jacksonville

State

Zip 32201

Email

Atsuko@Newtun.com

Speaking: For Against

Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing City of Ft. Pierce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: EL 110

Caption: Commerce Committee

Case No.:

Judge:

Type:

Started: 1/21/2020 10:03:02 AM

Ends: 1/21/2020 10:51:12 AM

Length: 00:48:11

10:03:01 AM Roll call
10:03:14 AM Quorum is present
10:03:27 AM Tab 1, SB 666, Sen. Mayfield
10:05:47 AM Amendment 139688, Late-filed
10:06:07 AM Explanation by sponsor
10:06:56 AM Amendment adopted
10:07:03 AM Sen. Stewart, question
10:07:44 AM Response of sponsor
10:08:23 AM Close waived
10:08:29 AM Roll call on SB 666
10:08:36 AM CS/SB 666
10:08:46 AM Chair turned chair over to Sen. Torres to present
10:09:20 AM SB 922
10:10:06 AM 818472, Sen. Gruters
10:10:47 AM Amendment adopted
10:11:03 AM 460038 amendment to amendment 694026
10:11:42 AM Sen. Stewart question
10:11:55 AM Sen. Gruters respond
10:12:26 AM Follow up question and response
10:13:15 AM Amendment to amendment is adopted
10:13:28 AM Amendment (main amendment)
10:14:00 AM Vice chair Torres question
10:14:11 AM Sen. Gruters responds
10:14:36 AM Amendment adopted
10:15:44 AM Sen. Gruters close on SB 922
10:16:01 AM Roll call
10:16:10 AM CS/SB 922 is favorable
10:16:23 AM Tab 3, SB 1244, Sen. Albritton
10:18:44 AM Sen. Stewart question
10:18:55 AM Sponsor response
10:21:01 AM Follow up and response
10:22:15 AM Sen. Torres question
10:22:28 AM Response of sponsor
10:23:40 AM Waive close
10:23:45 AM Roll call
10:23:49 AM SB 1244 is favorable
10:24:04 AM Tab 2, SB 1112, Sen. Taddeo
10:28:45 AM Amendment
10:28:58 AM Amendment adopted
10:29:16 AM Vice chair Torres in chair
10:29:30 AM Sen. Gruters present amendment 689478
10:31:13 AM Sen. Stewart, question
10:31:53 AM Sen. Gruters response
10:32:12 AM Follow up and response
10:32:39 AM Sen. Torres question
10:32:52 AM Sen. Taddeo response
10:37:14 AM David Cullen, Sierra Club of FL
10:37:21 AM Ryan Smart, Florida Springs Council
10:38:52 AM Sen. Stewart, question/comment
10:41:16 AM Sen. Gruters comments
10:42:08 AM Roll call on amendment 689478
10:42:29 AM Amendment is not adopted

10:42:41 AM Chair back in chair
10:43:03 AM Lane Stephens, Nestle Waters USA, speak on the bill
10:47:09 AM Brewster Bevis, Assoc. Industries of FL
10:47:58 AM Sen. Taddeo close on SB 1112
10:49:29 AM Sen. Taddeo requested TP SB 1112
10:50:12 AM Motion adopted
10:50:15 AM Sen. Torres moved adjournment



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Commerce and Tourism
Infrastructure and Security
Innovation, Industry, and Technology
Judiciary
Rules

SENATOR TRAVIS HUTSON

7th District

January 17, 2020

The Honorable Joe Gruters
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gruters,

I am writing to request to be excused from the Commerce and Tourism meeting on January 21st, 2020 at 10:00am due to the birth of my child. Thank you for your consideration of this request.

Respectfully,

A handwritten signature in black ink that reads "Travis Hutson". The signature is written in a cursive style with a long horizontal line extending from the end.

Travis Hutson

REPLY TO:

- 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

January 21, 2020

The Honorable Joe Gruters
Committee on Commerce & Tourism
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

RE: Vote After Roll Call

Dear Chairman Gruters:

When I was presenting my bill in another committee I missed some votes today's during committee. I would like to record my vote for the record:

Yes - SB 666: Florida Development Finance Corporation by Senator Mayfield

Yes - SB 922: Economic Development by Senator Gruters

Thank you for receiving my votes for the record.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright
State Senator, District 14

REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore