SB 80 by **Joyner (CO-INTRODUCERS) Smith**; (Compare to H 7049) Human Trafficking

CS/CS/SB 182 by **BGA, CA, Garcia (CO-INTRODUCERS) Margolis, Braynon, Diaz de la Portilla, Flores**; (Similar to CS/H 0377) Miami-Dade County Lake Belt Mitigation Plan

SB 188 by **Flores**; (Identical to H 4003) Growth Policy

CS/SB 192 by **BFT, Bennett**; (Identical to CS/CS/CS/H 0107) Special Districts

CS/CS/SB 244 by **BTA, TR, Bennett**; (Similar to H 0159) Motor Vehicles

CS/SB 316 by **CF, Wise**; (Identical to H 1035) Alzheimer's Disease

SB 366 by **Gaetz (CO-INTRODUCERS) Gardiner, Sobel**; (Identical to H 0453) Group Insurance for Public Employees

CS/SB 376 by **HR, Flores**; (Similar to CS/H 0309) Radiological Personnel

SJR 408 by **Simmons (CO-INTRODUCERS) Gaetz**; (Identical to H 0345) Revising Age Limits for Judges and Justices

CS/SB 414 by **HR, Negron**; (Similar to CS/H 0171) Osteopathic Physicians

CS/SB 416 by **CU, Detert (CO-INTRODUCERS) Margolis, Lynn, Altman, Sachs, Sobel**; (Similar to H 0299) Use of Wireless Communications Devices While Driving

CS/CS/SB 432 by **BJA, CJ, Flores (CO-INTRODUCERS) Diaz de la Portilla, Garcia, Lynn**; (Similar to CS/CS/H 0189) Criminal Restitution

CS/SB 488 by **CA, Rich (CO-INTRODUCERS) Gaetz, Sobel**; (Compare to H 0527) Animal Control or Cruelty Ordinances

CS/CS/CS/SB 502 by **BFT, CA, AG, Hays (CO-INTRODUCERS) Dean, Storms**; (Similar to CS/CS/1ST ENG/H 0449) Public Fairs and Expositions

SB 538 by **Bogdanoff (CO-INTRODUCERS) Gaetz, Fasano**; (Identical to H 0153) Preference to Florida Businesses in Procurement of Personal Property and Services

CS/SB 544 by **HR, Sobel**; (Similar to H 0477) Health Care

SB 562 by **Lynn**; (Identical to H 4027) Community-based Development Organizations

CS/CS/SB 582 by **BFT, CA, Simmons (CO-INTRODUCERS) Smith**; (Identical to CS/H 0191) Neighborhood Improvement Districts

CS/SB 616 by **GO, Flores**; (Similar to CS/H 0655) Biomedical Research

SB 678 by **Smith (CO-INTRODUCERS) Latvala**; (Identical to H 0649) State Contracts

CS/CS/SB 704 by **BGA, CA, Bennett**; (Compare to CS/H 0387) Building Construction and Inspection

CS/SB 730 by **HR, Flores (CO-INTRODUCERS) Negron, Gaetz**; (Compare to CS/H 0727) Medicaid Managed Care Plans

CS/SB 752 by **JU, Flores**; (Compare to CS/CS/2ND ENG/H 0565) Equitable Distribution of Marital Assets and Liabilities

CS/SB 758 by **EP, Jones**; (Similar to CS/1ST ENG/H 0691) Beach Management

SB 798 by **CM**; (Similar to H 7103) OGSR/Florida Opportunity Fund and the Institute for the Commercialization of Public Research

CS/SB 938 by **BI, Richter (CO-INTRODUCERS) Oelrich**; (Compare to CS/CS/CS/2ND ENG/H 0725) Insurance Agents and Adjusters

SB 952 by **Oelrich**; (Identical to H 4039) Recreation and Parks

SB 998 by **Negron (CO-INTRODUCERS) Norman, Evers**; (Similar to CS/1ST ENG/H 0463) Concealed Weapons or Firearms

SB 1040 by **Bogdanoff (CO-INTRODUCERS) Oelrich, Altman**; (Compare to CS/H 1313) Dental Hygienists

SB 1084 by **Garcia**; (Similar to 1ST ENG/H 0541) Administrative Procedures

SB 1090 by **Richter**; (Identical to CS/H 0483) Uniform Commercial Code

SB 1112 by **Altman**; (Identical to H 4103) Certification of Minority Business Enterprises

CS/SB 1132 by **BGA, Hays (CO-INTRODUCERS) Montford, Evers**; (Compare to CS/CS/2ND ENG/H 1021) Agriculture

CS/CS/SB 1150 by **BFT, CM, Richter (CO-INTRODUCERS) Bennett, Lynn, Detert, Gibson**; (Identical to CS/CS/H 1119) New Markets Development Program

SB 1152 by **Richter**; (Identical to H 4087) Repeal of a Workers' Compensation Independent Actuarial Peer Review Requirement

CS/SB 1204 by **CM, CM**; (Similar to CS/1ST ENG/H 7041) Governmental Reorganization

SB 1220 by **Garcia**; (Identical to H 4139) Repeal of Health Insurance Provisions

CS/SB 1258 by **HR, Benacquisto**; (Identical to H 4163) Education for Athletic Trainers and Massage Therapists

CS/SB 1392 by **TR, Benacquisto**; (Compare to H 1201) Transportation Accessibility

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BUDGET
Senator Alexander, Chair
Senator Negron, Vice Chair

MEETING DATE: Tuesday, February 21, 2012
TIME: 3:45 —6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Alexander, Chair; Senator Negron, Vice Chair; Senators Altman, Benacquisto, Bennett, Bogdanoff, Flores, Gaetz, Hays, Joyner, Lynn, Margolis, Montford, Norman, Rich, Richter, Simmons, Siplin, Sobel, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	BILLS FOR EXPEDITED CONSIDERATION:		
1	**SB 80** Joyner (Compare H 7049, CS/S 1880)	Human Trafficking; Requiring operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen; requiring presentation of such documents upon request of a law enforcement officer; prohibiting the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution; providing criminal penalties, etc. HR 11/03/2011 Favorable CJ 01/12/2012 Favorable BJA 01/24/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
2	**CS/CS/SB 182** Budget Subcommittee on General Government Appropriations / Community Affairs / Garcia (Similar CS/H 377)	Miami-Dade County Lake Belt Mitigation Plan; Deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds for seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee; clarifying the authorized uses for the proceeds from the water treatment plant upgrade fee, etc. CA 10/04/2011 Fav/CS EP 10/19/2011 Favorable BGA 11/15/2011 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 188** Flores (Identical H 4003)	Growth Policy; Repealing provisions relating to the Urban Infill and Redevelopment Assistance Grant Program, to terminate the program, etc. CA 10/19/2011 Favorable EP 11/02/2011 Favorable BTA 01/19/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 16 Nays 2
4	**CS/SB 192** Budget Subcommittee on Finance and Tax / Bennett (Identical CS/CS/CS/H 107)	Special Districts; Revising provisions relating to merger and dissolution procedures for special districts; requiring the merger or dissolution of dependent special districts created by a special act to be effectuated by the Legislature; providing for the merger or dissolution of inactive special districts by special act without referenda; providing dissolution procedures for active independent special districts by special acts and referenda; providing procedures and requirements for the voluntary merger of contiguous independent special districts; deleting a provision relating to the conditions under which the merger of independent special districts or dependent fire control districts with other special districts is effective and the conditions under which a merged district is authorized to increase ad valorem taxes, etc. CA 10/19/2011 Favorable BFT 02/01/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
5	**CS/CS/SB 244** Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations / Transportation / Bennett (Similar H 159)	Motor Vehicles; Citing this act as the "Highway Safety Act"; providing legislative intent relating to road rage and aggressive careless driving; requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless driving, including imposition of an increased fine; providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; requiring the Department of Highway Safety and Motor Vehicles to provide information about the Highway Safety Act in driver's license educational materials, etc. TR 11/01/2011 Temporarily Postponed TR 11/16/2011 Fav/CS BTA 01/19/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/SB 316** Children, Families, and Elder Affairs / Wise (Identical H 1035)	Alzheimer's Disease; Directing the Department of Elderly Affairs to develop and implement a public education program relating to screening for Alzheimer's disease; providing criteria for awarding grants; creating the memory-impairment screening grant program; requiring grant recipients to submit an evaluation of certain activities to the department; authorizing the department to provide technical support; providing for implementation of the public education program to operate within existing resources of the department; providing that implementation of the memory-impairment screening grant program is contingent upon an appropriation of state funds or the availability of private resources; specifying the types of facilities where an employee or direct caregiver providing care for persons with Alzheimer's disease may begin employment without repeating certain training requirements, etc. CF 11/03/2011 Fav/CS BHA 01/24/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
7	**SB 366** Gaetz (Identical H 453)	Group Insurance for Public Employees; Requiring that school districts procure certain types of insurance for their officers and employees through interlocal agreements; providing an exception; requiring each school district to enter into an interlocal agreement and establish the School District Insurance Consortium governed by a board of directors; providing for membership and specifying terms of office for board members; requiring the Department of Management Services to provide technical services to the consortium; requiring the consortium to advertise for competitive bids for insurance; requiring that school districts engage in collective bargaining with certified bargaining agents, etc. ED 11/02/2011 Favorable GO 12/05/2011 Favorable BEA 01/12/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/SB 376** Health Regulation / Flores (Similar CS/H 309)	Radiological Personnel; Providing titles for persons who hold a certificate as a specialty technologist; authorizing a person holding a certificate as a specialty technologist to perform the specific duties allowed for a specialty technologist as defined by the Department of Health; authorizing the Department of Health to adopt rules for recognizing certain national organizations that certify, license, or register specialty technologists; providing for an applicant for certification as a specialty technologist to be certified only by endorsement rather than by examination, etc. HR 01/12/2012 Fav/CS BHA 01/31/2012 BHA 02/01/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
9	**SJR 408** Simmons (Identical HJR 345)	Revising Age Limits for Judges and Justices; Proposing an amendment to the State Constitution to increase the age after which a justice or judge may no longer serve in a judicial office. JU 01/19/2012 Favorable BJA 01/31/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
10	**CS/SB 414** Health Regulation / Negron (Similar CS/H 171)	Osteopathic Physicians; Revising the requirements for licensure or certification as an osteopathic physician in this state; revising provisions relating to registration of physicians, interns, and fellows, etc. HR 12/07/2011 Fav/CS BHA 01/24/2012 Not Considered BHA 01/31/2012 BHA 02/01/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
11	**CS/SB 416** Communications, Energy, and Public Utilities / Detert (Similar H 299, Compare H 39, H 187)	Use of Wireless Communications Devices While Driving; Creating the “Florida Ban on Texting While Driving Law”; prohibiting the operation of a motor vehicle while using a wireless communications device for certain purposes; specifying information that is admissible as evidence of a violation; providing penalties; providing for enforcement as a secondary action; providing for points to be assessed against a driver’s license for the unlawful use of a wireless communications device within a school safety zone or resulting in a crash, etc. TR 12/07/2011 Favorable CU 01/12/2012 Fav/CS BTA 01/26/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**CS/CS/SB 432** Budget Subcommittee on Criminal and Civil Justice Appropriations / Criminal Justice / Flores (Similar CS/CS/H 189)	Criminal Restitution; Providing that a crime victim entitled to restitution may include a trade association representing the owner or lawful producer of a recording who sustains a loss as a result of physical piracy; providing a limitation of the restitution obligation to specifically exclude acts of online piracy; defining the term “trade association”, etc. CM 01/09/2012 Favorable CJ 01/19/2012 Fav/CS BJA 02/01/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
13	**CS/SB 488** Community Affairs / Rich (Compare H 527)	Animal Control or Cruelty Ordinances; Authorizing a county or municipality enacting an ordinance relating to animal control or cruelty to impose a specified surcharge on the civil penalty for violations of the ordinance; specifying use of the proceeds of the surcharge; prohibiting the governing body of a county or municipality from charging owners of animals more than a certain amount for the spaying or neutering of their animals in specified circumstances; authorizing the animal control authority to allocate certain excess funds to the program to spay and neuter cats and dogs; providing for construction, etc. CA 12/05/2011 Temporarily Postponed CA 01/12/2012 Fav/CS BJA 01/31/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
14	**CS/CS/CS/SB 502** Budget Subcommittee on Finance and Tax / Community Affairs / Agriculture / Hays (Similar CS/CS/H 449)	Public Fairs and Expositions; Amending provisions relating to requirements for the proposed charter of an annual public fair; providing that the primary objective of a fair association is the holding, conducting, and promoting of public fairs or expositions; providing that a fair association may file its duly approved charter with the Department of State in addition to the Department of Agriculture and Consumer Services for notice purposes; providing that certain exemptions are not applicable to taxes imposed under ch. 212, F.S.; providing that certain fair associations are noncommercial activity providers; revising provisions relating to the exemption from certain license taxes and local business taxes for annual public fairs held by a fair association; removing certain limitations on the use of buildings by counties, municipalities, or fair associations, etc. AG 11/14/2011 Fav/CS CA 12/05/2011 Fav/CS BFT 01/24/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**SB 538** Bogdanoff (Identical H 153, Compare CS/CS/H 673)	Preference to Florida Businesses in Procurement of Personal Property and Services; Citing this act as the "Buy Florida Act"; requiring an agency, county, municipality, school district, or other political subdivision of the state to grant a specified preference to a vendor located within the state when awarding a contract for printing; specifying the percentage of preference to be granted; requiring, rather than authorizing, an agency, county, municipality, school district, or other political subdivision of the state in making purchases of personal property through competitive solicitation to award a preference to the lowest responsible and responsive vendor having a principal place of business within this state under specified circumstances; specifying the percentage of preference to be granted; providing nonapplicability, etc. CA 12/05/2011 Favorable GO 01/09/2012 Favorable BGA 02/01/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
16	**CS/SB 544** Health Regulation / Sobel (Similar H 477, Compare CS/S 1316)	Health Care; Requiring that any physician or osteopathic physician who performs certain medical procedures in an office setting to register the office with the Department of Health unless that office is licensed as a facility under ch. 395, F.S., relating to hospital licensing and regulation, etc. HR 12/07/2011 Fav/CS BHA 01/19/2012 Not Considered BHA 01/24/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
17	**SB 562** Lynn (Identical H 4027, Compare H 7055)	Community-based Development Organizations; Repealing provisions relating to the Community-Based Development Organization Assistance Act, the eligibility of community-based development organizations and eligible activities for certain grant funding, the award of grants by the former Department of Community Affairs, the reporting of certain information by grant recipients to the former department, and rulemaking authority of the former department, etc. CA 12/05/2011 Favorable CM 01/09/2012 Favorable BTA 01/25/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**CS/CS/SB 582** Budget Subcommittee on Finance and Tax / Community Affairs / Simmons (Identical CS/H 191, Compare CS/H 7041, CS/S 1204)	Neighborhood Improvement Districts; Renaming the "Safe Neighborhoods Act" as the "Neighborhoods Improvement Act"; requiring each neighborhood improvement district authorized under law to notify the Department of Economic Opportunity of its existence rather than to register with the Department of Community Affairs and the Department of Legal Affairs; revising provisions authorizing a local governing body to create a local government neighborhood improvement district; specifying that the ordinance may authorize the improvement district to borrow money, contract loans, and issue bonds; repealing provisions relating to the effect and construction of existing laws relating to neighborhood improvement districts, state redevelopment programs, and cooperation and involvement of community organizations in the creation of safe neighborhood improvement districts, etc. CA 12/05/2011 Fav/CS BFT 01/24/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
19	**CS/SB 616** Governmental Oversight and Accountability / Flores (Similar CS/H 655, Compare CS/CS/H 657, Link CS/S 1856)	Biomedical Research; Revising the number of years that the balance of an appropriation from the Biomedical Research Trust Fund may be carried forward following the effective date of the original appropriation; revising the terms of appointment for certain members of the Biomedical Research Advisory Council within the Department of Health; deleting a provision that subjects meetings of the council and peer review panels to public records and public meetings requirements; specifying the name of an affiliate chapter of the American Heart Association as it relates to the membership of the advisory council within the Florida Center for Universal Research to Eradicate Disease, etc. HR 01/12/2012 Favorable GO 01/26/2012 Fav/CS BHA 02/08/2012 Not Considered BHA 02/09/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
20	**SB 678** Smith (Identical H 649)	State Contracts; Requiring all state contracts of more than a certain amount to require any call-center services to be staffed by persons located within the United States, etc. GO 01/09/2012 Favorable CM 01/19/2012 Temporarily Postponed CM 01/26/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
21	**CS/CS/SB 704** Budget Subcommittee on General Government Appropriations / Community Affairs / Bennett (Compare CS/H 387, CS/H 651, CS/CS/H 887, CS/CS/H 999, CS/H 1263, CS/CS/S 600, CS/CS/S 820, CS/S 1824)	Building Construction and Inspection; Revising the authorized methods of sending notices to violators of local codes; revising the definition of the term "bedroom" for purposes of requirements governing onsite sewage treatment and disposal systems; authorizing a building code administrator or building official to approve the electronic filing of building plans and related documents; revising the eligibility requirements of a building code inspector or plans examiner; extending the expiration date to 2013 for exemption of certain equipment installation meeting the 2007 building code, etc. CA 01/12/2012 Fav/CS BGA 02/01/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
22	**CS/SB 730** Health Regulation / Flores (Similar H 727)	Medicaid Managed Care Plans; Requiring the Agency for Health Care Administration to establish per-member, per-month payments; substituting the Medicare Advantage Coordinated Care Plan for the Medicare Advantage Special Needs Plan; revising the definition of "eligible plan" to include certain Medicare plans; limiting the penalty that a plan must pay if it leaves a region before the end of the contract term; providing that certain Medicare plans are not subject to procurement requirements or plan limits; requiring dually eligible Medicaid recipients to be enrolled in the Medicare plan in which they are already enrolled; revising the list of Medicare plans that are not subject to procurement requirements for long-term care plans; revising the list of Medicare plans in which dually eligible Medicaid recipients are enrolled in order to receive long-term care, etc. HR 01/19/2012 Fav/CS BHA 01/24/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
23	**CS/SB 752** Judiciary / Flores (Compare CS/CS/H 565)	Equitable Distribution of Marital Assets and Liabilities; Redefining the term “marital assets and liabilities” to include the value of the marital portion of the passive appreciation of nonmarital real property; authorizing a court to require security and the payment of a reasonable rate of interest if installment payments are required for the distribution of marital assets and liabilities; requiring the court to provide written findings regarding any installment payments; providing formulas for the calculation of the value of the marital portion of nonmarital real property subject to equitable distribution; requiring the court in the dissolution action to use the formulas unless sufficient evidence is presented showing that the application of the formulas is not equitable, etc. JU 01/12/2012 Fav/CS BI 01/26/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0
24	**CS/SB 758** Environmental Preservation and Conservation / Jones (Identical CS/H 691, Compare CS/CS/CS/CS/H 503, CS/CS/S 716)	Beach Management; Specifying that demonstration to the Department of Environmental Protection of the adequacy of a project’s design and construction is supported by certain evidence; authorizing the department to issue permits for an incidental take authorization under certain circumstances; providing a permit exemption for certain specified exploratory activities relating to beach restoration and nourishment projects and inlet management activities, etc. EP 01/09/2012 Fav/CS CA 01/23/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
25	**SB 798** Commerce and Tourism (Similar H 7103)	OGSR/Florida Opportunity Fund and the Institute for the Commercialization of Public Research; Amending provisions which provide exemptions from public records and open meeting requirements for the Florida Opportunity Fund and the Institute for the Commercialization of Public Research; reorganizing the exemptions by removing references to the Institute for the Commercialization of Public Research and transferring the exemptions relating to the institute to a new statute; clarifying that the exemptions pertaining to the Florida Opportunity Fund apply to prospective investments, alternative investments, and certain confidential proprietary information provided by a proprietor; reducing the time period during which proprietary confidential business information is confidential and exempt from disclosure; imposing criminal penalties on a person who willfully and knowingly violates the public records or public meetings exemptions pertaining to the institute, etc. CM 01/09/2012 Favorable GO 01/26/2012 Favorable BTA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
26	**CS/SB 938** Banking and Insurance / Richter (Similar CS/CS/H 725, Compare H 771, H 4147, S 1694, S 1820)	Insurance Agents and Adjusters; Deleting a requirement that an insurer pay an agent tax for each county in which an agent represents the insurer and has a place of business; revising the definitions of “adjuster” and “home state”; revising provisions relating to who may bind insurance coverage; revising provisions relating to continuing education requirements; providing that persons on active military duty may seek a waiver; revising provisions relating to the purpose of the general lines and personal lines license and certain requirements related to general lines and personal lines agents; requiring persons transacting mortgage guaranty insurance to be licensed and appointed as a credit insurance agent; revising the licensure application for bail bond agents to include certain information etc. BI 01/09/2012 Fav/CS BGA 01/19/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
27	**SB 952** Oelrich (Identical H 4039)	Recreation and Parks; Repealing provisions relating to recreation centers, use and acquisition of land, and equipment and maintenance; supervision; playground and recreation boards; cooperation with other units and boards; gifts, grants, devises, and bequests; issuance of bonds; petition for referendum; resolution or ordinance providing for recreation system; tax levy; payment of expenses and custody of funds; and duties and functions of the Division of Recreation and Parks of the Department of Environmental Protection, etc. EP 01/24/2012 Favorable BGA 02/01/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 19 Nays 0
28	**SB 998** Negron (Identical CS/H 463)	Concealed Weapons or Firearms; Providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age, etc. MS 01/09/2012 Favorable CJ 01/19/2012 Favorable BGA 01/26/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
29	**SB 1040** Bogdanoff (Compare CS/H 1313)	Dental Hygienists; Authorizing a dental hygienist, under the supervision of a dentist, to administer local anesthesia to certain patients if the hygienist meets certain criteria; providing the criteria that a dental hygienist must meet in order to administer local anesthesia; authorizing a dental hygienist to apply for certification to administer local anesthesia; requiring the Department of Health to issue the certificate under certain circumstances; authorizing the board to charge a fee, not to exceed a specified amount, to defray the cost of verifying criteria and issuing a certificate; providing that the certificate is part of the dental hygienist's permanent record; requiring that the certificate be prominently displayed; authorizing a dental hygienist to administer local anesthesia, etc. HR 01/19/2012 Favorable BHA 01/31/2012 BHA 02/01/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
30	**SB 1084** Garcia (Similar H 541)	Administrative Procedures; Revising provisions with respect to the revision and publication of the Florida Administrative Code to provide that the Department of State is not required to publish a printed version of the code but may contract with a publishing firm for a printed publication; providing that the electronic version of the code is the official compilation of the administrative rules of the state; providing for adopted rules and material incorporated by reference to be filed in electronic forms; renaming the "Florida Administrative Weekly" as the "Florida Administrative Register"; requiring a continuous revision and publication of the Florida Administrative Register on an Internet website managed by the Department of State; deleting a requirement to provide printed copies of the Florida Administrative Register to certain federal and state entities, etc. GO 01/26/2012 Favorable BTA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0
31	**SB 1090** Richter (Identical CS/H 483)	Uniform Commercial Code; Revising and providing provisions of the Uniform Commercial Code relating to secured transactions to conform to the revised Article 9 of the Uniform Commercial Code as prepared by the National Conference of Commissioners on Uniform State Laws; revising provisions relating to control of electronic chattel paper; providing rules that apply to certain collateral to which a security interest attaches; providing rules relating to certain financing statements; revising when a record of a mortgage satisfying the requirements of ch. 697, F.S., is effective as a filing statement; creating part VIII of ch. 679, F.S., relating to transition from prior law under the chapter to law under the chapter as amended by the act, etc. CM 01/19/2012 Favorable BI 01/26/2012 Favorable BGA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
32	**SB 1112** Altman (Identical H 4103)	Certification of Minority Business Enterprises; Deleting provisions establishing the Minority Business Certification Task Force, requiring that criteria for the certification of minority business enterprises be approved by the task force, and authorizing the task force to amend the statewide and interlocal agreement for the certification of minority business enterprises, etc. CM 01/26/2012 Favorable BGA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
33	**CS/SB 1132** Budget Subcommittee on General Government Appropriations / Hays (Similar CS/H 1197)	Agriculture; Revising definitions relating to the Florida Right to Farm Act to include beekeeping; revising the definition of the term “apiary” and adding a definition for the term “apiculture”; providing that authority to regulate honeybee colonies is preempted to the state; requiring that the Department of Agriculture and Consumer Services adopt rules after consulting with local governments and other affected stakeholders; providing an exemption from the Florida Building Code for farm signs, etc. AG 01/23/2012 Favorable BGA 02/02/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0
34	**CS/CS/SB 1150** Budget Subcommittee on Finance and Tax / Commerce and Tourism / Richter (Identical CS/CS/H 1119, Compare H 7087)	New Markets Development Program; Revising limits on tax credits that may be claimed by qualified community development entities under the program; revising restrictions on a qualified community development entity’s making of cash interest payments on certain long-term debt securities, etc. CM 01/19/2012 Fav/CS BFT 02/09/2012 Fav/CS BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0
35	**SB 1152** Richter (Identical H 4087)	Repeal of a Workers’ Compensation Independent Actuarial Peer Review Requirement; Repealing provisions relating to the duty of the Financial Services Commission to contract for a periodic report regarding an actuarial peer review and analysis of the ratemaking process of any licensed rating organization that makes rate filings for workers’ compensation insurance, etc. BI 01/19/2012 Not Considered BI 01/26/2012 Favorable BGA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
36	**CS/SB 1204** Commerce and Tourism / Commerce and Tourism (Similar CS/H 7041, Compare CS/H 191, H 1083, CS/H 7027, H 7075, CS/H 7081, CS/CS/S 582, CS/CS/S 842, CS/S 1416, CS/S 1440, S 1996, S 2076)	Governmental Reorganization; Correcting references to agency names and divisions and correcting cross-references to conform to the governmental reorganization resulting from the enactment of chapter 2011-142, Laws of Florida; authorizing Enterprise Florida, Inc., to contract with the Florida Tourism Industry Marketing Corporation for management and operation of welcome centers; adding the Governor or the Governor's designee as a member and chair of the board of directors of Space Florida; establishing the Division of Information Technology within the Department of Economic Opportunity; repealing provisions relating to the designation of enterprise zones in communities suffering adverse impacts from the adoption of the constitutional amendment limiting the use of nets to harvest marine species, etc. CM 01/19/2012 Fav/CS BTA 02/02/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0
37	**SB 1220** Garcia (Identical H 4139)	Repeal of Health Insurance Provisions; Deleting a requirement that the Florida Health Insurance Plan's board of directors annually report to the Governor and the Legislature concerning the Florida Health Insurance Plan; deleting redundant provisions making the implementation of the plan by the board contingent upon certain appropriations; deleting a requirement that the Office of Insurance Regulation of the Department of Financial Services annually report to the Governor and the Legislature concerning the Small Employers Access Program, etc. BI 01/19/2012 Favorable BGA 01/26/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 20 Nays 0
38	**CS/SB 1258** Health Regulation / Benacquisto (Identical H 4163)	Education for Athletic Trainers and Massage Therapists; Repealing provisions relating to the requirement for athletic trainers and massage therapists to complete education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, etc. HR 01/25/2012 Fav/CS BHA 02/08/2012 Not Considered BHA 02/09/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
39	**CS/SB 1392** Transportation / Benacquisto (Compare H 1201)	Transportation Accessibility; Providing a tax exemption for the sale or lease of accessible vehicles; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study to determine the availability of accessible taxicabs operating in metropolitan and tourist destination areas of the state; describing the information to be collected in the study; requiring the Office of Program Policy Analysis and Government Accountability to include in its final report recommendations for consideration by the Legislature, etc. TR 01/19/2012 Temporarily Postponed TR 01/26/2012 Fav/CS BFT 02/09/2012 Favorable BC 02/21/2012 Favorable	Favorable Yeas 19 Nays 0

Other Related Meeting Documents

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 Budget Committee

BILL: SB 80

INTRODUCER: Senator Joyner

SUBJECT: Human Trafficking

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Favorable**
2.	Cellon	Cannon	CJ	**Favorable**
3.	Sadberry	Sadberry	BJA	**Favorable**
4.	Sadberry	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

This bill requires operators of massage establishments to maintain valid work authorization documents on the premises for employees who are not U.S. citizens and present these documents to a law enforcement officer upon request. The bill makes it unlawful for a massage establishment operator to knowingly use a massage establishment for the purpose of lewdness, assignation, or prostitution. Criminal penalties are established for a violation of any of the provisions set forth in the bill.

The effective date of the bill is October 1, 2012.

This bill creates section 480.0535, Florida Statutes.

II. Present Situation:

Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, men, and women. Victims are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.[1]

The International Labor Organization (ILO), the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that there are at least

[1] U.S. Department of Health and Human Services, Administration for Children & Families, *About Human Trafficking*, available at http://www.acf.hhs.gov/trafficking/about/index.html# (Last visited on September 22, 2011).

12.3 million adults and children in forced labor, bonded labor, and commercial sexual servitude at any given time.[2] The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500-17,500.[3] Additionally, an estimated 200,000 American children are at risk for trafficking into the sex industry each year, according to the U.S. Department of Justice.[4]

After drug dealing, trafficking of humans is tied with arms dealing as the second largest criminal industry in the world and is also the fastest growing. Many victims of human trafficking are forced to work in prostitution or the sex entertainment industry. However, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.[5]

Traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the more frequent practice is to use less obvious techniques including:

- Debt bondage - financial obligations, honor-bound to satisfy debt.
- Isolation from the public - limiting contact with outsiders and making sure that any contact is monitored or superficial in nature.
- Isolation from family members and members of victims' ethnic or religious community.
- Confiscation of passports, visas, or identification documents.
- Use or threat of violence toward victims or families of victims.
- The threat of shaming victims by exposing circumstances to family.
- Telling victims they will be imprisoned or deported for immigration violations if they contact authorities.
- Control of the victims' money and holding their money for "safe-keeping."[6]

Federal Trafficking Law

In 2000, Congress enacted the Trafficking Victims Protection Act (TVPA) to "combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."[7] The TVPA not only criminalizes human trafficking, but it also requires that victims, who might otherwise be treated as criminals (e.g. engagement in prostitution), be treated as victims of crime and be provided with health and human services if they cooperate with prosecutions.

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[2] *See* U.S. Department of State, *The 2009 Trafficking in Persons (TIP) Report*, June 2009, available at http://www.state.gov/g/tip/rls/tiprpt/2009/ (Last visited on September 22, 2011).
[3] Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2, March 2008, available at http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx (Last visited on September 22, 2011).
[4] *Id.* at 3.
[5] *Supra* fn. 1.
[6] *Id.*
[7] Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, (2000).

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Pub. L. 108-193, reauthorized the TVPA and added responsibilities to the U.S. Government's anti-trafficking portfolio. In particular, the TVPRA 2003 mandated new information campaigns to combat sex tourism, added refinements to the federal criminal law provisions, and created a new civil action that allows victims to sue their traffickers in federal district court. In addition, the TVPRA 2003 required an annual report from the Attorney General to Congress.[8]

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005), Pub. L. 109-164, reauthorized the TVPA and authorized new anti-trafficking resources, including grant programs to assist state and local law enforcement efforts and expand victim assistance programs to U.S. citizens or resident aliens subjected to trafficking; authorized pilot programs to establish residential rehabilitative facilities for trafficking victims, including one program aimed at juveniles; and provided extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.[9]

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Pub. L. 110-457, reauthorized the TVPA for 4 years and authorized new measures to combat human trafficking. The TVPRA 2008:

- Created new crimes imposing severe penalties on those who obstruct or attempt to obstruct the investigations and prosecutions of trafficking crimes;
- Changed the standard of proof for the crime of sex trafficking by force, fraud, or coercion by requiring that the government merely prove that the defendant acted in reckless disregard of the fact that such means would be used;
- Broadened the reach of the crime of sex trafficking of minors by eliminating the requirement to show that the defendant knew that the person engaged in commercial sex was a minor in cases where the defendant had a reasonable opportunity to observe the minor;
- Expanded the crime of forced labor by providing that "force" is a means of violating the law; imposed criminal liability on those who, knowingly and with intent to defraud, recruit workers from outside the U.S. for employment within the U.S. by making materially false or fraudulent representations;
- Enhanced the penalty for conspiring to commit trafficking-related crimes; and
- Penalized those who knowingly benefit financially from participating in a venture that engaged in trafficking crimes.[10]

Between Fiscal Years 2001-2009, the FBI's Civil Rights Division and U.S. Attorneys' Offices, under authority of the TVPA, prosecuted 645 defendants, secured 466 convictions and guilty pleas, and opened 1,187 new investigations.[11]

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[8] Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, pg. 2 (July 2010), available at http://www.justice.gov/ag/annualreports/tr2009/agreporthumantrafficking2009.pdf (Last visited on September 22, 2011).
[9] *Id.* at 3
[10] *Id.*
[11] *Id.* at 48.

Florida Statewide Task Force on Human Trafficking

The Florida Statewide Task Force on Human Trafficking was created in 2009[12] with the express purpose of examining the problem of human trafficking and recommending strategies and actions for reducing or eliminating the unlawful trafficking of men, women, and children into Florida. The Florida State University Center for the Advancement of Human Rights (CAHR) was directed to submit a statewide strategic plan to the task force by November 1, 2009.[13] The strategic plan was required to address the following five subjects:

- A description of available data on human trafficking in Florida;
- Identification of available victim programs and services;
- Evaluation of public awareness strategies;
- Assessment of current laws; and
- A list of recommendations produced in consultation with governmental and non-governmental organizations.[14]

The CAHR's strategic plan is broken up into five goals or objectives to meet the five subjects required to be addressed by the CAHR under ch. 2009-95, Laws of Florida. In summary, the strategic plan provided the following:

- Labor trafficking is the most prevalent type of human trafficking in Florida, while domestic minor sex trafficking is also prevalent and is the most under-reported and under-prosecuted human trafficking offense in Florida.
- There is a need to have and maintain an up-to-date resource directory of all persons and organizations that assist victims of trafficking in Florida.
- Public awareness is at the heart of Florida being able to successfully assist victims of human trafficking statewide. Public awareness campaigns must have broad support, involve diverse activities, and have an accurate and concise message, while also being culturally sensitive.
- Although Florida has made progress in its human trafficking laws, more training is needed to carry out enforcement of such laws, and further reforms should be considered.
- There is a need for state government training and awareness of human trafficking so that government employees and contractors may learn how they might encounter human trafficking and how they should respond; Florida needs to provide effective and safe services for victims; and law enforcement needs more training for more effective responses and needs to develop and sustain partnerships within communities.[15]

The task force was required to propose a plan of implementation of the strategic plan by October 1, 2010. Published in July 2011, the Statewide Human Trafficking Task Force

[12] *See* ch. 2009-95, Laws of Florida.
[13] Florida State University, Center for the Advancement of Human Rights, *Florida Strategic Plan on Human Trafficking*, available at http://www.dcf.state.fl.us/initiatives/humantrafficking/docs/FSUStrategicPlan2010.pdf (Last visited on September 22, 2011).
[14] *Id.*
[15] *Id.*

Implementation Report details the state's progress towards addressing each of the five goals addressed in the strategic plan.[16]

- Goal one: Collect comprehensive data on victims and prosecutions of human trafficking. The report consolidates available data from the numerous federal and state entities which deal with such victims, including from medical screenings, the Florida Abuse Hotline, the Department of Health, and the National Human Trafficking Resource Center. Further efforts are being made to amend federal and state crime reporting systems to capture trafficking cases.
- Goal two: Create and maintain a state resource guide of services to victims of trafficking. That guide has been developed and is available online.[17]
- Goal three: Develop strategies for public awareness and collaboration between entities active in combating human trafficking. The report reviews efforts that have been made to use existing materials available through the United States Department of Health and Human Services (HHS) awareness campaign and inter-agency efforts at the state and local level.
- Goal four: Enact changes to substantive law and provide sufficient funding to address trafficking in Florida. The Implementation Report identifies the number of laws that have already been enacted to combat trafficking and new provisions proposed during the 2011 Legislative Session.
- Goal five: Establish strong and effective social services, criminal justice systems, and community responses. The report highlights agency activities and plans to implement goals related to training, awareness, collaboration, and services.

Human Trafficking in Florida

The exact number of persons trafficked in Florida is difficult to determine. Little data is available due to the reluctance of victims to report trafficking, the ease with which traffickers can move and operate, and until recently, little historical experience by law enforcement and prosecutors in cases of human trafficking. However, Florida is the third most popular American destination for human traffickers, with immigrants and non-English speaking persons especially vulnerable as victims.[18,19]

The CAHR has found that Asian massage parlors are often used to disguise sex trafficking. Women are trafficked in from Korea, Vietnam, Thailand, or China using tourist visas. The women are then forced to work off their debt of being smuggled in, which is typically $50,000 to $100,000.[20] Officials in Florida have discovered a very pronounced pattern of "moving targets" with some massage establishments operating a "taxi service," transporting women to other

[16] Florida Department of Children and Families, *Statewide Human Trafficking Task Force Implementation Report*, available at http://www.dcf.state.fl.us/initiatives/humantrafficking/docs/2011ImplementationPlan.pdf (Last visited on September 22, 2011).
[17] Florida State University, Center for the Advancement of Human Rights, *Resource Directory of Florida Organizations that Assist Human Trafficking Survivors*, available at http://www.cahr.fsu.edu/sub_category/resourcedirectory.pdf (Last visited on September 22, 2011).
[18] Terry S. Coonan, *Human Rights in the Sunshine State: A proposed Florida Law on Human Trafficking*, 31 FLA. ST. U. L. REV. 289 (Winter 2004).
[19] *Supra* fn. 16.
[20] Email received from Terry Coonan, Executive Director of the FSU Center for the Advancement of Human Rights (CAHR), on February 1, 2011. A copy of the email is on file with the Senate Health Regulation Committee.

massage establishments throughout the country as often as every 7 to 14 days.[21] Massage establishments engaged in trafficking will also often close and re-open frequently to avoid having to hold trafficked women in a single location.[22]

Currently in Florida, all law enforcement recruits receive mandatory training in recognizing and investigating human trafficking cases. Also, the U.S. Justice Department currently operates human trafficking task forces in Miami, Homestead, Naples, Fort Myers, and Tampa-Clearwater.[23]

Florida Laws on Human Trafficking, Sex Trafficking, and Prostitution

"Human trafficking" is defined under s. 787.06(2)(c), F.S., to mean transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

Section 787.06(3), F.S., provides that it is a second-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 15 years, maximum fine of $10,000, or penalties applicable for a habitual offender) for any person to knowingly:

- Engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
- Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

"Sex trafficking" is regulated under ch. 796, F.S., relating to prostitution. Section 796.045, F.S., provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second-degree felony. A person commits a first-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 30 years, maximum fine of $10,000, or penalties applicable for a habitual offender) if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.

Section 796.07, F.S., makes it unlawful to, among other things, own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution. A person who commits this offense is guilty of:

- A misdemeanor of the second-degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days and maximum fine of $500);

[21] Terry Coonan, CAHR, *Rationale for the Proposed Revisions*. Document on file with the Senate Health Regulation Committee.
[22] *Supra* fn. 20.
[23] United States Department of Justice, *BJA/OVC Human Trafficking Task Forces*, available at http://www.ojp.usdoj.gov/BJA/grant/40HTTF.pdf (Last visited on October 25, 2011).

- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year and maximum fine of $1,000); or
- A felony of the third degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years and maximum fine of $5,000, or penalties applicable for a habitual offender).

"Prostitution" is defined under s. 796.07, F.S., to mean the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. "Lewdness" means any indecent or obscene act, and "assignation" means the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

Florida Regulation of Massage Therapists and Massage Establishments

Massage therapists and massage establishments in Florida are regulated by the Board of Massage Therapy (the board) in the DOH under the Massage Practice Act, ch. 480, F.S., and Chapter 64B7, F.A.C. A person must be licensed as a massage therapist to practice massage for compensation, unless otherwise specifically exempted under the Massage Practice Act.[24] In order to be licensed as a massage therapist, an applicant must:

- Be at least 18 years old or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a board-approved massage school or apprenticeship program; and
- Pass an examination,[25] which is currently offered in English and in Spanish.[26]

Licensed massage therapists may practice in a licensed massage establishment, at a client's residence or office, or at a sports event, convention, or trade show.[27] Sexual misconduct in the practice of massage therapy is defined as violation of the massage therapist-patient relationship through which the massage therapist attempts to seduce the patient or engage him or her in sexual activity outside the scope of generally accepted examination or treatment. Any sexual misconduct is strictly prohibited.[28]

A person may be approved by the board to become an apprentice to study massage under the instruction of a licensed massage therapist if the person meets the qualifications stated in Rule 64B7-29.002, F.A.C. To qualify for an apprenticeship, the applicant must be sponsored by a licensed massage therapist, complete a DOH application, pay a $100 fee, and must not be enrolled simultaneously as a student in a board-approved massage school.[29]

[24] Section 480.047(1)(a), F.S. *See also* s. 480.033(4), F.S.
[25] Section 480.042, F.S.
[26] Rule 64B7-25.001(3), F.A.C.
[27] Section 480.046(1)(n), F.S.
[28] Section 480.0485, F.S. *See also* Rule 64B7-26.010, F.A.C.
[29] *See* Rule 64B7-27.005, for the apprentice fee amount.

Section 480.43, F.S., provides that a massage establishment license is required at any facility where massage therapy services are offered by a licensed massage therapist and directs the board to adopt application criteria. It also provides that massage establishment licenses may not be transferred to a new owner, but they may be transferred to a new location if the new location is inspected and approved by the board and an application and inspection fee is paid. A license may be transferred from one business name to another if approved by the board and if an application fee has been paid.

The board's rules include requirements concerning insurance, compliance with building codes, safety and sanitation, and the on-site presence of a licensed massage therapist any time a client is receiving massage services.[30] Upon receiving an application, the DOH inspects the establishment to ensure it meets the licensure requirements.[31] Once licensed, the DOH inspects the establishment at least annually.[32]

An application for a massage establishment license may be denied if an applicant has been convicted of crimes related to the practice of massage. Applications must be denied for convictions of enumerated crimes within 15 years of application[33] and for past sexual misconduct.[34]

It is a misdemeanor of the first degree to operate an unlicensed massage establishment.[35] Currently, upon receiving a complaint that unlicensed activity is occurring, the DOH's Medical Quality Assurance inspectors coordinate with local law enforcement. Unlicensed practice of massage therapy is punishable as a third-degree felony.[36] The DOH may issue cease and desist notices, enforceable by filing for an injunction or writ of mandamus, and seek civil penalties against the unlicensed party in circuit court.[37] The DOH may also impose, by citation, an administrative penalty up to $5,000. While the DOH has investigative authority, it does not have arrest authority or sworn law enforcement personnel.

I-551 Permanent Residence Card, Employment Authorization Document

The U.S. Citizen and Immigration Service (USCIS) within the Department of Homeland Security (DHS) is the federal department responsible for granting lawful permanent residence.[38] A permanent resident is someone who has been granted authorization to live and work in the U.S. on a permanent basis. As proof of that status, a person is granted a Permanent Resident Card or Alien Registration Receipt Card. A Permanent Resident Card is officially called "Form I-551" and commonly called a "green card."[39]

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[30] Rule 64B7-26.003, F.A.C.
[31] Rule 64B7-26.004, F.A.C.
[32] Rule 64B7-26.005, F.A.C.
[33] Section 456.0635, F.S.
[34] Section 456.063, F.S.
[35] Section 480.047, F.S.
[36] Section 456.065, F.S.
[37] *Id.*
[38] U.S. Immigration Support, *USCIS*, available at http://www.usimmigrationsupport.org/uscis.html (Last visited on September 22, 2011).
[39] U.S. Immigration Support, *Form I-551 (Green Card)*, available at http://www.usimmigrationsupport.org/form-i-551-greencard.html (Last visited on September 22, 2011).

Individuals who are temporarily in the U.S. and eligible[40] for employment authorization may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD).[41] An EAD card, commonly called a "work permit," provides its holder the legal right to work in the U.S.

III. Effect of Proposed Changes:

Section 1 creates s. 480.0535, F.S., to require a person who operates a massage establishment pursuant to s. 480.043, F.S., to maintain valid work authorization documents on the premises for *each* employee who is not a U.S. citizen and to present to a law enforcement officer, upon request, the work authorization documents for each employee who is not a U.S. citizen. Valid work authorization documents include:

- A valid I-551 permanent residence card; or
- A valid government-issued employment authorization document.

The bill prohibits a person operating a massage establishment from knowingly using a massage establishment licensed pursuant to s. 480.043, F.S., including any location, structure, trailer, conveyance or any other part thereof, for the purpose of lewdness, assignation, or prostitution.

The bill provides a cross-reference to s. 796.07, F.S., to define the terms lewdness, assignation, and prostitution.

A person who violates any provisions of the bill commits:

- A misdemeanor of the second degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days and maximum fine of $500);
- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year and maximum fine of $1,000); or
- A felony of the third-degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years and maximum fine of $5,000, or penalties applicable for a habitual offender).

Section 2 provides an effective date of October 1, 2012.

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[40] Employment authorization eligibility is codified in Federal Regulations at 8 C.F.R. §274a.12, available at http://law.justia.com/us/cfr/title08/8-1.0.1.2.54.2.1.1.html (Last visited on September 22, 2011).
[41] U.S. Citizen and Immigration Service, *I-765, Application for Employment Authorization*, available at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=73ddd59cb7a5d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD (Last visited on September 22, 2011).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Operators or owners of massage establishments may incur nominal administrative costs to comply with the requirements set forth in the bill. The provisions of the bill might prevent or deter human trafficking in massage establishments.

C. Government Sector Impact:

The Criminal Justice Impact Conference considered this bill during its meeting on December 14, 2011. If the bill passes it is expected to have an insignificant fiscal impact and an insignificant effect on the prison population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill designates a new felony of the third degree for individuals who thrice violate the bill's prohibition on using a licensed massage establishment for purposes of lewdness, assignation, or prostitution. The bill does not list this new offense in the Offense Severity Ranking Chart under s. 921.0022, F.S.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Joyner

18-00037-12 201280__

A bill to be entitled

An act relating to human trafficking; creating s. 480.0535, F.S.; requiring operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen; requiring presentation of such documents upon request of a law enforcement officer; prohibiting the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution; providing criminal penalties; providing an effective date.

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

Section 1. Section 480.0535, Florida Statutes, is created to read:

480.0535 Documents required while offering or providing massage services.—

(1) In order to provide law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking as defined in s. 787.06:

(a) A person operating a massage establishment pursuant to s. 480.043 shall maintain, and it is unlawful to operate a massage establishment without, a valid work authorization document on the premises for each employee who is not a United States citizen. Valid work authorization documents for an employee who is not a United States citizen include:

1. A valid I-551 permanent resident card; or

2. A valid government-issued employment authorization

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

18-00037-12 201280__

document.

(b) Upon request by a law enforcement officer, any person operating a massage establishment must present one of the documents specified in paragraph (a) for each employee who is not a United States citizen.

(2) A person operating a massage establishment may not knowingly use a license for operation of a massage establishment issued under s. 480.043 for the purpose of lewdness, assignation, or prostitution, as these terms are defined in s. 796.07, at any massage establishment location or structure, or any part thereof, including any trailer or other conveyance.

(3) A person who violates any provision of this section commits:

(a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

(c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2012.

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)

2/21/12
Meeting Date

Topic: Human Traffic

Bill Number: SB 80 *(if applicable)*

Name: Mindy Haas

Amendment Barcode: *(if applicable)*

Job Title: Vice president - Florida PTA

Address: 1747 orlando Central parkway
Street

Orlando FL
City *State* *Zip*

Phone: 800-373-5782

E-mail: RegionCouncils@FloridaPTA.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida PTA

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER
Democratic Leader Pro Tempore
18th District

COMMITTEES:
Budget - Subcommittee on Criminal and Civil Justice Appropriations, *Vice Chair*
Judiciary, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Rules - Subcommittee on Ethics and Elections
Reapportionment
Transportation

SELECT COMMITTEE:
Protecting Florida's Children, *Vice Chair*

JOINT COMMITTEE:
Legislative Auditing Committee

January 12, 2012

Senator J. D. Alexander, Chair
Senate Committee on Budget
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

This is to request that Senate Bill 80 related to Human Trafficking be placed on the agenda for the Committee on Budget. Your consideration of this request is greatly appreciated.

Sincerely,

Arthenia L. Joyner

ALJ/rr

SENATE RECEIVED
12 JAN 12 AM 10:50
STAFF DIR. ___ STAFF ___

REPLY TO:
☐ 508 W Dr. Martin Luther King Jr. Blvd, Suite C, Tampa, Florida 33603-3415 (813) 233-4277
☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5059

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER
Democratic Leader Pro Tempore
18th District

COMMITTEES:
Budget - Subcommittee on Criminal and Civil Justice Appropriations, *Vice Chair*
Judiciary, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Rules - Subcommittee on Ethics and Elections
Reapportionment
Transportation

SELECT COMMITTEE:
Protecting Florida's Children, *Vice Chair*

JOINT COMMITTEE:
Legislative Auditing Committee

January 24, 2012

Senator J. D. Alexander, Chair
Senate Committee on Budget
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

This is to request that Senate Bill 80 related to Human Trafficking be placed on the agenda for the Committee on Budget. Your consideration of this request is greatly appreciated.

Sincerely,

Arthenia L. Joyner

ALJ/rr

1/24 JM

REPLY TO:
☐ 508 W Dr. Martin Luther King Jr. Blvd, Suite C, Tampa, Florida 33603-3415 (813) 233-4277
☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5059

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/CS/SB 182

INTRODUCER: Budget Subcommittee on General Government Appropriations; Community Affairs Committee; Senator Garcia and others

SUBJECT: Miami-Dade County Lake Belt Mitigation Plan

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	**Fav/CS**
2.	Uchino	Yeatman	EP	**Fav**
3.	Pigott	DeLoach	BGA	**Fav/CS**
4.	Pigott	Rhodes	BC	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill transfers, for a limited time, the proceeds of the Lake Belt water treatment upgrade fee from Miami-Dade County to the South Florida Water Management District to pay for seepage mitigation projects.

This bill substantially amends section 373.41492 of the Florida Statutes.

II. Present Situation:

Mitigation for Mining Activities Within the Miami-Dade County Lake Belt

The Miami-Dade County Lake Belt Area encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area. The wetlands and lakes of the Lake Belt offer the potential to buffer the Everglades from the potentially adverse impacts

of urban development.[1] The Northwest Wellfield, located at the eastern edge of the Lake Belt, is the largest drinking water wellfield in Florida and supplies approximately 40 percent of the potable water for Miami-Dade County.

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. Aggregate materials are located in various natural deposits around the state. Geologic conditions and other issues affect decisions in mine planning. These issues include the quality of the rock, thickness of overburden, water table levels, and sinkhole conditions. Rock mined from the Lake Belt supplies one half of the limestone used annually in Florida. Approximately 50 percent of the land within the Lake Belt Area is owned by the mining industry, 25 percent is owned by government agencies, and the remaining 25 percent is owned by non-mining private landowners.[2]

The Florida Legislature recognized the importance of the Lake Belt Area to the citizens of Florida and mandated that a plan be prepared to address a number of concerns critical to the state in s. 373.4139, F.S. The Legislature established the Lake Belt Committee and assigned it the task of developing a long-term plan for the Lake Belt Area. Through a cooperative process involving government agencies, mining interests, non-mining interests, and environmental groups, the Lake Belt Committee completed the Miami-Dade County Lake Belt Plan.

Limestone operations in the Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan, the Lake Belt limestone companies pay a special mitigation fee to acquire, restore and preserve environmentally sensitive lands and fund other important environmental projects. The fee is collected from the mining industry by the Department of Revenue and transferred to the District's Lake Belt Mitigation Trust Fund. The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton. According to the Department of Environmental Protection (department), this fee was established to address the concern that the expansion of mining may cause the wellfield to be designated as "under the influence of surface water," which would mandate upgraded treatment. To date, this designation has not been made by the department, and water quality sampling and studies conducted indicate that such a designation is unlikely.[3] Limestone operations in the Lake Belt require water quality certification from the state and a dredge and fill permit from the U.S. Army Corps of Engineers.

In 2008, Miami-Dade County retained an engineering consultant to plan and design the needed water treatment facilities. The consultant determined that previous estimates for such facilities failed to account for upgrades that would be needed to existing water plant facilities such that constructing the needed facilities would not be practical at the existing water plant site. The minimum design and construction cost for facilities that will meet the current surface water treatment costs is approximately $350 million. Future bond funding, in addition to the rock mining fees, is identified in the county's capital plan for this project. As of June 30, 2011, Miami-Dade County has received approximately $17.1 million in rock mining fees. About $11.2

[1] SOUTH FLORIDA WATER MANAGEMENT DISTRICT, MIAMI DADE, http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center (last visited Sept. 23, 2011).
[2] *Id.*
[3] Department of Environmental Protection, Draft Bill Analysis for SB 514 (2011), on record with the Senate Committee on Community Affairs.

million has been spent on planning and design, and about $6.3 million remains, of which $3 million is committed to the current design contract.[4]

Two seepage control projects are identified in the recent Environmental Impact Statement for mining in the Lake Belt. One is required by the recent state and federal mining permits and the other, while not required, is an important wetland enhancement project for Everglades National Park.

A new one-mile long bridge is under construction that will allow a broad flow section into the Park in an area that has not seen comparable sheet flow since the trail was constructed almost 100 years ago. Unless the groundwater seepage from the Park is controlled, releasing additional flow to the Park will not be possible, and the benefits of the bridge will not be realized.

The Environmental Protection Agency's (EPA) Long Term 2 Enhanced Surface Water Treatment Rule

EPA has developed the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule) to improve drinking water quality and provide additional protection from disease-causing microorganisms and contaminants that can form during drinking water treatment. The purpose of the LT2 rule is to reduce disease incidence associated with *Cryptosporidium* and other pathogenic microorganisms in drinking water.[5] The rule applies to all public water systems that use surface water or ground water that is under the direct influence of surface water. The rule bolsters existing regulations:

- Targeting additional *Cryptosporidium* treatment requirements to higher risk systems;
- Requiring provisions to reduce risks from uncovered finished water storage facilities; and
- Providing provisions to ensure that systems maintain microbial protection as they take steps to reduce the formation of disinfection byproducts.

This combination of steps, together with the existing regulations, is designed to provide protection from microbial pathogens while simultaneously minimizing health risks to the population from disinfection byproducts. "Bin classifications" indicate the concentration of pathogens in the water sample.[6]

III. Effect of Proposed Changes:

Section 1 amends s. 373.41492, F.S., to allow the mitigation fees for limerock mining to be applied to seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. This would be an explicit authorization to use the funds for more than just upgrading water treatment plants.

---

[4] Email from Miami Dade Water and Sewer Department, on file with the Senate Committee on Community Affairs.
[5] U.S. ENVIRONMENTAL PROTECTION AGENCY, WATER: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE, http://water.epa.gov/lawsregs/rulesregs/sdwa/lt2/basicinformation.cfm (last visited Sept. 26, 2011).
[6] 40 CFR § 141.710; U.S. ENVIRONMENTAL PROTECTION AGENCY, SOURCE WATER MONITORING GUIDANCE MANUAL FOR PUBLIC WATER SYSTEMS, 49 (Feb. 2006) *available at* http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_swmonitoringguidance.pdf.

The bill clarifies existing law that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund until:

- $20 million is placed in the trust fund, or
- pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

Once either of these qualifications is triggered, the proceeds would again be directed toward a water treatment plant that treats water coming from the Northwest Wellfield. The bill changes the allowed uses of the mitigation fee to require approval by the Miami-Dade County Lake Belt Mitigation Committee rather than simply requiring them to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill allows modifications of the hydrology in the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Proceeds from the Lake Belt Mitigation Trust Fund shall be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Proceeds from a trust fund established by Miami-Dade County shall be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield.

Section 2 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See government sector impact section.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill temporarily diverts rock mining fees away from Miami-Dade County, which were intended to be used to upgrade a water treatment plant, to South Florida Water Management District to be used for seepage mitigation projects. Even though the diversion is for a limited time, it may adversely impact Miami-Dade County's ability to design and construct the additional treatment facilities needed to protect the drinking water supply in the area. Miami-Dade is concerned that if contamination occurs and no filtration is available, the drinking water for one million people will be unsafe to drink for at least 18 months and up to three years while the facility is constructed.

The water treatment plant upgrade fee currently imposed is 15 cents per ton of extracted limerock and sand. This fee has been collected since January 1, 2007. According to the Department of Revenue, approximately $17.1 million has been transferred to Miami-Dade County as of June 30, 2011.

Upon becoming law the South Florida WMD will receive the proceeds of the fee to deposit into the appropriate trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Budget Subcommittee on General Government Appropriations on November 15, 2011:

The CS clarifies that the mitigation fee imposed for each ton of limerock and sand sold shall be 45 cents per ton beginning close of business December 31, 2011.

CS by Community Affairs on October 4, 2011:
The CS is largely the same as the original bill, except:

- The CS changes the allowed uses of the mitigation fee to require approval by the Miami-Dade County Lake Belt Mitigation Committee rather than simply requiring them to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S.

- The CS allows modifications of the hydrology in the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

B. Amendments:

None.

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

By the Committees on Budget Subcommittee on General Government Appropriations; and Community Affairs; and Senators Garcia, Margolis, Braynon, and Diaz de la Portilla

601-00942-12 2012182c2

A bill to be entitled

An act relating to the Miami-Dade County Lake Belt Mitigation Plan; amending s. 373.41492, F.S.; deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds for seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee; clarifying the authorized uses for the proceeds from the water treatment plant upgrade fee; providing an effective date.

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

Section 1. Subsections (1), (2), (3), and (6) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.—

(1) The Legislature finds that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade County Lake <u>Belt</u> Plan adopted by s. 373.4149(1) can best be

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

601-00942-12 2012182c2

offset by the implementation of a comprehensive mitigation plan ~~as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee~~. The Lake Belt Mitigation Plan consists of those provisions contained in subsections (2)-(9). The per-ton mitigation fee assessed on limestone sold from the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East, shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. It is the intent of the Legislature that the per-ton mitigation fee ~~shall~~ not be a revenue source for purposes other than enumerated <u>in this section</u> ~~herein~~. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within Miami-Dade County in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the rock mining supported and allowable areas.

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

59 within the Miami-Dade County Lake Belt Area and the east one-
60 half of sections 24 and 25 and all of sections 35 and 36,
61 Township 53 South, Range 39 East. The mitigation fee is imposed
62 for each ton of limerock and sand sold from within the
63 properties where the fee applies in raw, processed, or
64 manufactured form, including, but not limited to, sized
65 aggregate, asphalt, cement, concrete, and other limerock and
66 concrete products. The mitigation fee imposed by this subsection
67 for each ton of limerock and sand sold shall be ~~12 cents per ton~~
68 ~~beginning January 1, 2007; 18 cents per ton beginning January 1,~~
69 ~~2008; 24 cents per ton beginning January 1, 2009; and~~ 45 cents
70 per ton beginning close of business December 31, 2011. To pay
71 for seepage mitigation projects, including groundwater and
72 surface water management structures designed to improve wetland
73 habitat and approved by the Lake Belt Mitigation Committee, and
74 to upgrade a water treatment plant that treats water coming from
75 the Northwest Wellfield in Miami-Dade County, a water treatment
76 plant upgrade fee is imposed within the same Lake Belt Area
77 subject to the mitigation fee and upon the same kind of mined
78 limerock and sand subject to the mitigation fee. The water
79 treatment plant upgrade fee imposed by this subsection for each
80 ton of limerock and sand sold shall be 15 cents per ton
81 ~~beginning on January 1, 2007~~, and the collection of this fee
82 shall cease once the total amount of proceeds collected for this
83 fee reaches the amount of the actual moneys necessary to design
84 and construct the water treatment plant upgrade, as determined
85 in an open, public solicitation process. Any limerock or sand
86 that is used within the mine from which the limerock or sand is
87 extracted is exempt from the fees. The amount of the mitigation

88 fee and the water treatment plant upgrade fee imposed under this
89 section must be stated separately on the invoice provided to the
90 purchaser of the limerock or sand product from the limerock or
91 sand miner, or its subsidiary or affiliate, for which the fee or
92 fees apply. The limerock or sand miner, or its subsidiary or
93 affiliate, who sells the limerock or sand product shall collect
94 the mitigation fee and the water treatment plant upgrade fee and
95 forward the proceeds of the fees to the Department of Revenue on
96 or before the 20th day of the month following the calendar month
97 in which the sale occurs. The proceeds of a fee imposed by this
98 section include all funds collected and received by the
99 Department of Revenue relating to the fee, including interest
100 and penalties on a delinquent fee. The amount deducted for
101 administrative costs may not exceed 3 percent of the total
102 revenues collected under this section and may equal only those
103 administrative costs reasonably attributable to the fee.
104 (3) The mitigation fee and the water treatment plant
105 upgrade fee imposed by this section must be reported to the
106 Department of Revenue. Payment of the mitigation and the water
107 treatment plant upgrade fees must be accompanied by a form
108 prescribed by the Department of Revenue.
109 (a) The proceeds of the mitigation fee, less administrative
110 costs, must be transferred by the Department of Revenue to the
111 South Florida Water Management District and deposited into the
112 Lake Belt Mitigation Trust Fund.
113 (b) Beginning July 1, 2012, the proceeds of the water
114 treatment plant upgrade fee, less administrative costs, must be
115 transferred by the Department of Revenue to the South Florida
116 Water Management District and deposited into the Lake Belt

117 Mitigation Trust Fund until:
118 1. A total of $20 million from the proceeds of the water
119 treatment plant upgrade fee, less administrative costs, is
120 deposited into the Lake Belt Mitigation Trust Fund; or
121 2. The quarterly pathogen sampling conducted as a condition
122 of the permits issued by the department for rock mining
123 activities in the Miami-Dade County Lake Belt Area demonstrates
124 that the water in any quarry lake in the vicinity of the
125 Northwest Wellfield would be classified as being in Bin 2 or
126 higher as defined in the Environmental Protection Agency's Long
127 Term 2 Enhanced Surface Water Treatment Rule.
128 (c) Upon the earliest occurrence of the criterion under
129 subparagraph (b)1. or subparagraph (b)2., the proceeds of the
130 water treatment plant upgrade fee, less administrative costs,
131 must be transferred by the Department of Revenue to a trust fund
132 established by Miami-Dade County, for the sole purpose
133 authorized by paragraph (6)(a). ~~As used in this section, the~~
134 ~~term "proceeds of the fee" means all funds collected and~~
135 ~~received by the Department of Revenue under this section,~~
136 ~~including interest and penalties on delinquent fees. The amount~~
137 ~~deducted for administrative costs may not exceed 3 percent of~~
138 ~~the total revenues collected under this section and may equal~~
139 ~~only those administrative costs reasonably attributable to the~~
140 ~~fees.~~
141 (6)(a) The proceeds of the mitigation fee must be used to
142 conduct mitigation activities that are appropriate to offset the
143 loss of the value and functions of wetlands as a result of
144 mining activities and ~~must~~ be approved ~~used in a manner~~
145 ~~consistent with the recommendations contained in the reports~~

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146 ~~submitted to the Legislature~~ by the Miami-Dade County Lake Belt
147 Mitigation ~~Plan Implementation~~ Committee ~~and adopted under s.~~
148 ~~373.4149~~. Such mitigation may include the purchase, enhancement,
149 restoration, and management of wetlands and uplands in the
150 Everglades watershed, the purchase of mitigation credit from a
151 permitted mitigation bank, and any structural modifications to
152 the existing drainage system to enhance the hydrology of the
153 Miami-Dade County Lake Belt Area or the Everglades watershed.
154 Funds may also be used to reimburse other funding sources,
155 including the Save Our Rivers Land Acquisition Program, the
156 Internal Improvement Trust Fund, the South Florida Water
157 Management District, and Miami-Dade County, for the purchase of
158 lands that were acquired in areas appropriate for mitigation due
159 to rock mining and to reimburse governmental agencies that
160 exchanged land under s. 373.4149 for mitigation due to rock
161 mining. The proceeds of the water treatment plant upgrade fee
162 deposited into the Lake Belt Mitigation Trust Fund shall be used
163 solely to pay for seepage mitigation projects, including
164 groundwater or surface water management structures designed to
165 improve wetland habitat and approved by the Lake Belt Mitigation
166 Committee. The proceeds of the water treatment plant upgrade fee
167 which are transmitted to a trust fund established by Miami-Dade
168 County shall be used to upgrade a water treatment plant that
169 treats water coming from the Northwest Wellfield in Miami-Dade
170 County. As used in this section, the terms "upgrade a water
171 treatment plant" or "treatment plant upgrade" mean ~~means~~ those
172 works necessary to treat or filter a surface water source or
173 supply or both.
174 (b) Expenditures of the mitigation fee must be approved by

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

175 an interagency committee consisting of representatives from each
176 of the following: the Miami-Dade County Department of
177 Environmental Resource Management, the Department of
178 Environmental Protection, the South Florida Water Management
179 District, and the Fish and Wildlife Conservation Commission. In
180 addition, the limerock mining industry shall select a
181 representative to serve as a nonvoting member of the interagency
182 committee. At the discretion of the committee, additional
183 members may be added to represent federal regulatory,
184 environmental, and fish and wildlife agencies.
185 Section 2. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services
Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

November 17, 2011

The Honorable JD Alexander
Chair, Budget
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

This letter should serve as a request to have my bill *SB 182 Miami-Dade County Lake Belt Mitigation Plan* heard at the next possible committee meeting. There is no fiscal impact on the state budget. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García
District 40

RG:dm

CC: Terry Rhodes, Staff Director

SENATE APPROPRIATIONS
11 NOV 17 PM 2:00
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 3814 West 12th Avenue, Hialeah, Florida 33012 (305) 824-5058
☐ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5106

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 188

INTRODUCER: Senator Flores

SUBJECT: Growth Policy

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	**Favorable**
2.	Wiggins	Yeatman	EP	**Favorable**
3.	Smith	Meyer, R.	BTA	**Favorable**
4.	Smith	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

This bill eliminates the Urban Infill and Redevelopment Assistance Grant Program. This program was created by the Legislature in 1999 and has not been funded since fiscal year 2000-2001.

This bill repeals section 163.2523 of the Florida Statutes. This bill amends sections 163.065, 163.2511 and 163.2514 of the Florida Statutes to reflect the above-mentioned repeal.

II. Present Situation:

The Legislature passed the "Growth Policy Act" [1] in 1999, establishing a definition for urban infill and redevelopment areas (UIRAs), authorizing local governments to designate UIRAs and provide economic incentives for them, and setting standards for local governments to follow in designating them. The Act, currently found in ss. 163.2511-163.2523, F.S., has the goal of promoting and sustaining urban cores.[2]

Section 163.2523, F.S., establishes the Urban Infill and Redevelopment Assistance Program, a grant program that includes three types of grants. The largest percentage, sixty percent, is allocated towards fifty-fifty matching grants for implementing urban infill and redevelopment projects. Thirty percent is allocated for planning grants to be used in the development of an urban infill and redevelopment plan. The remaining ten percent is to be used for grants to implement projects which require an expenditure of under $50,000. The local government which receives the grants is specifically allowed to allocate them to special districts and nonprofits.

[1] Chapter 99-378, s. 1, Laws of Fla.
[2] Section 163.2511, F.S.

The program has not been funded since fiscal year 2000-2001 when it was appropriated $2.5 million. The Department of Community Affairs awarded the appropriated funds to 22 local governments.

III. Effect of Proposed Changes:

Section 1 repeals s. 163.2523, F.S. This terminates the Urban Infill and Redevelopment Assistance Grant Program. The repeal of s. 163.2523, F.S., will not affect either the authority of local governments to designate UIRAs or use the economic incentives, such as revenue bonds and tax increment financing, currently available for local governments to use in implementing UIRA plans and projects.[3]

Section 2 amends s. 163.065, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 3 amends s. 163.2511, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 4 amends s. 163.2514, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 5 sets an effective date of July 1, 2012

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[3] Section 163.2520, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Flores

38-00316-12 2012188__

A bill to be entitled

An act relating to growth policy; repealing s. 163.2523, F.S., relating to the Urban Infill and Redevelopment Assistance Grant Program, to terminate the program; amending ss. 163.065, 163.2511, and 163.2514, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

Section 1. Section 163.2523, Florida Statutes, is repealed.

Section 2. Paragraph (a) of subsection (4) of section 163.065, Florida Statutes, is amended to read:

163.065 Miami River Improvement Act.—

(4) PLAN.—The Miami River Commission, working with the City of Miami and Miami-Dade County, shall consider the merits of the following:

(a) Development and adoption of an urban infill and redevelopment plan, under ss. 163.2511-163.2520 ~~163.2511-163.2523~~, which participating state and regional agencies shall review for the purposes of determining consistency with applicable law.

Section 3. Subsection (1) of section 163.2511, Florida Statutes, is amended to read:

163.2511 Urban infill and redevelopment.—

(1) Sections 163.2511-163.2520 ~~163.2511-163.2523~~ may be cited as the "Growth Policy Act."

Section 4. Section 163.2514, Florida Statutes, is amended to read:

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

38-00316-12 2012188__

163.2514 Growth Policy Act; definitions.—As used in ss. 163.2511-163.2520 ~~163.2511-163.2523~~, the term:

(1) "Local government" means any county or municipality.

(2) "Urban infill and redevelopment area" means an area or areas designated by a local government where:

(a) Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements;

(b) The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by s. 290.0058;

(c) The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government;

(d) More than 50 percent of the area is within 1/4 mile of a transit stop, or a sufficient number of transit stops will be made available concurrent with the designation; and

(e) The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.

Section 5. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

SENATE APPROPRIATIONS
11 NOV -2 PM 2:17
SUBCOMMITTEE
STAFF DIR. ____ STAFF ____

November 2, 2011

The Honorable J.D. Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 188, repealing the growth policy of the Urban Infill and Redevelopment Assistance Grant Program, on the next Budget Committee agenda. In the previous committee of reference, Committee on Environmental Preservation and Conservation, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Staff Director, Committee on Budget, 201 The Capitol

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

SENATE APPROPRIATIONS
RECEIVED
12 JAN 24 PM 4: 20
SENT TO: CHAIRMAN
STAFF DIR. ____ STAFF ____

January 23, 2012

The Honorable J.D. Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 188, repealing the growth policy of the Urban Infill and Redevelopment Assistance Grant Program, on the next Budget Committee agenda. In the previous committee of reference, Budget Subcommittee on Transportation, Tourism and Economic Development Appropriations, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Staff Director, Committee on Budget, 201 The Capitol

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Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 192

INTRODUCER: Senator Bennett

SUBJECT: Special Districts

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	BFT	**Fav/CS**
3.	Babin	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This committee substitute ("the bill") significantly amends statutory provisions relating to the dissolution and merger of special districts, both voluntarily and involuntarily.

Dependent Special Districts – This bill provides that a merger or dissolution of a dependent district may be accomplished by ordinance of the general-purpose local government where the district is located, but that mergers or dissolutions of dependent special districts operating pursuant to a special act can only be accomplished by further legislative action.

Independent Special Districts –Dissolutions– This bill provides that for voluntary dissolutions of independent special districts operating pursuant to a special act, the dissolution may be effectuated only by the Legislature. For all other dissolutions of independent special districts operating pursuant to a special act, a special act dissolving the district must be approved by a referendum. The bill provides, however, that if the district meets the requirements for being considered "inactive," no referendum is needed.

Independent Special Districts –Mergers– This bill creates a new procedure that allows two or more contiguous independent special districts with similar functions and governing bodies that were created by special act of the Legislature to voluntarily merge prior to a special act merging them. The bill allows merger proceedings to be initiated either by joint resolution of the governing bodies of each district or by a petition signed by 40 percent or more of the qualified electors in each district. The bill requires independent special districts that are merging to adopt a merger plan that outlines the specific components for the proposed merger which shall be subject to a public hearing and a voter referendum.

The bill states that a voluntary merger under the new procedure preempts any special act to the contrary, but that the procedure does not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district.

The bill also repeals current statutory provisions addressing the merger of independent special fire control districts. In addition, it allows the Department of Economic Opportunity to declare a special district inactive if the district's governing body unanimously adopts a resolution declaring inactivity.

This bill substantially amends sections 189.4042, 191.014, and 189.4044 of the Florida Statutes.

II. Present Situation:

Special Districts

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.[1] A "special district" is a confined local government unit established for a special purpose.[2] A special district can be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.[3] A special district does not include:

- A school district,
- A community college district,
- A special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.),
- A municipal service taxing or benefit unit (MSTU/MSBU), or
- A political subdivision board of a municipality providing electrical service.[4]

Special districts have similar governing powers and restrictions as counties and municipalities.[5] Like other forms of local government, special districts operate through a governing board and can "enter contracts, employ workers . . . issue debt, impose taxes, levy assessments and . . .

[1] Ch. 189, F.S., *see* s. 189.401, F.S.
[2] Section 189.403(1), F.S.
[3] *Id.*
[4] *Id.*
[5] Mizany, Kimia and April Manatt, WHAT'S SO SPECIAL ABOUT SPECIAL DISTRICTS? CITIZENS GUIDE TO SPECIAL DISTRICTS IN CALIFORNIA, 3rd ed., 2 (Feb. 2002).

charge fees for their services."[6] Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.[7]

There are two types of special districts in Florida: dependent special districts and independent special districts. With some exceptions, dependent special districts are districts created by individual counties and municipalities. Dependent special districts must meet at least one of the following classifications:

- The membership of its governing body is identical to the governing body of a single county or municipality.
- All members of its governing body are appointed by the governing body of a single county or municipality.
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or municipality.[8]

An independent special district is a district that does not meet any of the statutory classifications of a dependent special district.[9] Independent special districts may encompass more than one county.[10] The public policy behind special districts is to provide an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."[11]

The Special District Information Program

The Special District Information Program (SDIP), administered by the Division of Community Development in the Department of Economic Opportunity (DEO or Department), is designed to collect, update, and share detailed information on Florida's special districts with state and local agencies.[12] The Department also maintains an official master list of the individual functions and status of all the dependent and independent special districts throughout the state.[13] As of January 2012, there were 1,636 special districts in the state of Florida: 630 dependent districts and 1,006 independent districts.[14] Examples of special districts in Florida include, but are not limited to,

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[6] *Id.* (alteration to original) (citation omitted).
[7] Presentation by Jack Gaskins Jr., from the Division of Community Development in the Department of Economic Opportunity, SPECIAL DISTRICT BASICS PRESENTATION (October 4, 2011) (on file with the Senate Committee on Community Affairs). *See also* ss. 189.417 and 189.418, F.S.
[8] Section 189.403(2)(a)-(d), F.S.
[9] Section 189.403(3), F.S.
[10] *Id.*
[11] Section 189.402(4)(a), F.S.
[12] Florida Department of Economic Opportunity, *Special Districts Information Program* (available online at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program) (last visited on January 19, 2011).
[13] Sections 189.412(2) and 189.4035, F.S. *See also* Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (*available online at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm) (last visited on January 25, 2011).
[14] Florida Department of Economic Opportunity, *Special Districts Information Program* (available online at http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm) (last visited on January 25, 2012).

water management districts, community development districts, housing authority districts, fire control and rescue districts, mosquito control districts, and transportation districts.[15]

Current Merger and Dissolution Procedures

Section 189.4042, F.S., specifies the requirements for the merger or dissolution of a special district. This section provides that the merger or dissolution of a special district "created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law."[16] Florida Statutes currently do not provide statutory guidelines to facilitate the merger of independent special districts prior to a Legislative Act.

An independent special district that is created by a county or municipality can be merged or dissolved by the county or municipality that created the special district pursuant to the same procedures in which the special district was created. "However, for any independent special district that has ad valorem taxation powers, the same procedure required to grant such independent special district ad valorem taxation powers shall also be required to dissolve or merge the district."[17]

An independent special district created by a county or municipality through a referendum that has been declared inactive, may be dissolved by the creating county or municipality after publishing notice pursuant to s. 189.4044, F.S.[18]

Inactive Special Districts

Section 189.4044, F.S., outlines special procedures for inactive special districts. Paragraph (1)(a), of this section requires DEO to declare a special district to be inactive if it meets at least one of the following four criteria:

1) The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;
2) Following an inquiry from the department, the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 2 or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to the department's inquiry within 21 days;
3) The department determines, pursuant to s. 189.421, F.S., that the district has failed to file any of the reports listed in s. 189.419, F.S.; or
4) The district has not had a registered office and agent on file with the department for 1 or more years.[19]

[15] *Id.*
[16] Section 189.4042(2), F.S.
[17] *Id.*
[18] *Id.*
[19] Section 189.4044(1)(a), F.S.

After proposing a special district to be inactive, DEO, the special district, or the local general-purpose government must publish a notice of the proposed declaration of inactive status in a newspaper of general circulation in the county or municipality where the territory of the special district is located.[20] The entity must allow 21 days from the date of publication for administrative appeals to be filed.[21] Thereafter, the entity that created the special district declared to be inactive must dissolve the special district by repealing its enabling laws or by other appropriate means.[22]

If the inactive special district was created by a special act of the Legislature, then DEO must send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate, and the notice must reference each special act creating or amending the charter of any special district declared to be inactive. This notice shall constitute sufficient notice under Article III, section 10, of the Florida Constitution, authorizing the Legislature to repeal any special laws so reported in the notice of declaration of inactive status.[23]

Oversight Review Process

Section 189.428, F.S., provides a process for the review of special districts ("oversight review process"). The oversight review process is performed in conjunction with the special district's public facilities report and the local governmental evaluation and appraisal report prescribed in ss. 189.415(2) and 163.3191, F.S.[24] Depending upon whether the independent special district is a single- or multi-county district, the oversight review may be conducted by the county or municipality where the special district is located, or by the government that created the special district.[25]

During the oversight review process, the reviewing authority evaluates the special district, considering, at a minimum, the following criteria:

- The degree to which current services are essential or contribute to the well-being of the community;
- The extent of continuing need for current services;
- Current or possible municipal annexation or incorporation and its impact on the delivery of district services;
- Whether there is a less costly alternative method of delivering the services that would adequately provide district services to district residents; and
- Whether the transfer of services would jeopardize the district's existing contracts.[26]

The reviewing authority's final oversight report must be filed with the government that created the district, and serves as a basis for any modification, dissolution or merger of the district.[27] If a

[20] Section 189.4044(1)(b), F.S.
[21] Section 189.4044(1)(c), F.S.
[22] Section 189.4044(4), F.S.
[23] Section 189.4044(3), F.S.
[24] Section 189.428(2), F.S.
[25] Section 189.428(3), F.S. Note: dependent special districts are reviewed by the local government entity that they are dependent upon, *see* s. 189.428(3) (a), F.S.
[26] *See* s. 189.428(5) (a)-(i), F.S., for a full list of the statutory criteria that is evaluated during the oversight review process.
[27] Section 189.428(7), F.S.

legislative dissolution or merger is proposed in the final report, subsection (8) of s. 189.428, F.S., further provides that:

> (8) . . . the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:
> a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.
> b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.
> c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.
> d) Whether the proposed merger adequately provides for the assumption of all indebtedness.[28]

The final report must also be considered at a public hearing in the affected jurisdiction and adopted by the governing board.[29] Thereafter, the adopted plan for merger or dissolution can be filed as an attachment to the economic impact statement regarding the proposed special act or general act of local application dissolving a district.[30] The oversight review process does not apply to deepwater ports, airport authorities, or healthcare districts operating in compliance with other master plan requirements under Florida Statutes.[31]

Senate Interim Project, *Interim Report 2011-210*

The Senate Committee on Community Affairs conducted an interim report on the merger of independent special districts in 2010.[32] The purpose of this interim report was to explore potential statutory guidelines for voluntary independent special district mergers and consolidations. The report reviewed current Florida law and existing merger and consolidation laws in three other states and discussed previous merger attempts that have failed in Florida. Senate staff provided criteria for the Legislature to consider should it choose to adopt statutory guidelines that would allow independent special districts formed under special law to voluntarily merge prior to a Legislative Act.

Staff recommended that any adopted statutory criteria should:

- Discuss how mergers can be initiated, i.e. by resolution, voters, etc.;
- State the required statutory thresholds to approve or petition a merger;

[28] Section 189.428(8), F.S.
[29] Section 189.428(8), F.S. (flush language)
[30] *Id.*
[31] Section 189.428(9), F.S. (Discussing deepwater ports operating in compliance with a port master plan under s. 163.3178(2)(k), airport authorities operating in compliance with the Federal Aviation Administration approved master plan, and special districts organized to provide health systems and facilities licensed under chapters 395, 400, and 429, F.S.).
[32] Comm. on Community Affairs, The Florida Senate, *The Merger of Independent Special Districts* (Interim Report 2011-210) (Oct. 2010).

- Require special districts to adopt a merger plan that evaluates how personnel and governing board changes will be made, how assets and liabilities will be apportioned, and how to standardize varying pay levels and benefits;
- Only apply to voluntary special district mergers; and
- Preclude special districts from exceeding the powers granted to them in their existing special acts until a unified charter is adopted by the Legislature.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 189.4042, F.S., to provide definitions, and to reorganize the provisions relating to dissolutions and mergers of special districts.

The bill maintains current law with regard to the merger and dissolution of dependent special districts. The bill provides that a merger or dissolution of a dependent district may be accomplished by ordinance of the general-purpose local government where the district is located, but that mergers or dissolutions of dependent special districts operating pursuant to a special act can only be accomplished by further legislative action.[34]

Currently, s. 189.4042, F.S., provides that the process to merge or dissolve an independent special district depends upon the process used to create the district; districts that were created by special act are merged or dissolved by further legislative action, while districts that were created by a county or municipality are generally merged or dissolved by the same process used to create the district.[35] This bill amends and reorganizes these provisions to distinguish provisions relating to voluntary mergers and dissolutions from the provisions relating to other mergers and dissolutions.

With respect to voluntary dissolutions of independent special districts, the bill retains the current statutory standard providing that an independent special district created and operating pursuant to a special act may be dissolved only by the Legislature.

With respect to other-than-voluntary dissolutions of independent special districts operating pursuant to a special act, the bill provides that a special act dissolving the district must be approved in a referendum in the same manner in which the governing body of the district is elected. For other-than-voluntary dissolutions of independent special districts created by a county or municipality, the county or municipality that created the district may dissolve the district by the same procedure used to create the district.

With respect to voluntary mergers, the bill creates a new subsection (5) in order to:

- Allow two or more contiguous independent special districts with similar functions and governing bodies that were created by the Legislature to voluntarily merge prior to a special act.
- Allow merger proceedings to be initiated either by joint resolution of the governing bodies of each district or by qualified elector initiative.

[33] *Id.*
[34] Section 189.4042(1), F.S.
[35] Section 189.4042(2), F.S.

- Require independent special districts to adopt a merger plan that outlines the specific components for the proposed merger.
- Require the proposed merger plan to be subject to a public hearing and voter referendum, consistent with certain notice requirements under Florida Statutes.
- Provide election procedures and require a proposed merger to be approved by the majority of votes cast in each independent special district in order for merger to take effect.
- Treat each component independent special district of the merger as a subunit of the merged independent special district until such time as the Legislature formally approves the unified charter of the new merged district pursuant to special act.
    - During such time, the individual subunits shall be limited to the powers and financing capabilities of each subunit as they previously existed prior to merger.[36]
- Provide for the transfer of assets, debts and liabilities of each component independent special district to the merged independent special district.
- Provide that in any action or proceeding pending on the effective date of merger to which a component independent special district is a party, the merged independent special district shall be substituted in its place.
- Provide that ch. 171, F.S., shall continue to apply to all annexations by a city within the component independent special district's boundaries after merger occurs. Outline the effect of merger on current employees and governing bodies of each component independent special district participating in the merger proposal.
- Provide that the merged independent special district is authorized to continue or conclude property tax procedures under chapter 200 on behalf of the component districts. Furthermore, the bill provides that all property tax calculations required by chapter 200 must be calculated separately for each component district.
- Provide that the provisions addressing voluntary independent special district mergers do not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district. Provide that the new statutory provisions relating to voluntary mergers of independent special districts preempt any special act to the contrary.

With respect to involuntary mergers of independent special districts, the bill provides that the merger of districts created by special act is not effective until a special act of the Legislature is approved at separate referenda of the affected local governments, and that districts created by county or municipality can be merged by referendum or other procedure by which the districts were created.

The bill provides that inactive districts can be dissolved by special act without referenda, and also makes clarifying amendments to current law.

Section 2 amends s. 191.014, F.S., to delete current subsection (3), which provides specific merger procedures for independent special fire control districts.

[36] Art. VII, section 2 of the Florida Constitution provides that all ad valorem taxation shall be at a uniform rate within each taxing unit. Limiting the powers of subunits to those powers existing prior to a voluntary merger maintains this uniformity.

Section 3 amends s. 189.4044, F.S., to allow DEO to declare a special district inactive if the district's governing body unanimously adopts a resolution declaring inactivity. The district may then be dissolved without a referendum.

Section 4 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As a result of this bill, qualified electors residing in an independent special district that is created by a special act of the Legislature will be permitted to initiate voluntary merger proceedings with one or more independent special district(s) by filing a petition with the governing body of each independent special district proposing to be merged.

C. Government Sector Impact:

As a result of this bill, the governing body of an independent special district that is created by a special act of the Legislature will be authorized to initiate voluntary merger proceedings with one or more independent special district(s) through a joint resolution that is approved by a majority of the governing board members of each independent special district proposing to be merged.

This bill may affect how districts are reported under the Special District Information Program within DEO.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Budget Subcommittee on Finance and Tax on February 1, 2012:

- Provides that after a merger, the merged independent special district may continue chapter 200 procedures on behalf of the component districts and that property tax calculations under chapter 200 are to be made separately for each component district.
- Clarifies the provisions of the bill dealing with procedures for other-than-voluntary dissolutions and mergers.

B. Amendments:

None.

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

By the Committee on Budget Subcommittee on Finance and Tax; and Senator Bennett

593-02757-12 2012192c1

A bill to be entitled

An act relating to special districts; amending s. 189.4042, F.S.; revising provisions relating to merger and dissolution procedures for special districts; providing definitions; requiring the merger or dissolution of dependent special districts created by a special act to be effectuated by the Legislature; providing for the merger or dissolution of inactive special districts by special act without referenda; providing dissolution procedures for active independent special districts by special acts and referenda; providing for the dissolution of inactive independent special districts by special act; providing for local governments to assume indebtedness of, and receive title to property owned by, special districts under certain circumstances; providing for the merger of certain independent special districts by the Legislature; providing procedures and requirements for the voluntary merger of contiguous independent special districts; limiting the authority of the merged district to levy and collect revenue until a unified charter is approved by the Legislature; providing for the effect of the merger on employees, legal liabilities, obligations, proceedings, and annexation; providing for the determination of certain rights by the governing body of the merged district; providing that such provisions preempt certain special acts; providing procedures and requirements for the involuntary merger of independent special districts;

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

593-02757-12 2012192c1

providing exemptions from merger and dissolution procedures; amending s. 191.014, F.S.; deleting a provision relating to the conditions under which the merger of independent special districts or dependent fire control districts with other special districts is effective and the conditions under which a merged district is authorized to increase ad valorem taxes; amending s. 189.4044, F.S.; revising criteria by which special districts are declared inactive by a governing body; authorizing such districts to be dissolved without a referendum; providing an effective date.

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

Section 1. Section 189.4042, Florida Statutes, is amended to read:

189.4042 Merger and dissolution procedures.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Component independent special district" means an independent special district that proposes to be merged into a merged independent district, or an independent special district as it existed before its merger into the merged independent district of which it is now a part.

(b) "Elector-initiated merger plan" means the merger plan of two or more independent special districts, a majority of whose qualified electors have elected to merge, which outlines the terms and agreements for the official merger of the districts and is finalized and approved by the governing bodies of the districts pursuant to this section.

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

59 (c) "Governing body" means the governing body of the
60 independent special district in which the general legislative,
61 governmental, or public powers of the district are vested and by
62 authority of which the official business of the district is
63 conducted.
64 (d) "Initiative" means the filing of a petition containing
65 a proposal for a referendum to be placed on the ballot for
66 election.
67 (e) "Joint merger plan" means the merger plan that is
68 adopted by resolution of the governing bodies of two or more
69 independent special districts that outlines the terms and
70 agreements for the official merger of the districts and that is
71 finalized and approved by the governing bodies pursuant to this
72 section.
73 (f) "Merged independent district" means a single
74 independent special district that results from a successful
75 merger of two or more independent special districts pursuant to
76 this section.
77 (g) "Merger" means the combination of two or more
78 contiguous independent special districts resulting in a newly
79 created merged independent district that assumes jurisdiction
80 over all of the component independent special districts.
81 (h) "Merger plan" means a written document that contains
82 the terms, agreements, and information regarding the merger of
83 two or more independent special districts.
84 (i) "Proposed elector-initiated merger plan" means a
85 written document that contains the terms and information
86 regarding the merger of two or more independent special
87 districts and that accompanies the petition initiated by the

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

88 qualified electors of the districts but that is not yet
89 finalized and approved by the governing bodies of each component
90 independent special district pursuant to this section.
91 (j) "Proposed joint merger plan" means a written document
92 that contains the terms and information regarding the merger of
93 two or more independent special districts and that has been
94 prepared pursuant to a resolution of the governing bodies of the
95 districts but that is not yet finalized and approved by the
96 governing bodies of each component independent special district
97 pursuant to this section.
98 (k) "Qualified elector" means an individual at least 18
99 years of age who is a citizen of the United States, a permanent
100 resident of this state, and a resident of the district who
101 registers with the supervisor of elections of a county within
102 which the district lands are located when the registration books
103 are open.
104 (2) ~~(1)~~ MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL
105 DISTRICT.—
106 (a) The merger or dissolution of a dependent special
107 district ~~districts~~ may be effectuated by an ordinance of the
108 general-purpose local governmental entity wherein the
109 geographical area of the district or districts is located.
110 However, a county may not dissolve a special district that is
111 dependent to a municipality or vice versa, or a dependent
112 district created by special act.
113 (b) The merger or dissolution of a dependent special
114 district created and operating pursuant to a special act may be
115 effectuated only by further act of the Legislature unless
116 otherwise provided by general law.

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117 (c) A dependent special district that meets any criteria
118 for being declared inactive, or that has already been declared
119 inactive, pursuant to s. 189.4044 may be dissolved or merged by
120 special act without a referendum.
121 (d) ~~(b)~~ A copy of any ordinance and of any changes to a
122 charter affecting the status or boundaries of one or more
123 special districts shall be filed with the Special District
124 Information Program within 30 days after ~~of~~ such activity.
125 (3) ~~(2)~~ DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.—
126 (a) *Voluntary dissolution.*—If the governing board of an
127 independent special district created and operating pursuant to a
128 special act elects, by a majority vote plus one, to dissolve the
129 district, the voluntary ~~merger or~~ dissolution of an independent
130 special district ~~or a dependent district~~ created and operating
131 pursuant to a special act may ~~only~~ be effectuated only by the
132 Legislature unless otherwise provided by general law.
133 (b) *Other dissolutions.*—
134 1. In order for the Legislature to dissolve an active
135 independent special district created and operating pursuant to a
136 special act, the special act dissolving the active independent
137 special district must be approved by a majority of the resident
138 electors of the district or, for districts in which a majority
139 of governing board members are elected by landowners, a majority
140 of the landowners voting in the same manner by which the
141 independent special district's governing body is elected. If a
142 local general-purpose government passes an ordinance or
143 resolution in support of the dissolution, the local general-
144 purpose government must pay any expenses associated with the
145 referendum required under this subparagraph.

146 2. If an independent special district was created by a
147 county or municipality by referendum or any other procedure, the
148 county or municipality that created the district may dissolve
149 the district pursuant to a referendum or any other procedure by
150 which the independent special district was created. However, if
151 the independent special district has ad valorem taxation powers,
152 the same procedure required to grant the independent special
153 district ad valorem taxation powers is required to dissolve the
154 district.
155 (c) *Inactive independent special districts.*—An independent
156 special district that meets any criteria for being declared
157 inactive, or that has already been declared inactive, pursuant
158 to s. 189.4044 may be dissolved by special act without a
159 referendum. If an inactive independent special district was
160 created by a county or municipality through a referendum, the
161 county or municipality that created the district may dissolve
162 the district after publishing notice as described in s.
163 189.4044. ~~If an independent district was created by a county or~~
164 ~~municipality by referendum or any other procedure, the county or~~
165 ~~municipality that created the district may merge or dissolve the~~
166 ~~district pursuant to the same procedure by which the independent~~
167 ~~district was created. However, for any independent district that~~
168 ~~has ad valorem taxation powers, the same procedure required to~~
169 ~~grant such independent district ad valorem taxation powers shall~~
170 ~~also be required to dissolve or merge the district.~~
171 (d) *Debts and assets.*—Financial allocations of the assets
172 and indebtedness of a dissolved independent special district
173 shall be pursuant to s. 189.4045.
174 (4) LEGISLATIVE MERGER OF INDEPENDENT SPECIAL DISTRICTS.—

175 The Legislature, by special act, may merge independent special
176 districts created and operating pursuant to special act.
177 (5) VOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—Two
178 or more contiguous independent special districts created by
179 special act which have similar functions and elected governing
180 bodies may elect to merge into a single independent district
181 through the act of merging the component independent special
182 districts.
183 (a) *Initiation*.—Merger proceedings may commence by:
184 1. A joint resolution of the governing bodies of each
185 independent special district which endorses a proposed joint
186 merger plan; or
187 2. A qualified elector initiative.
188 (b) *Joint merger plan by resolution*.—The governing bodies
189 of two or more contiguous independent special districts may, by
190 joint resolution, endorse a proposed joint merger plan to
191 commence proceedings to merge the districts pursuant to this
192 subsection.
193 1. The proposed joint merger plan must specify:
194 a. The name of each component independent special district
195 to be merged;
196 b. The name of the proposed merged independent district;
197 c. The rights, duties, and obligations of the proposed
198 merged independent district;
199 d. The territorial boundaries of the proposed merged
200 independent district;
201 e. The governmental organization of the proposed merged
202 independent district insofar as it concerns elected and
203 appointed officials and public employees, along with a

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204 transitional plan and schedule for elections and appointments of
205 officials;
206 f. A fiscal estimate of the potential cost or savings as a
207 result of the merger;
208 g. Each component independent special district's assets,
209 including, but not limited to, real and personal property, and
210 the current value thereof;
211 h. Each component independent special district's
212 liabilities and indebtedness, bonded and otherwise, and the
213 current value thereof;
214 i. Terms for the assumption and disposition of existing
215 assets, liabilities, and indebtedness of each component
216 independent special district jointly, separately, or in defined
217 proportions;
218 j. Terms for the common administration and uniform
219 enforcement of existing laws within the proposed merged
220 independent district;
221 k. The times and places for public hearings on the proposed
222 joint merger plan;
223 l. The times and places for a referendum in each component
224 independent special district on the proposed joint merger plan,
225 along with the referendum language to be presented for approval;
226 and
227 m. The effective date of the proposed merger.
228 2. The resolution endorsing the proposed joint merger plan
229 must be approved by a majority vote of the governing bodies of
230 each component independent special district and adopted at least
231 60 business days before any general or special election on the
232 proposed joint merger plan.

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233 3. Within 5 business days after the governing bodies
234 approve the resolution endorsing the proposed joint merger plan,
235 the governing bodies must:
236 a. Cause a copy of the proposed joint merger plan, along
237 with a descriptive summary of the plan, to be displayed and be
238 readily accessible to the public for inspection in at least
239 three public places within the territorial limits of each
240 component independent special district, unless a component
241 independent special district has fewer than three public places,
242 in which case the plan must be accessible for inspection in all
243 public places within the component independent special district;
244 b. If applicable, cause the proposed joint merger plan,
245 along with a descriptive summary of the plan and a reference to
246 the public places within each component independent special
247 district where a copy of the merger plan may be examined, to be
248 displayed on a website maintained by each district or on a
249 website maintained by the county or municipality in which the
250 districts are located; and
251 c. Arrange for a descriptive summary of the proposed joint
252 merger plan, and a reference to the public places within the
253 district where a copy may be examined, to be published in a
254 newspaper of general circulation within the component
255 independent special districts at least once each week for 4
256 successive weeks.
257 4. The governing body of each component independent special
258 district shall set a time and place for one or more public
259 hearings on the proposed joint merger plan. Each public hearing
260 shall be held on a weekday at least 7 business days after the
261 day the first advertisement is published on the proposed joint

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262 merger plan. The hearing or hearings may be held jointly or
263 separately by the governing bodies of the component independent
264 special districts. Any interested person residing in the
265 respective district shall be given a reasonable opportunity to
266 be heard on any aspect of the proposed merger at the public
267 hearing.
268 a. Notice of the public hearing addressing the resolution
269 for the proposed joint merger plan must be published pursuant to
270 the notice requirements in s. 189.417 and must provide a
271 descriptive summary of the proposed joint merger plan and a
272 reference to the public places within the component independent
273 special districts where a copy of the plan may be examined.
274 b. After the final public hearing, the governing bodies of
275 each component independent special district may amend the
276 proposed joint merger plan if the amended version complies with
277 the notice and public hearing requirements provided in this
278 subsection. Thereafter, the governing bodies may approve a final
279 version of the joint merger plan or decline to proceed further
280 with the merger. Approval by the governing bodies of the final
281 version of the joint merger plan must occur within 60 business
282 days after the final hearing.
283 5. After the final public hearing, the governing bodies
284 shall notify the supervisors of elections of the applicable
285 counties in which district lands are located of the adoption of
286 the resolution by each governing body. The supervisors of
287 elections shall schedule a separate referendum for each
288 component independent special district. The referenda may be
289 held in each district on the same day, or on different days, but
290 no more than 20 days apart.

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291 a. Notice of a referendum on the merger of independent
292 special districts must be provided pursuant to the notice
293 requirements in s. 100.342. At a minimum, the notice must
294 include:
295 (I) A brief summary of the resolution and joint merger
296 plan;
297 (II) A statement as to where a copy of the resolution and
298 joint merger plan may be examined;
299 (III) The names of the component independent special
300 districts to be merged and a description of their territory;
301 (IV) The times and places at which the referendum will be
302 held; and
303 (V) Such other matters as may be necessary to call, provide
304 for, and give notice of the referendum and to provide for the
305 conduct thereof and the canvass of the returns.
306 b. The referenda must be held in accordance with the
307 Florida Election Code and may be held pursuant to ss. 101.6101-
308 101.6107. All costs associated with the referenda shall be borne
309 by the respective component independent special district.
310 c. The ballot question in such referendum placed before the
311 qualified electors of each component independent special
312 district to be merged must be in substantially the following
313 form:
314
315 "Shall (...name of component independent special
316 district...) and (...name of component independent special
317 district or districts...) be merged into (...name of newly
318 merged independent district...)?
319 _____YES

320 _____NO"
321
322 d. If the component independent special districts proposing
323 to merge have disparate millage rates, the ballot question in
324 the referendum placed before the qualified electors of each
325 component independent special district must be in substantially
326 the following form:
327
328 "Shall (...name of component independent special
329 district...) and (...name of component independent special
330 district or districts...) be merged into (...name of newly
331 merged independent district...) if the voter-approved maximum
332 millage rate within each independent special district will not
333 increase absent a subsequent referendum?
334 _____YES
335 _____NO"
336
337 e. In any referendum held pursuant to this subsection, the
338 ballots shall be counted, returns made and canvassed, and
339 results certified in the same manner as other elections or
340 referenda for the component independent special districts.
341 f. The merger may not take effect unless a majority of the
342 votes cast in each component independent special district are in
343 favor of the merger. If one of the component districts does not
344 obtain a majority vote, the referendum fails, and merger does
345 not take effect.
346 g. If the merger is approved by a majority of the votes
347 cast in each component independent special district, the merged
348 independent district is created. Upon approval, the merged

349 independent district shall notify the Special District
350 Information Program pursuant to s. 189.418(2) and the local
351 general-purpose governments in which any part of the component
352 independent special districts is situated pursuant to s.
353 189.418(7).
354 h. If the referendum fails, the merger process under this
355 paragraph may not be initiated for the same purpose within 2
356 years after the date of the referendum.
357 6. Component independent special districts merged pursuant
358 to a joint merger plan by resolution shall continue to be
359 governed as before the merger until the effective date specified
360 in the adopted joint merger plan.
361 (c) *Qualified elector-initiated merger plan.*—The qualified
362 electors of two or more contiguous independent special districts
363 may commence a merger proceeding by each filing a petition with
364 the governing body of their respective independent special
365 district proposing to be merged. The petition must contain the
366 signatures of at least 40 percent of the qualified electors of
367 each component independent special district and must be
368 submitted to the appropriate component independent special
369 district governing body no later than 1 year after the start of
370 the qualified elector-initiated merger process.
371 1. The petition must comply with, and be circulated in, the
372 following form:
373
374 PETITION FOR INDEPENDENT SPECIAL DISTRICT MERGER
375
376 We, the undersigned electors and legal voters of (...name
377 of independent special district...), qualified to vote at the

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378 next general or special election, respectfully petition that
379 there be submitted to the electors and legal voters of (...name
380 of independent special district or districts proposed to be
381 merged...), for their approval or rejection at a referendum held
382 for that purpose, a proposal to merge (...name of component
383 independent special district...) and (...name of component
384 independent special district or districts...).
385
386 In witness thereof, we have signed our names on the date
387 indicated next to our signatures.
388
389 Date Name (print under signature) Home Address
390 _____
391 _____
392
393 2. The petition must be validated by a signed statement by
394 a witness who is a duly qualified elector of one of the
395 component independent special districts, a notary public, or
396 another person authorized to take acknowledgements.
397 a. A statement that is signed by a witness who is a duly
398 qualified elector of the respective district shall be accepted
399 for all purposes as the equivalent of an affidavit. Such
400 statement must be in substantially the following form:
401
402 "I, (...name of witness...), state that I am a duly
403 qualified voter of (...name of independent special district...).
404 Each of the (...insert number...) persons who have signed this
405 petition sheet has signed his or her name in my presence on the
406 dates indicated above and identified himself or herself to be

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407 the same person who signed the sheet. I understand that this
408 statement will be accepted for all purposes as the equivalent of
409 an affidavit and, if it contains a materially false statement,
410 shall subject me to the penalties of perjury."
411
412 Date Signature of Witness
413
414 b. A statement that is signed by a notary public or another
415 person authorized to take acknowledgements must be in
416 substantially the following form:
417
418 "On the date indicated above before me personally came each
419 of the (...insert number...) electors and legal voters whose
420 signatures appear on this petition sheet, who signed the
421 petition in my presence and who, being by me duly sworn, each
422 for himself or herself, identified himself or herself as the
423 same person who signed the petition, and I declare that the
424 foregoing information they provided was true."
425
426 Date Signature of Witness
427
428 c. An alteration or correction of information appearing on
429 a petition's signature line, other than an uninitialed signature
430 and date, does not invalidate such signature. In matters of
431 form, this paragraph shall be liberally construed, not
432 inconsistent with substantial compliance thereto and the
433 prevention of fraud.
434 d. The appropriately signed petition must be filed with the
435 governing body of each component independent special district.

436 The petition must be submitted to the supervisors of elections
437 of the counties in which the district lands are located. The
438 supervisors shall, within 30 business days after receipt of the
439 petitions, certify to the governing bodies the number of
440 signatures of qualified electors contained on the petitions.
441 3. Upon verification by the supervisors of elections of the
442 counties within which component independent special district
443 lands are located that 40 percent of the qualified electors have
444 petitioned for merger and that all such petitions have been
445 executed within 1 year after the date of the initiation of the
446 qualified-elector merger process, the governing bodies of each
447 component independent special district shall meet within 30
448 business days to prepare and approve by resolution a proposed
449 elector-initiated merger plan. The proposed plan must include:
450 a. The name of each component independent special district
451 to be merged;
452 b. The name of the proposed merged independent district;
453 c. The rights, duties, and obligations of the merged
454 independent district;
455 d. The territorial boundaries of the proposed merged
456 independent district;
457 e. The governmental organization of the proposed merged
458 independent district insofar as it concerns elected and
459 appointed officials and public employees, along with a
460 transitional plan and schedule for elections and appointments of
461 officials;
462 f. A fiscal estimate of the potential cost or savings as a
463 result of the merger;
464 g. Each component independent special district's assets,

465 including, but not limited to, real and personal property, and
466 the current value thereof;
467 h. Each component independent special district's
468 liabilities and indebtedness, bonded and otherwise, and the
469 current value thereof;
470 i. Terms for the assumption and disposition of existing
471 assets, liabilities, and indebtedness of each component
472 independent special district, jointly, separately, or in defined
473 proportions;
474 j. Terms for the common administration and uniform
475 enforcement of existing laws within the proposed merged
476 independent district;
477 k. The times and places for public hearings on the proposed
478 joint merger plan; and
479 l. The effective date of the proposed merger.
480 4. The resolution endorsing the proposed elector-initiated
481 merger plan must be approved by a majority vote of the governing
482 bodies of each component independent special district and must
483 be adopted at least 60 business days before any general or
484 special election on the proposed elector-initiated plan.
485 5. Within 5 business days after the governing bodies of
486 each component independent special district approve the proposed
487 elector-initiated merger plan, the governing bodies shall:
488 a. Cause a copy of the proposed elector-initiated merger
489 plan, along with a descriptive summary of the plan, to be
490 displayed and be readily accessible to the public for inspection
491 in at least three public places within the territorial limits of
492 each component independent special district, unless a component
493 independent special district has fewer than three public places,

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494 in which case the plan must be accessible for inspection in all
495 public places within the component independent special district;
496 b. If applicable, cause the proposed elector-initiated
497 merger plan, along with a descriptive summary of the plan and a
498 reference to the public places within each component independent
499 special district where a copy of the merger plan may be
500 examined, to be displayed on a website maintained by each
501 district or otherwise on a website maintained by the county or
502 municipality in which the districts are located; and
503 c. Arrange for a descriptive summary of the proposed
504 elector-initiated merger plan, and a reference to the public
505 places within the district where a copy may be examined, to be
506 published in a newspaper of general circulation within the
507 component independent special districts at least once each week
508 for 4 successive weeks.
509 6. The governing body of each component independent special
510 district shall set a time and place for one or more public
511 hearings on the proposed elector-initiated merger plan. Each
512 public hearing shall be held on a weekday at least 7 business
513 days after the day the first advertisement is published on the
514 proposed elector-initiated merger plan. The hearing or hearings
515 may be held jointly or separately by the governing bodies of the
516 component independent special districts. Any interested person
517 residing in the respective district shall be given a reasonable
518 opportunity to be heard on any aspect of the proposed merger at
519 the public hearing.
520 a. Notice of the public hearing on the proposed elector-
521 initiated merger plan must be published pursuant to the notice
522 requirements in s. 189.417 and must provide a descriptive

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523 summary of the elector-initiated merger plan and a reference to
524 the public places within the component independent special
525 districts where a copy of the plan may be examined.
526 b. After the final public hearing, the governing bodies of
527 each component independent special district may amend the
528 proposed elector-initiated merger plan if the amended version
529 complies with the notice and public hearing requirements
530 provided in this subsection. The governing bodies must approve a
531 final version of the merger plan within 60 business days after
532 the final hearing.
533 7. After the final public hearing, the governing bodies
534 shall notify the supervisors of elections of the applicable
535 counties in which district lands are located of the adoption of
536 the resolution by each governing body. The supervisors of
537 elections shall schedule a date for the separate referenda for
538 each district. The referenda may be held in each district on the
539 same day, or on different days, but no more than 20 days apart.
540 a. Notice of a referendum on the merger of the component
541 independent special districts must be provided pursuant to the
542 notice requirements in s. 100.342. At a minimum, the notice must
543 include:
544 (I) A brief summary of the resolution and elector-initiated
545 merger plan;
546 (II) A statement as to where a copy of the resolution and
547 petition for merger may be examined;
548 (III) The names of the component independent special
549 districts to be merged and a description of their territory;
550 (IV) The times and places at which the referendum will be
551 held; and

552 (V) Such other matters as may be necessary to call, provide
553 for, and give notice of the referendum and to provide for the
554 conduct thereof and the canvass of the returns.
555 b. The referenda must be held in accordance with the
556 Florida Election Code and may be held pursuant to ss. 101.6101-
557 101.6107. All costs associated with the referenda shall be borne
558 by the respective component independent special district.
559 c. The ballot question in such referendum placed before the
560 qualified electors of each component independent special
561 district to be merged must be in substantially the following
562 form:
563
564 "Shall (...name of component independent special
565 district...) and (...name of component independent special
566 district or districts...) be merged into (...name of newly
567 merged independent district...)?
568 _____YES
569 _____NO"
570
571 d. If the component independent special districts proposing
572 to merge have disparate millage rates, the ballot question in
573 the referendum placed before the qualified electors of each
574 component independent special district must be in substantially
575 the following form:
576
577 "Shall (...name of component independent special
578 district...) and (...name of component independent special
579 district or districts...) be merged into (...name of newly
580 merged independent district...) if the voter-approved maximum

581 millage rate within each independent special district will not
582 increase absent a subsequent referendum?
583 _____YES
584 _____NO”
585
586 e. In any referendum held pursuant to this subsection, the
587 ballots shall be counted, returns made and canvassed, and
588 results certified in the same manner as other elections or
589 referenda for the component independent special districts.
590 f. The merger may not take effect unless a majority of the
591 votes cast in each component independent special district are in
592 favor of the merger. If one of the component independent special
593 districts does not obtain a majority vote, the referendum fails,
594 and merger does not take effect.
595 g. If the merger is approved by a majority of the votes
596 cast in each component independent special district, the merged
597 district shall notify the Special District Information Program
598 pursuant to s. 189.418(2) and the local general-purpose
599 governments in which any part of the component independent
600 special districts is situated pursuant to s. 189.418(7).
601 h. If the referendum fails, the merger process under this
602 paragraph may not be initiated for the same purpose within 2
603 years after the date of the referendum.
604 8. Component independent special districts merged pursuant
605 to an elector-initiated merger plan shall continue to be
606 governed as before the merger until the effective date specified
607 in the adopted elector-initiated merger plan.
608 (d) *Effective date.*—The effective date of the merger shall
609 be as provided in the joint merger plan or elector-initiated

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610 merger plan, as appropriate, and is not contingent upon the
611 future act of the Legislature.
612 1. However, as soon as practicable, the merged independent
613 district shall, at its own expense, submit a unified charter for
614 the merged district to the Legislature for approval. The unified
615 charter must make the powers of the district consistent within
616 the merged independent district and repeal the special acts of
617 the districts which existed before the merger.
618 2. Within 30 business days after the effective date of the
619 merger, the merged independent district’s governing body, as
620 indicated in this subsection, shall hold an organizational
621 meeting to implement the provisions of the joint merger plan or
622 elector-initiated merger plan, as appropriate.
623 (e) *Restrictions during transition period.*—Until the
624 Legislature formally approves the unified charter pursuant to a
625 special act, each component independent special district is
626 considered a subunit of the merged independent district subject
627 to the following restrictions:
628 1. During the transition period, the merged independent
629 district is limited in its powers and financing capabilities
630 within each subunit to those powers that existed within the
631 boundaries of each subunit which were previously granted to the
632 component independent special district in its existing charter
633 before the merger. The merged independent district may not,
634 solely by reason of the merger, increase its powers or financing
635 capability.
636 2. During the transition period, the merged independent
637 district shall exercise only the legislative authority to levy
638 and collect revenues within the boundaries of each subunit which

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639 was previously granted to the component independent special
640 district by its existing charter before the merger, including
641 the authority to levy ad valorem taxes, non-ad valorem
642 assessments, impact fees, and charges.
643 a. The merged independent district may not, solely by
644 reason of the merger or the legislatively approved unified
645 charter, increase ad valorem taxes on property within the
646 original limits of a subunit beyond the maximum millage rate
647 approved by the electors of the component independent special
648 district unless the electors of such subunit approve an increase
649 at a subsequent referendum of the subunit's electors. Each
650 subunit may be considered a separate taxing unit.
651 b. The merged independent district may not, solely by
652 reason of the merger, charge non-ad valorem assessments, impact
653 fees, or other new fees within a subunit which were not
654 otherwise previously authorized to be charged.
655 3. During the transition period, each component independent
656 special district of the merged independent district must
657 continue to file all information and reports required under this
658 chapter as subunits until the Legislature formally approves the
659 unified charter pursuant to a special act.
660 4. The intent of this section is to preserve and transfer
661 to the merged independent district all authority that exists
662 within each subunit and was previously granted by the
663 Legislature and, if applicable, by referendum.
664 (f) *Effect of merger, generally.*—On and after the effective
665 date of the merger, the merged independent district shall be
666 treated and considered for all purposes as one entity under the
667 name and on the terms and conditions set forth in the joint

668 merger plan or elector-initiated merger plan, as appropriate.
669 1. All rights, privileges, and franchises of each component
670 independent special district and all assets, real and personal
671 property, books, records, papers, seals, and equipment, as well
672 as other things in action, belonging to each component
673 independent special district before the merger shall be deemed
674 as transferred to and vested in the merged independent district
675 without further act or deed.
676 2. All property, rights-of-way, and other interests are as
677 effectually the property of the merged independent district as
678 they were of the component independent special district before
679 the merger. The title to real estate, by deed or otherwise,
680 under the laws of this state vested in any component independent
681 special district before the merger may not be deemed to revert
682 or be in any way impaired by reason of the merger.
683 3. The merged independent district is in all respects
684 subject to all obligations and liabilities imposed and possesses
685 all the rights, powers, and privileges vested by law in other
686 similar entities.
687 4. Upon the effective date of the merger, the joint merger
688 plan or elector-initiated merger plan, as appropriate, is
689 subordinate in all respects to the contract rights of all
690 holders of any securities or obligations of the component
691 independent special districts outstanding at the effective date
692 of the merger.
693 5. The new registration of electors is not necessary as a
694 result of the merger, but all elector registrations of the
695 component independent special districts shall be transferred to
696 the proper registration books of the merged independent

697 district, and new registrations shall be made as provided by law
698 as if no merger had taken place.
699 (g) *Governing body of merged independent district.*—
700 1. From the effective date of the merger until the next
701 general election, the governing body of the merged independent
702 district shall be comprised of the governing body members of
703 each component independent special district, with such members
704 serving until the governing body members elected at the next
705 general election take office.
706 2. Beginning with the next general election following the
707 effective date of merger, the governing body of the merged
708 independent district shall be comprised of five members. The
709 office of each governing body member shall be designated by
710 seat, which shall be distinguished from other body member seats
711 by an assigned numeral: 1, 2, 3, 4, or 5. The governing body
712 members that are elected in this initial election following the
713 merger shall serve unequal terms of 2 and 4 years in order to
714 create staggered membership of the governing body, with:
715 a. Member seats 1, 3, and 5 being designated for 4-year
716 terms; and
717 b. Member seats 2 and 4 being designated for 2-year terms.
718 3. In general elections thereafter, all governing body
719 members shall serve 4-year terms.
720 (h) *Effect on employees.*—Except as otherwise provided by
721 law and except for those officials and employees protected by
722 tenure of office, civil service provisions, or a collective
723 bargaining agreement, upon the effective date of merger, all
724 appointive offices and positions existing in all component
725 independent special districts involved in the merger are subject

726 to the terms of the joint merger plan or elector-initiated
727 merger plan, as appropriate. Such plan may provide for instances
728 in which there are duplications of positions and for other
729 matters such as varying lengths of employee contracts, varying
730 pay levels or benefits, different civil service regulations in
731 the constituent entities, and differing ranks and position
732 classifications for similar positions. For those employees who
733 are members of a bargaining unit certified by the Public
734 Employees Relations Commission, the requirements of chapter 447
735 apply.
736 (i) *Effect on debts, liabilities, and obligations.*—
737 1. All valid and lawful debts and liabilities existing
738 against a merged independent district, or which may arise or
739 accrue against the merged independent district, which but for
740 merger would be valid and lawful debts or liabilities against
741 one or more of the component independent special districts, are
742 debts against or liabilities of the merged independent district
743 and accordingly shall be defrayed and answered to by the merged
744 independent district to the same extent, and no further than,
745 the component independent special districts would have been
746 bound if a merger had not taken place.
747 2. The rights of creditors and all liens upon the property
748 of any of the component independent special districts shall be
749 preserved unimpaired. The respective component districts shall
750 be deemed to continue in existence to preserve such rights and
751 liens, and all debts, liabilities, and duties of any of the
752 component districts attach to the merged independent district.
753 3. All bonds, contracts, and obligations of the component
754 independent special districts which exist as legal obligations

755 are obligations of the merged independent district, and all such
756 obligations shall be issued or entered into by and in the name
757 of the merged independent district.
758 (j) *Effect on actions and proceedings.*—In any action or
759 proceeding pending on the effective date of merger to which a
760 component independent special district is a party, the merged
761 independent district may be substituted in its place, and the
762 action or proceeding may be prosecuted to judgment as if merger
763 had not taken place. Suits may be brought and maintained against
764 a merged independent district in any state court in the same
765 manner as against any other independent special district.
766 (k) *Effect on annexation.*—Chapter 171 continues to apply to
767 all annexations by a city within the component independent
768 special districts' boundaries after merger occurs. Any moneys
769 owed to a component independent special district pursuant to s.
770 171.093, or any interlocal service boundary agreement as a
771 result of annexation predating the merger, shall be paid to the
772 merged independent district after merger.
773 (l) *Effect on millage calculations.*—The merged independent
774 special district is authorized to continue or conclude
775 procedures under chapter 200 on behalf of the component
776 independent special districts. The merged independent special
777 district shall make the calculations required by chapter 200 for
778 each component individual special district separately.
779 (m) *Determination of rights.*—If any right, title, interest,
780 or claim arises out of a merger or by reason thereof which is
781 not determinable by reference to this subsection, the joint
782 merger plan or elector-initiated merger plan, as appropriate, or
783 otherwise under the laws of this state, the governing body of

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

784 the merged independent district may provide therefor in a manner
785 conforming to law.
786 (n) *Exemption.*—This subsection does not apply to
787 independent special districts whose governing bodies are elected
788 by district landowners voting the acreage owned within the
789 district.
790 (o) *Preemption.*—This subsection preempts any special act to
791 the contrary.
792 (6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—
793 (a) *Independent special districts created by special act.*—
794 In order for the Legislature to merge an active independent
795 special district or districts created and operating pursuant to
796 a special act, the special act merging the active independent
797 special district or districts must be approved at separate
798 referenda of the impacted local governments by a majority of the
799 resident electors or, for districts in which a majority of
800 governing board members are elected by landowners, a majority of
801 the landowners voting in the same manner by which each
802 independent special district's governing body is elected. The
803 special act merging the districts must include a plan of merger
804 that addresses transition issues such as the effective date of
805 the merger, governance, administration, powers, pensions, and
806 assumption of all assets and liabilities. If a local general-
807 purpose government passes an ordinance or resolution in support
808 of the merger of an active independent special district, the
809 local general-purpose government must pay any expenses
810 associated with the referendum required under this paragraph.
811 (b) *Independent special districts created by a county or*
812 *municipality.*—A county or municipality may merge an independent

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813 special district created by the county or municipality pursuant
814 to a referendum or any other procedure by which the independent
815 special district was created. However, if the independent
816 special district has ad valorem taxation powers, the same
817 procedure required to grant the independent special district ad
818 valorem taxation powers is required to merge the district. The
819 political subdivisions proposing the involuntary merger of an
820 active independent special district shall pay any expenses
821 associated with the referendum required under this paragraph.
822 (c) *Inactive independent special districts.*—An independent
823 special district that meets any criteria for being declared
824 inactive, or that has already been declared inactive, pursuant
825 to s. 189.4044 may by merged by special act without a
826 referendum.
827 (7)~~(3)~~ EXEMPTIONS.—~~The provisions of~~ This section does
828 ~~shall~~ not apply to community development districts implemented
829 pursuant to chapter 190 or to water management districts created
830 and operated pursuant to chapter 373.
831 Section 2. Section 191.014, Florida Statutes, is amended to
832 read:
833 191.014 District creation and~~,~~ expansion~~, and merger~~.—
834 (1) New districts may be created only by the Legislature
835 under s. 189.404.
836 (2) The boundaries of a district may be modified, extended,
837 or enlarged upon approval or ratification by the Legislature.
838 ~~(3) The merger of a district with all or portions of other~~
839 ~~independent special districts or dependent fire control~~
840 ~~districts is effective only upon ratification by the~~
841 ~~Legislature. A district may not, solely by reason of a merger~~

842 ~~with another governmental entity, increase ad valorem taxes on~~
843 ~~property within the original limits of the district beyond the~~
844 ~~maximum established by the district's enabling legislation,~~
845 ~~unless approved by the electors of the district by referendum.~~
846 Section 3. Paragraph (a) of subsection (1) and subsection
847 (4) of section 189.4044, Florida Statutes, are amended to read:
848 189.4044 Special procedures for inactive districts.—
849 (1) The department shall declare inactive any special
850 district in this state by documenting that:
851 (a) The special district meets one of the following
852 criteria:
853 1. The registered agent of the district, the chair of the
854 governing body of the district, or the governing body of the
855 appropriate local general-purpose government notifies the
856 department in writing that the district has taken no action for
857 2 or more years;
858 2. Following an inquiry from the department, the registered
859 agent of the district, the chair of the governing body of the
860 district, or the governing body of the appropriate local
861 general-purpose government notifies the department in writing
862 that the district has not had a governing board or a sufficient
863 number of governing board members to constitute a quorum for 2
864 or more years or the registered agent of the district, the chair
865 of the governing body of the district, or the governing body of
866 the appropriate local general-purpose government fails to
867 respond to the department's inquiry within 21 days;
868 3. The department determines, pursuant to s. 189.421, that
869 the district has failed to file any of the reports listed in s.
870 189.419; ~~or~~

871 4. The district has not had a registered office and agent
872 on file with the department for 1 or more years; or
873 5. The governing body of a special district provides
874 documentation to the department that it has unanimously adopted
875 a resolution declaring the special district inactive. The
876 special district shall be responsible for payment of any
877 expenses associated with its dissolution.
878 (4) The entity that created a special district declared
879 inactive under this section must dissolve the special district
880 by repealing its enabling laws or by other appropriate means.
881 Any special district declared inactive pursuant to subparagraph
882 (1)(a)5. may be dissolved without a referendum.
883 Section 4. This act shall take effect July 1, 2012.

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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)

2/21/12
Meeting Date

Topic: Special Districts

Bill Number: 192 *(if applicable)*

Name: ~~Chris Lyon~~ Chris Lyon

Amendment Barcode: _____ *(if applicable)*

Job Title: Attorney

Address: 315 S. Calhoun St., Suite 830
Street

Tallahassee, FL 32309
City *State* *Zip*

Phone: 850/222-5702

E-mail: _____

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Association of Special Districts

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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Criminal Justice
Military Affairs, Space, and Domestic Security

SENATOR MICHAEL S. "MIKE" BENNETT
President Pro Tempore
21st District

February 9, 2012

The Honorable J. D. Alexander
Chair, Budget Committee
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I am requesting that you place S192, relating to special districts, on your next committee agenda.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

Michael S. "Mike" Bennett
/cre

Cc: Terry Rhodes, Staff Director
Alisa Weiss, Administrative Assistant
Ann Roberts, Administrative Assistant

REPLY TO:
☐ Wildewood Professional Park, Suite 90, 3653 Cortez Road West, Bradenton, Florida 34210 (941) 727-6349
☐ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/CS/SB 244

INTRODUCER: Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Transportation Committee; and Senator Bennett

SUBJECT: Motor Vehicles

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Buford	TR	**Fav/CS**
2.	Carey/Smith	Meyer, R.	BTA	**Fav/CS**
3.	Carey/Smith	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill, known as the "Highway Safety Act," declares the Legislature's finding that road rage and aggressive driving are a growing threat to the public's health, safety, and welfare and the Legislature's intent to reduce road rage and aggressive careless driving, minimize crashes, and promote the orderly free flow of traffic in Florida.

The bill:

- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver's license educational materials;
- Prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition);
- Increases from two or more to three or more, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes the failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving; and

- Provides for the distribution of money received from increased fines associated with penalties, including financial support of trauma centers and emergency medical services organizations throughout Florida.

The effective date of the act is October 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.083, 316.1923, 318.121, 318.18, and 318.19.

The bill creates two undesignated sections of Florida Law.

Section 316.650, F.S, is reenacted for the purpose of incorporating amendments made by this act.

II. Present Situation:

Road Rage and Aggressive Driving

According to the National Highway Traffic Safety Administration (NHTSA), "aggressive driving" comprises following too closely, driving at excessive speeds, weaving through traffic, running stoplights and signs, and other forms of negligent or inconsiderate driving.[1] Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

> road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior. . . Those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving. . . [2]

"Road Rage" is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

> an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.[3]

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

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[1]National Highway Traffic Safety Administration, *Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs* (Mar. 2004) (DOT HS 809 707), available at: http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf (last visited October 18, 2011).

[2] Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London (Tavistock Publications 1971).

[3] Daniel B. Rathbone and Jorg C. Huckabee, AAA Foundation for Traffic Safety, *Controlling Road Rage: A Literature Review and Pilot Study* (June 1999), available at: http://www.aaafoundation.org/resources/index.cfm?button=roadrage (last visited October 18, 2011).

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.[4] Studies show most incidents happen between the hours of four and six o'clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic. The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster moving vehicles resort to aggressive driving such as "bobbing and weaving" from lane to lane.

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason, it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).[5] This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to "driving on right side of roadway" requires vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.[6] Violations of this law are noncriminal offenses. However, enforcement of these provisions has been minimal.

Aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). Most, if not all acts under the umbrella of what is considered road rage, are labeled criminal offenses with applicable punishments. Road rage, if not accompanied by some other type of violation, is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage; Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation)*; Wounding with Intent; Common Assault; Assault with a Deadly Weapon; Murder; Manslaughter; and Vehicular Homicide.*

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[4]Dominic Connell and Matthew Joint, *Driver Aggression*, Road Safety Unit Group Public Policy (November 1996), available at: http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression (last visited October 18, 2011).
[5] *Id.*
[6] Section 316.081(1), (2), and (3), F.S.

Florida Aggressive Driving Laws

Section 316.1923, F.S., describes, "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b., F.S;
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.;
- Following another vehicle too closely as defined in s. 316.0895(1), F.S.;
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.;
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive careless driving. This information is recorded and used by DHSMV.

Current law provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.[7] Some of the infractions may require a mandatory court hearing.[8]

Trauma Centers, Emergency Medical Services/Funding from Traffic Violations

Trauma centers are governed by ch. 395, part II, F.S. A trauma center is defined as "a type of hospital that provides trauma surgeons, neurosurgeons and other surgical and non-surgical specialists and medical personnel, equipment and facilities for immediate or follow-up treatment for severely injured patients, 24 hours-a-day, 7-days-a-week."[9] Florida currently has 22 trauma centers. There are seven Level I Centers, thirteen Level II Centers (four of which are also Pediatric Centers), and two centers specializing solely in pediatrics. "Florida is divided into 19 trauma service areas to facilitate planning for system development."[10]

Trauma centers are defined in s. 395.4001, F.S. as follows:

A Level I trauma center:

- Has formal research and education programs for the enhancement of trauma care; is verified by the department to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the Department of Health (department) to operate as a Level I trauma center.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.

[7] Section 316.083, F.S.
[8] Section 318.19, F.S.
[9] The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: < http://www.doh.state.fl.us/demo/trauma/center.htm> (Last visited on October 18, 2011).
[10] Comm. On Appropriations, Fla. Senate, *Review of Trauma Care Planning and Funding in Florida* (Interim Project Report 2004-108)(Nov. 2003).

- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A Level II trauma center:
- Is verified by the department to be in substantial compliance with Level II trauma center standards and has been approved by the department to operate as a Level II trauma center.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A Pediatric trauma center is defined as a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center. "Pediatric trauma centers are required to participate in collaborative research and conduct education programs for the enhancement of pediatric trauma care."[11]

Emergency Medical Services are defined in s. 401.107, F.S., as the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state. "Florida's trauma system helps to ensure that emergency medical services providers provide pre-hospital care and transport of injured residents and visitors to the nearest trauma center."[12]

Florida law provides for the distribution of fines from various traffic violations to be deposited into the department's Administrative Trust Fund and the department's Emergency Medical Services Trust Fund to support trauma centers and emergency medical services according to various allocation methodologies.[13]

III. Effect of Proposed Changes:

Section 1. Creates the "Highway Safety Act."

Section 2. Provides findings and expresses the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

Section 3. Amends s. 316.003, F.S., which defines terms used in the "Florida Uniform Traffic Control Law," by defining the term "road rage" to mean:

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[11] The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: <http://www.doh.state.fl.us/demo/trauma/center.htm> (Last visited on October 18, 2011).
[12] *Id*.
[13] *See* for example ss. 318.14, 318.18, 318.21, 395.4065, and 401.113, F.S.

> The act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

Section 4. Amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthermost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthermost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthermost left-hand lane; or
- The driver is preparing to make a left turn.

A driver simultaneously violating these provisions and the provisions of s. 316.183, F.S. (relating to Unlawful Speed) shall receive a uniform noncriminal traffic citation for the unlawful speed violation.

Section 5. Amends s. 316.1923, F.S., by adding "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously, or in succession, constituting aggressive careless driving is increased from two or more to three or more.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. Under s. 322.27(3)(d)7. and 8., F.S., a driver will accumulate 3 points for this moving violation or 4 points if it results in a crash.

Section 6. Amends s. 318.121, F.S. to authorize additional fines for aggressive careless driving provided for in the bill to be included in ch. 318, F.S.

Section 7. Amends s. 318.18, F.S. to include subsection (22), to read:

In addition to any penalties or points imposed under s. 316.9123, F.S., (section 5 of the bill), a person convicted of aggressive careless driving must also pay:

- Upon a first conviction, a fine of $100.
- Upon a second or subsequent "conviction," a fine of not less than $250 but not more than $500 and be subject to a mandatory hearing under s. 318.19, F.S.

The moneys collected from the increased fine are to be remitted by the clerk of court to the Department of Revenue (DOR) for deposit into the department's Emergency Medical Services Trust Fund. The department is required to transfer $200,000 in the first year and $50,000 in the second and third years after this bill takes effect into the Highway Safety Operating Trust Fund to offset the cost of providing educational materials related to the act. The remaining funds deposited into the department's Emergency Medical Services Trust Fund under this act, are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the department's Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

Section 8. Amends s. 318.19, F.S., to include second or subsequent violations of s. 316.1923(1), F.S., (Aggressive Careless Driving) in the list of infractions requiring a mandatory court hearing.

Section 9. Requires DHSMV to provide information about the Highway Safety Act in all newly printed driver's license educational materials after October 1, 2012.

Section 10. Reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

Section 11. Establishes an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons convicted of aggressive careless driving are to pay $100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than $250 and no more than $500 in addition to any other fines associated with each individual violation. Additionally, DHSMV states that increased public education on the penalties associated with violation of the act could result in decreased road rage and aggressive careless driving accidents.

C. Government Sector Impact:

	Amount Year 1 FY 2012-2013	Amount Year 2 FY 2013-2014	Amount Year 3 FY 2014-2015
REVENUES			
Highway safety Operating Trust Fund Revenues from Fines	$200,000	$50,000	$50,000

The bill requires that $200,000 will be transferred to the DHSMV Highway Safety Operating Trust Fund in the first year and $50,000 for the 2 subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the DOH Emergency Medical Services Trust Fund for use by certain trauma centers and emergency medical services organizations, of which the total amount is indeterminate.

EXPENDITURES			
Highway Safety Operating Trust Fund Expenses	$200,000	$50,000	$50,000

Estimated costs above to provide educational materials to the public relating to this Act.

According to DHSMV, the bill will require programming costs that will be absorbed within existing department resources.

Local governments may incur additional costs relating to mandatory court hearings for persons receiving two or more convictions.

VI. Technical Deficiencies:

The bill does not prescribe a funding transfer scenario that would be necessary should less than $200,000 in fines be collected the first year or less than $50,000 in years two and three.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Transportation on November 16, 2011.
The bill was amended to have the monies collected by the fine imposed for aggressive careless driving deposited directly into the Emergency Medical Services Trust Fund, rather than into the department's Administrative Trust Fund.

CS by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations on January 19, 2012.
The Committee Substitute changes the definition of road rage to add bicyclists to the list of persons who could be threatened or killed due to a loss of emotional control.

B. Amendments:

None.

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

By the Committees on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; and Transportation; and Senator Bennett

606-02082-12 2012244c2

A bill to be entitled

An act relating to motor vehicles; creating the "Highway Safety Act"; providing legislative intent relating to road rage and aggressive careless driving; amending s. 316.003, F.S.; defining the term "road rage"; amending s. 316.083, F.S.; requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions; amending s. 316.1923, F.S.; revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless driving, including imposition of an increased fine; amending s. 318.121, F.S.; revising the preemption of additional fees, fines, surcharges, and court costs to allow imposition of the increased fine for aggressive careless driving; amending s. 318.18, F.S.; specifying the amount of the fine and the allocation of moneys received from the increased fine imposed for aggressive careless driving; amending s. 318.19, F.S.; providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; requiring the Department of Highway Safety and Motor Vehicles to provide information about the Highway Safety Act in driver's license educational materials; reenacting s. 316.650(1)(a), F.S., relating to traffic citations, to incorporate the amendments made to s. 316.1923, F.S., in a reference thereto; providing an effective date.

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606-02082-12 2012244c2

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

Section 1. This act may be cited as the "Highway Safety Act."

Section 2. The Legislature finds that road rage and aggressive careless driving are a growing threat to the health, safety, and welfare of the public. The intent of the Legislature is to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of the state.

Section 3. Subsection (89) is added to section 316.003, Florida Statutes, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(89) ROAD RAGE.—The act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, bicyclist, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, bicyclist, or pedestrian.

Section 4. Present subsection (3) of section 316.083, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

316.083 Overtaking and passing a vehicle.—The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations,

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exceptions, and special rules hereinafter stated:

(3)(a) On roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

(b) Paragraph (a) does not apply to a driver operating a motor vehicle in the furthermost left-hand lane if:

1. The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthermost left-hand lane;

2. The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;

3. Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;

4. The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;

5. The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthermost left-hand lane; or

6. The driver is preparing to make a left turn.

(c) A driver who violates s. 316.183 and this subsection simultaneously shall receive a uniform traffic citation solely under s. 316.183.

Section 5. Section 316.1923, Florida Statutes, is amended to read:

316.1923 Aggressive careless driving.—

(1) "Aggressive careless driving" means committing three ~~two~~ or more of the following acts simultaneously or in succession:

(a) ~~(1)~~ Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.

(b) ~~(2)~~ Unsafely or improperly changing lanes as defined in s. 316.085.

(c) ~~(3)~~ Following another vehicle too closely as defined in s. 316.0895(1).

(d) ~~(4)~~ Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.

(e) ~~(5)~~ Improperly passing or failing to yield to overtaking vehicles as defined in s. 316.083, s. 316.084, or s. 316.085.

(f) ~~(6)~~ Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

(2) Any person convicted of aggressive careless driving shall be cited for a moving violation and punished as provided in chapter 318, and by the accumulation of points as provided in s. 322.27, for each act of aggressive careless driving.

Section 6. Section 318.121, Florida Statutes, is amended to read

318.121 Preemption of additional fees, fines, surcharges, and costs.—Notwithstanding any general or special law, or municipal or county ordinance, additional fees, fines, surcharges, or costs other than the additional fees, fines, court costs, and surcharges assessed under s. 318.18(11), (13), (18), ~~and~~ (19), and (22) may not be added to the civil traffic penalties assessed in this chapter.

117 Section 7. Subsection (22) is added to section 318.18,
118 Florida Statutes, to read:
119 318.18 Amount of penalties.—The penalties required for a
120 noncriminal disposition pursuant to s. 318.14 or a criminal
121 offense listed in s. 318.17 are as follows:
122 (22)(a) In addition to any penalties or points imposed
123 under s. 316.1923, a person convicted of aggressive careless
124 driving shall also pay:
125 1. Upon a first violation, a fine of $100.
126 2. Upon a second or subsequent conviction, a fine of not
127 less than $250 but not more than $500 and be subject to a
128 mandatory hearing under s. 318.19.
129 (b) The clerk of the court shall remit the moneys collected
130 from the increased fine imposed by this subsection to the
131 Department of Revenue for deposit into the Emergency Medical
132 Services Trust Fund. Of the funds deposited into the Emergency
133 Medical Services Trust Fund, $200,000 in the first year after
134 October 1, 2012, and $50,000 in the second and third years,
135 shall be transferred into the Highway Safety Operating Trust
136 Fund to offset the cost of providing educational materials
137 related to this act. Funds deposited into the Emergency Medical
138 Services Trust Fund under this subsection shall be allocated as
139 follows:
140 1. Twenty-five percent shall be allocated equally among all
141 Level I, Level II, and pediatric trauma centers in recognition
142 of readiness costs for maintaining trauma services.
143 2. Twenty-five percent shall be allocated among Level I,
144 Level II, and pediatric trauma centers based on each center's
145 relative volume of trauma cases as reported in the Department of

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146 Health Trauma Registry.
147 3. Twenty-five percent shall be used by the department for
148 making matching grants to emergency medical services
149 organizations as defined in s. 401.107.
150 4. Twenty-five percent shall be made available to rural
151 emergency medical services as defined in s. 401.107, and shall
152 be used solely to improve and expand prehospital emergency
153 medical services in this state. Additionally, these moneys may
154 be used for the improvement, expansion, or continuation of
155 services provided.
156 Section 8. Section 318.19, Florida Statutes, is amended to
157 read:
158 318.19 Infractions requiring a mandatory hearing.—Any
159 person cited for the infractions listed in this section shall
160 not have the provisions of s. 318.14(2), (4), and (9) available
161 to him or her but must appear before the designated official at
162 the time and location of the scheduled hearing:
163 (1) Any infraction which results in a crash that causes the
164 death of another;
165 (2) Any infraction which results in a crash that causes
166 "serious bodily injury" of another as defined in s. 316.1933(1);
167 (3) Any infraction of s. 316.172(1)(b);
168 (4) Any infraction of s. 316.520(1) or (2); ~~or~~
169 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
170 316.189 of exceeding the speed limit by 30 m.p.h. or more; or~~.~~
171 (6) A second or subsequent infraction of s. 316.1923(1).
172 Section 9. The Department of Highway Safety and Motor
173 Vehicles shall provide information about the Highway Safety Act
174 in all driver's license educational materials newly printed on

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175 or after October 1, 2012.
176 Section 10. For the purpose of incorporating the amendments
177 made by this act to section 316.1923, Florida Statutes, in a
178 reference thereto, paragraph (a) of subsection (1) of section
179 316.650, Florida Statutes, is reenacted to read:
180 316.650 Traffic citations.—
181 (1)(a) The department shall prepare and supply to every
182 traffic enforcement agency in this state an appropriate form
183 traffic citation that contains a notice to appear, is issued in
184 prenumbered books, meets the requirements of this chapter or any
185 laws of this state regulating traffic, and is consistent with
186 the state traffic court rules and the procedures established by
187 the department. The form shall include a box that is to be
188 checked by the law enforcement officer when the officer believes
189 that the traffic violation or crash was due to aggressive
190 careless driving as defined in s. 316.1923. The form shall also
191 include a box that is to be checked by the law enforcement
192 officer when the officer writes a uniform traffic citation for a
193 violation of s. 316.074(1) or s. 316.075(1)(c)1. as a result of
194 the driver failing to stop at a traffic signal.
195 Section 11. This act shall take effect October 1, 2012.

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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 Budget Committee

BILL: CS/SB 316

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Wise

SUBJECT: Alzheimer's Disease

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	**Fav/CS**
2.	Brown	Hendon	BHA	**Favorable**
3.	Brown	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill directs the Department of Elder Affairs (DOEA or "the department") to establish a public education program relating to screening for memory impairment. The bill also creates the memory-impairment screening grant program and authorizes DOEA to award grants in support of programs which provide information and education on the importance of memory screening as well as memory screening services. The bill establishes criteria for selecting grant recipients and requires that the department give preference to entities meeting certain requirements. Each grantee must submit an annual evaluation of its activities to the department. Additionally, DOEA must submit an annual report to the President of the Senate and the Speaker of the House of Representatives documenting the activities authorized by the bill.

Additionally, the bill makes technical changes relating to staff training requirements for persons assisting those with Alzheimer's disease.

The bill does not have a direct fiscal impact on government.

The bill amends the following sections of the Florida Statutes: 400.1755, 400.6045, and 429.178. This bill creates section 430.5025, Florida Statutes.

The bill has an effective date of July 1, 2012.

II. Present Situation:

Alzheimer's Disease

Alzheimer's disease is a progressive, degenerative disorder that attacks the brain's nerve cells and results in loss of memory, thinking, and language skills, and behavioral changes.[1] There are approximately 5.4 million Americans currently living with Alzheimer's disease, and that number is projected to rise to 16 million by 2050.[2] As the life expectancy for Americans has continued to rise, so has the number of new cases of Alzheimer's disease. For instance, in 2000 there were an estimated 411,000 new cases of Alzheimer's disease in the United States, and in 2010 that number was estimated to be 454,000 – a 10 percent increase.[3] That number is expected to rise to 959,000 new cases of Alzheimer's disease by 2050, a 130-percent increase from 2000.[4] Specifically in Florida, approximately 360,000 people age 65 or older had Alzheimer's disease in 2000 and in 2010, that number had risen to 450,000.

As the number of people with Alzheimer's disease increases, so does the cost of caring for these individuals. In 2011, the aggregate cost for health care, long-term care, and hospice for persons with Alzheimer's and other dementias was estimated to be $183 billion. That number is projected to be $1.1 trillion by 2050.[5] A major contributing factor to the cost of care for persons with Alzheimer's is that these individuals have more hospital stays, skilled nursing home stays, and home healthcare visits than older persons who do not have Alzheimer's. Research shows that 22 percent of individuals with Alzheimer's disease who have Medicare also have Medicaid coverage, which pays for nursing home care and other long-term care services.[6] The total Medicaid spending for people with Alzheimer's disease (and other dementia) was estimated to be $37 billion in 2011.[7]

In addition to the cost of health care, there is a significant cost associated with unpaid caregivers. An unpaid caregiver is primarily a family member, but can also be other relatives or friends. Such caregivers often provide assistance with daily activities, such as shopping for groceries, preparing meals, bathing, dressing, grooming, assisting with mobility, helping the person take medications, making arrangements for medical care, and performing other household chores. Nationally, in 2010, nearly 15 million unpaid caregivers provided an estimated 17 billion hours of unpaid care, valued at $202.6 billion.[8] In 2010, there were 960,037 caregivers in Florida with an estimated value of unpaid care reaching nearly $13.5 million.[9]

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[1] Alzheimer's Foundation of America, *About Alzheimer's, Definition of Alzheimer's,* http://www.alzfdn.org/AboutAlzheimers/definition.html (last visited Aug. 2, 2011).
[2] Alzheimer's Assn., *Fact Sheet: 2011 Alzheimer's Disease Facts and Figures* (March 2011), *available at* http://www.alz.org/documents_custom/2011_Facts_Figures_Fact_Sheet.pdf (last visited Aug. 3, 2011).
[3] Alzheimer's Assn., *2011 Alzheimer's Disease Facts and Figures*, 7 ALZHEIMER'S & DEMENTIA (Issue 2) at 17, *available at* http://www.alz.org/downloads/Facts_Figures_2011.pdf (last visited Oct. 27, 2011).
[4] *Id*.
[5] *Id*. at 35.
[6] *Id*.
[7] *Id*. at 44.
[8] This number was established by using an average of 21.9 hours of care a week with a value of $11.93 per hour. *Id.* at 27.
[9] *Id*. at 32.

Alzheimer's disease is the nation's sixth leading cause of death with an average life expectancy of four to eight years after diagnosis.[10] In Florida, 4,644 people died of complications related to Alzheimer's disease in 2007.[11]

Memory Screening and Early Diagnosis

Alzheimer's disease can only be confirmed by an autopsy; however, clinicians can attempt to diagnose the disease by taking a complete medical history and conducting lab tests, a physical exam, brain scans, and neuro-psychological tests that gauge memory, attention, language skills, and problem-solving abilities. Using these methods, clinicians are able to diagnose Alzheimer's disease with up to 90-percent accuracy.[12] Although there is no known cure for Alzheimer's disease, the U.S. Food and Drug Administration has approved a few medications that have been found to help control symptoms or slow the progression of the disease.[13] Thus, early detection of the disease enhances the possibility of effective treatment. Early diagnosis can also enable patients to participate in decisions regarding their care.

Memory screenings consist of a series of questions or tasks designed to test memory and other intellectual functions. They are not used to diagnose any particular illness, but can be very helpful in indicating whether an individual would benefit from further testing to identify Alzheimer's disease, related dementias, or other possible causes of symptoms which mimic Alzheimer's disease.[14] These screenings are typically provided by professionals such as social workers, pharmacists, nurses, and doctors.

Alzheimer's Disease Initiative

The Alzheimer's Disease Initiative (ADI) was legislatively created in 1985 to provide a continuum of services to meet the changing needs of individuals with, and families affected by, Alzheimer's disease and related disorders. The Initiative has four objectives: (1) to provide supportive services; (2) to establish memory disorder clinics; (3) to provide model day care programs to test new care alternatives; and (4) to establish a research database and brain bank to support research.[15] There are 15 memory disorder clinics throughout the state, 13 of which are state funded.[16] The purpose of these clinics is to conduct research related to diagnostic technique, therapeutic interventions, and supportive services for persons with Alzheimer's disease and to develop caregiver-training materials.[17] According to ADI, the memory disorder clinics are required to:

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[10] *Id.* at 23.
[11] *Id.* at 22.
[12] Alzheimer's Foundation of America, *About Alzheimer's, Diagnosis*, http://www.alzfdn.org/AboutAlzheimers/diagnosis.html (last visited Aug. 2, 2011).
[13] To see a list of FDA approved medications, go to the Alzheimer's Foundation of America, *About Alzheimer's Treatment,* http://www.alzfdn.org/AboutAlzheimers/treatment.html (last visited Aug. 3, 2011).
[14] Alzheimer's Foundation of America, *Brain Health*, http://www.alzfdn.org/BrainHealth/memoryscreenings.html (last visited Oct. 24, 2011).
[15] Dep't of Elder Affairs, *Alzheimer's Disease Initiative*, http://elderaffairs.state.fl.us/english/alz.php (last visited Aug. 16, 2011).
[16] *Id*.
[17] Section 430.502(2), F.S.

- Provide services to persons suspected of having Alzheimer's disease or other related dementia;
- Provide four hours of in-service training during the contract year to all ADI respite and model day care service providers and develop and disseminate training models to service providers and the Department of Elder Affairs;
- Develop training materials and educational opportunities for lay and professional caregivers and provide specialized training for caregivers and caregiver organizations;
- Conduct service-related applied research;
- Establish a minimum of one annual contact with each respite care and model day care service provider to discuss, plan, develop, and conduct service-related research projects; and
- Plan for the public dissemination of research findings through professional papers and to the general public.[18]

Multi-disciplinary teams provide comprehensive evaluations, treatment recommendations, long-term care strategies, and follow-up services to patients, caregivers, and families. The memory disorder clinics offer a full range of tests to determine whether thinking difficulties and symptoms of forgetfulness are a result of everyday life pressures, or the sign of a memory disorder. The memory disorder clinics offer free and confidential memory screenings, medical evaluations, follow-up resources, and educational material about memory concerns and successful aging. In addition, each November during "National Memory Screening Day," the clinics participate in a collaborative effort with the Alzheimer's Foundation of America to promote early detection of Alzheimer's disease and related illnesses and to encourage appropriate intervention.[19]

Individuals diagnosed with or suspected of having Alzheimer's disease are eligible for memory disorder clinic services. In fiscal year 2009-2010, Florida's memory disorder clinics received nearly $3 million in state funds and served just over 5,000 clients.[20]

III. Effect of Proposed Changes:

This bill directs the Department of Elder Affairs (DOEA or department) to develop and implement a public education program relating to screening for memory impairment and the importance of early diagnosis and treatment of Alzheimer's disease.

The bill also creates the memory-impairment screening grant program and authorizes DOEA to award grants to qualifying entities to support programs that provide information and education on the importance of memory screening for early diagnosis and treatment of Alzheimer's disease and related disorders and that provide screenings for memory impairment. The bill defines the term "qualifying entities" as any "public or nonprofit private entities that provide services and

[18] Dep't of Elder Affairs, *Summary of Programs and Services*, 87-88 (Feb. 2011), *available at* http://elderaffairs.state.fl.us/english/pubs/pubs/sops2011/Files/2011_SOPS_full%20web.pdf (last visited Aug. 16, 2011).
[19] Dep't of Elder Affairs, *2012 Legislative Bill Analysis, SB 316* (Oct. 26, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).
[20] *Summary of Programs and Services*, *supra* note 18, at 91.

care to individuals who have Alzheimer's disease or related disorders and their caregivers and families."

The bill provides that DOEA shall give preference to applicants that:

- Have demonstrated experience in promoting public education and awareness of the importance of memory screening or providing memory-screening services;
- Have established arrangements with health care providers and other organizations to provide screenings for memory impairment in a manner that is convenient to individuals in the communities served by the applicants; and
- Provide matching funds.

The bill requires each entity that receives a grant to submit an annual evaluation to the department describing the activities carried out with the funds received and the long-term effectiveness of such activities in promoting early detection of memory impairment. Additionally, DOEA must submit an annual report to the President of the Senate and the Speaker of the House of Representatives describing the activities carried out, including provisions describing the extent to which the activities have affected the rate of screening for memory impairment and have improved outcomes for patients and caregivers.

The bill authorizes DOEA to set aside up to 15 percent of the total amount appropriated to the memory-impairment screening grant program for the fiscal year to provide technical assistance to the grantees.

The bill provides an implementation section, specifying that the public education program created by the bill shall operate within existing resources of DOEA and the memory-impairment screening grant program is contingent upon appropriation of state funds or the availability of private resources.

Finally, the bill makes technical changes relating to staff training requirements for persons assisting those with Alzheimer's disease.

The bill has an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill will provide public and nonprofit private entities that provide services and care to individuals who have Alzheimer's disease or related disorders the opportunity to apply for a state grant to support the development, expansion, or operation of programs that provide screenings for memory impairment and information and education on the importance of memory screening.[21]

C. Government Sector Impact:

The bill does not have a direct fiscal impact on government. Two provisions could require resources:

- Public Education: The Department of Elder Affairs currently contracts with 13 memory disorder clinics to provide services to individuals with memory problems and to their families and caregivers. Accordingly, the department can develop and implement the public education program portion of this bill within existing resources.[22]
- Grant Program: The bill provides that implementation of the grant program is contingent upon an appropriation of state funds or the availability of private resources, which would require a specific appropriation for the department to award grants to entities as specified in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Children, Families, and Elder Affairs on November 3, 2011:
The committee substitute specifically creates the memory-impairment screening grant program, which is to be administered by the Department of Elder Affairs (DOEA or department). The committee substitute also provides that an entity receiving a grant shall submit an evaluation to DOEA annually describing activities conducted with the funds.

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[21] *2012 Legislative Bill Analysis*, *supra* note 19.
[22] *Id*.

B. Amendments:

None.

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

By the Committee on Children, Families, and Elder Affairs; and Senator Wise

586-00843-12 2012316c1

A bill to be entitled

An act relating to Alzheimer's disease; creating s. 430.5025, F.S.; directing the Department of Elderly Affairs to develop and implement a public education program relating to screening for Alzheimer's disease; creating the memory-impairment screening grant program; providing criteria for awarding grants; providing a definition; requiring grant recipients to submit an evaluation of certain activities to the department; authorizing the department to provide technical support; requiring an annual report to the Legislature; providing for implementation of the public education program to operate within existing resources of the department; providing that implementation of the memory-impairment screening grant program is contingent upon an appropriation of state funds or the availability of private resources; amending s. 400.1755, F.S.; specifying the types of facilities where an employee or direct caregiver providing care for persons with Alzheimer's disease may begin employment without repeating certain training requirements; amending s. 400.6045, F.S.; requiring direct caregivers to comply with certain continuing education requirements; amending s. 429.178, F.S.; specifying the types of facilities where an employee or direct caregiver providing care for persons with Alzheimer's disease may begin employment without repeating certain training requirements; providing an effective date.

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WHEREAS, Alzheimer's disease is a slow, progressive disorder of the brain which results in loss of memory and other cognitive functions, is the eighth leading cause of death in the United States, and currently affects an estimated 5 million Americans, with that number expected to increase to 16 million by mid-century, and

WHEREAS, Alzheimer's disease strikes approximately 1 in 10 people over the age of 65 and nearly one-half of those who are age 85 or older, although some people develop symptoms as young as age 40, and

WHEREAS, Alzheimer's disease takes an enormous toll on family members who are the caregivers for individuals having the disease, and

WHEREAS, caregivers for individuals who have Alzheimer's disease suffer more stress, depression, and health problems than caregivers for individuals who have other illnesses, and

WHEREAS, Alzheimer's disease costs United States businesses more than $60 billion annually due to lost productivity and absenteeism by primary caregivers and increased insurance costs, and

WHEREAS, recent advancements in scientific research have demonstrated the benefits of early medical treatment for persons who have Alzheimer's disease and the benefits of early access to counseling and other support services for their caregivers, and

WHEREAS, research shows that several medications have been developed which can reduce the symptoms of Alzheimer's disease, that persons begin to benefit most when these medications are taken in the early stages of a memory disorder, and that this

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59 intervention may extend the period during which patients can be
60 cared for at home, thereby significantly reducing the costs of
61 institutional care, and
62 WHEREAS, with early diagnosis, patients can participate in
63 decisions regarding their care and their families can take
64 advantage of support services that can reduce caregiver
65 depression and related health problems, and
66 WHEREAS, in direct response to research breakthroughs,
67 National Memory Screening Day was established as a collaborative
68 effort by organizations and health care professionals across the
69 country to promote awareness and early detection of memory
70 impairments, and
71 WHEREAS, on National Memory Screening Day, which is held on
72 the third Tuesday of November in recognition of National
73 Alzheimer's Disease Month, health care professionals administer
74 free memory screenings at hundreds of sites throughout the
75 United States, and
76 WHEREAS, memory screening is used as an indicator of
77 whether a person might benefit from more extensive testing to
78 determine whether a memory or cognitive impairment exists and
79 identifies persons who may benefit from medical attention, but
80 is not used to diagnose any illness and in no way replaces
81 examination by a qualified physician, NOW, THEREFORE,
82
83 Be It Enacted by the Legislature of the State of Florida:
84
85 Section 1. Section 430.5025, Florida Statutes, is created
86 to read:
87 430.5025 Memory-impairment screening; grants.—

88 (1) The Department of Elderly Affairs shall develop and
89 implement a public education program relating to screening for
90 memory impairment and the importance of early diagnosis and
91 treatment of Alzheimer's disease and related disorders.
92 (2)(a) The memory-impairment screening grant program is
93 created and shall be administered by the department.
94 (b) The department may award grants to qualifying entities
95 to support the development, expansion, or operation of programs
96 that provide:
97 1. Information and education on the importance of memory
98 screening for early diagnosis and treatment of Alzheimer's
99 disease and related disorders.
100 2. Screenings for memory impairment.
101 (3) As used in this section, the term "qualifying entities"
102 means public and nonprofit private entities that provide
103 services and care to individuals who have Alzheimer's disease or
104 related disorders and their caregivers and families.
105 (4) When awarding grants under this section, the department
106 shall give preference to applicants that:
107 (a) Have demonstrated experience in promoting public
108 education and awareness of the importance of memory screening or
109 providing memory-screening services.
110 (b) Have established arrangements with health care
111 providers and other organizations to provide screenings for
112 memory impairment in a manner that is convenient to individuals
113 in the communities served by the applicants.
114 (c) Provide matching funds.
115 (5) A qualifying entity that receives a grant under this
116 section shall submit to the department an annual evaluation that

117 describes activities carried out with funds received under this
118 section, the long-term effectiveness of such activities in
119 promoting early detection of memory impairment, and any other
120 information that the department requires.
121 (6) The department may set aside an amount not to exceed 15
122 percent of the total amount appropriated to the memory-
123 impairment screening grant program for the fiscal year to
124 provide grantees with technical support in the development,
125 implementation, and evaluation of memory-impairment screening
126 programs.
127 (7) A grant may be awarded under subsection (2) only if an
128 application for the grant is submitted to the department and the
129 application is in the form, is made in the manner, and contains
130 the agreements, assurances, and information that the department
131 determines are necessary to carry out the purposes of this
132 section.
133 (8) The department shall annually submit to the President
134 of the Senate and the Speaker of the House of Representatives a
135 report on the activities carried out under this section,
136 including provisions describing the extent to which the
137 activities have affected the rate of screening for memory
138 impairment and have improved outcomes for patients and
139 caregivers.
140 Section 2. Implementation.—
141 (1) Implementation of the public education program created
142 under s. 430.5025, Florida Statutes, shall operate within
143 existing resources of the Department of Elderly Affairs.
144 (2) Implementation of the memory-impairment screening grant
145 program created under s. 430.5025, Florida Statutes, is

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146 contingent upon appropriation of state funds or the availability
147 of private resources.
148 Section 3. Subsection (6) of section 400.1755, Florida
149 Statutes, is amended to read:
150 400.1755 Care for persons with Alzheimer's disease or
151 related disorders.—
152 (6) Upon completing any training listed in this section,
153 the employee or direct caregiver shall be issued a certificate
154 that includes the name of the training provider, the topic
155 covered, and the date and signature of the training provider.
156 The certificate is evidence of completion of training in the
157 identified topic, and the employee or direct caregiver is not
158 required to repeat training in that topic if the employee or
159 direct caregiver changes employment to a different facility or
160 to an assisted living facility, home health agency, adult day
161 care center, or hospice ~~adult family-care home~~. The direct
162 caregiver must comply with other applicable continuing education
163 requirements.
164 Section 4. Paragraph (h) of subsection (1) of section
165 400.6045, Florida Statutes, is amended to read:
166 400.6045 Patients with Alzheimer's disease or other related
167 disorders; staff training requirements; certain disclosures.—
168 (1) A hospice licensed under this part must provide the
169 following staff training:
170 (h) Upon completing any training described in this section,
171 the employee or direct caregiver shall be issued a certificate
172 that includes the name of the training provider, the topic
173 covered, and the date and signature of the training provider.
174 The certificate is evidence of completion of training in the

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

175 identified topic, and the employee or direct caregiver is not
176 required to repeat training in that topic if the employee or
177 direct caregiver changes employment to a different hospice or to
178 a home health agency, assisted living facility, nursing home, or
179 adult day care center. The direct caregiver must comply with
180 other applicable continuing education requirements.
181 Section 5. Subsection (4) of section 429.178, Florida
182 Statutes, is amended to read:
183 429.178 Special care for persons with Alzheimer's disease
184 or other related disorders.—
185 (4) Upon completing any training listed in subsection (2),
186 the employee or direct caregiver shall be issued a certificate
187 that includes the name of the training provider, the topic
188 covered, and the date and signature of the training provider.
189 The certificate is evidence of completion of training in the
190 identified topic, and the employee or direct caregiver is not
191 required to repeat training in that topic if the employee or
192 direct caregiver changes employment to a different assisted
193 living facility or nursing home, hospice, adult day care center,
194 or home health agency ~~facility~~. The employee or direct caregiver
195 must comply with other applicable continuing education
196 requirements.
197 Section 6. This act shall take effect July 1, 2012.

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)

2/21/12
Meeting Date

Topic: Alzheimer's Disease

Bill Number: 316 *(if applicable)*

Name: Greg Black

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 215 S. Monroe Street, Suite 505
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: (850) 205-9000

E-mail: greg.black@metzlaw.com

Speaking: [✓] For [ ] Against [ ] Information - Waive In Support

Representing: Florida Academy of Family Physicians

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: ALZHEIMERS

Bill Number: SB 316 *(if applicable)*

Name: JERRY SANSOM

Amendment Barcode: *(if applicable)*

Job Title:

Address: PO Box 98
Street

Cocoa, Fl. 32923
City *State* *Zip*

Phone: 321-727-8130

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: ARC of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-12
Meeting Date

Topic: Alzheimer's Disease

Bill Number: 316 *(if applicable)*

Name: FELY CURVA

Amendment Barcode: *(if applicable)*

Job Title: Partner, Curva & Associates

Address: 1212 Piedmont Dr.
Street

Tallahassee, FL 32312
City, State, Zip

Phone: (850) 508-2256

E-mail: curva@midsprings.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Alzheimer's Foundation of America

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: Alz Disease

Bill Number: 316 *(if applicable)*

Name: Laura Cantwell

Amendment Barcode: *(if applicable)*

Job Title:

Address: 200 W College Av., Suite 304
Street

City *State* *Zip*: 32301

Phone: lcantwell@carp.us

E-mail: 577-5163

Speaking: [x] For [ ] Against [ ] Information

Representing: AARP

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-20-12
Meeting Date

Topic: SB 316

Bill Number: SB 316 *(if applicable)*

Name: JIM AKIN

Amendment Barcode: *(if applicable)*

Job Title: EXECUTIVE DIRECTOR

Address: 1931 DELLWOOD DRIVE
Street

TALLAHASSEE, FL 32303
City *State* *Zip*

Phone: 850-224-2400

E-mail: JIM@NASWFL.ORG

Speaking: [X] For [ ] Against [ ] Information

Representing: NATIONAL ASSOCIATION OF SOCIAL WORKERS - FLORIDA CHAPTER

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 24, 2012

I respectfully request that **Senate Bill # 316**, relating to Alzheimer's Disease, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Stephen R. Wise
Florida Senate, District 5

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: SB 366

INTRODUCER: Senator Gaetz

SUBJECT: Group Insurance for Public Employees

DATE: January 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	**Favorable**
2.	McKay	Roberts	GO	**Favorable**
3.	Armstrong	Hamon	BEA	**Favorable**
4.	Hamon	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

This bill requires each school district to enter into an interlocal agreement to establish a consortium through which every school district must purchase health, accident, and hospitalization insurance for school district officers and employees, unless a school board determines that purchasing such insurance outside the consortium plan is financially advantageous to the school district. The bill also specifies that collective bargaining is required consistent with Chapter 447, F.S.

This bill substantially amends section 112.08 of the Florida Statutes.

II. Present Situation:

Health Insurance for School District Employees

Chapter 112, F.S., addresses various conditions of employment, including retirement and group insurance for local governmental units, defined to include school boards.[1] Section 112.08, F.S., authorizes local governmental units to contract with private companies for the provision of all types of insurance, including life, health, accident, hospitalization, legal expense, and annuity insurance.[2] The local governmental unit is required to participate in the competitive bid process in procuring group insurance.[3] If the local governmental unit intends to self-insure, approval by

[1] Section 112.08(1), F.S.
[2] Section 112.08(2)(a), F.S.
[3] *Id.*

the Office of Insurance Regulation is required, with approval to be based upon the actuarial soundness of the plan.[4]

Currently, the 67 school districts purchase as individual school districts health, accident, and hospitalization insurance for officers, employees, and dependents, as in the table below:

FLORIDA DEPARTMENT OF EDUCATION
Office of Funding and Financial Reporting
District Health Insurance Survey
October 27, 2009

District	Number of Employees Covered	Estimated total health insurance costs paid by the district for all employees	Estimated total health insurance costs paid by all employees	Dollar amount of health insurance costs paid by the district per employee1	Dollar amount of health insurance costs paid by the employee1	Number of family members covered (excluding employee)
Alachua	3280.00	$13,428,845.00	$0.00	$4,094.16	$0.00	677.00
Baker	447.00	$2,407,767.12	$1,054,423.92	$5,386.50	$2,358.89	N/A
Bay	2290.00	$13,874,861.52	$3,215,140.32	$6,058.89	$1,403.99	N/A
Bradford	398.00	$1,424,840.00	$1,044,366.00	$3,580.00	$2,624.00	1041.00
Brevard	2379.00	$41,678,397.00	$10,168,911.00	$6,013.33	$1,467.16	5177.00
Broward	27154.00	$164,517,279.92	$19,455,232.24	$6,058.68	$19,455,232.24	4055.00
Calhoun	351.00	$1,042,095.60	$636,672.00	$2,968.93	$1,814.00	83.00
Charlotte	1783.00	$10,699,214.00	$2,773,901.00	$6,000.68	$1,471.57	1145.00
Citrus	1800.00	$4,968,000.00	$6,708,000.00	$2,760.00	$3,726.67	1400.00
Clay	3468.00	$417,425,301.00	$5,521,899.00	$2,784 - $7,943	$120 - $4,506	1107.00
Collier	5100.00	$31,314,000.00	$0.00	$6,140.00	$0.00	0.00
Columbia	1293.00	$8,000,000.00	$2,500,000.00	$5,215.50	Varies	740.00
Miami-Dade	37959.00	$277,951,898.00	$26,990,320.00	$7,500.00	$2,386.00	N/A
DeSoto	644.00	$4,443,011.63	$1,082,253.15	$6,742.05	$1,642.27	411.00
Dixie	210.00	$2,016,016.00	$318,166.00	$6,150.00	$1,513.00	259.00
Duval	12506.00	$77,133,585.00	$15,720,857.00	Varies	Varies	6345.00
Escambia	4774.00	$22,618,326.00	$6,105,828.00	$4,737.81	$1,278.98	3003.00
Flagler	1263.00	$7,727,748.00	$2,166,759.00	$4,403.00	$6,118.57	569.00
Franklin	161.00	$1,353,911.61	$775,736.64	$8,409.36	$4,818.24	206.00
Gadsden	953.22	$3,643,200.00	$1,298,400.00	$3,822.00	$1,362.00	N/A
Gilchrist	65.00	$1,268,365.50	$243,946.26	$4,497.75	$3,753.02	105.00
Glades	109.00	$834,449.00	$242,467.00	$5,027.00	$468.00	43.00
Gulf	234.00	$1,263,600.00	$527,622.00	$5,400.00	$2,254.79	60.00
Hamilton	146.00	$552,826.08	$307,591.44	$3,786.48	$2,106.72	25.00
Hardee	529.00	$3,048,480.00	$967,656.00	$5,762.72	$1,829.22	345.00
Hendry	932.00	$8,388,000.00	$3,273,784.00	$9,000.00	$3,512.00	472.00
Hernando	2561.00	$1,822,800.00	$3,525,353.00	$5,014.00	$8,192.00	-
Highlands	1600.00	$12,358,900.00	$0.00	$7,724.00	$0.00	2400.00
Hillsborough	24607.00	$120,412,040.00	$24,421,557.00	$4,893.41	Varies	N/A
Holmes	321.00	$1,816,567.00	$740,895.00	$312.02	$105.50	104.00
Indian River	2046.00	$9,476,832.00	$3,096,222.00	$4,632.00	$1,463.00	1851.00
Jackson	655.00	$2,635,108.00	$1,691,621.00	$4,023.07	$2,583.63	N/A
Jefferson	120.00	$360,000.00	$204,480.00	$3,000.00	$1,704.00	36.00
Lafayette	99.00	$565,882.00	$200,363.00	$5,715.98	$4,174.23	24.00
Lake	4492.00	$25,524,337.56	$3,796,447.20	$5,682.36	$3,007.36	N/A
Lee	9350.00	$60,000,000.00	$15,000,000.00	$6,372.00	$1,600.00	3000.00
Leon	3233.00	$15,481,577.00	$6,575,243.40	$4,788.61	$2,033.79	2369.00
Levy	645.00	$2,531,908.00	$852,702.00	$3,925.44	$2,137.10	236.00
Liberty	150.00	$484,790.64	$461,757.12	$3,973.69	$3,816.17	-
Madison	371.00	$1,308,858.92	$828,141.08	$3,525.44	Varies	N/A
Manatee	5218.00	$26,845,370.40	$13,908,186.00	$5,144.76	$2,665.42	4696.00
Marion	5400.00	$19,172,180.40	$4,050,104.22	$3,506.33	$432.61 - $1,463.83	-
Martin	2895.00	$15,878,732.17	$4,973,174.47	$517.09	Varies	612.00
Monroe	907.00	$7,776,000.00	$2,693,709.00	$8,573.32	$2,969.92	568.00
Nassau	883.00	$5,149,867.92	$2,499,655.52	$5,832.24	$2,830.87	682.00
Okaloosa	3173.00	$17,199,048.00	$3,859,417.00	$5,420.44	$1,216.33	1443.00
Okeechobee	710.00	$4,361,555.40	$1,487,583.48	$6,143.04	$2,095.19	273.00
Orange	24196.02	$126,254,849.00	$0.00	$5,218.00	$0.00	11186.00
Osceola	6454.00	$39,421,032.00	$10,638,545.00	$6,108.00	$1,083.75	3732.00
Palm Beach	21500.00	$153,455,000.00	$30,700,000.00	$5,710.00	$1,428.00	15100.00
Pasco	7952.00	$49,200,000.00	$7,231,000.00	$5,799.29	0 for single coverage	3000.00
Pinellas	11863.00	$91,000,000.00	$21,800,000.00	$7,670.91	$1,837.65	11235.00
Polk	9897.00	$57,757,920.00	$12,519,528.00	$5,836.00	$1,144.28	5529.00
Putnam	1501.32	$7,096,948.80	$1,660,756.60	$4,727.13	$1,444.00	148.00
St. Johns	2553.00	$14,061,611.16	$5,762,866.68	Varies	Varies	3299.00
St. Lucie	3970.00	$29,900,851.57	$8,525,129.28	$7,531.70	$2,147.39	3861.00
Santa Rosa	1992.00	$10,821,460.20	$4,725,311.52	Varies	Varies	N/A
Sarasota	5108.00	$33,447,730.00	$6,029,822.00	$6,548.00	$1,180.47	1985.00
Seminole	6651.00	$35,467,022.00	$28,971,091.00	$5,686.00	-	513.00
Sumter	737.00	$3,057,076.00	$337,260.40	$4,148.00	$4,520.49	N/A
Suwannee	768.00	$2,826,915.84	$1,050,442.44	$3,680.88	$1,367.76	N/A
Taylor	525.00	$1,148,576.00	$974,700.00	-	$4,044.34	174.00
Union	233.00	$1,454,847.52	$722,027.36	$6,243.98	$3,098.83	233.00
Volusia	7512.00	$49,883,863.00	$12,901,064.00	$6,340.90	$1,639.90	5986.00
Wakulla	492.00	$2,829,894.30	$956,589.00	$5,751.82	$1,944.29	424.00
Walton	942.00	$4,668,552.00	$0.00	$4,956.00	$0.00	212 families
Washington	519.00	$2,299,501.00	$368,323.00	$4,430.64	$709.68	N/A
Total	**295029.56**	**$2,190,240,023.78**	**$363,840,999.74**	**-**	**-**	**111967.00**

[4] Section 112.08(2)(a) and (b), F.S.

Regional Consortium Service Organizations

Section 1001.451, F.S., provides that school districts with less than 20,000 full-time equivalent students and certain other schools may enter into cooperative agreements to form a regional consortium service organization (RCSO). Each RCSO must provide, at a minimum, three of the following services: exceptional student education; teacher education centers; environmental education; federal grant procurement and coordination; data processing; health insurance; risk management insurance; staff development; purchasing; or planning and accountability. Each RCSO that consists of at least four districts is eligible to receive an incentive grant through the Department of Education of $50,000 per school district subject to legislative appropriation, to be used for the delivery of services within the participating school districts.[5] Application for incentive grants must be made to the Commissioner of Education by July 30 of each year for distribution to qualifying regional consortium service organizations by January 1 of the fiscal year. A RCSO may establish purchasing and bidding programs, including construction and construction management arrangements, in lieu of individual school district bid arrangements pursuant to policies exercised by its member districts.

There are three RCSO's currently in operation:

- The Panhandle Area Educational Consortium: 13 member school districts, with two districts participating in a self-insured group health plan.
- The North East Florida Educational Consortium: 13 member school districts, with at least 5 districts participating in dental and vision programs.
- The Heartland Educational Consortium: 6 school districts in central Florida; no risk management pooling.

Florida School Boards Insurance Trust

The Florida School Boards Insurance Trust (FSBIT) was established in 1981 by the Florida School Boards Association (FSBA) for the purpose of self-insuring property/casualty exposures of Florida school districts. This pooled self-insurance program is sponsored by FSBA and is funded by the participating districts. In 2009 FSBIT added the School Health Insurance Program of Florida (SHIP) to purchase and procure health insurance coverage or provide self-insurance and risk management programs coverage for participating districts. The only participant in SHIP to date, Charlotte County, has a self-insured health care plan.

Florida Law on Collective Bargaining

Chapter 447, F.S., addresses labor organizations. The district school board is the public employer for all employees of the district.[6] A public employee is generally defined as a person employed by a public employer.[7] Collective bargaining is required between the public employer and the bargaining agent, in the determination of wages, hours, and terms and conditions of employment of the public employees in the bargaining unit.[8]

---

[5] In FY 2010-11, $1,611,465 was appropriated; in FY 2011-2012, $1,445,390 was appropriated.
[6] Section 447.203(2), F.S.
[7] Section 447.203(3), F.S.
[8] Section 447.309(1), F.S.

III. Effect of Proposed Changes:

This bill requires school districts to enter into interlocal agreements as provided in section 163.01, F. S., to establish the School District Insurance Consortium (Consortium) for the provision of health, accident, and hospitalization insurance.

The Consortium is organized as a nine-member board of directors, with representation as follows:

- Three members who are elected school board members appointed by the Florida School Boards Association;
- Three members who are elected or appointed school superintendents appointed by the Florida Association of District School Superintendents;
- Two members who are public school teachers or support personnel appointed by the Florida Education Association; and
- One member who has experience operating employee benefit systems appointed by the other members of the consortium.

Members are to be appointed for two-year terms. The bill is silent regarding reappointments and the number of terms. The board of directors is authorized to hire staff or contract for staffing services.

This bill requires that Consortium-purchased insurance be competitively bid. Insurance may be purchased for a statewide insurance plan as well as plans providing regional coverage. In determining appropriate regions, the consortium shall group school districts geographically in a manner that includes school districts of varying sizes for the purpose of ensuring the availability of coverage for all districts in the region. Multiple providers are authorized.

School districts are required to collectively bargain for all units of employees who will be provided insurance, consistent with current law.

The Department of Management Services must provide technical services to the Consortium, as requested.

To opt-out, a school board must hold a properly noticed public meeting and find that it is less expensive to purchase insurance elsewhere. Therefore, some school districts may continue to purchase insurance independently.

This bill takes effect upon the latter of July 1, 2013, or upon expiration or renewal date of any existing contract. Therefore, this legislation would not alter the terms of existing contracts.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

E. Tax/Fee Issues:

None.

F. Private Sector Impact:

None.

G. Government Sector Impact:

The Department of Education indicates that economies of scale through joint purchases of group insurance will likely result in a cost savings to school districts, with the amount indeterminate at this time.

The requirement that the Department of Management Services provide technical services upon request may result in a fiscal impact, but it is likely to be insignificant.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

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

None.

B. Amendments:

None.

By Senator Gaetz

4-00047-12 2012366__

A bill to be entitled

An act relating to group insurance for public employees; amending s. 112.08, F.S.; requiring that school districts procure certain types of insurance for their officers and employees through interlocal agreements; providing an exception; requiring each school district to enter into an interlocal agreement and establish the School District Insurance Consortium governed by a board of directors; providing for membership and specifying terms of office for board members; authorizing the board to employ staff or contract for staffing services to be provided to the consortium; requiring the Department of Management Services to provide technical services to the consortium; requiring the consortium to advertise for competitive bids for insurance; authorizing the awarding of bids on a statewide or regional basis and the selection of multiple insurance providers; requiring that school districts engage in collective bargaining with certified bargaining agents; providing an effective date.

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

Section 1. Subsection (2) of section 112.08, Florida Statutes, is amended to read:

112.08 Group insurance for public officers, employees, and certain volunteers; physical examinations.—

(2)~~(a)~~ Notwithstanding any general law or special act to

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

4-00047-12 2012366__

the contrary and except as provided under paragraph (c), every local governmental unit may ~~is authorized to~~ provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kinds of such insurance, for the officers and employees of the local governmental unit and for health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees upon a group insurance plan and, to that end, to enter into contracts with insurance companies or professional administrators to provide such insurance.

(a) Before entering any contract for insurance, the local governmental unit shall advertise for competitive bids,~~;~~ and such contract shall be let upon the basis of such bids. If a contracting health insurance provider becomes financially impaired as determined by the Office of Insurance Regulation of the Financial Services Commission or otherwise fails or refuses to provide the contracted-for coverage or coverages, the local government may purchase insurance, enter into risk management programs, or contract with third-party administrators and may make such acquisitions by advertising for competitive bids or by direct negotiations and contract. The local governmental unit may undertake simultaneous negotiations with those companies that ~~which~~ have submitted reasonable and timely bids and are found by the local governmental unit to be fully qualified and capable of meeting all servicing requirements. Each local governmental unit may self-insure any plan for health, accident, and hospitalization coverage or enter into a risk management consortium to provide such coverage, subject to approval based

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

59 on actuarial soundness by the Office of Insurance Regulation;
60 and each shall contract with an insurance company or
61 professional administrator qualified and approved by the office
62 to administer such a plan.
63 (b) In order to obtain approval from the Office of
64 Insurance Regulation of any self-insured plan for health,
65 accident, and hospitalization coverage, each local governmental
66 unit or consortium shall submit its plan along with a
67 certification as to the actuarial soundness of the plan, which
68 certification is prepared by an actuary who is a member of the
69 Society of Actuaries or the American Academy of Actuaries. The
70 Office of Insurance Regulation may ~~shall~~ not approve the plan
71 unless it determines that the plan is designed to provide
72 sufficient revenues to pay current and future liabilities, as
73 determined according to generally accepted actuarial principles.
74 After implementation of an approved plan, each local
75 governmental unit or consortium shall annually submit to the
76 Office of Insurance Regulation a report that ~~which~~ includes a
77 statement prepared by an actuary who is a member of the Society
78 of Actuaries or the American Academy of Actuaries as to the
79 actuarial soundness of the plan. The report is due 90 days after
80 the close of the fiscal year of the plan. The report must
81 include ~~shall consist of~~, but need ~~is~~ not be limited to:
82 1. The adequacy of contribution rates in meeting the level
83 of benefits provided and the changes, if any, needed in the
84 contribution rates to achieve or preserve a level of funding
85 deemed adequate to enable payment of the benefit amounts
86 provided under the plan and a valuation of present assets, based
87 on statement value, and prospective assets and liabilities of

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88 the plan and the extent of any unfunded accrued liabilities.
89 2. A plan to amortize any unfunded liabilities and a
90 description of actions taken to reduce unfunded liabilities.
91 3. A description and explanation of actuarial assumptions.
92 4. A schedule illustrating the amortization of any unfunded
93 liabilities.
94 5. A comparative review illustrating the level of funds
95 available to the plan from rates, investment income, and other
96 sources realized over the period covered by the report with the
97 assumptions used.
98 6. A statement by the actuary that the report is complete
99 and accurate and that in the actuary's opinion the techniques
100 and assumptions used are reasonable and meet the requirements
101 and intent of this subsection.
102 7. Other factors or statements as required by the office in
103 order to determine the actuarial soundness of the plan.
104
105 All assumptions used in the report must ~~shall~~ be based on
106 recognized actuarial principles acceptable to the Office of
107 Insurance Regulation. The office shall review the report and
108 ~~shall~~ notify the administrator of the plan and each entity
109 participating in the plan, as identified by the administrator,
110 of any actuarial deficiencies. Each local governmental unit is
111 responsible for payment of valid claims of its employees which
112 ~~that~~ are not paid within 60 days after receipt by the plan
113 administrator or consortium.
114 (c) Beginning July 1, 2013, or upon the expiration or
115 renewal date of any existing contract, whichever occurs later,
116 school districts shall procure health, accident, and

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117 hospitalization insurance through a purchasing interlocal
118 agreement unless the school board at a duly noticed public
119 meeting determines that purchasing insurance outside the plan
120 procured through the interlocal agreement, as provided under
121 paragraphs (a) and (b), is financially advantageous to the
122 school district.
123 1. Each school district shall enter into an interlocal
124 agreement as provided in s. 163.01 in order to establish the
125 School District Insurance Consortium through which such
126 insurance shall be procured for officers and employees of the
127 school district and their dependents.
128 2. The consortium shall be governed by a board of directors
129 comprised of nine members, three of whom shall be elected school
130 board members appointed by the Florida School Boards
131 Association, Inc., three of whom shall be elected or appointed
132 superintendents of schools appointed by the Florida Association
133 of District School Superintendents, Inc., two of whom shall be
134 public school teachers or support personnel appointed by the
135 Florida Education Association, and one of whom shall have
136 experience in running employee-benefit systems, to be appointed
137 by the other members of the consortium. Consortium board members
138 shall be appointed to 2-year terms. The board may employ staff
139 or contract for staffing services to be provided to the
140 consortium. The Department of Management Services shall provide
141 technical services to the consortium as requested by the board.
142 3. Notwithstanding any other provision of law, the
143 consortium shall advertise for competitive bids for such
144 insurance, and the contracts for such insurance shall be let
145 upon the basis of such bids. The consortium shall advertise for

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146 proposals for a statewide insurance plan as well as plans
147 providing coverage on a regional basis. In determining
148 appropriate regions, the consortium shall group school districts
149 geographically in a manner that includes school districts of
150 varying sizes for the purpose of ensuring the availability of
151 coverage for all districts in the region. Contracts may be
152 awarded on a statewide or regional basis, and more than one
153 provider may be selected to provide insurance. School districts
154 shall engage in collective bargaining with the certified
155 bargaining agent for any unit of employees for which health,
156 accident, or hospitalization insurance is provided, as required
157 by part II of chapter 447, with regard to coverage offered, cost
158 for dependent coverage, deductibles, optional coverage, and
159 other matters that are subject to collective bargaining as
160 required by state law.
161 (d) ~~(c)~~ Every local governmental unit may ~~is authorized to~~
162 expend funds for preemployment physical examinations and
163 postemployment physical examinations.
164 Section 2. This act shall take effect July 1, 2012.

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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)

2/21/12
Meeting Date

Topic _____

Bill Number 366 *(if applicable)*

Name Leticia M Adams

Amendment Barcode _____ *(if applicable)*

Job Title Director of Infrastructure & Governance Policy

Address 136 South Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-544-6866

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Speaking: [✓] For [ ] Against [ ] Information

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.

S-001 (10/20/11)

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 Budget Committee

BILL: CS/SB 376

INTRODUCER: Health Regulation Committee and Senator Flores

SUBJECT: Radiological Personnel

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Fav/CS**
2.	Bradford	Hendon	BHA	**Favorable**
3.	Bradford	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill allows for the certification of nationally-recognized specialties of radiologic technologist which are currently not recognized in statute. The bill updates existing definitions and certification procedures to encompass emerging technologies and specialties.

This bill contains a fee not to exceed $100 that will be charged to the applicant for the certification and will cover the costs of the new certification. The department indicates the fiscal impact of the bill is insignificant and can be handled within existing resources.

SB 376 substantially amends sections 468.301, 468.302, 468.303, 468.304, 468.306, and 468.3065 of the Florida Statutes.

The effective date of the bill is July 1, 2012.

II. Present Situation:

"Radiologic technologist" is defined in s. 468.301(15), F.S., to mean a person, other than a licensed practitioner, who is qualified by education, training, or experience to use radiation on

human beings under the specific direction and general supervision of a licensed practitioner in each particular case. "Licensed practitioner" means any Florida-licensed physician, podiatrist, chiropractor, or naturopath.[1]

Florida regulations concerning radiologic technologists are found in part IV of ch. 468, F.S., and Rule chapter 64E-3, F.A.C. The Department of Health (DOH) Bureau of Radiation Control within the Division of Environmental Health is responsible for the certification and regulation of radiologic technologists.

Types and Duties of Radiologic Technologists Defined in Statute

A basic X-ray machine operator can perform general diagnostic radiographic and general fluoroscopic procedures, excluding nuclear medicine and radiation therapy procedures, under the direct supervision of a licensed practitioner.[2]

A basic X-ray machine operator-podiatric medicine can perform certain radiographic functions, excluding nuclear medicine and radiation therapy procedures, which are within the scope of practice of a podiatrist. Such an operator may only practice under the direct supervision of a licensed podiatrist.[3]

A general radiographer means anyone who is employed and certified in radiography, other than a basic X-ray machine operator or a basic X-ray machine operator-podiatric medicine.[4] General radiographers may not perform nuclear medicine procedures but are permitted to perform computed tomography (CT) examinations. They can also assist certified radiation therapy technologists with certain radiation therapy procedures after undergoing appropriate training and certification.[5]

A limited computed tomography technologist may only perform diagnostic CT examinations.[6]

A radiation therapy technologist may administer certain forms of radiation therapy (X radiation, ionizing radiation from particle accelerators, and external beam teletherapy) to human beings for therapeutic or simulation purposes.[7]

A nuclear medicine technologist may conduct measurements of radioactivity and administer radiopharmaceuticals to human beings for diagnostic and therapeutic purposes. A nuclear medicine technologist may also administer X radiation from a combination nuclear medicine-CT device if that radiation is administered as an integral part of a nuclear medicine procedure and the technologist has received device-specific training. Otherwise the technologist is not permitted to operate a CT device.[8]

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[1] Sections 468.3003 and 468.301(11), F.S.
[2] Sections 468.301(1) and 468.302(3)(a), F.S.
[3] Sections 468.301(2) and 468.302(3)(c), F.S.
[4] Section 468.301(9), F.S.
[5] Sections 468.302(3)(d) and 468.302(3)(g), F.S., and Rule 64E-3.3001, F.A.C.
[6] Section 468.302(3)(e), F.S.
[7] Section 468.302(3)(f), F.S.
[8] Section 468.302(3)(g), F.S., and Rule 64E-3.0033, F.A.C.

A radiologist assistant is an advanced-level radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the medical imaging environment.[9,10] Under supervision of a radiologist, a radiologist assistant may perform patient assessment, patient management, and selected clinical imaging procedures. Radiologist assistants are not certified to interpret any radiological image or to perform any nuclear medicine or radiation therapy procedures.[11,12]

Certification of Radiologic Technologists

Certification requirements for radiologic technologists are:[13]

- Pay appropriate application and examination fees.
- Be at least 18 years of age at the time of application.
- Be at least a high school graduate or hold a GED.
- Have good moral character.
- Complete an educational training program in the requested category of certification. The training program must come from a hospital or postsecondary academic institution which has been recognized and accepted by the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board and certified by the DOH.[14]
- Complete 4 hours of HIV/AIDS training.[15]
- Pass the appropriate licensing examination or meet the eligibility requirements for a certificate by endorsement.
- Submit documentation of any criminal offense of which the applicant has been found guilty, regardless of adjudication.
- Submit documentation of any final disciplinary action taken against the applicant by a licensing or regulatory body in any jurisdiction, by a national organization, or by a specialty board recognized by the DOH.

Additional certification procedures apply in certain situations:

- In lieu of completing an approved educational training program from a hospital or postsecondary academic institution, an applicant for basic X-ray machine operator certification may read *Radiography Essentials for Limited Practice*, *2nd edition*, published by Elsevier Saunders, or take any substantially equivalent course which provides instruction

[9] Sections 468.301(17), F.S.
[10] A radiologist, as defined in s. 468.301(16), F.S., is a physician specializing in radiology certified by the American Board of Radiology, the American Osteopathic Board of Radiology, the British Royal College of Radiology, or the Canadian College of Physicians and Surgeons.
[11] Section 468.302(3)(h), F.S.
[12] Further details on the duties of radiologist assistants can be found in Rule 64E-3.0032, F.A.C., and in the *Radiologist Assistant Role Delineation- January 2005*, published by the American Registry of Radiologic Technologists, available at http://www.acr.org/secondarymainmenucategories/quality_safety/radiologistassistant/arrtroledelineationdocumentdoc7.aspx (last visited on September 29, 2011).
[13] Section 468.304, F.S.
[14] Rules 64E-3.002(1) and 64E-3.003(1)(a), F.A.C., and s. 468.305, F.S.
[15] Rule 64E-3.003(4), F.A.C.

on all of the subjects listed in the ARRT's January 2006 edition of *Content Specifications for the Examination for the Limited Scope of Practice in Radiography*.[16,17]

- A currently certified basic X-ray machine operator applying for general radiographer certification must complete a DOH-approved educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually practiced in a hospital.
- A currently certified general radiographer applying for nuclear medicine technologist certification must complete a DOH-approved educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually practiced in a hospital. [18]
- A currently certified general radiographer who wishes to also assist with radiation therapy procedures must complete at least 560 hours of training following a DOH-prescribed curriculum at a radiation therapy school accredited by the Joint Review Committee on Education in Radiologic Technology.[19,20]
- A radiologist assistant currently certified by the ARRT is not required to complete the educational training program or the examination and is instead issued a certificate by endorsement.[21]
- No further limited CT certificates were awarded after October 1, 1984. Certificates issued before this time are valid if they are renewed appropriately under s. 468.309, F.S.[22]

Written examinations are offered semiannually and test applicants on patient positioning, technique, and radiation protection skills related to each category of certification. Examinations may be developed and administered by the DOH or by a contracting organization, including national organizations which certify radiologic technologists. The passing score is 65 percent for the basic X-ray machine operator examination and 75 percent for all other examinations. [23]

The DOH may issue a certificate by endorsement to practice as a radiologic technologist to an applicant who can demonstrate that he or she holds a current license or certification to practice radiologic technology in another jurisdiction and that the requirements for such license or certification are equivalent to those required for certification in Florida.[24]

All operators of radiation equipment are not required to be registered radiologic technologists (as part of the ARRT or another national or state organization), but all must be certified by the state before they may practice.[25] Radiologic technologists are not required to be certified if they are currently students under direct supervision of a licensed radiologic technologist, are employed by a United States governmental agency, or are licensed under ch. 483, F.S., to only perform

[16] Rule 64E-3.003(d), F.A.C.
[17] ARRT, *Content Specifications for the Examination for the Limited Scope of Practice in Radiography*, January 2006, available at http://www.doh.state.fl.us/mqa/rad-tech/LIM_CS_2006.pdf (last visited on September 29, 2011).
[18] Rule 64E-3.002(1), F.A.C., and ss. 468.304(3)(e)2.c.-d. and 468.305, F.S.
[19] Rule 64E-3.0031(1)(b), F.A.C.
[20] Department of Health, *Therapy Assistance by General Radiographer Training Program Curriculum*, March 2002, available at http://www.doh.state.fl.us/mqa/rad-tech/Thrpy_Assistance_Cur.pdf (last visited on September 29, 2011).
[21] Sections 468.304(3)(e)2.e., 468.306, and 468.3065(1), F.S.
[22] Section 468.304(5), F.S.
[23] Section 468.306, F.S., and Rule 64E-3.005, F.A.C.
[24] Section 468.3065(1), F.S., and Rule 64E-3.006, F.A.C.
[25] Sections 468.302(1) and 468.305, F.S.

nuclear medicine procedures.[26] Temporary certificates can also be issued by the DOH in certain situations.[27]

Renewal of Certification and Continuing Education

All radiologic technology certificates must be renewed every 2 years by submitting a renewal application and fee to the DOH.[28] Twelve classroom hours of continuing education per recertification period are also required.[29]

Certificates that have been expired for more than 2 but less than 10 years may be renewed by submitting a renewal application and fee as well as a late fee. Continuing education requirements in this case are 3 classroom hours for each 6 months for which the certificate has been expired. These classroom hours are in addition to the 12 hours that are normally required to renew a certificate. A certificate which has been expired for more than 10 years cannot be renewed. The applicant must repeat the entire certification process.[30]

Disciplinary Action

The following actions are subject to administrative fines by the DOH and probation, suspension, or revocation of certification:[31]

- Procuring or renewing a certificate via fraudulent means.
- Having a certificate suspended or revoked by a national organization, a DOH-recognized specialty board, or certification authority of another jurisdiction.
- Failing to notify the DOH within 30 days of revocation or suspension of certification by a national organization, a DOH-recognized specialty board, or certification authority of another jurisdiction.
- Being convicted, regardless of adjudication, of a crime that relates to the practice of radiologic technology or of any other crime against a person.
- Filing false reports or failing to file a report required by state or federal law. This applies only to reports filed in the capacity of the certificate holder.
- Engaging in unprofessional conduct.
- Inability to adequately practice radiologic technology due to chemical dependence or alcohol addiction.
- Failing to comply with the recommendations of the DOH's impaired practitioner program.
- Testing positive for unauthorized substances on an employment-related drug screen.
- Violating or not reporting another's violation of the rules and laws governing radiologic technologists.

[26] Sections 468.302(6) and (7), F.S.
[27] Section 468.307(2), F.S.
[28] Section 468.309, F.S. Special allowances are made for certificate holders or their spouses are who called to active military duty. The certificate holder remains in good standing throughout the period of active duty and has up to 6 months after discharge to become recertified following the normal renewal process.
[29] Rule 64E-3.008, F.A.C. Further details on the exact on the exact curricular requirements of continuing education are available in Rule 64E-3.009, F.A.C.
[30] Section 468.3095, F.S., and Rule 64E-3.010, F.A.C.
[31] Section 468.3101, F.S. Further details of minimum and maximum disciplinary actions and fines associated with each violation are found in Rule 64E-3.011, F.A.C.

- Employing an uncertified individual to practice radiologic technology in this state.

The following actions are considered misdemeanors of the second degree:[32]

- Practicing radiologic technology without the appropriate certification, including practicing with a certificate that has been suspended or revoked.
- Practicing radiologic technology by an unsupervised student or allowing this to occur.
- Obtaining certification via fraudulent means.
- Using any name or title to imply that a person is a certified radiologic technologist when he or she is not.
- Knowingly concealing violations of rules and laws governing radiologic technologists from law enforcement.
- Employing an uncertified individual to practice radiologic technology in this state.

Advisory Council on Radiation Protection

Section 468.314, F.S. establishes a sixteen-person advisory council within the DOH. This council provides recommendations to the DOH on such issues as minimum requirements for certification, a certificate holders' code of ethics, curricula for continuing education courses, the duties of each different type of radiologic technologist.

National Radiologic Technology Organizations and Certifications

Nationally, there are three main organizations which certify radiologic technologists: the American Registry of Radiologic Technologists (ARRT), the American Registry for Diagnostic Medical Sonography (ARDMS), and the Nuclear Medicine Technology Certification Board (NMTCB). The ARRT is the largest with approximately 300,000 members. Among other duties, these organizations create and administer exams in various radiologic technologist specialties to provide national standards of competency.[33]

To be eligible to take a certification examination, an applicant must graduate from an accredited educational training program and fulfill specific clinical competencies. The specific examination prerequisites vary depending on the certification organization. Policies for recertification and continuing education are also provided by each organization.[34]

The following certifications are available nationally for radiologic technologists:
From the ARRT:[35]

- Primary certifications
  - Radiography
  - Radiation Therapy

[32] Section 468.311, F.S.
[33] American Society of Radiologic Technologists, *Alphabet Soup: A Guide to Organizations in Radiologic Technology*, available at https://www.asrt.org/content/aboutasrt/alphabet_soup.aspx (last visited on September 30, 2011).
[34] For information on ARRT prerequisites, visit https://www.arrt.org/Certification (last visited on September 30, 2011). For information on ARDMS prerequisites, visit http://www.ardms.org/files/downloads/Prerequisite_Chart.pdf (last visited on September 30, 2011). For information on NMTCB prerequisites, visit http://www.nmtcb.org/about/eligReq.php (last visited on September 30, 2011).
[35] ARRT, *ARRT Certification*, available at https://www.arrt.org/Certification (last visited on September 30, 2011).

  - Nuclear Medicine Technology
  - Magnetic Resonance Imaging
  - Sonography
- Post-primary (subspecialty) certifications
  - Computed Tomography
  - Magnetic Resonance Imaging
  - Mammography
  - Quality Management
  - Sonography
  - Breast Sonography
  - Vascular Sonography
  - Cardiac-Interventional
  - Vascular-Interventional
  - Bone Densitometry
- Advanced practice certifications
  - Radiologist Assistant

From the ARDMS:[36]

- Primary certifications
  - Diagnostic Medical Sonographer
  - Diagnostic Cardiac Sonographer
  - Vascular Technologist
- Specialty certifications
  - Abdominal Sonography
  - Breast Sonography
  - Neurosonology
  - Obstetrics and Gynecology Sonography
  - Adult Echocardiography
  - Pediatric Echocardiography
  - Fetal Echocardiography

From the NMTCB:[37]

- Nuclear Medicine Technologist
- Nuclear Cardiology Technologist
- Positron Emission Tomography Technologist

Other certifications are also available from several smaller national radiologic technologist organizations.

III. Effect of Proposed Changes:

This bill allows for the certification of nationally-recognized specialties of radiologic technologist which are currently not recognized in statute.

[36] ARDMS, *Credentials and Examinations*, http://www.ardms.org/credentials_examinations/ (last visited on September 30, 2011).
[37] NMTCB, *Welcome*, http://www.nmtcb.org/root/default.php (last visited on September 30, 2011).

Section 1 amends s. 468.301, F.S., to create the term "specialty technologist" to mean a subtype of radiologic technologist subject to specific certification requirements under s. 468.304, F.S.

Section 2 amends s. 468.302, F.S., to provide guidelines for the titles and title abbreviations that specialty technologists may use to designate the various certifications they hold in Florida. The DOH is given rulemaking authority to specify these titles and title abbreviations. This section also allows the DOH, by rule, to define the duties each type of specialty technologist may perform in the state.

Section 3 amends s. 468.303, F.S., to give the DOH rulemaking authority to recognize national organizations that certify, license, or register specialty technologists under educational and examination requirements that demonstrate technical and safety competencies for the scope of practice for that specialty.

Section 4 amends s. 468.304(3), F.S., to require that an applicant for specialty technologist certification demonstrate that he or she is currently certified by or registered with a national radiologic technology organization in that specialty.

Section 5 amends s. 468.306, F.S., to provide that applicants for specialty technologist certification may only be certified by endorsement as provided in s. 468.3065, F.S. Applicants for specialty technologist certification may not be certified through the examination procedures otherwise provided under s. 468.306, F.S.

Section 6 amends s. 456.3065, F.S. to provide for certification of specialty technologists by endorsement. This means that specialty technologists who are registered with or certified by a national radiologic technology organization in some practice specialty will have that certification recognized in Florida as long as the national organization is recognized by the DOH. The application fee for a certificate by endorsement to practice as a specialty technologist may not exceed $100.

Section 7 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

A fee not to exceed $100 is to be remitted by the applicant.

B. Private Sector Impact:

Technologists seeking DOH recognition of any national certifications would be required to pay an application fee. Recognizing additional categories of specialty certification would provide employers with greater information about the competencies of a prospective employee and would also increase the quality of care delivered during specialized radiologic technology procedures by ensuring that technologists had received appropriate training before being allowed to work with patients.

C. Government Sector Impact:

The DOH anticipates a small workload increase to process applications for recognition of additional nationally-recognized certifications, which will be offset by fees for an overall insignificant fiscal impact.[38] The department indicates that this can be absorbed within its existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Health Regulation on January 12, 2012:
The CS eliminates the amendment of ss. 458.3003 and 468.301(4), F.S., the declaration of policy and definition of "radiation," to revert to current statutory language. The CS changes the phrase "national registry" to "national organization" throughout the bill to maintain consistency with existing statute.

[38] Department of Health, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 376*. A copy of this document is on file with the Senate Health Regulation Committee.

Section 468.303, F.S., is amended to give the DOH rulemaking authority to recognize national organizations that certify, license, or register specialty technologists under educational and examination requirements that demonstrate technical and safety competencies for the scope of practice for that specialty.

Section 468.3065, F.S., is amended to eliminate the requirement that, in order for a nationally-licensed, -registered, or -certified specialty technologist to be issued a certificate by endorsement in Florida, criteria for licensure, certification, or registration by the national organization must be deemed substantially equivalent by the DOH to those for specialty technologists established in statute or rule.

Several technical changes are also made.

B. Amendments:

None.

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

By the Committee on Health Regulation; and Senator Flores

588-01849-12 2012376c1

A bill to be entitled

An act relating to radiological personnel; amending s. 468.301, F.S.; defining the term "specialty technologist" as it relates to the certification of radiological personnel; amending s. 468.302, F.S.; providing titles for persons who hold a certificate as a specialty technologist; authorizing a person holding a certificate as a specialty technologist to perform the specific duties allowed for a specialty technologist as defined by the Department of Health; requiring that the duties fall within the scope of practice of the specialty as set by the national organization for the particular advanced, postprimary, or specialty area; amending s. 468.303, F.S.; authorizing the Department of Health to adopt rules for recognizing certain national organizations that certify, license, or register specialty technologists; amending s. 468.304, F.S.; providing criteria for certification as a specialty technologist; amending s. 468.306, F.S.; providing for an applicant for certification as a specialty technologist to be certified only by endorsement rather than by examination; amending s. 468.3065, F.S.; authorizing the department to issue a certificate by endorsement to practice as a specialty technologist to an applicant who meets certain criteria; providing an effective date.

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

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

588-01849-12 2012376c1

Section 1. Subsection (18) is added to section 468.301, Florida Statutes, to read:

468.301 Definitions.—As used in this part, the term:

(18) "Specialty technologist" means a person, other than a licensed practitioner, who is qualified by education and certification, as set forth in s. 468.304, to use radiation on human beings under the specific direction and general supervision of a licensed practitioner.

Section 2. Paragraph (h) is added to subsection (2) and paragraph (i) is added to subsection (3) of section 468.302, Florida Statutes, to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(2)

(h) A person holding a certificate as a specialty technologist may use the title "Certified Radiologic Technologist-X" or the letters "CRT-X" after his or her name, where "X" represents a single- or multiple-letter designation signifying the advanced, postprimary, or specialty area of radiologic technology, such as "CT" for computed tomography or "PET" for positron emission tomography, in which the person is certified by a national organization that is recognized by the department. The department shall approve these letter designations by rule for each area, consistent with the designation used by the national organization.

No other person is entitled to so use a title or letters contained in this subsection or to hold himself or herself out

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59 in any way, whether orally or in writing, expressly or by
60 implication, as being so certified.
61 (3)
62 (i) A person holding a certificate as a specialty
63 technologist may perform the specific duties allowed for a
64 specialty technologist as defined by rule of the department.
65 These duties must fall within the scope of practice for the
66 specialty as set by the national organization for that
67 particular advanced, postprimary, or specialty area.
68 Section 3. Section 468.303, Florida Statutes, is amended to
69 read:
70 468.303 Rules.—
71 (1) The department may ~~is authorized to~~ make such rules,
72 not inconsistent with law, as may be necessary to carry out the
73 provisions of this part. The department may ~~is authorized to~~
74 establish by rule fees to be paid for application, examination,
75 reexamination, certification, and renewal, and for recordmaking
76 and recordkeeping, provided that no fee shall exceed the amounts
77 provided in this part. Fees shall be based on department
78 estimates of the revenue required to implement the provisions of
79 this part. The department may, based upon estimates of revenue
80 required to implement this part, establish separate fee
81 schedules for application, examination, reexamination,
82 certification, and renewal for the different categories of
83 certification.
84 (2) The department may adopt rules for recognizing national
85 organizations that certify, license, or register specialty
86 technologists under educational and examination requirements
87 that demonstrate technical and safety competencies for the scope

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

88 of practice for that specialty.
89 Section 4. Section 468.304, Florida Statutes, is amended to
90 read:
91 468.304 Certification.—The department shall certify any
92 applicant who meets the following criteria:
93 (1) Pays to the department a nonrefundable fee that may not
94 exceed $100, plus the actual per-applicant cost to the
95 department for purchasing the examination from a national
96 organization.
97 (2) Submits a completed application on a form specified by
98 the department. An incomplete application expires 6 months after
99 initial filing. The application must include the social security
100 number of the applicant. Each applicant shall notify the
101 department in writing of his or her current mailing address.
102 Notwithstanding any other law, service by regular mail to an
103 applicant's last reported mailing address constitutes adequate
104 and sufficient notice of any official departmental communication
105 to the applicant.
106 (3) Submits satisfactory evidence, verified by oath or
107 affirmation, that she or he:
108 (a) Is at least 18 years of age at the time of application;
109 (b) Is a high school, vocational school, technical school,
110 or college graduate or has successfully completed the
111 requirements for a graduate equivalency diploma (GED) or its
112 equivalent;
113 (c) Is of good moral character;
114 (d) Has passed an examination as specified in s. 468.306 or
115 meets the requirements specified in s. 468.3065; and
116 (e)1. Has successfully completed an educational program,

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

117 which program may be established in a hospital licensed pursuant
118 to chapter 395 or in an accredited postsecondary academic
119 institution which is subject to approval by the department as
120 maintaining a satisfactory standard; or
121 2.a. With respect to an applicant for a basic X-ray machine
122 operator's certificate, has completed a course of study approved
123 by the department with appropriate study material provided the
124 applicant by the department;
125 b. With respect to an applicant for a basic X-ray machine
126 operator-podiatric medicine certificate, has completed a course
127 of study approved by the department, if ~~provided that~~ such
128 course of study is ~~shall be~~ limited to the ~~that~~ information
129 necessary to perform radiographic procedures within the scope of
130 practice of a podiatric physician licensed pursuant to chapter
131 461;
132 c. With respect only to an applicant for a general
133 radiographer's certificate who is a basic X-ray machine operator
134 certificateholder, has completed an educational program or a 2-
135 year training program that takes into account the types of
136 procedures and level of supervision usually and customarily
137 practiced in a hospital, which educational or training program
138 complies with the rules of the department;
139 d. With respect only to an applicant for a nuclear medicine
140 technologist's certificate who is a general radiographer
141 certificateholder, has completed an educational program or a 2-
142 year training program that takes into account the types of
143 procedures and level of supervision usually and customarily
144 practiced in a hospital, which educational or training program
145 complies with the rules of the department; ~~or~~

146 e. With respect to an applicant for a radiologist
147 assistant's certificate, ~~who~~ demonstrates to the department that
148 he or she holds a current certificate or registration as a
149 radiologist assistant granted by the American Registry of
150 Radiologic Technologists; or~~.~~
151 f. With respect to an applicant for a specialty
152 technologist's certificate, demonstrates to the department that
153 he or she is currently certified by or registered with a
154 national organization that is recognized by the department in an
155 advanced, postprimary, or specialty area of radiologic
156 technology, such as computed tomography or positron emission
157 tomography.
158 (4) Submits complete documentation of any criminal offense
159 in any jurisdiction of which the applicant has been found
160 guilty, regardless of whether adjudication of guilt was
161 withheld, or to which the applicant has pled guilty or nolo
162 contendere.
163 (5) Submits complete documentation of any final
164 disciplinary action taken against the applicant by a licensing
165 or regulatory body in any jurisdiction, by a national
166 organization, or by a specialty board that is recognized by the
167 department. Disciplinary action includes revocation, suspension,
168 probation, reprimand, or being otherwise acted against,
169 including being denied certification or resigning from or
170 nonrenewal of membership taken in lieu of or in settlement of a
171 pending disciplinary case.
172
173 The department may not certify any applicant who has committed
174 an offense that would constitute a violation of any of the

175 provisions of s. 468.3101 or applicable ~~the~~ rules ~~adopted~~
176 ~~thereunder~~ if the applicant had been certified by the department
177 at the time of the offense. An ~~No~~ application for a limited
178 computed tomography certificate may not ~~shall~~ be accepted. A
179 person ~~All persons~~ holding a valid computed tomography
180 certificate ~~certificates~~ as of October 1, 1984, is ~~are~~ subject
181 to ~~the provisions of~~ s. 468.309.
182 Section 5. Section 468.306, Florida Statutes, is amended to
183 read:
184 468.306 Examinations.—An applicant ~~All applicants~~ for
185 certification as a radiologic technologist, basic X-ray machine
186 operator, or basic X-ray machine operator-podiatric medicine,
187 except an applicant ~~those~~ certified pursuant to s. 468.3065,
188 shall be required to pass an examination. An applicant for
189 certification as a specialty technologist shall be certified
190 only in accordance with s. 468.3065. An application for
191 certification as a specialty technologist by examination may not
192 be accepted. In lieu of an examination for a radiologist
193 assistant certificate, the department shall accept a
194 demonstration by the applicant for such a certificate that he or
195 she holds a current certificate or registration as a radiologist
196 assistant granted by the American Registry of Radiologic
197 Technologists. The department may develop or use examinations
198 for each type of certificate. The department may require an
199 applicant who does not pass an examination after five attempts
200 to complete additional remedial education, as specified by rule
201 of the department, before admitting the applicant to subsequent
202 examinations.
203 (1) The department may contract with organizations that

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

204 develop such test examinations. Examinations may be administered
205 by the department or the contracting organization.
206 (2) Examinations shall be given for each type of
207 certificate at least twice a year at such times and places as
208 the department may determine to be advantageous for applicants.
209 (3) All examinations must ~~shall~~ be written and must include
210 positioning, technique, and radiation protection. The department
211 shall ~~either~~ pass or fail each applicant on the basis of his or
212 her final grade. The examination for a basic X-ray machine
213 operator must ~~shall~~ include basic positioning and basic
214 techniques directly related to the skills necessary to safely
215 operate radiographic equipment.
216 (4) A nonrefundable fee not to exceed $75 plus the actual
217 per-applicant cost for purchasing the examination from a
218 national organization shall be charged for any subsequent
219 examination.
220 Section 6. Subsection (3) is added to section 468.3065,
221 Florida Statutes, to read:
222 468.3065 Certification by endorsement.—
223 (3) The department may issue a certificate by endorsement
224 to practice as a specialty technologist to an applicant who,
225 upon applying to the department and remitting a nonrefundable
226 fee not to exceed $100, demonstrates to the department that he
227 or she holds a current certificate, license, or registration
228 from a national organization that is recognized by the
229 department to practice in an advanced, postprimary, or specialty
230 area of radiologic technology, such as computed tomography or
231 positron emission tomography.
232 Section 7. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

SENATE APPROPRIATIONS
12 JAN 13 AM 10: 18
STAFF DIR. ____ STAFF ____

January 12, 2012

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 376, regarding streamlining and modernizing certification of radiological personnel, on the next Committee on Budget agenda. In the previous committee of reference, Committee on Health regulation, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Committee on Budget, 201 The Capitol

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

February 1, 2012

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 376, regarding streamlining and modernizing certification of radiological personnel, on the next Committee on Budget agenda. In the previous committee of reference, Budget Subcommittee on Health and Human Services Appropriations, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Committee on Budget, 201 The Capitol

SENATE APPROPRIATIONS
RECEIVED
12 JAN 33 PM 4: 15
SENT TO: CHAIRMAN ____
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SJR 408

INTRODUCER: Senator Simmons

SUBJECT: Revising Age Limits for Judges and Justices

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Connor	Cibula	JU	**Favorable**
2.	Harkness	Sadberry	BJA	**Favorable**
3.	Harkness	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

Senate Joint Resolution 408 proposes an amendment to the Florida Constitution which increases the general mandatory retirement age of judges and justices from 70 to 75.

This joint resolution amends Article 5, section 8 of the Florida Constitution.

II. Present Situation:

Judicial Eligibility Requirements Generally

Most state constitutions prescribe eligibility requirements to serve as a judicial officer, including residence, age, and legal experience. Some states have no mandatory retirement age for judges, while other states' age limitation provisions range from 70 to 75 years of age.[1] In some states, the judicial eligibility requirements may vary depending on the court on which the judge serves, and a judge may be required to meet more stringent requirements if he or she is serving on an appellate court.[2]

[1] *See* Memorandum from John Sylvia of the West Virginia Legislative Auditor's Office, Performance Evaluation and Research Division to Honorable Edwin J. Bowman, Chairman (Jan. 5, 2005) (on file with the Senate Committee on Judiciary).

[2] G. Alan Tarr, *Designing an Appointive System: The Key Issues*, 34 FORDHAM URB. L.J. 291, 308 (Jan. 2007).

Florida Age Requirements for Judicial Office

Florida currently does not have a minimum age requirement for judicial office, but generally precludes a person from serving as a justice or judge of any court after attaining 70 years of age.[3] A justice or judge may serve after 70 years of age on a temporary assignment or to complete a term, one-half of which has been served.[4] Florida's previous constitution, the Constitution of 1885, did not provide a mandatory retirement age, but did require that justices and judges be at least 25 years old and attorneys at law.[5] This provision was removed from the Constitution effective in 1973 as part of a revision of Article V[6] and replaced with the current eligibility requirements, including the mandatory retirement age.

Constitutionality of Mandatory Retirement

A group of state court judges in Missouri challenged the Missouri Constitution's mandatory retirement provision, which required judges to retire at the age of 70.[7] The judges alleged that the provision, which was very similar to Florida's analogous requirement, violated the Federal Age Discrimination in Employment Act (ADEA)[8] and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.[9] The Court held that the ADEA excluded judges from its definition of employees because of their status as policymakers.[10] Additionally, the Court upheld Missouri's constitutional provision despite the judges' argument that it violated the Equal Protection Clause because it served the legitimate government purpose of enabling the people of Missouri to establish "a qualification for those who would be their judges."[11]

Constitutional Amendment Process

Article XI of the Florida Constitution sets forth various methods for proposing amendments to the Constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.[12]Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.[13] If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure, it becomes effective as an amendment to the Florida Constitution on the first Tuesday after the first

[3] FLA. CONST. art. V, s. 8.
[4] *Id.*
[5] FLA. CONST. art. V, s. 3 (1885).
[6] SJR 52-D (1971), adopted in 1972 and effective Jan. 1, 1973.
[7] MO. CONST. art. V, s. 26.
[8] 29 U.S.C. ss. 621-34.
[9] *Gregory v. Ashcroft*, 501 U.S. 452, 456 (1991).
[10] *Id.* at 467.
[11] *Id.* at 473.
[12] FLA. CONST. art. XI, s. 1.
[13] FLA. CONST. art. XI, s. 5(a).

Monday in January following the election, or on such other date as may be specified in the amendment.[14]

III. Effect of Proposed Changes:

Senate Joint Resolution 408 proposes an amendment to Article V, section 8 of the State Constitution to increase the age at which a justice or judge may no longer serve in a judicial office. Under the joint resolution, a justice or judge may no longer serve after attaining the age of 75 rather than 70. However, a judge who has attained the age of 75 years of age may continue to serve on a temporary assignment or to complete a judicial term.

This joint resolution will take effect on January 7, 2013, if approved by the electors at the 2012 General Election.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In order for the Legislature to submit SJR 408 to the voters for approval, the joint resolution must be agreed to by three-fifths of the membership of each house.[15] If SJR 408 is agreed to by the Legislature, it will be submitted to the voters at the 2012 General Election. In order for SJR 408 to take effect, it must be approved by at least 60 percent of the voters voting on the measure.[16]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[14] FLA. CONST. art. XI, s. 5(e).
[15] FLA. CONST. art. XI, s. 1.
[16] FLA. CONST. art. XI, s. 5(e).

C. Government Sector Impact:

According to the Office of the State Courts Administrator, this joint resolution has no fiscal or workload impact on the judiciary.[17]

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.[18] Costs for advertising vary depending upon the length of the amendment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

[17] Office of the State Courts Administrator, *2012 Judicial Impact Statement, SJR 408* (Oct. 26, 2011) (on file with the Senate Committee on Judiciary).
[18] FLA. CONST. art. XI, s. 5(d).

By Senator Simmons

22-00380A-12 2012408__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 8 of Article V of the State Constitution to increase the age after which a justice or judge may no longer serve in a judicial office.

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

That the following amendment to Section 8 of Article V of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 8. Eligibility.—A ~~No~~ person is not ~~shall be~~ eligible for the office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. A ~~No~~ justice or judge may not ~~shall~~ serve after attaining the age of seventy-five ~~seventy~~ years except upon temporary assignment or to complete a term, one-half of which has been served. A ~~No~~ person is not eligible for the office of justice of the supreme court or judge of a district court of appeal unless the person is, and has been for the preceding ten years, a member of the bar of Florida. A ~~No~~ person is not eligible for the office of circuit judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a ~~no~~ person is not eligible for the office of

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22-00380A-12 2012408__

county court judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a person is ~~shall be~~ eligible for election or appointment to the office of county court judge in a county having a population of 40,000 or fewer ~~less~~ if the person is a member in good standing of the bar of Florida.

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTION 8

REVISING AGE LIMITS FOR JUDGES AND JUSTICES.—The State Constitution currently prohibits a justice or judge from serving in a judicial office after attaining the age of 70 years except upon temporary assignment or to complete a judicial term, if one-half of the term has been served. This proposed amendment increases the age after which a justice or judge may no longer serve to 75 years of age. However, a justice or judge who has attained the age of 75 years may continue to serve upon temporary assignment or to complete a judicial term.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

January 19, 2012

The Honorable JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Alexander:

I would like to respectfully request that you place Senate Bill 408, Revising Age Limits for Judges and Justices, on the next agenda for the Budget Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

David Simmons

SENATE APPROPRIATIONS
12 JAN 19 PM 5:10
STAFF DIR. ____ STAFF ____

cc: Terry Rhodes, staff director for Budget Committee

REPLY TO:
☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

February 1, 2012

The Honorable JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Alexander:

I would like to respectfully request that you place Senate Bill 408, Revising Age Limits for Judges and Justices, on the next agenda for the Budget Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

David Simmons

cc: Terry Rhodes, Staff Director for Budget Committee

REPLY TO:
☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 414

INTRODUCER: Health Regulation Committee and Senator Negron

SUBJECT: Osteopathic Physicians

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Fav/CS**
2.	Bradford	Hendon	BHA	**Favorable**
3.	Bradford	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill revises requirements for licensure to practice osteopathic medicine in Florida for physicians who have not actively practiced osteopathic medicine for more than the previous two years and for new, unlicensed physicians who completed internship, residency, or fellowship more than two years ago. Any such physician whose present ability and fitness to practice osteopathic medicine has been adversely affected by the interruption of his or her active practice of osteopathic medicine, as determined by the Board of Osteopathic Medicine (the board), may, at the board's discretion, be denied licensure in Florida, granted a license with restrictions, or granted full licensure upon fulfillment of certain conditions.

The bill removes the requirement that a person desiring to be registered to practice as a resident physician, intern, or fellow must pass all parts of the examination conducted by the National Board of Osteopathic Medical Examiners and complete one year of residency, and deletes obsolete and redundant nomenclature.

The fiscal impact of this bill is insignificant.

This bill substantially amends ss. 459.0055 and 459.021, F.S.

II. Present Situation:

General Licensure Requirements

Osteopathic physicians are licensed to practice under ch. 459, F.S. Licensure requirements for osteopathic physicians are set forth in s. 459.0055, F.S. An applicant must:

- Submit the appropriate application form and fees;
- Be at least 21 years of age and of good moral character;
- Complete at least 3 years of pre-professional post-secondary education;
- Not have committed or be under investigation for any violation of ch. 459, F.S., unless the board determines the violation does not adversely affect the applicant's fitness and ability to practice osteopathic medicine;
- Not have had a medical license revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines the underlying action does not adversely affect the applicants current ability and fitness to practice osteopathic medicine;
- Have received satisfactory evaluations from his or her residency or fellowship training programs unless poorer evaluations are deemed to not adversely affect the applicant's current ability and fitness to practice osteopathic medicine;
- Undergo a background check with the Department of Health (the department);
- Have graduated from a medical college approved by the American Osteopathic Association;
- If graduated from an osteopathic medical school after 1948, have completed at least 1 year of residency training in an approved hospital; and
- Pass all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the board no more than five years before applying for licensure in Florida.

Reciprocity does exist for an osteopathic physician licensed in another state if the physician's license was initially issued within five years of passing an examination conducted by the National Board of Medical Examiners or its equivalent. This reciprocity does not extend to physicians who have been out of practice for more than two years, unless this period of inactivity is not considered to have adversely affected the physician's fitness and ability to practice osteopathic medicine.

If an applicant has committed a violation of any part of this chapter or has a license suspended, revoked, or otherwise acted against by a licensing authority in a different jurisdiction, the board may choose to provide that applicant a restricted osteopathic medical license.

Special Licenses

Limited licenses may be issued to osteopathic physicians who do not hold an active license to practice osteopathic medicine in Florida but have been licensed in any jurisdiction or U.S. territory in good standing for at least 10 years. Limited licenses may only be used to practice for public agencies or institutions or 501(c)(3) nonprofit organizations in medically underserved areas of the state.[1]

[1] Section 459.0075, F.S.

Temporary certificates may be issued to osteopathic physicians who are currently licensed in any jurisdiction or who have practiced as a military physician for at least 10 years and have been honorably discharged. Temporary certificates may be used to practice for county health departments, correctional facilities, Veterans' Affairs clinics, or other department-approved institution that serves a population of critical need or in underserved areas. Temporary certificates may also be used to practice for a limited time in an area of physician-specialty, demographic, or geographic need as determined by the State Surgeon General.[2]

Osteopathic faculty certificates may be issued without examination to osteopathic physicians who are licensed in other states and otherwise meet the standards for licensure described under s. 459.0055, F.S. A faculty certificate may be used to practice medicine only in conjunction with the holder's teaching duties at an accredited school of osteopathic medicine and its affiliated teaching hospitals and clinics.[3]

Renewal of Licenses and Certificates

Osteopathic medical practice licenses and certificates are renewed biennially. Applicants for renewal must submit the appropriate paperwork and fee, complete a physician workforce survey provided by the department, submit to a background check, and complete a certain number of hours of continuing education.[4]

Educational Pipeline for Osteopathic Physicians

The training of osteopathic physicians begins with a four-year bachelor's degree, followed by four years of medical school. A potential osteopathic physician must also pass a series of examinations developed and administered by the National Board of Osteopathic Medical Examiners. Level 1, and Level 2-CE, and Level 2-PE must be passed during medical school; Level 3 may only be taken after graduation from medical school.[5] Passage of all three levels of the National Board of Osteopathic Medical Examiners examination or a similar examination is required for licensure of osteopathic physicians in all states.

Terminology for Medical Residents

After graduation from medical school, new physicians enter residency programs for further practical training in the various specialties of medicine. Physicians must complete at least one year of residency training before they may be licensed in Florida.[6] Residency programs range in length from three to seven years depending on the educational institution and medical specialty.

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[2] Section 459.0076, F.S.
[3] Section 459.0077, F.S.
[4] Section 459.008, F.S.
[5] National Board of Osteopathic Medical Examiners, *COMLEX-USA Bulletin of Information 2011-2012*, available at http://www.nbome.org/docs/comlexBOI.pdf (last visited on November 2, 2011).
[6] Section 459.0055(1)(l), F.S., concerning osteopathic physicians, and s. 458.311(1)(f), F.S., concerning allopathic physicians.

A resident in his or her first year of training is called an intern. A resident in a training year other than the first is simply called a resident. After completing residency, a physician can enter a fellowship program which provides further specialized training in a particular area. Such physicians are called fellows.

Another name for a resident is a house physician. Assistant resident physicians do not exist.

III. Effect of Proposed Changes:

Section 1 amends s. 459.0055, F.S., relating to general licensure requirements for osteopathic physicians. Licensure provisions related to reciprocity for osteopathic physicians licensed in other states is moved from subsection (2) to subsection (1).

The bill grants the board licensure options for:

- Osteopathic physicians licensed in other states who have not actively practiced medicine for more than the previous two years, or
- New, unlicensed physicians who completed internship, residency, or fellowship more than two years ago;
- And physicians whose present ability and fitness to practice osteopathic medicine has been adversely affected by the interruption of their active practice of osteopathic medicine, as determined by the board.

Such physicians may be denied licensure in Florida; be granted a license with restrictions such as the requirement to practice under the supervision of another physician; or be fully licensed upon completion of reasonable conditions, such as remedial training as prescribed by the board. Currently, an osteopathic physician licensed in another state may only be granted a full license, notwithstanding a break in practice for two or more years if the board determines the interruption has not adversely affected the osteopathic physician's ability and fitness to practice osteopathic medicine.

Section 2 amends s. 459.021, F.S., to remove obsolete and redundant language concerning nomenclature for physicians in training. It also removes language requiring persons desiring to be registered to practice as resident physicians, interns, or fellows to have passed all parts of the examination conducted by the National Board of Osteopathic Medical Examiners and to have completed 1 year of residency.

Section 3 provides the bill will take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department indicates it may experience a slight increase in workload by evaluating the competencies of certain physicians. However, such evaluations will help improve healthcare in the state by ensuring that all licensed osteopathic physicians are fit to practice independently, and the fiscal impact will be negligible.[7]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Health Regulation on December 7, 2011:
The CS provides more general guidelines to the board concerning the evaluation for licensure of osteopathic physicians who have been out of active practice for more than two years. Any physician whose present ability and fitness to practice osteopathic medicine has been adversely affected by the interruption of his or her active practice of osteopathic medicine, as determined by the board, may, at the board's discretion, be denied licensure in Florida, granted a license with restrictions, or granted full licensure

[7] Department of Health, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 414*. A copy of this analysis is on file with the Senate Health Regulation Committee.

upon fulfillment of certain conditions. This replaces language in SB 414 which stated that the board could only deny licensure or grant restricted licensure to those osteopathic physicians who the board determined may lack clinical competency, possess diminished or inadequate skills, lack necessary medical knowledge, or exhibit patterns of deficits in clinical decisionmaking.

B. Amendments:

None.

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

By the Committee on Health Regulation; and Senator Negron

588-01571-12 2012414c1

A bill to be entitled

An act relating to osteopathic physicians; amending s. 459.0055, F.S.; revising the requirements for licensure or certification as an osteopathic physician in this state; amending s. 459.021, F.S.; revising provisions relating to registration of physicians, interns, and fellows; providing an effective date.

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

Section 1. Paragraph (m) of subsection (1) and subsection (2) of section 459.0055, Florida Statutes, are amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(m) Demonstrate that she or he has obtained a passing score, as established by rule of the board, on all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the board no more than 5 years before making application in this state or, if holding a valid active license in another state, that the initial licensure in the other state occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Osteopathic Medical Examiners or other substantially similar examination approved by the board.

(2) If the applicant holds a valid active license in another state and it has been more than 2 years since the active

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

588-01571-12 2012414c1

practice of osteopathic medicine, or if an applicant does not hold a valid active license to practice osteopathic medicine in another state and it has been more than 2 years since completion of a resident internship, residency, or fellowship, and the board determines that the interruption of the osteopathic physician's practice of osteopathic medicine has adversely affected the osteopathic physician's present ability and fitness to practice osteopathic medicine, the board may:

(a) Deny the application;

(b) Issue a license having reasonable restrictions or conditions that may include, but are not limited to, a requirement for the applicant to practice under the supervision of a physician approved by the board; or

(c) Issue a license upon receipt of documentation confirming that the applicant has met any reasonable conditions of the board which may include, but are not limited to, completing continuing education or undergoing an assessment of skills and training. ~~For an applicant holding a valid active license in another state, he or she shall submit evidence of the active licensed practice of medicine in another jurisdiction in which initial licensure must have occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Medical Examiners or other substantially similar examination approved by the board; however, such practice of osteopathic medicine may have been interrupted for a period totaling no more than 2 years or for a longer period if the board determines that the interruption of the osteopathic physician's practice of osteopathic medicine for such longer period has not adversely affected the osteopathic~~

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

59 ~~physician's present ability and fitness to practice osteopathic~~
60 ~~medicine.~~
61 Section 2. Subsections (1), (3), (4), and (6) of section
62 459.021, Florida Statutes, are amended to read:
63 459.021 Registration of resident physicians, interns, and
64 fellows; list of hospital employees; penalty.—
65 (1) Any person who holds a degree of Doctor of Osteopathic
66 Medicine from a college of osteopathic medicine recognized and
67 approved by the American Osteopathic Association who desires to
68 practice as a resident physician, ~~assistant resident physician,~~
69 ~~house physician,~~ intern, or fellow in fellowship training which
70 leads to subspecialty board certification in this state, or any
71 person desiring to practice as a resident physician, ~~assistant~~
72 ~~resident physician, house physician,~~ intern, or fellow in
73 fellowship training in a teaching hospital in this state as
74 defined in s. 408.07(45) or s. 395.805(2), who does not hold an
75 active license issued under this chapter shall apply to the
76 department to be registered, on an application provided by the
77 department, before commencing such a training program and shall
78 remit a fee not to exceed $300 as set by the board.
79 (3) Every hospital or teaching hospital having employed or
80 contracted with or utilized the services of a person who holds a
81 degree of Doctor of Osteopathic Medicine from a college of
82 osteopathic medicine recognized and approved by the American
83 Osteopathic Association as a resident physician, ~~assistant~~
84 ~~resident physician, house physician,~~ intern, or fellow in
85 fellowship training registered under this section shall
86 designate a person who shall furnish, on dates designated by the
87 board, in consultation with the department, to the department a

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

88 list of all such persons who have served in such hospital during
89 the preceding 6-month period. The chief executive officer of
90 each such hospital shall provide the executive director of the
91 board with the name, title, and address of the person
92 responsible for filing such reports.
93 (4) The registration may be revoked or the department may
94 refuse to issue any registration for any cause which would be a
95 ground for its revocation or refusal to issue a license to
96 practice osteopathic medicine, as well as on the following
97 grounds:
98 (a) Omission of the name of an intern, resident physician,
99 ~~assistant resident physician, house physician,~~ or fellow in
100 fellowship training from the list of employees required by
101 subsection (3) to be furnished to the department by the hospital
102 or teaching hospital served by the employee.
103 (b) Practicing osteopathic medicine outside of a bona fide
104 hospital training program.
105 (6) Any person desiring registration pursuant to this
106 section shall meet all the requirements of s. 459.0055, except
107 paragraphs (1)(l) and (m).
108 Section 3. This act shall take effect July 1, 2012.

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)

2.21
Meeting Date

Topic: Osteopathic Physicians

Bill Number: 414 *(if applicable)*

Name: Michelle Jacquis

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Legislative Advocacy

Address: PO Box 10269
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 251.2288

E-mail: mjacquis@flmedical.org

Speaking: [X] For [ ] Against [ ] Information LWAIVE/SUPPORT

Representing: FL Medical Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-2012
Meeting Date

Topic: OSTEOPATHIC PHYSICIANS

Bill Number: SB 414 *(if applicable)*

Name: STEPHEN R. WINN

Amendment Barcode: _____ *(if applicable)*

Job Title: EXECUTIVE DIRECTOR

Address: 2007 APALACHEE PARKWAY
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 878-7463

E-mail: _____

Speaking: [X] For [ ] Against [ ] Information

Representing: FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON
28th District

COMMITTEES:
Budget - Subcommittee on Health and Human Services Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:
Protecting Florida's Children, *Chair*

JOINT COMMITTEE:
Legislative Budget Commission

December 7, 2011

The Honorable JD Alexander, Chair
Budget Committee
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 414

Dear Chairman Alexander:

I would like to request Senate Bill 414 relating to osteopathic physicians be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 28

SENATE APPROPRIATIONS
11 DEC -9 AM 10:20
STAFF DIR. ____ STAFF ____

JN/hd
c: Terry Rhodes, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON
28th District

COMMITTEES:
Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:
Protecting Florida's Children, *Chair*

JOINT COMMITTEE:
Legislative Budget Commission

February 2, 2012

The Honorable JD Alexander, Chair
Budget Committee
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 414

Dear Chairman Alexander:

I would like to request Senate Bill 414 relating to osteopathic physicians be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 28

SENATE APPROPRIATIONS
RECEIVED
12 JAN 33 PM 1:47
SENT TO: CHAIRMAN ____
STAFF DIR ____ STAFF ____

JN/hd
c: Terry Rhodes, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL:	CS/SB 416
INTRODUCER:	Communications, Energy, and Public Utilities Committee and Senator Detert
SUBJECT:	Use of Wireless Communications Devices While Driving
DATE:	February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	**Favorable**
2.	Wiehle	Carter	CU	**Fav/CS**
3.	Carey/Smith	Meyer, R.	BTA	**Favorable**
4.	Carey/Smith	Rhodes	BC	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill is the "Florida Ban on Texting While Driving Law", modeled after a Sample Law promulgated by the United States Department of Transportation (USDOT). The bill prohibits the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication. The bill makes exceptions for emergency workers performing official duties, reporting emergencies or suspicious activities, and for receiving various types of navigation information, emergency traffic data, and radio broadcasts. The bill also makes an exception for interpersonal communications that can be conducted without the need to manually type messages.

The prohibition is enforceable as a secondary offense. A first violation is punishable as a nonmoving violation, with a fine of $30 plus court costs which vary by county. A second violation committed within 5 years of the first is a moving violation punishable by a $60 fine plus court costs.

In addition to these penalties, any violation of the ban which results in a crash will result in 6 points added to the offender's driver's license record and any violation of the ban committed in

conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result an assessment of 2 points.

This bill may generate additional revenues for local and state governments as a result of the penalties for using wireless communications devices for texting purposes while operating a motor vehicle.

The bill has an effective date of October 1, 2012.

This bill creates s. 316.305, F.S., and substantially amends s. 322.27, F.S.

II. Present Situation:

Laws in other states

Public concern over distracted driving has resulted in a number of jurisdictions making it illegal to use hand-held cellular telephones for talking and/or texting while driving. In November 2001, New York became the first state to implement a ban on hand-held cellular telephone use for drivers. The District of Columbia passed a ban in 2004. Connecticut's ban took effect in 2005. Thirty-five states and the District of Columbia have passed a ban on text-while-driving for all drivers. The National Conference of State Legislators has the following chart detailing each state's cellular telephone use laws.[1]

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Alabama	No	Drivers age 16 and 17 who have held an intermediate license for less than 6 months.	No	Not applicable
Alaska	No	No	All drivers	Primary
Arizona	No	School bus drivers	No	Primary
Arkansas	No	School bus drivers, drivers younger than 18	All drivers	Primary for texting by all drivers and cell phone use by school bus drivers; secondary for cell phone use by young drivers
California	All drivers	School and transit bus drivers and drivers younger than 18	All drivers	Primary
Colorado	No	Drivers younger than 18	All drivers	Primary
Connecticut	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary
Delaware	All drivers (effective 01/02/11)	Learner's permit and intermediate license holders and school bus drivers	All drivers (effective 01/02/11)	Primary
District of Columbia	All drivers	School bus drivers and learner's permit holders	All drivers	Primary
Florida	No	No	No	Not applicable

[1] "Cell Phone Use and Texting While Driving Laws," updated November, 2011. Available online at, http://www.ncsl.org/?tabid=17057, Document No. 17057.

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Georgia	Drivers younger than 18 (effective 07/01/10)	School bus drivers. Drivers younger than 18.	All drivers (effective 07/01/10)	Primary
Hawaii	No	No	No	Not applicable
Idaho	No	No	No	Not applicable
Illinois	Drivers in construction and school speed zones	Learner's permit holders younger than 19, drivers younger than 19, and school bus drivers	All drivers	Primary
Indiana	No	Drivers under the age of 18.	All drivers (effective 07/01/11).	Primary
Iowa	No	Learner's permit and intermediate license holders	All drivers	Secondary for texting
Kansas	No	Learner's permit and intermediate license holders	All drivers (effective 07/01/10).	Primary
Kentucky	No	Drivers younger than 18 (effective 07/13/10),school bus drivers	All drivers (effective 07/13/10)	Primary (effective 07/13/10)
Louisiana	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Primary
Maine**	No	Learner's permit and intermediate license holders	All drivers (effective 09/13/11)	Primary
Maryland	All drivers (effective 10/01/10), School Bus Drivers.	Learner's permit and intermediate license holders under 18. School bus drivers	All drivers	Primary for texting
Massachusetts	Local option	School bus drivers, passenger bus drivers, drivers younger than 18	All drivers (effective 09/30/10)	Primary
Michigan	Local option	No	All drivers (effective 07/01/10)	Primary (effective 07/01/10)
Minnesota	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary
Mississippi	No	School bus drivers.	Learner's permit holders and intermediate license holders	Primary
Missouri	No	No	Drivers 21 years of age or younger	Primary
Montana	No	No	No	Not applicable
Nebraska	No	Learner's permit and intermediate license holders younger than 18	Learner's permit and intermediate license holders younger than 18 All drivers	Secondary
Nevada	All drivers (effective 01/01/12)	No	All drivers (effective 01/01/12)	Not applicable
New Hampshire	No	No	All drivers	Primary

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
New Jersey	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
New Mexico	Local option	Learners permit and intermediate license holders	No	Not applicable
New York	All drivers	No	All drivers	Primary
North Carolina	No	Drivers younger than 18 and school bus drivers	All drivers	Primary
North Dakota	Drivers younger than 18 (effective 01/01/12)	Drivers younger than 18 (effective 01/01/12)	All drivers (effective 08/01/11)	Primary (effective 08/01/11)
Ohio	Local option	No	No	Not applicable
Oklahoma	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	School Bus Drivers and Public Transit Drivers (effective 11/01/10)	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	Primary
Oregon	All drivers	Drivers younger than 18	All drivers	Primary
Pennsylvania	Local option	No	All drivers	Primary
Rhode Island	No	School bus drivers and drivers younger than 18	All drivers	Primary
South Carolina	No	No	No	Not applicable
South Dakota	No	No	No	Not applicable
Tennessee	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
Texas	Drivers in school crossing zones	Bus drivers. Drivers younger than 18. (09/01/11)	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary
Utah	See footnote*	No	All drivers	Primary for texting; secondary for talking on hand-held phone
Vermont	No	Drivers younger than 18 shall not use any portable electronic device while driving	All drivers	Primary
Virginia	No	Drivers younger than 18 and school bus drivers	All drivers	Secondary; primary for school bus drivers
Washington	All drivers	Learners permit and intermediate license holders	All drivers	Primary
West Virginia	No	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Primary
Wisconsin	No	No	All drivers (effective 12/01/10)	Primary (effective 12/01/10)

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Wyoming	No	No	All drivers	Primary

* Utah considers speaking on a cell phone, without a hands-free device, to be an offense only if a driver is also committing some other moving violation (other than speeding).
** Maine has a law that makes driving while distracted a traffic infraction. 29-A M.R.S.A. Sec. 2117.
*** Listed as a part of contributing factors

Federal Sample Law

In February 2010, USDOT unveiled a "Sample Law" to be used as a starting point for states crafting new laws to prohibit texting while driving.[2] Recognizing states have had some difficulty drafting language prohibiting dangerous behaviors, but allowing certain minimal uses of technology, USDOT requested the participation of several national groups to draft language satisfactory to all. The Sample Law, prepared by the National Highway Traffic Safety Administration (NHTSA), and a cross-section of safety and industry organizations, would authorize law enforcement officers to stop a vehicle and issue a citation to drivers who are texting while driving.[3] The sample state law is patterned on the Executive Order issued by President Obama on October 1, 2009, directing federal employees not to engage in text messaging while driving government-owned vehicles or with government-owned equipment. Federal employees were required to comply with the ban starting on December 30, 2009.[4]

Contributors to the Sample Law include: Advocates for Highway and Auto Safety, Alliance of Automobile Manufacturers, American Association of Motor Vehicle Administrators, American Association of State Highway and Transportation Officials, AAA, Centers for Disease Control and Prevention, CTIA- The Wireless Association, Governors Highway Safety Association, ITS America, International Association of Chiefs of Police, National Conference of State Legislatures, National Safety Council, The National Traffic Law Center of the National District Attorneys Association, and Safe Kids USA.[5]

Florida Law

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.[6] There are currently no prohibitions related to texting or talking while driving. However, existing laws may apply more generally to distracted operators of motor vehicles. Operators of motor vehicles are in violation of existing statutes when driving carelessly or recklessly.

Careless driving is the failure to drive the same as other operators of motor vehicles, in a careful and prudent manner, having regard to all attendant circumstances, so as not to endanger the life,

[2] "New Sample Bill Will Aid States in Banning Texting While Driving," United States Department of Transportation, DOT 31-10. USDOT Secretary Ray LaHood, February 22, 2010. http://www.dot.gov/affairs/2010/dot3110.htm
[3] *Id.*
[4] *Id.*
[5] http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Texting_Law_021910.pdf
[6] s. 316.0075, F.S.

limb, or property of any person.[7] Any person who violates the restriction against careless driving shall be cited for a moving violation.[8]

Reckless driving involves willful or wanton disregard for the safety of persons or property. Upon a first conviction, reckless driving is punishable by some combination of imprisonment,[9] and at least a $25 fine[10] or by both such fine and imprisonment. A second or subsequent conviction requires a fine of at least $50,[11] but may also result in imprisonment for not more than 6 months. Additionally, reckless driving that causes damage to the property or person of another commits a misdemeanor of the first degree.[12] Reckless driving that causes serious bodily injury[13] to another commits a felony of the third degree.[14]

While prohibitions exist against vehicle operators wearing headsets, headphones, or other listening devices, there are exceptions.[15] A driver is permitted to use a headset in conjunction with a cellular telephone that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.[16] The Department of Highway Safety and Motor Vehicles (DHSMV) is granted further rulemaking authority to detail the standards and specifications of radio equipment permitted by statute.[17] DHSMV inspects and reviews all such devices submitted to it and publishes a list by name and type of approved equipment.

Section 322.27(3), F.S., provides a point system used to evaluate the qualifications of any person to operate a motor vehicle after accumulating multiple violations of motor vehicle laws. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to s. 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points.

DHSMV may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,[18] up to three months if the driver accumulates 18 points in 18 months,[19] and up to one year if the driver accumulates 24 points within 36 months.[20]

---

[7] s. 316.1925, F.S.
[8] Punishable as provided in ch. 318, F.S.
[9] For period of not more than 90 days. Section 316.192(2)(a), F.S.
[10] Not less than $25 nor more than $500. Section 316.192(2)(a), F.S.
[11] But no more than $1,000. Section 316.192(2)(b), F.S.
[12] Punishable as provided in ss. 775.082 and 775.083,F.S.
[13] The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Section 316.192(3)(c)(2), F.S.
[14] Punishable as provided in ss. 775.082 - 775.084,F.S.
[15] s. 316.304, F.S.
[16] s. 316.304(2)(d), F.S.
[17] s. 316.304(3), F.S.
[18] s. 322.27(3)(a), F.S.
[19] s. 322.27(3)(b), F.S.
[20] s. 322.27(3)(c), F.S.

III. Effect of Proposed Changes:

The bill draws heavily on the Sample Law promulgated by USDOT, particularly with regard to the express legislative intent and the prohibition itself. The penalties are modified somewhat to provide a graduated approach and to integrate with existing Florida Statutes.

Specific Intent

The bill's specific intention is to:

- Improve roadway safety for motor vehicle operators, passengers, bicyclists, pedestrians and all other road users;
- Prevent crashes related to the act of text messaging while driving;
- Reduce injuries, deaths, property damage, health care costs, health insurance, and automobile insurance rates related to motor vehicle crashes; and
- Authorize law enforcement officers to issue citations for text messaging while driving as a secondary offense.

Prohibition on Texting While Driving

To achieve these goals, the bill prohibits the operation of a motor vehicle "while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data in such a device for the purpose of nonvoice interpersonal communication."

The bill defines the term "wireless communication device" as any device designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any other communications service[21] and which allows text communications. The bill also specifies that for purposes of the prohibition on texting, a person is not operating a vehicle when legally parked.[22] Violations are enforceable as secondary violations.

Exceptions

The bill makes exceptions for:

- Law enforcement, fire service, or emergency medical services personnel, or any operator of an authorized emergency vehicle as defined in s. 322.01, F.S.,[23] performing official duties;

---

[21] "Communications service" itself is defined by reference to s. 812.15, F.S. In that statute, the term "communications service" means:

> any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

[22] Sections 316.194 and 316.1945, F.S., prohibit stopping, standing or parking in certain areas. Therefore, the driver of a vehicle stopped, standing, or parked in one of the prohibited locations may not be considered legally parked.

[23] Section 322.01(4), F.S., defines an "authorized emergency vehicle" as:

> a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized by

- Reporting an emergency or criminal or suspicious activity to law enforcement;
- Receiving messages related to:
  - The operation or navigation of a motor vehicle;
  - Safety-related information including emergency, traffic, or weather alerts;
  - Data used primarily by the motor vehicle; or
  - Radio broadcasts;
- Using a device or system for navigation purposes; or
- Conducting wireless interpersonal communication that does *not* require manual entry of multiple letters, numbers, or symbols, or reading text messages (except to activate or deactivate or initiate a feature or function).

Penalties

Enforcement is only allowed as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision relating to the traffic code, motor vehicle licensing, or driver's license requirements.

In any proceeding to determine whether a violation of this section has been committed, a driver's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence.

A penalty for a first violation of the prohibition is a non-moving violation, punishable as provided in ch. 318, F.S. Non-moving violations result in a $30 fine, plus court costs which vary by jurisdiction.

If a person commits a second violation of the prohibition within 5 years of the first violation, the penalty is increased to a moving violation resulting in 3 points being assigned to the person's driver license. Chapter 318, F.S., provides a $60 fine plus court costs.

The bill provides DHSMV will assign 6 points to the driver's license of any driver whose use of a wireless communications device results in a crash (regardless of whether the offense is a first or subsequent offense). This is identical to the number of points that would apply to a driver's license when the operator caused a crash as a result of unlawful speed. Additionally, any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result in an assessment of 2 points.

The bill has an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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s. 316.2397 to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An individual violating the prohibition on using wireless communications devices for texting purposes while operating a motor vehicle would be subject to a civil penalties and points being assigned to his or her driver license depending whether the violation is a first offense or a second or subsequent offense and whether it resulted in a crash.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of secondary violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, incurring large penalties.

According to DHSMV, programming modifications will be required to implement the bill; however, the necessary hours can be incorporated into Information Systems Administration's (ISA) normal workload.[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Communications, Energy, and Public Utilities Committee on January 12, 2012:

[24] Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 416* (Oct. 19, 2011, on file with the Senate Transportation Committee).

The committee substitute provides that any violation of the texting ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result in an assessment of 2 points.

B. Amendments:

None.

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

By the Committee on Communications, Energy, and Public Utilities; and Senator Detert

579-01836-12 2012416c1

A bill to be entitled

An act relating to the use of wireless communications devices while driving; creating s. 316.305, F.S.; creating the "Florida Ban on Texting While Driving Law"; providing legislative intent; prohibiting the operation of a motor vehicle while using a wireless communications device for certain purposes; providing a definition; providing exceptions; specifying information that is admissible as evidence of a violation; providing penalties; providing for enforcement as a secondary action; amending s. 322.27, F.S.; providing for points to be assessed against a driver's license for the unlawful use of a wireless communications device within a school safety zone or resulting in a crash; providing an effective date.

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

Section 1. Section 316.305, Florida Statutes, is created to read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Ban on Texting While Driving Law."

(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of text messaging while driving a motor vehicle.

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

579-01836-12 2012416c1

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations as a secondary offense to persons who are texting while driving.

(3)(a) A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data in such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term "wireless communications device" means any device that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. A motor vehicle that is legally parked is not being operated and is not subject to the prohibition in this paragraph.

(b) This subsection does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

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

59 a. Related to the operation or navigation of the motor
60 vehicle;
61 b. Safety-related information, including emergency,
62 traffic, or weather alerts;
63 c. Data used primarily by the motor vehicle; or
64 d. Radio broadcasts.
65 4. Using a device or system for navigation purposes.
66 5. Conducting wireless interpersonal communication that
67 does not require manual entry of multiple letters, numbers, or
68 symbols or reading text messages, except to activate,
69 deactivate, or initiate a feature or function.
70 (c) A user's billing records for a wireless communications
71 device or the testimony of or written statements from
72 appropriate authorities receiving such messages may be
73 admissible as evidence in any proceeding to determine whether a
74 violation of this section has been committed.
75 (4)(a) Any person who violates subsection (3) commits a
76 noncriminal traffic infraction, punishable as a nonmoving
77 violation as provided in chapter 318.
78 (b) Any person who commits a second or subsequent violation
79 of subsection (3) within 5 years after the date of a prior
80 conviction for a violation of subsection (3) commits a
81 noncriminal traffic infraction, punishable as a moving violation
82 as provided in chapter 318.
83 (5) Enforcement of this section by state or local law
84 enforcement agencies must be accomplished only as a secondary
85 action when an operator of a motor vehicle has been detained for
86 a suspected violation of another provision of this chapter,
87 chapter 320, or chapter 322.

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

88 Section 2. Paragraph (d) of subsection (3) of section
89 322.27, Florida Statutes, is amended to read:
90 322.27 Authority of department to suspend or revoke
91 license.—
92 (3) There is established a point system for evaluation of
93 convictions of violations of motor vehicle laws or ordinances,
94 and violations of applicable provisions of s. 403.413(6)(b) when
95 such violations involve the use of motor vehicles, for the
96 determination of the continuing qualification of any person to
97 operate a motor vehicle. The department is authorized to suspend
98 the license of any person upon showing of its records or other
99 good and sufficient evidence that the licensee has been
100 convicted of violation of motor vehicle laws or ordinances, or
101 applicable provisions of s. 403.413(6)(b), amounting to 12 or
102 more points as determined by the point system. The suspension
103 shall be for a period of not more than 1 year.
104 (d) The point system shall have as its basic element a
105 graduated scale of points assigning relative values to
106 convictions of the following violations:
107 1. Reckless driving, willful and wanton—4 points.
108 2. Leaving the scene of a crash resulting in property
109 damage of more than $50—6 points.
110 3. Unlawful speed, or unlawful use of a wireless
111 communications device, resulting in a crash—6 points.
112 4. Passing a stopped school bus—4 points.
113 5. Unlawful speed:
114 a. Not in excess of 15 miles per hour of lawful or posted
115 speed—3 points.
116 b. In excess of 15 miles per hour of lawful or posted

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

117 speed—4 points.
118 6. A violation of a traffic control signal device as
119 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
120 However, no points shall be imposed for a violation of s.
121 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
122 stop at a traffic signal and when enforced by a traffic
123 infraction enforcement officer. In addition, a violation of s.
124 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
125 stop at a traffic signal and when enforced by a traffic
126 infraction enforcement officer may not be used for purposes of
127 setting motor vehicle insurance rates.
128 7. All other moving violations (including parking on a
129 highway outside the limits of a municipality)—3 points. However,
130 no points shall be imposed for a violation of s. 316.0741 or s.
131 316.2065(12); and points shall be imposed for a violation of s.
132 316.1001 only when imposed by the court after a hearing pursuant
133 to s. 318.14(5).
134 8. Any moving violation covered in this paragraph ~~above~~,
135 excluding unlawful speed and unlawful use of a wireless
136 communications device, resulting in a crash—4 points.
137 9. Any conviction under s. 403.413(6)(b)—3 points.
138 10. Any conviction under s. 316.0775(2)—4 points.
139 11. Any moving violation covered in this paragraph
140 committed in conjunction with the unlawful use of a wireless
141 communication device within a school safety zone—2 points.
142 Section 3. This act shall take effect October 1, 2012.

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)

2/21/12
Meeting Date

Topic: Use of Wireless Communication While Driving

Bill Number: SB 416 *(if applicable)*

Name: Mindy Haas

Amendment Barcode: _____ *(if applicable)*

Job Title: Vice President - Florida PTA

Address: 1747 Orlando Central Parkway
Street

Orlando FL 32809
City *State* *Zip*

Phone: 800-373-5782

E-mail: RegionsCouncil@FloridaPTA.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida PTA

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: Ban on Texting While Driving

Bill Number: 416 *(if applicable)*

Name: Laura Cantwell

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 200 W College Av, Suite 304
Street

_____ 32301
City *State* *Zip*

Phone: 577-5163

E-mail: lcantwell@aarp.org

Speaking: [✓] For [ ] Against [ ] Information

Representing: AARP

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/21/2012
Meeting Date

Topic: Use of Wireless Communications Devices While Driving

Bill Number: CS/SB 416 *(if applicable)*

Name: Mark Reichert

Amendment Barcode: *(if applicable)*

Job Title: Assistant Executive Director

Address: 605 Suwannee Street, MS 09
Street

Tallahassee — *City*
Florida — *State*
32399-04 — *Zip*

Phone: 850-414-4103

E-mail: mark.reichert@dot.state.fl.us

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Transportation Commission

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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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-12
Meeting Date

Topic: TEXTING WHILE DRIVING

Bill Number: SB416 *(if applicable)*

Name: SHANE SUMMERS

Amendment Barcode: *(if applicable)*

Job Title: SHERIFF'S CAPTAIN

Address: P.O. BOX 569
Street

DELAND, FL 32724
City, State, Zip

Phone: 386-736-5961

E-mail:

Speaking: [x] For [ ] Against [ ] Information

Representing: FLORIDA SHERIFF'S ASSOCIATION / VOLUSIA SHERIFF

Appearing at request of Chair: [ ] Yes [x] 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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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-12
Meeting Date

Topic: Use of Wireless Communications Devices While Driving

Bill Number: SB 416 *(if applicable)*

Name: Karen MacFarland

Amendment Barcode: *(if applicable)*

Job Title: Legislative Director

Address: 309 Oaks Will Court
Street

Tallahassee, FL 32312
City, State, Zip

Phone: 850-766-1026

E-mail: macfarland.karen@gmail.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: AAA Auto Club Group

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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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: TEXTING WHILE DRIVING

Bill Number: SB 416 *(if applicable)*

Name: KEYNA CORY

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: PO BOX 1347
Street

TALLAHASSEE, FL 32302
City, State, Zip

Phone: 850 681-1065

E-mail: keynacory@paconsultants.com

Speaking: [X] For [ ] Against [ ] Information

Representing: NATIONAL SOLID WASTES MANAGEMENT ASSN. - FL CHAPTER

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21
Meeting Date

Topic: Texting / Driving

Bill Number: 416 *(if applicable)*

Name: Michelle Jacquis

Amendment Barcode: *(if applicable)*

Job Title: Dir. of legislative Advocacy

Address: PO BOX 10269
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 251-2288

E-mail: Mjacquis@flmedical.org

Speaking: [X] For [ ] Against [ ] Information WAIVE/SUPPORT

Representing: FL Medical Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic _____

Bill Number 416 *(if applicable)*

Name Chris Nuland

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 1000 Riverside Ave #115
Street

Jacksonville, FL 32204
City *State* *Zip*

Phone 904-355-1555

E-mail nulandlaw@aol.com

Speaking: [✓] For [ ] Against [ ] Information

Representing Florida Public Health Association

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 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 26, 2012

I respectfully request that **Senate Bill #416**, relating to Use of Wireless Communications Devices While Driving, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Rules - Subcommittee on Ethics and Elections, *Vice Chair*
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Budget - Subcommittee on Higher Education Appropriations
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Reapportionment

SENATOR NANCY C. DETERT
23rd District

February 10, 2012

The Honorable JD Alexander
Chairman
Senate Budget Committee
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

In the event that your committee has a Consent Calendar, I respectfully request that my following bills be placed on it:

SB 1354 – Environmental Resource Permitting
SB 416 – Use of Wireless Communications Devices While Driving

Thank you for your consideration of this request.

Sincerely,

Nancy Detert

Nancy C. Detert

NCD/ca

cc: Terry Rhodes, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
☐ 417 Commercial Court, Suite D, Venice, Florida 34292 (941) 480-3547
☐ 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5081

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/CS/SB 432

INTRODUCER: Subcommittee on Criminal and Civil Justice Appropriations, Criminal Justice Committee and Senator Flores and others

SUBJECT: Criminal Restitution

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Favorable**
2.	Clodfelter	Cannon	CJ	**Fav/CS**
3.	Sneed	Sadberry	BJA	**Fav/CS**
4.	Sneed	Rhodes	BC	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Senate Bill 432 amends Florida's restitution statute (s. 775.089, F.S.) to include a trade association within the definition of "victim" for a violation of s. 540.11(3)(a)3., F.S., when the trade association is acting as an authorized representative of the owner or lawful producer of the recording. The bill applies only to acts of physical piracy, not online piracy. The bill also defines the term "trade association."

This bill amends s. 775.089, F.S.

II. Present Situation:

Unauthorized Copying of Sound Recordings

The Copyright Clause of the United States Constitution authorizes Congress "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."[1] Until 1976, the power to regulate

[1] U.S. CONST. art. I, s. 8, cl.8.

copyright was shared concurrently by both the federal and state government. Congress, however, enacted the Copyright Act of 1976, which expressly preempted the rights and remedies available under state copyright law with respect to sound recordings fixed[2] after February 15, 1972.[3]

In an effort to curtail music piracy, states continue to regulate the unauthorized copying of recordings in primarily two ways. First, states control copyright infringement through the use of "unauthorized duplication" statutes. Under the federal copyright law, states can only regulate the unauthorized duplication of any fixed sound recording created prior to February 15, 1972. Accordingly, the application of such state statutes is limited to sound recordings fixed prior to the federally mandated cut-off date.

Second, states have also enacted "truth in labeling" laws or "true name and address" statutes. "In states that have enacted these laws, it is illegal to manufacture, sell, distribute, or possess a variety of items and commodities, with intent to sell, re-sell, distribute, or rent, that do not bear the name and address of the manufacturer."[4] With these statutes, application is much broader because they regulate *all* sound recordings. Federal preemption is not at issue because the objective of these statutes is to protect the consumer and public at large as opposed to protecting the rights of artists and recording companies, who are protected exclusively under federal copyright law.

Section 540.11, F.S., regulates the unauthorized copying of sound recordings in this state, and s. 540.11(3)(a)3., F.S., is a "true name and address statute" that provides the following:

> It is unlawful . . . [k]nowingly, for commercial advantage or private financial gain to sell or resell, offer for sale or resale, advertise, cause the sale or resale of, rent, transport or cause to be rented or transported, or possess for such purposes, any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, unless the outside cover, box, or jacket clearly and conspicuously discloses the actual name and address of the manufacturer thereof, and the name of the actual performer or group.[5]

Whether violation of the statute is a first degree misdemeanor or a third degree felony, and the maximum fine that can be adjudged, depends on the number of unauthorized articles involved in the offense.

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[2] 17 U.S.C. s. 101 (2006) ("A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.").
[3] 17 U.S.C. s. 301 (2006)
[4] David Goldstone, PROSECUTING INTELLECTUAL PROPERTY CRIMES, 123 (2001).
[5] Section 540.11(3)(a)3., F.S. (2011)

Restitution
Section 775.089, F.S., deals with restitution. Florida courts have repeatedly provided that "the purpose of restitution is twofold: (1) to compensate the victim and (2) to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system."[6] The objective is to make the victim whole;[7] thus, restitution must be ordered absent a finding by the court of "clear and compelling reasons not to order restitution."[8] As stated by the Florida Supreme Court, "restitution is an effective rehabilitative penalty because it forces the defendant to confront, in concrete terms, the harm his actions have caused."[9]

Presently, under the restitution statute, a victim is defined as follows:

> [A] person who suffers property damage or loss . . . as a result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense. . .[10]

In short, those entitled to restitution are the victim or, if deceased, the victim's estate and next of kin.

III. Effect of Proposed Changes:

Section 1 amends the definition of the term "victim" in s. 775.089, F.S., to include a victim's trade association if the offense is in violation of s. 540.11(3)(a)3., F.S., and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect restitution on the victim's behalf. The bill emphasizes that it applies only to physical articles and not to electronic articles or digital files that are distributed or made available online. "Trade association" is defined as "an organization founded and funded by businesses that operate in a specific industry to protect their collective interests."

Section 2 provides that this act shall take effect October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[6] *Kirby v. State*, 863 So. 2d 238, 243 (Fla. 2003); *State v. Castro*, 965 So. 2d 216, 218 (Fla. 3d DCA 2007); *L.H. v. State*, 803 So. 2d 862, 863-864 (Fla. 4th DCA 2002); *Koile v. State*, 902 So. 2d 822, 827 (Fla. 5th DCA 2005).
[7] *Santana v. State*, 795 So. 2d 1112, 1113 (Fla. 5th DCA 2001).
[8] Section 775.089(1)(a), F.S. (2011)
[9] *Kirby*, 863 So. 2d at 243, quoting *People v. Bernal*, 101 Cal.App.4th 155, 123 Cal.Rptr.2d 622 (2002).
[10] Section 775.089 (1)(c), F.S. (2011)

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

There will be a fiscal impact on any persons or entities that violate s. 540.11(3)(a)3., F.S., and are ordered to pay restitution.

VI. Technical Deficiencies:

The bill uses the term "lawful producer" without providing a definition. Given that this bill relates to the music industry, "lawful producer" may have a particularly confusing interpretation because "producer" is a music industry-specific term.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Criminal and Civil Justice Appropriations on February 1, 2012:

- Removes language in the original bill that provided a method for calculating damages.
- Deletes amendment that would have created a new subparagraph 4. in s. 540.11(3)(b), F.S. This eliminates a potential interpretation that the bill allows restitution only for violations of s. 540.11(3)(a)3., F.S., and not for other offenses in s. 540.11, F.S.

CS by Criminal Justice on January 19, 2012:

- Adds language to emphasize that the bill applies only to physical articles and not to electronic articles or digital files that are distributed or available online.
- Defines the term "trade association."

B. Amendments:

None.

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

By the Committees on Budget Subcommittee on Criminal and Civil Justice Appropriations; and Criminal Justice; and Senators Flores, Diaz de la Portilla, Garcia, and Lynn

604-02763-12 2012432c2

A bill to be entitled

An act relating to criminal restitution; amending s. 775.089, F.S.; providing that a crime victim entitled to restitution may include a trade association representing the owner or lawful producer of a recording who sustains a loss as a result of physical piracy; providing a limitation of the restitution obligation to specifically exclude acts of online piracy; defining the term "trade association"; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.—

(1)

(c) The term "victim" as used in this section and in any provision of law relating to restitution means each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, ~~and~~ the victim's next of kin if the victim is deceased as a result of the offense, and the victim's trade association if the offense is a violation of s. 540.11(3)(a)3. involving the sale, or possession for purposes of sale, of physical articles and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect

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

604-02763-12 2012432c2

restitution on the victim's behalf. The restitution obligation set forth in this paragraph relating to violations of s. 540.11(3)(a)3. applies only to physical articles and does not apply to electronic articles or digital files that are distributed or made available online. As used in this paragraph, the term "trade association" means an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.

Section 2. This act shall take effect October 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

January 23, 2012

SENATE APPROPRIATIONS
RECEIVED
12 JAN 24 PM 4:20
SENT TO: CHAIRMAN
STAFF DIR. ____ STAFF ____

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 432, regarding unauthorized copying of recordings, on the next Committee on Budget. This proposed legislation requires restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain. In the previous committee of reference, Committee on Criminal Justice, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Committee on Budget, 201 The Capitol

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

February 1, 2012

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 432, regarding unauthorized copying of recordings, on the next Committee on Budget agenda. This proposed legislation requires restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain. In the previous committee of reference, Budget Subcommittee on Civil and Criminal Justice Appropriations, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Committee on Budget, 201 The Capitol

SENATE APPROPRIATIONS
RECEIVED
12 JAN 33 PM 4: 15
SENT TO: CHAIRMAN ____
STAFF DIR. ____ STAFF ____

REPLY TO:
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President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

February 15, 2012

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 432, regarding unauthorized copying of recordings, on the next expedited calendar. This proposed legislation requires restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Committee on Budget, 201 The Capitol

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 488

INTRODUCER: Committee on Community Affairs and Senators Rich and Gaetz

SUBJECT: Animal Cruelty or Cruelty Ordinances

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	**Fav/CS**
2.	Harkness	Sadberry	BJA	**Favorable**
3.	Harkness	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... ☐ Statement of Substantial Changes
B. AMENDMENTS..... ☐ Technical amendments were recommended
☐ Amendments were recommended
☐ Significant amendments were recommended

I. Summary:

CS/SB 488 allows counties or municipalities to increase the surcharge up to $15 up for each violation of an ordinance relating to animal control or cruelty. The local clerk of the court may retain one dollar of the surcharge. Up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats.

The CS/SB 488 substantially amends s. 828.27, of the Florida Statutes.

II. Present Situation:

Section 823.15(1), F.S., states that uncontrolled breeding of dogs and cats in the state results in the production of many more puppies and kittens than are needed to replace pet animals which have died or become lost or to provide pet animals for new owners. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that

every feasible means of reducing the production of unneeded and unwanted puppies and kittens be encouraged.

Section 823.15, F.S., requires dogs and cats adopted or sold from animal shelters, including those run by local governments or humane societies, to be spayed or neutered before the animal is released. As an alternative, an animal may be released without spaying or neutering if the adopter/purchaser enters into a written agreement that the animal will be sterilized within a certain time frame. The shelter must charge a deposit, which it may keep if the adopter/purchases do not provide proof of sterilization.

Counties and municipalities allow animal control officers to issue a written notice/citation to a person when the officer has probable cause to believe that the person has committed a civil infraction of an ordinance. The following are some animal control ordinance citations that might be issued by animal control officers:

- Obstructing enforcement - Refusing to surrender an animal upon lawful demand by the director of animal control or any animal control officer.
- Running at large - It shall be unlawful for any animal to run or remain at large on any public street, road, alley, park, or other public place.
- Public nuisance - Any nuisance complaint shall be investigated by animal control or law enforcement. The owner shall first be given written notification by the county that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable effort to abate the nuisance within seven calendar days of the written notice of violation, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal to become a nuisance.[1]

Counties and municipalities, which elect to enact an animal control or cruelty ordinance, may include a surcharge of up to $5 for each civil penalty imposed in addition to any penalties, fees, or court costs. The surcharge is distributed based on the county or municipalities' agreed upon fee schedule and is used to pay for the cost of training animal control officers.[2]

III. Effect of Proposed Changes:

Section 1 amends s. 828.27, F.S., to allow counties or municipalities to collect a surcharge in addition to the penalties imposed by the county or court for the civil violation relating to an animal control or cruelty ordinance from up to $5 to up to $15. The CS/SB 488 specifies that one dollar of the surcharge may be retained by the clerk of the court and up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats in the possession of the animal control authority, whose owners have given permission to sterilize. The animal's owner may not be charged more than the cost of sterilization minus the subsidy provided by the surcharge. If the surcharge funds collected to pay the costs of training animal control officers exceed the amount needed to conduct training for the animal control officers, the animal control authority may apply any excess surcharge funds to spay and neuter dogs and cats.

[1] Leon County, Florida Code of Ordinances, Code of Laws, Chapter 4 Animals, Article II. Animal Control, Division 1., http://www.leoncountyfl.gov/animal/ordinance.asp.
[2] Section 828.27, F.S.

Section 2 sets an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Counties and municipalities that elect to enact an animal control or cruelty ordinance may include a surcharge of up to $15 for each civil penalty imposed in addition to any penalties, fees, or court costs. The clerk of the court may retain one dollar of the surcharge and up to the five dollars are to be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

B. Private Sector Impact:

If a county or municipality elects to enact an animal control or cruelty ordinance and collects an increased surcharge that designates funds to sterilize cats and dogs, more animals will be sterilized which will decrease the animal population in that locality.

C. Government Sector Impact:

The clerk of the court retains $1 of the surcharge, which would generate a small but indeterminate amount of trust fund revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs Committee on January 12, 2012:
The CS/SB 488 permits instead of requires counties or municipalities that enact an ordinance relating to animal control or cruelty to impose and collect a surcharge of up to $15 upon each civil penalty. The CS specifies that the clerk of the court may retain one dollar of the surcharge and up to the next five dollars must be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

B. Amendments:

None.

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

By the Committee on Community Affairs; and Senators Rich, Gaetz, and Sobel

578-01886-12 2012488c1

A bill to be entitled

An act relating to animal control or cruelty ordinances; amending s. 828.27, F.S.; authorizing a county or municipality enacting an ordinance relating to animal control or cruelty to impose a specified surcharge on the civil penalty for violations of the ordinance; specifying use of the proceeds of the surcharge; prohibiting the governing body of a county or municipality from charging owners of animals more than a certain amount for the spaying or neutering of their animals in specified circumstances; authorizing the animal control authority to allocate certain excess funds to the program to spay and neuter cats and dogs; providing for construction; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 828.27, Florida Statutes, is amended, and paragraphs (c) and (d) are added to that subsection, to read:

828.27 Local animal control or cruelty ordinances; penalty.—

(4)

(b) The governing body of a county or municipality enacting an ordinance relating to animal control or cruelty may impose and collect a surcharge of up to $15 ~~$5~~ upon each civil penalty imposed for each violation of the ~~an~~ ordinance ~~relating to animal control or cruelty~~. One dollar of the surcharge may be

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

578-01886-12 2012488c1

retained by the clerk of the court, up to the next $5 of the surcharge ~~proceeds from such surcharges~~ shall be used to pay the costs of training for animal control officers, and the remainder of the surcharge shall be used to subsidize the costs to spay or neuter dogs and cats in the possession of the animal control authority or whose owners voluntarily submit their animals for sterilization. An owner of an animal may not be charged more for the spaying or neutering than the cost of sterilization less the subsidy paid from the surcharge.

(c) If the surcharge funds collected to pay the costs of training animal control officers exceed the amount needed to conduct training for the animal control officers in a given locality, the animal control authority may apply the excess surcharge funds to the program to spay and neuter cats and dogs.

(d) This subsection does not require the governing body of a county or municipality to enact an animal control or cruelty ordinance.

Section 2. This act shall take effect July 1, 2012.

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)

2/21/12
Meeting Date

Topic: 488 · spay / neuter, Animal Control

Bill Number: 488 *(if applicable)*

Name: Kate MacFall

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: [✓] For [ ] Against [ ] Information

Representing: ASPCA

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 (10/20/11)

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 Budget Committee

BILL: CS/CS/CS/SB 502

INTRODUCER: Budget Subcommittee on Finance and Tax; Community Affairs Committee; and Agriculture Committee and Senator Hays

SUBJECT: Public Fairs and Expositions

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Buford	AG	**Fav/CS**
2.	Hinton	Yeatman	CA	**Fav/CS**
3.	Fournier	Diez-Arguelles	BFT	**Fav/CS**
4.	Fournier	Rhodes	BC	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/CS/SB 502 (the bill) creates or revises definitions in ch. 616, F.S., Public Fairs and Expositions, to clarify the usage of fairground facilities for an annual public fair or for other authorized uses. Chapter 616, F.S., states that, in addition to public service, the primary objective of a fair association is to hold, conduct, and promote public fairs or expositions. It requires an association to pursue those objectives in good faith.

The bill permits a fair association to file its charter and amendments as a Florida Not for Profit Corporation and provides for dissolution by a resolution procedure set forth in the charter. It makes a declaration that authorized uses by a fair association serve an essential government purpose which codifies long standing case law regarding the right to certain tax exemptions. The bill expands the list of activities and functions authorized for a fair association to reflect current practices and it affirms that a fair association is a noncommercial activity provider. It removes language allowing a fair association to charge an admission fee and confirms that the Department of Transportation may contribute land for a fair's use.

The bill changes the waiver from local occupational license to a waiver from local business taxes for a fair association and an operator of an activity at an annual fair to conform to the definition in ch. 205, F.S.

The bill prohibits a fair association from conducting more than one annual public fair. It requires the Department of Agriculture and Consumer Services (DACS) to issue a permit within 10 days after application requirements have been met. It reduces the time for a fair association to apply for a waiver from the required minimum number of exhibits. It allows agricultural and livestock exhibit buildings to be used for any public fair purpose.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 288.1175, 616.001, 616.01, 616.02, 616.03, 616.05, 616.051, 616.07, 616.08, 616.101, 616.11, 616.12, 616.121, 616.14, 616.15, 616.17, 616.185, 616.19, 616.21, 616.23, and 616.24.

II. Present Situation:

The Legislature first passed laws for the purpose of regulating state fair associations and operations by enacting ch. 7388, L.O.F, in 1917. In 1974, the Legislature enacted ch. 74-322, L.O.F., which created the Florida State Fair Authority to deal exclusively with the staging of the annual state fair in Tampa, Florida. The last major changes to the statute occurred when the statute was reviewed in 1993 under provisions of the Regulatory Sunset Act. At that time, it was revised and reenacted by the provisions of ch. 93-168, L.O.F.

Besides the state fair in Tampa, there are approximately fifty other district, regional or county fair associations that stage annual fairs as well as public fairs and expositions. Part I of ch. 616, F.S., sets forth procedures for a fair association to obtain a permit from DACS and provides guidelines for staging these events. Forty nine of the fair associations are members of the Florida Federation of Fairs and Livestock Shows (Federation), a Florida Non Profit Corporation whose mission is to increase the overall quality of agricultural fairs, provide members support and guidance to educate youth and fairgoers on agriculture, trade, entertainment, and heritage of Florida.[1] Addressing legislative affairs is a support function provided by the organization for its members. Federation representatives report that actual practices over the years show some minor variances from the language of the statute and have proposed amendments to reflect this and to make other changes.

A fair association is required to record its charter and amendments with the clerk of the county where its principal office is located and to file a copy with DACS. The controlling statute indicates that the association to be formed would be not for profit but is silent as to filing with the Department of State.

Currently operators of an activity at permitted fair and fair associations are exempt from certain license taxes which are now referred to as local business taxes in ch. 205, F.S.

Currently there is no statutory deadline for DACS to issue the annual fair permit after the completed application has been received. Also, a fair association has to request a waiver from the minimum number of exhibits at least 60 days before the annual public fair. Buildings authorized

by ss. 616.21-616.23, F.S., are limited to being used as agricultural or livestock exhibition buildings.

Several sections of Florida Statutes govern taxation of fairs and fair activities conducted by third parties:

> Section 212.031(6), F.S., provides that leases and rentals of land, a hall, or other facilities by a fair association to a show promoter or prime operator of a carnival or midway attraction are exempt from the tax on rental or license fee for use of real property; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.
>
> Section 212.08(7)(gg), F.S., exempts from sales and use tax the sale, use, lease, or grant of a license to use, made directly to or by a fair association, of real or tangible personal property. Any charge made by a fair association, or its agents, for parking, admissions, or for temporary parking of vehicles used for sleeping quarters; rentals, subleases, and sublicenses of real or tangible personal property between the owner of the central amusement attraction and any owner of an amusement ride is also exempt. This exemption does not apply to the sale of tangible personal property made by a fair association through an agent or independent contractor; sales of admissions and tangible personal property by a concessionaire, vendor, exhibitor, or licensee; or rentals and subleases of tangible personal property or real property between the owner of the central amusement attraction and a concessionaire, vendor, exhibitor, or licensee, except for the furnishing of amusement rides, which transactions are exempt.
>
> Section 212.13(6), F.S., requires a fair association to distribute and collect forms from any concessionaire, vendor, exhibitor, or licensee. These forms must request, at a minimum, the name, business address, and telephone number of the concessionaire, vendor, exhibitor, or licensee, its sales tax registration number, and the amount of daily revenue that it receives as a result of activities and sales on the fairgrounds of as a result of the use of assets or other property of the fair association.

III. Effect of Proposed Changes:

Section 1 amends s. 616.001, F.S., to renumber subparagraphs and cross-references thereto as appropriate and to add or revise definitions as follows:

- Defines "Annual public fair" as a community, county, district, regional, or state fair that is held and conducted by a fair association and permitted by DACS pursuant to s. 616.15, F.S.;
- Revises the definition of "Community fair" to specify that it means "an annual public" fair and to make technical language changes;
- Defines "Concession" as used by a fair association or use of a portion of the land by a third party through an arrangement with a fair association for specific uses, or the right to enter upon the land for specific purposes, such as providing rides, games, food, beverage, merchandise for sale, exhibits, projects, activities, events, programs, or other uses authorized in ch. 616, F.S.;
- Revises the definition of "County fair" to specify that it means "an annual public" fair and to make technical language changes;

- Revises the definition of "District fair" to specify that it means "an annual public" fair and to make technical language changes;
- Revises the definition of "Entry" to make technical language changes;
- Revises the definition of "Exhibit" to specify that the term includes parades and displays of articles or a collection of articles by a fair association or a third party such as exhibits of animals, art, housewares, or motor vehicles;
- Revises the definition of "Exhibitor" to specify that the term includes a fair association or a third party contracting with a fair association and to make technical language changes;
- Revises the definition of "Public fair or exposition" to state that the term means a project, activity, event, or program and use by a fair association, including the annual public fair event, which serves the purposes specified in s. 616.08, F.S., and to make technical language changes;
- Revises the definition of "Regional fair" or "interstate fair" to specify that it means "an annual public" fair and to make technical language changes;
- Revises the definition of "Specialized show" to make technical language changes;
- Revises the definition of "State fair" to specify that it means "an annual public" fair and to make technical language changes.

Section 2 amends s. 616.01, F.S., to clarify that certain provisions pertaining to the formation of a charter for a fair association apply to the "annual public" fair and to make technical language changes. It deletes a provision allowing memberships to be for terms of years.

Section 3 amends s. 616.02, F.S., to delete a requirement that subscribers to a proposed charter be of good character and reputation. It adds to the subscribers' oath an acknowledgment that the objective of a fair association, in addition to public service, is holding, conducting, and promoting public fairs or expositions and a commitment that the association will operate in good faith to carry out its objectives. It also makes technical language changes.

Section 4 amends s. 616.03, F.S., to make technical language changes regarding the procedures for applying for a charter for a fair association. It permits a fair association to file its duly approved charter with the Department of State under the Florida Not For Profit Corporation Act, ch. 617, F.S.

Section 5 amends s. 616.05, F.S., to make technical language changes regarding amendments to a fair association's charter. It requires an association that has filed its charter with the Department of State to also file amendments to the charter with that department.

Section 6 amends s. 616.051, F.S., to make technical language changes regarding dissolution of a fair association. It permits dissolution by a resolution provided in the charter in addition to the resolution procedure now authorized to be set forth in an association's bylaws.

Section 7 amends s. 616.07, F.S., to make technical language changes regarding personal liability of members, officers, directors, or trustees of a fair association and exemptions from taxes. It also makes a declaration that acts of a fair association in pursuit of its legitimate purposes serve an essential governmental purpose. It expands the exemption from all forms of taxation that currently applies to "all money and property of the association" to include "any projects, activities, events, programs, and uses authorized by this part," and adds language specifying that this section does not provide an exemption from or affect any tax imposed under ch. 212, F.S.

Section 8 amends s. 616.08, F.S., to make technical language changes regarding additional powers of the fair associations. It authorizes the fair association to enter into a lease or rent of space for concessions and adds "equine" to the list of authorized exhibits. The bill adds the following types of activities to the list for which facilities may be provided: educational, horticultural, livestock, equestrian, charitable, historical, civic, cultural, scientific, and other resources of the area plus exhibits, concessions, entertainment events, recreational vehicle parking, auctions, trade shows, and concerts. The bill declares that a fair association organized under this chapter is a noncommercial activity provider.

Section 9 amends s. 616.101, F.S., to make technical language changes regarding the annual review of accounts and records of a fair association. It changes the word "fair" to "annual public fair" which makes this section pertain only to a fair association with a permitted annual fair.

Section 10 amends s. 616.11, F.S., to make technical language changes regarding a fair association's authorization to contract with governmental entities for use of land. It removes language authorizing fair association to receive an admission fee and it specifically adds the Department of Transportation as a governmental entity that may contribute land for use by a fair association.

Section 11 amends s. 616.12, F.S., to make technical language changes regarding licenses and the exemption from local business taxes authorized by ch. 205, F.S., for an operator of an activity at an annual public fair held by a fair association that satisfies the requirements of ch. 616, F.S., Public Fairs and Expositions. It changes the words "public fair" to "annual public fair" and it deletes the word "exposition" which makes this section pertain only to a fair association that has a permitted annual public fair. The bill makes technical language changes regarding the exemption from local business taxes authorized by ch. 205, F.S., for a fair association that has secured the required permit for an annual fair.

Section 12 amends s. 616.121, F.S., to make technical language changes regarding the penalty for making a false application for an annual fair permit. It changes the words "a public fair" to "an annual public fair" and it deletes the word "exposition" which makes this section pertain only to an application for an annual public fair permit.

Section 13 amends s. 616.14, F.S., to prohibit a fair association from conducting more than one annual public fair and it deletes the word "exposition" which makes this section pertain only to a fair association that has a permitted annual public fair.

Section 14 amends s. 616.15, F.S., to make technical language changes regarding procedures a fair association must follow to obtain a permit from DACS. It requires DACS to issue a permit within 10 days after the application requirements have been fulfilled. The bill changes the words "public fair" to "annual public fair" and it deletes the word "exposition" which makes this section pertain only to a fair association seeking a permit for an annual public fair.

Section 15 amends s. 616.17, F.S., to make technical language changes regarding the minimum number of exhibits and changes the word "public fair" to "annual public fair" and it deletes the word "exposition" which makes this section pertain only to a permitted annual public fair. It reduces the

time to 30 days from 60 days before the annual public fair in which a fair association may apply for a waiver from the minimum number of exhibits.

Section 16 amends s. 616.185, F.S., to make technical language changes regarding trespass upon grounds or facilities of public fair associations to clarify that it applies to all grounds or facilities owned or used by any fair association permitted under s. 616.15, F.S.

Section 17 amends s. 616.19, F.S., to make technical language changes regarding designation of fairs to clarify that it applies to all fair associations created pursuant to ch. 616, F.S.

Section 18 amends s. 616.21, F.S., to make technical language changes regarding the expenditure of appropriated funds on agricultural and livestock exhibit buildings.

Section 19 amends s. 616.23, F.S., to remove a limitation that certain buildings were to be used only as agricultural and livestock exhibit buildings which will allow the buildings to be used for any public fair or exhibition purpose.

Section 20 amends s. 616.24, F.S., to make a technical language change regarding the enforcement of ch. 616, F.S., Public Fairs and Expositions.

Section 21 amends s. 288.1175, F.S., to change cross-references.

Section 22 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that this bill has no revenue impact.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS/CS by Budget Subcommittee on Finance and Tax on January 24, 2012: The CS clarifies that the bill does not create any new exemptions for taxes imposed under ch. 212, F.S

CS/CS by Community Affairs on December 5, 2011: The CS makes a technical change.

CS by Agriculture on November 14, 2011: The CS revises the definition of "Public fair or exposition" to cover all functions, including the annual public fair, which serve the purposes of s. 616.08, F.S. It removes language creating an exemption for fair associations from local land use and zoning ordinances from certain enumerated fees and taxes of local governments.

B. **.**Amendments:

None.

By the Committees on Budget Subcommittee on Finance and Tax; Community Affairs; and Agriculture; and Senators Hays and Dean

593-02259-12 2012502c3

A bill to be entitled

An act relating to public fairs and expositions; amending s. 616.001, F.S.; redefining existing terms and defining the terms "annual public fair" and "concession"; amending s. 616.01, F.S., relating to requirements for the proposed charter of an annual public fair; revising provisions to conform to changes made by the act; amending s. 616.02, F.S.; providing that the primary objective of a fair association is the holding, conducting, and promoting of public fairs or expositions; amending s. 616.03, F.S.; providing that a fair association may file its duly approved charter with the Department of State in addition to the Department of Agriculture and Consumer Services for notice purposes; amending s. 616.05, F.S.; providing the process by which a fair association may amend its charter; requiring a fair association that files its charter with the Department of State to file a copy of amendments to its charter with that department; amending s. 616.051, F.S.; revising provisions regarding the process by which a fair association may dissolve its charter; amending s. 616.07, F.S.; revising provisions regarding the distribution of public funds and property when a fair association is dissolved; clarifying that certain authorized projects, activities, events, programs, and uses serve an essential governmental purpose and, therefore, are exempt from taxation; providing that certain exemptions are not applicable to taxes imposed

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under ch. 212, F.S.; amending s. 616.08, F.S.; requiring each fair association to hold an annual public fair; authorizing the fair association to license certain property and to grant, lease, rent, or license space for exhibits and concessions; requiring the fair association to stimulate public interest in the benefit and development of certain resources of the state, any county, or a municipality, including facilities for specified uses; providing that certain fair associations are noncommercial activity providers; amending s. 616.101, F.S.; revising provisions related to the review of association accounts and records; amending s. 616.11, F.S.; clarifying the rights of the association to use certain property for public purposes; adding the Department of Transportation to the list of governmental entities that may make contributions to a fair association to assist it in carrying out its purpose; authorizing state, county, and municipal governments to fund certain projects at or connected with public fairs and expositions; amending s. 616.12, F.S.; revising provisions relating to the exemption from certain license taxes and local business taxes for annual public fairs held by a fair association; amending s. 616.121, F.S., relating to a penalty imposed for making false application for a permit; replacing the term "exhibitions" with the term "annual public fair" to conform to changes made by the act; amending s. 616.14, F.S.; prohibiting a fair

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association from conducting more than one annual public fair each calendar year; amending ss. 616.15 and 616.17, F.S., relating to procedures for obtaining a permit from the Department of Agriculture and Consumer Services to conduct a public fair; revising provisions to conform to changes made by the act; revising requirements for obtaining a departmental waiver from minimum exhibit requirements; amending s. 616.185, F.S.; revising provisions prohibiting the offense of trespass upon the grounds or facilities of a public fair; amending s. 616.19, F.S.; revising provisions relating to the designation of fairs; amending s. 616.21, F.S.; revising provisions related to the expenditure of appropriated funds; amending s. 616.23, F.S.; removing certain limitations on the use of buildings by counties, municipalities, or fair associations; amending s. 616.24, F.S.; revising provisions related to enforcement; amending s. 288.1175, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 616.001, Florida Statutes, is amended to read:

616.001 Definitions.—As used in this chapter, the term:

(1) "Annual public fair" means a community, county, district, regional, or state fair that is held and conducted by a fair association and permitted by the department pursuant to

s. 616.15.

(2) ~~(1)~~ "Authority" means the Florida State Fair Authority.

(3) ~~(2)~~ "Community fair" means an annual public ~~a~~ fair that ~~which~~ serves an area of less than an entire county, has ~~and the~~ exhibits that ~~of which~~ are in accordance with s. 616.17, and gives ~~in which~~ premiums or awards ~~are given~~ to exhibitors ~~of the fair~~. Agricultural products shall be produced in the community the exhibit represents. The majority of the board of directors of the fair shall reside, be employed, or operate a business in the community the fair represents.

(4) "Concession" means use by a fair association, or a grant, lease, or license to a third party, of a portion of the land under the ownership, custody, or control of a fair association for specific uses, or the right to enter upon the land for specific purposes, such as providing rides, games, food, beverage, merchandise for sale, exhibits, projects, activities, events, programs, or other uses authorized in this chapter.

(5) ~~(3)~~ "County fair" means an annual public ~~a~~ fair that ~~which~~ serves an entire county and provides exhibitors with premiums or awards for ~~the~~ exhibits that ~~of which~~ are in accordance with s. 616.17 ~~and in which premiums or awards are given to exhibitors of the fair~~. Agricultural products must ~~shall~~ be typical of those produced in the county the exhibit represents ~~in meeting minimum exhibit requirements~~. The majority of the board of directors of the fair shall reside, be employed, or operate a business in the county that the fair association represents.

(6) ~~(4)~~ "Department" means the Department of Agriculture and

117 Consumer Services.
118 (7) ~~(5)~~ "District fair" means an annual public ~~a~~ fair that
119 ~~which~~ serves at least five counties and has ~~the~~ exhibits that
120 meet the requirements of ~~which are in accordance with~~ s. 616.17.
121 A district~~, which~~ fair shall pay at least ~~not less than a~~
122 ~~minimum of~~ $25,000 in cash premiums or awards to exhibitors ~~of~~
123 ~~the fair~~. Agricultural products must ~~shall~~ be typical of those
124 produced in the counties ~~county~~ the exhibit represents.
125 Livestock may originate from outside the district, but must be
126 registered in the exhibitor's name at least 30 days before the
127 opening day of the fair. Each county is ~~shall be~~ encouraged to
128 have proportionate exhibits, typical of its respective natural
129 resources. Each county shall have exhibits representing ~~in some~~
130 ~~phase of~~ basic resources in agriculture and industry.
131 (8) ~~(6)~~ "Entry" means one item entered for competition or
132 show. An entry may ~~or may not~~ constitute an exhibit, depending
133 upon the regulations ~~as~~ stated in the premium book.
134 (9) ~~(7)~~ "Exhibit" means one or more entries entered for
135 exhibition and constituting a unit. An exhibit may consist of
136 one or more entries, depending upon the regulations ~~as~~ stated in
137 the premium book. The term includes parades and displays of
138 articles or a collection of articles, whether static,
139 interactive, or dynamic, by a fair association or a third party
140 contracting with a fair association, such as exhibits of
141 animals, art, housewares, or motor vehicles.
142 (10) ~~(8)~~ "Exhibitor" means an individual, group of
143 individuals, or business, including a fair association or third
144 party contracting with a fair association, which has an exhibit
145 ~~having an entry or entries in a show or fair~~.

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146 (11) ~~(9)~~ "Fair association" or "association" means an
147 association not for profit incorporated under this chapter for
148 the purpose of conducting and operating public fairs or
149 expositions.
150 (12) ~~(10)~~ "Public fair or exposition" means a project,
151 activity, event, or program and use by a fair association,
152 including the annual public fair event, which serves the
153 purposes specified in s. 616.08 and benefits and develops ~~or~~
154 ~~exposition not for profit for the purpose of the benefit and~~
155 ~~development of~~ the educational, agricultural, horticultural,
156 livestock, charitable, historical, civic, cultural, scientific,
157 and other resources of this ~~the~~ state, or any county, ~~or~~
158 ~~counties of the state, or any~~ municipality, or other community
159 in this ~~of any county of the~~ state.
160 (13) ~~(11)~~ "Regional fair" or "interstate fair" means an
161 annual public ~~a~~ fair of this state and other ~~several~~ states~~, one~~
162 ~~of which is Florida,~~ in which fair exhibits meet the
163 requirements of ~~are in accordance with~~ s. 616.17. Agricultural
164 products must ~~shall~~ be typical of those produced in the area the
165 exhibit represents.
166 (14) ~~(12)~~ "Specialized show" means a show or exhibition
167 exhibiting and emphasizing ~~a~~ livestock or poultry ~~show~~, or a
168 fruit or vegetable festival, and must ~~shall~~ meet the minimum
169 exhibit requirements specified ~~as defined~~ in s. 616.17. A
170 specialized show may qualify under one of the definitions in
171 subsections ~~(2),~~ (3), (5), (7), and (15) ~~(13)~~.
172 (15) ~~(13)~~ "State fair" means an annual public ~~a~~ fair that
173 ~~which~~ serves the entire state. Exhibits must comply ~~shall be in~~
174 ~~accordance~~ with s. 616.17, and cash premiums or awards may be

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given to exhibitors ~~of the fair~~.

Section 2. Section 616.01, Florida Statutes, is amended to read:

616.01 Number of persons required; requisites of proposed charter.—Twenty-five or more persons who are residents and qualified electors of the county in which ~~wherein~~ the annual public fair is to be located, who wish ~~wishing~~ to form an association not for profit for the purpose of conducting and operating public fairs or expositions, may become incorporated in the following manner. The subscribers ~~They~~ shall submit the proposed charter to the department for review and approval. If the proposed charter is approved, the subscribers shall sign and ~~then~~ present the proposed charter to the judge of the circuit court for the county in which the principal office of the association will ~~is to~~ be located. The ~~a~~ proposed charter must specify ~~signed by the intended incorporators, which shall set forth~~:

(1) The name of the association and the place where the principal office is to be located. The name of the association shall include the word, "Inc."

(2) The general nature of the objectives ~~its objects~~ and powers of the association, including a provision that the association is incorporated for the sole purpose of conducting and operating public fairs or expositions.

(3) The qualifications and terms of association members and criteria for ~~the manner of~~ their admission and expulsion. Provision may be made in the charter for ex officio membership~~, and memberships may be for terms of years~~.

(4) The time for which the association ~~it~~ is to exist.

(5) The name ~~names~~ and residence ~~residences~~ of each subscriber ~~the subscribers~~.

(6) Procedures for the election of and governance by ~~what~~ officers, who may ~~its affairs are to be managed, and the time at which the officers will~~ be elected or appointed.

(7) The designation ~~names~~ of ~~the~~ officers who will ~~are to~~ manage the ~~its~~ affairs of the association until the first election or appointment under the charter.

(8) Procedures for the adoption, amendment, or rescission of ~~By whom its~~ bylaws of the association ~~are to be made, altered, or rescinded~~.

(9) The highest amount of indebtedness or liability that may be accrued by the association ~~to which it may at any time subject itself~~.

Section 3. Section 616.02, Florida Statutes, is amended to read:

616.02 Acknowledgment of charter.—The proposed charter of a fair association shall be acknowledged by at least three of its subscribers~~, each a person of good character and reputation,~~ before an officer authorized to make acknowledgment of deeds.~~, which~~ Subscribers shall also make and take ~~subscribe to~~ an oath, which must ~~to~~ be attached to the proposed charter, stating that the primary objective ~~object~~ of the association is public service and holding, conducting, and promoting public fairs or expositions; that money and other available assets in value exceeding $5,000 have ~~there has~~ been provided for the purposes of the association ~~property, money, and other available assets in value exceeding $5,000~~; and that the association will operate ~~intends~~ in good faith to carry out the purposes and objectives

~~objects~~ set forth in its charter.

Section 4. Section 616.03, Florida Statutes, is amended to read:

616.03 Notice of application; approval and record of charter.~~—~~A notice of intention to apply to the circuit court ~~judge~~ for the charter of a fair association must specify~~,~~ ~~stating~~ the date that ~~time when the~~ application will be made, shall be sent to the department for approval, and ~~then~~ shall be published in a newspaper in the county where the principal office of the association will ~~is to~~ be located once each week for 4 consecutive weeks. The notice must~~, setting forth~~ briefly summarize the charter and objectives ~~objects~~ of the proposed association ~~to be formed~~. The proposed charter shall be submitted to and approved by the board of county commissioners of the county in which the principal office of the association will ~~is to~~ be located. After ~~Upon~~ approval by ~~of~~ the department and the board of county commissioners, the proposed charter and ~~with~~ proof of ~~both~~ approval and publication shall be submitted to the circuit judge on the date specified ~~at the time named~~ in the notice.~~; and,~~ If no cause is shown to the contrary and ~~if~~ the judge finds that the proposed charter is ~~to be~~ in proper form and will serve ~~so sworn to and for~~ the primary objective ~~object~~ of public service, the judge shall approve the charter and issue an order ~~render a decree~~ incorporating the subscribers under the charter for the objectives ~~objects~~ and purposes specified in the charter ~~and with the powers therein specified~~. The charter and order ~~decree~~ of incorporation shall ~~then~~ be recorded in the office of the clerk of the circuit court in the county where the principal office of the association will ~~is to~~

be located and provided to ~~in the office of~~ the department. After the order is recorded, ~~Thenceforth~~ the subscribers and their associates are ~~shall be~~ incorporated with the objectives and powers established in the charter and under ~~by~~ the name given in the charter ~~and with the objects and powers set forth therein~~. During the publication period, the proposed charter~~,~~ ~~during the time of publication,~~ shall be on file in the office of the clerk of the circuit court. This section does not preclude a fair association from also filing its duly approved charter with the Department of State pursuant to chapter 617 for notice purposes.

Section 5. Section 616.05, Florida Statutes, is amended to read:

616.05 Amendment of charter.~~—~~A ~~Any~~ fair association may ~~desiring to~~ propose an amendment to ~~of~~ its charter ~~may do so~~ by resolution as provided in its charter or bylaws.

(1) The proposed amendment shall be submitted to the department for approval.

(2) After the department approves the proposed amendment, it will be incorporated into the original charter ~~When approved, the proposed amendment,~~ upon:

(a) Publication of notice in the same manner as provided in s. 616.03;~~,~~

(b) Filing the order of the circuit judge approving the amendment with ~~Placement on file in~~ the office of the clerk of the circuit court and ~~in the office of~~ the department;~~, the rendering of a decree of the circuit judge approving and allowing the amendment,~~ and

(c) Being recorded in the clerk's office~~, shall be~~

291 ~~incorporated into the original charter~~.
292
293 If a fair association has filed its charter with the Department
294 of State pursuant to chapter 617, a copy of any amendment to the
295 charter must be filed with the Department of State for notice
296 purposes.
297 Section 6. Section 616.051, Florida Statutes, is amended to
298 read:
299 616.051 Dissolving a charter.—A ~~Any~~ fair association may
300 ~~desiring to~~ dissolve its charter ~~may do so~~ by resolution as
301 provided in its charter or bylaws. The proposal for dissolving
302 the charter shall be submitted to the department for approval.
303 Upon approval and ~~upon~~ publication of notice and proof that all
304 indebtedness has been paid and no claims are outstanding against
305 the association, the circuit judge may, by decree, dissolve the
306 association and order its remaining public funds ~~remaining~~ to be
307 distributed as recommended by the board of directors.
308 Section 7. Section 616.07, Florida Statutes, is amended to
309 read:
310 616.07 Members not personally liable; property of
311 association held in trust; exempt from taxation.—
312 (1) A ~~No~~ member, officer, director, or trustee of a fair
313 association is not ~~shall be~~ personally liable for any of the
314 debts of the association,~~,~~ and ~~no~~ money or property of a fair
315 association may not ~~shall~~ be distributed as profits or dividends
316 among its members, officers, directors, or trustees.~~, but~~
317 (2) All money and property of the association, except that
318 necessary ~~shall, except~~ for the payment of its just debts and
319 liabilities, are ~~be and remain perpetually~~ public property,

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320 shall be administered by the association as trustee, and shall
321 ~~to~~ be used exclusively for the legitimate purpose of the
322 association. So long as they are used for that purpose, all
323 money and property of the association are~~, and shall be, so long~~
324 ~~as so used,~~ exempt from all forms of taxation, including special
325 assessments, and any projects, activities, events, programs, and
326 uses authorized by this part serve an essential governmental
327 purpose and, therefore, are not taxable and are not subject to
328 assessments. This section does not provide an exemption from or
329 affect any tax imposed under chapter 212.
330 (3)~~(2)~~ Upon order of the circuit judge, any public funds or
331 property remaining in a fair association when the association is
332 dissolved shall be distributed by resolution of the board of
333 directors~~, upon order of the circuit judge~~ to any county or any
334 municipality within the county. The board~~, and~~ may designate
335 ~~provide~~ in the distribution resolution the public project that
336 will benefit from ~~on which~~ the funds ~~shall be used~~ or the manner
337 in which the property will be used. If ~~the use to which the~~
338 ~~property shall be put; however, where~~ property has been
339 contributed by a municipality or county, the property shall be
340 reconveyed to the municipality or county that gave the property
341 to the association ~~making the contribution of said property~~.
342 Section 8. Section 616.08, Florida Statutes, is amended to
343 read:
344 616.08 Additional powers of association.—Each ~~Every~~ fair
345 association shall ~~have the power to~~ hold, conduct, and operate
346 public fairs and expositions, including an annual public fair.
347 ~~annually and~~ For that ~~such~~ purpose, a fair association may ~~to~~
348 buy, lease, acquire, and occupy lands, and erect buildings and

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349 improvements of any kind on ~~all kinds thereon, and develop~~ those
350 lands~~, buildings, and improvements~~; ~~to~~ sell, mortgage, lease,
351 license, or convey any such property or any part thereof, in its
352 discretion, from time to time for the purpose of public fairs or
353 expositions; ~~to~~ charge and receive compensation for admission to
354 those public fairs and expositions, and grant a lease or license
355 or rent ~~for the sale or renting of~~ space for exhibits,
356 concessions ~~exhibitions~~, and ~~for~~ other purposes ~~privileges~~; ~~to~~
357 conduct and hold public meetings; ~~to~~ supervise and conduct
358 lectures and ~~all kinds of~~ demonstration work in connection with
359 or for the improvement of agriculture, horticulture,
360 stockraising and poultry raising, and all kinds of farming and
361 related matters ~~connected therewith~~; ~~to~~ hold exhibits of
362 agricultural and horticultural products and livestock, poultry,
363 equine ~~chickens~~, and other domestic animals; ~~to~~ give
364 certificates or diplomas of excellence; ~~to~~ promote the progress
365 of the geographical area it represents and serves and stimulate
366 public interest in the advantages and development of that area
367 by providing facilities for the benefit and development of the
368 educational, agricultural, horticultural, livestock, equestrian,
369 charitable, historical, civic, cultural, scientific, and other
370 resources of the state, any county of the state, or any
371 municipality or other community of any county of the state,
372 including facilities for exhibits, concessions, ~~and~~ industrial
373 exhibitions, public gatherings, cultural activities,
374 entertainment events, recreational vehicle parking, auctions,
375 trade shows, concerts, and other functions that ~~which~~ the
376 association determines will enhance the educational, physical,
377 economic, and cultural interests of the public; and generally ~~to~~

378 do, perform, and carry out all matters, acts, and business usual
379 or proper in connection with public fairs and expositions.~~; but~~
380 This enumeration of particular powers does ~~shall~~ not diminish ~~be~~
381 ~~in derogation of~~ or limit any special provisions of the charter
382 of the association ~~inserted~~ for the regulation of its business,
383 and the conduct of its affairs of creating, defining, limiting,
384 and regulating the powers of the association or its officers or
385 members.~~; provided,~~ The treasurer or similar officer of the
386 association shall ~~be required to~~ give a good and sufficient bond
387 with a surety company duly authorized under the laws of the
388 state, payable to the association and in an amount equal to the
389 value of the total amount of money and other property in that
390 officer's possession or custody, in addition to the value of any
391 money and property of the association which ~~that~~ may reasonably
392 be expected to come into that officer's possession or custody. A
393 fair association organized under this chapter is a noncommercial
394 activity provider.
395 Section 9. Section 616.101, Florida Statutes, is amended to
396 read:
397 616.101 Annual review of accounts and records.~~ Once each~~
398 ~~year, a review of~~ The accounts and records of every fair
399 association whose annual public fair has an annual attendance of
400 more than 25,000~~, based on sound accounting practices and~~
401 ~~procedures,~~ shall be reviewed annually ~~made~~ by a qualified
402 accountant licensed by the state. A fair association whose
403 annual public fair has an annual attendance of 25,000 or fewer
404 ~~less~~ must submit an annual financial statement that has been
405 signed by an officer of the county. The results of the ~~all such~~
406 reviews shall be kept in the official records of each

407 association, available to all directors of the association. A
408 certified copy of the review shall be filed with ~~in the office~~
409 ~~of~~ the department:
410 (1) On request by the department to certify expenditures of
411 the premiums awarded to exhibitors of a fair ~~state premium~~ or of
412 building funds when there is evidence of violation of state
413 laws; or
414 (2) When the association is applying for a fair permit.
415 Section 10. Section 616.11, Florida Statutes, is amended to
416 read:
417 616.11 Association authorized to contract with
418 municipality, county, or state for use of land; admission fees;
419 state, counties, and municipalities authorized to make
420 contributions.~~—~~Any fair association may enter into any contract,
421 lease, or agreement with any municipality or county in the state
422 or with the state or agency or subdivision of the state ~~thereof~~
423 for the donation to or the use and occupation by the association
424 of any land owned, leased, or held by the county or municipality
425 or the state or agency or subdivision of the state ~~thereof~~
426 during a ~~such~~ time and on the ~~such~~ terms approved by ~~as~~ the
427 county or municipality or the state or agency or subdivision
428 ~~thereof may authorize~~, with the right ~~on the part~~ of the
429 association to use the property for public ~~charge~~ and ~~receive an~~
430 ~~admission fee to the fair or~~ exposition purposes ~~or any part~~
431 ~~thereof~~. The state, the Department of Transportation and ~~or~~ any
432 other agency or subdivision of the state ~~thereof~~, the board of
433 county commissioners of any county within which the fair or
434 exhibition is held, and the mayor and city council of any
435 municipality within the county may also make contributions of

436 money, property, or services to fair associations to assist in
437 carrying out the purposes of the associations under ~~as~~
438 ~~authorized by~~ this chapter. The state or any agency or
439 subdivision of the state, boards of county commissioners of the
440 various counties of the state, and the mayor and city council of
441 any municipality within the county may expend ~~in their~~
442 ~~discretion~~ such sums of money as they deem necessary for the
443 best interests of their counties and in aiding the development
444 of the educational, agricultural, horticultural, livestock,
445 charitable, historical, civic, cultural, scientific, and any
446 other resources of their counties at and in connection with
447 public fairs and expositions, including the offering and paying
448 of premiums for the exhibitions of resources of the state,
449 county, or municipality ~~their respective counties~~.
450 Section 11. Section 616.12, Florida Statutes, is amended to
451 read:
452 616.12 Licenses upon certain shows; distribution of fees;
453 exemptions.~~—~~
454 (1) Each ~~Every~~ person who operates ~~may operate under any~~
455 ~~terms whatsoever, including a lease arrangement,~~ any traveling
456 show, exhibition, amusement enterprise, carnival, vaudeville,
457 exhibit, minstrel, rodeo, theatrical, game or test of skill,
458 riding device, dramatic repertoire, ~~or~~ other show or amusement,
459 or concession, ~~(~~including a concession operating in a tent,
460 enclosure, or other temporary structure, ~~whether covered or~~
461 ~~uncovered)~~ within the grounds of, and in connection with, any
462 annual public fair ~~or exposition~~ held by a fair association
463 shall pay the license taxes ~~now or hereafter~~ provided by law.~~;~~
464 However, if ~~in the event~~ the association satisfies the

465 requirements ~~fully qualifies with all other provisions~~ of this
466 chapter, including securing the required fair permit from the
467 department, the ~~traveling show, exhibition, amusement~~
468 ~~enterprise, carnival, vaudeville, minstrel, rodeo, theatrical,~~
469 ~~game or test of skill, riding device, dramatic repertoire, or~~
470 ~~other show or amusement (including a concession operating in a~~
471 ~~tent, enclosure, or other temporary structure, whether covered~~
472 ~~or uncovered) within the grounds of, and in connection with, any~~
473 ~~such fair or exposition is not required to pay any such~~ license
474 taxes and local business tax authorized in chapter 205 are
475 waived and the department shall issue ~~tax, but shall operate~~
476 ~~under~~ a tax exemption certificate ~~issued by the department~~. The
477 department shall adopt ~~prescribe~~ the proper forms and rules to
478 administer ~~for carrying out the purpose and intent expressed in~~
479 this section, including the necessary tax exemption certificate,
480 ~~to be signed by the tax collector,~~ showing that the fair
481 association has met all requirements and that the traveling
482 show, exhibition, amusement enterprise, carnival, vaudeville,
483 exhibit, minstrel, rodeo, theatrical, game or test of skill,
484 riding device, dramatic repertoire, ~~or~~ other show or amusement,
485 or concession ~~(including a concession operating in a tent,~~
486 ~~enclosure, or other temporary structure, whether covered or~~
487 ~~uncovered) has met in full all requirements of this chapter and~~
488 ~~accordingly~~ is ~~fully~~ exempt.
489 (2) Any fair association securing the required annual fair
490 permit from the department is exempt from local business tax as
491 defined by chapter 205 ~~occupational license fees~~, occupational
492 permit fees, or any occupational taxes assessed by any county,
493 municipality, political subdivision, or agency, or

494 instrumentality thereof.
495 Section 12. Section 616.121, Florida Statutes, is amended
496 to read:
497 616.121 Making false application.—Any person who, with
498 fraudulent intent, makes or causes to be made any false
499 statement in an application for a permit to hold an annual ~~a~~
500 public fair ~~or exposition~~ or in an application for distribution
501 of the amount paid for license taxes under the provisions of
502 this chapter, ~~with fraudulent intent of obtaining that permit or~~
503 ~~amount,~~ and by that false statement obtains that permit or
504 distribution, ~~any part of that amount for himself or herself or~~
505 ~~for any firm or corporation in which that person has a financial~~
506 ~~interest, or for whom that person is acting,~~ commits a
507 misdemeanor of the first degree, punishable as provided in s.
508 775.082 or s. 775.083.
509 Section 13. Section 616.14, Florida Statutes, is amended to
510 read:
511 616.14 Number of fairs; penalty.—
512 (1) A fair association may not conduct more than one annual
513 public fair each calendar year. Any fair association that
514 conducts more than one public fair ~~or exposition~~ during any one
515 calendar year is subject to revocation of its charter by the
516 court granting the charter.
517 (2) Any fair association that does not conduct an annual ~~a~~
518 public fair ~~or exposition~~ for a period of 3 calendar years
519 shall, upon the recommendation of the department, have its
520 charter revoked by the court granting the charter.
521 Section 14. Section 616.15, Florida Statutes, is amended to
522 read:

523 616.15 Permit from Department of Agriculture and Consumer
524 Services required.—
525 (1) An annual ~~No~~ public fair ~~or exposition~~ may not be
526 conducted by a fair association without a permit issued by the
527 department. ~~The permit shall be issued in the following manner:~~
528 The association shall present to the department an application
529 for a ~~the~~ permit, signed by an officer of the association, at
530 least 3 months before holding the annual public fair. The ~~or~~
531 ~~exposition; this~~ application shall be accompanied by a fee in an
532 amount to be determined by the department ~~not to exceed $366 or~~
533 ~~be less than $183~~ for processing the application and making any
534 required investigation. The application fee must be at least
535 $183 and may not exceed $366. ~~The~~ Fees collected under this
536 subsection shall be deposited in the General Inspection Trust
537 Fund of the State Treasury in a special account to be known as
538 the "Agricultural and Livestock Fair Account." A copy of the
539 application must be sent to each fair association located within
540 50 miles of the site of the proposed annual public fair ~~or~~
541 ~~exposition~~ at the same time the application is sent to the
542 department. The department may issue a ~~the~~ permit if the
543 applicant provides ~~if the application sets forth~~:
544 (a) The opening and closing dates of the proposed annual
545 public fair ~~or exposition~~.
546 (b) The name and address of the owner of the central
547 amusement attraction that will ~~to~~ operate during the annual
548 public fair ~~or exposition~~.
549 (c) An affidavit properly executed by the president or
550 ~~other~~ chief executive officer of the applicant association
551 certifying the existence of a binding contract entered into by

552 the association ~~or exposition~~ and the owner of the central
553 amusement attraction covering the period for which the permit
554 from the department is applied. The contract ~~or contracts~~
555 between the parties shall be available for inspection by duly
556 authorized agents of the department in administering this
557 chapter.
558 (d) A written statement that the main purpose of the
559 association is to conduct and operate a public ~~the proposed~~ fair
560 and ~~or~~ exposition, including the annual fair, for the benefit
561 and development of the educational, agricultural, horticultural,
562 livestock, charitable, historical, civic, cultural, scientific,
563 and other resources of the geographical area the fair
564 association ~~or exposition~~ represents and serves. The statement
565 must ~~shall be in writing, shall~~ be subscribed~~,~~ and ~~shall be~~
566 acknowledged by an officer of the association before an officer
567 authorized to take acknowledgments.
568 (e) A premium list of the current annual public fair ~~or~~
569 ~~exposition~~ to be conducted or a copy of the previous year's
570 premium list showing all premiums and awards to be offered to
571 exhibitors in various departments of the annual public fair,
572 which may include, but are not limited to, ~~such as~~ art
573 exhibition, beef cattle, county exhibits, dairy cattle,
574 horticulture, swine, women's department, 4-H Club activities,
575 Future Farmers of America activities, Future Homemakers of
576 America activities, poultry and egg exhibits, and community
577 exhibits~~, the foregoing being a list of the usual exhibitors of~~
578 ~~a fair and not to be construed as limiting the premium list to~~
579 ~~these departments~~. The premium list, which may be submitted
580 separately from the application, must be submitted at least ~~at~~

581 ~~any time not later than~~ 60 days before ~~the holding of~~ the annual
582 public fair begins operation ~~or exposition, and the department~~
583 ~~shall issue the permit as provided in this section within 10~~
584 ~~days thereafter if the applicant is properly qualified~~.
585 (f) Proof of liability insurance insuring the association
586 against liability for injury to persons, in an amount of not
587 less than $300,000 per occurrence.
588 (g) A copy of the most recent review.
589 (h) A list of all current members of the board of directors
590 of the association and their contact information, including home
591 address ~~addresses~~.
592
593 The department shall issue the permit within 10 days after it
594 receives all the information and the applicant qualifies
595 pursuant to this section.
596 (2) The department shall administer and enforce the
597 provisions of this chapter except as to the regulation of games,
598 which shall be regulated by local law enforcement agencies. The
599 department shall adopt ~~is authorized to make and publish~~ rules
600 to administer~~, not inconsistent with~~ this chapter, including
601 rules governing ~~as to~~ the form and contents of the application
602 for the permit and any reports that it may deem necessary in
603 enforcing the provisions of this chapter.
604 (3) Notwithstanding any fair association meeting the
605 requirements set forth in subsection (1), the department may
606 order a full investigation to determine if ~~whether or not~~ the
607 fair association meets ~~in full~~ the requirements of s. 616.01,
608 and ~~accordingly~~ may withhold a permit from, deny a permit to, or
609 withdraw a permit once issued to the association. The department

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

610 shall also consider whether any proposed annual public fair ~~or~~
611 ~~exposition~~, as set forth in an application for a permit, will
612 compete with another annual public fair ~~or exposition~~ within 50
613 miles of the proposed annual public fair ~~or exposition~~ with
614 respect to name, dates of operation, or market. The department
615 may deny, withhold, or withdraw a permit from a fair association
616 if the department determines that such fair association will
617 compete with another association. The department shall give
618 preference to existing fair associations with established dates,
619 locations, and names. The determination by the department is
620 ~~shall be~~ final.
621 Section 15. Subsections (1) and (3) of section 616.17,
622 Florida Statutes, are amended to read:
623 616.17 Minimum exhibits.—
624 (1) An annual ~~No~~ public fair ~~or exposition~~ conducted by a
625 fair association may not be approved by the department for a tax
626 exemption certificate unless the fair association ~~or exposition~~
627 displays at least the following ~~minimum~~ exhibits~~, but this~~
628 ~~requirement may not be construed as a limitation on the number~~
629 ~~of exhibits which the fair or exposition may have~~:
630 (a) Three exhibits from 4-H Clubs or Future Farmers of
631 America chapters which are officially approved by those clubs or
632 chapters.
633 (b) Three exhibits of community, individual, or county farm
634 displays.
635 (c) Three exhibits of field crops in at least three
636 different crops.
637 (d) Three exhibits of horticultural products.
638 (e) Three culinary exhibits such as canned fruits, canned

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

639 vegetables, canned pickles or juices, jams, jellies, cakes,
640 bread, candies, or eggs.
641 (f) Three exhibits of household arts such as homemade
642 spreads, towels, luncheon sets, rugs, clothing, or baby apparel.
643 (g) Three exhibits of fruit or vegetable crops in at least
644 three different crops.
645 (h) Three exhibits of arts, crafts, photography, or
646 antiques or of scout handiwork.
647 (i) Three exhibits from home demonstration, home economics,
648 educational, religious, or civic groups.
649 (j) Three exhibits of livestock such as dairy cows, beef
650 cattle, hogs, sheep, poultry, horses, or mules.
651 (3) The department may provide a waiver to the minimum
652 exhibit requirements of this section to any fair association
653 that submits an application for the waiver to the department, at
654 least 30 ~~60~~ days before ~~prior to~~ the annual public fair ~~or~~
655 ~~exposition~~ in need of the waiver, and shows good cause why the
656 requirements of this section cannot be met.
657 Section 16. Section 616.185, Florida Statutes, is amended
658 to read:
659 616.185 Trespass upon grounds or facilities of public fair
660 ~~or exposition~~; penalty; arrests.—
661 (1) For the purposes of this chapter, "trespass" upon the
662 grounds of the Florida State Fair Authority or any other ~~public~~
663 fair association ~~or exposition~~ permitted under s. 616.15 means:
664 (a) Entering and remaining upon any grounds or facilities
665 owned, operated, or controlled by the Florida State Fair
666 Authority or any other association ~~public fair or exposition~~
667 permitted under s. 616.15 and committing any act that ~~which~~

668 disrupts the orderly conduct of any authorized activity of the
669 fair association ~~organization~~ in charge, or its lessees,
670 licensees, or the general public on those grounds or facilities;
671 or
672 (b) Entering and remaining on those grounds or facilities
673 after being directed not to enter or to leave them by the
674 executive director of the authority, chief administrative
675 officer of the fair association ~~or exposition~~, or any employee
676 or agent of the association ~~thereof~~ designated by the executive
677 director or administrator to maintain order on those grounds and
678 facilities, after a determination by the executive director,
679 administrator, employee, or agent that the entering or remaining
680 on those grounds or facilities is in violation of the rules and
681 regulations of the Florida State Fair Authority or permitted
682 ~~public~~ fair association ~~or exposition~~ or is disrupting the
683 orderly conduct of any authorized activity of the fair
684 association ~~organization~~ in charge, or its lessees, licensees,
685 or the general public on those grounds or facilities.
686 (2) Any person ~~found guilty of~~ committing the offense of
687 trespass upon the grounds of the Florida State Fair Authority or
688 any other ~~public~~ fair association ~~or exposition~~ permitted under
689 s. 616.15 commits ~~is guilty of~~ a misdemeanor of the second
690 degree, punishable as provided in s. 775.082 or s. 775.083.
691 (3) A law enforcement ~~peace~~ officer may arrest any person
692 on or off the premises, without a warrant, if the officer has
693 probable cause for believing such person has committed the
694 offense of trespass upon the grounds of the Florida State Fair
695 Authority or any ~~public~~ fair association ~~or exposition~~ permitted
696 under s. 616.15. Such an arrest does ~~shall~~ not render the law

enforcement ~~peace~~ officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

Section 17. Section 616.19, Florida Statutes, is amended to read:

616.19 Designation of fairs.—Any ~~public~~ fair association ~~or exposition heretofore or hereafter~~ created pursuant to this chapter shall be designated by the name stated in the permit required or stated by its fair association and is ~~shall be~~ recognized by the state as equal in dignity to the Florida State Fair and as fully recognized as the Florida State Fair.

Section 18. Section 616.21, Florida Statutes, is amended to read:

616.21 Agricultural and livestock exhibit buildings; conditions for expenditures.~~—No part of~~ Appropriated funds may not be expended except upon approval and with the recommendation of the department. Further, the ~~no part of such an~~ appropriation may not be expended for the construction of a building unless ~~and until a good~~ fee simple title to the land on which the building is to be constructed is vested in the county, municipality, or fair association for which the building is to be constructed.

Section 19. Section 616.23, Florida Statutes, is amended to read:

616.23 Use of buildings.—The buildings authorized by ss. 616.21-616.23 may be used by the county, municipality, or fair association for ~~which the buildings are built as agricultural or livestock exhibition buildings for~~ public fair or exposition purposes ~~in the promotion of the agricultural and livestock industries~~. These buildings may be used as office space for

agricultural agents; however, no more than 20 percent of the buildings may be so used.

Section 20. Subsection (2) of section 616.24, Florida Statutes, is amended to read:

616.24 Enforcement.—

(2) It is the duty of each ~~every~~ state attorney, law enforcement officer as defined by chapter 943, and other appropriate county or municipal officer to enforce this chapter and the rules adopted pursuant thereto and to assist the department and its inspectors and agents in the enforcement of this chapter and the rules adopted pursuant thereto.

Section 21. Paragraph (a) of subsection (4) and subsection (6) of section 288.1175, Florida Statutes, are amended to read:

288.1175 Agriculture education and promotion facility.—

(4) The Department of Agriculture and Consumer Services shall certify a facility as an agriculture education and promotion facility if the Department of Agriculture and Consumer Services determines that:

(a) The applicant is a unit of local government as defined in s. 218.369, or a fair association as defined in s. 616.001(11) ~~616.001(9)~~, which is responsible for the planning, design, permitting, construction, renovation, management, and operation of the agriculture education and promotion facility or holds title to the property on which such facility is to be developed and located.

(6) Funds may not be expended to develop or subsidize privately owned facilities, except for facilities owned by fair associations as defined in s. 616.001(11) ~~616.001(9)~~.

Section 22. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

December 7, 2012

Senator J. D. Alexander, Chair
Budget Committee
201 Capitol
412 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 502 Public Fairs & Expositions

Dear Chair Alexander:

I respectfully request my above bill be heard before your committee. SB 502 passed its last two committees of reference without opposition. This committee will be the final stop for the bill and I and I feel it will be a great benefit to the citizens of this state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD

D. Alan Hays, DMD
Senate District 20

CC: Terry Rhodes, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:
☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

January 24, 2012

Senator J.D. Alexander, Chair
Budget Committee
412 Senate Office Building
210 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

RE: SB 502 Relating to Public Fairs and Expositions

Dear Chair Alexander:

I respectfully request my above bill be heard before your committee. I feel this bill would be a benefit to the citizens of this state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays

Senator D. Alan Hays

District 20

SENATE APPROPRIATIONS
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12 JAN 24 PM 2: 13
SENT TO: CHAIRMAN ____
STAFF DIR. ____ STAFF ____

CC: **Terry Rhodes**, *Staff Director*
Ann Roberts, *Committee Administrative Assistant*
Alicia Weiss, *Committee Administrative Assistant*

REPLY TO:
☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MiKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 538

INTRODUCER: Senator Bogdanoff and others

SUBJECT: Preference to Florida Businesses in Procurement of Personal Property and Services

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Favorable**
2.	McKay	Roberts	GO	**Favorable**
3.	Betta	DeLoach	BGA	**Favorable**
4.	Betta	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

The bill modifies the existing in-state vendor preference for public printing contracts to include counties, municipalities, school districts, and other political subdivisions as entities that may grant preference, and specifies the preference.

The bill alters the preference for in-state vendors by requiring, rather than authorizing, the preference for in-state vendors. The bill provides the preference shall be five percent for public printing contracts and in the procurement of personal property and services.

This bill substantially amends the following sections of the Florida Statutes: ss. 283.35 and 287.084.

II. Present Situation:

Public Printing Vendor Preference

Chapter 283 of the Florida Statutes regulates public printing. Section 283.35, F.S., provides that "[e]very agency must give preference to vendors located within the state when awarding contracts to have materials printed, whenever such printing can be done at no greater expense than the expense of awarding a contract to a vendor located outside the state and can be done at a level of quality comparable to that obtainable from a vendor located outside the state."

Section 283.30(1), F.S., defines the term "agency" for purposes of ch. 283, F.S., to mean any official, officer, department, board, commission, division, bureau, section, district, office,

authority, committee, or council, or any other unit of organization, however designated, of the executive branch of state government, and the Public Service Commission.

State Agency Procurement Vendor Preference

Chapter 287 of the Florida Statutes regulates state agency[1] procurement of personal property and services. In providing preference to Florida businesses, s. 287.084, F.S., states:

> (1) When an agency, county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state may award a preference to the lowest responsible and responsive vendor having a principal place of business within this state, which preference is equal to the preference granted by the state or political subdivision thereof in which the lowest responsible and responsive vendor has its principal place of business. However, this section does not apply to transportation projects for which federal aid funds are available.
>
> (2) If a solicitation provides for the granting of a preference as is provided in this section, any vendor whose principal place of business is outside the State of Florida must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts.

III. Effect of Proposed Changes:

Section 1 provides a short title: the "Buy Florida Act."

Section 2 amends s. 283.35, F.S., by expanding application of the printing preference to each county, municipality, school district, or other political subdivision of this state. The preference shall be five percent if the lowest bid is submitted by a vendor whose principal place of business is located outside the state if the printing can be performed in this state at a level of quality comparable to that obtainable from the vendor submitting the lowest bid located outside the state.

[1] As defined in s. 287.012(1), F.S., "agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

Section 3 amends s. 287.084, F.S., by requiring preferences be given to in-state vendors and adding an additional provision to the existing preference. The preference for in-state vendors will be mandatory, rather than authorized. The bill provides the preference shall be five percent for public printing contracts and in the procurement of personal property and services.
In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the state and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the preference to the lowest responsible and responsive vendor having a principal place of business in this state must be five percent.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The establishment of local preference laws may potentially implicate the Equal Protection Clause and the Commerce Clause of the U.S. Constitution.

The Equal Protection Clause
The United States Constitution provides that "no State shall . . . deny to any person within its jurisdiction, the equal protection of law."[2] The in-state preference provisions in this bill may constitute an equal protection violation. If such legislation is challenged, the court would use a rational basis test to determine the constitutionality of the alleged discriminatory treatment.[3] Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.[4]

The Commerce Clause
The United States Constitution provides that Congress shall have the power "to regulate commerce . . . among the states."[5] The Commerce Clause acts not only as a positive grant of power to Congress, but also as a negative constraint upon the states. [6]

---

[2] U.S. CONST. amend. XIV, § 1. *See also* FLA. CONST. art. I, s. 2.
[3] *Nordlinger v. Hahn*, 505 U.S. 1, 33-34 (1992) (stating that a "classification *rationally* furthers a state interest when there is some fit between the disparate treatment and the legislative purpose.").
[4] *Id.*
[5] U.S. CONST. art. I, s. 8, cl. 3.

Courts have used a two-tiered analysis to determine whether a statutory scheme violates the Commerce Clause:

1. "If a statute 'directly regulates or discriminates against interstate commerce, or [if] its effect is to favor in-state economic interests over out-of-state interests,' the court may declare it unconstitutional as applied, without further inquiry."[7]
2. ". . . if the statute regulates evenhandedly and if it has only an indirect effect on interstate commerce, the court must determine whether the state's interest is legitimate and, if so, whether the burden on interstate commerce exceeds the local benefits."[8]

However, when a state or local government is acting as a "market participant" rather than a "market regulator," it is not subject to the limitations of the Commerce Clause. [9] A state is considered to be a "market participant" when it is acting as an economic actor such as a purchaser of goods and services.[10] Since the state is acting as a "market participant" under this bill, the in-state preference provisions herein are likely to be upheld as an exception to the Commerce Clause.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill could result in more business being awarded to in-state vendors as a product of the preference being given to them.

C. Government Sector Impact:

As a result of this bill, counties, municipalities, school districts, and other political subdivisions will be required to grant in-state vendor preference for public printing contracts.

The bill provides that the preference for in-state vendors shall be five percent for public printing contracts and in the procurement of personal property and services.

The fiscal impact of these changes is indeterminate because future bids for contracts are unknown; however, costs for contracts could individually increase by up to five percent.

---

[6] *See* Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824).
[7] *National Collegiate Athletic Ass'n v. Associated Press*, 18 So. 3d 1201, 1211-1212 (Fla. 1st DCA 2009) (citing *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573, 578-579).
[8] *Id.* (citations omitted); *See Bainbridge v. Turner*, 311 F.3d 1104, 1108-1109.
[9] *See White v. Massachusetts Council of Constr. Employers*, 460 U.S. 204, 204 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).
[10] *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senators Bogdanoff and Gaetz

25-00370B-12 2012538__

A bill to be entitled

An act relating to preference to Florida businesses in procurement of personal property and services; providing a short title; amending s. 283.35, F.S.; requiring an agency, county, municipality, school district, or other political subdivision of the state to grant a specified preference to a vendor located within the state when awarding a contract for printing; specifying the percentage of preference to be granted; amending s. 287.084, F.S.; requiring, rather than authorizing, an agency, county, municipality, school district, or other political subdivision of the state in making purchases of personal property through competitive solicitation to award a preference to the lowest responsible and responsive vendor having a principal place of business within this state under specified circumstances; specifying the percentage of preference to be granted; providing nonapplicability; providing an effective date.

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

Section 1. This act may be cited as the "Buy Florida Act."

Section 2. Section 283.35, Florida Statutes, is amended to read:

283.35 Preference given printing within the state. ~~Every agency shall give preference to vendors located within the state~~ When awarding a contract ~~contracts~~ to have materials printed,

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25-00370B-12 2012538__

the agency, county, municipality, school district, or other political subdivision of this state awarding the contract shall grant a preference to the lowest responsible and responsive vendor having a principal place of business within this state. The preference shall be 5 percent if the lowest bid is submitted by a vendor whose principal place of business is located outside the state and if the ~~whenever such~~ printing can be performed in this state ~~done at no greater expense than the expense of awarding a contract to a vendor located outside the state and can be done~~ at a level of quality comparable to that obtainable from the ~~a~~ vendor submitting the lowest bid located outside the state.

Section 3. Section 287.084, Florida Statutes, is amended to read:

287.084 Preference to Florida businesses.—

(1)(a) When an agency, county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state shall ~~may~~ award a preference to the lowest responsible and responsive vendor having a principal place of business within this state, which preference is equal to the preference granted by the state or political subdivision thereof

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

59 in which the lowest responsible and responsive vendor has its
60 principal place of business. In a competitive solicitation in
61 which the lowest bid is submitted by a vendor whose principal
62 place of business is located outside the state and that state
63 does not grant a preference in competitive solicitation to
64 vendors having a principal place of business in that state, the
65 preference to the lowest responsible and responsive vendor
66 having a principal place of business in this state shall be 5
67 percent.
68 (b) Paragraph (a) ~~However, this section~~ does not apply to
69 transportation projects for which federal aid funds are
70 available.
71 (2) ~~If a solicitation provides for the granting of such~~
72 ~~preference as is provided in this section,~~ Any vendor whose
73 principal place of business is outside the State of Florida must
74 accompany any written bid, proposal, or reply documents with a
75 written opinion of an attorney at law licensed to practice law
76 in that foreign state, as to the preferences, if any or none,
77 granted by the law of that state to its own business entities
78 whose principal places of business are in that foreign state in
79 the letting of any or all public contracts.
80 Section 4. This act shall take effect July 1, 2012.

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)

2/21/12
Meeting Date

Topic: Preference for Florida Business

Bill Number: SB 538 (if applicable)

Name: HARRY DUNCANSON

Amendment Barcode: (if applicable)

Job Title: CHAIRMAN Government Affairs

Address: 2704 Waters Meet Dr
Street

Tallahassee FL 32312
City State Zip

Phone: 954 401 5933

E-mail: HarryDunc@comcast.net

Speaking: [X] For [ ] Against [ ] Information

Representing: Printing Association of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Finance and Tax, *Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

SENATOR ELLYN SETNOR BOGDANOFF
25th District

February 8, 2012

Senator JD Alexander, Chair
Senate Committee on Budget
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Re: SB 538, Preference to Florida Businesses in Procurement of Personal Property and Services

Chair Alexander:

I am writing to request that you place **SB 538, Preference to Florida Businesses in Procurement of Personal Property and Services** on the expedited calendar for your Committee on Budget at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Terry Rhodes, Staff Director

SENATE APPROPRIATIONS
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STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
☐ 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
☐ 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 544

INTRODUCER: Health Regulation and Senator Sobel

SUBJECT: Health Care

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Fav/CS**
2.	Bradford	Hendon	BHA	**Favorable**
3.	Bradford	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill provides that any physician who performs liposuction procedures in which more than 1,000 cubic centimeters (cc) of fat is removed must register his or her office with the Department of Health (the department), unless the office is licensed as a facility under ch. 395, F.S., (hospitals, ambulatory surgical centers, and mobile surgical facilities). Identical changes are made to the statutes concerning allopathic and osteopathic physicians.

The bill would increase costs for physicians performing certain liposuction procedures who will be subject to a registration fee of $150 and either a $1500 annual fee for inspections or another fee to become accredited.

According to the Department of Health, there is a minimal fiscal impact to the state for increases in workload relating to registration and inspection of additional office surgery facilities which would be offset by the registration and inspection fees. Other non-recurring costs for rulemaking, updating the licensure database, and processing additional non-compliance complaints, can be absorbed with existing resources.

The bill will take effect on January 3, 2013.

This bill substantially amends ss. 458.309 and 459.005, F.S.

II. Present Situation:

Definitions

According to rules[1] adopted for the practice of medicine and osteopathic medicine, surgery is defined as any operative procedure, including the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering, or any elective procedure for aesthetic, reconstructive, or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or an organ; suture or other repair of tissue or organ, including a closed as well as an open reduction of a fracture; extraction of tissue including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic. Only licensed physicians are allowed to perform surgery under these rules.

Office surgery is defined as surgery which is performed outside any facility licensed under ch. 390, F.S., relating to abortion clinics, or ch. 395, F.S., relating to hospitals, ambulatory surgical centers, and mobile surgical facilities. Office surgical procedures may not be of a type that generally result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin; require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures; directly involve major blood vessels; or are generally emergent or life threatening in nature.[2]

Levels of Office Surgery

Surgical procedures are divided by rule into three different levels based on the invasiveness of the procedure and the level of anesthesia required.[3] Each level of surgery has its own equipment and personnel requirements. However, nothing in these designations relieves the surgeon of the responsibility for making the medical determination that the office is an appropriate forum for the particular procedures to be performed on the particular patient. Each patient's medical history and comorbid health problems must be considered individually to maximize patient safety and reduce operative complications.

Level I office surgery consists of minor procedures in which the chances of complications requiring hospitalization are remote. Such procedures include excisions or repairs of lacerations limited to the skin or subcutaneous tissue, liposuction involving removal of less than 4000 cc of fat, various endoscopic imaging procedures, closed reduction of simple fractures or dislocations, and needle drainage of certain body fluids. Only local or topical anesthesia and minimal pre-operative tranquilization of the patient is permitted. Surgeons performing Level 1 office surgeries are required to complete continuing medical education courses concerning regional anesthesia and are recommended to be certified in basic life support (BLS). No surgical

[1] Rule 64B8-9.009, F.A.C., relates to allopathic physicians and is materially similar to Rule 64B15-14.007, F.A.C., which concerns osteopathic physicians.
[2] Rule 64B8-9.009(1), F.A.C. Identical provisions are found in Rule 64B15-14.007(1), F.A.C.
[3] Rule 64B8-9.009(3)-(6), F.A.C. Similar provisions are found in Rule 64B15-14.007(3)-(6), F.A.C.

assistants are necessary, and specific lifesaving equipment and medications are required to be on hand during the procedure.

Level II office surgery encompasses more invasive procedures which require peri-operative sedation and monitoring. Such procedures include hemorrhoid removal, hernia repair, breast biopsies, colonoscopies, and liposuction involving the removal of up to 4,000 cc of fat.[4] The level of sedation allowed under Level II office surgery is such that the patient remains able to maintain adequate cardiorespiratory function and to respond purposefully to verbal commands or tactile stimulation. Surgeons performing Level II office surgeries must be able to document satisfactory background, training, and experience to perform procedures under sedation and must also be trained in advanced cardiac life support (ACLS). The surgeon must be assisted by a qualified anesthesia provider[5] and at least one assistant[6] who is BLS-certified. An ACLS-certified physician, nurse, or physician assistant must be available to monitor the patient during his or her recovery from anesthesia. Specific lifesaving medications and equipment are also required to be on hand during the procedure and recovery.

Level IIA office surgeries are those Level II office surgeries with a maximum planned duration of 5 minutes or less and in which the chances of complications requiring hospitalization are remote. The same standards apply as for Level II procedures except that the assistance of a qualified anesthesia provider is not required.

Level III office surgery involves procedures which require general anesthesia. Only patients designated as Class I or II under the American Society of Anesthesiologists' (ASA) risk criteria are appropriate candidates for office surgery.[7] Specific pre-operative diagnostic tests and medical clearance must be obtained on ASA Class II patients older than 40. Surgeons and their assistants must demonstrate the same training, experience, and certification requirements as for Level II office surgeries, and surgeons must also have knowledge of the principles of general anesthesia. A qualified anesthesia provider is required to administer anesthesia, and a registered nurse, licensed practical nurse, physician assistant, or operating room technician must assist with the surgery. The surgical team must be familiar with emergency protocols for serious anesthesia complications, and specific lifesaving medications and equipment must be immediately available for use on the patient at all times. The same personnel needed for Level II office surgeries must be present to monitor the patient during recovery from anesthesia.

Rules and Regulations Governing Office Surgery

Subsection 458.309(3), F.S., relating to allopathic physicians, and s. 459.005(2), F.S., relating to osteopathic physicians, require that all physicians who perform Level II procedures lasting more

[4] Liposuction involving the removal of up to 4000 cc of fat can be classified as a Level I or Level II office surgery procedure depending on the level of anesthesia used.

[5] Qualified anesthesia providers include anesthesiologists, certified registered nurse assistants, registered nurses, or physician assistants qualified under Rule 64B8-30.012(2)(b)6. or 64B15-6.010(2)(b)6., F.A.C. An anesthesia provider may not function in any other capacity during the procedure.

[6] Additional assistance may only be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician.

[7] ASA Class I includes normal, healthy patients without any significant medical conditions. ASA Class II includes patients with a well-controlled disease of one body system and pregnant patients. ASA Classes III-VI encompass patients in increasingly severe stages of debilitation by a medical disease. (Source: ASA Physical Status Classification System, http://www.asahq.org/clinical/physicalstatus.htm, last visited on November 8, 2011).

than 5 minutes and all Level III surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to ch. 395, F.S. The language, which is identical in both statutes, also provides for annual inspection of such offices.

In addition to submitting a registration application, each physician who performs specified Level II and Level III surgeries in an office setting must pay the department a one-time registration fee of $150 and an annual inspection fee of $1,500 for each practice location.[8] The inspection and inspection fee may be waived for offices which undergo inspections as part of the accreditation process for the American Association for Accreditation of Ambulatory Surgery Facilities, the Accreditation Association for Ambulatory Health Care, or the Joint Commission on Accreditation of Healthcare Organizations.[9]

Each surgeon must maintain a log of all Level II and Level III surgical procedures performed, which must include certain essential data about the patient and the procedure. A policy and procedures manual as well as a risk management program must be designed, implemented, and updated annually for each surgery office. Any adverse incidents that occur within the office surgical setting must be reported to the department within 15 days.[10] Failure to comply with office surgery requirements may result, at the department's discretion, in probation, suspension, or revocation of office surgery registration; 50-200 hours of community service; and administrative fines of up to $10,000.[11]

Special Rules Relating to Liposuction

Liposuction is classified as a Level I or Level II office surgery procedure, depending on the type of anesthesia used. In any liposuction procedure, the surgeon is responsible for determining the appropriate amount of fat to be removed from the patient, up to a maximum of 4000 cc in the office surgical setting. Liposuction may be performed in combination with another surgical procedure during a single Level II or Level III operation if, when combined with abdominoplasty or when liposuction is associated with and directly related to another procedure, the total amount of fat removed does not exceed 1,000 cc.[12]

Any elective or cosmetic plastic surgery procedure or combination of procedures performed in a physician's office may not last longer than 8 continuous hours, and the patient must be discharged within 24 hours of presenting to the office for surgery. If the patient has not sufficiently recovered after 24 hours has elapsed, he or she must be transferred to a hospital for continued post-operative care. For all procedures other than cosmetic surgery, the patient must be discharged from the office by midnight on the day of surgery.[13]

Problems in South Florida

News media has reported the deaths of several South Floridians after liposuction procedures performed by physicians without sufficient training or equipment for cosmetic surgery. Many

[8] Rule 64B-4.003, F.A.C.
[9] Rule 64B8-9.0091, F.A.C. Identical provisions are found in Rule 64B15-14.0076, F.A.C.
[10] Rule 64B8-9.009(2), F.A.C. Identical provisions are found in Rule 64B15-14.007(2), F.A.C.
[11] Rule 64B8-8.001(2)(rr)9., F.A.C.
[12] Rule 64B8-9.009(2)(e), F.A.C. Identical provisions are found in Rule 64B15-14.007(2)(e), F.A.C.
[13] Rule 64B8-9.009(2)(f), F.A.C. Identical provisions are found in Rule 64B15-14.007(2)(f), F.A.C.

more Floridians have been permanently disfigured or live with chronic pain as a result of botched procedures from such physicians.

Current Florida law allows any licensed physician to perform office surgery. Physicians trained in specialties as disparate as radiology and ophthalmology are performing liposuction and other cosmetic surgeries in Florida because the field is lucrative and there is little insurance or government regulation over these elective procedures. The medical industry makes a distinction between plastic surgeons (physicians who spend at least 5 years training in nationally-accredited residency programs[14]) and cosmetic surgeons (physicians whose training in elective surgical procedures may take place over a weekend); however, the public is not generally aware of the difference.

Furthermore, physicians performing office surgeries under local anesthesia, including many liposuction procedures, are not required to register with or have their facilities inspected by the department. Many such unregulated cosmetic surgery facilities lack the necessary equipment to deal with emergent complications of surgical procedures and anesthesia, which has led to more negative outcomes for patients.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 458.309(3), F.S., to require any allopathic physician who performs liposuction procedures in which more than 1,000 cc of fat is removed to register his or her office with the department unless the office is licensed as a facility under ch. 395, F.S. As a result, the office will be inspected annually by the department unless it already receives inspections through a nationally-recognized or department-approved accrediting organization.

Section 2 amends s. 459.005(2), F.S., to require any osteopathic physician who performs liposuction procedures in which more than 1,000 cc of fat is removed to register his or her office with the department unless the office is licensed as a facility under ch. 395, F.S. As a result, the office will be inspected annually by the department unless it already receives inspections through a nationally-recognized or department-approved accrediting organization.

Section 3 provides that the bill will take effect on January 3, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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[14] Washington University School of Medicine Residency Web, *Length of Residencies*, available at http://residency.wustl.edu.beckerproxy.wustl.edu/medadmin/resweb.nsf/0ee53e934810efcd86256a94005e5f7d/3edd4e91945f8a2b86256f850071ae49?OpenDocument (last visited on November 8, 2011).

[15] USA Today, *Lack of training can be deadly in cosmetic surgery*, available at http://www.usatoday.com/money/perfi/basics/story/2011-09-13/cosmetic-surgery-investigation/50395494/1 (last visited on November 8, 2011).

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires physicians who perform office-based liposuction procedures in which more than 1,000 cc of fat is removed to register their offices with the department. These physicians will be required to pay a $150 registration fee and either a $1,500 annual fee for inspections or another fee to become accredited and receive inspections through any of the department-approved national accrediting organizations.

B. Private Sector Impact:

Physicians performing certain liposuction procedures will be subject to additional fees and regulations set by the department, including fees for registration and annual inspections.

C. Government Sector Impact:

The department will experience a recurring increase in workload relating to registration and inspection of additional office surgery facilities. The exact fiscal impact is indeterminate as the number of physicians who currently perform liposuction procedures removing greater than 1,000 cc of fat is unknown. The department will also experience non-recurring costs for rulemaking, updating the licensure database, and processing additional non-compliance complaints, which current resources are adequate to absorb.[16]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[16] Department of Health, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 544*. A copy is on file with the Senate Health Regulation Committee.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Regulation on December 7, 2011:
The CS changes the effective date to January 3, 2013.

B. Amendments:

None.

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

By the Committee on Health Regulation; and Senator Sobel

588-01573-12 2012544c1

A bill to be entitled

An act relating to health care; amending ss. 458.309 and 459.005, F.S.; requiring that any physician or osteopathic physician who performs certain medical procedures in an office setting to register the office with the Department of Health unless that office is licensed as a facility under ch. 395, F.S., relating to hospital licensing and regulation; providing an effective date.

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

Section 1. Subsection (3) of section 458.309, Florida Statutes, is amended to read:

458.309 Rulemaking authority.—

(3) Any physician ~~All physicians~~ who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, ~~perform~~ level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under ~~pursuant to~~ chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 2. Subsection (2) of section 459.005, Florida

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

588-01573-12 2012544c1

Statutes, is amended to read:

459.005 Rulemaking authority.—

(2) Any physician ~~All physicians~~ who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, ~~perform~~ level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under ~~pursuant to~~ chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Osteopathic Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 3. This act shall take effect January 3, 2013.

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)

2/21/12
Meeting Date

Topic _____

Bill Number 544 *(if applicable)*

Name Chris Nuland

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 1000 Riverside Ave #115
Street

Jacksonville, FL 32204
City *State* *Zip*

Phone 904-355-1555

E-mail nulandlaw@aol.com

Speaking: [✓] For [ ] Against [ ] Information

Representing Florida Society of Plastic Surgeons

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.21
Meeting Date

Topic: Healthcare / office procedures

Bill Number: 544 *(if applicable)*

Name: Michelle Jacquis

Amendment Barcode: _____ *(if applicable)*

Job Title: Dir. of Legislative Advocacy

Address: PO BOX 102609
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 251.2288

E-mail: Mjacquis@flmedical.org

Speaking: [X] For [ ] Against [ ] Information WAIVE / SUPPORT

Representing: FL Medical Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

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 Budget Committee

BILL: SB 562

INTRODUCER: Senator Lynn

SUBJECT: Community Based Development Organization

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Yeatman	CA	**Favorable**
2.	Tell	Hrdlicka	CM	**Favorable**
3.	Smith	Meyer, R.	BTA	**Favorable**
4.	Smith	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

This bill eliminates the Community-Based Development Organization Assistance Act.

This bill repeals the following sections of the Florida Statutes: 163.455, 163.456, 163.457, 163.458, 163.459, 163.460, 163.461, and 163.462.

II. Present Situation:

In 2000,[1] the Legislature established the Community-Based Development Organization Assistance Act for the purpose of providing community-based development organizations (CBDOs) with administrative and operating funds to retain project staff to plan, implement, and manage job-generating and community revitalization developments in distressed neighborhoods.[2] The program has not been funded or implemented since it was created by the Legislature in 2000.[3]

The Community- Based Development Organization Assistance Act authorized the Department of Community Affairs (DCA) to award core administrative and operating grants used for staff salaries and administrative expenses for eligible CBDOs selected using a competitive three-tiered process for housing and economic development projects.[4] DCA is required to adopt by

[1] Chapter 2000-351, L.O.F. codified at ss. 163.455-163.462, F.S.
[2] Section 163.456(2), F.S.
[3] Department of Economic Opportunity, *Senate Bill 562 Analysis* (November 2, 2011) (On file with the Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations.)
[4] Section 163.458, F.S.

rule[5] a set of criteria for three-tiered funding that ensures equitable statewide geographic distribution of the funding. The plan must include emerging, intermediate, and mature CBDOs recognizing the varying needs of the three tiers. Each eligible CBDO may apply for a grant of up to $50,000 per year for a period of 5 years.[6] When the act was created, the Legislature appropriated $1 million to be distributed as grants to CBDOs. Subsequently, the appropriation[7] was vetoed by the Governor and as a result, no grants were awarded.

Eligible activities include, but are not limited to:[8]

- Preparing grant and loan applications, proposals, fundraising letters, and other documents essential to securing additional administrative or project funds.
- Monitoring and administering grants and loans, providing technical assistance to businesses, and any other administrative tasks essential to maintaining funding eligibility or meeting contractual obligations.
- Developing local programs and home ownership housing projects to encourage the participation of financial institutions, insurance companies, attorneys, architects, planners, developers, and other professional firms and individuals providing services beneficial to redevelopment efforts.
- Providing technical, accounting, and financial assistance and information to businesses and entrepreneurs interested in locating, expanding, or operating in the service area.
- Coordinating with state, federal, and local governments and nonprofit organizations to ensure that activities meet local plans and ordinances to avoid duplication of tasks.
- Assisting service area residents in identifying and determining eligibility for state, federal, and local housing programs including rehabilitation, weatherization, home ownership, rental assistance, or public housing programs.
- Developing, selling, owning, and managing subsidized affordable housing designed for persons with very low incomes or low incomes, or for WAGES recipients, or developing, selling, owning, and managing subsidized affordable industrial parks providing jobs to such persons.
- Obtaining technical assistance to build capacity to support community-based development organization projects.

In order to be eligible for assistance, a CBDO must be a nonprofit corporation under state law and s. 501(c)(3) of the Internal Revenue Code; maintain a service area in which economic and housing development projects are located; and meet other specific criteria as provided by law. In addition, a majority of the CBDO's board members must be elected by those members of the nonprofit corporation who are stakeholders, comprising a mix of service area residents, area business property owners, area employees, and low-income residents.[9]

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[5] The Department of Community Affairs was granted rulemaking authority for the purposes of administering the Community-Based Development Organization Assistance Act pursuant to s. 163.462, F.S.
[6] *See supra* note 3.
[7] Section 9, ch. 2000-351, L.O.F.
[8] Section 163.459, F.S.
[9] Section 163.457, F.S.

A CBDO applying for a core administrative and operating grant must also submit a proposal to DCA.[10] Those CBDOs receiving funds must submit an annual report providing information specified by law and other information as may be required by DCA.[11]

DCA was abolished by the Legislature during the 2011 legislative session and several of its programs and functions, including the Division of Housing and Community Development, which manages grant programs, were incorporated into the newly created Department of Economic Opportunity.[12]

III. Effect of Proposed Changes:

The bill eliminates the Community-Based Development Organization Assistance Act.

Section 1

This bill repeals ss. 163.455, 163.456, 163.457, 163.458, 163.459, 163.460, 163.461, and 163.462, F.S., relating to the Community-Based Development Organization Assistance Act.

Section 2

This bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[10] Section 163.460, F.S.
[11] Section 163.461, F.S.
[12] See s. 3, Ch. 2011-142, L.O.F.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Lynn

7-00634-12 2012562__

A bill to be entitled

An act relating to community-based development organizations; repealing ss. 163.455, 163.456, 163.457, 163.458, 163.459, 163.460, 163.461, and 163.462, F.S., relating to the Community-Based Development Organization Assistance Act, the eligibility of community-based development organizations and eligible activities for certain grant funding, the award of grants by the former Department of Community Affairs, the reporting of certain information by grant recipients to the former department, and rulemaking authority of the former department; providing an effective date.

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

Section 1. Sections 163.455, 163.456, 163.457, 163.458, 163.459, 163.460, 163.461, and 163.462, Florida Statutes, are repealed.

Section 2. This act shall take effect July 1, 2012.

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

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 11, 2012

I respectfully request that **Senate Bill # 562**, relating to Community-based Development Organizations, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Evelyn Lynn

Senator Evelyn J. Lynn
Florida Senate, District 7

SENATE APPROPRIATIONS
12 JAN 11 AM 10:35
STAFF DIR. ____ STAFF ____

File signed original with committee office

The Florida Senate

Committee Agenda Request

SENATE APPROPRIATIONS
RECEIVED
12 JAN 25 AM 11:16
SENT TO: CHAIRMAN
STAFF DIR. ____ STAFF ____

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 25, 2012

I respectfully request that **Senate Bill # 562**, relating to Community-Based Development Organizations, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Evelyn Lynn

Senator Evelyn J. Lynn
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: CS/CS/SB 582

INTRODUCER: Budget Subcommittee on Finance and Tax; Community Affairs Committee; and Senator Simmons

SUBJECT: Neighborhood Improvement Districts

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.	Fournier	Diez-Arguelles	BFT	**Fav/CS**
3.	Fournier	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 582 (the bill) renames the Safe Neighborhoods Act as the "Neighborhoods Improvement Act" and revises its focus from safety and crime reduction to neighborhood improvements such as street and sidewalk enhancement, landscaping, mass transit, and stormwater and public utility improvements. The bill also authorizes local government neighborhood improvement districts (NIDs) to borrow money, contract for loans and issue bonds by resolution of the governing body, and if required by the Florida Constitution, obtain the affirmative vote of the district electors. The authority of local government NIDs to levy ad valorem taxes, borrow money, and collect certain special assessments is subject to approval by a referendum of freeholders (property owners) in the local government NID.

The Safe Neighborhoods Program and related grant opportunities, unfunded since 1992, are eliminated by the bill. Many of the Department of Legal Affairs' administrative duties associated with safety, crime reduction, and community policing efforts are also removed. The bill also allows NIDs to contract with county or municipal government for legal advice, and to plan for certain public improvements.

The bill substantially amends the following sections of the Florida Statutes: 163.2511, 163.2517, 163.3182, 163.3246, 163.387, 163.501, 163.502, 163.503, 163.5035, 163.504, 163.5055, 163.506, 163.508, 163.511, 163.512, 163.514, 163.5151, 163.516, 376.84, 775.083, and 932.7055.

The bill repeals the following sections of the Florida Statutes: 163.513, 163.517, 163.519, 163.521, 163.5215, 163.522, 163.523, 163.524, and 163.526.

II. Present Situation:

Neighborhood Improvement Districts

Purposes and Creation
Part IV of ch. 163, F.S., is known as the "Safe Neighborhoods Act." The intent of the Act is to:

- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety; and
- Reduce crime rates.[1]

Section 163.503(1) defines the term "neighborhood improvement district" to mean:

> A district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security or defensible space techniques, or through community policing innovations. . . .

The Safe Neighborhoods Act allows county or municipal governing bodies to create NIDs through the adoption of a planning ordinance. Each NID that is established is required to register within 30 days with both the Department of Community Affairs[2] and the Department of Legal Affairs and provide the name, location, size, type of NID, and such other information that the departments may require.[3] Under current law, there are four types of NIDs:

- Local government NIDs,
- Property owners' association NIDs,
- Special NIDs, and

[1] *See* s. 163.502, F.S.
[2] The Department of Community Affairs is a now a part of the Department of Economic Opportunity.
[3] Section 163.5055, F.S.

- Community redevelopment NIDs.[4]

As of December 2011, there are 29 active NIDs in the state of Florida,[5] and they are classified as dependent districts. Twenty-six of these are local government NIDs, two are special NIDs and one is a property owners' association NID.

Section 163.5035, F.S., provides that any special district created pursuant to the Safe Neighborhoods Act must comply with ch. 189, F.S., which governs special districts. It specifically provides that if there is a conflict between any provision of the Safe Neighborhoods Act and ch. 189, F.S., the provision in ch. 189, F.S., will prevail.

NID Boards and Revenue Sources

The local governing body is designated as the board of directors for local government NIDs, however, as an alternative, a majority of the local governing body may also appoint a board.[6] Officers of an incorporated property owners' association serve as the board of directors for property owners' association NIDs.[7] Special NIDs have appointed boards while community redevelopment NIDs designate the local community redevelopment board of commissioners as the board of directors for their districts.[8]

Local government NIDs are authorized to levy an ad valorem tax on real and personal property of up to 2 mills annually and to impose special assessments. Special NIDs have the same taxing authority, however, this authority is subject to referendum. Special *residential* NID ad valorem taxes are approved by a majority of the district electors voting a referendum. Special *business* NID ad valorem taxes are approved if freeholders representing in excess of 50 percent of the assessed value of the property within the district endorse the referendum.[9]

Local government, property owners' association and special NIDs are also authorized, subject to referendum approval, to make and collect special assessments pursuant to s. 163.514(16), F.S.[10] Such assessments may not exceed $500 for each individual parcel of land per year and require an affirmative vote by a majority of the registered voters residing in the district. Community redevelopment NIDs utilize community redevelopment trust funds to implement district planning and programming.[11]

NID Dissolutions

Local government and community redevelopment NIDs may be dissolved by the governing body that established them through the rescindment of the district's creation ordinance.[12] Property owners' association NIDs continue in perpetuity as long as the property owners' associations

[4] *See* ss. 163.506-163.512, F.S.
[5] Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online* (November 2011) *available at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm (last visited November 29, 2011).
[6] Sections 163.506(1)(e), 163.506(3), F.S.
[7] Section 163.508(1)(e), F.S.
[8] Sections 163.511(1)(f), and 163.512(1)(d), F.S., respectively.
[9] *See* s. 163.511(3)(g), F.S.
[10] Sections 163.506(1)(d), 163.508(3)(c), and 163.511(1)(c), F.S.
[11] Section 163.512(1)(c), F.S.
[12] Sections 163.506(4), 163.512(3), F.S.

created when establishing the NIDs exist.[13] Special NIDs are dissolved at the end of the tenth fiscal year of operation.[14]

NIDs and Bond Authority

Although NIDs have various powers, they do not have bond authority. In 2006, the Florida Attorney General issued Advisory Legal Opinion 2006-49, stating that an NID created by ordinance pursuant to s. 163.511, F.S., does not have the authority to borrow money to carry out the purposes of the district.[15] The Attorney General's Office reasoned that a statutorily created entity is limited to such powers expressly granted by law or reasonably implied to carry out its expressly granted power. The opinion further stated that "[w]hen the Legislature has directed how a thing shall be done, that is in effect a prohibition against its being done any other way."

Duties of the Department of Legal Affairs

Many of the programs in The Safe Neighborhoods Act are administered by the Department of Legal Affairs (DLA) whose duties include, but are not limited to, the authority to:

- Develop program design and criteria for funding NIDs;
- Develop application and review procedures;
- Review and evaluate applications for planning and technical assistance;
- Utilize staff to provide crime prevention through community policing innovations, environmental design, environmental security, and defensible space training; and
- Review and approve or disapprove safe neighborhood improvement plans prior to the adoption by the local governing body.[16]

Safe Neighborhoods Program

Section 163.517, F.S., provides for the creation of the Safe Neighborhoods Program. The purpose of this program is to "provide planning grants and technical assistance on a 100-percent matching basis to neighborhood improvement districts." Under this section, planning grants are to be awarded as follows:

- Property owners' association NIDs may receive up to $20,000.
- Local government NIDs may receive up to $100,000.
- Special NIDs may receive up to $50,000.
- Community redevelopment NIDs may receive up to $50,000.

Grants are awarded to eligible applicants based on evaluation of specified criteria provided in subsections (2) and (3) of s. 163.517, F.S.

[13] Section 163.508(4), F.S.
[14] Section 163.511(13), F.S. Special NIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.
[15] Op. Atty. Gen. Fla. 2006-49 (2006).
[16] *See* s. 163.519(1)-(11), F.S.

While the DLA is charged with overseeing the Safe Neighborhoods Program, funding for the program was repealed in 1992.[17] According to the Bureau of Criminal Justice Programs in the Office of the Attorney General, there is currently no staff or funding allocated to manage the program and its grants.[18]

Safe Neighborhood Improvement Plan

All NIDs are currently required to prepare a safe neighborhood improvement plan that addresses the statutory criteria provided in s. 163.516, F.S. The safe neighborhood improvement plan must be consistent with the adopted county or municipal comprehensive plan and must be "sufficiently complete to indicate such land acquisition, demolition and removal of structures, street modifications, redevelopment, and rehabilitation as may be proposed to be carried out in the district."[19] Additionally, the NID must provide some method for and measurement of the reduction of crime within the district.[20]

According to the Department of Economic Opportunity, because of the lack of funds available for the Safe Neighborhoods Program, it is unknown how many Safe Neighborhood Plans there are or whether they are still being implemented.[21]

Neighborhood Preservation and Enhancement Program

The governing body of a municipality or county may authorize participation in the Neighborhood Preservation and Enhancement Program through the adoption of a local ordinance.[22] Neighborhood Preservation and Enhancement Districts shall be created by the residents of a particular neighborhood or through county or municipal initiative by identifying those areas that are in need of enhancement. Neighborhood Preservation and Enhancement plans shall be enforced through an agency created by the local government which may be composed of the local code department or any other agency that will provide adequate enforcement of the plan.

After the boundaries and size of the Neighborhood Preservation and Enhancement District have been defined, the residents therein shall create a Neighborhood Council, consisting of five elected members who shall have the authority to receive grants from the Safe Neighborhoods Program under s. 163.517, F.S. The established Neighborhood Council and local government designated enforcement agency shall have such powers and duties as provided under s. 163.526, F.S. These powers include the special assessments provisions of s. 163.514, F.S.[23]

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[17] Office of the Attorney General, *Proposed 2012 Legislation,* (Sept. 16, 2011) (on file with the Senate Committee on Community Affairs).
[18] *Id*.
[19] Section 163.516(3), F.S.
[20] *Id*.
[21] Department of Economic Opportunity, *Analysis of HB 191 by Representative Soto* (September 29, 2011) on file with the Senate Committee on Community Affairs. Note: HB 191 is similar to SB 582.
[22] *See* s. 163.524, F.S.
[23] Section 163.526(1)(a), F.S.

There are currently no references to Neighborhood Preservation and Enhancement Programs or Councils contained in the reporting documents of the 29 active NIDs registered with the Special Districts Information Program of the Department of Economic Opportunity.[24]

Neighborhood Improvement Districts inside Enterprise Zones

The local governing body of any municipality or county, in which the boundaries of an enterprise zone, in whole or in part, include a NID, may request the DLA to submit provisions to fund capital improvements within its budget request to the Legislature.[25] Local governments must demonstrate the ability to implement the project within two years after the date of appropriation. All requests received for capital improvement functions must be ranked by the Department of Legal Affairs based on the following:

- The necessity of the improvements to overall implementation of the safe neighborhood plan;
- The degree to which the improvements help the plan achieve crime prevention through community policing innovations, environmental design, environmental security, and defensible space objectives;
- The effect of the improvements on residents of low or moderate income; and
- The fiscal inability of a local government to perform the improvements without state assistance.[26]

Community Organization Involvement

- Section 163.523, F.S., authorizes local governments to cooperate and seek the involvement of certain community organizations to assist in the creation of safe neighborhood improvement districts. Except for the preparation of safe neighborhood improvement plans, NIDs may contract with such community organizations to carry out any activities therein and may compensate such organizations for the value of their services in an amount not to exceed 1 percent of the total annual budget of the NID.

Other Sources of Funding for Local Government Improvement Efforts

County and municipal governments have authority under current law and their constitutional home rule authority to raise revenue that could be used for many of the purposes identified by the Safe Neighborhoods Act in current law and the Neighborhoods Improvement Act created by this bill.

Section 125.01(1)(q), F.S., provides that counties may establish:

> municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which it may provide fire protection, law enforcement, beach erosion control, recreation service and facilities, water…, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, indigent health care services, mental health care services, and

[24] E-mail from Jack Gaskins, Jr., Special Districts Information Program, Department of Economic Opportunity (Dec. 2, 2011) (on file with the Senate Committee on Community Affairs).
[25] Section 163.521, F.S.
[26] *Id.*

> other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.…This paragraph authorizes all counties to levy additional taxes, within the limits fixed for municipal purposes, within such municipal service taxing units under the authority of the second sentence of s. 9(b), Art. VII of the State Constitution.

Section 125.01(1)(r), F.S., grants counties the power to levy and collect ad valorem taxes, and provides that no referendum is required for the levy by a county of ad valorem taxes for county purposes or for providing municipal services within any municipal service taxing unit. The distinction between a municipal service taxing unit and a municipal service benefit unit is that in a benefit unit the services are funded by a service charge or a special assessment rather than a tax.

Article VII, section 1(a) of the State Constitution preempts all taxes, other than ad valorem taxes, to the state and local governments may levy other taxes only if these taxes are authorized by general law. Not all local government revenue sources are taxes, however, and counties and municipalities may levy fees, assessments, or charges for services under their home rule authority. Special assessments may be used to fund certain services and to construct and maintain capital facilities such as those appropriate for Neighborhood Improvement Districts, if they meet two requirements: (1) the property subject to assessment much derive a special benefit from the service or improvement funded by the assessment, and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.[27]

III. Effect of Proposed Changes:

Section 1 amends s. 163.2511, F.S., relating to urban infill and redevelopment, to make conforming references.

Section 2 amends s. 163.2517, F.S., relating to the designation of urban infill and redevelopment areas, to make conforming references.

Section 3 amends s. 163.3182, F.S., relating to transportation deficiencies, to make conforming references.

Section 4 amends s. 163.3246, F.S., relating to local government comprehensive planning certification, to make conforming references.

Section 5 amends 163.387, F.S., relating to redevelopment trust funds, to make conforming references.

Section 6 amends s. 163.501, F.S., to rename part IV of ch. 163, F.S., as the "Neighborhoods Improvement Act."

Section 7 amends s. 163.502, F.S., related to the legislative findings and purposes for this Act, to include "lack of adequate public improvements such as streets, street lights, street furniture,

[27] See *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992)

street landscaping, sidewalks, traffic signals, way-finding signs, mass transit, stormwater systems, and other public utilities and improvements." References to crime prevention objectives are removed.

Section 8 amends s. 163.503, F.S., to modify the definition for "neighborhood improvement district," and to delete the definitions for the following crime-related terms: "environmental security," "crime prevention through environmental design," "defensible space," "enterprise zone," and "community policing innovation."

Section 9 amends s. 163.5035, F.S., to delete the term "safe" in the title of this section.

Section 10 amends s. 163.504, F.S., to delete provisions relating to the Safe Neighborhoods Program and safe neighborhood improvement plans currently administered by the DLA.

Section 11 amends s. 163.5055, F.S., to provide that neighborhood improvement districts shall be required to notify (rather than register with) the Department of Economic Opportunity and to delete obsolete provisions.

Section 12 amends s. 163.506, F.S., to authorize local government neighborhood improvement districts to borrow money, contract loans, and issue bonds, certificates, warrants, notices, or other evidence of indebtedness to finance the undertaking of any capital or other projects for purposes permitted under the Florida Constitution and this part. This section also authorizes the district to pledge the funds, credit, property, and taxing power of the improvement district for payment of such debts and bonds. Bonds issued under this part shall be authorized by a resolution of the governing board of the district, and if so required by the Florida Constitution, by affirmative vote of the electors of the district. The CS provides criteria and governing board authority regarding the issuance, sale, and distribution of bonds and allows for the establishment and administration of sinking funds for the payment, purchase, or redemption of any outstanding bond indebtedness of the district.

The CS also allows the governing body of the district to levy ad valorem taxes upon real and tangible personal property within the district, as it deems necessary to make payment, including principal and interest, upon the general obligation and ad valorem bond indebtedness of the district or into any sinking fund so created.

The CS authorizes a commercial local government NID to make and collect special assessments to pay for capital improvements within the district and for reasonable operating expenses of the district, including those in the district budget. Such special assessments may not exceed $500 for each individual parcel of land per year.

The CS allows the district to charge, collect, and enforce fees and other user charges.

The authority of a local government NID to levy ad valorem taxes and issue bonds, and, for a commercial local government NID to make and collect special assessments, is subject to approval by a referendum of freeholders in the local government NID. The CS specifies requirements for the referendum including notice to freeholders and certification of the referendum results to the governing body of the municipality or county where the local

government NID is located. Ad valorem taxes, bond issuance, and special assessments are authorized if freeholders owning in excess of 50 percent of the assessed value of the properties represented by ballots cast approve of the referendum.

This section deletes provisions in statute that allow a majority of the local governing body of a city or county to appoint a board of directors as an alternative to designating the local governing body as the board of directors of the local government NID.

This section references differences between residential local government NIDs and commercial local government NIDs, however these differences are not explicitly defined.

Section 13 amends s. 163.508, F.S., to delete provisions relating to the Safe Neighborhoods Program and safe neighborhood improvement plans. This section also allows property owners' association NIDs to request grants from any source and requires the property owners' association in a property owners' association NID to be a not-for-profit corporation.

Section 14 amends s. 163.511, F.S., to make conforming changes and to revise the method of appointing and removing directors of a special NID.

Section 15 amends s. 163.512, F.S., to make conforming changes and delete provisions allowing the use of a community redevelopment trust fund to implement crime prevention plans of a community redevelopment neighborhood district. The trust fund may continue to be used for implementing the community neighborhood improvement district's improvement plan as provided in the section.

Section 16 repeals s. 163.513, F.S., which relates to crime prevention through community policing innovations, environmental design, environmental security, and defensible space functions of neighborhood improvement districts.

Section 17 amends s. 163.514, F.S., to remove powers provided to NIDs to contract with experts on crime prevention through community policing innovations, environmental design, and similar crime deterrence methods. In addition, s. 163.514, F.S., is amended to allow NIDs:

- to contract for the services of planners, engineers, attorneys, and other consultants;
- to contract with county or municipal government for legal advice; and
- to plan, design, construct, operate, provide, and maintain street lighting, parks, streets, drainage, utilities, swales, parking facilities, transit, landscaping, and open areas.

NIDs authorized to make and collect special assessments provided for in s. 163.514(16)(a), F.S., are amended to *only* include residential local NIDs, special NIDs, community redevelopment NIDs, and property owners' association NIDs. The special assessments remain subject to referendum approval by a majority vote of the registered voters residing in the district and may not exceed $500 per parcel of land, per year. (Special assessments in a commercial local NID are limited to $500 per parcel in section 12 of the bill.)

Section 18 amends s. 163.5151, F.S., to state that each local government and special NID levying an ad valorem tax on real or personal property shall establish its budget pursuant to ch. 200, F.S.

Section 19 amends s. 163.516, F.S., providing that certain information is no longer required to be included in neighborhood improvement plans or amended neighborhood improvement plans.

Section 20 repeals s. 163.517, F.S., relating to the Safe Neighborhoods Program.

Section 21 repeals s. 163.519, F.S., relating to the duties of the Department of Legal Affairs in NIDs.

Section 22 repeals s. 163.521, F.S., addressing NIDs inside enterprise zones and capital improvement projects to promote safe neighborhood and crime prevention programs.

Section 23 repeals s. 163.5215, F.S., which states that the provisions of this part shall not be construed to modify, limit, expand, or supersede any existing laws relating to the closing or abandonment of public roads, the denial of access to areas for public ingress or egress, or the use of public facilities.

Section 24 repeals s. 163.522, F.S., stating that counties or municipalities with enterprise zones or community redevelopment areas are directed to give consideration to the creation of NIDs.

Section 25 repeals s. 163.523, F.S., relating to safe neighborhood districts and the cooperation and involvement of community organizations.

Section 26 repeals s. 163.524, F.S., relating to the Neighborhood Preservation and Enhancement Program.

Section 27 repeals s. 163.526, F.S., relating to neighborhood councils and local government designated agencies and their powers with respect to the Neighborhood Preservation and Enhancement Program.

Section 28 amends s. 376.84, F.S., relating to brownfield redevelopment economic incentives, to make conforming references.

Section 29 amends s. 775.083, F.S., relating to criminal fines, to make conforming references.

Section 30 amends s. 932.7055, F.S, relating to liens and forfeited property, to make conforming references.

Section 31 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Under current law, local government NIDs are authorized to levy an ad valorem tax on real and personal property of up to 2 mills annually, and to impose special assessments. This bill allows ad valorem taxation and special assessments only if approved by referendum.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This CS creates a requirement that special assessments (in commercial NIDs), levies of ad valorem taxes upon real and personal property within the district, and borrowing to finance district projects must be approved by a referendum of the freeholders in the district. Special assessments in residential NIDs must be approved by a referendum of the electors in the district.

B. Private Sector Impact:

Individuals residing and business located in NIDs may be subject to special assessments, ad valorem taxes, and user fees only if they are approved by a referendum of the freeholders (or electors in the case of special assessments in residential local government, special, community redevelopment, and property owners' association NIDs.)

C. Government Sector Impact:

This CS allows local government NIDs, subject to referendum approval, to borrow money, issue bonds, collect special assessments, charge fees, and levy ad valorem taxes upon real and tangible personal property within the district. There will be costs associated with conducting a referendum if a local government NID exercises its authority to implement the above.

The CS will also allow NIDs to contract with the county or municipal government for legal advice.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Budget Subcommittee on Finance and Tax on January 24, 2012:

- Removes references to the Department of Legal Affairs.
- Limits special assessments that may be levied in commercial local government improvement districts to $500.
- Provides for an election by the freeholders in a commercial local government improvement district to be decided by a majority of the assessed value represented by ballots cast.

CS by Community Affairs on December 5, 2011: Makes clarifying and conforming changes.

B. Amendments:

None.

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

By the Committees on Budget Subcommittee on Finance and Tax; and Community Affairs; and Senator Simmons

593-02258-12 2012582c2

A bill to be entitled

An act relating to neighborhood improvement districts; amending ss. 163.2511, 163.2517, 163.3182, 163.3246, and 163.387, F.S.; conforming provisions to changes made by the act; amending s. 163.501, F.S.; renaming the "Safe Neighborhoods Act" as the "Neighborhoods Improvement Act"; amending s. 163.502, F.S.; revising legislative findings and purpose; amending s. 163.503, F.S.; revising and deleting definitions; amending s. 163.5035, F.S.; conforming provisions to changes made by the act; amending s. 163.504, F.S.; authorizing the governing body of any municipality or county to form a neighborhood improvement district through the adoption of an ordinance rather than by a planning ordinance; removing provisions pertaining to the creation and funding of safe neighborhood improvement districts; amending s. 163.5055, F.S.; requiring each neighborhood improvement district authorized under law to notify the Department of Economic Opportunity of its existence rather than to register with the Department of Community Affairs and the Department of Legal Affairs; removing the requirement that the neighborhood improvement district notify the Department of Community Affairs and the Department of Legal Affairs; amending s. 163.506, F.S.; revising provisions authorizing a local governing body to create a local government neighborhood improvement district; specifying that the ordinance may authorize the improvement district to borrow money, contract

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loans, and issue bonds; authorizing the governing body of the improvement district to levy ad valorem taxes upon real and tangible personal property within the district; authorizing the district to make and collect special assessments; conditioning the exercise of power by the local government neighborhood improvement district to borrow money, contract loans, issue bonds, charge, collect, and enforce fees, make and collect special assessments, and levy ad valorem taxes upon real and tangible personal property within the district upon the approval of a referendum by the freeholders of the district; providing ballot requirements; removing provisions allowing an alternative organization for the board of directors; amending s. 163.508, F.S., relating to property owners' association neighborhood improvement districts; revising the requirements for creating a property owners' association neighborhood improvement district by the enactment of a separate ordinance for each district; authorizing the governing body to request grants from the state; amending s. 163.511, F.S., relating to special neighborhood improvement districts; revising provisions to conform to changes made by the act; revising the method of appointing and removing directors of the district; amending s. 163.512, F.S.; revising provisions authorizing a municipality or county to create a community redevelopment neighborhood improvement district; authorizing the district to receive grants and other

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

59 funding; providing that the local governing body may
60 dissolve the district under certain circumstances;
61 repealing s. 163.513, F.S., relating to crime
62 prevention through community policing innovations;
63 amending s. 163.514, F.S.; revising the powers of
64 neighborhood improvement districts; allowing the
65 district to contract with legal counsel and other
66 needed professionals; authorizing the district to
67 collect special assessments under certain
68 circumstances and following designated procedures;
69 amending s. 163.5151, F.S.; requiring a local
70 government and a special neighborhood improvement
71 district to prepare its budget in a specified manner
72 if levying an ad valorem tax on real or personal
73 property; amending s. 163.516, F.S.; requiring
74 neighborhood improvement plans to be created for each
75 improvement district; revising the contents of the
76 neighborhood improvement district's plan; repealing s.
77 163.517, F.S., relating to the Safe Neighborhoods
78 Program; repealing s. 163.519, F.S., relating to the
79 duties of the Department of Legal Affairs relating to
80 neighborhood improvement districts; repealing s.
81 163.521, F.S., relating to funding for a neighborhood
82 improvement district inside an enterprise zone;
83 repealing s. 163.5215, F.S., relating to the effect
84 and construction of existing laws relating to
85 neighborhood improvement districts; repealing s.
86 163.522, F.S., relating to state redevelopment
87 programs; repealing s. 163.523, F.S., relating to

88 cooperation and involvement of community organizations
89 in the creation of safe neighborhood improvement
90 districts; repealing s. 163.524, F.S., relating to
91 participation in the Neighborhood Preservation and
92 Enhancement Program; repealing s. 163.526, F.S.,
93 relating to powers and duties of the Neighborhood
94 Councils and the designated agency of the local
95 government; amending ss. 376.84, 775.083, and
96 932.7055, F.S.; conforming provisions to changes made
97 by the act; providing an effective date.
98
99 Be It Enacted by the Legislature of the State of Florida:
100
101 Section 1. Paragraph (d) of subsection (2) of section
102 163.2511, Florida Statutes, is amended to read:
103 163.2511 Urban infill and redevelopment.—
104 (2) It is declared that:
105 (d) State urban policies should guide the state, regional
106 agencies, local governments, and the private sector in
107 preserving and redeveloping existing urban cores and promoting
108 the adequate provision of infrastructure, human services,
109 neighborhood improvement ~~safe neighborhoods~~, educational
110 facilities, and economic development to sustain these cores into
111 the future.
112 Section 2. Paragraph (c) of subsection (3) of section
113 163.2517, Florida Statutes, is amended to read:
114 163.2517 Designation of urban infill and redevelopment
115 area.—
116 (3) A local government seeking to designate a geographic

117 area within its jurisdiction as an urban infill and
118 redevelopment area shall prepare a plan that describes the
119 infill and redevelopment objectives of the local government
120 within the proposed area. In lieu of preparing a new plan, the
121 local government may demonstrate that an existing plan or
122 combination of plans associated with a community redevelopment
123 area, Florida Main Street program, Front Porch Florida
124 Community, sustainable community, enterprise zone, or
125 neighborhood improvement district includes the factors listed in
126 paragraphs (a)-(n), including a collaborative and holistic
127 community participation process, or amend such existing plans to
128 include these factors. The plan shall demonstrate the local
129 government and community's commitment to comprehensively address
130 the urban problems within the urban infill and redevelopment
131 area and identify activities and programs to accomplish locally
132 identified goals such as code enforcement; improved educational
133 opportunities; reduction in crime; neighborhood revitalization
134 and preservation; provision of infrastructure needs, including
135 mass transit and multimodal linkages; and mixed-use planning to
136 promote multifunctional redevelopment to improve both the
137 residential and commercial quality of life in the area. The plan
138 shall also:
139 (c) Identify and map existing enterprise zones, community
140 redevelopment areas, community development corporations,
141 brownfield areas, downtown redevelopment districts, ~~safe~~
142 neighborhood improvement districts, historic preservation
143 districts, and empowerment zones or enterprise communities
144 located within the area proposed for designation as an urban
145 infill and redevelopment area and provide a framework for

146 coordinating infill and redevelopment programs within the urban
147 core.
148 Section 3. Paragraph (a) of subsection (6) of section
149 163.3182, Florida Statutes, is amended to read:
150 163.3182 Transportation deficiencies.—
151 (6) EXEMPTIONS.—
152 (a) The following public bodies or taxing authorities are
153 exempt from this section:
154 1. A special district that levies ad valorem taxes on
155 taxable real property in more than one county.
156 2. A special district for which the sole available source
157 of revenue is the authority to levy ad valorem taxes at the time
158 an ordinance is adopted under this section. However, revenues or
159 aid that may be dispensed or appropriated to a district as
160 defined in s. 388.011 at the discretion of an entity other than
161 such district are not deemed available.
162 3. A library district.
163 4. A neighborhood improvement district created under the
164 ~~Safe~~ Neighborhoods Improvement Act.
165 5. A metropolitan transportation authority.
166 6. A water management district created under s. 373.069.
167 7. A community redevelopment agency.
168 Section 4. Paragraph (e) of subsection (2) of section
169 163.3246, Florida Statutes, is amended to read:
170 163.3246 Local government comprehensive planning
171 certification program.—
172 (2) In order to be eligible for certification under the
173 program, the local government must:
174 (e) Demonstrate that it has adopted programs in its local

175 comprehensive plan and land development regulations which:
176 1. Promote infill development and redevelopment, including
177 prioritized and timely permitting processes in which
178 applications for local development permits within the
179 certification area are acted upon expeditiously for proposed
180 development that is consistent with the local comprehensive
181 plan.
182 2. Promote the development of housing for low-income and
183 very-low-income households or specialized housing to assist
184 elderly and disabled persons to remain at home or in independent
185 living arrangements.
186 3. Achieve effective intergovernmental coordination and
187 address the extrajurisdictional effects of development within
188 the certified area.
189 4. Promote economic diversity and growth while encouraging
190 the retention of rural character, where rural areas exist, and
191 the protection and restoration of the environment.
192 5. Provide and maintain public urban and rural open space
193 and recreational opportunities.
194 6. Manage transportation and land uses to support public
195 transit and promote opportunities for pedestrian and
196 nonmotorized transportation.
197 7. Use design principles to foster individual community
198 identity, create a sense of place, and promote pedestrian-
199 oriented ~~safe~~ neighborhoods and town centers.
200 8. Redevelop blighted areas.
201 9. Adopt a local mitigation strategy and have programs to
202 improve disaster preparedness and the ability to protect lives
203 and property, especially in coastal high-hazard areas.

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204 10. Encourage clustered, mixed-use development that
205 incorporates greenspace and residential development within
206 walking distance of commercial development.
207 11. Encourage urban infill at appropriate densities and
208 intensities and separate urban and rural uses and discourage
209 urban sprawl while preserving public open space and planning for
210 buffer-type land uses and rural development consistent with
211 their respective character along and outside the certification
212 area.
213 12. Assure protection of key natural areas and agricultural
214 lands that are identified using state and local inventories of
215 natural areas. Key natural areas include, but are not limited
216 to:
217 a. Wildlife corridors.
218 b. Lands with high native biological diversity, important
219 areas for threatened and endangered species, species of special
220 concern, migratory bird habitat, and intact natural communities.
221 c. Significant surface waters and springs, aquatic
222 preserves, wetlands, and outstanding Florida waters.
223 d. Water resources suitable for preservation of natural
224 systems and for water resource development.
225 e. Representative and rare native Florida natural systems.
226 13. Ensure the cost-efficient provision of public
227 infrastructure and services.
228 Section 5. Paragraph (c) of subsection (2) of section
229 163.387, Florida Statutes, is amended to read:
230 163.387 Redevelopment trust fund.—
231 (2)
232 (c) The following public bodies or taxing authorities are

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exempt from paragraph (a):

1. A special district that levies ad valorem taxes on taxable real property in more than one county.

2. A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time an ordinance is adopted under this section. However, revenues or aid that may be dispensed or appropriated to a district as defined in s. 388.011 at the discretion of an entity other than such district shall not be deemed available.

3. A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.

4. A neighborhood improvement district created under the ~~Safe~~ Neighborhoods Improvement Act.

5. A metropolitan transportation authority.

6. A water management district created under s. 373.069.

Section 6. Section 163.501, Florida Statutes, is amended to read:

163.501 Short title.—This part may be cited as the "~~Safe~~ Neighborhoods Improvement Act."

Section 7. Section 163.502, Florida Statutes, is amended to read:

163.502 ~~Safe~~ Neighborhoods improvement; legislative findings and purpose.—

(1) The Legislature ~~hereby~~ finds and declares that among the many causes of deterioration in the business and residential neighborhoods of the state are the following: proliferation of crime, automobile traffic flow strangled by outmoded street patterns, unsuitable topography, faulty lot layouts,

fragmentation of land uses and parking areas necessitating frequent automobile movement, lack of separation of pedestrian areas from automobile traffic, lack of separation of vehicle traffic lanes and railroad traffic, ~~and~~ excessive noise levels from automobile traffic, and lack of adequate public improvements such as streets, street lights, street furniture, street landscaping, sidewalks, traffic signals, way-finding signs, mass transit, stormwater systems, and other public utilities and improvements.

(2) The Legislature further finds and declares that healthy and vibrant ~~safe~~ neighborhoods are the product of planning and implementation of appropriate environmental design concepts, comprehensive planning ~~crime prevention programs~~, land use recommendations, and beautification techniques.

(3) The Legislature further finds and declares that the provisions of this part and the powers granted to local governments, property owners' associations, special dependent districts, and community redevelopment neighborhood improvement districts are desirable to guide and accomplish the coordinated, balanced, and harmonious development of healthy and vibrant ~~safe~~ neighborhoods; to promote the health~~, safety,~~ and general welfare of these areas and their inhabitants, visitors, property owners, and workers; to establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhood and business environments; to prevent ~~overcrowding and~~ congestion; and to improve or redirect automobile traffic and provide pedestrian safety~~; to reduce crime rates and the opportunities for the commission of crime; and to provide improvements in neighborhoods so they are~~

~~defensible against crime~~.

(4) It is the intent of the Legislature to assist local governments in implementing plans that improve the ~~employ crime prevention through community policing innovations, environmental design, environmental security, and defensible space techniques to establish safe~~ neighborhoods of this state. The Legislature, therefore, declares that the development, redevelopment, preservation, and revitalization of neighborhoods in this state, and all the purposes of this part, are public purposes for which public money may be borrowed, expended, loaned, and granted.

Section 8. Section 163.503, Florida Statutes, is amended to read:

163.503 ~~Safe neighborhoods;~~ Definitions.—

(1) "~~Safe~~ Neighborhood improvement district," "district," or "neighborhood improvement district" means a district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities~~, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations~~. ~~Nothing in~~ This section does not ~~shall~~ preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations.

(2) "Association" means a property owners' association which is incorporated for the purpose of creating and operating

a neighborhood improvement district.

(3) "Department" means the Department of Economic Opportunity ~~Legal Affairs~~.

(4) "Board" means the board of directors of a neighborhood improvement district, which may be the governing body of a municipality or county or the officers of a property owners' association or the board of directors of a special neighborhood improvement district or community redevelopment neighborhood improvement district.

~~(5) "Environmental security" means an urban planning and design process which integrates crime prevention with neighborhood design and community development.~~

~~(6) "Crime prevention through environmental design" means the planned use of environmental design concepts such as natural access control, natural surveillance, and territorial reinforcement in a neighborhood or community setting which is designed to reduce criminal opportunity and foster positive social interaction among the legitimate users of that setting.~~

~~(7) "Defensible space" means an architectural perspective on crime prevention through physical design of the environment to create the ability to monitor and control the environment along individual perceived zones of territorial influence that result in a proprietary interest and a felt responsibility.~~

~~(8) "Enterprise zone" means an area designated pursuant to s. 290.0065.~~

~~(9) "Community policing innovation" means techniques or strategies as defined by s. 163.340.~~

Section 9. Section 163.5035, Florida Statutes, is amended to read:

349 163.5035 ~~Safe~~ Neighborhood improvement districts;
350 compliance with special district provisions.—Any special
351 district created pursuant to this part shall comply with all
352 applicable provisions contained in chapter 189. In cases where a
353 provision contained in this part conflicts with a provision in
354 chapter 189, the provision in chapter 189 shall prevail.
355 Section 10. Section 163.504, Florida Statutes, is amended
356 to read:
357 163.504 ~~Safe~~ Neighborhood improvement districts~~; planning~~
358 ~~funds~~.—
359 ~~(1)~~ The governing body of any municipality or county may
360 authorize the formation of ~~safe~~ neighborhood improvement
361 districts through the adoption of an ~~a planning~~ ordinance that
362 ~~which~~ specifies that such districts may be created by one or
363 more of the methods established in ss. 163.506, 163.508,
364 163.511, and 163.512. A ~~No~~ district may not overlap the
365 jurisdictional boundaries of a municipality and the
366 unincorporated area of a county, unless approved ~~except~~ by
367 interlocal agreement.
368 ~~(2) If the governing body of a municipality or county~~
369 ~~elects to create a safe neighborhood improvement district, it~~
370 ~~shall be eligible to request a grant from the Safe Neighborhoods~~
371 ~~Program, created pursuant to s. 163.517 and administered by the~~
372 ~~Department of Legal Affairs, to prepare a safe neighborhood~~
373 ~~improvement plan for the district.~~
374 ~~(3) Municipalities and counties may implement the~~
375 ~~provisions of this section without planning funds from the~~
376 ~~Department of Legal Affairs. However, nothing in this section~~
377 ~~shall be construed to exempt any district from the requirements~~

378 ~~of providing a safe neighborhood improvement plan pursuant to s.~~
379 ~~163.516.~~
380 Section 11. Section 163.5055, Florida Statutes, is amended
381 to read:
382 163.5055 Notice ~~Registration~~ of district establishment;
383 notice of dissolution.—
384 (1)~~(a)~~ Each neighborhood improvement district authorized
385 and established under this part shall within 30 days thereof
386 notify ~~register with both~~ the Department of Economic Opportunity
387 ~~Community Affairs and the Department of Legal Affairs~~ by
388 providing the department ~~these departments~~ with the district's
389 name, location, size, and type, and such other information as
390 the department ~~departments~~ may request ~~require~~.
391 (2)~~(b)~~ Each local governing body that ~~which~~ authorizes the
392 dissolution of a district shall notify ~~both~~ the Department of
393 Economic Opportunity ~~Community Affairs and the Department of~~
394 ~~Legal Affairs~~ within 30 days after the dissolution of the
395 district.
396 ~~(2) This section shall apply to all neighborhood~~
397 ~~improvement districts established on or after July 1, 1987.~~
398 Section 12. Section 163.506, Florida Statutes, is amended
399 to read:
400 163.506 Local government neighborhood improvement
401 districts; creation; advisory council; dissolution.—
402 (1) After an ~~a local planning~~ ordinance has been adopted
403 authorizing the creation of local government neighborhood
404 improvement districts, the local governing body of a
405 municipality or county may create local government neighborhood
406 improvement districts by the enactment of a separate ordinance

for each district~~,~~ which ~~ordinance~~:

(a) Specifies the boundaries, size, and name of the district.

(b) Authorizes the district to receive grants ~~a planning grant from the department~~.

(c) Authorizes the local government neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.

(d) Authorizes the use of special assessments to support planning and implementation of district improvements pursuant to the provisions of s. 163.514(16), if the district is a residential local government neighborhood improvement district ~~including community policing innovations~~.

(e) Designates the local governing body as the board of directors of the district.

(f) Establishes an advisory council to the board of directors comprised of property owners, representatives of property owners, business owners, or residents of the district.

(g) May prohibit the use of any district power authorized by s. 163.514.

(h) Requires the district to notify the ~~Department of Legal Affairs and the~~ Department of Economic Opportunity ~~Community Affairs~~ in writing of its establishment within 30 days thereof pursuant to s. 163.5055.

(i) Authorizes the district to borrow money, contract loans, and issue bonds, certificates, warrants, notes, or other evidence of indebtedness from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and this part and pledge the

funds, credit, property, and taxing power of the improvement district for the payment of such debts and bonds.

1. Bonds issued under this part shall be authorized by resolution of the governing board of the district and, if required by the State Constitution, by affirmative vote of the electors of the district. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, registered or not, with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

2. The governing body of the district shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue, consistent with s. 218.385, and shall have any and all powers necessary and convenient to such disposition.

3. The governing body of the district may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the district.

4. The governing body of the improvement district may levy ad valorem taxes upon real and tangible personal property within the district as it deems necessary to make payment, including

465 principal and interest, upon the general obligation and ad
466 valorem bonded indebtedness of the district or into any sinking
467 fund created pursuant to this part.
468 5. This part shall be full authority for the issuance of
469 bonds authorized herein.
470 (j) Authorizes the district to make and collect special
471 assessments pursuant to ss. 197.3632 and 197.3635 to pay for
472 capital improvements within the district and for reasonable
473 expenses of operating the district, including the payment of
474 expenses included in the district's budget, if the district is a
475 commercial local government neighborhood improvement district.
476 Such assessments may not exceed $500 for each individual parcel
477 of land per year.
478 (k) Authorizes the district to charge, collect, and enforce
479 fees and other user charges.
480 (l) Conditions the exercise of the powers provided in
481 paragraphs (c), (i), and (j) on approval pursuant to a
482 referendum as described in this paragraph:
483 1. Within 45 days after the date the governing body of the
484 municipality or county enacts an ordinance calling a referendum
485 pursuant to this subsection, the city clerk or the supervisor of
486 elections, whichever is appropriate, shall certify such
487 ordinance and compile a list of the names and last known
488 addresses of the freeholders in the proposed local government
489 neighborhood improvement district from the tax assessment roll
490 of the county applicable as of December 31 in the year preceding
491 the year in which the ordinance was enacted. Except as otherwise
492 provided in this paragraph, the list shall constitute the
493 registration list for the purposes of the freeholders'

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494 referendum required under this paragraph.
495 2. Within 45 days after compilation of the freeholders'
496 registration list pursuant to subparagraph 1., the city clerk or
497 the supervisor of elections shall notify each such freeholder of
498 the general provisions of this paragraph, including the taxing
499 authority and the date of the upcoming referendum, and the
500 method provided for submitting corrections to the registration
501 list if the status of the freeholder has changed since the
502 compilation of the tax rolls. Notification shall be by first-
503 class United States mail and, in addition thereto, by
504 publication one time in a newspaper of general circulation in
505 the county or municipality in which the district is located.
506 3. Any freeholder whose name does not appear on the tax
507 rolls compiled pursuant to subparagraph 1. may register to vote
508 with the city clerk or the supervisor of elections. The
509 registration list shall remain open for 75 days after enactment
510 of the ordinance calling for the referendum.
511 4. Within 15 days after the closing of the registration
512 list, the city clerk or the supervisor of elections shall send a
513 ballot to each registered freeholder at his or her last known
514 mailing address by first-class United States mail. The ballot
515 shall include:
516 a. A description of the general provisions of this
517 paragraph applicable to local government neighborhood
518 improvement districts;
519 b. The assessed value of the freeholder's property;
520 c. The percent of the freeholder's interest in such
521 property; and
522 d. Immediately following the information required in sub-

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523 subparagraphs a.-c., the following:
524
525 "Do you favor authorizing the .... Local Government
526 Neighborhood Improvement District to levy up to 2 mills of ad
527 valorem taxes by such proposed district?
528
529 ....Yes, for authorizing the levy of up to 2 mills of ad
530 valorem taxes by such proposed district.
531
532 ....No, against authorizing the levy of up to 2 mills of ad
533 valorem taxes by such proposed district."
534
535 "Do you favor authorizing the .... Local Government
536 Neighborhood Improvement District to borrow money, including the
537 issuance of bonds, as provided by s. 163.506(1)(i)?
538
539 ....Yes, for authorizing the borrowing of money for
540 district purposes.
541
542 ....No, against authorizing the borrowing of money for
543 district purposes."
544
545 "Do you favor authorizing the .... Local Government
546 Neighborhood Improvement District to impose a special assessment
547 of not greater than $500 for each individual parcel of land per
548 year to pay for the expenses of operating the neighborhood
549 improvement district and for approved capital improvements?
550
551 ....Yes, for the special assessment.

552
553 ....No, against the special assessment."
554
555 5. Ballots shall be returned by first-class United States
556 mail or by personal delivery.
557 6. All ballots received within 120 days after enactment of
558 the ordinance shall be tabulated by the city clerk or the
559 supervisor of elections, who shall certify the results thereof
560 to the city council or county commission no later than 5 days
561 after the 120-day period.
562 7. The freeholders shall be deemed to have approved of the
563 provisions of this paragraph at such time as the city clerk or
564 the supervisor of elections certifies to the governing body of
565 the municipality or county that approval has been given by
566 freeholders owning in excess of 50 percent of the assessed value
567 of the properties represented by ballots cast.
568 8. The city clerk or the supervisor of elections, whichever
569 is appropriate, shall enclose with each ballot sent pursuant to
570 this paragraph two envelopes: a secrecy envelope, into which the
571 freeholder shall enclose the marked ballot; and a mailing
572 envelope, into which the freeholder shall then place the secrecy
573 envelope, which shall be addressed to the city clerk or the
574 supervisor of elections. The back side of the mailing envelope
575 shall bear a certificate in substantially the following form:
576
577 NOTE: PLEASE READ INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT
578 AND COMPLETING VOTER'S CERTIFICATE.
579
580 VOTER'S CERTIFICATE

581
582 I, ..., am a duly qualified and registered freeholder of
583 the proposed ...(name)... local government neighborhood
584 improvement district; and I am entitled to vote this ballot. I
585 do solemnly swear or affirm that I have not and will not vote
586 more than one ballot in this election. I understand that failure
587 to sign this certificate and have my signature witnessed will
588 invalidate my ballot.
589
590 ...(Voter's Signature)...
591
592 NOTE: YOUR SIGNATURE MUST BE WITNESSED BY ONE WITNESS 18
593 YEARS OF AGE OR OLDER AS PROVIDED IN THE INSTRUCTION SHEET.
594 I swear or affirm that the elector signed this voter's
595 certificate in my presence.
596
597 ...(Signature of Witness)...
598 ...(Address)...(City/State)...
599
600 9. The certificate shall be arranged on the back of the
601 mailing envelope so that the lines for the signatures of the
602 freeholder and the attesting witness are across the seal of the
603 envelope; however, no statement shall appear on the envelope
604 which indicates that a signature of the freeholder or witness
605 must cross the seal of the envelope. The freeholder and the
606 attesting witness shall execute the certificate on the envelope.
607 10. The city clerk or the supervisor of elections shall
608 enclose with each ballot sent to a freeholder pursuant to this
609 paragraph separate printed instructions in substantially the

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610 following form:
611
612 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.
613
614 a. VERY IMPORTANT. In order to ensure that your ballot will
615 be counted, it should be completed and returned as soon as
616 possible so that it can reach the city clerk or the supervisor
617 of elections no later than 7 p.m. on the (final day of the 120-
618 day period given here).
619 b. Mark your ballot in secret as instructed on the ballot.
620 c. Place your marked ballot in the enclosed secrecy
621 envelope.
622 d. Insert the secrecy envelope into the enclosed mailing
623 envelope, which is addressed to the city clerk or the supervisor
624 of elections.
625 e. Seal the mailing envelope and completely fill out the
626 Voter's Certificate on the back of the mailing envelope.
627 f. VERY IMPORTANT. Sign your name on the line provided for
628 "(Voter's Signature)."
629 g. VERY IMPORTANT. In order for your ballot to be counted,
630 it must include the signature and address of a witness 18 years
631 of age or older affixed to the Voter's Certificate.
632 h. Mail, deliver, or have delivered the completed mailing
633 envelope. Be sure there is sufficient postage if mailed.
634 (2) The advisory council shall perform such duties as may
635 be prescribed by the governing body and shall submit within the
636 time period specified by the governing body, acting as the board
637 of directors, a report on the district's activities and a
638 proposed budget to accomplish its objectives. In formulating a

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plan for services or improvements the advisory board shall consult in public session with the appropriate staff or consultants of the local governing body ~~responsible for the district's plan~~.

~~(3) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be appointed for 3-year terms. Vacancies shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his or her successor is appointed and qualified unless the director ceases to be qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chair and a secretary.~~

(3) ~~(4)~~ A district may be dissolved by the governing body by rescinding the ordinance creating the district. The governing body may rescind ~~shall consider rescinding~~ the ordinance if presented with a petition requesting that it be rescinded. Petitions related to a residential neighborhood improvement

district must contain ~~containing~~ the signatures of 60 percent of the residents. Petitions related to a commercial neighborhood improvement district must contain signatures representing owners of 60 percent of the land area of the ~~of a~~ district.

Section 13. Section 163.508, Florida Statutes, is amended to read:

163.508 Property owners' association neighborhood improvement districts; creation; powers and duties; duration.—

(1) After an ~~a local planning~~ ordinance has been adopted authorizing the creation of property owners' association neighborhood improvement districts, the local governing body of a municipality or county may create property owners' association neighborhood improvement districts by the enactment of a separate ordinance for each district~~,~~ which ~~ordinance~~:

(a) Establishes that an incorporated property owners' association representing 75 percent of all owners of property within a proposed district meeting the requirements of this section has petitioned the governing body of the municipality or county for creation of a district for the area encompassed by the property owned by members of the association.

(b) Specifies the boundaries, size, and name of the district.

(c) Authorizes the governing body through mutual agreement with the property owners' association to:

1. Request grants ~~a matching grant from the state's Safe Neighborhoods Program to prepare the first year's safe neighborhood improvement plan~~. ~~The provider of the local match for the state grant shall be mutually agreed upon between the governing body and the property owners' association. The~~

697 ~~governing body may agree to provide the match as a no-interest-~~
698 ~~bearing loan to be paid back from assessments imposed by the~~
699 ~~association on its members or shareholders.~~
700 2. Provide staff and other technical assistance to the
701 property owners' association on a mutually agreed-upon basis,
702 contractual or otherwise.
703 ~~3. Prepare the first year's safe neighborhood improvement~~
704 ~~plan, which shall comply with and be consistent with the~~
705 ~~governing body's adopted comprehensive plan.~~
706 (d) Provides for an audit of the property owners'
707 association.
708 (e) Designates the officers of the incorporated property
709 owners' association as the board of directors of the district.
710 (f) May prohibit the use of any district power authorized
711 by s. 163.514.
712 (g) Requires the district to notify the ~~Department of Legal~~
713 ~~Affairs and the~~ Department of Economic Opportunity ~~Community~~
714 ~~Affairs~~ in writing of its establishment within 30 days thereof
715 pursuant to s. 163.5055.
716 (2) In order to qualify for the creation of a neighborhood
717 improvement district, the property owners shall form an
718 association in compliance with this section, or use an existing
719 property owners' association in compliance with this section,
720 which shall be a corporation~~, for profit or~~ not for profit. At
721 least~~, and of which not less than~~ 75 percent of all property
722 owners within the proposed area must consent ~~have consented~~ in
723 writing to become members ~~or shareholders~~. Upon such consent by
724 75 percent of the property owners in the proposed district, all
725 consenting property owners and their successors shall become

726 members of the association and shall be bound by the provisions
727 of the articles of incorporation, the bylaws of the association,
728 the covenants, the deed restrictions, the indentures, and any
729 other properly promulgated restrictions. The association shall
730 have no member ~~or shareholder~~ who is not a bona fide owner of
731 property within the proposed district. Upon receipt of its
732 certificate of incorporation, the property owners' association
733 shall notify the clerk of the city or county court, whichever is
734 appropriate, in writing, of such incorporation and shall list
735 the names and addresses of the officers of the association.
736 (3) Any incorporated property owners' association operating
737 pursuant to this part has ~~shall have~~ the power:
738 (a) To negotiate with the governing body of a municipality
739 or county for closing, privatizing, or modifying the rights-of-
740 way, and appurtenances thereto, within the district.
741 (b) To use ~~utilize~~ various legal instruments such as
742 covenants, deed restrictions, and indentures to preserve and
743 maintain the integrity of property, land, and rights-of-way
744 owned and conveyed to it within the district.
745 (c) To make and collect assessments against all property
746 within the boundaries of the district pursuant to the provisions
747 of s. 163.514(16) and to lease, maintain, repair, and
748 reconstruct any privatized street, land, or common area within
749 the district upon dedication thereof to the association.
750 (d) Without the joinder of any property owner, to modify,
751 move, or create any easement for ingress and egress or for the
752 purpose of utilities, if such easement constitutes part of or
753 crosses district property. However, this does ~~shall~~ not
754 authorize the association to modify or move any easement that

755 ~~which~~ is created in whole or in part for the use or benefit of
756 anyone other than association members, or that ~~which~~ crosses the
757 property of anyone other than association members, without the
758 consent or approval of such person as required by law or by the
759 instrument creating the easement. Nothing in this paragraph
760 shall affect the rights of ingress or egress of any member of
761 the association.
762 (4) A property owners' association neighborhood improvement
763 district shall continue in perpetuity as long as the property
764 owners' association created pursuant to this section exists
765 under the applicable laws of the state.
766 Section 14. Subsections (1), (7), (8), and (10) of section
767 163.511, Florida Statutes, are amended to read:
768 163.511 Special neighborhood improvement districts;
769 creation; referendum; board of directors; duration; extension.—
770 (1) After an ~~a local planning~~ ordinance has been adopted
771 authorizing the creation of special neighborhood improvement
772 districts, the governing body of a municipality or county may
773 declare the need for and create special residential or business
774 neighborhood improvement districts by the enactment of a
775 separate ordinance for each district~~,~~ which ~~ordinance~~:
776 (a) Conditions the implementation of the ordinance on the
777 approval of a referendum as provided in subsection (2).
778 (b) Authorizes the special neighborhood improvement
779 district to levy an ad valorem tax on real and personal property
780 of up to 2 mills annually.
781 (c) Authorizes the use of special assessments to support
782 planning and implementation of district improvements pursuant to
783 the provisions of s. 163.514(16)~~, including community policing~~

784 ~~innovations~~.
785 (d) Specifies the boundaries, size, and name of the
786 district.
787 (e) Authorizes the district to receive a planning grant
788 from the department.
789 (f) Provides for the appointment of a 3-member board of
790 directors for the district.
791 (g) May authorize a special neighborhood improvement
792 district to exercise the power of eminent domain pursuant to
793 chapters 73 and 74. Any property identified for eminent domain
794 by the district shall be subject to the approval of the local
795 governing body before eminent domain procedures are exercised.
796 (h) May prohibit the use of any district power authorized
797 by s. 163.514.
798 (i) Requires the district to notify ~~the Department of Legal~~
799 ~~Affairs and~~ the Department of Economic Opportunity ~~Community~~
800 ~~Affairs~~ in writing of its establishment within 30 days thereof
801 pursuant to s. 163.5055.
802 (j) May authorize a special neighborhood improvement
803 district to develop and implement community policing innovations
804 in consultation with the local law enforcement agency having
805 jurisdiction within the district boundaries.
806 (7) The business and affairs of a special neighborhood
807 improvement district shall be conducted and administered by a
808 board of three directors who shall be residents of or property
809 owners within the proposed area and who are subject to ad
810 valorem taxation in the district. Upon their initial appointment
811 and qualification and in January of each year thereafter, the
812 directors shall organize by electing from their number a chair

813 and a secretary, and may also employ staff and legal
814 representatives as deemed appropriate, who shall serve at the
815 pleasure of the board and may receive such compensation as shall
816 be fixed by the board. The secretary shall keep a record of the
817 proceedings of the district and shall be custodian of all books
818 and records of the district. The directors may ~~shall~~ not receive
819 any compensation for their services, nor may they be employed by
820 the district.
821 (8) Within 30 days of the approval of the creation of a
822 special neighborhood improvement district, if the district is in
823 a municipality, ~~a majority of~~ the governing body of the
824 municipality, or if the district is in the unincorporated area
825 of the county, ~~a majority of~~ the county commission, shall
826 appoint the three directors provided for herein for staggered
827 terms of 3 years. The initial appointments shall be as follows:
828 one for a 1-year term, one for a 2-year term, and one for a 3-
829 year term. Each director shall hold office until his or her
830 successor is appointed and qualified unless the director ceases
831 to be qualified to act as a director or is removed from office.
832 Vacancies on the board shall be filled for the unexpired portion
833 of a term in the same manner as the initial appointments were
834 made.
835 (10) The governing body of a municipality or county may
836 remove a director for inefficiency, neglect of duty, or
837 misconduct in office ~~only after a hearing and only if he or she~~
838 ~~has been given a copy of the charges at least 10 days prior to~~
839 ~~such hearing and has had an opportunity to be heard in person or~~
840 ~~by counsel~~. A vacancy so created shall be filled as provided
841 herein.

842 Section 15. Section 163.512, Florida Statutes, is amended
843 to read:
844 163.512 Community redevelopment neighborhood improvement
845 districts; creation; advisory council; dissolution.—
846 (1) Upon the recommendation of the community redevelopment
847 agency and after an ~~a local planning~~ ordinance has been adopted
848 authorizing the creation of community redevelopment neighborhood
849 improvement districts, the local governing body of a
850 municipality or county may create community redevelopment
851 neighborhood improvement districts by the enactment of a
852 separate ordinance for each district~~,~~ which ~~ordinance~~:
853 (a) Specifies the boundaries, size, and name of the
854 district.
855 (b) Authorizes the district to receive grants ~~a planning~~
856 ~~grant from the department~~.
857 (c) Authorizes the use of the community redevelopment trust
858 fund created pursuant to s. 163.387 for the purposes of
859 implementing the district's ~~safe neighborhood~~ improvement plan
860 ~~and furthering crime prevention through community policing~~
861 ~~innovations, environmental design, environmental security, and~~
862 ~~defensible space techniques~~, if the expenditures ~~from the~~
863 ~~community redevelopment trust fund~~ are consistent with the
864 community redevelopment plan created pursuant to s. 163.360.
865 (d) Designates the community redevelopment board of
866 commissioners established pursuant to s. 163.356 or s. 163.357
867 as the board of directors for the district.
868 (e) Establishes an advisory council to the board of
869 directors comprised of property owners or residents of the
870 district.

871 (f) May prohibit the use of any district power authorized
872 by s. 163.514.
873 (g) Requires that the district's ~~safe~~ neighborhood
874 improvement plan be consistent with the community redevelopment
875 plan created pursuant to s. 163.360, and permits the ~~safe~~
876 neighborhood improvement plan to be included in the community
877 redevelopment plan as an optional element.
878 (h) Requires that the boundaries of the community
879 redevelopment district be contained in whole within the
880 community redevelopment area established pursuant to ss. 163.355
881 and 163.356.
882 (i) Requires the district to notify ~~the Department of Legal~~
883 ~~Affairs and the~~ Department of Economic Opportunity ~~Community~~
884 ~~Affairs~~ in writing of its establishment within 30 days thereof
885 pursuant to s. 163.5055.
886 (2) The advisory council shall perform such duties as may
887 be prescribed by the community redevelopment board established
888 pursuant to s. 163.356 and shall submit within the time period
889 specified by the board of directors a report on the district's
890 activities and a proposed budget to accomplish its objectives.
891 In formulating a plan for services or improvements, the advisory
892 council shall consult in public session with the appropriate
893 staff or consultants of the community redevelopment board
894 ~~responsible for the district's plan~~.
895 (3) A district may be dissolved by the local governing body
896 by rescinding the ordinance creating the district. The governing
897 body may rescind ~~shall consider rescinding~~ the ordinance if
898 presented with a petition containing the signatures of 60
899 percent of the residents of a district.

900 Section 16. Section 163.513, Florida Statutes, is repealed.
901 Section 17. Section 163.514, Florida Statutes, is amended
902 to read:
903 163.514 Powers of neighborhood improvement districts.—
904 Unless prohibited by ordinance, the board of any district is
905 ~~shall be~~ empowered to:
906 (1) Enter into contracts and agreements and sue and be sued
907 as a body corporate.
908 (2) Have and use a corporate seal.
909 (3) Acquire, own, convey, or otherwise dispose of, lease as
910 lessor or lessee, construct, maintain, improve, enlarge, raze,
911 relocate, operate, and manage property and facilities of
912 whatever type to which it holds title and grant and acquire
913 licenses, easements, and options with respect thereto.
914 (4) Accept grants and donations of any type of property,
915 labor, or other thing of value from any public or private
916 source.
917 (5) Have exclusive control of funds legally available to
918 it, subject to limitations imposed by law or by any agreement
919 validly entered into by it.
920 (6) Cooperate and contract with other governmental agencies
921 or other public bodies.
922 (7) Contract for services of planners, engineers,
923 attorneys, and other ~~planning~~ consultants~~, experts on crime~~
924 ~~prevention through community policing innovations, environmental~~
925 ~~design, environmental security, or defensible space, or other~~
926 ~~experts~~ in areas pertaining to the operations of the board of
927 directors or the district.
928 (8) Contract with the county or municipal government for

929 planning assistance, legal advice, and ~~for~~ increased levels of
930 law enforcement protection and security, including additional
931 personnel.
932 (9) Promote and advertise the commercial advantages of the
933 district so as to attract new businesses and encourage the
934 expansion of existing businesses.
935 (10) Promote and advertise the district to the public and
936 engage in cooperative advertising programs with businesses
937 located in the district.
938 (11) Improve, plan, design, construct, operate, provide,
939 and maintain street lighting, parks, streets, drainage,
940 utilities, swales, parking facilities, transit facilities,
941 landscaping, and open areas, and provide ~~safe~~ access to mass
942 transportation facilities in the district.
943 (12) Undertake innovative approaches to securing
944 neighborhoods from crime, such as crime prevention through
945 community policing innovations, environmental design,
946 environmental security, and defensible space.
947 (13) Privatize, close, vacate, plan, or replan streets,
948 roads, sidewalks, and alleys, subject to the concurrence of the
949 local governing body and, if required, the state Department of
950 Transportation.
951 (14) Prepare, adopt, implement, and modify a ~~safe~~
952 neighborhood improvement plan for the district.
953 (15) Identify areas with blighted influences, including,
954 but not limited to, areas where unlawful urban dumping or
955 graffiti are prevalent, and develop programs for eradication
956 thereof.
957 (16)(a) Subject to referendum approval, and for residential

958 local government, special, community redevelopment, and property
959 owners' association neighborhood improvement districts only,
960 make and collect special assessments pursuant to ss. 197.3632
961 and 197.3635 to pay for improvements to the district and for
962 reasonable expenses of operating the district, including the
963 payment of expenses included in the district's budget, subject
964 to an affirmative vote by a majority of the registered voters
965 residing in the district. Such assessments shall not exceed $500
966 for each individual parcel of land per year. Notwithstanding the
967 provisions of s. 101.6102, the referendum to approve the special
968 assessment shall be by mail ballot.
969 (b) In order to implement this subsection, the city clerk
970 or the supervisor of elections, whichever is appropriate, shall
971 compile a list of the names and last known addresses of the
972 electors in the neighborhood improvement district from the list
973 of registered voters of the county as of the last day of the
974 preceding month. The same shall constitute the registration list
975 for the purposes of a referendum. Within 45 days after
976 compilation of the voter registration list, the city clerk or
977 the supervisor of elections shall notify each elector of the
978 general provisions of this section, including the taxing
979 authority and the date of the upcoming referendum. Notification
980 shall be by United States mail and, in addition thereto, by
981 publication one time in a newspaper of general circulation in
982 the county or municipality in which the district is located.
983 (c) Any resident of the district whose name does not appear
984 on the list compiled pursuant to paragraph (b) may register to
985 vote as provided by law. The registration list shall remain open
986 for 75 days after the notification required in paragraph (b).

987 (d) Within 15 days after the closing of registration, the
988 city clerk or the supervisor of elections shall send a ballot to
989 each elector at his or her last known mailing address by first-
990 class United States mail. The ballot shall include:
991 1. A description of the general provisions of this section
992 applicable to the neighborhood improvement district; and
993 2. Immediately following said information, the following:
994
995 "Do you favor the imposition of a special assessment of not
996 greater than $500 for each individual parcel of land per year to
997 pay for the expenses of operating the neighborhood improvement
998 district?
999
1000 ....Yes, for the special assessment.
1001
1002 ....No, against the special assessment."
1003
1004 (e) Ballots shall be returned by United States mail or by
1005 personal delivery.
1006 (f) All ballots received within 60 days after the closing
1007 of registration shall be tabulated by the city clerk or the
1008 supervisor of elections, who shall certify the results thereof
1009 to the city governing body or county commission no later than 5
1010 days after said 60-day period.
1011 (17) Exercise all lawful powers incidental to the effective
1012 and expedient exercise of the foregoing powers.
1013 Section 18. Subsections (3) and (4) of section 163.5151,
1014 Florida Statutes, are amended to read:
1015 163.5151 Fiscal management; budget preparation.—

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1016 (3) Each local government and special neighborhood
1017 improvement district levying an ad valorem tax on real or
1018 personal property shall establish its budget pursuant to the
1019 provisions of chapter 200. Before adopting ~~Prior to adoption of~~
1020 the final budget and setting of the millage rate to be levied by
1021 the board, the board shall submit a tentative budget and
1022 proposed millage rate of the district to the governing body of
1023 the municipality in which the district is located, or to the
1024 county if the district is located in the unincorporated portion
1025 of the county, for approval or disapproval. Such governing body
1026 shall have the power to modify the budget or millage submitted
1027 by the board. Subsequent to approval, the board shall adopt its
1028 final budget and millage rate in accordance with the
1029 requirements of chapter 200.
1030 (4) At the option of the county property appraiser for the
1031 county within which the neighborhood improvement district is
1032 located, ~~the~~ assessments levied by the district may ~~shall~~ be
1033 collected in the same manner as all ad valorem taxes if so
1034 requested by the local governing body pursuant to s. 197.363.
1035 Section 19. Section 163.516, Florida Statutes, is amended
1036 to read:
1037 163.516 ~~Safe~~ Neighborhood improvement plans.—
1038 (1) A ~~safe~~ neighborhood improvement plan is mandated for
1039 all neighborhood improvement districts. The plan must ~~shall~~
1040 contain at least the following elements:
1041 (a) Demographics of the district.
1042 ~~(b) Crime activity data and analysis.~~
1043 (b) ~~(c)~~ Land use, zoning, housing, and traffic analysis.
1044 ~~(d) Determination of the problems of the crime-to-~~

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1045 ~~environment relationship and the stability of the neighborhood~~
1046 ~~improvement district.~~
1047 (c) ~~(e)~~ Statement of the district's goal and objectives.
1048 ~~(f) Assessment of crime prevention through community~~
1049 ~~policing innovations, environmental design, environmental~~
1050 ~~security, and defensible space strategies and tactics that will~~
1051 ~~be applied to the crime-to-environment relationship problems.~~
1052 ~~(g) Cost estimates and the methods of financing.~~
1053 ~~(h) Outline of program participants and their functions and~~
1054 ~~responsibilities.~~
1055 ~~(i) Schedule for executing program activities.~~
1056 ~~(j) Evaluation guidelines.~~
1057 (2) Every ~~safe~~ neighborhood improvement plan must ~~shall~~
1058 show, by diagram and by general explanation:
1059 (a) Such property as is intended for use as public parks,
1060 recreation areas, streets, public utilities, and public
1061 improvements of any nature.
1062 (b) Specific identification of any publicly funded capital
1063 improvement projects to be undertaken within the district.
1064 ~~(c) Adequate assurances that the improvements will be~~
1065 ~~carried out pursuant to the plan.~~
1066 ~~(d) Provision for the retention of controls and the~~
1067 ~~establishment of any restrictions or covenants running with land~~
1068 ~~sold or leased for private use for such periods of time and~~
1069 ~~under such conditions as the governing body of the municipality~~
1070 ~~in which the district is located, or the county if the district~~
1071 ~~is located in the unincorporated portion of the county, deems~~
1072 ~~necessary to effectuate the purposes of this part.~~
1073 (c) ~~(e)~~ Projected costs of improvements, including the

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1074 amount to be expended on publicly funded capital improvement
1075 projects in the district and any indebtedness of the district,
1076 the county, or the municipality proposed to be incurred if such
1077 indebtedness is to be repaid with district revenues.
1078 ~~(f) Promotion of advertising programs to be undertaken by~~
1079 ~~the district or in conjunction with businesses in the district.~~
1080 ~~(g) Suggested physical improvements necessary for the~~
1081 ~~safety of residents in or visitors to the district.~~
1082 ~~(h) Law enforcement and security plans for the district.~~
1083 (3) The ~~safe~~ neighborhood improvement plan must ~~shall~~:
1084 (a) Be consistent with the adopted comprehensive plan for
1085 the county or municipality pursuant to the Community Planning
1086 Act. No district plan shall be implemented unless the local
1087 governing body has determined said plan is consistent.
1088 (b) Be sufficiently complete to indicate such land
1089 acquisition, demolition and removal of structures, street
1090 modifications, redevelopment, and rehabilitation as may be
1091 proposed to be carried out in the district.
1092 ~~(c) Provide some method for and measurement of the~~
1093 ~~reduction of crime within the district.~~
1094 ~~(4) The county, municipality, or district may prepare or~~
1095 ~~cause to be prepared a safe neighborhood improvement plan, or~~
1096 ~~any person or agency, public or private, may submit such a plan~~
1097 ~~to a district. Prior to its consideration of a safe neighborhood~~
1098 ~~improvement plan, the district shall submit such plan to the~~
1099 ~~local governing body for review and written approval as to its~~
1100 ~~consistency with the local government comprehensive plan. The~~
1101 ~~district must be notified of approval or disapproval within 60~~
1102 ~~days after receipt of the plan for review, and a revised version~~

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1103 ~~of the plan may be submitted to satisfy any inconsistencies. The~~
1104 ~~district may not proceed with the safe neighborhood improvement~~
1105 ~~plan until final approval is given by the local governing body.~~
1106 (4) ~~(5)~~ Prior to adoption of the ~~safe~~ neighborhood
1107 improvement plan, the board shall hold a public hearing on the
1108 plan after public notice thereof by publication in a newspaper
1109 of general circulation in the county or municipality in which
1110 the district is located. The notice shall describe the time,
1111 date, place, and purpose of the hearing; identify the boundaries
1112 of the district; and outline the general scope of the plan.
1113 (5) ~~(6)~~ The board, after the public hearing, may approve the
1114 ~~safe~~ neighborhood improvement plan if it finds:
1115 (a) The plan has been approved as consistent with the local
1116 comprehensive plan by the local governing body; and
1117 (b) The plan will improve the promotion, appearance,
1118 ~~safety, security,~~ and public amenities of the neighborhood
1119 improvement district as stipulated in s. 163.502.
1120 (6) ~~(7)~~ If, at any time after approval of the ~~safe~~
1121 neighborhood improvement plan, it becomes desirable to amend or
1122 modify the plan, the board may do so. Prior to any such
1123 amendment or modification, the board shall obtain written
1124 approval of the local governing body concerning conformity to
1125 the local government comprehensive plan and hold a public
1126 hearing on the proposed amendment or modification after public
1127 notice thereof by publication in a newspaper of general
1128 circulation in the county or municipality in which the district
1129 is located. The notice shall describe the time, place, and
1130 purpose of the hearing and generally describe the proposed
1131 amendment or modification.

1132 ~~(8) Pursuant to s. 163.3184, the governing body of a~~
1133 ~~municipality or county shall hold two public hearings to~~
1134 ~~consider the board-adopted safe neighborhood improvement plan as~~
1135 ~~an amendment or modification to the municipality's or county's~~
1136 ~~adopted local comprehensive plan.~~
1137 ~~(9) A safe neighborhood improvement plan for each district~~
1138 ~~shall be prepared and adopted by the municipality or county~~
1139 ~~prior to the levy and expenditure of any of the proceeds of any~~
1140 ~~tax assessment or fee authorized to such districts other than~~
1141 ~~for the preparation of the safe community or business~~
1142 ~~improvement plan.~~
1143 Section 20. Section 163.517, Florida Statutes, is repealed.
1144 Section 21. Section 163.519, Florida Statutes, is repealed.
1145 Section 22. Section 163.521, Florida Statutes, is repealed.
1146 Section 23. Section 163.5215, Florida Statutes, is
1147 repealed.
1148 Section 24. Section 163.522, Florida Statutes, is repealed.
1149 Section 25. Section 163.523, Florida Statutes, is repealed.
1150 Section 26. Section 163.524, Florida Statutes, is repealed.
1151 Section 27. Section 163.526, Florida Statutes, is repealed.
1152 Section 28. Paragraph (c) of subsection (1) of section
1153 376.84, Florida Statutes, is amended to read:
1154 376.84 Brownfield redevelopment economic incentives.—It is
1155 the intent of the Legislature that brownfield redevelopment
1156 activities be viewed as opportunities to significantly improve
1157 the utilization, general condition, and appearance of these
1158 sites. Different standards than those in place for new
1159 development, as allowed under current state and local laws,
1160 should be used to the fullest extent to encourage the

1161 redevelopment of a brownfield. State and local governments are
1162 encouraged to offer redevelopment incentives for this purpose,
1163 as an ongoing public investment in infrastructure and services,
1164 to help eliminate the public health and environmental hazards,
1165 and to promote the creation of jobs in these areas. Such
1166 incentives may include financial, regulatory, and technical
1167 assistance to persons and businesses involved in the
1168 redevelopment of the brownfield pursuant to this act.
1169 (1) Financial incentives and local incentives for
1170 redevelopment may include, but not be limited to:
1171 (c) ~~Safe~~ Neighborhood improvement districts as provided in
1172 part IV of chapter 163 ~~ss. 163.501-163.523~~.
1173 Section 29. Subsection (2) of section 775.083, Florida
1174 Statutes, is amended to read:
1175 775.083 Fines.—
1176 (2) In addition to the fines set forth in subsection (1),
1177 court costs shall be assessed and collected in each instance a
1178 defendant pleads nolo contendere to, or is convicted of, or
1179 adjudicated delinquent for, a felony, a misdemeanor, or a
1180 criminal traffic offense under state law, or a violation of any
1181 municipal or county ordinance if the violation constitutes a
1182 misdemeanor under state law. The court costs imposed by this
1183 section shall be $50 for a felony and $20 for any other offense
1184 and shall be deposited by the clerk of the court into an
1185 appropriate county account for disbursement for the purposes
1186 provided in this subsection. A county shall account for the
1187 funds separately from other county funds as crime prevention
1188 funds. The county, in consultation with the sheriff, must expend
1189 such funds for crime prevention programs in the county,

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1190 including ~~safe~~ neighborhood improvement programs under part IV
1191 of chapter 163 ~~ss. 163.501-163.523~~.
1192 Section 30. Paragraphs (a) and (c) of subsection (5) of
1193 section 932.7055, Florida Statutes, are amended to read:
1194 932.7055 Disposition of liens and forfeited property.—
1195 (5)(a) If the seizing agency is a county or municipal
1196 agency, the remaining proceeds shall be deposited in a special
1197 law enforcement trust fund established by the board of county
1198 commissioners or the governing body of the municipality. Such
1199 proceeds and interest earned therefrom shall be used for school
1200 resource officer, crime prevention, ~~safe~~ neighborhood
1201 improvement, drug abuse education and prevention programs, or
1202 for other law enforcement purposes, which include defraying the
1203 cost of protracted or complex investigations, providing
1204 additional equipment or expertise, purchasing automated external
1205 defibrillators for use in law enforcement vehicles, and
1206 providing matching funds to obtain federal grants. The proceeds
1207 and interest may not be used to meet normal operating expenses
1208 of the law enforcement agency.
1209 (c) An agency or organization, other than the seizing
1210 agency, that wishes to receive such funds shall apply to the
1211 sheriff or chief of police for an appropriation and its
1212 application shall be accompanied by a written certification that
1213 the moneys will be used for an authorized purpose. Such requests
1214 for expenditures shall include a statement describing
1215 anticipated recurring costs for the agency for subsequent fiscal
1216 years. An agency or organization that receives money pursuant to
1217 this subsection shall provide an accounting for such moneys and
1218 shall furnish the same reports as an agency of the county or

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

1219 municipality that receives public funds. Such funds may be
1220 expended in accordance with the following procedures:
1221 1. Such funds may be used only for school resource officer,
1222 crime prevention, ~~safe~~ neighborhood improvement, drug abuse
1223 education, or drug prevention programs or such other law
1224 enforcement purposes as the board of county commissioners or
1225 governing body of the municipality deems appropriate.
1226 2. Such funds shall not be a source of revenue to meet
1227 normal operating needs of the law enforcement agency.
1228 3. After July 1, 1992, and during every fiscal year
1229 thereafter, any local law enforcement agency that acquires at
1230 least $15,000 pursuant to the Florida Contraband Forfeiture Act
1231 within a fiscal year must expend or donate no less than 15
1232 percent of such proceeds for the support or operation of any
1233 drug treatment, drug abuse education, drug prevention, crime
1234 prevention, ~~safe~~ neighborhood improvement, or school resource
1235 officer program ~~program(s)~~. The local law enforcement agency has
1236 the discretion to determine which program or programs ~~program(s)~~
1237 will receive the designated proceeds.
1238
1239 Notwithstanding the drug abuse education, drug treatment, drug
1240 prevention, crime prevention, ~~safe~~ neighborhood improvement, or
1241 school resource officer minimum expenditures or donations, the
1242 sheriff and the board of county commissioners or the chief of
1243 police and the governing body of the municipality may agree to
1244 expend or donate such funds over a period of years if the
1245 expenditure or donation of such minimum amount in any given
1246 fiscal year would exceed the needs of the county or municipality
1247 for such program or programs ~~program(s)~~. Nothing in this section

1248 precludes the expenditure or donation of forfeiture proceeds in
1249 excess of the minimum amounts established herein.
1250 Section 31. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-12
Meeting Date

Topic: Neighborhood Improvement Dist.

Bill Number: S 582 *(if applicable)*

Name: David Sigerson

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2410 Van Buren St
Street

Hollywood FL 33020
City *State* *Zip*

Phone: 954 336 3544

E-mail: dksigerson2@aol.com

Speaking: [x] For [ ] Against [ ] Information

Against any Amendments

Representing: City of Margate

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb 21, 2012
Meeting Date

Topic: Neighborhood Improvement District

Bill Number: 582 *(if applicable)*

Name: Jay Marsh

Amendment Barcode: *(if applicable)*

Job Title: Chief Govt Affairs LYNX

Address: 455 North Garland Ave
Street

Orlando, Fla
City *State* *Zip*

Phone: 407-254-6069

E-mail: jmarsh@golynx.com

Speaking: [x] For [ ] Against [ ] Information

Representing: LYNX

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: Neighborhood Improvement District

Bill Number: 582 *(if applicable)*

Name: Stephanie Howell

Amendment Barcode: *(if applicable)*

Job Title: gov. affairs

Address: PO Box 141464
Street

Orlando, FL 32854
City *State* *Zip*

Phone: 407-212-2081

E-mail: stephanie@howellconsultingfirm.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Downtown South Neighborhood Improvement District

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: NID's

Bill Number: SB 582 *(if applicable)*

Name: Kathy Russell

Amendment Barcode: *(if applicable)*

Job Title: Dir of Gov Relations

Address: 400 S. Orange Ave
Street

Orlando Fl 32801
City *State* *Zip*

Phone: (407) 383-2075

E-mail:

Speaking: [✓] For [ ] Against [ ] Information

Representing: City of Orlando

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: Neighborhood Improvement Districts

Bill Number: 582 (if applicable)

Name: David Cruz

Amendment Barcode: (if applicable)

Job Title: Legislative Advocate

Address: P.O. Box 1757
Street

Tallahassee, FL
City, State, Zip

Phone:

E-mail: DCruz@flcities.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida League of Cities

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

December 9, 2011

The Honorable JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I would like to respectfully request that you place Senate Bill 582, Neighborhood Improvement Districts, on the next agenda for the Budget Committee. This bill unanimously passed Community Affairs Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours

David Simmons

cc: Terry Rhodes, staff director for Budget Committee

REPLY TO:
☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

January 24, 2012

The Honorable JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I would like to respectfully request that you place Senate Bill 582, Neighborhood Improvement Districts, on the next agenda for the Budget Committee. This bill unanimously passed the Community Affairs Committee and the Finance and Tax Subcommittee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours

David Simmons

cc: Terry Rhodes, staff director for Budget Committee

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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 Budget Committee

BILL: CS/SB 616

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Flores

SUBJECT: Biomedical Research

DATE: February 21 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Favorable**
2.	Jenkins	Roberts	GO	**Fav/CS**
3.	Bradford	Hendon	BHA	**Favorable**
4.	Bradford	Rhodes	BC	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill revises provisions related to the James and Esther King Biomedical Research Program (King Program) and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program).

The bill:

- Carries forward for 2 additional years the balance of any appropriation from the Biomedical Research Trust Fund, which is obligated but not disbursed;
- Renames a member of the Biomedical Research Advisory Council (Council) and the advisory council of the Florida Center for Universal Research to Eradicate Disease (FL CURED);
- Staggers the terms of service for members of the Council;
- Removes the Council's responsibility for developing, supervising, and consulting in the appointment of research peer review panels;
- Clarifies conflict of interest provisions concerning certain councils and peer review panels;
- Removes provisions regarding the public's access to the meetings of certain peer review panels;
- Exempts grant programs under the purview of the Council from rulemaking authority;

- Revises the Council's annual reporting requirement;
- Revises by whom grants are awarded under the Bankhead-Coley Program; and
- Makes the consideration of certain types of applications for grants by the Department of Health (department) discretionary.

There should be no fiscal impact resulting from this legislation.

This bill amends the following sections of the Florida Statutes: 20.435, 215.5602, 381.855, and 381.922.

II. Present Situation:

The James and Esther King Biomedical Research Program

The purpose of the James and Esther King Biomedical Research Program[1] (King Program) is to provide an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.[2] The long-term goals of the program are to:

- Improve the health of Floridians by researching better prevention, diagnoses, treatments, and cures for cancer, cardiovascular disease, stroke, and pulmonary disease;
- Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, treatment, and cure of diseases related to tobacco use;
- Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers;
- Increase the state's per capita funding for research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside of Florida; and
- Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

The King Program offers competitive grants to researchers throughout Florida. Grant applications from any university or established research institute[3] in Florida will be considered for biomedical research funding. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding.

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[1] The Florida Legislature created the Florida Biomedical Research Program in 1999 within the department (ch. 99-167, L.O.F.). The Florida Biomedical Research Program was renamed the James and Esther King Biomedical Research Program during Special Session B of the 2003 Legislature (ch. 2003-414, L.O.F.).

[2] Section 215.5602, F.S.

[3] An "established research institute" is any Florida non-profit or foreign non-profit corporation covered under ch. 617, F.S., with a physical location in Florida, whose stated purpose and power is scientific, biomedical or biotechnological research or development and is legally registered with the Florida Department of State, Division of Corporations. This includes the federal government and non-profit medical and surgical hospitals, including veterans' administration hospitals. *See* James & Esther King Biomedical Research Program, *Call for Grant Applications: Biomedical, Biotechnological, and Social Scientific Research and Development, Fiscal Year 2009-2010*, page 7, available at: http://forms.floridabiomed.com/jek_call/King%20Call%2009-10.pdf (Last visited on January 12, 2012).

The State Surgeon General, after consultation with the Council, is authorized to award grants and fellowships on the basis of scientific merit[4] within the following three categories:

- Investigator-initiated research grants;
- Institutional research grants; and
- Predoctoral and postdoctoral research fellowships.[5]

The King Program was to expire on January 1, 2011, pursuant to s. 215.5602, F.S. However, the Legislature continued the program in 2010 by enacting HB 5311.[6]

The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program

The 2006 Legislature created the Bankhead-Coley Program within the department.[7] The purpose of the program is to advance progress toward cures for cancer through grants awarded for cancer research.

Applications for funding cancer research from any university or established research institute in the state will be considered under the Bankhead-Coley Program. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding. The State Surgeon General, after consultation with the Council, is authorized to award grants and fellowships on the basis of scientific merit[8] within the following three categories:

- Investigator-initiated research grants;
- Institutional research grants; and
- Collaborative research grants, including those that advance the finding of cures through basic or applied research.

As with the King Program, the Bankhead-Coley Program was to expire on January 1, 2011, pursuant to s. 215.5602, F.S. However, the Legislature also continued this program in 2010 when it enacted HB 5311.[9]

Florida Center for Universal Research to Eradicate Disease

The purpose of the Florida Center for Universal Research to Eradicate Disease (FL CURED) is to coordinate, improve, expand, and monitor all biomedical research programs within Florida; facilitate funding opportunities; and foster improved technology transfer of research findings into clinical trials and widespread public use.[10]

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[4] *See* the "Grant Application Review and Processing" section of Senate Interim Report 2010-219, page 7, for more http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-219hr.pdf information about assessing scientific merit. The report is available at: http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-219hr.pdf (Last visited on January 12, 2012).
[5] Section 215.5602(5)(b), F.S.
[6] Chapter 2010-161, L.O.F.
[7] Section 381.922, F.S., (ch. 2006-182, L.O.F.).
[8] *Supra* fn. 5.
[9] Chapter 2010-161, L.O.F.
[10] *See* s. 381.855, F.S.

The Legislature intended that the FL CURED would help Florida:

- Strive to become the nation's leader in biomedical research;
- Commit to finding cures for the most deadly and widespread diseases;
- Coordinate efforts among the state's public and private universities and research institutes, and the biomedical/biotechnology industry in Florida; and
- Expand the economy by attracting biomedical researchers and biotechnology businesses to the state.[11]

Responsibilities of the FL CURED are to hold an annual biomedical technology summit in Florida, encourage clinical trials in Florida, facilitate research partnerships, encourage agricultural colleges and agricultural businesses in Florida to be active in the search for cures and in providing information to the public about disease prevention, encourage the discovery and production in Florida of vaccines that prevent disease, monitor the supply and demand needs of researchers relating to stem cell research and other types of human tissue research, serve as a registry for all biomedical grants, and maintain a website with links to peer-reviewed biomedical research.[12]

Within the FL CURED is a 15-member advisory council that meets at least annually.[13]

Program Funding

Initially, the King Program was funded with income from $150 million of principal in the Lawton Chiles Endowment Fund.[14] In 2004, the Legislature appropriated additional funding, through a distribution from alcoholic beverage surcharge taxes. In 2006, the Legislature substituted a $6 million dollar annual appropriation commitment from the General Revenue Fund to fund the Biomedical Research Trust Fund within the DOH for the purposes of the King Program.[15] However, in the January 2009 Special Session A, for fiscal year 2008-2009 and each fiscal year thereafter, the annual appropriation from the General Revenue Fund to the Biomedical Research Trust Fund for purposes of the King Program was reduced to $4.5 million.[16] During the regular session in 2009, the Legislature eliminated the general revenue appropriation and provided that 2.5 percent of the revenue generated from the additional cigarette surcharge enacted in 2009, not to exceed $25 million, was to be transferred into the Biomedical Research Trust Fund for the King Program for the 2009-2010 fiscal year.[17]

In 2010, when the Legislature reenacted the King Program, it continued funding for the King Program with an annual appropriation of $20 million.[18] Of the funds appropriated for the King Program, up to $250,000 per year is designated to operate the FL CURED.

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[11] Florida Center for Universal Research to Eradicate Disease, FL CURED, *2010 Annual Report*, p. V, Executive Summary, available at: http://flcured.org/docs/AnnualReport2010.pdf (Last visited on January 12, 2012).
[12] Section 381.855, F.S.
[13] *Id.*
[14] Section 215.5601, F.S. The Lawton Chiles Endowment Fund's principal originated from a portion of the state settlement received from its lawsuit with tobacco companies.
[15] Chapter 2006-182, L.O.F.
[16] Chapter 2009-5, L.O.F.
[17] Chapter 2009-58, L.O.F.
[18] *Supra* fn. 11.

The Bankhead-Coley Program was established with a commitment for an appropriation of $9 million per year from the General Revenue Fund.[19] However, in the January 2009 Special Session A, for fiscal year 2008-2009 and each fiscal year thereafter, the annual appropriation from the General Revenue Fund to the Biomedical Research Trust Fund for purposes of the Bankhead-Coley Program was reduced to $6.75 million.[20] During the regular session in 2009, the Legislature eliminated the general revenue appropriation and provided that 2.5 percent of the revenue generated from the additional cigarette surcharge enacted in 2009, not to exceed $25 million, was to be transferred into the Biomedical Research Trust Fund for the Bankhead-Coley Program.[21]

Chapter 2009-58, Laws of Florida, provided that five percent of the revenue deposited into the Health Care Trust Fund pursuant to s. 210.011(9), F.S., related to the cigarette surcharge and s. 210.276(7), F.S., related to the surcharge on tobacco products, are to be reserved for research of tobacco-related or cancer-related illnesses. The sum of the revenue reserved, however, may not exceed $50 million in any fiscal year. The Legislature did not specify an amount to be appropriated annually, after the 2009-2010 fiscal year, for the King Program or the Bankhead-Coley Program from these reserves. However, in 2010, when the Legislature reenacted the Bankhead-Coley Program along with the King Program, it continued funding for the Bankhead-Coley Program with an annual appropriation of $20 million.[22]

Any cash balance in the Biomedical Research Trust Fund at the end of a fiscal year remains in the trust fund to be available for carrying out the purposes of the trust fund. In addition, any balance of an appropriation from the Biomedical Research Trust Fund which has not been disbursed, but which is obligated, may be used for up to 3 years from the effective date of the original appropriation.

Biomedical Research Advisory Council[23] and Peer Review Panel[24]

The purpose of the Council is to advise the State Surgeon General as to the direction and scope of the King Program. The Council is also required to consult with the State Surgeon General concerning grant awards for cancer research through the Bankhead-Coley Program.[25] Currently there are 11 members on the council, authorized to serve no more than two consecutive, 3-year terms.

In order to ensure that proposals for research funding within the King Program and the Bankhead-Coley Program are appropriate and evaluated fairly on the basis of scientific merit, a peer review panel of independent, scientifically qualified individuals is appointed to review the

[19] Section 381.922(5), F.S.
[20] Chapter 2009-5, L.O.F.
[21] Chapter 2009-58, L.O.F.
[22] *Supra* fn. 11.
[23] Section 215.5602(3), F.S.
[24] Section 215.5602(6) and (7), and s. 381.922(3)(b), F.S.
[25] Section 381.922(3)(a), F.S. However, s. 215.5602(11), F.S., contains an inconsistency with respect to the responsibility of the Council concerning awarding grants for cancer research.

scientific content of each proposal to establish a "scientific"[26] priority score.[27] To eliminate conflicts of interest, peer reviewers come from outside the state of Florida. Reviewers are experts in their fields from universities, government agencies, and private industry who are matched according to application topic and area of expertise. The priority scores must be considered by the Council in determining which proposals will be recommended for funding to the State Surgeon General.

Meetings of the Council and the peer review panel are subject to ch. 119, F.S., relating to public records; s. 286.011, F.S., relating to public meetings; and s. 24, Art. I of the State Constitution relating to access to public meetings and records.

Program Administration and Grant Management

The Office of Public Health Research within the DOH manages both the King Program and the Bankhead-Coley Program with support from the Council and Lytmos Group, LLC (Lytmos), pursuant to contract.[28]

The law authorizes, but does not require, the department, after consultation with the Council, to adopt rules as necessary to implement these programs.[29] The department has not adopted rules to implement these programs. Instead, the department publishes, on its website, the procedures for implementing these two programs.[30]

The *GrantEase*™ online system is used by grantees to access grant information and submit progress reports, invoices, financial reports, and change requests during the life of the grant. At least once during the grant period, the grantee is subjected to on-site monitoring for both scientific and administrative purposes.

III. Effect of Proposed Changes:

Section 1 amends s. 20.435, F.S., to extend the time, from 3 years to 5 years, that any balance of any appropriation from the Biomedical Research Trust Fund, which is not disbursed but which is obligated pursuant to a contract or committed to be expended, may be carried forward after the effective date of the original appropriation.

Section 2 amends s. 215.5602, F.S., to replace the member of the Council, who is the chief executive officer of the Florida/Puerto Rico Affiliate of the American Heart Association, with the chief executive officer of the Greater Southeast Affiliate of the American Heart

[26] The King Program requires a *scientific* priority score in s. 215.5602(6), F.S. The Bankhead-Coley Program requires a priority score in s. 381.922(3)(b), F.S.
[27] A Bridge Grant application is ranked solely by the priority score or percentile assigned to its qualifying federal proposal in an eligible federal review process.
[28] James & Esther King Biomedical Research Program, *Annual Report 2010*, available at: http://forms.floridabiomed.com/AnnualReports/Annual10.pdf (Last visited on January 13, 2012).
[29] Section 215.5602(9), F.S.
[30] *See* http://www.doh.state.fl.us/ExecStaff/biomed/ophrsitemap.html, (Last visited on January 13, 2012).

Association.[31] This section also provides for staggered terms of members on the Council by requiring the first two appointments by the Governor and the first appointment by the President of the Senate and the Speaker of the House of Representatives on or after July 1, 2012, to be for a term of 2 years.

In this section, the Council's authority to develop and supervise research peer review panels is removed. Furthermore, the department, rather than the Surgeon General, is no longer required to consult with the Council prior to appointing peer review panels to review the scientific *merit* of research proposals.

This section clarifies that a member of the Council or peer review panel may not participate in any discussion or decision *of the Council or panel*, with respect to a research proposal by an entity with which the member is associated, employed, or contracted, to avoid a conflict of interest.

This section removes the provision that specifies that meetings of the council and peer review panels are subject to Florida's public records laws. However, by operation of ch. 119, F.S., s. 286.011, F.S., and s. 24, Art. I of the State Constitution, the council and peer review panels would still be subject to such public record laws.

This section also exempts grant programs under the purview of the Council from rulemaking authority under ch. 120, F.S., and removes the department's rulemaking authority to implement the section.

This section amends the Council's requirement to submit an annual progress report to the Governor, the State Surgeon General, and the Legislature to require the report to review, for each fiscal year, all programs under the Council's purview. The report is required to be submitted annually by December 15, instead of by February 1. The reporting requirement is also changed to require the Council to include in its annual report the state ranking from the National Institutes of Health, rather than a broader requirement for the total amount of biomedical research funding currently flowing into the state from any source; the progress toward the program's goals; and recommendations that further the program's mission.

Section 3 amends s. 381.855, F.S., to specify that the member of the advisory council of the FL CURED from the American Heart Association must be from the Greater Southeast Affiliate.

Section 4 amends s. 381.922, F.S., to require grants to be awarded by the department, instead of the State Surgeon General.

This section authorizes, rather than requires, the department to consider certain types of applications for funding. This section clarifies that peer review panels are to review the scientific

[31] The following states and territories are part of the Greater Southeast Affiliate: Alabama, Florida, Georgia, Louisiana, Mississippi, Puerto Rico, and Tennessee. American Heart Association, *Who We Are: Greater Southeast Affiliate*, available at: http://www.heart.org/HEARTORG/Affiliate/Who-We-Are-Greater-Southeast-Affiliate_UCM_303250_SubHomePage.jsp (Last visited on January 13, 2012).

merit, not content, of each research proposal and establish its priority score for the Council to consider.

This section clarifies that a member of the Council or peer review panel may not participate in any discussion or decision *of the Council or panel*, with respect to a research proposal by an entity with which the member is associated, employed, or contracted, to avoid a conflict of interest.

This section removes the provision that specifies that meetings of the council and peer review panels are subject to Florida's public records laws. However, by operation of ch. 119, F.S., s. 286.011, F.S., and s. 24, Art. I of the State Constitution, it is likely that the peer review panels would still be subject to such open meetings and public records laws.

This section deletes the department's annual reporting requirement to the Governor and Legislature, which requires the department to report the progress toward the Bankhead-Coley Program's mission and make recommendations to further the program's purpose. Instead, this requirement is added to section 2 of the bill.

Section 5 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

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:

Although lines 157-159 and 254-256 delete the affirmative statement that meetings of the council and the peer review panels are subject to Florida's public record laws, such meetings are likely to be subject to Florida's open meetings and public records laws by operation of law, notwithstanding striking this provision.

Florida's Government in the Sunshine Law (Sunshine Law), under s. 286.011, F.S., is equally applicable to elected and appointed boards and applies to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.[32]

The three basic requirements of s. 286.011, F.S., are that meetings of public boards or commissions must be open to the public, reasonable notice of such meetings must be given, and minutes of the meetings must be taken. Under s. 24, Art. I of the Florida Constitution, virtually all collegial public bodies are covered by the open meetings mandate, with the exception of the judiciary and the state Legislature.[33]

Advisory bodies created pursuant to law are subject to the Sunshine Law, even though their recommendations are not binding upon the entities that create them.[34] If the advisory body conducts only fact-finding and has no decision-making function, then it may be exempt from the Sunshine Law.[35]

The bill requires the department and the State Surgeon General to each appoint peer review panels and each panel is required to prioritize research proposals to recommend the funding of such proposals. Because the panels are created by law, appointed by an agency, and do more than merely fact-finding, it is likely that the panels would be deemed subject to Florida's Sunshine Law.

As for the peer review panels' meeting materials and records, they are likely to be subject to Florida's public records law under ch. 119, F.S., because all materials made or received by an agency[36] in connection with official business, which are used to perpetuate, communicate, or formalize knowledge are required to be open to public inspection unless the Legislature specifically exempts them from disclosure. Omitting the peer review panel meetings from the

[32] Government-in-the-Sunshine Manual, Volume 33, 2011 Edition, p. 3.
[33] *Id.*
[34] *Id.* at p. 6.
[35] *Id.* at p. 7.
[36] Advisory boards or committees have been interpreted in case law and by the Attorney General's Office to be subject to the public records law. Government-in-the-Sunshine Manual, Volume 33, 2011 Edition, p. 59.

statement that such meetings are subject to Florida's open meetings and public records laws is not likely to constitute an exemption by the Legislature. The Legislature must pass a separate bill by a two-thirds vote of each house to enact a public records or public meeting exemption, and the law must state with specificity the public necessity justifying the exemption, which must be no broader than necessary to accomplish the stated purpose of the law.[37]

SB 1856 has been filed, which also removes the provision that specifies that meetings of peer review panels are subject to Florida's public records laws, and provides a public necessity statement. However, in order for a bill to exempt a record or meeting from the public records or meetings laws it must state that the record or meeting is:

- Exempt from s. 24, Art. I of the State Constitution;
- Exempt from s. 119.07(1) or s. 286.011, F.S.; and
- Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.[38]

Therefore, SB 1856, is likely still not sufficient to make meetings or records of the peer review panels confidential and exempt from Florida's public records and meetings laws.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on January 26, 2012:
The committee substitute:

- Provides that the Council may develop guidelines (rather than administrative procedures) relating to solicitation, review, and award of research grants and fellowships;
- Requires the task force to appoint multiple peer review panels, as opposed to just one peer review panel, of independent, scientifically qualified individuals to review the scientific merit of each proposal and establish its scientific priority score;
- Omits language providing that meetings of the council are subject to chapter 119, s. 286.011, and s. 24, Art I of the State Constitution.
- Removes a requirement that the State Surgeon General, in consultation with the Council, is to appoint a peer review panel, so that the bill consistently provides that the department shall appoint peer review panels; and
- Makes technical changes.

B. Amendments:

None.

[37] FLA. CONST. art. I, s. 24(c).
[38] Section 119.15(4)(a), F.S.

By the Committee on Governmental Oversight and Accountability; and Senator Flores

585-02459-12 2012616c1

A bill to be entitled

An act relating to biomedical research; amending s. 20.435, F.S.; revising the number of years that the balance of an appropriation from the Biomedical Research Trust Fund may be carried forward following the effective date of the original appropriation; amending s. 215.5602, F.S.; revising a reference to an affiliate chapter of the American Heart Association; revising the terms of appointment for certain members of the Biomedical Research Advisory Council within the Department of Health; revising the responsibilities of the council; requiring that the department, rather than the State Surgeon General, in consultation with the council, appoint a peer review panel of independent, scientifically qualified individuals to review the scientific merit of each proposal and establish its scientific priority score under the James and Esther King Biomedical Research Program; providing that certain types of applications may be considered for funding by the James and Esther King Biomedical Research Program; deleting a provision that subjects meetings of the council and peer review panels to public records and public meetings requirements; providing that grant programs under the purview of the advisory council are exempt from rulemaking authority; requiring that the council submit an annual progress report for each fiscal year on programs under its purview to certain entities by a specified date; revising the required content of the

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

585-02459-12 2012616c1

report; amending s. 381.855, F.S.; specifying the name of an affiliate chapter of the American Heart Association as it relates to the membership of the advisory council within the Florida Center for Universal Research to Eradicate Disease; amending s. 381.922, F.S.; requiring that the department, rather than the State Surgeon General, in consultation with the council, appoint a peer review panel of independent, scientifically qualified individuals award grants under the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program; providing that certain types of applications may be considered for funding in the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program; requiring that the department, rather than the State Surgeon General, without the consultation of the council, appoint a peer review panel of independent, scientifically qualified individuals to review the scientific merit of each proposal for research funding and establish its priority score; deleting a provision that subjects meetings of the council and peer review panels to public records and public meetings requirements; deleting the requirement that the department submit to the Governor and the Legislature a report that indicates progress toward the program’s mission and makes recommendations that further its purpose; providing an effective date.

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

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

Section 1. Paragraph (c) of subsection (8) of section 20.435, Florida Statutes, is amended to read:

20.435 Department of Health; trust funds.—The following trust funds shall be administered by the Department of Health:

(8) Biomedical Research Trust Fund.

(c) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance of any appropriation from the Biomedical Research Trust Fund which is not disbursed but which is obligated pursuant to contract or committed to be expended may be carried forward for up to 5 ~~3~~ years following the effective date of the original appropriation.

Section 2. Paragraph (a) of subsection (3), subsection (4), paragraph (b) of subsection (5), and subsections (6), (7), (9), and (10) of section 215.5602, Florida Statutes, are amended to read:

215.5602 James and Esther King Biomedical Research Program.—

(3) There is created within the Department of Health the Biomedical Research Advisory Council.

(a) The council shall consist of 11 members, including: the chief executive officer of the Florida Division of the American Cancer Society, or a designee; the chief executive officer of the Greater Southeast ~~Florida/Puerto Rico~~ Affiliate of the American Heart Association, or a designee; and the chief executive officer of the American Lung Association of Florida, or a designee. The remaining 8 members of the council shall be appointed as follows:

1. The Governor shall appoint four members, two members

with expertise in the field of biomedical research, one member from a research university in the state, and one member representing the general population of the state.

2. The President of the Senate shall appoint two members, one member with expertise in the field of behavioral or social research and one representative from a cancer program approved by the American College of Surgeons.

3. The Speaker of the House of Representatives shall appoint two members, one member from a professional medical organization and one representative from a cancer program approved by the American College of Surgeons.

In making these appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall select primarily, but not exclusively, Floridians with biomedical and lay expertise in the general areas of cancer, cardiovascular disease, stroke, and pulmonary disease. The appointments shall be for a 3-year term and shall reflect the diversity of the state's population. An appointed member may not serve more than two consecutive terms. The first two appointments by the Governor and the first appointment by the President of the Senate and the Speaker of the House of Representatives on or after July 1, 2012, shall be for a term of 2 years.

(4) The council shall advise the State Surgeon General as to the direction and scope of the biomedical research program. The responsibilities of the council may include, but are not limited to:

(a) Providing advice on program priorities and emphases.

(b) Providing advice on the overall program budget.

(c) Participating in periodic program evaluation.

(d) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(e) Assisting in the development of appropriate linkages to nonacademic entities, such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials.

(f) Developing criteria and standards for the award of research grants.

(g) Developing guidelines ~~administrative procedures~~ relating to solicitation, review, and award of research grants and fellowships, to ensure an impartial, high-quality peer review system.

~~(h) Developing and supervising research peer review panels.~~

(h) ~~(i)~~ Reviewing reports of peer review panels and making recommendations for research grants and fellowships.

(i) ~~(j)~~ Developing and providing oversight regarding mechanisms for the dissemination of research results.

(5)

(b) Grants and fellowships shall be awarded by the State Surgeon General, after consultation with the council, on the basis of scientific merit, as determined by the competitively ~~an~~ open, peer-reviewed ~~competitive peer review~~ process to ensure ~~that ensures~~ objectivity, consistency, and high quality. The following types of applications may ~~shall~~ be considered for funding:

1. Investigator-initiated research grants.

2. Institutional research grants.

3. Predoctoral and postdoctoral research fellowships.

(6) To ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, the department ~~State Surgeon General, in consultation with the council,~~ shall appoint ~~a~~ peer review panels ~~panel~~ of independent, scientifically qualified individuals to review the scientific merit ~~content~~ of each proposal and establish its scientific priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(7) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest. A member of the council or panel may not participate in any discussion or decision of the council or panel with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee, or with which the member has entered into a contractual arrangement. ~~Meetings of the council and the peer review panels shall be subject to the provisions of chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.~~

(9) The grant programs under the purview of the council are exempt from rulemaking authority under chapter 120 ~~department, after consultation with the council, may adopt rules as necessary to implement this section~~.

(10) The council shall submit an annual progress report for each fiscal year on programs under its purview ~~on the state of biomedical research in this state~~ to the Florida Center for

175 Universal Research to Eradicate Disease and to the Governor, the
176 State Surgeon General, the President of the Senate, and the
177 Speaker of the House of Representatives by December 15 ~~February~~
178 ~~1~~. The report must include:
179 (a) A list of research projects supported by grants or
180 fellowships awarded under the program.
181 (b) A list of recipients of program grants or fellowships.
182 (c) A list of publications in peer reviewed journals
183 involving research supported by grants or fellowships awarded
184 under the program.
185 (d) The state ranking and total amount of biomedical
186 research funding currently flowing into the state from the
187 National Institutes of Health.
188 (e) New grants for biomedical research which were funded
189 based on research supported by grants or fellowships awarded
190 under the program.
191 (f) Progress towards programmatic goals, particularly in
192 the prevention, diagnosis, treatment, and cure of diseases
193 related to tobacco use, including cancer, cardiovascular
194 disease, stroke, and pulmonary disease.
195 (g) Recommendations that further the missions of the
196 programs.
197 Section 3. Paragraph (a) of subsection (5) of section
198 381.855, Florida Statutes, is amended to read:
199 381.855 Florida Center for Universal Research to Eradicate
200 Disease.—
201 (5) There is established within the center an advisory
202 council that shall meet at least annually.
203 (a) The council shall consist of one representative from a

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

204 Florida not-for-profit institution engaged in basic and clinical
205 biomedical research and education which receives more than $10
206 million in annual grant funding from the National Institutes of
207 Health, to be appointed by the State Surgeon General from a
208 different institution each term, and one representative from and
209 appointed by each of the following entities:
210 1. Enterprise Florida, Inc.
211 2. BioFlorida.
212 3. The Biomedical Research Advisory Council.
213 4. The Florida Medical Foundation.
214 5. Pharmaceutical Research and Manufacturers of America.
215 6. The American Cancer Society, Florida Division, Inc.
216 7. The American Heart Association, Greater Southeast
217 Affiliate.
218 8. The American Lung Association of Florida.
219 9. The American Diabetes Association, South Coastal Region.
220 10. The Alzheimer's Association.
221 11. The Epilepsy Foundation.
222 12. The National Parkinson Foundation.
223 13. The Florida Public Health Institute, Inc.
224 14. The Florida Research Consortium.
225 Section 4. Subsections (3), (4), and (5) of section
226 381.922, Florida Statutes, are amended to read:
227 381.922 William G. "Bill" Bankhead, Jr., and David Coley
228 Cancer Research Program.—
229 (3)(a) Applications for funding for cancer research may be
230 submitted by any university or established research institute in
231 the state. All qualified investigators in the state, regardless
232 of institutional affiliation, shall have equal access and

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

233 opportunity to compete for the research funding. Collaborative
234 proposals, including those that advance the program's goals
235 enumerated in subsection (2), may be given preference. Grants
236 shall be awarded by the department ~~State Surgeon General~~, after
237 consultation with the Biomedical Research Advisory Council, on
238 the basis of scientific merit, as determined by the
239 competitively ~~an~~ open, peer-reviewed ~~competitive peer review~~
240 process to ensure ~~that ensures~~ objectivity, consistency, and
241 high quality. The following types of applications may ~~shall~~ be
242 considered for funding:
243 1. Investigator-initiated research grants.
244 2. Institutional research grants.
245 3. Collaborative research grants, including those that
246 advance the finding of cures through basic or applied research.
247 (b) In order to ensure that all proposals for research
248 funding are appropriate and are evaluated fairly on the basis of
249 scientific merit, the department ~~State Surgeon General, in~~
250 ~~consultation with the council,~~ shall appoint ~~a~~ peer review
251 panels ~~panel~~ of independent, scientifically qualified
252 individuals to review the scientific merit ~~content~~ of each
253 proposal and establish its priority score. The priority scores
254 shall be forwarded to the council and must be considered in
255 determining which proposals shall be recommended for funding.
256 (c) The council and the peer review panel shall establish
257 and follow rigorous guidelines for ethical conduct and adhere to
258 a strict policy with regard to conflicts of interest. A member
259 of the council or panel may not participate in any discussion or
260 decision of the council or panel with respect to a research
261 proposal by any firm, entity, or agency with which the member is

262 associated as a member of the governing body or as an employee
263 or with which the member has entered into a contractual
264 arrangement. ~~Meetings of the council and the peer review panels~~
265 ~~are subject to chapter 119, s. 286.011, and s. 24, Art. I of the~~
266 ~~State Constitution.~~
267 ~~(4) By December 15 of each year, the Department of Health~~
268 ~~shall submit to the Governor, the President of the Senate, and~~
269 ~~the Speaker of the House of Representatives a report indicating~~
270 ~~progress towards the program's mission and making~~
271 ~~recommendations that further its purpose.~~
272 (4) ~~(5)~~ The William G. "Bill" Bankhead, Jr., and David Coley
273 Cancer Research Program is funded pursuant to s. 215.5602(12).
274 Funds appropriated for the William G. "Bill" Bankhead, Jr., and
275 David Coley Cancer Research Program shall be distributed
276 pursuant to this section to provide grants to researchers
277 seeking cures for cancer and cancer-related illnesses, with
278 emphasis given to the goals enumerated in this section. From the
279 total funds appropriated, an amount of up to 10 percent may be
280 used for administrative expenses. From funds appropriated to
281 accomplish the goals of this section, up to $250,000 shall be
282 available for the operating costs of the Florida Center for
283 Universal Research to Eradicate Disease.
284 Section 5. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

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

21 Feb 12
Meeting Date

Topic: Biomedical Research

Bill Number: SB 616 *(if applicable)*

Name: James Mostteller

Amendment Barcode: *(if applicable)*

Job Title: Gov't Relations Director

Address: 2851 Remington Green Cir, Ste C
Street

Tallahassee, FL 32307
City *State* *Zip*

Phone: 850/727-3702

E-mail: James.Mostteller@heart.org

Speaking: [X] For [ ] Against [ ] Information

Representing: American Heart Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

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 Budget Committee

BILL: SB 678

INTRODUCER: Senator Smith

SUBJECT: State Contracts

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jenkins	Roberts	GO	**Favorable**
2.	Juliachs	Hrdlicka	CM	**Favorable**
3.	McSwain	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

This bill adds the requirement that all state contracts exceeding $35,000 include a provision requiring any call-center services to be staffed by persons located within the United States.

This bill amends s. 287.058. F.S.

II. Present Situation:

Procurement laws govern the manner in which a government receives goods and services. In Florida, ch. 287, F.S., broadly, governs the public procurement of personal property and services. Of particular interest, s. 287.058, F.S., outlines the minimum requirements that must be present in public procurement contracts that exceed the amount of $35,000.[1]

Similarly, the federal government has its own body of law that regulates procurement activities. One of the most well known pieces of legislation regulating federal procurement is The Buy American Act (act), which restricts the federal government from purchasing nondomestic end products,[2] unless an enumerated exception provided in the statute is applicable.[3, 4]

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[1] Section, 287.017, F.S., sets forth purchasing categories by the threshold amount. Procurement contracts that exceed $35,000 are designated as a category two.

[2] "According to the Federal Acquisition Regulation (FAR), a domestic end product means an unmanufactured end product mined or produced in the United States, or an end product manufactured in the U.S. if the cost of its components that are mined, produced, or manufactured in the U.S. exceeds 50 percent of the cost of all its components." United States Government Accountability Office, *Federal Procurement: International Agreements Result in Waivers of Some U.S Restrictions* (January 2005), available at http://www.gao.gov/assets/250/245118.pdf (last visited January 13, 2012).

[3] 41 U.S.C. s. 10(a) (2006).

Notably, the expansion of international trade between the United States and foreign governments has also led to the proliferation of agreements that contain mutually beneficial government procurement obligations. In the spirit of promoting trade relations, governments have agreed to require that each party's goods and service be given the same treatment as domestic goods and services, irrespective of their foreign status.[5] As such, under these agreements, a government is prohibited from arbitrarily giving preferential treatment to domestic goods at the expense of foreign goods originating from a country where there is an enforceable and standing trade agreement espousing mutually beneficial government procurement obligations.

Historically, international trade agreements have been treated as congressional-executive agreements (CEA), which require the majority of both houses in Congress to be implemented,[6] as opposed to two-thirds vote of the Senate.[7] One explanation for the use of CEAs in the context of international trade agreements stems from the view that participation by the House of Representatives is appropriate in light of its constitutional role in revenue raising.[8] Moreover, congressional authorization has also been deemed necessary as trade agreements have become much more elaborate by regulating a broader spectrum of subjects ranging from subsidies, government procurement, and product standards.[9] As such, to avoid challenges that Congress was broadly delegating legislative authority to the executive branch to enter into such agreements, Congress enacted the Trade Act of 1974 and Trade Act of 2002, which provides the President with guidelines and authorization to engage in such trade negotiations.[10]

The most well-known examples of CEAs are the World Trade Organization Government Procurement Agreement (GPA), the North American Free Trade Agreement (NAFTA), and numerous other bilateral free trade agreements (FTA).[11]

World Trade Organization Government Procurement Agreement (GPA)

The agreement that established the World Trade Organization (WTO)[12] came as a result of the Uruguay Rounds of Multilateral Trade Negotiations, which also produced a series of other

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[4] *See supra*, note 2 (Exceptions include the following: "where the cost of the domestic end product would be unreasonable; where domestic end products are not reasonably available in sufficient commercial quantities of a satisfactory quality; where the agency head determines that a domestic preference would be inconsistent with the public interest; where the purchases are for use outside of the United States; where the purchases are less than the micro purchase threshold; and where the purchases are for commissary resale.").
[5] *Id.*
[6] The Congressional Research Service, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather than Treaties* (July 28, 2004), available at http://assets.opencrs.com/rpts/97-896_20040728.pdf (last visited January 13, 2012).
[7] *See* U.S. Const. art. 2, s. 2.
[8] Restatement Third of Foreign Relations Law s. 303, note 9 (1987).
[9] The Congressional Research Service, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather than Treaties* (July 28, 2004), available at http://assets.opencrs.com/rpts/97-896_20040728.pdf (last visited January 13, 2012).
[10] *Id.*
[11] A list of the federal government's current procurement obligations under international agreements is available at http://www.ustr.gov/trade-topics/government-procurement.
[12] In a letter dated November 7, 1991, Governor Lawton Chiles authorized coverage of Florida under the GATT/WTO Government Procurement Agreement. (See email correspondence with Jean Grier, Senior Procurement Negotiator in the

international agreements, including the GPA.[13] As enumerated in the preamble, the GPA's objective is the expansion of world trade through three primary measures:

- Prohibition on discrimination based on national origin;
- Establishment of clear, transparent laws, regulations, procedures, and practices regarding governmental procurement; and
- Application of competitive procedural requirements related to notification, tendering (bidding), contract award, tender (bid) protest, etc.[14]

With respect to discrimination on the basis of national origin, Article III of the agreement expressly forbids the application of less favorable treatment to the products, services and suppliers of other foreign parties than that which would be accorded to domestic products, services, and suppliers or the products, services, and suppliers of another party to the GPA.[15] Moreover, the agreement further provides that all parties will ensure that the laws, regulations, procedures, and practice regulating government procurement in their home state will be executed in a nondiscriminatory manner.[16]

Accordingly, procurement provisions stipulated in the Buy American Act will yield to nondiscriminatory provisions espoused in international trade agreements. The interplay between the act and international trade agreements is described below:

> [T]he Trade Agreements Act of 1979 authorizes the President to waive any otherwise applicable "law, regulation or procedure regarding Government procurement" that would accord foreign products less favorable treatment than that given to domestic products. Article 1004 of The North American Free Trade Agreement (between the United States, Mexico, and Canada) disallows domestic protection legislation, such as the Buy- American Act, in government procurement. Other treaties and agreements also place limitations on the application of the act and must be considered when looking at any Buy American question.[17, 18]

Office of the United States Trade Representative, on file with the Senate Committee on Governmental Oversight and Accountability).

[13] Signatory countries: Armenia, Canada, Austria Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia, Bulgaria, Romania, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, and Chinese Taipei.

[14] 1994 Uruguay Round Agreement on Government Procurement, April 15, 1994, WTO Agreement, Annex 4(b) (hereinafter "GPA"), *and see* GPA Appendix I (United States), Annex 2 (discusses sub-central government entities, such as Florida), both available at http://www.wto.org/english/docs_e/legal_e/legal_e.htm (last visited January 16, 2012).

[15] *Id*.

[16] *Id*.

[17] Congressional Research Service, *The Buy American Act: Requiring Government Procurements to Come from Domestic Sources*, (March 13, 2009), available at http://assets.opencrs.com/rpts/97-765_20080829.pdf (last visited January 13, 2012).

[18] *See* 19 U.S.C. ss. 2511(a), 2531, 2532, and 2533 (2011); *see also* Exec. Order No. 12260, 48 C.F.R. 25.402, *reprinted as* 19 U.S.C. 2512(b)(2), available at http://www.presidency.ucsb.edu/ws/index.php?pid=44462#axzz1jXJhYUyX (last visited January 16, 2012).

As such, Florida's executive branch is covered under the GPA[19] for purchases that exceed $552,000 for commodities and services and $7,777,000 for construction services.[20] Florida was 1 of 37 states to agree to procure in accordance with the GPA.[21]

Free Trade Agreements

In addition to the GPA, the United States has also entered into several bilateral free trade agreements[22] and two multilateral free trade agreement,[23] with the most highly recognized being NAFTA. As with the GPA, all these agreements contain provisions that call for fair and non-discriminatory treatment of products, goods, and services by all state parties. When necessary, the United States has issued waivers to protect parties from discriminatory purchasing requirements found under existing law that would be contrary to the covenants embodied in such international agreements.[24]

III. Effect of Proposed Changes:

Section 1 amends s. 287.058, F.S., to require that state agency contracts in excess of $35,000 must include a provision specifying that all call center services provided by the contractor and all subcontractors must be staffed by persons located within the United States.

Section 2 provides that the bill takes effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[19] *See* Annex 2 (Sub-Central Government Entities), *supra*, note 14.
[20] 76 F.R. 76808-01, Dec. 8, 2011.
[21] In a letter dated November 7, 1991, Governor Lawton Chiles authorized coverage of Florida under the GATT/WTO Government Procurement Agreement. (See email correspondence with Jean Grier, Senior Procurement Negotiator in the Office of the United States Trade Representative, on file with the Senate Committee on Governmental Oversight and Accountability).
[22] The United States has entered bilateral free trade agreements with the following countries: Australia, Bahrain, Canada, Chile, Israel, Morocco, Oman, Peru, and Singapore. This information is available at http://www.ustr.gov/trade-topics/government-procurement/ftas-government-procurement-obligations (last visited January 14, 2012).
[23] NAFTA (member countries: United States, Mexico, and Canada) and DR-CAFTA (El Salvador, Dominican Republic, Guatemala, Honduras, Nicaragua, and Costa Rica). This information is available at http://www.ustr.gov/trade-topics/government-procurement/ftas-government-procurement-obligations (last visited January 14, 2012).
[24] *See supra*, note 18.

D. Other Constitutional Issues:

The Foreign Commerce Clause and Market Participant Exception

The Commerce Clause found in Article I, Section 8, Clause 3 provides that Congress shall have the power "to regulate commerce with foreign Nations, and among the several States."[25] The Commerce Clause acts not only as a positive grant of power to Congress, but also as a negative constraint upon the states. [26] As such, states may not enact laws which improperly intrude upon the federal government's exclusive power to set foreign affairs policy for the nation as a whole.[27]

For this reason, courts review state action affecting foreign commerce with heightened scrutiny.[28] The U.S. Supreme Court has explained the applicable standard as follows: "It is a well-accepted rule that state restrictions burdening foreign commerce are subjected to a more rigorous and searching scrutiny. It is crucial to the efficient execution of the Nation's foreign policy that the federal government … speak with one voice when regulating commercial relations with foreign governments."[29] Accordingly, requiring domestic call-center services for state contracts may potentially implicate the Commerce Clause of the U.S. Constitution.

Equally, it should also be noted that because the state is acting as a "market participant" under this bill, the market participant exception to the Commerce Clause limitations on state action may be applicable. When a state or local government is acting as a "market participant" rather than a "market regulator," it is not subject to the limitations of the Interstate Commerce Clause.[30] A state is considered to be a "market participant" when it is acting as an economic actor, such as a purchaser of goods and services.[31]

However, as it relates to the Foreign Commerce Clause, the law is unsettled regarding the applicability of the market participant exception. In *Trojan Techs., Inc. v. Pennsylvania*, the federal Third Circuit Court of Appeals upheld the validity of a Pennsylvania procurement statute that required suppliers contracting with a public agency for public works projects to provide products made of American steel. [32] There, the court found that the market participant exception did extend to the Foreign Commerce Clause.[33] Conversely, the federal First Circuit Court of Appeals, in *National Foreign Trade*

[25] U.S. CONST. Art. I, s. 8.
[26] *See Gibbons v. Ogden*, 22 U.S. 1 (1824).
[27] *Japan Line, Ltd. v. County of Los Angeles*, 441 U.S. 434, 450 (1970); *see also,* Shannon Klinger and Lynn Sykes, *Exporting the Law: A Legal Analysis of State and Federal Outsourcing Legislation*, National Foundation for American Policy, April 2004.
[28] *Id.* at 446. ("When construing Congress' power to 'regulate commerce with foreign Nations,' a more extensive constitutional inquiry is required.").
[29] *South-Central Timber Develop., Inc. v. Wunnicke*, 467 U.S. 82, 100 (1984) (citing *Michelin Tire Corp. v. Wages*, 723 U.S. 276, 285 (1979)).
[30] *See White v. Massachusetts Council of Constr. Employers, Inc.*, 460 U.S. 204, 208 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).
[31] *Id.*
[32] *Trojan Techs., Inc. v. Pennsylvania*, 916 F. 2d 903, 912 (3d Cir. 1990), *cert denied*, 501 U.S. 1212 (1991).
[33] *Id.* at 910.

Council v. Natsios, refused to extend the market participant exception to the Interstate Commerce Clause.[34]
To date, neither the federal Eleventh Circuit Court of Appeals nor the U.S. Supreme Court has spoken on the matter.

Federal Preemption

In addition to the Foreign Commerce Clause, SB 678 may also implicate federal preemption. When dealing with subject matter relating to foreign affairs, the U.S. Supreme Court (Supreme Court) has stated the following: "Our system of government is such that the interest of the people of the whole nation imperatively requires that federal power in the field of affecting foreign relations be left entirely free from local interference."[35] As such, a series of cases by the Supreme Court have struck down state laws directed at foreign conduct that have been interpreted by the Court as conflicting with federal policy and intent.

In *Zschernig v. Miller*, the Supreme Court struck down an Oregon probate law that restricted the right of an alien not residing within the United States or its territories to take either real or personal property by succession or testamentary disposition was dependent upon the existence of a reciprocal right in that alien's home country.[36] While the law did not explicitly direct its application to any particular county, the Supreme Court, nevertheless, held that the statute did constitute an "intrusion by the state into the field of foreign affairs which the Constitution entrusts to the President and Congress" and was therefore unconstitutional.[37]

Similarly, in *American Insurance Association v. Garamendi*, the Supreme Court concluded that a California law that required insurance companies doing business in California and who had sold policies in Europe to Holocaust victims during World War II to disclose information concerning those policies was preempted under federal law.[38] During the time that California enacted that law, the federal government was engaging in international discussions with Germany and other international stakeholders with the aim of establishing a comprehensive framework for identifying and resolving such outstanding insurance claims.[39] As such, the state law was held unconstitutional for impermissibly conflicting with the federal government's foreign relation power.[40]

Additionally, the Supreme Court in *Garamendi* also addressed the weight to be given to executive agreements when it held that "valid executive agreements are fit to preempt state law, just as treaties are."[41] To this end, the Court relied on its previous holding in *Zschernig* when it stated that "state action with more than an incidental effect on foreign

[34] *National Foreign Trade Council v. Natsios*, 181 F.3d 38, 60 (1st Cir. 1999), *cert granted* , 528 U.S. 1018 (1999).
[35] *Am. Ins. Ass'n v. Garamendi,* 539 U.S. 396, 418 (2003) (citing *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941)).
[36] *Zschernig v. Miller*, 389 U.S. 429, 441 (1968).
[37] *Id.* at 433 (finding that Department of Justice's acquiescence to the Oregon statute did not justify upholding the statute seeing the potential for great diplomatic disruption).
[38] *Garamendi*¸539 U.S. at 420.
[39] *Id.* at 406-408.
[40] *Id.* at 420.
[41] *Id.* at 416.

affairs is preempted, even absent any affirmative federal activity in the subject area of the state law, and hence without any showing of conflict."[42]

Lastly, with respect to state government procurement activity, the Supreme Court, in *Crosby v. National Foreign Trade Council,* concluded that a Massachusetts' law prohibiting its agencies from purchasing goods and services from companies that did business with Burma, with some limited exceptions, was unconstitutional.[43] Similar to *Garamendi,* the federal government had acted and was reassessing its current foreign relations status with Burma in light of reports of human rights violations by the government. As such, Congress passed a statute that imposed a set of mandatory and conditional sanctions on Burma, as well as authorized the President to impose such sanctions subject to the limitation that they would only limit United States persons from conducting *new* business in Burma.[44]

The existence of both the state and federal law created a direct conflict, seeing that Massachusetts' ban restricted all contracts between the state and companies doing business in Burma, making the state law more overreaching than the prohibitions imposed by the President through congressional authorization. Accordingly, the Supreme Court concluded the following:

> [T]he state act undermines the President's capacity, in this instance, for effective diplomacy. It is not merely that the differences between the state and federal acts in scope and type of sanctions threaten to complicate discussions; they comprise the very capacity of the President to speak for the Nation with one voice in dealing with other governments. We need not get into any general consideration of limits of state action affecting foreign affairs to realize that the President's maximum power to persuade rests on his capacity to bargain for the benefits of access to the entire national economy without exception for enclaves fenced off willy-nilly by inconsistent political tactics. When such exceptions do qualify his capacity to present a coherent position on behalf of the national economy, he is weakened, of course, not only in dealing with the Burmese regime, but in working together with other nations in hopes of reaching common policy and "comprehensive" strategy.[45]

Accordingly, because SB 678 implicates foreign relations by requiring that state agency contracts in excess of $35,000 must include a provision specifying that all call center services provided by the contractor and all subcontractors must be staffed by persons

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[42] *Id. at* 418 ("Our system of government is such that the interest of cities, counties, and states, no less than the interest of the people of the whole nation, imperatively requires that federal power in the field affecting foreign relations be left entirely free from local interference.").
[43] *Crosby v. National Foreign Trade Council,* 530 U.S. 363, 388 (2000).
[44] *Id.* at 378-382; *See also, Id.* at 375 ("When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.").
[45] *Id.* at 381-382.

located within the United States it may be subject to a federal preemption challenge for the reasons described above. While the statute does not appear to target any specific country, as was the case in *Crosby*, it does implicate foreign relations in a manner similar to that described in *Garamendi* and *Zschernig*, seeing that the SB 678's requirement may conflict with existing government procurement obligations as enumerated in the international agreements entered into by the United States with other nations, which this state is subject to comply with.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 678 could limit the number of private companies qualified to enter into procurement contracts with the state.

C. Government Sector Impact:

SB 678 could have fiscal implications if the cost of domestic labor is higher than the cost of labor in foreign markets.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Smith

29-00658-12 2012678__

A bill to be entitled

An act relating to state contracts; amending s. 287.058, F.S.; requiring all state contracts of more than a certain amount to require any call-center services to be staffed by persons located within the United States; providing an effective date.

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

Section 1. Subsection (1) of section 287.058, Florida Statutes, is amended to read:

287.058 Contract document.—

(1) A ~~Every~~ procurement of contractual services in excess of the threshold amount provided under ~~in~~ s. 287.017 for CATEGORY TWO, except for ~~the providing of~~ health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or ~~the providing of~~ other benefits as required by ~~the provisions of~~ chapter 440, must ~~shall~~ be evidenced by a written agreement embodying all provisions and conditions for ~~of~~ the procurement of such services, which ~~shall~~, where applicable, must include, but need not be limited to, a provision:

(a) Providing that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit ~~thereof~~.

(b) Providing that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) Specifying that all call-center services provided

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

29-00658-12 2012678__

pursuant to the contract be staffed by persons located within the United States. This also applies to all call-center services performed by a subcontractor pursuant to the contract.

(d) ~~(c)~~ Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and s. 119.07(1).

(e) ~~(d)~~ Specifying a scope of work which ~~that~~ clearly establishes all tasks the contractor is required to perform.

(f) ~~(e)~~ Dividing the contract into quantifiable, measurable, and verifiable units of deliverables which ~~that~~ must be received and accepted in writing by the contract manager before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and criteria for evaluating the successful completion of each deliverable.

(g) ~~(f)~~ Specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(h) ~~(g)~~ Specifying that the contract may be renewed for up to ~~a period that may not exceed~~ 3 years or the term of the original contract, whichever ~~period~~ is longer, specifying the renewal price for the contractual service as set forth in the bid, proposal, or reply, specifying that costs for the renewal may not be charged, and specifying that renewals are ~~shall be~~ contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to s. 287.057(3)(a) and (c) may not

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

59 be renewed.
60 (i) ~~(h)~~ Specifying the financial consequences that the
61 agency must apply if the contractor fails to perform in
62 accordance with the contract.
63 (j) ~~(i)~~ Addressing the property rights of any intellectual
64 property related to the contract and the specific rights of the
65 state regarding the intellectual property if the contractor
66 fails to provide the services or is no longer providing
67 services.
68
69 In lieu of a written agreement, the department may authorize the
70 use of a purchase order for classes of contractual services~~,~~ if
71 the provisions of paragraphs (a)-(j) ~~(a)-(i)~~ are included in the
72 purchase order or solicitation. The purchase order must include,
73 but need not be limited to, an adequate description of the
74 services, the contract period, and the method of payment. In
75 lieu of printing the provisions of paragraphs (a)-(j) ~~(a)-(i)~~ in
76 the contract document or purchase order, agencies may
77 incorporate the requirements of those paragraphs ~~(a)-(i)~~ by
78 reference.
79 Section 2. This act shall take effect July 1, 2012.

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)

2/21/12
Meeting Date

Topic _____

Bill Number 678 *(if applicable)*

Name Frank Meiners

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address PO 1633
Street

Tall FL 32301
City *State* *Zip*

Phone 850 591-0177

E-mail frank@chgmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Ayerdc. Industries of FL

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 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: February 14, 2012

I respectfully request that **Senate Bill #678**, relating to State Contracts, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Christopher L. "Chris" Smith
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: CS/CS/SB 704

INTRODUCER: Budget Subcommittee on General Government Appropriations; Community Affairs Committee and Senator Bennett

SUBJECT: Building Construction and Inspection

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.	Howard	DeLoach	BGA	**Fav/CS**
3.	Howard	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill amends a number of provisions related to building construction and inspection in Florida. The bill:

- modifies how local government code enforcement boards serve notices on property owners;
- revises definitions, outlines permitting measures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems;
- authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes;
- includes certain fire safety inspectors among those eligible to take the building code inspector or plans examiner certification exam and shortens the time length of a provisional certificate for newly employed or promoted inspectors or examiners;
- includes landscape architecture in the mold assessment exemption;
- (1) creates a licensure exemption for property owners installing, uninstalling, or replacing solar panels; (2) requires electronic permit application to include disclosure statement as true and correct; (3) exempts solar projects from an owner's notarized signature or personal appearance to sign the permit application;

- expands the meaning of 'demolish' as it is used to define licensed contractors;
- modifies plumbing contractor scope of services to include water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems;
- eliminates the glass and glazing contractor as a required licensed contractor;
- clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings;
- increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- changes how certain Florida Building Code permit fee surcharges are allocated;
- exempts specified hunting structures from the Florida Building Code;
- provides an expiration date related to a subsection in the Florida Building Code as it relates to exposed mechanical equipment or appliances fastened to a roof or installed on the ground;
- allows for electronic filing related to the Florida Fire Prevention Code;
- removes the notary requirement for certain solar project documents submitted electronically; and
- directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design and establish a workgroup to assist the commission in developing a rule for implementing an alternative screen design.

The bill substantially amends sections 162.12, 381.0065, 468.604, 468.609, 468.841, 489,103, 489.105, 489.127, 489.531, 553.721, 553.73, 553.844, 633.0215, and 713.135, of the Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Local Government Code Enforcement Board Notices

Code Enforcement Boards and Procedures

Chapter 162, Part I of the Florida Statutes governs local government code enforcement boards. These county and municipality administrative boards are authorized to impose fines and other noncriminal penalties to enforce local government code and ordinance violations.[1]

The boards consist of five or seven members appointed by the local governing body.[2] An authorized agent or employee of the local government serves as a code inspector to assure code compliance and to initiate any enforcement proceedings.[3] If a violation of the codes is found, the code inspector notifies the violator and gives the person a reasonable time to correct the transgression. If the violation persists beyond the time specified for correction, a hearing is requested and scheduled, and the code enforcement board provides notice pursuant to s. 162.12, F.S.[4]

[1] *See* sections 162.02 and 162.03, F.S. An alternative enforcement system utilizing special magistrates is also an option.
[2] Section 162.05, F.S. If the local governing body has a population of less than 5,000 persons, the code enforcement board may consist of five or seven members. If the population is 5,000 or more persons, the board must be seven members.
[3] Section 162.04(2), F.S.
[4] *See* section 162.06, F.S.

At the conclusion of a hearing, the enforcement board issues findings of fact and an order affording proper relief. The order may include a notice for compliance by a specified date and that a fine may be imposed.[5] Fines may not exceed $250 per day for a first violation and shall not exceed $500 per day for a repeat violation.[6]

Code Enforcement Notices

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

> certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, *and* at any other address provided to the local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. *and* by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing.[7]

The other options for serving notices in s. 162.12(1), F.S., are:

- hand delivery by the sheriff, code inspector, or other designated person;
- leaving at the violator's residence with any person residing there above the age of 15; or
- for commercial premises, leaving the notice with the manager or other person in charge.[8]

There is currently no specific guidance in s. 162.12(1), F.S., for serving notices on property owned by a corporation.

In addition to providing notice as set forth in subsection (1) of s. 162.12, F.S., subsection (2) provides optional noticing by publication or posting as follows:

- published once during each week for four consecutive weeks in a newspaper of general circulation in the county where the code enforcement board is located;
- posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which is at the property of the alleged violation and the other at the primary municipal or county government office.

Proof of posting is by affidavit of the person posting the notice. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail.[9] Evidence that an attempt has been made to hand deliver or mail a notice together with proof of publication or posting satisfies the notice requirements regardless of whether or not the alleged violator actually received such notice.[10]

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[5] *See* section 162.07, F.S.
[6] *See* section 162.09, F.S.
[7] Section 162.12(1)(a), F.S. *Italics* added.
[8] *See* ss 162.12(b)-(d), F.S.
[9] Section 162.12(2), F.S.
[10] *Id.*

The Department of Health's Regulation of Septic Tanks

The Department of Health (DOH) oversees an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. One component of the program is administration of septic systems.[11]

An "onsite sewage treatment and disposal system" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.[12]

The DOH estimates there are approximately 2.67 million septic tanks in use statewide.[13] The DOH's Bureau of Onsite Sewage (bureau) develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of septic systems within the state. The bureau also licenses septic system contractors, approves continuing education courses and courses provided for septic system contractors, funds a hands-on training center, and mediates septic system contracting complaints. The bureau manages a state-funded research program, prepares research grants, and reviews and approves innovative products and septic system designs.[14]

In 2008, the Legislature directed the DOH to submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by no later than October 1, 2008, which identifies the range of costs to implement a mandatory statewide five-year septic tank inspection program to be phased in over 10 years pursuant to the DOH's procedure for voluntary inspection, including use of fees to offset costs.[15] This resulted in the "Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program" (report).[16] According to the report, three Florida counties, Charlotte, Escambia and Santa Rosa, have implemented mandatory septic tank inspections at a cost of $83.93 to $215 per inspection.

The report stated that 99 percent of septic tanks in Florida are not under any management or maintenance requirements. Also, the report found that while these systems were designed and

[11] *See* s. 381.006, F.S.
[12] Section 381.0065(2)(j), F.S.
[13] Florida Dep't of Health, Bureau of Onsite Sewage, *Home*, http://www.myfloridaeh.com/ostds/index.html (last visited Dec. 19, 2011).
[14] Florida Dep't of Health, Bureau of Onsite Sewage, *OSTDS Description*, http://www.myfloridaeh.com/ostds/OSTDSdescription.html (last visited Dec. 19, 2011).
[15] *See* ch. 2008-152, Laws of Fla.
[16] Florida Dep't of Health, Bureau of Onsite Sewage, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, October 1, 2008, available at http://www.doh.state.fl.us/environment/ostds/pdfiles/forms/MSIP.pdf (last visited Dec. 19, 2011).

installed in accordance with the regulations at the time of construction and installation, many are aging and may be under-designed by today's standards. The DOH's statistics indicate that approximately 2 million septic systems are 20 years or older, which is the average lifespan of a septic system in Florida.[17] Because repairs of septic systems were not regulated or permitted by the DOH until March 1992, some septic systems may have been unlawfully repaired, modified or replaced. Furthermore, 1.3 million septic systems were installed prior to 1983. Pre-1983 septic systems were required to have a 6-inch separation from the bottom of the drainfield to the estimated seasonal high water table. The standard since 1983 for drainfield separation is 24 inches and is based on the 1982 Water Quality Assurance Act and on research findings compiled by the DOH that indicate for septic tank effluent, the presence of at least 24 inches of unsaturated fine sandy soil is needed to provide a relatively high degree of treatment for pathogens and most other septic system effluent constituents.[18] Therefore, Florida's pre-1983 septic systems and any illegally repaired, modified or installed septic systems may not provide the same level of protection expected from systems permitted and installed under current construction standards.[19]

Flow and Septic System Design Determinations

For residences, domestic sewage flows are calculated using the number of bedrooms and the building area as criteria for consideration, including existing structures and any proposed additions.[20] Depending on the estimated sewage flow, the septic system may or may not be approved by the DOH. For example, a current three bedroom, 1,300 square foot home is able to add building area to have a total of 2,250 square feet of building area with no change in their approved system, provided no additional bedrooms are added.[21]

Minimum required treatment capacities for septic systems serving any structure, building or group of buildings are based on estimated daily sewage flows as determined below.[22]

TABLE OF AEROBIC SYSTEMS PLANT SIZING RESIDENTIAL		
Number of Bedrooms	Building Area (ft^2)	Minimum Required Treatment Capacity(gallons per day)
1 or 2	Up to 1200	400
3	1201-2250	500
4	2251-3300	600

Minimum design flows for septic systems serving any structure, building or group of buildings are based on the estimated daily sewage flow. For residences, the flows are based on the number

[17] Florida Dep't of Health, Bureau of Onsite Sewage, *Onsite Sewage Treatment and Disposal Systems in Florida (2010)*, available at http://www.doh.state.fl.us/Environment/ostds/statistics/newInstallations.pdf (last visited Dec. 22, 2011). *See also* Florida Dep't of Health, Bureau of Onsite Sewage, *What's New?*, available at http://www.doh.state.fl.us/environment/ostds/New.htm (last visited on Dec. 22, 2011).
[18] Florida Dep't of Heath, Bureau of Onsite Sewage, *Bureau of Onsite Sewage Programs Introduction*, available at http://www.doh.state.fl.us/Environment/learning/hses-intro-transcript.htm (last visited Jan. 3, 2012).
[19] *Id.*
[20] Rule 64E-6.001, F.A.C.
[21] *Id.*
[22] Table adapted from Rule 64E-6.012, F.A.C.

of bedrooms and square footage of building area. For a single- or multiple-family dwelling unit, the estimated sewage flows are: for 1 bedroom with 750 square feet or less building area, 100 gallons; for two bedrooms with 751-1,200 square feet, 200 gallons; for three bedrooms with 1,201-2,250 square feet, 300 gallons; and for four bedrooms with 2,251-3,300 square feet, 400 gallons. For each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing is to be increased by 100 gallons.[23]

Electronically Transmitted Construction Documents

Building Code Administrators and the Permitting Process

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of building code administration and inspection in this state.[24] "Building code administrators" or "building officials" are the local government employees charged with building construction regulation responsibilities. These responsibilities are linked to the permitting process and include plan review, enforcement, and the inspection of building construction, remodeling, and demolition. Officials verify compliance with construction codes as required by state law or municipal or county ordinance relating to plumbing, mechanical, electrical, gas, fire prevention, energy, and accessibility.[25]

Section 468.604 (1), F.S., requires that construction plans be reviewed by a building code administrator or building official before the issuance of any building, system installation, or other construction permit. In addition, the administrator or official must also inspect each phase of construction where a building or other construction permit has been issued.[26]

To obtain a permit, the Florida Building Code provides that an applicant shall first file an application in writing on a form furnished by the appropriate building department for the intended purpose.[27] Permit application forms shall be in a format prescribed by a local administrative board, if applicable, and must comply with the requirements of s. 713.135(5) and (6), F.S.

Section 713.135(5), F.S., requires building permit applications to include the names and addresses of property owners and contractors and a description sufficient to identify the property. Section 713.135(6), F.S., delineates the format for building permit applications which include owner and contractor signatures as well as notarization.[28] The section also provides that an authority responsible for issuing building permits may accept a building permit application in an electronic format, as prescribed by the authority. Electronically submitted permits must contain an additional "owner's electronic submission statement."[29]

[23] Rule 64E-6.008, F.A.C.
[24] Section 468.601, F.S.
[25] Section 468.603(1), F.S.
[26] Section 468.604(1), F.S.
[27] Section 105.3, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).
[28] Section 117.021(1), F.S., provides that "any document requiring notarization may be notarized electronically."
[29] Section 713.135(6)b, F.S.

Construction documents outlining floor, site, and foundation plans, as well as other data, are submitted in one or more sets with each application for a permit. Electronic media versions of these documents are allowed to be submitted when approved by the building official.[30]

Electronic Signatures

The intent of the "Electronic Signature Act of 1996," is to facilitate economic development and efficient delivery of government services through electronic messages.[31] The act also aims to foster the development of electronic commerce through the use of electronic signatures. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.[32]

Part II, ch. 668, F.S., contains the "Uniform Electronic Transaction Act" which sets forth requirements for the validation and effect of electronic records and electronic signatures. It also provides for agreement variation in order to facilitate, but not require, the use of electronic means in conducting transactions.[33]

Statutorily Authorized Electronic Submission of Documents and Seals

Certain professions regulated by the state have statutory authority to electronically submit documents and to utilize electronic seals. These include:

- architects,[34]
- engineers,[35]
- interior designers,[36]
- landscape architects,[37] and
- land surveyors and mappers.[38]

In addition, in 2009, the Legislature required each clerk of court to implement an electronic filing process in an effort to reduce judicial costs, increase timeliness in the processing of cases, and improve judicial case management.[39]

Certification Standards for Building Code Administration Personnel

A person 18 years of age and of good moral character may meet one of five eligibility requirements to take the building code inspector or plans examiner certification exam.[40] The eligibility requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the

[30] Sections 106.1.1 and 106.3.5, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).
[31] *See* s. 668.002, F.S.
[32] Section 668.004, F.S.
[33] *See* Comm. on Commerce and Economic Opportunities, The Florida Senate, *CS/CS/SB 1334 Electronic Commerce*, Florida Senate 2000 Session Summary, *available at* http://archive.flsenate.gov/publications/2000/senate/reports/summaries/pdf/Comm.pdf.
[34] Section 481.221(2), F.S.
[35] Section 471.025(1), F.S.
[36] Section 481.221(3), F.S.
[37] Section 481.321(1), F.S.
[38] Section 472.025(1), F.S.
[39] Section 28.22205, F.S.
[40] *See* s. 468.609, F.S.

Florida Building Code Administrators and Inspectors Board (board) and complete an inspector or examiner training program.

Section 468.609(7)(a), F.S., allows the board to issue provisional building code inspector or plans examiner certificates to newly employed or promoted inspectors or examiners. These provisional certificates are valid for not less than three years nor more than five years.

Construction Contracting and Licensure to Demolish

The legislature deems it necessary in the interest of public health, safety and welfare to regulate the construction industry.[41] Chapter 489, part I of the Florida Statutes governs construction contracting in the state and establishes the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) to carry out chapter provisions.[42]

The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings relating to licensure and discipline. The board engages in rulemaking to implement the provisions set forth in statutes and conducts other general business, as necessary.[43]

Section 489.105(3), F.S., defines "contractor" as

> a person, who for compensation undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, *demolish*, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others . . . .[44]

Of the defined contractor activities, demolish is the sole act that receives additional clarification in the statute.

> For the purposes of regulation under this part, "demolish" applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall.[45]

Given the above qualifying language, demolition of buildings or residences that are *three stories in height or less* as well as steel tanks, towers and other structures *50 feet in height or less* do not require licensure pursuant to Chapter 489, Florida Statutes.[46] According to the DBPR, the

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[41] Section 489.101, F.S.
[42] Section 489.107(1). F.S.
[43] Florida Department of Business and Professional Regulation, *Construction Industry Licensing Board*, http://www.myfloridalicense.com/dbpr/pro/cilb/ (last visited Dec. 14, 2011).
[44] *Italics* added.
[45] Section 489.105(3), F.S.
[46] *See* Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).

number of unlicensed persons currently demolishing residences and buildings three stories or less or tanks and towers 50 feet or less is unknown.[47]

Construction Contracting

Contracting is defined in the context of the regulation of construction contracting under ch. 489, F.S. Section 489.105(6) defines "contracting" with the following exemption:

> . . . the term "contracting" shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, or to the individual or business entity that offers to sell or sells manufactured or factory-built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing or completing such residences.

Penalties for Unlicensed Contracting

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively.
The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer.[48] The maximum civil penalty which may be levied shall not exceed $500.[49]

Florida Building Code Permit Fee Surcharge

Florida Building Code and Building Commission
In 2000, the Florida Legislature enacted chapter 2000-141, Laws of Florida, to provide for the adoption of the Florida Building Code (Code), a unified building code for the state. The Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public and private buildings or structures.[50] It is adopted and maintained by the Florida Building Commission (Commission) which is located within the DBPR. The Code is enforced by authorized state and local government enforcement agencies.[51] The Commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, F.S., updates the Code every three years.[52]

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[47] *Id*.
[48] *See* s. 489.127(5)(c) and s. 489.531(4)(c), F.S.
[49] *Id*.
[50] Section 553.72(1), F.S.
[51] Section 553.72(3), F.S. The Commission is composed of 25 members appointed by the Governor subject to confirmation by the Senate.
[52] Section 553.73(7)(a), F.S.

Building Code Permit Fee Surcharges

The governing bodies of local governments may provide a schedule of fees to administer their responsibilities enforcing the Code.[53] In order for the Department of Business and Professional Regulation (DBPR) to administer and carry out the purposes of the Code and related activities, a surcharge is assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Code.[54] The minimum amount collected on any permit issued is $2. Surcharge funds are electronically remitted to the DBPR on a quarterly calendar basis.

The unit of government collecting and remitting these funds retains 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to DBPR are deposited in the Professional Regulation Trust Fund.[55] Funds collected from surcharges are used exclusively for the duties of the Florida Building Commission and the DBPR. Funds used by the DBPR as well as funds to be transferred to the Department of Health are prescribed in the annual General Appropriations Act.

Building Code Compliance and Mitigation Program

Created by Chapter 98-287, s. 52, Laws of Fla. as the Building Code Training Program, s. 553.841, F.S., governs what is now known as the Florida Building Code Compliance and Mitigation Program (Program). Administered by the DBPR, the Program develops, coordinates, and maintains education and outreach to persons required to comply with the Florida Building Code including methods for mitigation of hurricane and storm-related damage. All services and materials of the Program are provided by a private, nonprofit corporation under contract with the DBPR.[56] Program funding is provided by the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board pursuant to ss. 489.109(3) and 489.509(3), F.S.[57]

Florida Building Code Amendments and Exemptions

Section 553.72(1), F.S., provides that the Florida Building Code (Code) is to be "applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction." Among the purposes of the Code is the intent to "establish minimum standards primarily for public health and lifesafety, and, secondarily, for protection of property as appropriate."

While the Code is uniform in nature, s. 553.72(3)(d), F.S., states that the Florida Building Commission shall incorporate within sections of the Code provisions which address regional and local concerns and variations. In addition, local governments may adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of

[53] *See* s. 553.80, F.S.

[54] *See* s. 553.721, F.S., for this and the remaining information provided in this subsection of the analysis. A similar 1.5% surcharge of permit fees is assessed pursuant to s. 468.631, F.S., to fund the Florida Homeowners' Construction Recovery Fund established by s. 489.140, F.S., and to fund the functions of the Building Code Administrators and Inspectors Board.

[55] Pursuant to s. 215.37, F.S., the Professional Regulation Trust Fund consists of fees, licenses, and other charges assessed to practitioners of professions, as defined in ch. 455, F.S. by the DBPR. Separate accounts are maintained for each profession.

[56] According to the DBPR, Building a Safer Florida, Inc., is the nonprofit corporation currently providing services and materials for the Program. Their website is available at http://buildingasaferflorida.com/index.cfm?key=1.

[57] Section 553.841(5), F.S. According to the DBPR *Senate Bill 704 Analysis*, the Program has historically received funds from the Florida Building Commission appropriation or one-time appropriations from the Residential Construction Mitigation Program.

such government and which provide for more stringent requirements than those specified in the Florida Building Code.[58]

Permissive Exemptions for Single-Family Residences

Local governments and Code enforcement districts may adopt rules granting Code exemptions to owners of single-family residences.[59] These exemptions relate to:

- additions or repairs performed by the property owner which do not exceed 1,000 square feet or the square footage of the primary structure, whichever is less;
- additions or repairs by a non-owner within a specific cost limitation set by rule, provided the total cost does not exceed $5,000 within any 12-month period;
- building and inspections fees.[60]

Outright Exemptions for Buildings, Structures, and Facilities

The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:[61]

- Buildings and structures specifically regulated and preempted by the Federal Government.
- Railroads and ancillary facilities associated with the railroad.
- Nonresidential farm buildings on farms.
- Temporary buildings or sheds used exclusively for construction purposes.
- Mobile or modular structures used as temporary offices.[62]
- Structures or facilities of electric utilities which are directly involved in the generation, transmission, or distribution of electricity.
- Temporary sets, assemblies, or structures used in motion picture or television production.
- Storage sheds that are not designed for human habitation.[63]
- Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida.[64]
- Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site.[65]

The Florida Building Commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.[66]

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[58] Section 553.73(4)(a).
[59] Section 553.80(3)(b)1., F.S.
[60] Section 553.80(3)(b)1.a.-c., F.S.
[61] *See* s. 553.73(10)(a)-(j), F.S.
[62] Provisions relating to accessibility by persons with disabilities apply to such structures.
[63] Sheds of 720 square feet or less are not required to comply with wind-borne-debris-impact standards. Sheds 400 square feet or less are not subject to door height and width requirements.
[64] "Chickee" means an open-sided wooden hut that has a thatched roof made of traditional materials that does not incorporate any electrical, plumbing, or other non-wood features.
[65] These mausoleums have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
[66] Section 553.72(10)(j), F.S.

Thermal Efficiency Standards for certain Hunting and Recreational Buildings
Section 553.901, F.S., requires the DBPR to prepare a thermal efficiency code which provides a statewide uniform standard for energy efficiency in the thermal design and operation of all buildings consistent with energy conservation goals. Buildings exempted from thermal efficiency provisions include those with a minimal peak rate of energy usage, those neither heated nor cooled by a mechanical system, buildings where federal standards preempt state codes, and certain historical buildings.[67] The thermal efficiency standards for new residential buildings outlined in s. 553.905, F.S., do not apply to a building of less than 1,000 square feet which is not primarily used as a principal residence and which is constructed and owned by a natural person for hunting or similar recreational purposes.[68]

Federal Emergency Management Agency Flood Insurance Rate Maps

The Flood Insurance and Mitigation Administration (FIMA), a component of the Federal Emergency Management Agency (FEMA), manages the National Flood Insurance Program (NFIP). Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities. Community participation in the NFIP is voluntary.[69]

In addition to providing flood insurance and reducing flood damages through floodplain management regulations, the NFIP identifies and maps the Nation's floodplains. The official map of a community on which FEMA has delineated special hazard areas and the risk premium zones applicable to a community is known as a Flood Insurance Rate Map (FIRM).[70] Special flood hazard areas are defined as areas that will be inundated by a flood event having a one-percent chance of being equaled or exceeded in any given year. The one-percent annual chance flood is also referred to as the base flood or 100-year flood.[71]

Screen Enclosures

A screen enclosure is defined in the Florida Building Code as:

> a building or part thereof, in whole or in part self-supporting, and having walls of insect screening with or without removable vinyl or acrylic wind break panels and a roof of insect screening, plastic, aluminum or similar lightweight material.[72]

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[67] *See* s. 553.902, F.S.
[68] These standards relate to heating, ventilating, and air conditioning as well as insulation. Persons may not construct more than one exempt hunting or recreational building in any 12-month period.
[69] Federal Emergency Management Agency, United States Department of Homeland Security, *National Flood Insurance Program*, http://www.fema.gov/about/programs/nfip/index.shtm (last visited Dec. 14, 2011).
[70] FEMA provides map servicing information at https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1.
[71] Federal Emergency Management Agency, United States Department of Homeland Security, *Flood Zones*, http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/flood_zones.shtm (last visited Dec. 14, 2011).
[72] Section 202, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

Removable vinyl and acrylic panels shall be identified as removable by a decal. The identification decal shall essentially state "Removable panel SHALL be removed when wind speeds exceed 75 mph (34 m/s)." Decals shall be placed such that the decal is visible when the panel is installed.[73]

U.S Department of Energy SunShot Initiative

The SunShot Initiative is a collaborative national effort to make the United States a leader in the global clean energy race by fueling solar energy technology development. SunShot will enable widespread, large-scale adoption of solar across America by making solar energy systems cost-competitive with other forms of energy by the end of the decade.

The SunShot Initiative vision is to make the total cost of solar energy economically viable for everyday use, so that all Americans will benefit from this clean renewable energy resource.

The SunShot Initiative aims to reduce the total installed cost of solar energy systems by 75%. This can be accomplished by reducing solar technology costs, reducing grid integration costs, and accelerating solar deployment nationwide. The identified strategies include:

- Increasing PV solar cell efficiency, reducing production costs, and opening new markets for solar energy;
- Shortening the amount of time it takes to move promising new solar technologies from development to commercialization and strengthening the U.S. supply chain for solar manufacturing and commercialization of cutting-edge photovoltaic technologies;
- Driving down the cost of concentrating solar power (CSP), fostering collaboration for utility-scale solutions, and integrating solar into the electric grid, clearing the way for high-penetration solar;
- Investing in education, policy analysis, and technical assistance to remove critical barriers and speed rapid penetration; and
- Developing a well-trained workforce to foster U.S. job creation in the solar industry.

Current Contractor designations

Glass and glazing is currently a defined as a Division II contractor under the current contractor designation.

III. Effect of Proposed Changes:

Section 1 amends s. 162.12, F.S., to modify how local government code enforcement boards serve notices to alleged violators of local codes and ordinances. The bill allows for mail notices to be sent by certified mail *either* to an address listed in the tax collector's office *or* to any other address provided by the property owner. Currently, if mailing notices, local governments are required to send to the tax collector address *and* any other addresses.

[73] Section 2002.3.3, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

In addition, this section of the bill establishes a corporation's registered agent as the recipient of certified mail notices for property owned by a corporation.

The bill also amends s. 162.12, F.S., to permit local government code enforcement boards to proceed with service by publication or posting pursuant to s. 162.12(2)(b), F.S., if a notice sent by certified mail is not signed as received within 30 days of mailing. Enforcement boards would no longer be required to wait until the return receipt is returned as undeliverable or refused by the United States Postal Service.

Finally, the bill eliminates a requirement to provide notices by first class mail when exercising the publishing or posting options and removes a return receipt requested provision of notices sent via certified mail.

Section 2 amends definitions as used in ss. 381.0065-381.0067, F.S., related to onsite sewage and treatment disposal systems. The bill defines "bedroom" as a room that can be used for sleeping that, for site-built dwellings, has a minimum 70 square feet of conditioned space; or for manufactured homes, constructed to HUD standards having a minimum of 50 square feet of floor area. The room must be located along an exterior wall, have a closet and a door or an entrance where a door could be reasonably installed. It also must have an emergency means of escape and rescue opening to the outside. A room may not be considered a bedroom if it is used to access another room, unless the room that is accessed is a bathroom or closet. The term does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

The bill provides that a permit issued and approved by the DOH for the installation, modification, or repair of a septic system transfers with the title to the property. A title is not encumbered when transferred by new permit requirements that differ from the original permit requirements in effect when the septic system was permitted, modified or repaired.

The bill specifies a septic system serving a foreclosed property is not considered abandoned. It also specifies a septic system is not considered "abandoned" if it was properly functioning when disconnected from a structure made unusable or destroyed following a disaster, and the septic system was not adversely affected by the disaster. The septic system may be reconnected to a rebuilt structure if:

- reconnection of the septic system is to the same type of structure that existed prior to the disaster;
- has the same number of bedrooms or less than the structure that existed prior to the disaster;
- is within 110 percent of the size of the structure that existed prior to the disaster;
- the septic system is not a sanitary nuisance; and
- the septic system has not been altered without prior authorization.

The bill provides that the rules applicable and in effect at the time of approval for construction apply at the time of the final approval of the septic system if fundamental site conditions have not changed between the time of construction approval and final approval.

The bill provides that a modification, replacement, or upgrade of a septic system is not required for a remodeling addition to a single-family home if a bedroom is not added.

Section 3 creates subsection (4) of s. 468.604, F.S., specifying that should a building code administrator or building official provide for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668 and transmitted electronically to the building code administrator or building official for approval.

Section 4 amends s. 468.609(2)(c) and 468.609(7)(a), F.S., on certification of building code administration and inspection personnel. The bill adds provisions for existing fire safety inspectors among the eligibility requirements persons can meet to take the building code inspector or plans examiner certification exam. Currently, the requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the Florida Building Code Administrators and Inspectors Board and complete an inspector or examiner training program. The bill would allow a standard certificate *or* a fire safety inspector license issued pursuant to chapter 633 and two years of verifiable experience in inspection or plan review along with the training program.

The bill also shortens the time length of a building code inspector or plans examiner provisional certificate issued to newly employed or promoted inspectors or examiners to one year. Provisional licenses may be renewed by the Florida Building Code Administrators and Inspectors Board for just cause though for not more than three years.

Section 5 amends s. 468.841(1)(d), F.S., to include part II of chapter 481, Landscape Architecture in the exemption to comply with any provisions of s. 468.841, F.S., relating to mold assessment.

Section 6 creates subsection 3 of s. 489.103(7)(a), F.S., which creates a licensure exemption for property owners for the installment, uninstallment, or replacement of solar panels on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner.

The bill also amends s. 489.103(7)(c) to not require an owner's notarized signature or personal appearance to sign the permit application for a solar project if the building permit application is submitted electronically to the permitting authority and the owner certifies the application and disclosure statement using the permitting authority's electronic confirmation system.

The bill also creates subsection (d) in s. 489.103(7), F.S., requiring a building permit application and disclosure statement electronically submitted by an owner to the authority for a solar project. It must also contain a statement that all the information contained in the building permit application and the representations made in the required disclosure statement is true and correct as described in s. 489.103(7)(a)3.

In addition, subsection (e) is created in s. 489.103(7), F.S., stating that a permitting authority that accepts a building permit application and disclosure statement in an electronic format from an owner who is exempt pursuant to this subsection and who applies for a permit relating to a solar project is not liable in any civil action for inaccurate information submitted by the owner using the authority's electronic confirmation system.

Section 7 amends s. 489.105, F.S., to expand the definition of "contractor" to include those persons or businesses that contract to demolish any residence or building. Currently, contractor licensure to demolish buildings and residences only applies when these particular structures are over three stories tall.

Also amends s. 489.105(3)(m), F.S., to include in the scope of services of a plumbing contractor, water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems without obtaining an additional license.

In addition, subsection (q) of s. 489.105(3), F.S., is removed eliminating the glass and glazing contractor as a Division II contractor.

Section 8 creates an undesignated section of law to delineate that the amendments to s. 489.105(6), F.S., as enacted by s. 30 of chapter 2008-240, Laws of Florida, were intended to protect the sanctity of contracts for the sale of manufactured or factory-built buildings that will be completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The bill further provides that the amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with state law.

Section 9 amends prohibitions and penalties in Part I of Chapter 489, F.S., on construction contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.127(5)(c), F.S., rises from the $500 to $2,000.

Section 10 amends prohibitions and penalties in Part II of Chapter 489, F.S., on electrical and alarm systems contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.531(4)(c), F.S., rises from the $500 to $2,000.

Section 11 amends s. 553.721, F.S., to change how certain building code permit fee surcharges are allocated. Currently, funds collected from these surcharges are used exclusively for the duties of the Florida Building Commission and the Department of Business and Professional Regulation which includes the Florida Building Code Compliance and Mitigation Program. This section of the bill amends this to specifically earmark $925,000 annually for the Florida Building Code Compliance and Mitigation Program.

Section 12 amends s. 553.73, F.S., to exempt specified hunting structures from the Florida Building Code. Buildings or structures less than 1,000 square feet, constructed and owned by a natural person for hunting, and repaired or constructed to the same dimension and condition as existed on January 1, 2011, are eligible for the exemption if:

- the buildings or structures are not rented or leased or used as principal residences;
- they are not located within the 100-year floodplain; and
- they are not connected to an off-site electric power or water supply.

Section 13 amends s. 553.844(4), F.S. to establish the adoption date of the 2013 Florida Building Code as the effective expiration for the windstorm loss mitigation provisions for roofs and opening protection in s. 553.844, F.S.

Section 14 creates s. 633.0215(15), F.S., to allow the fire code administrator or fire official to provide that electronic filing, any construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668, and may be transmitted electronically to the fire code administrator or fire official for approval.

Section 15 amends s. 713.135(6)(b), F.S., removing the notary requirement for certain solar project documents submitted electronically. Section 713.135(d) is created to require a declaration statement by the owner that the issuing authority is not liable for inaccurate information submitted by the owner using the electronic permitting system.

Section 16 allows the Florida Building Commission to establish a workgroup to assist the commission in developing a rule for implementing an alternative design method for screen enclosures which allows for the removal of a section of the screen to accommodate high-wind events consistent with the provisions of the Florida Building Code.

The Florida Building Commission shall appoint the workgroup no later than August 1, 2012, complete the draft rule by November 1, 2012, and adopt the rule by January 1, 2013. The Florida Building Commission shall incorporate the alternative screen enclosure design method requirements into the next version of the Florida Building Code. This section expires upon adoption and implementation of the requirements into the Florida Building Code.

Section 17 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 8 of the bill may raise an impairment of contract constitutional issue. Both the Federal and Florida State Constitutions contain limitations on the State's right to alter or impair existing contracts.[74] Article I, Section 10 of the State Constitution and the Contract Clause of the United States Constitution prohibit laws impairing contractual obligations. Retrospective operation is not favored by courts, and a law is not construed

[74] *See* U.S. Const., Art. I, Sec. 10, clause 1; Fla. Const., Art. I, Sec. 10.

as retroactive unless the act clearly, by express language or necessary implication, indicates that the Legislature intended a retroactive application.[75] These provisions allow courts to strike laws which retroactively burden or alter contractual obligations.[76]

The framework courts use to determine whether a law has impaired a contract is similar to a rational basis review. The United States Supreme Court set forth a three part test for whether a law violates a private contract under the Contract Clause in Energy Reserves Group v. Kansas Power & Light.[77] First, the state regulation must substantially impair a contractual relationship. If it doesn't substantially impair a contractual obligation then the inquiry ends, as the Contract Clause applies only to laws which *substantially* impair contract rights. Second, the State "must have a significant and legitimate purpose behind the regulation, such as the remedying of a broad and general social or economic problem."[78] Third, the law must be reasonable and appropriate for its intended purpose.

Florida's Contract Clause interpretations have generally mirrored the United States Supreme Court's interpretation of the Contract Clause of the Constitution of the United States.[79]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons or businesses engaged in various phases of building construction, repair, remodeling or demolition may experience cost savings as a result of efficiencies accruing from electronic filing. Costs associated with the production and delivery of hard copy documents could be reduced.

Unlicensed persons currently demolishing residences and buildings three stories or less in height will be required to obtain a contractor license from the DBPR.

Unlicensed contractors will be subject to higher civil penalties.

Specified buildings designed for hunting purposes will be exempt from the Florida Building Code. Persons who own these buildings will encounter fewer building code regulation fees and requirements.

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[75] See *Heberle v. P.R.O. Liquidating Co.,* 186 So. 2d 280, 282 (1st DCA 1966) ("A strict rule of statutory construction indulged in by the courts is the presumption that the legislature, in the absence of a positive expression, intended statutes or amendments enacted by it to operate prospectively only, not retroactively.").
[76] *See In re Advisory Opinion to the Governor*, 509 So. 2d 292 (Fla. 1987); *Daytona Beach Racing & Recreational Facilities District v. Volusia County*, 372 So. 2d 419 (Fla. 1979).
[77] 459 U.S. 400 (1983).
[78] *Id.* at 411-13.
[79] *See generally Pomponio v. Cladridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1980); *Brevard County v. Florida Power and Light*, 693 So. 2d 77 (Fla. 5th DCA 1997).

C. Government Sector Impact:

Local government code enforcement boards may realize postage cost savings as a result of the optional noticing provisions.

Local authorities that provide for and accept electronic transmissions of various construction documents may realize procedural and document storage efficiencies and improve the timeliness of permit processing. The bill does not require electronic filing; therefore, any expenditures to facilitate this option would be discretionary.

There may be an increase in the number of contractor licenses issued due to the new requirement for persons demolishing residences or buildings. According to the DBPR, the number of unlicensed persons currently demolishing residences and buildings three stories or less is unknown.[80] It is unknown how many of these unlicensed persons will qualify for licensure as a contractor; therefore, the amount of revenue resulting from the potential increase in the number of licenses is indeterminate. The costs of issuing the potential licenses can be managed within current departmental resources.

Local governing bodies may issue higher civil penalties against unlicensed contractors.

The Florida Building Code Compliance and Mitigation Program will have a set funding amount of $925,000 annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the DBPR, section 12 of the bill indicates that certain buildings used for hunting will not be required to meet minimum construction standards necessary to ensure such structures are structurally stable with adequate means of egress, light and ventilation providing a minimum acceptable level of protection to life and property from fire.[81] However, the DBPR states that this impact will be minimal due to the occasional use of such facilities and the specific safeguards outlined in the bill.[82]

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[80] Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).
[81] *Id.*
[82] *Id.*

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Budget Subcommittee on General Government Appropriations on February 1, 2012:

- includes landscape architecture in the mold assessment exemption.
- (1) creates a licensure exemption for property owners installing, uninstalling, or replacing solar panels; (2) requires electronic permit application to include disclosure statement as true and correct; (3) exempts solar projects from an owner's notarized signature or personal appearance to sign the permit application;
- modifies plumbing contractor scope of services to include water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems without obtaining an additional local regulatory license.
- eliminates the glass and glazing contractor as a required Division II licensed contractor.
- allows electronic filing of construction documents to the fire code official.
- removes notary requirement for certain solar project documents submitted electronically.
- allows the Florida Building Commission to establish a workgroup to assist with design methods for screen enclosures.

CS by Community Affairs on January 12, 2012:

Revises definitions, outlines permitting procedures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems.

- Adds provisions for existing fire safety inspectors to take the building code inspector or plans examiner certification exam and shortens the time length of certain provisional certificates for inspectors and examiners.
- Clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings.
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor.
- Directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design.
- Makes other technical and clarifying changes.

B. Amendments:

None.

By the Committees on Budget Subcommittee on General Government Appropriations; and Community Affairs; and Senator Bennett

601-02768-12 2012704c2

A bill to be entitled

An act relating to building construction and inspection; amending s. 162.12, F.S.; revising the authorized methods of sending notices to violators of local codes; amending s. 381.0065, F.S.; revising the definition of the term “bedroom” for purposes of requirements governing onsite sewage treatment and disposal systems; conforming a cross-reference; providing that a permit for the installation, modification, or repair of an onsite sewage treatment and disposal system approved by the Department of Health transfers along with the title to the property in a real estate transaction; prohibiting the transferred title from being encumbered by new permit requirements; providing criteria for an abandoned onsite sewage treatment and disposal system; providing guidelines for the reconnection of an abandoned system; providing for the applicability of rules to the construction of an onsite sewage treatment and disposal system; providing certain exemptions for a remodeled single-family home; amending s. 468.604, F.S.; authorizing a building code administrator or building official to approve the electronic filing of building plans and related documents; amending s. 468.609, F.S.; revising the eligibility requirements of a building code inspector or plans examiner; revising criteria for the issuance of provisional certificates; amending s. 468.841, F.S.; including a person or a business organization acting within the

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scope of a landscape architecture license in the exemption from certain provisions related to mold assessment; amending s. 489.103, F.S.; providing an exemption from construction contracting requirements for an owner who installs, removes, or replaces solar panels on certain residences while acting as the contractor; providing for an electronic signature on the permit application; requiring the building permit application and disclosure statement to include a declaration statement by the owner; providing that the issuing authority is not liable in any civil action for inaccurate information submitted by the owner using the authority’s electronic permitting system; amending s. 489.105, F.S.; revising the definition of the term “demolish” for purposes of describing the scope of work of a contractor to include all buildings or residences of certain heights; clarifying the definition of the term “plumbing contractor”; removing the term “glazing contractor” from within the definition of the term “contractor” for purposes of licensing by the Department of Business and Professional Regulation; reenacting s. 489.105(6), F.S., relating to the definition of the term “contracting”; clarifying the intent of the Legislature in the adoption of certain amendments to s. 489.105(6), F.S., and specifying that the amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built

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59 buildings that will be completed on site and otherwise
60 comply with the requirements under state law; amending
61 ss. 489.127 and 489.531, F.S.; increasing the maximum
62 civil penalties that may be assessed against
63 unlicensed contractors; amending s. 553.721, F.S.;
64 allocating a portion of the funds derived from a
65 surcharge on permit fees to the Florida Building Code
66 Compliance and Mitigation Program; making technical
67 and grammatical changes; amending s. 553.73, F.S.;
68 exempting certain buildings or structures used for
69 hunting from the Florida Building Code; amending s.
70 553.844, F.S.; extending the expiration date to 2013
71 for exemption of certain equipment installation
72 meeting the 2007 building code; amending s. 633.0215,
73 F.S.; authorizing the electronic filing of certain
74 construction plans for approval by the fire code
75 administrator or fire official; amending s. 713.135,
76 F.S.; providing that an owner or contractor is not
77 required to personally appear and provide a notarized
78 signature when filing a building permit application
79 for a solar project if certain conditions are met;
80 providing that the issuing authority is not liable in
81 any civil action for inaccurate information submitted
82 by the owner using the authority's electronic
83 permitting system; requiring the Florida Building
84 Commission to establish a workgroup to assist in the
85 development of rules for an alternative design method
86 for screen enclosures; providing for membership of the
87 workgroup; providing factors that must be included in

88 the rule; providing dates for appointment of the
89 workgroup and adoption of a rule; requiring the
90 commission to incorporate the alternative design
91 method for screen enclosures into the Florida Building
92 Code; providing conditions for expiration of the
93 provision; providing an effective date.
94
95 Be It Enacted by the Legislature of the State of Florida:
96
97 Section 1. Subsection (1) of section 162.12, Florida
98 Statutes, is amended to read:
99 162.12 Notices.—
100 (1) All notices required by this part must ~~shall~~ be
101 provided to the alleged violator by:
102 (a) Certified mail to~~, return receipt requested, provided~~
103 ~~if such notice is sent under this paragraph to the owner of the~~
104 ~~property in question at~~ the address listed in the tax
105 collector's office for tax notices, or to ~~and at~~ any other
106 address provided by the property owner in writing to the local
107 government for the purpose of receiving notices. For property
108 owned by a corporation, notices may be provided by certified
109 mail to the registered agent of the corporation. If any notice
110 sent by certified mail is not signed as received within 30 days
111 after the date of mailing ~~by such owner and is returned as~~
112 ~~unclaimed or refused~~, notice may be provided by posting as
113 described in subparagraphs (2)(b)1. and 2. ~~and by first class~~
114 ~~mail directed to the addresses furnished to the local government~~
115 ~~with a properly executed proof of mailing or affidavit~~
116 ~~confirming the first class mailing~~;

117 (b) Hand delivery by the sheriff or other law enforcement
118 officer, code inspector, or other person designated by the local
119 governing body;
120 (c) Leaving the notice at the violator's usual place of
121 residence with any person residing therein who is above 15 years
122 of age and informing such person of the contents of the notice;
123 or
124 (d) In the case of commercial premises, leaving the notice
125 with the manager or other person in charge.
126
127 Evidence that an attempt has been made to hand deliver or mail
128 notice as provided in subsection (1), together with proof of
129 publication or posting as provided in subsection (2), shall be
130 sufficient to show that the notice requirements of this part
131 have been met, without regard to whether or not the alleged
132 violator actually received such notice.
133 Section 2. Present paragraphs (b) through (p) of subsection
134 (2) of section 381.0065, Florida Statutes, are redesignated as
135 paragraphs (c) through (q), respectively, a new paragraph (b) is
136 added to that subsection, paragraph (n) of subsection (4) is
137 amended, and paragraphs (w) through (z) are added to that
138 subsection, to read:
139 381.0065 Onsite sewage treatment and disposal systems;
140 regulation.—
141 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
142 term:
143 (b)1. "Bedroom" means a room that can be used for sleeping
144 and that:
145 a. For site-built dwellings, has a minimum of 70 square

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146 feet of conditioned space;
147 b. For manufactured homes, is constructed according to the
148 standards of the United States Department of Housing and Urban
149 Development and has a minimum of 50 square feet of floor area;
150 c. Is located along an exterior wall;
151 d. Has a closet and a door or an entrance where a door
152 could be reasonably installed; and
153 e. Has an emergency means of escape and rescue opening to
154 the outside in accordance with the Florida Building Code.
155 2. A room may not be considered a bedroom if it is used to
156 access another room except a bathroom or closet.
157 3. "Bedroom" does not include a hallway, bathroom, kitchen,
158 living room, family room, dining room, den, breakfast nook,
159 pantry, laundry room, sunroom, recreation room, media/video
160 room, or exercise room.
161 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
162 construct, repair, modify, abandon, or operate an onsite sewage
163 treatment and disposal system without first obtaining a permit
164 approved by the department. The department may issue permits to
165 carry out this section, but shall not make the issuance of such
166 permits contingent upon prior approval by the Department of
167 Environmental Protection, except that the issuance of a permit
168 for work seaward of the coastal construction control line
169 established under s. 161.053 shall be contingent upon receipt of
170 any required coastal construction control line permit from the
171 Department of Environmental Protection. A construction permit is
172 valid for 18 months from the issuance date and may be extended
173 by the department for one 90-day period under rules adopted by
174 the department. A repair permit is valid for 90 days from the

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175 date of issuance. An operating permit must be obtained prior to
176 the use of any aerobic treatment unit or if the establishment
177 generates commercial waste. Buildings or establishments that use
178 an aerobic treatment unit or generate commercial waste shall be
179 inspected by the department at least annually to assure
180 compliance with the terms of the operating permit. The operating
181 permit for a commercial wastewater system is valid for 1 year
182 from the date of issuance and must be renewed annually. The
183 operating permit for an aerobic treatment unit is valid for 2
184 years from the date of issuance and must be renewed every 2
185 years. If all information pertaining to the siting, location,
186 and installation conditions or repair of an onsite sewage
187 treatment and disposal system remains the same, a construction
188 or repair permit for the onsite sewage treatment and disposal
189 system may be transferred to another person, if the transferee
190 files, within 60 days after the transfer of ownership, an
191 amended application providing all corrected information and
192 proof of ownership of the property. There is no fee associated
193 with the processing of this supplemental information. A person
194 may not contract to construct, modify, alter, repair, service,
195 abandon, or maintain any portion of an onsite sewage treatment
196 and disposal system without being registered under part III of
197 chapter 489. A property owner who personally performs
198 construction, maintenance, or repairs to a system serving his or
199 her own owner-occupied single-family residence is exempt from
200 registration requirements for performing such construction,
201 maintenance, or repairs on that residence, but is subject to all
202 permitting requirements. A municipality or political subdivision
203 of the state may not issue a building or plumbing permit for any

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204 building that requires the use of an onsite sewage treatment and
205 disposal system unless the owner or builder has received a
206 construction permit for such system from the department. A
207 building or structure may not be occupied and a municipality,
208 political subdivision, or any state or federal agency may not
209 authorize occupancy until the department approves the final
210 installation of the onsite sewage treatment and disposal system.
211 A municipality or political subdivision of the state may not
212 approve any change in occupancy or tenancy of a building that
213 uses an onsite sewage treatment and disposal system until the
214 department has reviewed the use of the system with the proposed
215 change, approved the change, and amended the operating permit.
216 (n) Evaluations for determining the seasonal high-water
217 table elevations or the suitability of soils for the use of a
218 new onsite sewage treatment and disposal system shall be
219 performed by department personnel, professional engineers
220 registered in the state, or such other persons with expertise,
221 as defined by rule, in making such evaluations. Evaluations for
222 determining mean annual flood lines shall be performed by those
223 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department
224 shall accept evaluations submitted by professional engineers and
225 such other persons as meet the expertise established by this
226 section or by rule unless the department has a reasonable
227 scientific basis for questioning the accuracy or completeness of
228 the evaluation.
229 (w) A permit that is approved by the department and issued
230 for the installation, modification, or repair of an onsite
231 sewage treatment and disposal system shall be transferred along
232 with the title to the property in a real estate transaction. A

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233 title may not be encumbered at the time of transfer by new
234 permit requirements by a governmental entity for an onsite
235 sewage treatment and disposal system which differ from the
236 permitting requirements in effect at the time the system was
237 permitted, modified, or repaired.
238 (x)1. An onsite sewage treatment and disposal system is not
239 considered abandoned if the system is disconnected from a
240 structure that was made unusable or destroyed following a
241 disaster and was properly functioning at the time of
242 disconnection and was not adversely affected by the disaster.
243 The onsite sewage treatment and disposal system may be
244 reconnected to a rebuilt structure if:
245 a. The reconnection of the system is to the same type of
246 structure which contains the same number of bedrooms or fewer,
247 provided that the square footage of the structure is less than
248 or equal to 110 percent of the original square footage of the
249 structure that existed before the disaster;
250 b. The system is not a sanitary nuisance; and
251 c. The system has not been altered without prior
252 authorization.
253 2. An onsite sewage treatment and disposal system that
254 serves a property that is foreclosed upon is not considered
255 abandoned.
256 (y) If an onsite sewage treatment and disposal system
257 permittee receives, relies upon, and undertakes construction of
258 a system based upon a validly issued construction permit under
259 rules applicable at the time of construction but a change to a
260 rule occurs within 5 years after the approval of the system for
261 construction but before the final approval of the system, the

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262 rules applicable and in effect at the time of construction
263 approval apply at the time of final approval if fundamental site
264 conditions have not changed between the time of construction
265 approval and final approval.
266 (z) A modification, replacement, or upgrade of an onsite
267 sewage treatment and disposal system is not required for a
268 remodeling addition to a single-family home if a bedroom is not
269 added.
270 Section 3. Section 468.604, Florida Statutes, is amended to
271 read:
272 468.604 Responsibilities of building code administrators,
273 plans examiners, and inspectors.—
274 (1) It is the responsibility of the building code
275 administrator or building official to administrate, supervise,
276 direct, enforce, or perform the permitting and inspection of
277 construction, alteration, repair, remodeling, or demolition of
278 structures and the installation of building systems within the
279 boundaries of their governmental jurisdiction, when permitting
280 is required, to ensure compliance with the Florida Building Code
281 and any applicable local technical amendment to the Florida
282 Building Code. The building code administrator or building
283 official shall faithfully perform these responsibilities without
284 interference from any person. These responsibilities include:
285 (a) The review of construction plans to ensure compliance
286 with all applicable sections of the code. The construction plans
287 must be reviewed before the issuance of any building, system
288 installation, or other construction permit. The review of
289 construction plans must be done by the building code
290 administrator or building official or by a person having the

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291 appropriate plans examiner license issued under this chapter.
292 (b) The inspection of each phase of construction where a
293 building or other construction permit has been issued. The
294 building code administrator or building official, or a person
295 having the appropriate building code inspector license issued
296 under this chapter, shall inspect the construction or
297 installation to ensure that the work is performed in accordance
298 with applicable sections of the code.
299 (2) It is the responsibility of the building code inspector
300 to conduct inspections of construction, alteration, repair,
301 remodeling, or demolition of structures and the installation of
302 building systems, when permitting is required, to ensure
303 compliance with the Florida Building Code and any applicable
304 local technical amendment to the Florida Building Code. Each
305 building code inspector must be licensed in the appropriate
306 category as defined in s. 468.603. The building code inspector's
307 responsibilities must be performed under the direction of the
308 building code administrator or building official without
309 interference from any unlicensed person.
310 (3) It is the responsibility of the plans examiner to
311 conduct review of construction plans submitted in the permit
312 application to assure compliance with the Florida Building Code
313 and any applicable local technical amendment to the Florida
314 Building Code. The review of construction plans must be done by
315 the building code administrator or building official or by a
316 person licensed in the appropriate plans examiner category as
317 defined in s. 468.603. The plans examiner's responsibilities
318 must be performed under the supervision and authority of the
319 building code administrator or building official without

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320 interference from any unlicensed person.
321 (4) The Legislature finds that the electronic filing of
322 construction plans will increase government efficiency, reduce
323 costs, and increase timeliness of processing permits. If the
324 building code administrator or building official provides for
325 electronic filing, the construction plans, drawings,
326 specifications, reports, final documents, or documents prepared
327 or issued by a licensee may be dated and electronically signed
328 and sealed by the licensee in accordance with part I of chapter
329 668 and may be transmitted electronically to the building code
330 administrator or building official for approval.
331 Section 4. Paragraph (c) of subsection (2) and paragraph
332 (a) of subsection (7) of section 468.609, Florida Statutes, are
333 amended to read:
334 468.609 Administration of this part; standards for
335 certification; additional categories of certification.—
336 (2) A person may take the examination for certification as
337 a building code inspector or plans examiner pursuant to this
338 part if the person:
339 (c) Meets eligibility requirements according to one of the
340 following criteria:
341 1. Demonstrates 5 years' combined experience in the field
342 of construction or a related field, building code inspection, or
343 plans review corresponding to the certification category sought;
344 2. Demonstrates a combination of postsecondary education in
345 the field of construction or a related field and experience
346 which totals 4 years, with at least 1 year of such total being
347 experience in construction, building code inspection, or plans
348 review;

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349 3. Demonstrates a combination of technical education in the
350 field of construction or a related field and experience which
351 totals 4 years, with at least 1 year of such total being
352 experience in construction, building code inspection, or plans
353 review;
354 4. Currently holds a standard certificate as issued by the
355 board, or a fire safety inspector license issued pursuant to
356 chapter 633, has a minimum of 5 years' verifiable full-time
357 experience in inspection or plan review, and satisfactorily
358 completes a building code inspector or plans examiner training
359 program of not less than 200 hours in the certification category
360 sought. The board shall establish by rule criteria for the
361 development and implementation of the training programs; or
362 5. Demonstrates a combination of the completion of an
363 approved training program in the field of building code
364 inspection or plan review and a minimum of 2 years' experience
365 in the field of building code inspection, plan review, fire code
366 inspections and fire plans review of new buildings as a
367 firesafety inspector certified under s. 633.081(2), or
368 construction. The approved training portion of this requirement
369 shall include proof of satisfactory completion of a training
370 program of not less than 300 hours which is approved by the
371 board in the chosen category of building code inspection or plan
372 review in the certification category sought with not less than
373 20 hours of instruction in state laws, rules, and ethics
374 relating to professional standards of practice, duties, and
375 responsibilities of a certificateholder. The board shall
376 coordinate with the Building Officials Association of Florida,
377 Inc., to establish by rule the development and implementation of

378 the training program.
379 (7)(a) The board may provide for the issuance of
380 provisional certificates valid for 1 year ~~such period, not less~~
381 ~~than 3 years nor more than 5 years~~, as specified by board rule,
382 to any newly employed or promoted building code inspector or
383 plans examiner who meets the eligibility requirements described
384 in subsection (2) and any newly employed or promoted building
385 code administrator who meets the eligibility requirements
386 described in subsection (3). The provisional license may be
387 renewed by the board for just cause; however, a provisional
388 license is not valid for a period longer than 3 years.
389 Section 5. Paragraph (d) of subsection (1) of section
390 468.841, Florida Statutes, is amended to read:
391 468.841 Exemptions.—
392 (1) The following persons are not required to comply with
393 any provisions of this part relating to mold assessment:
394 (d) Persons or business organizations acting within the
395 scope of the respective licenses required under part XV of this
396 chapter, chapter 471, part I or part II of chapter 481, chapter
397 482, or chapter 489 are acting on behalf of an insurer under
398 part VI of chapter 626, or are persons in the manufactured
399 housing industry who are licensed under chapter 320, except when
400 any such persons or business organizations hold themselves out
401 for hire to the public as a "certified mold assessor,"
402 "registered mold assessor," "licensed mold assessor," "mold
403 assessor," "professional mold assessor," or any combination
404 thereof stating or implying licensure under this part.
405 Section 6. Subsection (7) of section 489.103, Florida
406 Statutes, is amended to read:

407 489.103 Exemptions.—This part does not apply to:
408 (7)(a) Owners of property when acting as their own
409 contractor and providing direct, onsite supervision themselves
410 of all work not performed by licensed contractors:
411 1.~~(a)~~ When building or improving farm outbuildings or one-
412 family or two-family residences on such property for the
413 occupancy or use of such owners and not offered for sale or
414 lease, or building or improving commercial buildings, at a cost
415 not to exceed $75,000, on such property for the occupancy or use
416 of such owners and not offered for sale or lease. In an action
417 brought under this part, proof of the sale or lease, or offering
418 for sale or lease, of any such structure by the owner-builder
419 within 1 year after completion of same creates a presumption
420 that the construction was undertaken for purposes of sale or
421 lease.
422 2.~~(b)~~ When repairing or replacing wood shakes or asphalt or
423 fiberglass shingles on one-family, two-family, or three-family
424 residences for the occupancy or use of such owner or tenant of
425 the owner and not offered for sale within 1 year after
426 completion of the work and when the property has been damaged by
427 natural causes from an event recognized as an emergency
428 situation designated by executive order issued by the Governor
429 declaring the existence of a state of emergency as a result and
430 consequence of a serious threat posed to the public health,
431 safety, and property in this state.
432 3. After the local building official approves
433 implementation of the United States Department of Energy Solar
434 SunShot Initiative, when installing, uninstalling, or replacing
435 solar panels on one-family, two-family, or three-family

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436 residences for the occupancy or use of such owner or tenant of
437 the owner.
438 (b) This subsection does not exempt any person who is
439 employed by or has a contract with such owner and who acts in
440 the capacity of a contractor. The owner may not delegate the
441 owner's responsibility to directly supervise all work to any
442 other person unless that person is registered or certified under
443 this part and the work being performed is within the scope of
444 that person's license. For the purposes of this subsection, the
445 term "owners of property" includes the owner of a mobile home
446 situated on a leased lot.
447 (c) To qualify for exemption under this subsection, an
448 owner must personally appear and sign the building permit
449 application and must satisfy local permitting agency
450 requirements, if any, proving that the owner has a complete
451 understanding of the owner's obligations under the law as
452 specified in the disclosure statement in this section. An
453 owner's notarized signature or personal appearance to sign the
454 permit application is not required for a solar project, as
455 described in subparagraph (a)3., if the building permit
456 application is submitted electronically to the permitting
457 authority and the owner certifies the application and disclosure
458 statement using the permitting authority's electronic
459 confirmation system. If any person violates the requirements of
460 this subsection, the local permitting agency shall withhold
461 final approval, revoke the permit, or pursue any action or
462 remedy for unlicensed activity against the owner and any person
463 performing work that requires licensure under the permit issued.
464 The local permitting agency shall provide the person with a

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465 disclosure statement in substantially the following form:
466
467 DISCLOSURE STATEMENT
468
469 1. I understand that state law requires construction
470 to be done by a licensed contractor and have applied
471 for an owner-builder permit under an exemption from
472 the law. The exemption specifies that I, as the owner
473 of the property listed, may act as my own contractor
474 with certain restrictions even though I do not have a
475 license.
476
477 2. I understand that building permits are not required
478 to be signed by a property owner unless he or she is
479 responsible for the construction and is not hiring a
480 licensed contractor to assume responsibility.
481
482 3. I understand that, as an owner-builder, I am the
483 responsible party of record on a permit. I understand
484 that I may protect myself from potential financial
485 risk by hiring a licensed contractor and having the
486 permit filed in his or her name instead of my own
487 name. I also understand that a contractor is required
488 by law to be licensed in Florida and to list his or
489 her license numbers on permits and contracts.
490
491 4. I understand that I may build or improve a one-
492 family or two-family residence or a farm outbuilding.
493 I may also build or improve a commercial building if

494 the costs do not exceed $75,000. The building or
495 residence must be for my own use or occupancy. It may
496 not be built or substantially improved for sale or
497 lease. If a building or residence that I have built or
498 substantially improved myself is sold or leased within
499 1 year after the construction is complete, the law
500 will presume that I built or substantially improved it
501 for sale or lease, which violates the exemption.
502
503 5. I understand that, as the owner-builder, I must
504 provide direct, onsite supervision of the
505 construction.
506
507 6. I understand that I may not hire an unlicensed
508 person to act as my contractor or to supervise persons
509 working on my building or residence. It is my
510 responsibility to ensure that the persons whom I
511 employ have the licenses required by law and by county
512 or municipal ordinance.
513
514 7. I understand that it is a frequent practice of
515 unlicensed persons to have the property owner obtain
516 an owner-builder permit that erroneously implies that
517 the property owner is providing his or her own labor
518 and materials. I, as an owner-builder, may be held
519 liable and subjected to serious financial risk for any
520 injuries sustained by an unlicensed person or his or
521 her employees while working on my property. My
522 homeowner’s insurance may not provide coverage for

523 those injuries. I am willfully acting as an owner-
524 builder and am aware of the limits of my insurance
525 coverage for injuries to workers on my property.
526
527 8. I understand that I may not delegate the
528 responsibility for supervising work to a licensed
529 contractor who is not licensed to perform the work
530 being done. Any person working on my building who is
531 not licensed must work under my direct supervision and
532 must be employed by me, which means that I must comply
533 with laws requiring the withholding of federal income
534 tax and social security contributions under the
535 Federal Insurance Contributions Act (FICA) and must
536 provide workers' compensation for the employee. I
537 understand that my failure to follow these laws may
538 subject me to serious financial risk.
539
540 9. I agree that, as the party legally and financially
541 responsible for this proposed construction activity, I
542 will abide by all applicable laws and requirements
543 that govern owner-builders as well as employers. I
544 also understand that the construction must comply with
545 all applicable laws, ordinances, building codes, and
546 zoning regulations.
547
548 10. I understand that I may obtain more information
549 regarding my obligations as an employer from the
550 Internal Revenue Service, the United States Small
551 Business Administration, the Florida Department of

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552 Financial Services, and the Florida Department of
553 Revenue. I also understand that I may contact the
554 Florida Construction Industry Licensing Board at
555 ...(telephone number)... or ...(Internet website
556 address)... for more information about licensed
557 contractors.
558
559 11. I am aware of, and consent to, an owner-builder
560 building permit applied for in my name and understand
561 that I am the party legally and financially
562 responsible for the proposed construction activity at
563 the following address: ...(address of property)....
564
565 12. I agree to notify ...(issuer of disclosure
566 statements)... immediately of any additions,
567 deletions, or changes to any of the information that I
568 have provided on this disclosure.
569
570 Licensed contractors are regulated by laws designed to
571 protect the public. If you contract with a person who
572 does not have a license, the Construction Industry
573 Licensing Board and Department of Business and
574 Professional Regulation may be unable to assist you
575 with any financial loss that you sustain as a result
576 of a complaint. Your only remedy against an unlicensed
577 contractor may be in civil court. It is also important
578 for you to understand that, if an unlicensed
579 contractor or employee of an individual or firm is
580 injured while working on your property, you may be

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581 held liable for damages. If you obtain an owner-
582 builder permit and wish to hire a licensed contractor,
583 you will be responsible for verifying whether the
584 contractor is properly licensed and the status of the
585 contractor's workers' compensation coverage.
586
587 Before a building permit can be issued, this
588 disclosure statement must be completed and signed by
589 the property owner and returned to the local
590 permitting agency responsible for issuing the permit.
591 A copy of the property owner's driver license, the
592 notarized signature of the property owner, or other
593 type of verification acceptable to the local
594 permitting agency is required when the permit is
595 issued.
596
597 Signature: ...(signature of property owner)....
598 Date: ...(date)....
599
600 (d) A building permit application and disclosure statement
601 electronically submitted by an owner to the authority for a
602 solar project, as described in subparagraph (a)3., must also
603 contain the following additional statement:
604
605 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
606 of perjury, I declare that all the information
607 contained in this building permit application and the
608 representations made in the required disclosure
609 statement are true and correct.

610
611 (e) A permitting authority that accepts a building permit
612 application and disclosure statement in an electronic format
613 from an owner who is exempt pursuant to this subsection and who
614 applies for a permit relating to a solar project, as described
615 in subparagraph (a)3., is not liable in any civil action for
616 inaccurate information submitted by the owner using the
617 authority's electronic confirmation system.
618 Section 7. Subsection (3) of section 489.105, Florida
619 Statutes, is amended, and subsection (6) of that section is
620 reenacted, to read:
621 489.105 Definitions.—As used in this part:
622 (3) "Contractor" means the person who is qualified for, and
623 is only responsible for, the project contracted for and means,
624 except as exempted in this part, the person who, for
625 compensation, undertakes to, submits a bid to, or does himself
626 or herself or by others construct, repair, alter, remodel, add
627 to, demolish, subtract from, or improve any building or
628 structure, including related improvements to real estate, for
629 others or for resale to others; and whose job scope is
630 substantially similar to the job scope described in one of the
631 ~~subsequent~~ paragraphs of this subsection. For the purposes of
632 regulation under this part, the term "demolish" applies only to
633 demolition of steel tanks more than ~~over~~ 50 feet in height;
634 towers more than ~~over~~ 50 feet in height; other structures more
635 than ~~over~~ 50 feet in height; and all~~, other than~~ buildings or
636 residences ~~over three stories tall; and buildings or residences~~
637 ~~over three stories tall~~. Contractors are subdivided into two
638 divisions, Division I, consisting of those contractors defined

639 in paragraphs (a)-(c), and Division II, consisting of those
640 contractors defined in paragraphs (d)-(q) ~~(d)-(r)~~:
641 (a) "General contractor" means a contractor whose services
642 are unlimited as to the type of work which he or she may do, who
643 may contract for any activity requiring licensure under this
644 part, and who may perform any work requiring licensure under
645 this part, except as otherwise expressly provided in s. 489.113.
646 (b) "Building contractor" means a contractor whose services
647 are limited to construction of commercial buildings and single-
648 dwelling or multiple-dwelling residential buildings, which do
649 not exceed three stories in height, and accessory use structures
650 in connection therewith or a contractor whose services are
651 limited to remodeling, repair, or improvement of any size
652 building if the services do not affect the structural members of
653 the building.
654 (c) "Residential contractor" means a contractor whose
655 services are limited to construction, remodeling, repair, or
656 improvement of one-family, two-family, or three-family
657 residences not exceeding two habitable stories above no more
658 than one uninhabitable story and accessory use structures in
659 connection therewith.
660 (d) "Sheet metal contractor" means a contractor whose
661 services are unlimited in the sheet metal trade and who has the
662 experience, knowledge, and skill necessary for the manufacture,
663 fabrication, assembling, handling, erection, installation,
664 dismantling, conditioning, adjustment, insulation, alteration,
665 repair, servicing, or design, if not prohibited by law, of
666 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
667 equivalent or lighter gauge and of other materials, including,

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668 but not limited to, fiberglass, used in lieu thereof and of air-
669 handling systems, including the setting of air-handling
670 equipment and reinforcement of same, the balancing of air-
671 handling systems, and any duct cleaning and equipment sanitizing
672 that requires at least a partial disassembling of the system.
673 (e) "Roofing contractor" means a contractor whose services
674 are unlimited in the roofing trade and who has the experience,
675 knowledge, and skill to install, maintain, repair, alter,
676 extend, or design, if not prohibited by law, and use materials
677 and items used in the installation, maintenance, extension, and
678 alteration of all kinds of roofing, waterproofing, and coating,
679 except when coating is not represented to protect, repair,
680 waterproof, stop leaks, or extend the life of the roof. The
681 scope of work of a roofing contractor also includes required
682 roof-deck attachments and any repair or replacement of wood roof
683 sheathing or fascia as needed during roof repair or replacement.
684 (f) "Class A air-conditioning contractor" means a
685 contractor whose services are unlimited in the execution of
686 contracts requiring the experience, knowledge, and skill to
687 install, maintain, test, evaluate, repair, fabricate, alter,
688 extend, or design, if not prohibited by law, central air-
689 conditioning, refrigeration, heating, and ventilating systems,
690 including duct work in connection with a complete system if such
691 duct work is performed by the contractor as necessary to
692 complete an air-distribution system, boiler and unfired pressure
693 vessel systems, and all appurtenances, apparatus, or equipment
694 used in connection therewith, and any duct cleaning and
695 equipment sanitizing that requires at least a partial
696 disassembling of the system; to install, maintain, repair,

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697 fabricate, alter, extend, or design, if not prohibited by law,
698 piping, insulation of pipes, vessels and ducts, pressure and
699 process piping, and pneumatic control piping; to replace,
700 disconnect, or reconnect power wiring on the load side of the
701 dedicated existing electrical disconnect switch; to install,
702 disconnect, and reconnect low voltage heating, ventilating, and
703 air-conditioning control wiring; and to install a condensate
704 drain from an air-conditioning unit to an existing safe waste or
705 other approved disposal other than a direct connection to a
706 sanitary system. The scope of work for such contractor also
707 includes any excavation work incidental thereto, but does not
708 include any work such as liquefied petroleum or natural gas fuel
709 lines within buildings, except for disconnecting or reconnecting
710 changeouts of liquefied petroleum or natural gas appliances
711 within buildings; potable water lines or connections thereto;
712 sanitary sewer lines; swimming pool piping and filters; or
713 electrical power wiring.
714 (g) "Class B air-conditioning contractor" means a
715 contractor whose services are limited to 25 tons of cooling and
716 500,000 Btu of heating in any one system in the execution of
717 contracts requiring the experience, knowledge, and skill to
718 install, maintain, test, evaluate, repair, fabricate, alter,
719 extend, or design, if not prohibited by law, central air-
720 conditioning, refrigeration, heating, and ventilating systems,
721 including duct work in connection with a complete system only to
722 the extent such duct work is performed by the contractor as
723 necessary to complete an air-distribution system being installed
724 under this classification, and any duct cleaning and equipment
725 sanitizing that requires at least a partial disassembling of the

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726 system; to install, maintain, repair, fabricate, alter, extend,
727 or design, if not prohibited by law, piping and insulation of
728 pipes, vessels, and ducts; to replace, disconnect, or reconnect
729 power wiring on the load side of the dedicated existing
730 electrical disconnect switch; to install, disconnect, and
731 reconnect low voltage heating, ventilating, and air-conditioning
732 control wiring; and to install a condensate drain from an air-
733 conditioning unit to an existing safe waste or other approved
734 disposal other than a direct connection to a sanitary system.
735 The scope of work for such contractor also includes any
736 excavation work incidental thereto, but does not include any
737 work such as liquefied petroleum or natural gas fuel lines
738 within buildings, except for disconnecting or reconnecting
739 changeouts of liquefied petroleum or natural gas appliances
740 within buildings; potable water lines or connections thereto;
741 sanitary sewer lines; swimming pool piping and filters; or
742 electrical power wiring.
743 (h) "Class C air-conditioning contractor" means a
744 contractor whose business is limited to the servicing of air-
745 conditioning, heating, or refrigeration systems, including any
746 duct cleaning and equipment sanitizing that requires at least a
747 partial disassembling of the system, and whose certification or
748 registration, issued pursuant to this part, was valid on October
749 1, 1988. Only a person who was registered or certified as a
750 Class C air-conditioning contractor as of October 1, 1988, shall
751 be so registered or certified after October 1, 1988. However,
752 the board shall continue to license and regulate those Class C
753 air-conditioning contractors who held Class C licenses before
754 October 1, 1988.

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755 (i) "Mechanical contractor" means a contractor whose
756 services are unlimited in the execution of contracts requiring
757 the experience, knowledge, and skill to install, maintain, test,
758 evaluate, repair, fabricate, alter, extend, or design, if not
759 prohibited by law, central air-conditioning, refrigeration,
760 heating, and ventilating systems, including duct work in
761 connection with a complete system if such duct work is performed
762 by the contractor as necessary to complete an air-distribution
763 system, boiler and unfired pressure vessel systems, lift station
764 equipment and piping, and all appurtenances, apparatus, or
765 equipment used in connection therewith, and any duct cleaning
766 and equipment sanitizing that requires at least a partial
767 disassembling of the system; to install, maintain, repair,
768 fabricate, alter, extend, or design, if not prohibited by law,
769 piping, insulation of pipes, vessels and ducts, pressure and
770 process piping, pneumatic control piping, gasoline tanks and
771 pump installations and piping for same, standpipes, air piping,
772 vacuum line piping, oxygen lines, nitrous oxide piping, ink and
773 chemical lines, fuel transmission lines, liquefied petroleum gas
774 lines within buildings, and natural gas fuel lines within
775 buildings; to replace, disconnect, or reconnect power wiring on
776 the load side of the dedicated existing electrical disconnect
777 switch; to install, disconnect, and reconnect low voltage
778 heating, ventilating, and air-conditioning control wiring; and
779 to install a condensate drain from an air-conditioning unit to
780 an existing safe waste or other approved disposal other than a
781 direct connection to a sanitary system. The scope of work for
782 such contractor also includes any excavation work incidental
783 thereto, but does not include any work such as potable water

784 lines or connections thereto, sanitary sewer lines, swimming
785 pool piping and filters, or electrical power wiring.
786 (j) "Commercial pool/spa contractor" means a contractor
787 whose scope of work involves, but is not limited to, the
788 construction, repair, and servicing of any swimming pool, or hot
789 tub or spa, whether public, private, or otherwise, regardless of
790 use. The scope of work includes the installation, repair, or
791 replacement of existing equipment, any cleaning or equipment
792 sanitizing that requires at least a partial disassembling,
793 excluding filter changes, and the installation of new pool/spa
794 equipment, interior finishes, the installation of package pool
795 heaters, the installation of all perimeter piping and filter
796 piping, and the construction of equipment rooms or housing for
797 pool/spa equipment, and also includes the scope of work of a
798 swimming pool/spa servicing contractor. The scope of such work
799 does not include direct connections to a sanitary sewer system
800 or to potable water lines. The installation, construction,
801 modification, or replacement of equipment permanently attached
802 to and associated with the pool or spa for the purpose of water
803 treatment or cleaning of the pool or spa requires licensure;
804 however, the usage of such equipment for the purposes of water
805 treatment or cleaning does not require licensure unless the
806 usage involves construction, modification, or replacement of
807 such equipment. Water treatment that does not require such
808 equipment does not require a license. In addition, a license is
809 not required for the cleaning of the pool or spa in a way that
810 does not affect the structural integrity of the pool or spa or
811 its associated equipment.
812 (k) "Residential pool/spa contractor" means a contractor

813 whose scope of work involves, but is not limited to, the
814 construction, repair, and servicing of a residential swimming
815 pool, or hot tub or spa, regardless of use. The scope of work
816 includes the installation, repair, or replacement of existing
817 equipment, any cleaning or equipment sanitizing that requires at
818 least a partial disassembling, excluding filter changes, and the
819 installation of new pool/spa equipment, interior finishes, the
820 installation of package pool heaters, the installation of all
821 perimeter piping and filter piping, and the construction of
822 equipment rooms or housing for pool/spa equipment, and also
823 includes the scope of work of a swimming pool/spa servicing
824 contractor. The scope of such work does not include direct
825 connections to a sanitary sewer system or to potable water
826 lines. The installation, construction, modification, or
827 replacement of equipment permanently attached to and associated
828 with the pool or spa for the purpose of water treatment or
829 cleaning of the pool or spa requires licensure; however, the
830 usage of such equipment for the purposes of water treatment or
831 cleaning does not require licensure unless the usage involves
832 construction, modification, or replacement of such equipment.
833 Water treatment that does not require such equipment does not
834 require a license. In addition, a license is not required for
835 the cleaning of the pool or spa in a way that does not affect
836 the structural integrity of the pool or spa or its associated
837 equipment.
838 (l) "Swimming pool/spa servicing contractor" means a
839 contractor whose scope of work involves, but is not limited to,
840 the repair and servicing of a swimming pool, or hot tub or spa,
841 whether public or private, or otherwise, regardless of use. The

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842 scope of work includes the repair or replacement of existing
843 equipment, any cleaning or equipment sanitizing that requires at
844 least a partial disassembling, excluding filter changes, and the
845 installation of new pool/spa equipment, interior refinishing,
846 the reinstallation or addition of pool heaters, the repair or
847 replacement of all perimeter piping and filter piping, the
848 repair of equipment rooms or housing for pool/spa equipment, and
849 the substantial or complete draining of a swimming pool, or hot
850 tub or spa, for the purpose of repair or renovation. The scope
851 of such work does not include direct connections to a sanitary
852 sewer system or to potable water lines. The installation,
853 construction, modification, substantial or complete disassembly,
854 or replacement of equipment permanently attached to and
855 associated with the pool or spa for the purpose of water
856 treatment or cleaning of the pool or spa requires licensure;
857 however, the usage of such equipment for the purposes of water
858 treatment or cleaning does not require licensure unless the
859 usage involves construction, modification, substantial or
860 complete disassembly, or replacement of such equipment. Water
861 treatment that does not require such equipment does not require
862 a license. In addition, a license is not required for the
863 cleaning of the pool or spa in a way that does not affect the
864 structural integrity of the pool or spa or its associated
865 equipment.
866 (m) "Plumbing contractor" means a contractor whose services
867 are unlimited in the plumbing trade and includes ~~contracting~~
868 ~~business consists of~~ the execution of contracts requiring the
869 experience, financial means, knowledge, and skill to install,
870 maintain, repair, alter, extend, or, if not prohibited by law,

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871 design plumbing. A plumbing contractor may install, maintain,
872 repair, alter, extend, or, if not prohibited by law, design the
873 following without obtaining an additional local regulatory
874 license, certificate, or registration: sanitary drainage or
875 storm drainage facilities, water and sewer plants and
876 substations, ~~;~~ venting systems, water supply backflow
877 prevention, ~~;~~ public or private water supply systems, ~~;~~ septic
878 tanks, ~~;~~ drainage and supply wells, drain cleaning and clearing,
879 rainwater catchment systems, ~~;~~ swimming pool piping, ~~;~~ irrigation
880 systems, and ~~; or~~ solar heating water systems, and all
881 appurtenances, apparatus, or equipment used in connection
882 therewith, including boilers and pressure process piping and
883 including the installation of water, natural gas, liquefied
884 petroleum gas and related venting, and storm and sanitary sewer
885 lines ~~; and water and sewer plants and substations~~. The scope of
886 work of the plumbing contractor also includes the design, if not
887 prohibited by law, and installation, maintenance, repair,
888 alteration, or extension of air-piping, vacuum line piping,
889 oxygen line piping, nitrous oxide piping, and all related
890 medical gas systems; fire line standpipes and fire sprinklers if
891 authorized by law; ink and chemical lines; fuel oil and gasoline
892 piping and tank and pump installation, except bulk storage
893 plants; and pneumatic control piping systems, all in a manner
894 that complies with all plans, specifications, codes, laws, and
895 regulations applicable. The scope of work of the plumbing
896 contractor applies to private property and public property,
897 including any excavation work incidental thereto, and includes
898 the work of the specialty plumbing contractor. Such contractor
899 shall subcontract, with a qualified contractor in the field

900 concerned, all other work incidental to the work but which is
901 specified as being the work of a trade other than that of a
902 plumbing contractor. This definition does not limit the scope of
903 work of any specialty contractor certified pursuant to s.
904 489.113(6), and does not require certification or registration
905 under this part of any authorized employee of a public natural
906 gas utility or of a private natural gas utility regulated by the
907 Public Service Commission when disconnecting and reconnecting
908 water lines in the servicing or replacement of an existing water
909 heater.
910 (n) "Underground utility and excavation contractor" means a
911 contractor whose services are limited to the construction,
912 installation, and repair, on public or private property, whether
913 accomplished through open excavations or through other means,
914 including, but not limited to, directional drilling, auger
915 boring, jacking and boring, trenchless technologies, wet and dry
916 taps, grouting, and slip lining, of main sanitary sewer
917 collection systems, main water distribution systems, storm sewer
918 collection systems, and the continuation of utility lines from
919 the main systems to a point of termination up to and including
920 the meter location for the individual occupancy, sewer
921 collection systems at property line on residential or single-
922 occupancy commercial properties, or on multioccupancy properties
923 at manhole or wye lateral extended to an invert elevation as
924 engineered to accommodate future building sewers, water
925 distribution systems, or storm sewer collection systems at storm
926 sewer structures. However, an underground utility and excavation
927 contractor may install empty underground conduits in rights-of-
928 way, easements, platted rights-of-way in new site development,

929 and sleeves for parking lot crossings no smaller than 2 inches
930 in diameter if each conduit system installed is designed by a
931 licensed professional engineer or an authorized employee of a
932 municipality, county, or public utility and the installation of
933 such conduit does not include installation of any conductor
934 wiring or connection to an energized electrical system. An
935 underground utility and excavation contractor may not install
936 piping that is an integral part of a fire protection system as
937 defined in s. 633.021 beginning at the point where the piping is
938 used exclusively for such system.
939 (o) "Solar contractor" means a contractor whose services
940 consist of the installation, alteration, repair, maintenance,
941 relocation, or replacement of solar panels for potable solar
942 water heating systems, swimming pool solar heating systems, and
943 photovoltaic systems and any appurtenances, apparatus, or
944 equipment used in connection therewith, whether public, private,
945 or otherwise, regardless of use. A contractor, certified or
946 registered pursuant to this chapter, is not required to become a
947 certified or registered solar contractor or to contract with a
948 solar contractor in order to provide services enumerated in this
949 paragraph that are within the scope of the services such
950 contractors may render under this part.
951 (p) "Pollutant storage systems contractor" means a
952 contractor whose services are limited to, and who has the
953 experience, knowledge, and skill to install, maintain, repair,
954 alter, extend, or design, if not prohibited by law, and use
955 materials and items used in the installation, maintenance,
956 extension, and alteration of, pollutant storage tanks. Any
957 person installing a pollutant storage tank shall perform such

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958 installation in accordance with the standards adopted pursuant
959 to s. 376.303.
960 ~~(q) "Glass and glazing contractor" means a contractor whose~~
961 ~~services are unlimited in the execution of contracts requiring~~
962 ~~the experience, knowledge, and skill to install, attach,~~
963 ~~maintain, repair, fabricate, alter, extend, or design, in~~
964 ~~residential and commercial applications without any height~~
965 ~~restrictions, all types of windows, glass, and mirrors, whether~~
966 ~~fixed or movable; swinging or sliding glass doors attached to~~
967 ~~existing walls, floors, columns, or other structural members of~~
968 ~~the building; glass holding or supporting mullions or horizontal~~
969 ~~bars; structurally anchored impact-resistant opening protection~~
970 ~~attached to existing building walls, floors, columns, or other~~
971 ~~structural members of the building; prefabricated glass, metal,~~
972 ~~or plastic curtain walls; storefront frames or panels; shower~~
973 ~~and tub enclosures; metal fascias; and caulking incidental to~~
974 ~~such work and assembly.~~
975 (q) ~~(r)~~ "Specialty contractor" means a contractor whose
976 scope of work and responsibility is limited to a particular
977 phase of construction established in a category adopted by board
978 rule and whose scope is limited to a subset of the activities
979 described in one of the paragraphs of this subsection.
980 (6) "Contracting" means, except as exempted in this part,
981 engaging in business as a contractor and includes, but is not
982 limited to, performance of any of the acts as set forth in
983 subsection (3) which define types of contractors. The attempted
984 sale of contracting services and the negotiation or bid for a
985 contract on these services also constitutes contracting. If the
986 services offered require licensure or agent qualification, the

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987 offering, negotiation for a bid, or attempted sale of these
988 services requires the corresponding licensure. However, the term
989 "contracting" shall not extend to an individual, partnership,
990 corporation, trust, or other legal entity that offers to sell or
991 sells completed residences on property on which the individual
992 or business entity has any legal or equitable interest, or to
993 the individual or business entity that offers to sell or sells
994 manufactured or factory-built buildings that will be completed
995 on site on property on which either party to a contract has any
996 legal or equitable interest, if the services of a qualified
997 contractor certified or registered pursuant to the requirements
998 of this chapter have been or will be retained for the purpose of
999 constructing or completing such residences.
1000 Section 8. The amendments to s. 489.105(6), Florida
1001 Statutes, as enacted by s. 30 of chapter 2008-240, Laws of
1002 Florida, were intended to protect the sanctity of contracts for
1003 the sale of manufactured or factory-built buildings that will be
1004 completed on site and to ensure that those contracts are legal
1005 and enforceable contracts under state law. The amendments were
1006 intended to be remedial in nature, clarify existing law, and
1007 apply retroactively to any contract for the sale of manufactured
1008 or factory-built buildings that will be completed on site and
1009 otherwise comply with state law.
1010 Section 9. Paragraph (c) of subsection (5) of section
1011 489.127, Florida Statutes, is amended to read:
1012 489.127 Prohibitions; penalties.—
1013 (5) Each county or municipality may, at its option,
1014 designate one or more of its code enforcement officers, as
1015 defined in chapter 162, to enforce, as set out in this

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1016 subsection, the provisions of subsection (1) and s. 489.132(1)
1017 against persons who engage in activity for which a county or
1018 municipal certificate of competency or license or state
1019 certification or registration is required.
1020 (c) The local governing body of the county or municipality
1021 is authorized to enforce codes and ordinances against unlicensed
1022 contractors under the provisions of this subsection and may
1023 enact an ordinance establishing procedures for implementing this
1024 subsection, including a schedule of penalties to be assessed by
1025 the code enforcement officer. The maximum civil penalty which
1026 may be levied shall not exceed $2,000 ~~$500~~. Moneys collected
1027 pursuant to this subsection shall be retained locally, as
1028 provided for by local ordinance, and may be set aside in a
1029 specific fund to support future enforcement activities against
1030 unlicensed contractors.
1031 Section 10. Paragraph (c) of subsection (4) of section
1032 489.531, Florida Statutes, is amended to read:
1033 489.531 Prohibitions; penalties.—
1034 (4) Each county or municipality may, at its option,
1035 designate one or more of its code enforcement officers, as
1036 defined in chapter 162, to enforce, as set out in this
1037 subsection, the provisions of subsection (1) against persons who
1038 engage in activity for which county or municipal certification
1039 is required.
1040 (c) The local governing body of the county or municipality
1041 is authorized to enforce codes and ordinances against unlicensed
1042 contractors under the provisions of this section and may enact
1043 an ordinance establishing procedures for implementing this
1044 section, including a schedule of penalties to be assessed by the

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1045 code enforcement officers. The maximum civil penalty which may
1046 be levied shall not exceed $2,000 ~~$500~~. Moneys collected
1047 pursuant to this section shall be retained locally as provided
1048 for by local ordinance and may be set aside in a specific fund
1049 to support future enforcement activities against unlicensed
1050 contractors.
1051 Section 11. Section 553.721, Florida Statutes, is amended
1052 to read:
1053 553.721 Surcharge.—In order for the Department of Business
1054 and Professional Regulation to administer and carry out the
1055 purposes of this part and related activities, there is ~~hereby~~
1056 created a surcharge, to be assessed at the rate of 1.5 percent
1057 of the permit fees associated with enforcement of the Florida
1058 Building Code as defined by the uniform account criteria and
1059 specifically the uniform account code for building permits
1060 adopted for local government financial reporting pursuant to s.
1061 218.32. The minimum amount collected on any permit issued shall
1062 be $2. The unit of government responsible for collecting a
1063 permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect
1064 the ~~such~~ surcharge and electronically remit the funds collected
1065 to the department on a quarterly calendar basis ~~beginning not~~
1066 ~~later than December 31, 2010,~~ for the preceding quarter~~,~~ and
1067 continuing each third month thereafter. The~~, and such~~ unit of
1068 government shall retain 10 percent of the surcharge collected to
1069 fund the participation of building departments in the national
1070 and state building code adoption processes and to provide
1071 education related to enforcement of the Florida Building Code.
1072 All funds remitted to the department pursuant to this section
1073 shall be deposited in the Professional Regulation Trust Fund.

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1074 Funds collected from the ~~such~~ surcharge shall be allocated to
1075 fund ~~used exclusively for the duties of~~ the Florida Building
1076 Commission and the Florida Building Code Compliance and
1077 Mitigation Program under s. 553.841. Funds allocated to the
1078 Florida Building Code Compliance and Mitigation Program shall be
1079 $925,000 each fiscal year. The funds collected from the
1080 surcharge may ~~and the Department of Business and Professional~~
1081 ~~Regulation under this chapter and shall~~ not be used to fund
1082 research on techniques for mitigation of radon in existing
1083 buildings. Funds used by the department as well as funds to be
1084 transferred to the Department of Health shall be as prescribed
1085 in the annual General Appropriations Act. The department shall
1086 adopt rules governing the collection and remittance of
1087 surcharges pursuant to ~~in accordance with~~ chapter 120.
1088 Section 12. Subsection (10) of section 553.73, Florida
1089 Statutes, is amended to read:
1090 553.73 Florida Building Code.—
1091 (10) The following buildings, structures, and facilities
1092 are exempt from the Florida Building Code as provided by law,
1093 and any further exemptions shall be as determined by the
1094 Legislature and provided by law:
1095 (a) Buildings and structures specifically regulated and
1096 preempted by the Federal Government.
1097 (b) Railroads and ancillary facilities associated with the
1098 railroad.
1099 (c) Nonresidential farm buildings on farms.
1100 (d) Temporary buildings or sheds used exclusively for
1101 construction purposes.
1102 (e) Mobile or modular structures used as temporary offices,

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1103 except that the provisions of part II relating to accessibility
1104 by persons with disabilities ~~shall~~ apply to such mobile or
1105 modular structures.
1106 (f) Those structures or facilities of electric utilities,
1107 as defined in s. 366.02, which are directly involved in the
1108 generation, transmission, or distribution of electricity.
1109 (g) Temporary sets, assemblies, or structures used in
1110 commercial motion picture or television production, or any
1111 sound-recording equipment used in such production, on or off the
1112 premises.
1113 (h) Storage sheds that are not designed for human
1114 habitation and that have a floor area of 720 square feet or less
1115 are not required to comply with the mandatory wind-borne-debris-
1116 impact standards of the Florida Building Code. In addition, such
1117 buildings that are 400 square feet or less and that are intended
1118 for use in conjunction with one- and two-family residences are
1119 not subject to the door height and width requirements of the
1120 Florida Building Code.
1121 (i) Chickees constructed by the Miccosukee Tribe of Indians
1122 of Florida or the Seminole Tribe of Florida. As used in this
1123 paragraph, the term "chickee" means an open-sided wooden hut
1124 that has a thatched roof of palm or palmetto or other
1125 traditional materials, and that does not incorporate any
1126 electrical, plumbing, or other nonwood features.
1127 (j) Family mausoleums not exceeding 250 square feet in area
1128 which are prefabricated and assembled on site or preassembled
1129 and delivered on site and have walls, roofs, and a floor
1130 constructed of granite, marble, or reinforced concrete.
1131 (k) A building or structure having less than 1,000 square

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1132 feet which is constructed and owned by a natural person for
1133 hunting and which is repaired or reconstructed to the same
1134 dimension and condition as existed on January 1, 2011, if the
1135 building or structure:
1136 1. Is not rented or leased or used as a principal
1137 residence;
1138 2. Is not located within the 100-year floodplain according
1139 to the Federal Emergency Management Agency's current Flood
1140 Insurance Rate Map; and
1141 3. Is not connected to an off-site electric power or water
1142 supply.
1143
1144 With the exception of paragraphs (a), (b), (c), and (f), in
1145 order to preserve the health, safety, and welfare of the public,
1146 the Florida Building Commission may, by rule adopted pursuant to
1147 chapter 120, provide for exceptions to the broad categories of
1148 buildings exempted in this section, including exceptions for
1149 application of specific sections of the code or standards
1150 adopted therein. The Department of Agriculture and Consumer
1151 Services shall have exclusive authority to adopt by rule,
1152 pursuant to chapter 120, exceptions to nonresidential farm
1153 buildings exempted in paragraph (c) when reasonably necessary to
1154 preserve public health, safety, and welfare. The exceptions must
1155 be based upon specific criteria, such as under-roof floor area,
1156 aggregate electrical service capacity, HVAC system capacity, or
1157 other building requirements. Further, the commission may
1158 recommend to the Legislature additional categories of buildings,
1159 structures, or facilities which should be exempted from the
1160 Florida Building Code, to be provided by law. The Florida

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1161 Building Code does not apply to temporary housing provided by
1162 the Department of Corrections to any prisoner in the state
1163 correctional system.
1164 Section 13. Subsection (4) of section 553.844, Florida
1165 Statutes, is amended to read:
1166 553.844 Windstorm loss mitigation; requirements for roofs
1167 and opening protection.—
1168 (4) Notwithstanding the provisions of this section, exposed
1169 mechanical equipment or appliances fastened to a roof or
1170 installed on the ground in compliance with the code using rated
1171 stands, platforms, curbs, slabs, or other means are deemed to
1172 comply with the wind resistance requirements of the 2007 Florida
1173 Building Code, as amended. Further support or enclosure of such
1174 mechanical equipment or appliances is not required by a state or
1175 local official having authority to enforce the Florida Building
1176 Code. This subsection expires on the effective date of the 2013
1177 ~~2010~~ Florida Building Code.
1178 Section 14. Subsection (15) is added to section 633.0215,
1179 Florida Statutes, to read:
1180 633.0215 Florida Fire Prevention Code.—
1181 (15) The Legislature finds that the electronic filing of
1182 construction plans will increase governmental efficiency, reduce
1183 costs, and increase timeliness of processing permits. If the
1184 fire code administrator or fire official provides for electronic
1185 filing, any construction plans, drawings, specifications,
1186 reports, final documents, or documents prepared or issued by a
1187 licensee may be dated and electronically signed and sealed by
1188 the licensee in accordance with part I of chapter 668, and may
1189 be transmitted electronically to the fire code administrator or

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1190 fire official for approval.
1191 Section 15. Paragraph (b) of subsection (6) of section
1192 713.135, Florida Statutes, is amended, and paragraph (d) is
1193 added to that subsection, to read:
1194 713.135 Notice of commencement and applicability of lien.—
1195 (6)
1196 (b)1. Consistent with the requirements of paragraph (a), an
1197 authority responsible for issuing building permits under this
1198 section may accept a building permit application in an
1199 electronic format, as prescribed by the authority. Building
1200 permit applications submitted to the authority electronically
1201 must contain the following additional statement in lieu of the
1202 requirement in paragraph (a) that a signed, sworn, and notarized
1203 signature of the owner or agent and the contractor be part of
1204 the owner's affidavit:
1205
1206 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
1207 of perjury, I declare that all the information
1208 contained in this building permit application is true
1209 and correct.
1210
1211 2. An owner or contractor is not required to personally
1212 appear and provide a notarized signature when filing a building
1213 permit application for a solar project as described in s.
1214 489.103(7)(a)3. if the building permit application is
1215 electronically submitted to the permitting authority and the
1216 owner or contractor certifies that the application is consistent
1217 with this paragraph using the permitting authority's electronic
1218 confirmation system.

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1219 (d) An authority responsible for issuing building permits
1220 which accepts building permit applications in an electronic
1221 format for solar projects, as defined in subparagraph (b)2., is
1222 not liable in any civil action for any inaccurate information
1223 submitted by an owner or contractor using the authority's
1224 electronic confirmation system.
1225 Section 16. The Florida Building Commission shall establish
1226 a workgroup to assist the commission in developing a rule for
1227 implementing an alternative design method for screen enclosures
1228 which allows for the removal of a section of the screen to
1229 accommodate high-wind events consistent with the provisions of
1230 the Florida Building Code.
1231 (1) The workgroup shall be comprised of the following
1232 representatives:
1233 (a) Two members who represent the screen enclosure
1234 manufacturing industry;
1235 (b) Two members who represent the aluminum contractors
1236 industry;
1237 (c) One member who represents the Florida Home Builders
1238 Association;
1239 (d) One member who represents the Florida Swimming Pool
1240 Association;
1241 (e) Three members who represent the Building Officials
1242 Association of Florida;
1243 (f) One member who represents the building products
1244 industry; and
1245 (g) One member who is employed as a structural engineer.
1246 (2) The workgroup shall address the following factors to be
1247 included in the rule:

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1248 (a) An alternative design method for a screen enclosure
1249 that is site-specific engineered;
1250 (b) A screen enclosure design using the alternative method
1251 that serves as a barrier that is required for a swimming pool
1252 and remains in place at the minimum height required for the
1253 barrier;
1254 (c) A screen enclosure design using clear, highly visible
1255 labels for panels that can be cut, retracted, or removed when
1256 winds are forecasted to exceed 75 mph;
1257 (d) A design for a screen that can be removed, cut, or
1258 retracted without the use of a ladder or scaffolding;
1259 (e) A requirement that the contractor provide replacement
1260 screen at the initial point of sale to repair the screen
1261 enclosure for designs that require cutting; and
1262 (f) An alternative design for a screen enclosure that
1263 requires the contractor to provide notice to the homeowner and
1264 the local building department that the homeowner must cut,
1265 retract, or remove a panel or panels of the screen enclosure in
1266 accordance with engineering or manufacturer's instructions when
1267 wind speeds are expected to exceed 75 mph.
1268 (3) The Florida Building Commission shall appoint the
1269 workgroup no later than August 1, 2012, complete the draft rule
1270 by November 1, 2012, and adopt the rule by January 1, 2013. The
1271 Florida Building Commission shall incorporate the alternative
1272 screen enclosure design method requirements into the next
1273 version of the Florida Building Code. This section expires upon
1274 adoption and implementation of the requirements into the Florida
1275 Building Code.
1276 Section 17. This act shall take effect July 1, 2012.

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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)

2-21-12
Meeting Date

Topic: BUILDING CODES/CONSTRUCTION

Bill Number: CS/CS/SB 704 *(if applicable)*

Name: CAM FENTRISS

Amendment Barcode: *(if applicable)*

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Speaking: [✓] For [ ] Against [ ] Information

Representing: FLA. ROOFING, SHEET METAL + AC CONTRACTORS; FLA ASSN PLUMBING CONTRACTORS, FLA REFRIGERATION + AC CONTRACTORS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-2012
Meeting Date

Topic: Const. Inspection.

Bill Number: SB 704 *(if applicable)*

Name: RICHARD GENTRY

Amendment Barcode: *(if applicable)*

Job Title:

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Speaking: [X] For [ ] Against [ ] Information

Representing:

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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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S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Criminal Justice
Military Affairs, Space, and Domestic Security

SENATOR MICHAEL S. "MIKE" BENNETT
President Pro Tempore
21st District

February 7, 2012

The Honorable J. D. Alexander
Chair, Budget Committee
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I am requesting that you place S704, relating to Building Codes, on your next committee agenda.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

Michael S. "Mike" Bennett
/cre

Cc: Terry Rhodes, Staff Director
Alisa Weiss, Administrative Assistant
Ann Roberts, Administrative Assistant

REPLY TO:
☐ Wildewood Professional Park, Suite 90, 3653 Cortez Road West, Bradenton, Florida 34210 (941) 727-6349
☐ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 730

INTRODUCER: Health Regulation Committee and Senator Flores and Others

SUBJECT: Medicaid Managed Care Plans

DATE: January 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Stovall	HR	**Fav/CS**
2.	Brown	Hendon	BHA	**Favorable**
3.	Brown	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes

B. AMENDMENTS..... [ ] Technical amendments were recommended

[ ] Amendments were recommended

[ ] Significant amendments were recommended

I. Summary:

The bill changes the statewide Medicaid managed care program (the managed medical assistance program and the long-term care managed care program) with respect to the role that Medicare Advantage plans will play in the program, for recipients who are dually eligible for Medicaid and Medicare. The bill requires the Agency for Health Care Administration (AHCA) to establish a per-member, per-month payment for dually eligible individuals enrolled in any Medicare Advantage coordinated care plan, not just in a Medicare Advantage special needs plan.

The definition of "eligible plan" for the statewide Medicaid managed care program and various other statutory references to eligible plans in the program are amended to include additional Medicare Advantage organizations and plans, for purposes of providing coverage to individuals who are dually eligible for Medicaid and Medicare and who are to be enrolled in the managed medical assistance program and the long-term care managed care program.

The bill exempts a Medicare Advantage coordinated care plan from the procurement requirements and regional plan limits of the new Medicaid managed medical assistance program, if the plan's Medicaid enrollees in the region consist exclusively of its current Medicare enrollees who are dually eligible for Medicaid and Medicare. Also, the bill requires the AHCA to

automatically enroll Medicaid managed medical assistance program recipients who have not voluntarily selected a plan, who are dually eligible, and who are currently receiving Medicare services from a Medicare Advantage coordinated care plan to that Medicare Advantage plan, if the plan is currently under contract with the AHCA.

The bill modifies the existing exemption from the procurement requirements of the Medicaid long-term care managed care program for Medicare Advantage plans serving dually eligible recipients. The bill specifies that the exemption from the procurement requirements applies only if the Medicare Advantage plan's Medicaid enrollees consist exclusively of its current Medicare enrollees.

The bill reduces the penalty imposed on certain managed care plans that leave a region before the end of the term of their contract with the AHCA.

The bill has no direct fiscal impact on government.

This bill substantially amends the following sections of the Florida Statutes: 409.9122, 409.962, 409.967, 409.974, 409.977, 409.981, and 409.984.

The bill has an effective date of July 1, 2012.

II. Present Situation:

Medicaid

Medicaid is the medical assistance program that provides access to health care for low-income families and individuals. Medicaid also assists aged and disabled people with the costs of nursing facility care and other medical expenses. The AHCA is responsible for administering the Medicaid program. Medicaid serves approximately 3.19 million people in Florida, with over half of those being children and adolescents 20 years of age or younger. Estimated Medicaid expenditures for FY 2011-2012 are approximately $20.3 billion.

Medicaid Managed Care

Part III of ch. 409, F.S., provides the statutory requirements for the Florida Medicaid program. Sections 409.9121 – 409.9124, F.S., contain provisions relating to managed care in Medicaid.

In 1993, the Legislature passed legislation declaring its intent that the Medicaid program require, to the maximum extent practicable and permitted by federal law, that all Medicaid recipients be enrolled in a managed care program.[1] This intent language was codified in s. 409.9121, F.S., and has remained in effect and unchanged since 1993. Section 409.9122, F.S., which was also created in 1993, set Florida on the path of mandatory enrollment of Medicaid recipients in managed care by providing for the statewide expansion of the primary care case management program known as MediPass and for the growth of health maintenance organizations and prepaid health plans for Medicaid recipients. Section 409.9122, F.S., has been amended almost every year since 1993 to expand the role of managed care in Medicaid as managed care has evolved.

[1] *See* s. 50 of ch. 93-129, L.O.F.

In 2005, the Legislature directed the AHCA to seek federal Medicaid waivers pursuant to s. 1115 of the Social Security Act to create a Medicaid managed care pilot program in five counties in the State. Under the pilot program, most Medicaid recipients have been moved from Medicaid fee-for-service and the MediPass program into capitated managed care systems. As of December 15, 2011, the pilot program waiver was extended for three years, through June 30, 2014. This coincides with implementation of the new statewide Medicaid managed care program established in 2011 and codified in pt. IV of ch. 409, F.S. (s. 409.961 – 409.9841, F.S.).[2]

Part IV of ch. 409, F.S., requires all Medicaid recipients to enroll in a managed care plan unless they are specifically exempted. The statewide Medicaid managed care program includes the long-term care managed care program and the managed medical assistance program. The law directs the AHCA to begin implementation of the long-term care managed care program by July 1, 2012, with full implementation in all regions of the State by October 1, 2013. By January 1, 2013, the AHCA must begin implementation of the managed medical assistance program, with full implementation in all regions of the State by October 1, 2014.

The AHCA is required to separately procure long-term care managed care plans and managed medical assistance plans in each of the 11 regions of the state, which coincide with the existing Medicaid areas. The AHCA is required to select a limited number of eligible plans to participate in the program using Invitations to Negotiate. Each Medicaid recipient must have a choice of plans and may select any available plan unless that plan is restricted by contract to a specific population that does not include the recipient.

Section 409.967(4)(h)1., F.S., requires plans that reduce enrollment levels or withdraw from an area of operation before a contract term is over to reimburse the AHCA for the cost of enrollment changes and other transition activities. If more than one plan leaves an area, the plans are required to split the cost proportionate to their enrollment. In addition to payment of costs, departing provider services network plans must pay a penalty of up to 3 months' payment and departing health maintenance organization plans must pay a penalty of 25 percent of the minimum surplus which they are required to maintain under s. 641.225(1), F.S.

Dual Eligibles

Dual eligibles are persons who qualify, in some way, for both Medicare and Medicaid coverage. Medicare covers their acute care services, while Medicaid covers Medicare premiums and cost sharing, and—for those below certain income and asset thresholds—long-term care services and, until 2006, prescription drugs, among other services. The term "dual eligible" encompasses all Medicare beneficiaries who receive Medicaid assistance, including those who receive the full range of Medicaid benefits and those who receive assistance only with Medicare premiums or cost sharing.

Currently, dual eligibles cannot be mandatorily assigned to managed care. The AHCA is seeking authority to mandatorily assign dual eligibles to long-term care managed care plans and managed medical assistance plans.

[2] *See* ch. 2011-134, L.O.F.

Medicare Advantage Plans

Medicare is a federal health insurance program for people 65 or older, people under 65 with certain disabilities, and people of any age with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a kidney transplant). The program is administered by the Centers for Medicare and Medicaid Services (CMS) in the U. S. Department of Health and Human Services.

Medicare has four different parts that cover specific services.

- *Part A* (Hospital Insurance) helps cover inpatient care in hospitals and skilled nursing facilities (not custodial or long-term care). It also helps cover hospice care and some home health care.
- *Part B* (Medical Insurance) helps cover doctors' services and outpatient care. It also covers some other medical services that Part A doesn't cover, such as some of the services of physical and occupational therapists, and some home health care. Part B helps cover some preventive services that help people maintain their health and keep certain illnesses from getting worse.
- *Part C* (Medicare Advantage Plans) covers Part A, Part B, and usually Part D services provided by Medicare-approved private insurance companies.
- *Part D* (Prescription Drug Coverage) helps cover the cost of prescription drugs through Medicare-approved private insurance companies.

The Balanced Budget Act of 1997 established a new Part C of the Medicare program, known then as the Medicare+Choice program, effective January 1999. The act authorized the CMS to contract with public or private organizations to offer a variety of health plan options for beneficiaries, including coordinated care plans, Medicare Medical Savings Account plans, private-fee-for-service plans, and Religious Fraternal Benefit plans. These health plans provide all Medicare Parts A and B benefits, and most offer additional benefits beyond those covered under the original Medicare program.

The Medicare+Choice program in Part C of Medicare was renamed the Medicare Advantage Program under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, which was enacted in December 2003. This act updated and improved the choice of plans for beneficiaries under Part C. Beneficiaries may now choose from additional plan options, including regional preferred provider organization plans and special needs plans. The act also established the Medicare prescription drug benefit (Part D) program, and amended the Part C program to allow (and, for organizations offering coordinated care plans, require) most Medicare Advantage plans to offer prescription drug coverage.

Coordinated care plans are plans that include a network of providers that are under contract or arrangement with the organization to deliver the benefit package approved by the CMS. They may include mechanisms to control utilization, such as referrals from a gatekeeper for an enrollee to receive services within the plan, and financial arrangements that offer incentives to providers to furnish high quality and cost-effective care. Coordinated care plans include plans offered by any of the following:

- Health maintenance organizations (HMOs);
- Provider-sponsored organizations (PSOs);

- Regional or local preferred provider organizations (PPOs);
- Other network plans, except for private-fee-for-service plans; and
- Specialized Medicare Advantage plans for special needs individuals, which include any type of coordinated care plan that exclusively enrolls special needs individuals.[3] Special needs individuals are Medicare Advantage eligible individuals who are institutionalized, have severe or disabling chronic conditions, or qualify both for Medicare and Medicaid benefits (dual eligibles).[4]

Specialized Medicare Advantage plans for special needs individuals must provide Part D benefits. They must be designated by the CMS as meeting the requirements of a Medicare Advantage special needs plan as determined on a case-by-case basis using criteria that include the appropriateness of the target population, the existence of clinical programs or special expertise to serve the target population, and whether the proposal discriminates against sicker members of the target population.

Medicare Advantage organizations seeking to offer a special needs plan serving beneficiaries eligible for both Medicare and Medicaid must have a contract with the State Medicaid agency (the AHCA).[5] Medicare Advantage plans wishing to offer a special needs plan are required to meet additional requirements set forth by federal law, including approval by the National Commission on Quality Assurance, effective January 1, 2012.

The Medicare Advantage program also provides for a "*fully integrated* dual eligible special needs plan." The fully integrated plan is a CMS-approved Medicare Advantage/Prescription Drug dual eligible special needs plan that:

- Enrolls special needs individuals entitled to medical assistance under Medicaid;
- Provides dual eligible beneficiaries access to Medicare and Medicaid benefits under a single managed care organization;
- Has a capitated contract with a State Medicaid agency that includes coverage of specified primary, acute, and long-term care benefits and services;
- Coordinates the delivery of covered Medicare and Medicaid health and long-term care services using aligned care management and specialty network methods for high-risk beneficiaries; and
- Employs policies and procedures approved by the CMS and the State to coordinate or integrate member materials, enrollment, communications, grievance and appeals, and quality improvement.[6]

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[3] 42 C.F.R. part 422.4, Types of MA plans. Found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=6458b5363e3fed66ddaf309b5baa0b31&rgn=div8&view=text&node=42:3.0.1.1.9.1.5.3&idno=42> (Last visited on January 17, 2012).

[4] 42 C.F.R. part 422.2, Definitions. Found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=92c8e79ce6a6a52e4b60a4251b9a8745;rgn=div8;view=text;node=42%3A3.0.1.1.9.1.5.2;idno=42;cc=ecfr> (Last visited on January 17, 2012).

[5] 42 C.F.R. part 422.107, Special needs plans and dual-eligibles: Contract with State Medicaid Agency. Found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=92c8e79ce6a6a52e4b60a4251b9a8745;rgn=div5;view=text;node=42%3A3.0.1.1.9;idno=42;cc=ecfr#42:3.0.1.1.9.3.5.8> (Last visited on January 17, 2012).

[6] 42 C.F.R. part 422.2, Definitions. Found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=92c8e79ce6a6a52e4b60a4251b9a8745;rgn=div8;view=text;node=42%3A3.0.1.1.9.1.5.2;idno=42;cc=ecfr> (Last visited on January 17, 2012).

Health Maintenance Organization Minimum Surplus Requirement

Subsection 641.225(1), F.S., requires each health maintenance organization to maintain at all times a minimum surplus in an amount that is the greater of $1,500,000, 10 percent of total liabilities, or 2 percent of total annualized premium. The surplus account requirement is not specific to a certain line of business. Companies that operate or own multiple plans are only required to hold one surplus account.

III. Effect of Proposed Changes:

Section 1 amends s. 409.9122, F.S., relating to mandatory Medicaid managed care enrollment, to require, rather than to authorize, the AHCA to establish a per-member, per-month payment for enrollees of a Medicare Advantage coordinated care plan who are also eligible for Medicaid. The existing statutory provision applies only to members of Medicare Advantage special needs plans who are also eligible for Medicaid. The AHCA currently contracts with 12 Medicare Advantage special needs plans and has established a per-member, per-month payment. By using the term Medicare Advantage coordinated care plans, plans other than Medicare Advantage special needs plans would receive a per-member, per-month payment for enrollees who are dual eligibles. This will have an impact on enrollment levels of the existing contractees.

Section 2 amends s. 409.962, F.S., which provides definitions for the recently enacted Medicaid managed care program, to modify the definition of "eligible plan." The bill clarifies that, for purposes of dual eligibles, the term "eligible plan" includes all Medicare Advantage coordinated care plans. The term is also expanded to include dual eligibles enrolled in the managed medical assistance program, not just enrollees in the long-term care managed care program.

According to the AHCA,[7] there are 87,000 Medicaid recipients residing in a nursing home or participating in a waiver program who will be required to participate in the long-term care managed care program. Of these, 82,000 are dual eligibles who are eligible for full Medicaid services and Medicare services. The AHCA does not currently know the number of these individuals who are enrolled in Medicare Advantage plans or the Medicare Advantage plans in which they are enrolled. In order to implement this provision, the AHCA may need to obtain information from Medicare Advantage plans and may need to make systems changes.

There will be 5,000 who are not dual eligibles who will be eligible for both the long-term care managed care program and the managed medical assistance program. These individuals would not qualify for enrollment in a Medicare Advantage plan.

Section 3 amends s. 409.967, F.S., relating to managed care plan accountability, to clarify that, for plans, other than provider services networks, only the *departing* plans must pay the penalty of 25 percent of the minimum surplus required under s. 641.225(1), F.S. The bill also reduces the penalty on departing plans, other than provider services networks, to 25 percent of the minimum surplus which is attributable to the provision of coverage to Medicaid enrollees, not all plan enrollees. This change may potentially reduce the payment a departing plan must make.

[7] *See* Agency for Health Care Administration 2012 Bill Analysis and Economic Impact Statement for SB 730 – on file with the Health Regulation Committee.

Section 4 amends s. 409.974, F.S., relating to eligibility of plans for participation in the Medicaid managed medical assistance program, to exempt a Medicare Advantage coordinated care plan from the procurement requirements or regional plan limits applicable to other managed care plans, if the Medicare Advantage coordinated care plan's Medicaid enrollees in the region consist exclusively of its current Medicare enrollees who are dually eligible. Participation by such plans would be pursuant to a contract with the AHCA. If a plan's Medicaid enrollees are not exclusively its current Medicare enrollees who are dually eligible, the plan must meet all procurement requirements. The bill corrects an incorrect cross-reference.

If Medicare Advantage plans are allowed to become Medicaid managed medical assistance plans and are not subject to procurement requirements, the AHCA will need to develop an open application document and process in addition to the competitive procurement documents and process specified in current law. The application would be necessary to ensure that Medicare Advantage plans meet or have the ability to meet all statutorily required and agency-defined contract requirements.

Section 5 amends s. 409.977, F.S., relating to enrollment of Medicaid managed medical assistance program recipients into managed care plans, to specify that, if a Medicaid recipient has not voluntarily selected a plan, is a dual eligible, and is currently receiving Medicare services from a Medicare Advantage coordinated care plan, the AHCA must automatically enroll the recipient in that plan for Medicaid services, if the plan is under contract with the AHCA.

The dual-eligible population makes up a large portion of the long-term-care population available for enrollment in Medicaid health plans. Under the provisions of this section, a health plan selected by the AHCA for the managed medical assistance program that is not also a Medicare Advantage plan may not have as many enrollments as a plan that does have a Medicare Advantage plan. Existing Medicare Advantage plans would have the advantage in enrolling dual eligibles for Medicaid services.

Section 6 amends s. 409.981, F.S., relating to eligibility of long-term care plans for participation in the Medicaid long-term care managed care program, to expand the list of Medicare Advantage plans to include all the Medicare Advantage coordinated care plans. The law currently includes only Medicare Advantage preferred provider organizations, Medicare Advantage provider-sponsored organizations, and Medicare Advantage special needs plans. The bill also limits the existing statutory exemption for such plans from the procurement requirements to plans whose Medicaid enrollees consist exclusively of its current Medicare enrollees who are dually eligible.

Section 7 amends s. 409.984, F.S., relating to enrollment of Medicaid recipients into long-term care managed care plans, to expand the list of Medicare Advantage plans to include all the Medicare Advantage coordinated care plans. The law currently includes only Medicare Advantage preferred provider organizations, Medicare Advantage provider-sponsored organizations, and Medicare Advantage special needs plans. This will potentially increase the number of plans available and potentially reduce enrollment in each plan.

Section 8 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no discernable fiscal impact on government. The number of persons enrolled, the scope and extent of services, and the costs associated with the services will remain the same under the changes contained in the bill.[8]

VI. Technical Deficiencies:

The term "Medicare Advantage coordinated care plan" is the federal Medicare term that encompasses a variety of plans that are offered by various organizations. It may be sufficient to refer to "Medicare Advantage coordinated care plans" as section 1 of the bill does, rather than listing all the types of organizations and plans within that broader category throughout the bill.

VII. Related Issues:

Section 1 of the bill requires the AHCA to establish a per-member, per-month payment for enrollees of a Medicare Advantage coordinated care plan who are also eligible for Medicaid. There are currently Medicare Advantage special needs plans that have entered into Coordination of Benefits Agreements with the AHCA. Under these agreements, the plan coordinates care for its members and the AHCA pays any cost sharing. Cost-sharing includes deductibles,

[8] *Id.*

coinsurance, and co-payments, but does not include any premiums. The AHCA does not pay a per-member, per-month payment to the plans that have a Coordination of Benefits Agreement with the AHCA.

Implementation of the requirement on lines 86-87 to split the minimum surplus requirement for health maintenance organizations into Medicaid and non-Medicaid business will be dependent on the ability of the AHCA to obtain the necessary data to develop a methodology for calculating the penalty on only the Medicaid-related surplus requirement. The AHCA has indicated that it is currently unable to identify what portion of the surplus requirement is related to Medicaid recipients.[9]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Regulation on January 19, 2012:
The CS exempts Medicare Advantage plans from the procurement requirements for the managed medical assistance program and the long-term care managed care program only if their Medicaid enrollees consist exclusively of their current Medicare enrollees.

B. Amendments:

None.

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

[9] *Id.*

By the Committee on Health Regulation; and Senators Flores, Negron, and Gaetz

588-02046A-12 2012730c1

A bill to be entitled

An act relating to Medicaid managed care plans; amending s. 409.9122, F.S.; requiring the Agency for Health Care Administration to establish per-member, per-month payments; substituting the Medicare Advantage Coordinated Care Plan for the Medicare Advantage Special Needs Plan; amending s. 409.962, F.S.; revising the definition of "eligible plan" to include certain Medicare plans; amending s. 409.967, F.S.; limiting the penalty that a plan must pay if it leaves a region before the end of the contract term; amending s. 409.974, F.S.; correcting a cross-reference; providing that certain Medicare plans are not subject to procurement requirements or plan limits; amending s. 409.977, F.S.; requiring dually eligible Medicaid recipients to be enrolled in the Medicare plan in which they are already enrolled; amending s. 409.981, F.S.; revising the list of Medicare plans that are not subject to procurement requirements for long-term care plans; amending s. 409.984, F.S.; revising the list of Medicare plans in which dually eligible Medicaid recipients are enrolled in order to receive long-term care; providing an effective date.

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

Section 1. Subsection (15) of section 409.9122, Florida Statutes, is amended to read:

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

588-02046A-12 2012730c1

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(15) The agency shall ~~may~~ establish a per-member, per-month payment for enrollees who are enrolled in a Medicare Advantage Coordinated Care Plan and who ~~Medicare Advantage Special Needs members that~~ are also eligible for Medicaid as a mechanism for meeting the state's cost-sharing obligation. The agency may also develop a per-member, per-month payment only for Medicaid-covered services for which the state is responsible. The agency shall develop a mechanism to ensure that such per-member, per-month payment enhances the value to the state and enrolled members by limiting cost sharing, enhances the scope of Medicare supplemental benefits that are equal to or greater than Medicaid coverage for select services, and improves care coordination.

Section 2. Subsection (6) of section 409.962, Florida Statutes, is amended to read:

409.962 Definitions.—As used in this part, except as otherwise specifically provided, the term:

(6) "Eligible plan" means a health insurer authorized under chapter 624, an exclusive provider organization authorized under chapter 627, a health maintenance organization authorized under chapter 641, ~~or~~ a provider service network authorized under s. 409.912(4)(d), or an accountable care organization authorized under federal law. For purposes of the managed medical assistance program, the term also includes the Children's Medical Services Network authorized under chapter 391. For purposes of dually eligible Medicaid and Medicare recipients enrolled in the managed medical assistance program and the long-term care managed care program, the term also includes entities

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59 qualified under 42 C.F.R. part 422 as Medicare Advantage
60 Preferred Provider Organizations, Medicare Advantage Provider-
61 sponsored Organizations, Medicare Advantage Health Maintenance
62 Organizations, Medicare Advantage Coordinated Care Plans, ~~and~~
63 Medicare Advantage Special Needs Plans, and the Program of All-
64 inclusive Care for the Elderly.
65 Section 3. Paragraph (h) of subsection (2) of section
66 409.967, Florida Statutes, is amended to read:
67 409.967 Managed care plan accountability.—
68 (2) The agency shall establish such contract requirements
69 as are necessary for the operation of the statewide managed care
70 program. In addition to any other provisions the agency may deem
71 necessary, the contract must require:
72 (h) *Penalties.*—
73 1. Withdrawal and enrollment reduction.—Managed care plans
74 that reduce enrollment levels or leave a region before the end
75 of the contract term must reimburse the agency for the cost of
76 enrollment changes and other transition activities. If more than
77 one plan leaves a region at the same time, costs must be shared
78 by the departing plans proportionate to their enrollments. In
79 addition to the payment of costs, departing provider services
80 networks must pay a per-enrollee ~~per enrollee~~ penalty of up to 3
81 months' payment and continue to provide services to the enrollee
82 for 90 days or until the enrollee is enrolled in another plan,
83 whichever occurs first. In addition to payment of costs, all
84 other departing plans must pay a penalty of 25 percent of that
85 portion of the minimum surplus maintained ~~requirement~~ pursuant
86 to s. 641.225(1) which is attributable to the provision of
87 coverage to Medicaid enrollees. Plans shall provide at least 180

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

88 days' notice to the agency before withdrawing from a region. If
89 a managed care plan leaves a region before the end of the
90 contract term, the agency shall terminate all contracts with
91 that plan in other regions~~,~~ pursuant to the termination
92 procedures in subparagraph 3.
93 2. Encounter data.—If a plan fails to comply with the
94 encounter data reporting requirements of this section for 30
95 days, the agency must assess a fine of $5,000 per day for each
96 day of noncompliance beginning on the 31st day. On the 31st day,
97 the agency must notify the plan that the agency will initiate
98 contract termination procedures on the 90th day unless the plan
99 comes into compliance before that date.
100 3. Termination.—If the agency terminates more than one
101 regional contract with the same managed care plan due to
102 noncompliance with the requirements of this section, the agency
103 shall terminate all the regional contracts held by that plan.
104 When terminating multiple contracts, the agency must develop a
105 plan to provide for the transition of enrollees to other plans,
106 and phase in ~~phase-in~~ the terminations over a time period
107 sufficient to ensure a smooth transition.
108 Section 4. Subsection (2) of section 409.974, Florida
109 Statutes, is amended, and subsection (5) is added to that
110 section, to read:
111 409.974 Eligible plans.—
112 (2) QUALITY SELECTION CRITERIA.—In addition to the criteria
113 established in s. 409.966, the agency shall consider evidence
114 that an eligible plan has written agreements or signed contracts
115 or has made substantial progress in establishing relationships
116 with providers before the plan submitted ~~submitting~~ a response.

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

117 The agency shall evaluate and give special weight to evidence of
118 signed contracts with essential providers as determined ~~defined~~
119 by the agency pursuant to s. 409.975(1) ~~409.975(2)~~. The agency
120 shall exercise a preference for plans with a provider network in
121 which more than ~~over~~ 10 percent of the providers use electronic
122 health records, as defined in s. 408.051. When all other factors
123 are equal, the agency shall consider whether the organization
124 has a contract to provide managed long-term care services in the
125 same region and shall exercise a preference for such plans.
126 (5) MEDICARE PLANS.—Participation by an entity qualified
127 under 42 C.F.R. PART 422 as a Medicare Advantage Preferred
128 Provider Organization, Medicare Advantage Provider-sponsored
129 Organization, Medicare Advantage Health Maintenance
130 Organization, Medicare Advantage Coordinated Care Plan, or
131 Medicare Advantage Special Needs Plan shall be pursuant to a
132 contract with the agency and is not subject to the procurement
133 requirements or regional plan limits of this section if the
134 plan's Medicaid enrollees in the region consist exclusively of
135 its current Medicare enrollees who are dually eligible for
136 Medicaid and Medicare services. Otherwise, such organizations
137 and plans are subject to all procurement requirements.
138 Section 5. Subsection (1) of section 409.977, Florida
139 Statutes, is amended to read:
140 409.977 Enrollment.—
141 (1) The agency shall automatically enroll into a managed
142 care plan those Medicaid recipients who do not voluntarily
143 choose a plan pursuant to s. 409.969. The agency shall
144 automatically enroll recipients in plans that meet or exceed the
145 performance or quality standards established pursuant to s.

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

146 409.967 and may not automatically enroll recipients in a plan
147 that is deficient in those performance or quality standards. If
148 ~~When~~ a specialty plan is available to accommodate a specific
149 condition or diagnosis of a recipient, the agency shall assign
150 the recipient to that plan. In the first year of the first
151 contract term only, if a recipient was previously enrolled in a
152 plan that is still available in the region, the agency shall
153 automatically enroll the recipient in that plan unless an
154 applicable specialty plan is available. If a recipient is dually
155 eligible for Medicaid and Medicare services and is currently
156 receiving Medicare services from an entity listed in s.
157 409.974(5), the agency shall automatically enroll the recipient
158 in that plan for Medicaid services if the plan is currently
159 under contract with the agency pursuant to s. 409.974(5). Except
160 as otherwise provided in this part, the agency may not engage in
161 practices that are designed to favor one managed care plan over
162 another.
163 Section 6. Subsection (5) of section 409.981, Florida
164 Statutes, is amended to read:
165 409.981 Eligible long-term care plans.—
166 (5) MEDICARE PLANS.—Participation by a Medicare Advantage
167 Preferred Provider Organization, Medicare Advantage Provider-
168 sponsored Organization, Medicare Advantage Health Maintenance
169 Organization, Medicare Advantage Coordinated Care Plan, or
170 Medicare Advantage Special Needs Plan shall be pursuant to a
171 contract with the agency and is not subject to the procurement
172 requirements if the plan's Medicaid enrollees consist
173 exclusively of its current Medicare enrollees ~~recipients~~ who are
174 deemed dually eligible for Medicaid and Medicare services.

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

175 Otherwise, such organizations and plans ~~Medicare Advantage~~
176 ~~Preferred Provider Organizations, Medicare Advantage Provider-~~
177 ~~sponsored Organizations, and Medicare Advantage Special Needs~~
178 ~~Plans~~ are subject to all procurement requirements.
179 Section 7. Subsection (1) of section 409.984, Florida
180 Statutes, is amended to read:
181 409.984 Enrollment in a long-term care managed care plan.—
182 (1) The agency shall automatically enroll into a long-term
183 care managed care plan those Medicaid recipients who do not
184 voluntarily choose a plan pursuant to s. 409.969. The agency
185 shall automatically enroll recipients in plans that meet or
186 exceed the performance or quality standards established pursuant
187 to s. 409.967 and may not automatically enroll recipients in a
188 plan that is deficient in those performance or quality
189 standards. If a recipient is deemed dually eligible for Medicaid
190 and Medicare services and is currently receiving Medicare
191 services from an entity qualified under 42 C.F.R. part 422 as a
192 Medicare Advantage Preferred Provider Organization, Medicare
193 Advantage Provider-sponsored Organization, Medicare Advantage
194 Health Maintenance Organization, Medicare Advantage Coordinated
195 Care Plan, or Medicare Advantage Special Needs Plan, the agency
196 shall automatically enroll the recipient in such plan for
197 Medicaid services if the plan is under contract with the agency
198 ~~currently participating in the long-term care managed care~~
199 ~~program~~. Except as otherwise provided in this part, the agency
200 may not engage in practices that are designed to favor one
201 managed care plan over another.
202 Section 8. This act shall take effect July 1, 2012.

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)

2/21/2012
Meeting Date

Topic: Medicaid Managed Care Plans

Bill Number: SB 730 *(if applicable)*

Name: Melanie Shanks

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: _____
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: (850) 688-3183

E-mail: _____

Speaking: [X] For [ ] Against [ ] Information

Representing: Humana

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

February 1, 2012

The Honorable JD Alexander
Chair of Committee on Budget
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 730, regarding Medicaid managed care plans, on the next Budget Committee agenda. This proposed legislation requires the Agency for Health Care Administration to make revisions to current Medicare plans. In the previous committee of reference, Budget Subcommittee on Health and Human Services Appropriations, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Staff Director, Committee on Budget, 201 The Capitol

SENATE APPROPRIATIONS
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Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 752

INTRODUCER: Judiciary Committee and Senator Flores

SUBJECT: Equitable Distribution of Marital Assets and Liabilities

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Rucio	Burgess	BI	**Favorable**
3.	Harkness	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill establishes formulas for a court to use in determining the value of the marital portion of nonmarital real property which is subject to equitable distribution in a divorce proceeding. Under the bill, the value of the marital portion of nonmarital real property is comprised of the following:

- The mortgage principal paid during the marriage from marital funds.
- A portion of the passive appreciation of the property which is related to the amount of marital funds used to pay the mortgage.
- Any active appreciation of the property resulting from the efforts or contributions of either party during the marriage.

Additionally, the bill authorizes the court to require a person who is ordered to make installment payments as part of the equitable distribution of marital assets and liabilities to provide security and a reasonable rate of interest, or otherwise recognize the time value of money in determining the amount of the installments. If a court requires security or interest, the court must make written findings relating to any deferred payments, the amount of any security required, and the interest. The bill does not preclude the intended recipient of the installment payments from

taking action under the procedures to enforce a judgment, in chapter 55, F.S., to collect any funds from a person who fails to make the court-ordered payments.

This bill creates section 61.0765, Florida Statutes.

This bill amends section 61.075, Florida Statutes.

II. Present Situation:

Statutory Framework for the Equitable Distribution of Marital Assets and Liabilities

Chapter 61, F.S., governs proceedings for the dissolution of marriage in Florida. Under s. 61.075, F.S., a court must distribute the marital assets and liabilities based on the premise that the distribution be equal.[1] The court must do so unless justification exists for an unequal distribution based on relevant factors specified in s. 61.075(1), F.S. In a contested marital dissolution in which a stipulation and agreement has not been entered and filed, the distribution of marital assets or liabilities must be supported by factual findings in the court order based on competent substantial evidence with reference to the relevant statutory factors. The court's findings must identify which assets are nonmarital and those that are marital.[2]

"Marital assets and liabilities" generally include:

- Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them.[3]
- The enhancement in value and appreciation of nonmarital assets resulting from the efforts of either party during the marriage or from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both.[4]
- Interspousal gifts during the marriage.[5]
- All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.[6]
- Real property held by the parties as tenants by the entireties.[7]
- All personal property titled jointly by the parties as tenants by the entireties.[8]

"Nonmarital assets and liabilities" generally include:

- Assets acquired and liabilities incurred by either party prior to marriage, and assets acquired and liabilities incurred in exchange for such assets and liabilities.[9]
- Assets acquired separately by either party by noninterspousal gift, bequest, devise, or descent, and assets acquired in exchange for such assets.[10]

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[1] Section 61.075(1), F.S.
[2] Section 61.075(3)(a) and (b), F.S.
[3] Section 61.075(6)(a)1.a., F.S.
[4] Section 61.075(6)(a)1.b., F.S.
[5] Section 61.075(6)(a)1.c., F.S.
[6] Section 61.075(6)(a)1.d., F.S.
[7] Section 61.075(6)(a)2., F.S.
[8] Section 61.075(6)(a)3., F.S.
[9] Section 61.075(6)(b)1., F.S.

- All income derived from nonmarital assets during the marriage unless the income was treated, used, or relied upon by the parties as a marital asset.[11]
- Assets and liabilities excluded from marital assets and liabilities by valid written agreement of the parties, and assets acquired and liabilities incurred in exchange for such assets and liabilities.[12]
- Any liability incurred by forgery or unauthorized signature by one spouse signing the name of the other spouse. Any such liability shall be a nonmarital liability only of the party having committed forgery or having affixed the unauthorized signature.[13]

Equitable Distribution of Marital Assets and Liabilities under *Kaaa v. Kaaa*[14]

In *Kaaa v. Kaaa*, the Florida Supreme Court held that "passive appreciation of the marital home that accrues during the marriage is subject to equitable distribution even though the home itself is a nonmarital asset."[15] Payment of a mortgage for real property with marital funds subjects the passive appreciation in the value of the real property to equitable distribution.[16] The Court recognized that the marital portion of nonmarital property encumbered by a mortgage paid down with marital funds includes two components: (1) a portion of the enhancement value of the marital asset resulting from the contributions of the nonowner spouse and (2) a portion of the value of the passive appreciation of that asset that accrued during the marriage.[17]

In *Kaaa*, the Supreme Court provided a methodology for courts to use in determining the value of the passive appreciation of nonmarital real property to be equitably distributed and in allocating that value to both owner and nonowner spouse.[18] Pursuant to the methodology, a court must make several steps:

> First, the court must determine the overall current fair market value of the home. Second, the court must determine whether there has been a passive appreciation in the home's value. Third, the court must determine whether the passive appreciation is a marital asset under section 61.075(5)(a)(2)[, F.S]. This step must include findings of fact by the trial court that marital funds were used to pay the mortgage and that the nonowner spouse made contributions to the property. Moreover, the trial court must determine to what extent the contributions of the nonowner spouse affected the appreciation of the property. Fourth, the trial court must determine the value of the passive appreciation that accrued during the marriage and is subject to equitable distribution. Fifth, after the court determines the value

[10] Section 61.075(6)(b)2., F.S.
[11] Section 61.075(6)(b)3., F.S.
[12] Section 61.075(6)(b)4., F.S.
[13] Section 61.075(6)(b)5., F.S.
[14] *Kaaa v. Kaaa*, 58 So. 3d 867 (Fla. 2010).
[15] *Kaaa*, 58 So. 3d at 868.
[16] *Id.* at 869.
[17] *Id.* at 871-872.
[18] *Id.* at 872

> of the passive appreciation to be equitably distributed, the court's next step is to determine how the value is allocated.[19]

The Supreme Court adopted the following formula used in *Stevens v. Stevens*, for the allocation of the appreciated value of nonmarital real property:

> If a separate asset is unencumbered and no marital funds are used to finance its acquisition, improvement, or maintenance, no portion of its value should ordinarily be included in the marital estate, absent improvements effected by marital labor. If an asset is financed entirely by borrowed money which marital funds repay, the entire asset should be included in the marital estate. In general, in the absence of improvements, *the portion of the appreciated value of a separate asset which should be treated as a marital asset will be the same as the fraction calculated by dividing the indebtedness with which the asset was encumbered at the time of the marriage by the value of the asset at the time of the marriage*.[20]

Passive appreciation of a nonmarital asset that is unencumbered is not subject to equitable distribution, absent the use of any marital funds or marital labor for its acquisition, improvement, or maintenance.[21]

Family Law Section's Concern with *Kaaa v. Kaaa*

The Family Law Section of The Florida Bar believes that "the formula adopted by the Supreme Court to quantify the marital portion of the passive appreciation is flawed because there is no relationship between the amount of marital funds utilized to pay down the mortgage during the marriage and the passive appreciation of the subject property."[22] According to the Family Law Section of The Florida Bar, "the formula adopted by the Florida Supreme Court in *Kaaa*, if applied to certain factual scenarios, would result in grossly inequitable results."[23]

The Family Law Section of The Florida Bar additionally argues that the *Kaaa* decision is inconsistent with s. 61.075(6)(a)1.b., F.S., by requiring a nonowner spouse to have made contributions to the property as a prerequisite to sharing in the passive appreciation of the property.[24] Section 61.075(6)(a)1.b., F.S., states that marital assets and liabilities include "the enhancement in value and appreciation of nonmarital assets resulting either from the efforts of either party during the marriage ***or*** from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both."[25]

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[19] *Id*.
[20] *Kaaa*, 58 So. 3d at 872 (quoting *Stevens v. Stevens*, 651 So. 2d 1306, 1307-08 (Fla. 1st DCA 1995).
[21] *Stevens v. Stevens*, 651 So. 2d 1306, 1307 (Fla. 1st DCA 2006); Dawn D. Nichols and Sean K. Ahmed, *Nonmarital Real Estate: Is the Appreciation Marital, Nonmarital, or a Combination of Both?*, 81 FLA. B.J. 75, 75 (Oct. 2007).
[22] Correspondence to committee staff from David Manz, Chairman of Family Law Section, Florida Bar and John W. Foster, Sr., Chairman of Equitable Distribution Committee, Family Law Section, Florida Bar, (Dec. 19, 2011) (on file with the Senate Committee on Judiciary).
[23] *Id*.
[24] *Id*.
[25] (Emphasis added).

Security and Interest for Installment payments

In equitably distributing marital assets and liabilities, pursuant to s. 61.075(10), F.S., a court may order a party to pay a monetary payment in a lump sum or in installments paid over a fixed period. Section 61.075(10), F.S., does not currently give courts the discretion to require the payor to provide security or pay a reasonable rate of interest if installments are ordered.

III. Effect of Proposed Changes:

The bill establishes formulas for a court to use in determining the value of the marital portion of nonmarital real property which is subject to equitable distribution in a divorce proceeding. Under the bill, the value of the marital portion of nonmarital real property is comprised of the following:

- The mortgage principal paid during the marriage from marital funds.
- A portion of the passive appreciation of the property which is related to the amount of marital funds used to pay the mortgage.
- Any active appreciation of the property resulting from the efforts or contributions of either party during the marriage.

Under the formula, the passive appreciation in the marital property which is subject to equitable distribution must be determined by multiplying the marital fraction by the passive appreciation of the property during the marriage.

The passive appreciation is determined by subtracting the gross value of the property on date of the marriage or the date of acquisition of the property, whichever is later, from the value of the property on the valuation date in the dissolution action, less any active appreciation of the property during the marriage and less any additional debts secured by the property during the marriage.

The numerator of the marital fraction consists of the amount of mortgage principal paid on any mortgage on the property from marital funds. The denominator consists of the value of the real property on the date of marriage, the date of acquisition of the property, or the date the property was first encumbered by a mortgage on which principal was paid from marital funds, whichever is later.

The value of the marital portion of nonmarital real property may not exceed the total net equity of the property on the valuation date in the dissolution action.

The bill permits a party to argue to a court that the formula would be inequitable, and therefore should not apply to the particular circumstances of the case.

Additionally, the bill authorizes the court to require a person who is ordered to make installment payments as part of the equitable distribution of marital assets and liabilities to provide security and a reasonable rate of interest, or otherwise recognize the time value of money in determining the amount of the installments. If a court requires security or interest, the court must make written findings relating to any deferred payments, the amount of any security required, and the interest. The bill does not preclude the intended recipient of the installment payments from

taking action under the procedures to enforce a judgment, in chapter 55, F.S., to collect any funds from a person who fails to make the court-ordered payments.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) reports[26] that the trial court's task in determining the passive appreciation of real property characterized as a marital asset will continue to be an extremely fact-intensive one. While significant judicial time will be expended in both the determination of the facts and use of the mathematical calculation, the bill doesn't directly result in increased caseloads. OSCA was unable to determine the fiscal impact of the bill on the state court system due to the lack of availability of data.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 61.075(6)(a)1.b., F.S., states that marital assets and liabilities include "the enhancement in value and appreciation of nonmarital assets resulting either from the efforts of either party during the marriage ***or*** from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both."[27] The provision, however, appears to have been interpreted by the Florida Supreme Court to require "that marital funds were used to pay the mortgage ***and*** that

[26] Office of the State Courts Administrator, *Judicial Impact Statement for CS/SB 752*, January 13, 2012.
[27] (Emphasis added).

the nonowner spouse made contributions to the property" as a prerequisite to entitlement to a share of the passive appreciation of nonmarital real property.[28] The Legislature may wish to amend the bill to clarify what conditions specified in s. 61.075(6)(a)1.b., F.S., must be satisfied to establish entitlement to a share of the passive appreciation of a nonmarital asset.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on January 12, 2012:
The committee substitute makes technical changes to reorganize and clarify concepts in the formulas for a court to use in determining the value of the marital portion of nonmarital real property which is subject to equitable distribution in a divorce proceeding.

B. Amendments:

None.

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

[28] *Kaaa*, 58 So. 3d at 872.

By the Committee on Judiciary; and Senator Flores

590-01851-12 2012752c1

A bill to be entitled

An act relating to equitable distribution of marital assets and liabilities; amending s. 61.075, F.S.; redefining the term "marital assets and liabilities" to include the value of the marital portion of the passive appreciation of nonmarital real property; authorizing a court to require security and the payment of a reasonable rate of interest if installment payments are required for the distribution of marital assets and liabilities; requiring the court to provide written findings regarding any installment payments; creating s. 61.0765, F.S.; providing formulas for the calculation of the value of the marital portion of nonmarital real property subject to equitable distribution; requiring the court in the dissolution action to use the formulas unless sufficient evidence is presented showing that the application of the formulas is not equitable; providing an effective date.

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

Section 1. Paragraph (a) of subsection (6) and subsection (10) of section 61.075, Florida Statutes, are amended to read:

61.075 Equitable distribution of marital assets and liabilities.—

(6) As used in this section:

(a)1. "Marital assets and liabilities" include:

a. Assets acquired and liabilities incurred during the

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590-01851-12 2012752c1

marriage, individually by either spouse or jointly by them.

b. The enhancement in value and appreciation of nonmarital assets resulting either from the efforts of either party during the marriage or from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both.

c. The value of the marital portion of the passive appreciation of nonmarital real property as provided in s. 61.0765(2).

d.~~c.~~ Interspousal gifts during the marriage.

e.~~d.~~ All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.

2. All real property held by the parties as tenants by the entireties, whether acquired before ~~prior to~~ or during the marriage, shall be presumed to be a marital asset. If, in any case, a party makes a claim to the contrary, the burden of proof shall be on the party asserting the claim that the subject property, or some portion thereof, is nonmarital.

3. All personal property titled jointly by the parties as tenants by the entireties, whether acquired before ~~prior to~~ or during the marriage, shall be presumed to be a marital asset. In the event a party makes a claim to the contrary, the burden of proof shall be on the party asserting the claim that the subject property, or some portion thereof, is nonmarital.

4. The burden of proof to overcome the gift presumption shall be by clear and convincing evidence.

(10)(a) To do equity between the parties, the court may, in lieu of or to supplement, facilitate, or effectuate the

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59 equitable division of marital assets and liabilities, order a
60 monetary payment in a lump sum or in installments paid over a
61 fixed period of time.
62 (b) If installment payments are ordered, the court may
63 require security and a reasonable rate of interest, or otherwise
64 recognize the time value of money in determining the amount of
65 the installments. If security or interest is required, the court
66 shall make written findings relating to any deferred payments,
67 the amount of any security required, and the interest. This
68 paragraph does not preclude the application of chapter 55,
69 relating to judgments, to any subsequent default.
70 Section 2. Section 61.0765, Florida Statutes, is created to
71 read:
72 61.0765 Valuation of marital portion of nonmarital real
73 property.—
74 (1)(a) The total value of the marital portion of nonmarital
75 real property consists of the sum of the following:
76 1. The value of the active appreciation of the property as
77 described in s. 61.075(6)(a)1.b.
78 2. The amount of the mortgage principal paid from marital
79 funds.
80 3. A portion of any passive appreciation of the property,
81 if the mortgage principal was paid from marital funds.
82 (b) The value of the marital portion of nonmarital real
83 property may not exceed the total net equity of the property on
84 the valuation date in the dissolution action.
85 (2) The marital portion of the passive appreciation as
86 provided in subparagraph (1)(a)3. is calculated by multiplying
87 the passive appreciation of the property by the marital

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

88 fraction.
89 (a) The passive appreciation of the property is calculated
90 by subtracting all of the following from the value of the
91 property on the valuation date in the dissolution action:
92 1. The gross value of the property on the date of the
93 marriage or on date the property was acquired, whichever is
94 later.
95 2. The value of the active appreciation of the property
96 during the marriage as described in s. 61.075(6)(a)1.b.
97 3. The amount of any additional debts secured by the
98 property during the marriage.
99 (b) The numerator of the marital fraction consists of the
100 amount of the mortgage principal paid on any mortgage on the
101 property from marital funds. The denominator consists of the
102 value of the property on the date of the marriage, the date of
103 acquisition of the property, or the date the property was first
104 encumbered by a mortgage on which principal was paid from
105 marital funds, whichever is later.
106 (3) The court in a dissolution action must apply the
107 formulas provided in this section to determine the value of the
108 marital portion of nonmarital real property subject to equitable
109 dissolution unless a party presents sufficient evidence to
110 establish that the application of these formulas is not
111 equitable under the particular circumstances of the case.
112 Section 3. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

January 27, 2012

The Honorable JD Alexander
Chair of Committee on Banking and Insurance
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that you place SB 752, regarding equitable distribution of marital assets and liabilities, on the next Banking and Insurance Committee agenda. In the previous committee of reference, Committee on Banking and Insurance, this legislation passed unanimously.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Terry Rhodes, Staff Director, Committee on Budget, 201 The Capitol

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 758

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Jones

SUBJECT: Beach Management

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	**Fav/CS**
2.	Uchino	Yeatman	CA	**Favorable**
3.	Pigott	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill:

- Streamlines the permitting processes for coastal construction permits and joint coastal permits, including beach restoration and nourishment projects;
- Clarifies what constitutes “reasonable assurance”;
- Allows the Department of Environmental Protection (DEP) to issue coastal construction permits or joint coastal permits before an incidental take authorization is issued pursuant to the federal Endangered Species Act;
- Directs the DEP to adopt rules related to turbidity mixing zones to reduce or eliminate the need for variances;
- Requires the DEP to justify Requests for Additional Information (RAIs) by statute or rule;
- Clarifies that the DEP may not enforce guidelines as rules;
- Alleviates the need for a detailed review of a new application for a previously constructed project that met design expectations;
- Requires the DEP to amend rules related to beach maintenance projects and inlet sand bypassing activities;

- Establishes new reporting requirements of active, state-funded beach erosion control projects to increase the transparency of the beach management funding program; and
- Exempts from permitting certain exploratory activities related to beach restoration and nourishment.

This bill substantially amends ss. 161.041, 161.101 and 403.813 of the Florida Statutes.

II. Present Situation:

Importance of Florida Beaches

Florida beaches draw many tourists to the state each year. The Florida Shore & Beach Preservation Association (FSBPA) reports that 16.5 million out-of-state visitors visited Florida beaches in 2010. The top five visited state parks were all beach parks.[1] It is estimated that the adjusted economic impact to the state's economy from its beaches was $22.7 billion in 2010. Direct spending and sales taxes amounted to $11.7 billion and $352.8 million, respectively, in 2010. The FSBPA reports that 399 miles, or nearly half, of Florida's sandy beaches are critically eroded.[2] The DEP estimates it manages erosion control projects for 221 miles of beaches. In addition to attracting tourists, healthy beaches also serve as a first defense against storm surge from hurricanes and tropical storms.

DEP Administration of Coastal Permitting

The DEP administers a permitting program under ch. 161, F.S., for beach restoration, beach nourishment, erosion control structures (groins and breakwaters), public fishing piers, maintenance of inlets, inlet related structures (jetties and sand traps), and navigation channel dredging, where material disposal occurs on the beach or nearshore. These activities may also require an environmental resource permit or wetland resource permit, or sovereign submerged lands authorization under chs. 373, 253, and 258, F.S. When multiple permits are required for these types of activities, the DEP issues a single permit, called a joint coastal permit, providing for a single permit covering the required statutory chapters.

The DEP must review permit applications within 30 days and issue an RAI if additional information is needed to satisfy the application requirements. The DEP also distributes the application to external reviewers (e.g., Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) for comment. Once the permit application is complete, the DEP must issue or deny it within 90 days.

Many coastal construction activities generate turbidity (solids suspended in the water column) in excess of Florida's water quality standards. If turbidity cannot be controlled using best management practices alone, the DEP's water quality regulations allow turbidity standards to be achieved at the edge of a temporary mixing zone adjacent to the point of discharge. Variances can be issued if significant turbidity results from the project. The DEP issues variances for the vast majority of beach erosion control projects. The DEP is authorized to exempt activities that

[1] Florida Shore & Beach Preservation Association, *Healthy Beaches Are Vital to Florida's Economic Recovery* (2011) (on file with the Senate Committee on Environmental Preservation and Conservation).
[2] *Id*.

will have only minimal or insignificant individual or cumulative adverse impacts on water resources.

Permits for first-time construction activities are issued for up to five years. Maintenance permits for inlet sand management or beach nourishment projects are issued for up to 10 years. When multiple nourishment or maintenance dredging events are collectively authorized, the permittee must submit certain information before the DEP issues a Notice to Proceed (NTP) for the next nourishment. Before issuing the NTP, the DEP also reviews the results of post-construction project monitoring to determine if performance expectations have been achieved and whether any unanticipated impacts have occurred. The project design may be adjusted or mitigation may be required.

The DEP maintains a statewide beach management plan for the restoration and maintenance of critically eroded beaches. Approximately 221 miles of critically eroded beach have been restored and are currently maintained. Each improved, altered, or modified inlet is also evaluated and recommendations are made to mitigate erosive impacts.

The DEP also develops a long-range budget plan and a funding list of beach restoration, nourishment and inlet management projects. The DEP is directed to cost-share with local governments up to 50 percent of beach project costs and up to 75 percent for inlet management. The funding list is submitted annually to the Legislature, with the appropriated funds being contracted with local sponsors in priority order until funds are exhausted. In the event a local government cannot timely use the money, the DEP may reallocate it to inlet management projects.

The Beach Management Working Group

The Legislature created the Beach Management Working Group (working group) in 2008. The working group was tasked with reviewing the current effectiveness of the Florida's beach management regulatory program and providing recommendations to improve the program.[3] The working group was composed of stakeholders from both the private and public sectors. It focused on the process associated with Florida's beach management program, especially effectiveness and responsiveness, and how to improve both. The working group held eight meetings and submitted its final report to the Legislature in 2009 containing recommendations for legislative consideration, agency rule making consideration and agency consideration.

III. Effect of Proposed Changes:

Section 1 amends s. 161.041, F.S., specifying that reasonable assurance is demonstrated if the applicant provides competent substantial evidence based on plans, studies, and credible expertise that accounts for naturally occurring variables that might reasonably be expected. This clarifies that remote possibilities do not have to be included in the permit application if they are not reasonably expected to occur.

[3] Beach Management Working Group, *Recommendations of the Beach Management Working Group* (2009) (on file with the Senate Committee on Environmental Preservation and Conservation).

The bill authorizes the DEP to issue permits before the federal government issues an incidental take authorization under the Endangered Species Act provided the permit contains conditions that authorized activities not begin until the incidental take authorization is issued.

The bill directs the DEP to adopt rules addressing antidegradation and mixing zone criteria for turbidity for permits involving excavation and placement of sediment for beach management and inlet bypassing. This will reduce or eliminate the need to grant variances for projects that violate water quality standards for turbidity. When processing variances, the bill directs the DEP to take into consideration the Legislature's declaration in s. 161.088, F.S., that beach nourishment projects are in the public interest.

The bill specifies applications for permits shall be made to the DEP pursuant to the terms and conditions set forth in rule. If the DEP issues an RAI, it must include the statutory and rule provisions that justify any item listed in the RAI. The bill also clarifies that the DEP cannot enforce guidelines as standards unless it adopts the guidelines by rule.

The bill provides the Legislature intends to simplify and streamline the permitting process for the periodic maintenance of previously permitted projects. To this end, the bill prohibits a detailed review of a previously permitted project if there are no substantial changes in project scope and if past performance indicates it has performed according to design expectations. The bill requires the DEP to amend chs. 62B-41 and 62B-49 of the Florida Administrative Code (F.A.C.) for beach maintenance and inlet bypassing activities to comply with legislative intent. In addition, the bill directs the DEP to issue joint coastal permits pursuant to ch. 161, F.S, and part IV, ch. 373, F.S., for the greater of two maintenance or dredging events or a 15-year permit duration.

Section 2 amends s. 161.101, F.S., requiring the DEP to maintain an active project list sorted by project year to increase transparency. The listing must include those projects receiving funding and the amounts. The DEP is directed to notify the Executive Office of the Governor and the Legislature of any "significant change" in project funding requirements. The bill defines "significant changes" as funding requirements that exceed 25 percent of the initially requested budget submission. If there is surplus funding, the DEP must notify the Executive Office of the Governor and the Legislature where the funds will be used or if the funds will revert to the next appropriations process. The bill also directs the DEP to notify the Executive Office of the Governor and the Legislature when a local project sponsor releases funding. The notification must indicate how the project dollars will be used.

Section 3 amends s. 403.813, F.S., exempting certain activities related to beach restoration and nourishment and inlet bypassing from the permitting requirements of ch. 161, part IV of ch. 373, or ch. 403, F.S. Exempt exploratory activities include:

- the collection of geotechnical and cultural resource data, including mapping, seismic and acoustic soundings, and benthic and other biological sampling and coring;
- deploying and temporarily attaching instruments on the seabed, and
- incidental excavation that occurs associated with any of the activities listed above.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP will incur costs associated with rulemaking. Staff has indicated those costs can be absorbed by existing staff and resources. In addition, the DEP may realize some cost savings with issuing longer permits, not having to do as many detailed reviews and other streamlining provisions in this bill. The savings cannot be determined at this time.

Local governments may also see cost savings due to the streamlining provisions in this bill; however, those savings cannot be determined at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires DEP to adopt a rule for antidegradation requirements. The DEP has indicated this rule must comply with federal requirements.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on January 9, 2012:

- Deletes the provision requiring good faith negotiations between the DEP and an applicant before issuance of a notice of intent and transmittal of the permit;
- Deletes the provision prohibiting the DEP from using the time frame between notice of intent and final notice to proceed to circumvent the time limits in ch. 120, F.S.;
- Clarifies the rules DEP must adopt to address mixing zones and antidegradation for only those permits involving excavation and placement of sediment for beach management and inlet bypassing permits;
- Removes the exemption for Outstanding Florida Waters and aquatic preserves for rules addressing mixing zone criteria and antidegradation requirements for turbidity generation;
- Deletes the creation of new s. 161.0413, F.S., and incorporates the substantive elements into section 1 of the CS;
- Directs DEP to amend chs. 62B-41 and 62B-49, F.A.C., for streamlining the permitting process for periodic beach maintenance projects and inlet sand bypassing activities;
- Clarifies only permits issued pursuant to ch. 161 or part IV, ch. 373, F.S., may receive extended permit durations;
- Clarifies the term “significant change”;
- Amends s. 403.813, F.S., instead of s. 373.406, F.S., exempting certain activities related to beach restoration and nourishment projects and inlet management activities from requiring permits. These activities are not longer considered de minimis; and
- Deletes the provision requiring the DEP to make a de minimis determination for other activities that are not included in this CS.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senator Jones

592-01734A-12 2012758c1

A bill to be entitled

An act relating to beach management; amending s. 161.041, F.S.; specifying that demonstration to the Department of Environmental Protection of the adequacy of a project's design and construction is supported by certain evidence; authorizing the department to issue permits for an incidental take authorization under certain circumstances; requiring the department to adopt certain rules involving the excavation and placement of sediment; requiring the Department of Environmental Protection to justify items listed in a request for additional information; providing legislative intent; exempting certain previously permitted projects from detailed review; requiring that the department amend certain rules to streamline the permitting process for certain projects and activities; providing for the permit life of joint coastal permits; amending s. 161.101, F.S.; requiring the department to maintain certain beach management project information on its website; defining the term "significant change"; requiring the department to notify the Governor's Office and the Legislature concerning any significant changes in project funding levels; amending s. 403.813, F.S.; providing a permit exemption for certain specified exploratory activities relating to beach restoration and nourishment projects and inlet management activities; providing an effective date.

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

592-01734A-12 2012758c1

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

Section 1. Section 161.041, Florida Statutes, is amended to read:

161.041 Permits required.—

(1) If a ~~any~~ person, firm, corporation, county, municipality, township, special district, or ~~any~~ public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures ~~if~~ of a solid or highly impermeable design~~,~~ upon state sovereignty lands ~~of Florida,~~ below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the department before ~~prior to~~ the commencement of such work. The department may exempt interior tidal waters of the state from the permit requirements of this section. ~~No such development shall interfere,~~

(a) Except during construction, such development may not interfere with the public use ~~by the public~~ of any area of a beach seaward of the mean high-water line unless the department determines that the ~~such~~ interference is unavoidable for purposes of protecting the beach or an ~~any~~ endangered upland structure. ~~The department may require,~~ As a condition of ~~to~~ granting permits under this section, the department may require

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59 the provision of alternative access if ~~when~~ interference with
60 public access along the beach is unavoidable. The width of such
61 alternate access may not be required to exceed the width of the
62 access that will be obstructed as a result of the permit being
63 granted. ~~Application for coastal construction permits as defined~~
64 ~~above shall be made to the department upon such terms and~~
65 ~~conditions as set forth by rule of the department.~~
66 (b) Except for the deepwater ports identified in s.
67 403.021(9)(b), the department shall not issue a ~~any~~ permit for
68 the construction of a coastal inlet jetty or the excavation or
69 maintenance of such an inlet if the activity authorized by the
70 permit will have a significant adverse impact on the sandy
71 beaches of this state without a mitigation program approved by
72 the department. In evaluating the mitigation program, the
73 department shall consider ~~take into consideration~~ the benefits
74 of the long-term sand management plan of the permittee and the
75 overall public benefits of the inlet activity.
76 (2) The department may authorize an excavation or erection
77 of a structure at any coastal location upon receipt of an
78 application from a property or riparian owner and upon
79 consideration of facts and circumstances, including:
80 (a) Adequate engineering data concerning inlet and
81 shoreline stability and storm tides related to shoreline
82 topography;
83 (b) Design features of the proposed structures or
84 activities; and
85 (c) Potential effects ~~impacts~~ of the location of such
86 structures or activities, including potential cumulative effects
87 of any proposed structures or activities upon such beach-dune

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88 system or coastal inlet, which, in the opinion of the
89 department, clearly justify such ~~a~~ permit.
90 (3) The department may require ~~such~~ engineer certifications
91 as necessary to assure the adequacy of the design and
92 construction of permitted projects. Reasonable assurance is
93 demonstrated if the permit applicant provides competent
94 substantial evidence based on plans, studies, and credible
95 expertise that accounts for naturally occurring variables that
96 might reasonably be expected.
97 (4) The department may, as a condition to ~~the~~ granting ~~of~~ a
98 permit under this section, require mitigation, financial, or
99 other assurances acceptable to the department as ~~may be~~
100 necessary to assure performance of the conditions of a permit or
101 enter into contractual agreements to best assure compliance with
102 any permit conditions. Biological and environmental monitoring
103 conditions included in the permit must ~~shall~~ be based upon
104 clearly defined scientific principles. The department may also
105 require notice of the required permit conditions ~~required~~ and
106 the contractual agreements entered into pursuant to ~~the~~
107 ~~provisions of~~ this subsection to be filed in the public records
108 of the county in which the permitted activity is located.
109 (5) Notwithstanding any other provision of law, the
110 department may issue permits pursuant to this part in advance of
111 the issuance of an incidental take authorization provided under
112 the Endangered Species Act and its implementing regulations if
113 the permits and authorizations include a condition that requires
114 that such authorized activities not begin until the incidental
115 take authorization is issued.
116 (6) The department shall adopt rules to address standard

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117 mixing zone criteria and antidegradation requirements for
118 turbidity generation for beach management and inlet bypassing
119 permits that involve the excavation and placement of sediment in
120 order to reduce or eliminate the need for variances. In
121 processing variance requests, the department must consider the
122 legislative declaration that, pursuant to s. 161.088, beach
123 nourishment projects are in the public interest.
124 (7) Application for permits shall be made to the department
125 upon such terms and conditions as set forth by rule.
126 (a) If, as part of the permit process, the department
127 requests additional information, it must cite applicable
128 statutory and rule provisions that justify any item listed in a
129 request for additional information.
130 (b) The department may not issue guidelines that are
131 enforceable as standards for beach management, inlet management,
132 and other erosion control projects without adopting such
133 guidelines by rule.
134 (8) The Legislature intends to simplify and expedite the
135 permitting process for the periodic maintenance of previously
136 permitted and constructed beach nourishment and inlet management
137 projects under the joint coastal permit process. A detailed
138 review of a previously permitted project is not required if
139 there have been no substantial changes in project scope and past
140 performance of the project indicates that the project has
141 performed according to design expectations. The department shall
142 amend chapters 62B-41 and 62B-49, Florida Administrative Code,
143 to streamline the permitting process for periodic beach
144 maintenance projects and inlet sand bypassing activities.
145 (9) Joint coastal permits issued for activities falling

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146 under this section and part IV of chapter 373 must allow for two
147 maintenance or dredging disposal events or a permit life of 15
148 years, whichever is greater.
149 Section 2. Subsection (20) of section 161.101, Florida
150 Statutes, is amended to read:
151 161.101 State and local participation in authorized
152 projects and studies relating to beach management and erosion
153 control.—
154 (20) The department shall maintain active ~~a current~~ project
155 listings on its website by fiscal year in order to provide
156 transparency regarding those projects receiving funding and the
157 funding amounts, and to facilitate legislative reporting and
158 oversight. In consideration of this intent: ~~listing and may, in~~
159 ~~its discretion and dependent upon the availability of local~~
160 ~~resources and changes in the criteria listed in subsection (14),~~
161 ~~revise the project listing.~~
162 (a) The department shall notify the Executive Office of the
163 Governor and the Legislature regarding any significant changes
164 in the funding levels of a given project as initially requested
165 in the department's budget submission and subsequently included
166 in approved annual funding allocations. The term "significant
167 change" means those changes exceeding 25 percent of a project's
168 original allocation. If there is surplus funding, notification
169 shall be provided to the Executive Office of the Governor and
170 the Legislature to indicate whether additional dollars are
171 intended to be used for inlet management pursuant to s. 161.143,
172 offered for reversion as part of the next appropriations
173 process, or used for other specified priority projects on active
174 project lists.

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175 (b) A summary of specific project activities for the
176 current fiscal year, funding status, and changes to annual
177 project lists shall be prepared by the department and included
178 with the department's submission of its annual legislative
179 budget request.
180 (c) A local project sponsor may at any time release, in
181 whole or in part, appropriated project dollars by formal
182 notification to the department, which shall notify the Executive
183 Office of the Governor and the Legislature. Notification must
184 indicate how the project dollars are intended to be used.
185 Section 3. Paragraph (v) is added to subsection (1) of
186 section 403.813, Florida Statutes, to read:
187 403.813 Permits issued at district centers; exceptions.—
188 (1) A permit is not required under this chapter, chapter
189 373, chapter 61-691, Laws of Florida, or chapter 25214 or
190 chapter 25270, 1949, Laws of Florida, for activities associated
191 with the following types of projects; however, except as
192 otherwise provided in this subsection, nothing in this
193 subsection relieves an applicant from any requirement to obtain
194 permission to use or occupy lands owned by the Board of Trustees
195 of the Internal Improvement Trust Fund or any water management
196 district in its governmental or proprietary capacity or from
197 complying with applicable local pollution control programs
198 authorized under this chapter or other requirements of county
199 and municipal governments:
200 (v) Notwithstanding any other provision in this chapter,
201 chapter 373, or chapter 161, a permit or other authorization is
202 not required for the following exploratory activities associated
203 with beach restoration and nourishment projects and inlet

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204 management activities:
205 1. The collection of geotechnical, geophysical, and
206 cultural resource data, including surveys, mapping, acoustic
207 soundings, benthic and other biologic sampling, and coring.
208 2. Oceanographic instrument deployment, including temporary
209 installation on the seabed of coastal and oceanographic data
210 collection equipment.
211 3. Incidental excavation associated with any of the
212 activities listed under subparagraph 1. or subparagraph 2.
213 Section 4. This act shall take effect July 1, 2012.

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The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 26, 2012

I respectfully request that **Senate Bill #758**, relating to beach management, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

This bill has no fiscal impact. Cost savings from permit streamlining at the state and local level are expected, but cannot be determined at this time. This bill has been passed by the Committees of Environmental Preservation & Natural Resources and Community Affairs without a dissenting vote.

Senator Dennis L. Jones, D.C.
Florida Senate, District 13

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: SB 798

INTRODUCER: Commerce and Tourism Committee

SUBJECT: OGSR/Florida Opportunity Fund and the Institute for the Commercialization of Public Research

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Favorable**
2.	Seay	Roberts	GO	**Favorable**
3.	Martin	Meyer, R.	BTA	**Favorable**
4.	Martin	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

This bill is the result of the Commerce and Tourism Committee's Open Government Sunset Review of the public records and public meetings exemption for the Florida Opportunity Fund and the Institute for the Commercialization of Public Research. The exemptions will expire October 2, 2012, unless saved from repeal through reenactment by the Legislature.

In 2007, the Legislature created the Florida Opportunity Fund (FOF) and the Institute for the Commercialization of Public Research (Institute) to provide certain types of businesses access to capital – both public and private investments – that would assist them in reaching their full potential as job-creators. Additionally, the Legislature created exemptions from the state's public records and public meetings laws, under specified circumstances, for both entities. The Sunset Review recommended re-enactment of the public records exemption and public meetings exemption in s. 288.9626, F.S., with a few changes. The key recommended change is to create a separate statute for the institute's exemptions. These changes will clarify, but not expand, the scope of the current statutory exemptions.

This bill substantially amends section 288.9626, F.S., and creates section 288.9627, F.S.

II. Present Situation:

Florida's Public Records and Public Meetings Laws

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

> Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency[4] records are available for public inspection. The term "public record" is broadly defined to mean:

> . . .all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate,

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[1] Section 1390, 1391 Florida Statutes. (Rev. 1892).
[2] Article I, s. 24, Fla. Constitution.
[3] Chapter 119, F.S.
[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[5] Section 119.011(12), F.S.

communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Article I, s. 24 of the State Constitution also provides that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the Legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution. In addition, the Sunshine Law, s. 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Only the Legislature is authorized to create exemptions to open government requirements.[8] An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.[13]

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act) [14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate

[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).
[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).
[8] Art. I, s. 24(c), Fla. Constitution.
[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c), Fla. Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.

and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.[15]

The Act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, whose administration would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The Act also requires consideration of the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Background on the Florida Opportunity Fund

Initial Responsibility

Created by the Legislature in 2007, the Florida Opportunity Fund (FOF)[17] was intended to attract venture capital investment into targeted Florida industries by providing a state match.[18] The FOF is organized as a private, not-for-profit corporation under Ch. 617, F.S., with a five-member

[15] Section 119.15(5)(a), F.S.
[16] Section 119.15(4)(b), F.S.
[17] Section 288.9624, F.S. *See also* Florida Opportunity Fund, http://www.floridaopportunityfund.com/HomePage.asp (last visited Jan. 10, 2012).
[18] The State Board of Administration (SBA) has, for many years, invested in so-called "alternative investments" that included Florida-based businesses, and in 2009, pursuant to ch. 2008-31, L.O.F., created the $250 million Florida Growth Fund for venture-capital private-equity and direct investments within Florida. *See also* Florida Growth Fund, http://www.floridagrowthfund.com. (last visited Jan. 10, 2012). These SBA programs are separate from the FOF.

board of directors selected by an Enterprise Florida, Inc., (EFI) appointments committee.[19] The FOF's administrative staff is provided by EFI, and has a separate investment manager, Florida First Partners, comprised of Florida-based MILCOM Venture Partners and the Credit Suisse Customized Fund Investment Group. The Legislature appropriated $29.5 million for investment funds in FY 2007-2008.[20]

Originally, the FOF was established as a "fund-of-funds" program, meaning that it could only invest in investment funds, not directly in individual businesses. Additionally, the investment funds had to match each $1 in state investment with $2 of their own. The initial emphasis was on "seed" and "early-stage" investments, because proponents of creating the FOF concluded that these types of companies were least likely to have access to venture funding and traditional financing.[21] Targeted industries for the FOF investments included, but were not limited to: life sciences; information technology; advanced manufacturing processes; aviation and aerospace; and homeland security and defense. To be eligible for state participation, an investment fund must have an experienced and successful investment manager or team, and must focus on investment opportunities in Florida.

The FOF invested in its first fund in FY 2008-2009: $594,000 in Element Partners II, according to FOF's financial statements.[22] Currently, the FOF has invested $27 million of the original $29.5 million appropriation.[23]

Recent developments

In 2009, the Florida Legislature amended s. 288.9624, F.S., to allow the FOF to make loans and other direct investments to individual businesses and infrastructure projects; to form or operate other entities; and to accept funds from other public and private sources for use as investments.[24] These direct investments must be made in Florida infrastructure projects, or in businesses that are Florida-based or have significant business activities in Florida, and operate in technology sectors that are strategic to Florida, including the original list of industry types. The FOF may not use its original appropriation of $29.5 million to make direct investments or for any purposes not specified in the original legislation.

In May 2010, the FOF launched a direct investment program with the now-defunct Florida Energy and Climate Commission, which at the time was the lead entity for state energy and climate-change programs and policies.[25] This new FOF program is expected to increase the availability of investment capital in Florida for businesses engaged in developing or producing

[19] The current FOF board members are: chairman Kenneth Wright, partner with Baker Hostetler; vice chairman Andrew Hyltin, president of CNL Private Equity Corporation; Thomas Cornish, president and CEO of Seitlin Insurance and Advisory Services; Brian Nicholas, executive with the Acquired Asset Group of BB&T; and Pedro Pizarro, chairman and CEO of eLandia Group.
[20] This appropriation was included in Section 4 of the substantive legislation, ch. 2007-189, L.O.F., which created the FOF.
[21] *See* Bill Analysis for CS/SB 2420 (2007 Legislative Session), *available at* http://archive.flsenate.gov/data/session/2007/Senate/bills/analysis/pdf/2007s2420.cm.pdf (last visited Jan. 10, 2012).
[22] The auditor described the $594,000 investment as a payment of a $4 million commitment to Element Partners II, which specializes in investments in "cleantech" companies. *See* http://www.elementpartners.com (last visited Jan. 10, 2012).
[23] Information on file with the Senate Commerce and Tourism Committee.
[24] Sections 25-26, ch. 2009-51, L.O.F.
[25] The commission's statutes were repealed and its responsibilities transferred to the Florida Department of Agriculture and Consumer Services (DACS) by the Legislature in the 2011 session. See s. 500, ch. 2011-142, L.O.F.

energy-efficient or renewable energy (EE/RE) products or services. The FOF has access initially to $32.4 million in federal funds through the 2009 American Recovery and Reinvestment Act[26] to make loans or investments in qualifying businesses. Under the terms of the federal agreement, these investments are restricted to facility and equipment improvement using EE/RE products; acquisition or demonstration of renewable energy products; and improvement of existing production, manufacturing, assembly, or distribution processes to reduce consumption or increase the efficient use of energy in such processes.

FOF has invested $12 million of the $32.4 million in federal funds into three Florida companies, matching $80 million in private investment.[27]

Lastly, in mid-2011, EFI entered into an agreement with the Florida Department of Economic Opportunity (DEO) for use of $43.5 million in federal funds from the U.S. State Small Business Credit Initiative.[28] These funds will be used by the FOF to make direct investments in eligible businesses.[29] EFI estimates that it can leverage the $43.5 million into $652.5 million in private investment. The U.S. Treasury has approved DEO's application to access Florida's full share of $97.6 million in federal funds, and in September, the Legislative Budget Commission approved the release of a portion of the federal funds.

Background on the Institute

Created in the same legislation as the FOF, the Institute for the Commercialization of Public Research (institute) was envisioned as a matchmaker for venture capitalists and young companies trying to turn research ideas, technology, or patents, developed at public institutions, into marketable products and services.[30] The institute's stated purpose is:

> To assist in the commercialization of products developed by the research and development activities of publicly supported universities and colleges, research institutes, and other publicly supported organizations within the state.[31]

The institute must support existing commercialization efforts at Florida universities, and may not supplant, replace, or direct existing technology transfer operations or other commercialization programs, including incubators and accelerators.

Governance of the Institute

The institute is a not-for-profit corporation that is eligible for sovereign immunity and is subject to Florida law, but is not an "agency," as defined in s. 20.03(11), F.S. It is governed by a five-member board of directors[32] comprised of:

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[26] The website at http://www.recovery.gov/pages/default.aspx has links to the federal law and other program information.
[27] Information on file with the Senate Committee on Commerce and Tourism.
[28] This initiative is part of the federal Small Business Jobs Act of 2010. *See* U.S. Dept. of Treasury, State Small Business Credit Initiative, http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx (last visited Jan. 10, 2012).
[29] Florida's total share of the federal funding is $97.6 million. The monies not allocated to EFI for the investment program are earmarked for small business loans, export financing, and credit enhancement programs. More information on file with the Senate Commerce and Tourism Committee.
[30] Section 288.9625, F.S. *See also* Florida Institute for the Commercialization of Public Research, http://www.florida-institute.com (last visited Jan. 10, 2012).
[31] Section 288.9625(2), F.S.

- The chair of EFI or designee;
- The president of the state university where the institute is located or designee, or if jointly sponsored by a number of universities, the presidents of those universities must agree on the designated person to serve on the board; and
- Three appointees by the Governor, to serve staggered 3-year terms to which they may be reappointed.

The institute also has a 15-member Industry Advisory Board, selected by the board of directors, to assist with mentoring companies selected by the institute, reviewing grant applications, and providing other guidance.

Staffing the institute is an interim executive director[33] and an executive assistant. The institute is based in Boca Raton, and is preparing to open a second administrative office in Gainesville.

State Funding for the Institute

In 2007, the Legislature appropriated $900,000 in general revenue to the institute for its operations.[34] An additional $600,000 was appropriated in 2009, as a transfer from the Florida Small Business Technology Growth Trust Fund administered by EFI.[35] In 2010, the institute was authorized to use up to 5 percent of the $3 million appropriated for the Research Commercialization Matching Grant Program to administer the grants.[36] In FY 2011-2012, the institute received a $10 million general revenue appropriation, which did not specify the uses or amount set aside for the institute's administration.[37] The institute and DEO have entered into a contract that specifies how the funds may be spent, including a low-interest loan program for eligible companies.

Responsibilities of the Institute[38]

To be eligible for the institute's assistance, the company or organization attempting to commercialize its product or service must be accepted by the institute into its program. The institute reviews the business plans and technology information of each company recommended by an institute peer-review board, before making its decision whether to accept a recommended company.

For each company that is accepted, the institute provides mentoring, develops marketing information, and uses its resources to attract capital investment into the company. The institute's other duties are to:

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[32] The institute's current board members are: chairman Beau Ferrari, Special Assistant to the CEO of Univision Communications, Inc.; vice-chairman David Day, the university designee and director of the Office of Technology Licensing at the University of Florida; treasurer Rhys Williams, president of iTherapeutics, a biotechnology company developing therapies for retinal degenerative disease; John Fraser, executive director of the Office of IP Development and Commercialization at Florida State University; and EFI designee Carl Roston, an attorney with Akerman Senterfitt who specializes in mergers & acquisitions and private equity.

[33] The institute's interim executive director is Jane Teague, who also is the executive director of the Enterprise Development Corporation of South Florida, a public-private partnership that helps recruit investors and acts as a business incubator.

[34] Section 4, ch. 2007-189, L.O.F.

[35] Section 72, ch. 2009-81, L.O.F.

[36] Section 56, ch. 2010-147, L.O.F.

[37] Section 39(3), ch. 2011-76, L.O.F.

[38] Section 288.9625(8), F.S.

- Maintain a centralized location to showcase companies and their technologies and products;
- Develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- Routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- Facilitate meetings between prospective investors and eligible companies in the institute;
- Develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies; and
- Administer the Florida Research Commercialization Matching Grant Program, created in s. 288.9552, F.S.

The institute is prohibited from developing or accruing any ownership, royalty, or other such rights over, or interest in, companies or products in the institute and must maintain the confidentiality of proprietary information. It also may not charge for services rendered to state universities and affiliated organizations, community colleges, or state agencies.

In 2010, the Legislature created the Research Commercialization Matching Grant Program, to leverage existing federal grant programs for small businesses, and directed the institute to manage it.[39] The grant program is intended to assist small or startup companies that take advantage of federal and private financial support to accelerate their growth and market penetration. Program applicants must meet several criteria, such as having attracted funding from non-government sources and achieved certain milestones required by the federal government. As mentioned above, the Legislature appropriated $3 million for the grant program. Last fall, the institute awarded Phase II grants to 11 Florida companies and Phase I grants to two companies.[40] A second round of grants is not planned for FY 2011-2012.

Public Records and Public Meetings Exemptions for the FOF and the Institute

The Legislature created a joint public records and public meetings exemption, in s. 288.9626, F.S., for the FOF and the institute in 2007.[41] Covered under the public records exemption in s. 288.9626(2), F.S., are:

- Materials that relate to methods of manufacture or production; potential trade secrets, patentable material, actual trade secrets as defined in s. 688.002, F.S., or proprietary information received, generated, ascertained, or discovered by or through research projects conducted by universities and other publicly supported organizations in Florida;
- Information that would identify investors or potential investors in projects reviewed by the FOF or the institute;

[39] Background on the federal programs – the Small Business Innovation Research Program (SBIR) and the Small Business Technology Transfer (STTR) Program is available on the website of the U.S. Small Business Administration. Small Business Administration, http://www.sba.gov/aboutsba/sbaprograms/sbir/index.html (last visited Jan. 10, 2012).
[40] *See* The Office of Program Policy and Government Accountability (OPPAGA), *Research Commercialization Matching Grant Program Underway; Additional Performance Data Needed*, Report 11-20, Nov. 2011, *available at* http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-20 (last visited Jan. 10, 2012).
[41] Chapter 2007-190, L.O.F.

- Any information received from a person or another state or nation, or from the federal government, which is otherwise confidential or exempt from that governmental entity's laws; and
- Proprietary confidential business information regarding alternative investments for 10 years after the termination of the alternative investments.

The term "proprietary confidential business information" is defined to mean information that has been designated by the proprietor when provided to the FOF or the institute as owned or controlled by a proprietor; that is intended to be and is treated by the proprietor as private and the disclosure of which would harm the business operations of the proprietor and has not been intentionally disclosed by the proprietor unless pursuant to a private agreement that provides that the information will not be released to the public except as required by law or legal process, or pursuant to law or an order of a court or administrative body; and that concerns:

- Trade secrets as defined in s. 688.002, F.S.;
- Information provided to the FOF or institute regarding a prospective investment in a private equity fund, venture capital fund, angel fund, or portfolio company which is proprietary to the provider of the information;
- Financial statements and auditor reports of an alternative investment vehicle or portfolio company, unless such records have been released by the alternative investment vehicle or portfolio company and are publicly available;
- Meeting materials of an alternative investment vehicle relating to financial, operating, or marketing information of the alternative investment vehicle or portfolio company;
- Information regarding the portfolio positions in which an alternative investment vehicle or the FOF invests;
- Capital call and distribution notices to investors of an alternative investment vehicle or the FOF;
- Alternative investment agreements and related records; and
- Information concerning investors, other than the FOF itself, in an alternative investment vehicle or portfolio company.[42]

The statute also expressly excludes certain items from the definition of proprietary confidential business information:

- The name, address, and vintage year of an alternative investment vehicle or the FOF, and the identity of principals involved in the management of the alternative investment vehicle or the FOF;
- The dollar amount of the commitment made by the FOF to each alternative investment vehicle since inception;
- The dollar amount and date of cash contributions made by the FOF to each alternative investment vehicle since inception;
- The dollar amount, on a fiscal-year-end basis, of cash or other fungible distributions received by the FOF from each alternative investment vehicle;
- The dollar amount, on a fiscal-year-end basis, of cash or other fungible distributions received by the FOF, plus the remaining value of alternative-vehicle assets that are attributable to the FOF investment in each alternative investment vehicle;

[42] Section 288.9626(1)(g)1., F.S.

- The net internal rate of return of each alternative investment vehicle since inception;
- The investment multiple of each alternative investment vehicle since inception; and
- The dollar amount of the total management fees and costs paid on an annual fiscal-year- end basis by the FOF to each alternative investment vehicle on a fiscal-year-end basis.[43]

Section 288.9626(3), F.S., creates a public meetings exemption for the FOF and the institute. The boards of directors of those entities may close that portion of their otherwise public meetings when they are discussing information that is confidential and exempt, per subsection (2) of that statute. The closed portions of the meetings still must be recorded and transcribed, but this information also is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24(a), of the State Constitution.

Pursuant to s. 288.9626(4), F.S., the FOF and the institute may release the protected records to a governmental entity in the performance of its duties upon written request. The confidentiality must be maintained by those receiving entities. Violating s. 288.9626, F.S., is a first-degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.[44]

Once a confidential and exempt record becomes legally available or subject to public disclosure for any reason, that record is no longer confidential and exempt, and shall be made available for inspection and copying.

The legislation's "statement of necessity" listed a number of reasons why certain documents and information in the possession of the FOF and the institute should be confidential and exempt:[45]

- Disclosure of proprietary confidential business information to the public would harm the business operations of the proprietor.
- Information received by the FOF or the institute from a person from another state or nation or the Federal Government, which is otherwise exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law, should remain exempt or confidential because the highly confidential nature of research necessitates that it be protected.
- Without these exemptions, the disclosure of confidential and exempt information would jeopardize the effective and efficient administration of the FOF and the institute.
- Disclosure of investor identities may adversely impact the ability of the FOF or the institute to attract investors who desire anonymity.
- Disclosing proprietary confidential business information used in determining how private equity investments are made or managed by private partnerships investing assets on behalf of the FOF would negatively affect the business interests of private partnerships that rely heavily on their information advantage to generate investment returns, and competitor partnerships could gain an unfair competitive advantage if provided access to such information.
- The release of proprietary confidential business information revealing how alternative investments are made could result in inadequate returns and ultimately frustrate attainment of the investment objective of the FOF.

[43] Section 299.9626(1)(g)2., F.S.
[44] Section 288.9626(5), F.S.
[45] Section 2, ch. 2007-190, L.O.F.

- Portions of meetings of the FOF and institute boards of directors at which records made confidential and exempt by this act are discussed be made exempt from public meetings requirements in order to maintain the confidential and exempt status of this information.

Background on Florida's Trade Secrets Law

Over the years, the Legislature has created a number of specific exemptions from public records for trade secrets.[46] Chapter 688, F.S., the Uniform Trade Secrets Act, defines a trade secret as:

> ". . . information, including a formula, pattern, compilation, program, device, method, technique, or process that:
> - (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
> - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."[47]

Chapter 688, F.S., also provides for injunctive relief, damages, and attorneys' fees for misappropriating a trade secret. It permits the courts to enter an injunction for the actual or threatened misappropriation of a trade secret.[48] Further, the court may, in appropriate circumstances, require affirmative acts to protect trade secrets. A complainant under the act is also entitled to damages, which can include the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In the alternative, royalties can be required.[49]

In an action under the Uniform Trade Secrets Act, the court is required to preserve the secrecy of the alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.[50]

Additionally, s. 812.081(2), F.S., provides that:

> Any person who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his or her own use or to the use of another, steals or embezzles an article representing a trade secret or without authority makes or causes to be made a copy of an article representing a trade secret is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

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[46] See, e.g., s. 1004.78(2), F.S. (trade secrets produced in technology research within community colleges); s. 365.174, F.S. (proprietary confidential business information and trade secrets submitted by wireless 911 provider to specified agencies); s. 570.544(8), F.S. (trade secrets contained in records of the Division of Consumer Services of the Department of Agriculture and Consumer Services); and s. 627.6699(8)(c), F.S. (trade secrets involving small employer health insurance carriers).
[47] Section 688.002(4), F.S.
[48] Section 688.003, F.S.
[49] Section 688.004, F.S.
[50] Section 688.006, F.S.

Section 812.081(1)(c), F.S., defines "trade secret" to mean ". . . the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it." The term "trade secret" includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof.

Additionally, irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, when the owner of a trade secret takes measures to prevent it from becoming available to persons other than those selected by the owner to have access to it, the trade secret is considered to be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

The Florida Attorney General has concluded that the fact certain information constitutes a trade secret under s. 812.081, F.S., does not, in and of itself, remove it from the requirements of the Public Records Act.[51] When there is no exemption making information confidential or exempt, an agency is therefore under a duty to release public records even though such records may constitute trade secrets.

III. Effect of Proposed Changes:

Section 1 amends s. 288.9626, F.S.; removing references to the Institute for the Commercialization on Public Research; reducing from 10 years to 7 years the period of time that investment, loan, or other confidential and exempt information may be shielded from public review; modifying certain definitions to better reflect the full extent of the FOF's investment responsibilities, without expanding their scope; and clarifying terminology.

Section 2 creates s. 288.9627, F.S.; transferring provisions of s. 288.9626, F.S. pertaining to public records and public meetings exemptions that apply only to the Institute. The Institute's current exemptions are maintained and not expanded.

Section 3 provides that this act takes effect upon becoming a law.

Other Potential Implications:
If the Legislature chooses not to retain the public-records exemption for the information obtained by the FOF and the institute, or the public meetings exemption, then they will expire on October 2, 2012. Without the exemption, certain types of proprietary business information, trade secrets, and donor identities will become public, at least, what is not otherwise protected under federal law. The FOF and the institute contend this would hamper their ability to attract private

[51] Attorney General Opinion 92-43.

investments and other participation in their programs, thus reducing their programs' ability to encourage economic and job growth.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill retains already-existing public records and public meetings exemptions and thus is not subject to the requirement that the exemption must pass with a two-thirds vote of both houses of the Legislature. The bill complies with the requirement of Article I, section 24 of the State Constitution that public records and public meetings exemptions may only be addressed in legislation separate from substantive changes to law.

C. Trust Funds Restrictions:

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. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By the Committee on Commerce and Tourism

577-00807-12 2012798__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 288.9626, F.S., which provides exemptions from public records and open meeting requirements for the Florida Opportunity Fund and the Institute for the Commercialization of Public Research; reorganizing the exemptions by removing references to the Institute for the Commercialization of Public Research and transferring the exemptions relating to the institute to a new statute; saving the exemptions from repeal under the Open Government Sunset Review Act; removing the scheduled repeal of the exemptions; revising definitions; clarifying that the exemptions pertaining to the Florida Opportunity Fund apply to prospective investments, alternative investments, and certain confidential proprietary information provided by a proprietor; reducing the time period during which proprietary confidential business information is confidential and exempt from disclosure; creating s. 288.9627, F.S.; providing exemptions from public records and open meetings requirements relating to the Institute for the Commercialization of Public Research which were transferred from s. 288.9626, F.S.; defining terms; providing exemptions from public records requirements for information relating to methods of manufacturing, trade secrets, patents, and research by universities or other publically supported organizations, materials supplied by a proprietor, information that would

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identify investors or potential investors, and information that is confidential and exempt under other laws; reducing the time period during which proprietary confidential business information is confidential and exempt from disclosure; requiring the recording and transcription of closed meetings; requiring a proprietor of information to prevent the disclosure of proprietary confidential business information if a request for the information is made to the institute; authorizing a person to petition a court in Palm Beach County or Alachua County for the release of confidential and exempt information; requiring a court to make specific findings before the information may be released; imposing criminal penalties on a person who willfully and knowingly violates the public records or public meetings exemptions pertaining to the institute; providing an effective date.

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

Section 1. Section 288.9626, Florida Statutes, is amended to read:

288.9626 Exemptions from public records and public meetings requirements for the~~;~~ Florida Opportunity Fund ~~and the Institute for the Commercialization of Public Research~~.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Alternative investment" means an investment or prospective investment through a loan, acquisition of an equity

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interest, or other investment method by the Florida Opportunity Fund in a private equity fund, venture capital fund, or angel fund; an investment by the Florida Opportunity Fund or an alternative investment ~~or a direct investment~~ in a portfolio company; or an investment through a distribution of securities to its partners or shareholders by an alternative investment vehicle.

(b) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal fund structure through which funds of, or funds managed by, the Florida Opportunity Fund are invested ~~may elect to invest~~ in a portfolio company.

(c) "Florida Opportunity Fund" ~~or "fund"~~ means the Florida Opportunity Fund as defined in s. 288.9623.

~~(d) "Institute for the Commercialization of Public Research" or "institute" means the institute established by s. 288.9625.~~

(d) ~~(e)~~ "Portfolio company" means a corporation or other issuer, any of whose securities or debt obligations are owned, or are being considered for ownership, by an alternative investment vehicle or the Florida Opportunity Fund and any subsidiary of such corporation or other issuer.

(e) ~~(f)~~ "Portfolio positions" means individual investments in portfolio companies that are made by an alternative investment vehicle or the Florida Opportunity Fund, including information or specific investment terms associated with any portfolio company investment.

(f) ~~(g)~~1. "Proprietary confidential business information" means information that has been designated by the proprietor

when provided to the Florida Opportunity Fund ~~or the Institute for the Commercialization of Public Research~~ as information that is owned, held, or controlled by a proprietor; that is intended to be and is treated by the proprietor as private, the disclosure of which would harm the business operations of the proprietor and has not been intentionally disclosed by the proprietor unless pursuant to a private agreement that provides that the information will not be released to the public except as required by law or legal process, or pursuant to law or an order of a court or administrative body; and that concerns:

a. Trade secrets as defined in s. 688.002.

b. Information provided to the Florida Opportunity Fund ~~or the Institute for the Commercialization of Public Research~~ regarding an existing or ~~a~~ prospective alternative investment in a private equity fund, venture capital fund, angel fund, or portfolio company that is proprietary to the provider of the information.

c. Financial statements and auditor reports of an alternative investment vehicle or portfolio company, unless publicly released by the alternative investment vehicle or portfolio company.

d. Meeting materials of an alternative investment vehicle or portfolio company relating to financial, operating, or marketing information of the alternative investment vehicle or portfolio company.

e. Information regarding the portfolio positions in which the alternative investment vehicles or Florida Opportunity Fund invest.

f. Capital call and distribution notices to investors or

117 the Florida Opportunity Fund of an alternative investment
118 vehicle.
119 g. Alternative investment agreements and related records.
120 h. Information concerning investors, other than the Florida
121 Opportunity Fund, in an alternative investment vehicle or
122 portfolio company.
123 2. "Proprietary confidential business information" does not
124 include:
125 a. The name, address, and vintage year of an alternative
126 investment vehicle or Florida Opportunity Fund and the identity
127 of the principals involved in the management of the alternative
128 investment vehicle or Florida Opportunity Fund.
129 b. The dollar amount of the commitment made by the Florida
130 Opportunity Fund to each alternative investment vehicle since
131 inception, if any.
132 c. The dollar amount and date of cash contributions made by
133 the Florida Opportunity Fund to each alternative investment
134 vehicle since inception, if any.
135 d. The dollar amount, on a fiscal-year-end basis, of cash
136 or other fungible distributions received by the Florida
137 Opportunity Fund from each alternative investment vehicle.
138 e. The dollar amount, on a fiscal-year-end basis, of cash
139 or other fungible distributions received by the Florida
140 Opportunity Fund plus the remaining value of alternative-vehicle
141 assets that are attributable to the Florida Opportunity Fund's
142 investment in each alternative investment vehicle.
143 f. The net internal rate of return of each alternative
144 investment vehicle since inception.
145 g. The investment multiple of each alternative investment

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146 vehicle since inception.
147 h. The dollar amount of the total management fees and costs
148 paid on an annual fiscal-year-end basis by the Florida
149 Opportunity Fund to each alternative investment vehicle.
150 i. The dollar amount of cash profit received by the Florida
151 Opportunity Fund from each alternative investment vehicle on a
152 fiscal-year-end basis.
153 (g) ~~(h)~~ "Proprietor" means an alternative investment vehicle
154 or~~, a~~ portfolio company in which an ~~the~~ alternative investment
155 vehicle or Florida Opportunity Fund invests, or is considering
156 for investment ~~is invested~~, or an outside consultant, including
157 the respective authorized officers, employees, agents, or
158 successors in interest, that controls or owns information.
159 (2) PUBLIC RECORDS EXEMPTION.—
160 (a) The following records held by the Florida Opportunity
161 Fund ~~or the Institute for the Commercialization of Public~~
162 ~~Research~~ are confidential and exempt from s. 119.07(1) and s.
163 24(a), Art. I of the State Constitution:
164 1. Information ~~Materials~~ that relates ~~relate~~ to methods of
165 manufacture or production, potential trade secrets, or
166 patentable material received, generated, ascertained, or
167 discovered during the course of research or through research
168 projects and that is included in materials provided by a
169 proprietor ~~conducted by universities and other publicly~~
170 ~~supported organizations in this state~~.
171 2. Information that would identify an investor or potential
172 investor who desires to remain anonymous in projects reviewed by
173 the Florida Opportunity Fund ~~or institute~~.
174 ~~3. Any information received from a person from another~~

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175 ~~state or nation or the Federal Government which is otherwise~~
176 ~~confidential or exempt pursuant to the laws of that state or~~
177 ~~nation or pursuant to federal law.~~
178 3.~~4.~~ Proprietary confidential business information
179 regarding alternative investments for 7 ~~10~~ years after the
180 termination of the alternative investment.
181 (b) At the time any record made confidential and exempt by
182 this subsection, or portion thereof, is legally available or
183 subject to public disclosure for any other reason, that record,
184 or portion thereof, shall no longer be confidential and exempt
185 and shall be made available for inspection and copying.
186 (3) PUBLIC MEETINGS EXEMPTION.—
187 (a) That portion of a meeting of the board of directors of
188 the Florida Opportunity Fund ~~or the board of directors of the~~
189 ~~Institute for the Commercialization of Public Research~~ at which
190 information is discussed which is confidential and exempt under
191 subsection (2) is exempt from s. 286.011 and s. 24(b), Art. I of
192 the State Constitution.
193 (b) Any exempt portion of a meeting shall be recorded and
194 transcribed. The board ~~boards~~ of directors shall record the
195 times of commencement and termination of the meeting, all
196 discussion and proceedings, the names of all persons present at
197 any time, and the names of all persons speaking. An exempt
198 portion of any meeting may not be off the record.
199 (c) A transcript and minutes of exempt portions of meetings
200 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
201 I of the State Constitution.
202 (4) REQUEST TO INSPECT OR COPY A RECORD.—
203 (a) Records made confidential and exempt by this section

204 may be released, upon written request, to a governmental entity
205 in the performance of its official duties and responsibilities.
206 (b) Notwithstanding the provisions of paragraph (2)(a), a
207 request to inspect or copy a public record that contains
208 proprietary confidential business information shall be granted
209 if the proprietor of the information fails, within a reasonable
210 period of time after the request is received by the Florida
211 Opportunity Fund ~~or the Institute for the Commercialization of~~
212 ~~Public Research~~, to verify the following to the Florida
213 Opportunity Fund through a written declaration in the manner
214 provided by s. 92.525:
215 1. That the requested record contains proprietary
216 confidential business information and the specific location of
217 such information within the record;
218 2. If the proprietary confidential business information is
219 a trade secret, a verification that it is a trade secret as
220 defined in s. 688.002;
221 3. That the proprietary confidential business information
222 is intended to be and is treated by the proprietor as private,
223 is the subject of efforts of the proprietor to maintain its
224 privacy, and is not readily ascertainable or publicly available
225 from any other source; and
226 4. That the disclosure of the proprietary confidential
227 business information to the public would harm the business
228 operations of the proprietor.
229 (c)1. Any person may petition a court of competent
230 jurisdiction for an order for the public release of those
231 portions of any record made confidential and exempt by
232 subsection (2).

2. Any action under this subsection must be brought in Orange County, and the petition or other initial pleading shall be served on the Florida Opportunity Fund ~~or the institute, whichever is applicable,~~ and, if determinable upon diligent inquiry, on the proprietor of the information sought to be released.

3. In any order for the public release of a record under this subsection, the court shall make a finding that:

a. The record or portion thereof is not a trade secret as defined in s. 688.002;

b. A compelling public interest is served by the release of the record or portions thereof which exceed the public necessity for maintaining the confidentiality of such record; and

c. The release of the record will not cause damage to or adversely affect the interests of the proprietor of the released information, other private persons or business entities, or ~~the fund, or any trust fund the assets of which are invested by~~ the Florida Opportunity Fund.

(5) PENALTIES.—Any person who willfully and knowingly violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

~~(6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. Section 288.9627, Florida Statutes, is created to read:

288.9627 Exemptions from public records and public meetings

requirements for the Institute for the Commercialization of Public Research.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Institute for the Commercialization of Public Research" or "institute" means the institute established by s. 288.9625.

(b)1. "Proprietary confidential business information" means information that has been designated by the proprietor when provided to the institute as information that is owned, held, or controlled by a proprietor; that is intended to be and is treated by the proprietor as private, the disclosure of which would harm the business operations of the proprietor and has not been intentionally disclosed by the proprietor unless pursuant to a private agreement that provides that the information will not be released to the public except as required by law or legal process, or pursuant to law or an order of a court or administrative body; and that concerns:

a. Trade secrets as defined in s. 688.002.

b. Financial statements and internal or external auditor reports of a proprietor corporation, partnership, or person requesting confidentiality under this statute, unless publicly released by the proprietor.

c. Meeting materials related to financial, operating, investment, or marketing information of the proprietor corporation, partnership, or person.

d. Information concerning private investors in the proprietor corporation, partnership, or person.

2. "Proprietary confidential business information" does not include:

291 a. The identity and primary address of the proprietor's
292 principals.
293 b. The dollar amount and date of the financial commitment
294 or contribution made by the institute.
295 c. The dollar amount, on a fiscal-year-end basis, of cash
296 repayments or other fungible distributions received by the
297 institute from each proprietor.
298 d. The dollar amount, if any, of the total management fees
299 and costs paid on an annual fiscal-year-end basis by the
300 institute.
301 (c) "Proprietor" means a corporation, partnership, or
302 person that has applied for or received assistance, financial or
303 otherwise, from the institute and that controls or owns the
304 proprietary confidential business information.
305 (2) PUBLIC RECORDS EXEMPTION.—
306 (a) The following records held by the institute are
307 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
308 of the State Constitution:
309 1. Information that relates to methods of manufacture or
310 production, potential trade secrets, or patentable material
311 received, generated, ascertained, or discovered during the
312 course of research or through research projects conducted by
313 universities and other publicly supported organizations in this
314 state and that is included in materials provided to the
315 institute by a proprietor.
316 2. Information that would identify an investor or potential
317 investor who desires to remain anonymous in projects reviewed by
318 the institute for assistance.
319 3. Any information received from a person from another

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320 state or nation or the Federal Government which is otherwise
321 confidential or exempt pursuant to the laws of that state or
322 nation or pursuant to federal law.
323 4. Proprietary confidential business for 7 years after the
324 termination of the institute's financial commitment to the
325 company.
326 (b) At the time any record made confidential and exempt by
327 this subsection, or portion thereof, is legally available or
328 subject to public disclosure for any other reason, that record,
329 or portion thereof, shall no longer be confidential and exempt
330 and shall be made available for inspection and copying.
331 (3) PUBLIC MEETINGS EXEMPTION.—
332 (a) That portion of a meeting of the institute's board of
333 directors at which information is discussed which is
334 confidential and exempt under subsection (2) is exempt from s.
335 286.011 and s. 24(b), Art. I of the State Constitution.
336 (b) Any exempt portion of a meeting shall be recorded and
337 transcribed. The board of directors shall record the times of
338 commencement and termination of the meeting, all discussion and
339 proceedings, the names of all persons present at any time, and
340 the names of all persons speaking. An exempt portion of any
341 meeting may not be off the record.
342 (c) A transcript and minutes of exempt portions of meetings
343 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
344 I of the State Constitution.
345 (4) REQUEST TO INSPECT OR COPY A RECORD.—
346 (a) Records made confidential and exempt by this section
347 may be released, upon written request, to a governmental entity
348 in the performance of its official duties and responsibilities.

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

349 (b) Notwithstanding the provisions of paragraph (2)(a), a
350 request to inspect or copy a public record that contains
351 proprietary confidential business information shall be granted
352 if the proprietor of the information fails, within a reasonable
353 period of time after the request is received by the institute,
354 to verify the following to the institute through a written
355 declaration in the manner provided by s. 92.525:
356 1. That the requested record contains proprietary
357 confidential business information and the specific location of
358 such information within the record;
359 2. If the proprietary confidential business information is
360 a trade secret, a verification that it is a trade secret as
361 defined in s. 688.002;
362 3. That the proprietary confidential business information
363 is intended to be and is treated by the proprietor as private,
364 is the subject of efforts of the proprietor to maintain its
365 privacy, and is not readily ascertainable or publicly available
366 from any other source; and
367 4. That the disclosure of the proprietary confidential
368 business information to the public would harm the business
369 operations of the proprietor.
370 (c)1. Any person may petition a court of competent
371 jurisdiction for an order for the public release of those
372 portions of any record made confidential and exempt by
373 subsection (2).
374 2. Any action under this subsection must be brought in Palm
375 Beach County or Alachua County, and the petition or other
376 initial pleading shall be served on the institute and, if
377 determinable upon diligent inquiry, on the proprietor of the

378 information sought to be released.
379 3. In any order for the public release of a record under
380 this subsection, the court shall make a finding that:
381 a. The record or portion thereof is not a trade secret as
382 defined in s. 688.002;
383 b. A compelling public interest is served by the release of
384 the record or portions thereof which exceed the public necessity
385 for maintaining the confidentiality of such record; and
386 c. The release of the record will not cause damage to or
387 adversely affect the interests of the proprietor of the released
388 information, other private persons or business entities, or the
389 institute.
390 (5) PENALTIES.—Any person who willfully and knowingly
391 violates this section commits a misdemeanor of the first degree,
392 punishable as provided in s. 775.082 or s. 775.083.
393 Section 3. This act shall take effect upon becoming a law.

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 27, 2012

I respectfully request that **Senate Bill #798**, relating to Florida Opportunity Fund and the Institute for the Commercialization of Public Research, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: CS/SB 938

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Insurance Agents and Adjusters

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Fav/CS**
2.	Betta	DeLoach	BGA	**Favorable**
3.	Betta	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Senate Bill 938 substantially revises the Licensing Procedures Law for insurance agents, adjusters, and limited lines licensees.

The bill creates the new licensure classification of all-lines adjuster to replace the current licensure classifications of independent adjuster and company employee adjuster. The classifications of independent adjuster and all-lines adjuster are converted to appointment types for licensed all-lines adjusters. New licensure classifications for non-resident all-lines adjusters and temporary independent all-lines adjusters are also created.

Effective October 1, 2014, the bill substantially revises the continuing education requirements for licensees. Each licensee will be required to complete a 7-hour update course every 2 years. Topics covered in the course must include insurance law updates, ethics, disciplinary trends and case studies, insurance industry trends, premium discounts, suitability of products and services, and other topics the DFS determines are relevant to the licensee. The remainder of the continuing education requirement may be satisfied by taking approved elected courses.

The bill also consolidates and revises a number of limited insurance licenses:

- Repeals the licenses for resident and non-resident Motor Vehicle Physical Damage & Mechanical Breakdown Insurance (existing licensees may maintain such licenses);
- Creates a new Credit Insurance licensure category, which will subsume the limited licenses for credit life and disability, credit property, mortgage guaranty, and credit disability.
- Creates a new non-resident credit insurance category to replace the non-resident credit life and disability and the non-resident mortgage guaranty insurance licenses.
- Creates a new license for portable electronics insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics. The new license classification replaces the limited license for communications equipment.

The bill repeals the $200 annual administrative surcharge that title insurance agencies pay to the Department of Financial Services. Also repealed is the annual $3 additional county tax that is applied to the business locations of resident insurance agents that are outside the agent's home county.

The bill also does the following:

- Expands the classifications of agents who can solicit and bind coverage from licensed general lines agents to all licensed agents. This will permit life agents, health agents, title agents, and other types of licensed agents to solicit and bind coverage.
- Allows third parties to complete the application for licensure.
- Prohibits applicants from taking a licensure exam more than 5 times in a 12-month period.
- Authorizes granting a waiver from the continuing education requirements to active duty military that cannot comply with those requirements and submit a written request for waiver.
- Eliminates the Continuing Education Advisory Board designed to advise the DFS on the classification of continuing education courses.
- Allows all-lines adjusters to transfer their licenses from other states to Florida.
- Requires all licensees to report to the department any final agency action in Florida or other jurisdictions relating to insurance, securities, fraud, or breach of fiduciary duty.
- Authorizes the department to refuse, suspend, or revoke a license or appointment for failure to comply with civil, criminal or administrative action taken by the child support enforcement program.
- Repeals the application of s. 626.175, F.S., (temporary agent licensure) to title insurance agents but applies s. 626.749, F.S., (place of business in residence) and s. 626.172, F.S. (agent in full-time charge) to such agents or agencies.
- Repeals the security deposit or bind requirement for title insurance agencies.
- Removes the requirement that the Clerk of Court furnish to the DFS and OIR notice of a bail bond forfeiture judgment and expands from 35 to 60 days the time before which the clerk must inform the OIR and county sheriff of the failure to pay a bail bond forfeiture judgment.

This bill substantially amends the following sections of the Florida Statutes: 624.501, 624.505, 626.015, 626.0428, 626.171, 626.191, 626.221, 626.231, 626.241, 626.251, 626.281, 626.2815, 626.292, 626.311, 626.321, 626.342, 626.381, 626.536, 626.551, 626.621, 626.641, 626.651, 626.730, 626.732, 626.8411, 626.8418, 626.855, 626.856, 626.8584, 626.863, 626.864, 626.865, 626.866, 626.869, 626.8697, 626.872, 626.8734, 626.8736, 626.874, 626.875, 626.876, 626.927, 626.933, 626.935, 627.952, 635.051, 648.38, 648.385, and 903.27

The bill creates the following sections of the Florida Statutes: 626.8548.

The bill repeals the following sections of the Florida Statutes: 626.858, 626.867, 626.873, and 626.928.

II. Present Situation:

Licensure of Insurance Representatives and Operations

The Licensing Procedures Law (Chapter 626, F.S.) requires the licensure of various insurance field representatives such as insurance agencies, insurance agents, adjusters, managing general agents, customer representatives, and service agents. No person may act as or hold himself or herself out to be an insurance agent, insurance adjuster, customer representative, service representative or managing general agent unless that person is currently licensed by the Department of Financial Services (DFS) and has been appointed by an appropriate appointing entity or person. An appointment occurs when an insurer or employer gives a licensee authority to transact insurance or adjust claims on behalf of the insurer or employer.[1]

To obtain licensure, agents, adjusters, customer representatives, service representatives, managing general agents, and reinsurance intermediaries must apply for licensure with the department and provide identifying information (name, age, social security number; etc); proof of completing required pre-licensing courses; information regarding any license refusals, suspensions, or revocations; and fingerprints.[2] Licensure as an agent, customer representative, or adjuster also requires passing an examination approved by the department that is designed to test the applicant's ability, competence and knowledge of the kinds of insurance and transactions the prospective licensee will handle.[3] The department is required to deny, suspend, revoke or refuse to renew licenses as required in statute, but is also provided discretion to fine the licensee in addition to or instead of taking such action of the license.[4]

The general lines agent or customer representative license authorizes the licensee to transact all property, marine, casualty, and surety lines (except bail bonds).[5] A general lines agent licensee also covers health insurance if such insurance is included in the agent's appointment by an insurer as to which the licensee is also appointed as an agent for property and casualty insurance. Licensed agents are required to comply with various consumer protection provisions in the Licensing Procedures Law including meeting the qualifications for licensure, compliance with continuing education requirements, and submission of fingerprints.[6]

[1] Section 626.015(3), F.S.
[2] Section 626.171, F.S.
[3] See Section 626.221, F.S., s. 626.231, F.S., and s. 626.241, F.S.
[4] See Section 626.611, F.S., through s. 626.681, F.S.
[5] Section 626.311, F.S.
[6] See Section 626.025, F.S.

Continuing Education Requirements

Licensees who sell or solicit the sale of insurance are subject to continuing education requirements.[7] Licensees must generally complete 24 hours of continuing education courses every 2 years, of which 3 hours must be related to ethics and 1 hour must be related to property insurance hurricane mitigation discounts. Persons with greater levels of experience are subject to lower continuing education requirements. For instance, a person who has been licensed for at least 6 years is only required to complete 20 hours of continuing education. Similarly, holders of more limited licenses such as for a customer representative, title agent, or other specified limited licensees are only required to complete 10 hours of continuing education requirements every 2 years.[8]

Limited Licensees

Limited licenses are available that authorize the agent to transact a limited class of business. There are 10 general categories of limited license:[9]

- Motor vehicle physical damage and mechanical breakdown insurance;
- Industrial fire or burglary insurance;
- Travel insurance;
- Motor vehicle rental insurance;
- Credit life or disability insurance;
- Credit insurance;
- Credit property insurance;
- Crop hail and multiple-peril crop insurance;
- In transit and storage personal property insurance;
- Communications equipment insurance and service warranties.[10]

If an entity, rather than an individual, applies for limited licensure, the entity must obtain a license for each office, branch office, or place of business.

Appointments

In addition to licensure, the Licensing Procedures Law requires agents, adjusters, service representatives, customer representatives, and managing general agents to be appointed by an appointing entity or person. Each appointment must be filed with the DFS and certifies that the licensed appointee is qualified to engage in the insurance business and that the appointing entity or person is willing to be bound by the acts of the appointee.[11] An appointment continues until suspended, revoked, or terminated, but is subject to renewal during the appointee's birth month

[7] Section 626.2815, F.S.
[8] See s. 626.2815(3)(e), F.S.
[9] Section 626.321, F.S.
[10] See s. 626.321(1)(i), F.S. There are three types of communications equipment insurance: communications equipment property insurance, communications equipment inland marine insurance, and communications equipment service warranty agreement sales.
[11] Section 626.451, F.S.

(if a natural person) or license date (if an entity) every 24 months thereafter and the payment of a renewal appointment fee.[12]

Title Insurance Administrative Surcharge

Each title insurer and title insurance agency is subject to an annual administrative surcharge.[13] Each title insurer must pay to the Office of Insurance Regulation (OIR) an administrative surcharge of $200.00, for each licensed title insurance agency and retail office of the insurer in existence on January 1 of each calendar year. Similarly, each licensed title insurance agency must pay the Department of Financial Services an administrative surcharge of $200 annually.

III. Effect of Proposed Changes:

Section 1. Amends s. 624.501, F.S., eliminating the $200 annual administrative surcharge paid by each licensed title insurance agency to the Department of Financial Services.

Section 2. Amends s. 627.505(1), F.S., revising the $3 county tax paid by each insurer for each agent. The tax will only be applied once for each agent's place of business. Under current law, the tax is applied multiple times if the agent maintains places of business in multiple counties.

Section 3. Amends s. 626.015, F.S., revising the definition of "adjuster" to include "all lines adjuster," a new classification created in the bill. The new definition deletes the classifications of independent adjuster and company employee adjuster, which are subsumed within the new all-lines adjuster classification. The definition of "home state" is also amended to include adjusters, which will authorize the DFS to obtain from adjusters the state where the adjuster maintains a principal place of business.

Section 4. Amends s. 626.0428, F.S., expanding the classifications of agents who can solicit and bind coverage from licensed general lines agents to all licensed agents. This will permit life agents, health agents, title agents, and other types of licensed agents to solicit and bind coverage.

Section 5. Amends s. 626.171, F.S., regarding the licensure process for agents, customer representatives, adjusters, service representatives, managing general agents, and reinsurance intermediaries in the following ways:

- Allows third parties to complete the application for licensure. The applicant remains responsible for ensuring the accuracy of the information on the application.
- Alters the application for licensure to require the applicant to state the method being used to meet pre-licensing educational and experience requirements, rather than requiring proof of completing such requirements. Representatives from the DFS assert the change is designed to allow applicants to apply for licensure before completing the pre-licensure requirements rather than having to wait until completing those requirements.
- Deletes the department's authority to accept revisions of the uniform application for nonresident agent licensing by rule.

[12] Section 626.381, F.S.
[13] Section 624.501(5), F.S.

Section 6. Technically amends s. 626.191, F.S.

Section 7. Amends s. 626.221(2), F.S., to incorporate the new licensure classifications created by the bill into the exemptions from the requirement of passing a licensing examination.

- The exemption for limited licensure applicants will include travel insurance, motor vehicle rental insurance, credit insurance, in-transit and storage personal property insurance, and portable electronics.
- The exemption for applicants suspended in the past 4 years will apply to "adjusters," rather than just company employee and independent adjusters. The change will include public adjusters, which may not be intended.
- The exemption for adjusters who were appointed in the past 48 months will apply to all-lines adjusters.
- The exemption for adjusters who have obtained specified accreditations will apply to resident and nonresident all-lines adjusters.

Section 8. Amends s. 626.231(2), F.S., to specify that applicants for licensure must provide their dates of birth and to specify that applicants who take a licensure examination before applying for licensure may apply to take the licensure examination via websites of vendors who administer the exam.

Section 9. Amends s. 626.241, F.S., which provides the requirements for the topics to be included within an examination to obtain licensure as an all-lines adjuster. The bill removes authorization for specific examinations focusing on automobile physical damage insurance, property and casualty insurance, workers' compensation insurance, or health insurance. Instead, all examinations will cover adjusting in all-lines of insurance, other life insurance and annuities.

Section 10. Amends s. 626.521(1), F.S., to authorize notice of the time and place of a licensure exam to be e-mailed to the applicant, rather than sent via regular mail.

Section 11. Amends s. 626.281, F.S., to prohibit applicants from taking a licensure examination more than 5 times in a 12-month period.

Section 12. Amends s. 626.2815, F.S., and applies to adjusters the continuing education requirements for agents. This section of the bill makes the following changes to those requirements:

- Authorizes granting a waiver from the continuing education requirements to active duty military that cannot comply with those requirements and submit a written request for waiver.
- Requires entities providing continuing education courses to report to the DFS all licensees who successfully completed the course within 15 days, rather than 30 days, and deletes a $1 fee that accompanied the list of attendees.
- Authorizes the department to immediately terminate agents or adjusters who have not met continuing education requirements. Current law only permits the nonrenewal of agent licenses.
- Eliminates the Continuing Education Advisory Board designed to advise the DFS on the classification of continuing education courses.

Section 13. Effective October 1, 2014, amends s. 626.2815, F.S., by substantially revising the continuing education requirements for licensees. Each licensee will be required to complete a 7-hour update course every 2 years. The course must be approved by the department and be specific to the license held by the licensee. Topics covered in the course must include insurance law updates, ethics, disciplinary trends and case studies, insurance industry trends, premium discounts, suitability of products and services, and other topics the DFS determines are relevant to the licensee. Licensees with multiple insurance licenses need only complete the 7 hour course for one of the licenses held.

Licensees are authorized to satisfy the remainder of their continuing education requirements by taking approved elective courses. Elective courses for public adjusters must be specifically designed for public adjusters and approved by the DFS. Licensees must meet the statutory requirements every 2 years. The total hour requirements for various categories of licensure are:

- Generally, licensees must complete 24 hours of courses, 17 of which may be electives.
- Licensees who have held a license for 6 or more years must complete 20 hours of courses, 13 of which may be electives.
- Licensees who have held a license for 25 years or more and are designated as a Chartered Life Underwriter (CLU), Chartered Property & Casualty Underwriter (CPCU), or Bachelor of Science in risk management or insurance must complete 10 hours of courses, 3 of which may be electives.
- Customer representative, limited customer representative, title agent, and industrial fire insurance or burglary insurance agents who do not hold a license as a life or health agent must complete 10 hours, 3 of which may be electives. This requirement will no longer apply to motor vehicle physical damage and mechanical breakdown insurance agents, or crop or hail and multiple peril crop insurance agents.
- Bail bond agents must complete 14 hours of courses, 7 of which may be electives.
- Eliminates the requirements that an individual holding a license to solicit or sell life or health insurance and a license to solicit or sell property, casualty, surety, or surplus lines insurance must complete courses in life and health insurance for one-half of the total hours required and courses in property, casualty, surety, or surplus lines insurance for the other half of the total hours required.

Section 14. Amends s. 626.292, F.S., to allow all-lines adjusters to transfer their licenses from other states to Florida. Current law permits agents to do so, but not adjusters. All lines adjusters are exempted from the requirement to complete prelicensing education requirements unless completing prelicensing education was a prerequisite for licensure in the state the adjuster is transferring from.

Section 15. Amends s. 626.311, F.S., regarding the scope of license to include the licensure classifications created by the bill.

Section 16. Amends s. 626.321, F.S., by revising the following limited licenses:

Motor vehicle physical damage and mechanical breakdown insurance – Limited licenses will not be issued effective October 1, 2012. Current holders of the license and appointment may renew them. However, if the limited license is terminated, suspended, or revoked, it may not be reinstated.

Credit insurance – The credit insurance limited license is expanded to include credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) coverage, and other forms of insurance offered in connection with an extension of credit which is limited to extinguishing all or part of the credit obligation. Effective October 1, 2012, the various types of licenses will be converted to a credit insurance license.

Crop hail and multiple-peril crop insurance – Amends the definition of such insurance to comply with the National Association of Insurance Commissioners' Producer Licensing Model Act.

Portable electronics insurance – Creates a new license for property insurance or inland marine insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics. The new license classification replaces the limited license for communications equipment. The portable electronics insurance limited license may be issued to (1) employees or authorized representatives of a licensed general lines agent or (2) the lead business location of a retail vendor that sells portable electronics insurance and has a contractual relationship with a general lines agent. Licensees are exempted from having to submit fingerprints to the department, which is otherwise required as a condition of obtaining licensure from the department. Definitions of "portable electronics" and "portable electronics transaction" are also created.

Licensees may bill and collect the premium for the purchase of portable electronics insurance if (1) the insurance is included with the purchase or lease of portable electronics or related services and that fact is disclosed to the purchaser, (2) premiums are incidental to other fees being collected and remitted to the insurer or supervising entity within 60 days of receipt, and (3) all funds are held in trust by the licensee as a fiduciary for the benefit for the insurer.

The bill eliminates the requirement that employees, agents, and authorized representatives selling such insurance be licensed. Instead, employees or authorized representatives will be authorized to sell such insurance if all of the following conditions are met:

- The insurance is offered or sold at a licensed location or a branch location of the licensee appointed by the licensed lead business location or its appointing insurers;
- The insurer issuing the insurance directly supervises the sale of insurance or appoints a general lines agent to supervise the sale of such insurance; and
- Written material providing required information to customers are made available at each location where such insurance is sold. The written material must notify the reader that portable electronics insurance may duplicate coverage, need not be purchased, summarize the terms of the insurance, identify the insurer and supervising entity, summarize the claim filing process, and state that coverage may be cancelled at any time and receive a refund of unearned premium.

Unlicensed sellers of portable electronics insurance cannot receive commissions on the sale of coverage, but may include compensation for selling such insurance as part of a compensation plan that provides supplemental compensation for selling noninsurance products in addition to a regular salary or hourly wages. The terms for terminating or modifying the policy are those

contained in the policy. Notice required by the policy or by law may be made by electronic means if the insurer or licensee maintains proof that the notice or correspondence was sent.

A "branch location" is defined as any physical location in Florida at which a licensee offers its products or services for sale. Branch locations may obtain a single appointment from the lead business location licensee and pay an appointment fee prescribed in s. 624.501, F.S. In order for the branch location to obtain such an appointment, the lead business location must have a single appointment from each insurer or warranty association represented and its appointment must apply to the lead business location and all branch locations. Branch location appointments must be initially renewed on the first anniversary of licensure of the lead business location that occurs more than 24 months after the initial appointment and every 24 months thereafter. The renewal fee for branch location appointments is $30 per appointment.

Section 17. Technically amends s. 626.342, F.S., regarding the prohibition against providing supplies to unlicensed agents.

Section 18. Amends s. 626.381, F.S., revising the date on which the appointment of an entity appointee is renewed to the month the original appointment was issued.

Section 19. Amends s. 626.536, F.S., expanding the requirement to report to the department any final agency action in Florida or other jurisdictions relating to insurance, securities, fraud, or breach of fiduciary duty. All licensees (agents and adjusters) will be required to submit the report, instead of only agents under current law. The bill also states that reporting must be provided for final action by an "other regulatory agency" in addition to a "governmental agency" as required under current law. The bill continues to apply the section to insurance agencies.

Section 20. Amends s. 626.551, F.S., reducing from 60 days to 30 days the time that licensees have to notify the department of a change of name or address. The bill also authorizes the department to discipline insurance agencies as well as agents and adjusters, and grants rulemaking authority to the department to enforce the section.

Section 21. Amends s. 626.621, F.S., authorizing the department to refuse, suspend, or revoke the license or appointment of applicants, agents, adjusters, customer representatives, service representatives, or managing general agents for failure to comply with civil, criminal or administrative action taken by the child support enforcement program. Under the child support program, the Florida Department of Revenue may petition a court to file an order with the Division of Agent and Agency Services to deny or suspend an agents license under s. 61.13015, F.S.

Section 22. Amends s. 626.641(4), F.S., to clarify that a former licensee or appointee whose license has been suspended or revoked may not engage in transactions requiring a license until the license has been reinstated or a new license has been issued.

Section 23. Amends s. 626.651(1), F.S., allowing the department to deny, suspend, or revoke a license of any licensee or applicant, thus applying the section to adjusters and other licensees. Current law limits the application of this section to insurance agents and customer representatives.

Section 24. Amends s. 626.730(4), F.S., regarding the purpose of licenses to refer to the new limited licensure category of credit insurance created by the bill.

Section 25. Amends s. 626.732, F.S., exempting limited license lines from the knowledge, experience, and educational requirements for licensure as a general lines agent. The section also places the requirements for licensure as a personal lines agent into a separate subsection to provide further clarity.

Section 26. Amends s. 626.8411, F.S., containing statutory provisions that apply to title insurance agents or agencies. The bill repeals the application of s. 626.175, F.S., (temporary agent licensure) to title insurance agents but applies s. 626.749, F.S., (place of business in residence) and s. 626.172, F.S. (agent in full-time charge) to such agents or agencies.

Section 27. Amends s. 626.8418, F.S., to repeal the security deposit or bind requirement for title insurance agencies. Under current law each title insurance agency must deposit with the department securities or a security bond with a value of at least $35,000. The security deposit proceeds are for the benefit of insurers damaged by a violation by the title insurance agency of its contract with the appointing insurer.

Section 28. Creates s. 626.8548, F.S., defining an "all-lines adjuster" as a person who, on behalf of insurers, ascertains and determines the amount of any claim, loss, or damage payable under an insurance contract or tries to settle claims, losses or damage. The all-lines adjuster may be self-employed, employed by an insurer or its wholly owned subsidiary, or an independent adjusting firm or other independent adjuster. Section 34 of the bill eliminates the license types of independent adjuster and company employee adjuster; replacing them with the all-lines adjuster license.

Section 29. Amends s. 626.855, F.S., converting "independent adjusters" from a separate license type to a form of appointment. An independent adjuster is defined as a licensed all-lines adjuster that is appointed and employed by an independent adjusting form or other independent adjuster.

Section 30. Amends s. 626.856, F.S., converting "company employee adjusters" from a separate license type to a form of appointment. A company employee adjuster is defined as a licensed all-lines adjuster that is appointed and employed on an insurer's staff of adjuster or a wholly owned subsidiary of the insurer.

Section 31. Repeals s. 626.867, F.S., which defines a "nonresident company employee adjuster."

Section 32. Amends s. 626.8584, F.S., defining "nonresident all-lines adjuster" as a person who (1) is not a Florida resident, (2) is an adjuster licensed in his or her state of residence for all lines of insurance except for life and annuities, or, if a resident of a state that does not license such adjusters, meets the qualifications for a non-resident all-lines adjuster in s. 626.8734, F.S., and (3) is licensed as an all-lines adjuster and self-appointed or appointed and employed by an independent adjusting firm or other independent adjuster, by an admitted insurer or its wholly owned subsidiary, or by other insurers under common control or ownership of an admitted insurer.

Section 33. Amends s. 626.863, F.S., making conforming changes to the new licensure and appointment adjuster classifications created by the bill.

Section 34. Amends s. 626.864, F.S., creating the "all-lines adjuster" licensure and deleting the licenses for independent adjusters and company employee adjusters. All-lines adjusters cannot be concurrently licensed as a public adjuster and are prohibited from accepting appointments as an independent adjuster and company employee adjuster concurrently.

Section 35. Amends s. 626.865, F.S., containing the requirements for licensure as a public adjuster by requiring the applicant to be a licensed public adjuster apprentice pursuant to s. 626.8651, F.S.

Section 36. Amends s. 626.866, F.S., which will now contain the qualifications for licensure as an all-lines adjuster rather than an independent adjuster, which is no longer a license type under the bill. The qualifications are the same as those under current law for independent adjusters, except that all lines adjuster may be exempt from the examination requirements pursuant to s. 626.221, F.S.

Section 37. Repeals s. 626.867, F.S., which contains the qualifications for licensure as a company employee adjuster license. The section is being repealed because that licensure type is being replaced by the all-lines adjuster license.

Section 38. Amends s. 626.869, F.S., to specify that all-lines adjusters may adjust all lines of insurance except life and annuities. As of October 1, 2012, no new limited licenses for motor vehicle physical damage and mechanical breakdown, property and casualty, workers' compensation, or health insurance will be issued, though existing license holders will be able to renew such appointments. All-lines adjusters and public adjusters must complete the continuing education requirements contained in s. 626.2815, F.S., thus adjusters will be subject to the same continuing education requirements as agents. The separate continuing education requirements for adjusters contained in this section are repealed.

Section 39. Amends s. 626.8697, F.S., to provide that the DFS may refuse, suspend, or revoke an adjusting firm license for violation of a department rule. Current law only authorizes such action for the violation of an OIR or Financial Services Commission rule.

Section 40. Amends s. 626.872, F.S., revising the requirements for issuance of a temporary adjuster's license to conform to the new all-lines adjuster license. The application for a temporary all-lines adjuster license will no longer need to be accompanied by a certificate of employment and a report on the applicant's moral character and integrity completed by the employer.

Section 41. Repeals s. 626.873, F.S., containing the qualifications for licensure as a nonresident company employee adjuster, a license type that will no longer exist. Instead, such adjusters will be classified as nonresident all-lines adjusters, whose requirements are contained in s. 626.8734, F.S.

Section 42. Amends s. 626.8734, F.S., to provide qualifications for licensure as a nonresident all-lines adjuster. Qualifications are the same as those for a nonresident independent adjuster under current law with the following revisions:

- Pass a written Florida all-lines adjuster exam or is licensed as a nonresident all-lines adjuster or an all-lines adjuster in the applicant's home state (if that state has a reciprocal licensure agreement with Florida);
- Be licensed as an all-lines adjuster;
- Be self-appointed or employed and appointed by an independent adjusting firm or other independent adjuster, is an employee of an admitted Florida insurer or other insurers under common control and ownership of such insurer;
- Be appointed as an independent adjuster or company employee adjuster;
- Waives the requirement to provide a certificate or letter from the insurance commissioner of applicant's home state verifying an existing all-lines adjuster license or other specified licensure (if an all-lines adjuster license is unavailable in that state) if the applicant's licensure status can be verified through the NAIC Producer Database;
- Nonresident independent adjuster appointees need only submit once an affidavit certifying the licensee understands the insurance laws and rules of Florida and the provisions of contracts to be negotiated. Current law requires an annual affidavit.

Section 43. Amends s. 626.8736, F.S., revising the service of process requirements for nonresident public adjusters to reflect the new licensure for all-lines adjusters and apply the requirements to such adjusters appointed as independent adjusters.

Section 44. Amends s. 626.874, F.S., regarding catastrophe or emergency adjuster to reflect the new licensure for all-lines resident adjusters.

Section 45. Amends s. 626.875, F.S., regarding records maintained by independent adjusters to reflect that an independent adjuster is now a type of appointment for all-lines adjusters rather than a separate license type.

Section 46. Amends s. 626.876, F.S., which prohibits all-lines adjusters appointed as an independent adjuster from being simultaneously employed by multiple adjusters or independent adjuster firms or corporations.

Section 47. Amends s. 626.927, F.S., to conform to the repeal of s. 626.928, F.S. The exemption from examination for persons holding a surplus lines agent's license as of January 1, 1959, is also repealed.

Section 48. Repeals s. 626.928, F.S., which currently requires surplus lines agents to file with the department a $50,000 surety bond in favor of the department.

Section 49. Amends s. 626.933, F.S., providing a conforming change to the repeal of the surety bond requirement in s. 626.928, F.S.

Section 50. Amends s. 626.935, F.S., providing a conforming change to the repeal of the surety bond requirement in s. 626.928, F.S.

Section 51. Amends s. 627.952, F.S., to maintain the requirement that risk retention and purchasing group agents maintain a $50,000 surety bond with the department. The amended language is necessary due to the repeal of s. 626.928, F.S.

Section 52. Amends s. 635.051, F.S., repealing the mortgage guaranty insurance agent license and instead requiring persons transacting mortgage guaranty insurance to obtain credit insurance licensure. Effective October 1, 2012, all existing mortgage guaranty agent licenses will be converted to credit insurance agent licenses.

Section 53. Amends s. 648.38, F.S., to allow the department to notify applicants for bail bond agent licensure by e-mail the time and place of the licensure examination.

Section 54. Amends s. 648.385, F.S., deleting the continuing education requirements for bail bond agents because such requirements will be contained in s. 626.2815, F.S.

Section 55. Amends s. 903.27, F.S., to remove the requirement that the Clerk of Court furnish to the DFS and OIR notice of a bail bond forfeiture judgment. The bill also expands from 35 to 60 days the time before which the clerk must inform the OIR and county sheriff of the failure to pay a bail bond forfeiture judgment, removes the requirement that the clerk notify the DFS, and requires the clerk to provide two certified copies of the transcript of the docket of the judgment. Current law does not specify that the copies of the judgment must be certified and include a transcript of the docket of the judgment.

Section 56. The bill is effective October 1, 2012, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Title insurance agencies will no longer be subject to the administrative surcharge in s. 624.501, F.S. The DFS estimates that this will result in approximately $300,000 to $400,000 savings for such entities statewide.

C. Government Sector Impact:

The Bill Analysis & Fiscal Impact Statement provided by the Department of Financial Services estimates that repealing the requirement for title insurance agencies to pay the administrative surcharge will reduce the revenue deposited in the Insurance Regulatory Trust Fund by approximately $300,000 to $400,000. In 2011, the surcharge generated approximately $952,000, of which title insurers paid approximately $526,800. The department has indicated this is not a significant impact.

The DFS also estimates that combining the credit lines of insurance and mortgage guaranty insurance licenses will result in the loss of approximately $12,000 annually in license and appointment fees. Elimination of the county tax for additional business locations outside the county of residence will have an insignificant fiscal impact as only $60 was collected statewide during the 2010 – 2011 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Banking and Insurance on January 9, 2012:

The committee substitute (CS) reinstates two consumer protections that were inadvertently deleted from the bill. It requires the newly created 7 hour mandatory continuing education course for agents to include instruction on premium discounts for consumers and reinstates the requirement that life insurance agents take a 3 hour course on the suitability of annuity and life insurance contracts. The CS increases applicants taking the agent licensure exam 5 chances to pass the exam, instead of 3 under the bill originally filed. The strike all also corrects a number of technical deficiencies and internal inconsistencies.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Richter

A bill to be entitled

An act relating to insurance agents and adjusters; amending s. 624.501, F.S.; deleting a title insurer administrative surcharge for a licensed title insurance agency; amending s. 624.505, F.S.; deleting a requirement that an insurer pay an agent tax for each county in which an agent represents the insurer and has a place of business; amending s. 626.015, F.S.; revising the definitions of “adjuster” and “home state”; amending s. 626.0428, F.S.; revising provisions relating to who may bind insurance coverage; amending s. 626.171, F.S.; providing that an applicant is responsible for the information in an application even if completed by a third party; requiring an application to include a statement about the method used to meet certain requirements; amending s. 626.191, F.S.; revising provisions relating to when an applicant may apply for a license after an initial application is denied by the Department of Financial Services; amending s. 626.221, F.S.; revising provisions relating to license examinations; conforming provisions relating to all-lines adjusters; deleting an exemption from examination for certain adjusters; amending s. 626.231, F.S.; providing for submitting an application for examination on a designee’s website; requiring the applicant’s e-mail address; amending s. 626.241, F.S.; revising the scope of the examination for an all-lines adjuster; amending s. 626.251, F.S.; providing for e-mailing notices of

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examinations; amending s. 626.281, F.S.; specifying how many times an applicant may take an examination during a year; amending s. 626.2815, F.S.; revising provisions relating to continuing education requirements; providing that persons on active military duty may seek a waiver; providing for an update course and the contents of such course; deleting requirements relating specifically to certain types of insurance; providing education requirements for bail bond agents and public adjusters; eliminating the continuing education advisory board; amending s. 626.292, F.S.; conforming provisions to changes made by the act relating to all-lines adjusters; amending s. 626.311, F.S.; conforming provisions to changes made by the act relating to limited licenses; amending s. 626.321, F.S.; revising provisions relating to limited licenses; prohibiting the future issuance of new limited licenses for motor vehicle physical damage and mechanical breakdown insurance; combining limited licenses relating to credit insurance; specifying events covered by crop hail and multiple-peril crop insurance; revising in-transit and storage personal property insurance to create a limited license for portable electronics insurance; amending s. 626.342, F.S.; clarifying that the prohibition relating to the furnishing of supplies to unlicensed agents applies to all unlicensed agents; amending s. 626.381, F.S.; revising provisions relating to the reporting of administrative actions; amending s. 626.536, F.S.;

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59 clarifying requirements for reporting administrative
60 actions taken against a licensee; amending s. 626.551,
61 F.S.; shortening the time within which a licensee must
62 report to the department a change in certain
63 information; authorizing the Department of Financial
64 Services to adopt rules relating to notification of a
65 change of address; amending s. 626.621, F.S.; adding
66 failure to comply with child support requirements as
67 grounds for action against a license; amending s.
68 626.641, F.S.; clarifying provisions relating to the
69 suspension or revocation of a license or appointment;
70 amending s. 626.651, F.S.; revising provisions
71 relating to the suspension or revocation of licenses;
72 amending ss. 626.730 and 626.732, F.S.; revising
73 provisions relating to the purpose of the general
74 lines and personal lines license and certain
75 requirements related to general lines and personal
76 lines agents; conforming provisions to changes made by
77 the act relating to limited licenses; amending s.
78 626.8411, F.S.; revising requirements and exemptions
79 relating to title insurance agents or agencies;
80 amending s. 626.8418, F.S.; deleting the requirement
81 that a title insurance agency deposit certain
82 securities with the department; creating s. 626.8548,
83 F.S.; defining the term “all-lines adjuster”; amending
84 s. 626.855, F.S.; revising the definition of
85 “independent adjuster”; amending s. 626.856, F.S.;
86 revising the definition of “company employee
87 adjuster”; repealing s. 626.858, F.S., relating to

88 defining “nonresident company employee adjuster”;
89 amending s. 626.8584, F.S.; revising the definition of
90 “nonresident all-lines adjuster”; amending s. 626.863,
91 F.S.; conforming provisions to changes made by the act
92 relating to all-lines adjusters; amending s. 626.864,
93 F.S.; revising provisions relating to adjuster license
94 types; amending s. 626.865, F.S.; requiring an
95 applicant for public adjuster to be licensed as a
96 public adjuster apprentice; amending s. 626.866, F.S.;
97 conforming provisions to changes made by the act
98 relating to all-lines adjusters; repealing s. 626.867,
99 F.S., relating to qualifications for company employee
100 adjusters; amending s. 626.869, F.S.; revising
101 provisions relating to an all-lines adjuster license;
102 ceasing the issuance of certain adjuster licenses;
103 revising continuing education requirements; amending
104 s. 626.8697, F.S.; revising provisions relating to the
105 violation of rules resulting in the suspension or
106 revocation of an adjuster’s license; amending s.
107 626.872, F.S.; conforming provisions to changes made
108 by the act relating to all-lines adjusters; repealing
109 s. 626.873, F.S., relating to licensure for
110 nonresident company employee adjusters; amending s.
111 626.8734, F.S.; amending provisions relating to
112 nonresident all-lines adjusters; providing for
113 verifying an applicant’s status through the National
114 Association of Insurance Commissioners’ Producer
115 Database; amending ss. 626.8736, 626.874, 626.875, and
116 626.876, F.S.; conforming provisions to changes made

117 by the act relating to all-lines adjusters; amending
118 s. 626.927, F.S.; deleting a requirement that a
119 licensed surplus lines agent maintain a bond;
120 repealing s. 626.928, F.S., relating to a surplus
121 lines agent's bond; amending ss. 626.933, 626.935, and
122 627.952, F.S.; conforming cross-references; amending
123 s. 635.051, F.S.; requiring persons transacting
124 mortgage guaranty insurance to be licensed and
125 appointed as a credit insurance agent; amending s.
126 648.34, F.S.; revising the licensure application for
127 bail bond agents to include certain information;
128 amending s. 648.38, F.S.; revising the notice of
129 examination requirements for bail bond agents;
130 amending s. 648.385, F.S.; revising continuing
131 education courses for bail bond agents, to conform to
132 changes made by the act; amending s. 648.421, F.S.;
133 revising the notice of change of address or telephone
134 number for bail bond agents to include the agent's e-
135 mail address; amending s. 903.27, F.S.; revising
136 provisions relating to the provision of forfeiture
137 documents and notification of certain actions;
138 providing effective dates.
139
140 Be It Enacted by the Legislature of the State of Florida:
141
142 Section 1. Paragraph (e) of subsection (27) of section
143 624.501, Florida Statutes, is amended to read:
144 624.501 Filing, license, appointment, and miscellaneous
145 fees.—The department, commission, or office, as appropriate,

146 shall collect in advance, and persons so served shall pay to it
147 in advance, fees, licenses, and miscellaneous charges as
148 follows:
149 (27) Title insurance agents:
150 (e) Title insurer and title insurance agency administrative
151 surcharge:
152 ~~1.~~ On or before January 30 of each calendar year, each
153 title insurer shall pay an administrative surcharge of $200.00
154 to the office for each licensed title insurance agency appointed
155 by the title insurer and for each retail office of the insurer
156 on January 1 of that calendar year ~~an administrative surcharge~~
157 ~~of $200.00~~.
158 ~~2. On or before January 30 of each calendar year, each~~
159 ~~licensed title insurance agency shall remit to the department an~~
160 ~~administrative surcharge of $200.00.~~ The ~~administrative~~
161 surcharge may be used solely to defray the costs to the
162 ~~department and~~ office for gathering and evaluating ~~in their~~
163 ~~examination or audit of title insurance agencies and retail~~
164 ~~offices of title insurers and to gather~~ title insurance data
165 from title insurance agencies and insurers for statistical
166 purposes, which shall ~~to~~ be furnished to and used by the office
167 in its regulation of title insurance.
168 Section 2. Subsection (1) of section 624.505, Florida
169 Statutes, is amended to read:
170 624.505 County tax; determination; ~~additional offices;~~
171 nonresident agents.—
172 (1) The county tax imposed ~~provided for~~ under s. 624.501
173 for ~~as to~~ an agent shall be paid by each insurer for each agent
174 only for the county where the agent resides, or if the ~~such~~

175 agent's place of business is not located in the ~~a~~ county where
176 the agent resides ~~other than that of her or his residence~~, ~~then~~
177 for the county in which the agent's ~~wherein is located such~~
178 place of business is located. ~~If an agent maintains an office or~~
179 ~~place of business in more than one county, the tax shall be paid~~
180 ~~for her or him by each such insurer for each county wherein the~~
181 ~~agent represents such insurer and has a place of business.~~ If
182 ~~When under this subsection~~ an insurer is paying the ~~required to~~
183 ~~pay~~ county tax ~~for an agent~~ for a county ~~or counties~~ other than
184 the agent's county of residence, the insurer must ~~shall~~
185 designate the county ~~or counties~~ for which the taxes are paid.
186 Section 3. Subsections (1) and (7) of section 626.015,
187 Florida Statutes, are amended to read:
188 626.015 Definitions.—As used in this part:
189 (1) "Adjuster" means a public adjuster as defined in s.
190 626.854, a public adjuster apprentice as defined in s. 626.8541,
191 or an all-lines adjuster as defined in s. 626.8548 ~~independent~~
192 ~~adjuster as defined in s. 626.855, or company employee adjuster~~
193 ~~as defined in s. 626.856~~.
194 (7) "Home state" means the District of Columbia and any
195 state or territory of the United States in which an ~~insurance~~
196 agent or adjuster maintains his or her principal place of
197 residence or principal place of business and is licensed to act
198 as an insurance agent or adjuster.
199 Section 4. Subsections (2) and (3) of section 626.0428,
200 Florida Statutes, are amended to read:
201 626.0428 Agency personnel powers, duties, and limitations.—
202 (2) An ~~No~~ employee of an agent or agency may not bind
203 insurance coverage unless licensed and appointed as an ~~a general~~

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204 ~~lines~~ agent or customer representative.
205 (3) An ~~No~~ employee of an agent or agency may not initiate
206 contact with any person for the purpose of soliciting insurance
207 unless licensed and appointed as an ~~a general lines~~ agent or
208 customer representative.
209 Section 5. Subsection (1) and paragraph (b) of subsection
210 (2) of section 626.171, Florida Statutes, are amended to read:
211 626.171 Application for license as an agent, customer
212 representative, adjuster, service representative, managing
213 general agent, or reinsurance intermediary.—
214 (1) The department may ~~shall~~ not issue a license as agent,
215 customer representative, adjuster, service representative,
216 managing general agent, or reinsurance intermediary to any
217 person except upon written application ~~therefor~~ filed with the
218 department ~~it~~, meeting the qualifications for the license
219 applied for as determined by the department ~~qualification~~
220 ~~therefor~~, and payment in advance of all applicable fees. The ~~Any~~
221 ~~such~~ application must ~~shall~~ be made under the oath of the
222 applicant and be signed by the applicant. An applicant may
223 permit a third party to complete, submit, and sign an
224 application on the applicant's behalf, but is responsible for
225 ensuring that the information on the application is true and
226 correct and is accountable for any misstatements or
227 misrepresentations. The department shall accept the uniform
228 application for nonresident agent licensing. The department may
229 adopt revised versions of the uniform application by rule.
230 (2) In the application, the applicant shall set forth:
231 (b) A statement indicating the method the applicant used or
232 is using to meet any required prelicensing education, knowledge,

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233 experience, or instructional requirements for the type of
234 license applied for. ~~Proof that he or she has completed or is in~~
235 ~~the process of completing any required prelicensing course.~~
236
237 However, the application must contain a statement that an
238 applicant is not required to disclose his or her race or
239 ethnicity, gender, or native language, that he or she will not
240 be penalized for not doing so, and that the department will use
241 this information exclusively for research and statistical
242 purposes and to improve the quality and fairness of the
243 examinations.
244 Section 6. Section 626.191, Florida Statutes, is amended to
245 read:
246 626.191 Repeated applications.—The failure of an applicant
247 to secure a license upon ~~an~~ application does ~~shall~~ not preclude
248 the applicant from applying again. However ~~as many times as~~
249 ~~desired~~, ~~but~~ the department may ~~shall~~ not consider ~~give~~
250 ~~consideration to~~ or accept any further application by the same
251 applicant ~~individual~~ for a similar license dated or filed within
252 30 days after ~~subsequent to~~ the date the department denied the
253 last application, except as provided under ~~in~~ s. 626.281.
254 Section 7. Subsection (2) of section 626.221, Florida
255 Statutes, is amended to read:
256 626.221 Examination requirement; exemptions.—
257 (2) However, an ~~no such~~ examination is not ~~shall be~~
258 necessary for ~~in~~ any of the following ~~cases~~:
259 (a) An applicant for renewal of appointment as an agent,
260 customer representative, or adjuster, unless the department
261 determines that an examination is necessary to establish the

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262 competence or trustworthiness of the ~~such~~ applicant.
263 (b) An applicant for a limited license as agent for travel
264 insurance, motor vehicle rental ~~personal accident insurance,~~
265 ~~baggage and motor vehicle excess liability insurance, credit~~
266 ~~life or disability~~ insurance, credit insurance, ~~credit property~~
267 ~~insurance,~~ in-transit and storage personal property insurance,
268 or portable electronics ~~communications equipment property~~
269 ~~insurance or communication equipment inland marine~~ insurance
270 under s. 626.321.
271 (c) In the discretion of the department, an applicant for
272 reinstatement of license or appointment as an agent, customer
273 representative, ~~company employee adjuster,~~ or all-lines
274 ~~independent~~ adjuster whose license has been suspended within the
275 4 years before ~~prior to~~ the date of application or written
276 request for reinstatement.
277 (d) An applicant who, within the 4 years before ~~prior to~~
278 application for license and appointment as an agent, customer
279 representative, or adjuster, was a full-time salaried employee
280 of the department who ~~and~~ had ~~continuously been such an employee~~
281 ~~with~~ responsible insurance duties for at least ~~not less than~~ 2
282 continuous years and who had been a licensee within the 4 years
283 before ~~prior to~~ employment by the department with the same class
284 of license as that being applied for.
285 (e) An applicant ~~A person~~ who has been licensed as an all-
286 lines adjuster and appointed as an independent adjuster or
287 company employee adjuster ~~as to all property, casualty, and~~
288 ~~surety insurances may be licensed and appointed as a company~~
289 ~~employee adjuster or independent adjuster, as to these kinds of~~
290 ~~insurance, without additional written examination~~ if an

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291 application for licensure is filed with the department within 48
292 months following the date of cancellation or expiration of the
293 prior appointment.
294 ~~(f) A person who has been licensed as a company employee~~
295 ~~adjuster or independent adjuster for motor vehicle, property and~~
296 ~~casualty, workers' compensation, and health insurance may be~~
297 ~~licensed as such an adjuster without additional written~~
298 ~~examination if his or her application for licensure is filed~~
299 ~~with the department within 48 months after cancellation or~~
300 ~~expiration of the prior license.~~
301 (f) ~~(g)~~ An applicant for a temporary license, except as
302 otherwise provided in this code.
303 (g) ~~(h)~~ An applicant for a license as a life or health agent
304 ~~license~~ who has received the designation of chartered life
305 underwriter (CLU) from the American College of Life Underwriters
306 and ~~who~~ has been engaged in the insurance business within the
307 past 4 years, except that the applicant ~~such an individual~~ may
308 be examined on pertinent provisions of this code.
309 (h) ~~(i)~~ An applicant for license as a general lines agent,
310 customer representative, or adjuster who has received the
311 designation of chartered property and casualty underwriter
312 (CPCU) from the American Institute for Property and Liability
313 Underwriters and ~~who~~ has been engaged in the insurance business
314 within the past 4 years, except that the applicant ~~such an~~
315 ~~individual~~ may be examined on pertinent provisions of this code.
316 (i) ~~(j)~~ An applicant for license as a customer
317 representative who has earned the designation of Accredited
318 Advisor in Insurance (AAI) from the Insurance Institute of
319 America, the designation of Certified Insurance Counselor (CIC)

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320 from the Society of Certified Insurance Service Counselors, the
321 designation of Accredited Customer Service Representative (ACSR)
322 from the Independent Insurance Agents of America, the
323 designation of Certified Professional Service Representative
324 (CPSR) from the National Foundation for Certified Professional
325 Service Representatives, the designation of Certified Insurance
326 Service Representative (CISR) from the Society of Certified
327 Insurance Service Representatives, or the designation of
328 Certified Insurance Representative (CIR) from the National
329 Association of Christian Catastrophe Insurance Adjusters. Also,
330 an applicant for license as a customer representative who has
331 earned an associate degree or bachelor's degree from an
332 accredited college or university and has completed ~~with~~ at least
333 9 academic hours of property and casualty insurance curriculum,
334 or the equivalent, or has earned the designation of Certified
335 Customer Service Representative (CCSR) from the Florida
336 Association of Insurance Agents, or the designation of
337 Registered Customer Service Representative (RCSR) from a
338 regionally accredited postsecondary institution in this state,
339 or the designation of Professional Customer Service
340 Representative (PCSR) from the Professional Career Institute,
341 whose curriculum has been approved by the department and which
342 ~~whose curriculum~~ includes comprehensive analysis of basic
343 property and casualty lines of insurance and testing at least
344 equal to that of standard department testing for the customer
345 representative license. The department shall adopt rules
346 establishing standards for the approval of curriculum.
347 (j) ~~(k)~~ An applicant for license as a resident or
348 nonresident all-lines ~~an independent or company employee~~

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349 adjuster who has the designation of Accredited Claims Adjuster
350 (ACA) from a regionally accredited postsecondary institution in
351 this state, Professional Claims Adjuster (PCA) from the
352 Professional Career Institute, Professional Property Insurance
353 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
354 Adjuster (CA) from ALL LINES Training, or Certified Claims
355 Adjuster (CCA) from the Association of Property and Casualty
356 Claims Professionals whose curriculum has been approved by the
357 department and which ~~whose curriculum~~ includes comprehensive
358 analysis of basic property and casualty lines of insurance and
359 testing at least equal to that of standard department testing
360 for the all-lines adjuster license. The department shall adopt
361 rules establishing standards for the approval of curriculum.
362 (k) ~~(l)~~ An applicant qualifying for a license transfer under
363 s. 626.292~~,~~ if the applicant:
364 1. Has successfully completed the prelicensing examination
365 requirements in the applicant's previous home state which are
366 substantially equivalent to the examination requirements in this
367 state, as determined by the department;
368 2. Has received the designation of chartered property and
369 casualty underwriter (CPCU) from the American Institute for
370 Property and Liability Underwriters and ~~has~~ been engaged in the
371 insurance business within the past 4 years if applying to
372 transfer a general lines agent license; or
373 3. Has received the designation of chartered life
374 underwriter (CLU) from the American College of Life Underwriters
375 and ~~has~~ been engaged in the insurance business within the past 4
376 years~~,~~ if applying to transfer a life or health agent license.
377 (l) ~~(m)~~ An applicant for a license as a nonresident agent

378 ~~license,~~ if the applicant:
379 1. Has successfully completed prelicensing examination
380 requirements in the applicant's home state which are
381 substantially equivalent to the examination requirements in this
382 state, as determined by the department, as a requirement for
383 obtaining a resident license in his or her home state;
384 2. Held a general lines agent license, life agent license,
385 or health agent license before ~~prior to the time~~ a written
386 examination was required;
387 3. Has received the designation of chartered property and
388 casualty underwriter (CPCU) from the American Institute for
389 Property and Liability Underwriters and has been engaged in the
390 insurance business within the past 4 years, if an applicant for
391 a nonresident license as a general lines agent; or
392 4. Has received the designation of chartered life
393 underwriter (CLU) from the American College of Life Underwriters
394 and ~~has~~ been in the insurance business within the past 4 years,
395 if an applicant for a nonresident license as a life agent or
396 health agent.
397 Section 8. Subsection (2) of section 626.231, Florida
398 Statutes, is amended to read:
399 626.231 Eligibility; application for examination.—
400 (2) A person required to take an examination for a license
401 may ~~be permitted to~~ take an examination before ~~prior to~~
402 submitting an application for licensure pursuant to s. 626.171
403 by submitting an application for examination through the
404 department's Internet website or the website of a person
405 designated by the department to administer the examination. The
406 department may require ~~In the application,~~ the applicant to

407 provide the following information as part of the application
408 ~~shall set forth~~:
409 (a) His or her full name, date of birth ~~age~~, social
410 security number, residence address, business address, ~~and~~
411 mailing address, and e-mail address.
412 (b) The type of license which ~~that~~ the applicant intends to
413 apply for.
414 (c) The name of any required prelicensing course he or she
415 has completed or is in the process of completing.
416 (d) The method by which the applicant intends to qualify
417 for the type of license if other than by completing a
418 prelicensing course.
419 (e) The applicant's gender ~~(male or female)~~.
420 (f) The applicant's native language.
421 (g) The highest level of education achieved by the
422 applicant.
423 (h) The applicant's race or ethnicity ~~(African American,~~
424 ~~white, American Indian, Asian, Hispanic, or other)~~.
425
426 However, the application form must contain a statement that an
427 applicant is not required to disclose his or her race or
428 ethnicity, gender, or native language, that he or she will not
429 be penalized for not doing so, and that the department will use
430 this information exclusively for research and statistical
431 purposes and to improve the quality and fairness of the
432 examinations.
433 Section 9. Subsection (6) of section 626.241, Florida
434 Statutes, is amended to read:
435 626.241 Scope of examination.—

436 (6) In order to reflect the differences between adjusting
437 claims for an insurer and adjusting claims for an insured, the
438 department shall create an examination for applicants seeking
439 licensure as a public adjuster and a separate examination for
440 applicants seeking licensure as an all-lines ~~a company employee~~
441 ~~adjuster or independent~~ adjuster.
442 (a) Examinations ~~given applicants~~ for a license as an all-
443 lines adjuster must ~~shall~~ cover adjusting in all lines of
444 insurance, other than life and annuity~~; or, in accordance with~~
445 ~~the application for the license, the examination may be limited~~
446 ~~to adjusting in:~~
447 ~~(a) Automobile physical damage insurance;~~
448 ~~(b) Property and casualty insurance;~~
449 ~~(c) Workers' compensation insurance; or~~
450 ~~(d) Health insurance~~.
451 (b) An ~~No~~ examination for ~~on~~ worker's compensation
452 insurance or health insurance is not ~~shall be~~ required for
453 public adjusters.
454 Section 10. Subsection (1) of section 626.251, Florida
455 Statutes, is amended to read:
456 626.251 Time and place of examination; notice.—
457 (1) The department, or a person designated by the
458 department, shall provide ~~mail written~~ notice of the time and
459 place of the examination to each applicant for examination and
460 each applicant for license required to take an examination who
461 will be eligible to take the examination as of the examination
462 date. The notice shall be e-mailed ~~so mailed, postage prepaid,~~
463 ~~and addressed~~ to the applicant at the e-mail ~~his or her~~ address
464 shown on the application for license or examination ~~at such~~

465 ~~other address as requested by the applicant in writing filed~~
466 ~~with the department prior to the mailing of the notice~~. Notice
467 is ~~shall be~~ deemed given when so mailed.
468 Section 11. Section 626.281, Florida Statutes, is amended
469 to read:
470 626.281 Reexamination.—
471 (1) An ~~Any~~ applicant for license or ~~applicant for~~
472 examination who has ~~either~~:
473 (a) Taken an examination and failed to make a passing
474 grade, or
475 (b) Failed to appear for the examination or to take or
476 complete the examination at the time and place specified in the
477 notice of the department,
478
479 may take additional examinations, after filing with the
480 department or its designee an application for reexamination
481 together with applicable fees. The failure of an applicant to
482 pass an examination, ~~or the failure~~ to appear for the
483 examination, or to take or complete the examination does not
484 preclude the applicant from taking subsequent examinations.
485 (2) Applicants may take an examination for a license type
486 up to five times in a 12-month period.
487 (3) ~~(2)~~ The department may require an ~~any~~ individual whose
488 license as an agent, customer representative, or adjuster has
489 expired or ~~has~~ been suspended to pass an examination before
490 ~~prior to~~ reinstating or relicensing the individual as to any
491 class of license. The examination fee must ~~shall~~ be paid for ~~as~~
492 ~~to~~ each examination.
493 Section 12. Section 626.2815, Florida Statutes, is amended

494 to read:
495 626.2815 Continuing education ~~required; application;~~
496 ~~exceptions;~~ requirements~~; penalties~~.—
497 (1) The purpose of this section is to establish
498 requirements and standards for continuing education courses for
499 individuals ~~persons~~ licensed to solicit, ~~or~~ sell, or adjust
500 insurance in the state.
501 (2) Except as otherwise provided in this section, ~~the~~
502 ~~provisions of~~ this section applies ~~apply~~ to individuals ~~persons~~
503 licensed to engage in the sale of insurance or adjustment of
504 insurance claims in this state for all lines of insurance for
505 which an examination is required for licensing and to each
506 insurer, employer, or appointing entity, including, but not
507 limited to, those created or existing pursuant to s. 627.351.
508 ~~The provisions of~~ This section does ~~shall~~ not apply to an ~~any~~
509 individual who holds ~~person holding~~ a license for the sale of
510 any line of insurance for which an examination is not required
511 by the laws of this state or who holds a~~, nor shall the~~
512 ~~provisions of this section apply to any limited~~ license as a
513 crop or hail and multiple-peril crop insurance agent ~~the~~
514 ~~department may exempt by rule~~. Licensees who are unable to
515 comply with the continuing education requirements due to active
516 duty in the military may submit a written request to the
517 department for a waiver.
518 (3) ~~(a)~~ Each licensee ~~person~~ subject to ~~the provisions of~~
519 this section must, except as set forth in paragraphs (b), (c),
520 ~~and~~ (d), and (g), complete a minimum of 24 hours of continuing
521 education courses every 2 years in basic or higher-level courses
522 prescribed by this section or in other courses approved by the

523 department.
524 (a) Each licensee ~~person subject to the provisions of this~~
525 ~~section~~ must complete~~, as part of his or her required number of~~
526 ~~continuing education hours,~~ 3 hours of continuing education,
527 approved by the department, every 2 years on the subject matter
528 of ethics. Each licensed general lines agent and customer
529 representative ~~subject to this section~~ must complete~~, as part of~~
530 ~~his or her required number of continuing education hours,~~ 1 hour
531 of continuing education, approved by the department, every 2
532 years on the subject matter of premium discounts available on
533 property insurance policies based on various hurricane
534 mitigation options and the means for obtaining the discounts.
535 (b) A licensee ~~person~~ who has been licensed for ~~a period of~~
536 6 or more years must complete 20 hours of continuing education
537 every 2 years in intermediate or advanced-level courses
538 prescribed by this section or in other courses approved by the
539 department.
540 (c) A licensee who has been licensed for 25 years or more
541 and is a CLU or a CPCU or has a Bachelor of Science degree in
542 risk management or insurance with evidence of 18 or more
543 semester hours in upper-level insurance-related courses must
544 complete 10 hours of continuing education courses every 2 years
545 in courses prescribed by this section or in other courses
546 approved by the department.
547 (d) An individual ~~Any person~~ who holds a license as a
548 customer representative, limited customer representative, title
549 agent, motor vehicle physical damage and mechanical breakdown
550 insurance agent, ~~crop or hail and multiple-peril crop insurance~~
551 ~~agent,~~ or ~~as~~ an industrial fire insurance or burglary insurance

552 agent and who is not a licensed life or health ~~insurance~~ agent,
553 must ~~shall be required to~~ complete 10 hours of continuing
554 education courses every 2 years.
555 (e) An individual ~~Any person~~ who holds a license to solicit
556 or sell life or health insurance and a license to solicit or
557 sell property, casualty, surety, or surplus lines insurance must
558 complete ~~the continuing education requirements by completing~~
559 courses in life or health insurance for one-half of the total
560 hours required and courses in property, casualty, surety, or
561 surplus lines insurance for one-half of the total hours
562 required. However, a licensee who holds an industrial fire or
563 burglary insurance license and who is a licensed life or health
564 agent must ~~shall be required to~~ complete 4 hours of continuing
565 education courses every 2 years related to industrial fire or
566 burglary insurance and the remaining number of hours of
567 continuing education courses ~~required~~ related to life or health
568 insurance.
569 (f) An individual who holds a license to solicit or sell
570 life insurance must complete a minimum of 3 hours in continuing
571 education on suitability in annuity and life insurance
572 transactions. This requirement does not apply to an agent who
573 does not have any active life insurance or annuity contracts. In
574 applying this exemption, the department may require the agent to
575 file a certification attesting that the agent has not sold life
576 insurance or annuities during the continuing education
577 compliance cycle in question and does not have any active life
578 insurance or annuity contracts. A licensee may use the hours
579 obtained under this paragraph to satisfy the requirement for
580 continuing education in ethics under paragraph (a).

581 (g) An individual subject to chapter 648 must complete a
582 minimum of 14 hours of continuing education courses every 2
583 years.
584 (h) Excess hours accumulated during any 2-year compliance
585 period may be carried forward to the next compliance period.
586 (i) An individual teaching an approved course of
587 instruction or lecturing at an approved seminar and attending
588 the entire course or seminar qualifies for the same number of
589 classroom hours as would be granted to a person taking and
590 successfully completing such course or seminar. Credit is
591 limited to the number of hours actually taught unless a person
592 attends the entire course or seminar. An individual who is an
593 official of or employed by a governmental entity in this state
594 and serves as a professor, instructor, or other position or
595 office, the duties and responsibilities of which are determined
596 by the department to require monitoring and review of insurance
597 laws or insurance regulations and practices, is exempt from this
598 section.
599 (4) ~~(f)1.~~ ~~Except as provided in subparagraph 2.,~~ Compliance
600 with continuing education requirements is a condition precedent
601 to the issuance, continuation, reinstatement, or renewal of any
602 appointment subject to this section. However:
603 (a) ~~2.a.~~ An appointing entity, except one that appoints
604 individuals who are employees or exclusive independent
605 contractors of the appointing entity, may not require, directly
606 or indirectly, as a condition of such appointment or the
607 continuation of such appointment, the taking of an approved
608 course or program by any appointee or potential appointee which
609 ~~that~~ is not of the appointee's choosing.

610 (b) ~~b.~~ Any entity created or existing pursuant to s. 627.351
611 may require employees to take training of any type relevant to
612 their employment but may not require appointees who are not
613 employees to take any approved course or program unless the
614 course or program deals solely with the appointing entity's
615 internal procedures or products or with subjects substantially
616 unique to the appointing entity.
617 ~~(g) A person teaching any approved course of instruction or~~
618 ~~lecturing at any approved seminar and attending the entire~~
619 ~~course or seminar shall qualify for the same number of classroom~~
620 ~~hours as would be granted to a person taking and successfully~~
621 ~~completing such course, seminar, or program. Credit shall be~~
622 ~~limited to the number of hours actually taught unless a person~~
623 ~~attends the entire course or seminar. Any person who is an~~
624 ~~official of or employed by any governmental entity in this state~~
625 ~~and serves as a professor, instructor, or in any other position~~
626 ~~or office the duties and responsibilities of which are~~
627 ~~determined by the department to require monitoring and review of~~
628 ~~insurance laws or insurance regulations and practices shall be~~
629 ~~exempt from this section.~~
630 ~~(h) Excess classroom hours accumulated during any~~
631 ~~compliance period may be carried forward to the next compliance~~
632 ~~period.~~
633 (5) ~~(i)~~ For good cause shown, the department may grant an
634 extension of time during which the requirements of ~~imposed by~~
635 this section may be completed, but such extension ~~of time~~ may
636 not exceed 1 year.
637 (6) ~~(j)~~ A nonresident licensee who must complete continuing
638 education requirements in his or her home state may use the home

639 state requirements to also meet this state's continuing
640 education requirements ~~as well,~~ if the licensee's ~~resident's~~
641 home state recognizes reciprocity with this state's continuing
642 education requirements. A nonresident licensee whose home state
643 does not have a continuing education requirement but is licensed
644 for the same class of business in another state that has ~~which~~
645 ~~does have~~ a continuing education requirement may comply with
646 this section by furnishing proof of compliance with the other
647 state's requirement if that state has a reciprocal agreement
648 with this state relative to continuing education. A nonresident
649 licensee whose home state does not have such continuing
650 education requirements, and who is not licensed as a nonresident
651 licensee ~~agent~~ in a state that has continuing education
652 requirements and reciprocates with this state, must meet the
653 continuing education requirements of this state.
654 ~~(k) Any person who holds a license to solicit or sell life~~
655 ~~insurance in this state must complete a minimum of 3 hours in~~
656 ~~continuing education, approved by the department, on the subject~~
657 ~~of suitability in annuity and life insurance transactions. This~~
658 ~~requirement does not apply to an agent who does not have any~~
659 ~~active life insurance or annuity contracts. In applying this~~
660 ~~exemption, the department may require the filing of a~~
661 ~~certification attesting that the agent has not sold life~~
662 ~~insurance or annuities during the continuing education~~
663 ~~compliance cycle in question and does not have any active life~~
664 ~~insurance or annuity contracts. A licensee may use the hours~~
665 ~~obtained under this paragraph to satisfy the requirement for~~
666 ~~continuing education in ethics under paragraph (a).~~
667 (7) ~~(4)~~ The following courses may be completed in order to

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668 meet the elective continuing education course requirements:
669 (a) Any part of the Life Underwriter Training Council Life
670 Course Curriculum: 24 hours; Health Course: 12 hours.
671 (b) Any part of the American College "CLU" diploma
672 curriculum: 24 hours.
673 (c) Any part of the Insurance Institute of America's
674 program in general insurance: 12 hours.
675 (d) Any part of the American Institute for Property and
676 Liability Underwriters' Chartered Property Casualty Underwriter
677 (CPCU) professional designation program: 24 hours.
678 (e) Any part of the Certified Insurance Counselor program:
679 21 hours.
680 (f) Any part of the Accredited Advisor in Insurance: 21
681 hours.
682 (g) In the case of title agents, completion of the
683 Certified Land Closer (CLC) professional designation program and
684 receipt of the designation: 24 hours.
685 (h) In the case of title agents, completion of the
686 Certified Land Searcher (CLS) professional designation program
687 and receipt of the designation: 24 hours.
688 (i) Any insurance-related course that ~~which~~ is approved by
689 the department and taught by an accredited college or university
690 per credit hour granted: 12 hours.
691 (j) Any course, including courses relating to agency
692 management or errors and omissions, developed or sponsored by an
693 ~~any~~ authorized insurer or recognized agents' association or
694 insurance trade association or an ~~any~~ independent study program
695 of instruction, subject to approval by the department, qualifies
696 for the equivalency of the number of classroom hours assigned

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697 ~~thereto~~ by the department. However, unless otherwise provided in
698 this section, continuing education hours may not be credited
699 toward meeting the requirements of this section unless the
700 course is provided by classroom instruction or results in a
701 monitored examination. A monitored examination is not required
702 for:
703 1. An independent study program of instruction presented
704 through interactive, online technology that the department
705 determines has sufficient internal testing to validate the
706 student's full comprehension of the materials presented; or
707 2. An independent study program of instruction presented on
708 paper or in printed material which ~~that~~ imposes a final closed
709 book examination that meets the requirements of the department's
710 rule for self-study courses. The examination may be taken
711 without a proctor if ~~provided~~ the student presents to the
712 provider a sworn affidavit certifying that the student did not
713 consult any written materials or receive outside assistance of
714 any kind or from any person, directly or indirectly, while
715 taking the examination. If the student is an employee of an
716 agency or corporate entity, the student's supervisor or a
717 manager or owner of the agency or corporate entity must also
718 sign the sworn affidavit. If the student is self-employed, a
719 sole proprietor, or a partner, or if the examination is
720 administered online, the sworn affidavit must also be signed by
721 a disinterested third party. The sworn affidavit must be
722 received by the approved provider before ~~prior to~~ reporting
723 continuing education credits to the department.
724 (8) ~~(k)~~ Each person or entity sponsoring a course for
725 continuing education credit must furnish, within 15 ~~30~~ days

726 after completion of the course, in a form satisfactory to the
727 department or its designee, a ~~written and certified~~ roster
728 showing the name and license number of all persons successfully
729 completing such course and requesting credit~~, accompanied by the~~
730 ~~required fee~~.
731 (9) ~~(5)~~ The department may immediately terminate or ~~shall~~
732 refuse to renew the appointment of an ~~any~~ agent or adjuster who
733 has been notified by the department that ~~who has not had~~ his or
734 her continuing education requirements have not been certified,
735 unless the agent or adjuster has been granted an extension or
736 waiver by the department. The department may not issue a new
737 appointment of the same or similar type~~, with any insurer,~~ to a
738 licensee ~~an agent~~ who was denied a renewal appointment for
739 failing ~~failure~~ to complete continuing education as required
740 until the licensee ~~agent~~ completes his or her continuing
741 education requirement.
742 ~~(6)(a) There is created an 11-member continuing education~~
743 ~~advisory board to be appointed by the Chief Financial Officer.~~
744 ~~Appointments shall be for terms of 4 years. The purpose of the~~
745 ~~board is to advise the department in determining standards by~~
746 ~~which courses may be evaluated and categorized as basic,~~
747 ~~intermediate, or advanced. The board shall submit~~
748 ~~recommendations to the department of changes needed in such~~
749 ~~criteria not less frequently than every 2 years. The department~~
750 ~~shall require all approved course providers to submit courses~~
751 ~~for approval to the department using the criteria. All~~
752 ~~materials, brochures, and advertisements related to the approved~~
753 ~~courses must specify the level assigned to the course.~~
754 ~~(b) The board members shall be appointed as follows:~~

755 ~~1. Seven members representing agents of which at least one~~
756 ~~must be a representative from each of the following~~
757 ~~organizations: the Florida Association of Insurance Agents; the~~
758 ~~Florida Association of Insurance and Financial Advisors; the~~
759 ~~Professional Insurance Agents of Florida, Inc.; the Florida~~
760 ~~Association of Health Underwriters; the Specialty Agents'~~
761 ~~Association; the Latin American Agents' Association; and the~~
762 ~~National Association of Insurance Women. Such board members must~~
763 ~~possess at least a bachelor's degree or higher from an~~
764 ~~accredited college or university with major coursework in~~
765 ~~insurance, risk management, or education or possess the~~
766 ~~designation of CLU, CPCU, CHFC, CFP, AAI, or CIC. In addition,~~
767 ~~each member must possess 5 years of classroom instruction~~
768 ~~experience or 5 years of experience in the development or design~~
769 ~~of educational programs or 10 years of experience as a licensed~~
770 ~~resident agent. Each organization may submit to the department a~~
771 ~~list of recommendations for appointment. If one organization~~
772 ~~does not submit a list of recommendations, the Chief Financial~~
773 ~~Officer may select more than one recommended person from a list~~
774 ~~submitted by other eligible organizations.~~
775 ~~2. Two members representing insurance companies at least~~
776 ~~one of whom must represent a Florida Domestic Company and one of~~
777 ~~whom must represent the Florida Insurance Council. Such board~~
778 ~~members must be employed within the training department of the~~
779 ~~insurance company. At least one such member must be a member of~~
780 ~~the Society of Insurance Trainers and Educators.~~
781 ~~3. One member representing the general public who is not~~
782 ~~directly employed in the insurance industry. Such board member~~
783 ~~must possess a minimum of a bachelor's degree or higher from an~~

784 ~~accredited college or university with major coursework in~~
785 ~~insurance, risk management, training, or education.~~
786 ~~4. One member, appointed by the Chief Financial Officer,~~
787 ~~who represents the department.~~
788 ~~(c) The members of the board shall serve at the pleasure of~~
789 ~~the Chief Financial Officer. Each board member shall be entitled~~
790 ~~to reimbursement for expenses pursuant to s. 112.061. The board~~
791 ~~shall designate one member as chair. The board shall meet at the~~
792 ~~call of the chair or the Chief Financial Officer.~~
793 (10) ~~(7)~~ The department may contract services relative to
794 the administration of the continuing education program to a
795 private entity. The contract shall be procured as a ~~contract for~~
796 ~~a~~ contractual service pursuant to s. 287.057.
797 Section 13. Effective October 1, 2014, subsection (3) of
798 section 626.2815, Florida Statutes, as amended by this act, is
799 amended to read:
800 626.2815 Continuing education requirements.—
801 (3) Each licensee ~~subject to this section~~ must~~, except as~~
802 ~~set forth in paragraphs (b), (c), (d), and (g),~~ complete a 7-
803 hour update course every 2 years which is specific to the
804 license held by the licensee. The course must be developed and
805 offered by providers and approved by the department. The content
806 of the course must address all lines of insurance for which
807 examination and license is required and include the following
808 subject areas: insurance law updates, ethics for insurance
809 professionals, disciplinary trends and case studies, industry
810 trends, premium discounts, determining suitability of products
811 and services, and other similar insurance-related topics the
812 department determines are relevant to legally and ethically

813 carrying out the responsibilities of the license granted. A
814 licensee who holds multiple insurance licenses must complete an
815 update course that is specific to at least one of the licenses
816 held. Except as otherwise specified, any remaining required
817 hours of continuing education are elective and may consist of
818 any continuing education course approved by the department or
819 under this section ~~minimum of 24 hours of continuing education~~
820 ~~courses every 2 years in basic or higher-level courses~~
821 ~~prescribed by this section or in other courses approved by the~~
822 ~~department~~.
823 (a) Except as provided in paragraphs (b), (c), (d), and
824 (e), each licensee must also complete 17 ~~3~~ hours of elective
825 continuing education courses~~, approved by the department,~~ every
826 2 years ~~on the subject matter of ethics~~. ~~Each licensed general~~
827 ~~lines agent and customer representative must complete 1 hour of~~
828 ~~continuing education, approved by the department, every 2 years~~
829 ~~on the subject matter of premium discounts available on property~~
830 ~~insurance policies based on various hurricane mitigation options~~
831 ~~and the means for obtaining the discounts.~~
832 (b) A licensee who has been licensed for 6 or more years
833 must also complete a minimum of 13 ~~20~~ hours of elective
834 continuing education every 2 years ~~in intermediate or advanced-~~
835 ~~level courses prescribed by this section or in other courses~~
836 ~~approved by the department~~.
837 (c) A licensee who has been licensed for 25 years or more
838 and is a CLU or a CPCU or has a Bachelor of Science degree in
839 risk management or insurance with evidence of 18 or more
840 semester hours in ~~upper-level~~ insurance-related courses must
841 also complete a minimum of 3 ~~10~~ hours of elective continuing

842 education courses every 2 years ~~in courses prescribed by this~~
843 ~~section or in other courses approved by the department~~.
844 (d) An individual who holds a license as a customer
845 representative, limited customer representative, title agent,
846 motor vehicle physical damage and mechanical breakdown insurance
847 agent, or an industrial fire insurance or burglary insurance
848 agent and who is not a licensed life or health agent, must also
849 complete a minimum of 3 ~~10~~ hours of continuing education courses
850 every two years.
851 ~~(e) An individual who holds a license to solicit or sell~~
852 ~~life or health insurance and a license to solicit or sell~~
853 ~~property, casualty, surety, or surplus lines insurance must~~
854 ~~complete courses in life or health insurance for one-half of the~~
855 ~~total hours required and courses in property, casualty, surety,~~
856 ~~or surplus lines insurance for one-half of the total hours~~
857 ~~required. However, a licensee who holds an industrial fire or~~
858 ~~burglary insurance license and who is a licensed life or health~~
859 ~~agent must complete 4 hours of continuing education courses~~
860 ~~every 2 years related to industrial fire or burglary insurance~~
861 ~~and the remaining number of hours of continuing education~~
862 ~~courses related to life or health insurance.~~
863 ~~(f) An individual who holds a license to solicit or sell~~
864 ~~life insurance must complete a minimum of 3 hours in continuing~~
865 ~~education on suitability in annuity and life insurance~~
866 ~~transactions. This requirement does not apply to an agent who~~
867 ~~does not have any active life insurance or annuity contracts. In~~
868 ~~applying this exemption, the department may require the agent to~~
869 ~~file a certification attesting that the agent has not sold life~~
870 ~~insurance or annuities during the continuing education~~

871 ~~compliance cycle in question and does not have any active life~~
872 ~~insurance or annuity contracts. A licensee may use the hours~~
873 ~~obtained under this paragraph to satisfy the requirement for~~
874 ~~continuing education in ethics under paragraph (a).~~
875 (e) ~~(g)~~ An individual subject to chapter 648 must complete
876 the 7-hour update course and a minimum of 7 ~~14~~ hours of
877 continuing education courses every 2 years.
878 (f) Elective continuing education courses for public
879 adjusters must be specifically designed for public adjusters and
880 approved by the department. Notwithstanding this subsection,
881 public adjusters for workers' compensation insurance or health
882 insurance are not required to take continuing education courses
883 pursuant to this section.
884 (g) ~~(h)~~ Excess hours accumulated during any 2-year
885 compliance period may be carried forward to the next compliance
886 period.
887 (h) ~~(i)~~ An individual teaching an approved course of
888 instruction or lecturing at an approved seminar and attending
889 the entire course or seminar qualifies for the same number of
890 classroom hours as would be granted to a person taking and
891 successfully completing such course or seminar. Credit is
892 limited to the number of hours actually taught unless a person
893 attends the entire course or seminar. An individual who is an
894 official of or employed by a governmental entity in this state
895 and serves as a professor, instructor, or other position or
896 office, the duties and responsibilities of which are determined
897 by the department to require monitoring and review of insurance
898 laws or insurance regulations and practices, is exempt from this
899 section.

900 Section 14. Subsections (1) and (2) of section 626.292,
901 Florida Statutes, are amended to read:
902 626.292 Transfer of license from another state.—
903 (1) An ~~Any~~ individual licensed in good standing in another
904 state may apply to the department to have the license
905 transferred to this state to obtain a ~~Florida~~ resident agent or
906 all-lines adjuster license for the same lines of authority
907 covered by the license in the other state.
908 (2) To qualify for a license transfer, an individual
909 applicant must meet the following requirements:
910 (a) The individual must ~~shall~~ become a resident of this
911 state.
912 (b) The individual must ~~shall~~ have been licensed in another
913 state for a minimum of 1 year immediately preceding the date the
914 individual became a resident of this state.
915 (c) The individual must ~~shall~~ submit a completed
916 application for this state which is received by the department
917 within 90 days after the date the individual became a resident
918 of this state, along with payment of the applicable fees set
919 forth in s. 624.501 and submission of the following documents:
920 1. A certification issued by the appropriate official of
921 the applicant's home state identifying the type of license and
922 lines of authority under the license and stating that, at the
923 time the license from the home state was canceled, the applicant
924 was in good standing in that state or that the state's Producer
925 Database records, maintained by the National Association of
926 Insurance Commissioners, its affiliates, or subsidiaries,
927 indicate that the agent or all-lines adjuster is or was licensed
928 in good standing for the line of authority requested.

929 2. A set of the ~~individual~~ applicant's fingerprints in
930 accordance with s. 626.171(4).
931 (d) The individual must ~~shall~~ satisfy prelicensing
932 education requirements in this state, unless the completion of
933 prelicensing education requirements was a prerequisite for
934 licensure in the other state and the prelicensing education
935 requirements in the other state are substantially equivalent to
936 the prelicensing requirements of this state as determined by the
937 department. This paragraph does not apply to all-lines
938 adjusters.
939 (e) The individual must ~~shall~~ satisfy the examination
940 requirement under s. 626.221, unless exempted ~~exempt thereunder~~.
941 Section 15. Subsections (2) and (3) of section 626.311,
942 Florida Statutes, are amended to read:
943 626.311 Scope of license.—
944 (2) Except with respect ~~as~~ to a limited license as a credit
945 ~~life or disability~~ insurance agent, the license of a life agent
946 covers ~~shall cover~~ all classes of life insurance business.
947 (3) Except with respect ~~as~~ to a limited license as a travel
948 ~~personal accident~~ insurance agent, the license of a health agent
949 covers ~~shall cover~~ all kinds of health insurance~~,~~ and such ~~no~~
950 license may not ~~shall~~ be ~~issued~~ limited to a particular class of
951 health insurance.
952 Section 16. Subsections (1) and (4) of section 626.321,
953 Florida Statutes, are amended to read:
954 626.321 Limited licenses.—
955 (1) The department shall issue to a qualified applicant
956 ~~individual, or a qualified individual or entity under paragraphs~~
957 ~~(c), (d), (e), and (i),~~ a license as agent authorized to

958 transact a limited class of business in any of the following
959 categories of limited lines insurance:
960 (a) *Motor vehicle physical damage and mechanical breakdown*
961 *insurance.*—License covering insurance against only the loss of
962 or damage to a ~~any~~ motor vehicle that ~~which~~ is designed for use
963 upon a highway, including trailers and semitrailers designed for
964 use with such vehicles. Such license also covers insurance
965 against the failure of an original or replacement part to
966 perform any function for which it was designed. A licensee under
967 this paragraph may not ~~The applicant for such a license shall~~
968 ~~pass a written examination covering motor vehicle physical~~
969 ~~damage insurance and mechanical breakdown insurance. No~~
970 ~~individual while so licensed shall~~ hold a license as an agent
971 for ~~as to~~ any other or additional kind or class of insurance
972 coverage except ~~as to~~ a limited license for credit insurance
973 ~~life and disability insurances~~ as provided in paragraph (e).
974 Effective October 1, 2012, all licensees holding such limited
975 license and appointment may renew the license and appointment,
976 but no new or additional licenses may be issued pursuant to this
977 paragraph, and a licensee whose limited license under this
978 paragraph has been terminated, suspended, or revoked may not
979 have such license reinstated.
980 (b) *Industrial fire insurance or burglary insurance.*—
981 License covering only industrial fire insurance or burglary
982 insurance. The applicant for such a license must ~~shall~~ pass a
983 written examination covering such insurance. A licensee under
984 this paragraph may not ~~No individual while so licensed shall~~
985 hold a license as an agent for ~~as to~~ any other or additional
986 kind or class of insurance coverage except for ~~as to~~ life

987 insurance and health insurance ~~insurances~~.
988 (c) *Travel insurance.*—License covering only policies and
989 certificates of travel insurance~~,~~ which are subject to review by
990 the office under s. 624.605(1)(q). Policies and certificates of
991 travel insurance may provide coverage for risks incidental to
992 travel, planned travel, or accommodations while traveling,
993 including, but not limited to, accidental death and
994 dismemberment of a traveler; trip cancellation, interruption, or
995 delay; loss of or damage to personal effects or travel
996 documents; baggage delay; emergency medical travel or evacuation
997 of a traveler; or medical, surgical, and hospital expenses
998 related to an illness or emergency of a traveler. ~~Any~~ Such
999 policy or certificate may be issued for terms longer than 60
1000 days, but ~~each policy or certificate~~, other than a policy or
1001 certificate providing coverage for air ambulatory services only,
1002 each policy or certificate must be limited to coverage for
1003 travel or use of accommodations of no longer than 60 days. The
1004 license may be issued only:
1005 1. To a full-time salaried employee of a common carrier or
1006 a full-time salaried employee or owner of a transportation
1007 ticket agency and may authorize the sale of such ticket policies
1008 only in connection with the sale of transportation tickets, or
1009 to the full-time salaried employee of such an agent. ~~No~~ Such
1010 policy may not ~~shall~~ be for ~~a duration of~~ more than 48 hours or
1011 more than ~~for~~ the duration of a specified one-way trip or round
1012 trip.
1013 2. To an entity or individual that is:
1014 a. The developer of a timeshare plan that is the subject of
1015 an approved public offering statement under chapter 721;

1016 b. An exchange company operating an exchange program
1017 approved under chapter 721;
1018 c. A managing entity operating a timeshare plan approved
1019 under chapter 721;
1020 d. A seller of travel as defined in chapter 559; or
1021 e. A subsidiary or affiliate of any of the entities
1022 described in sub-subparagraphs a.-d.
1023
1024 A licensee shall require each employee who offers policies or
1025 certificates under this subparagraph to receive initial training
1026 from a general lines agent or an insurer authorized under
1027 chapter 624 to transact insurance within this state. For an
1028 entity applying for a license as a travel insurance agent, the
1029 fingerprinting requirement of this section applies only to the
1030 president, secretary, and treasurer and to any other officer or
1031 person who directs or controls the travel insurance operations
1032 of the entity.
1033 (d) *Motor vehicle rental insurance.*—
1034 1. License covering only insurance of the risks set forth
1035 in this paragraph when offered, sold, or solicited with and
1036 incidental to the rental or lease of a motor vehicle and which
1037 applies only to the motor vehicle that is the subject of the
1038 lease or rental agreement and the occupants of the motor
1039 vehicle:
1040 a. Excess motor vehicle liability insurance providing
1041 coverage in excess of the standard liability limits provided by
1042 the lessor in the lessor's lease to a person renting or leasing
1043 a motor vehicle from the licensee's employer for liability
1044 arising in connection with the negligent operation of the leased

1045 or rented motor vehicle.
1046 b. Insurance covering the liability of the lessee to the
1047 lessor for damage to the leased or rented motor vehicle.
1048 c. Insurance covering the loss of or damage to baggage,
1049 personal effects, or travel documents of a person renting or
1050 leasing a motor vehicle.
1051 d. Insurance covering accidental personal injury or death
1052 of the lessee and any passenger who is riding or driving with
1053 the covered lessee in the leased or rented motor vehicle.
1054 2. Insurance under a motor vehicle rental insurance license
1055 may be issued only if the lease or rental agreement is for no
1056 more than 60 days, the lessee is not provided coverage for more
1057 than 60 consecutive days per lease period, and the lessee is
1058 given written notice that his or her personal insurance policy
1059 providing coverage on an owned motor vehicle may provide
1060 coverage of such risks and that the purchase of the insurance is
1061 not required in connection with the lease or rental of a motor
1062 vehicle. If the lease is extended beyond 60 days, the coverage
1063 may be extended one time only for a period not to exceed an
1064 additional 60 days. Insurance may be provided to the lessee as
1065 an additional insured on a policy issued to the licensee's
1066 employer.
1067 3. The license may be issued only to the full-time salaried
1068 employee of a licensed general lines agent or to a business
1069 entity that offers motor vehicles for rent or lease if insurance
1070 sales activities authorized by the license are in connection
1071 with and incidental to the rental or lease of a motor vehicle.
1072 a. A license issued to a business entity that offers motor
1073 vehicles for rent or lease encompasses ~~shall encompass~~ each

1074 office, branch office, or place of business making use of the
1075 entity's business name in order to offer, solicit, and sell
1076 insurance pursuant to this paragraph.
1077 b. The application for licensure must list the name,
1078 address, and phone number for each office, branch office, or
1079 place of business that is to be covered by the license. The
1080 licensee shall notify the department of the name, address, and
1081 phone number of any new location that is to be covered by the
1082 license before the new office, branch office, or place of
1083 business engages in the sale of insurance pursuant to this
1084 paragraph. The licensee must ~~shall~~ notify the department within
1085 30 days after closing or terminating an office, branch office,
1086 or place of business. Upon receipt of the notice, the department
1087 shall delete the office, branch office, or place of business
1088 from the license.
1089 c. A licensed and appointed entity is directly responsible
1090 and accountable for all acts of the licensee's employees.
1091 (e) *Credit ~~life or disability~~ insurance.*—License covering
1092 ~~only~~ credit life, credit ~~or~~ disability ~~insurance~~, credit
1093 property, credit unemployment, involuntary unemployment,
1094 mortgage life, mortgage guaranty, mortgage disability,
1095 guaranteed automobile protection (GAP) insurance, and any other
1096 form of insurance offered in connection with an extension of
1097 credit which is limited to partially or wholly extinguishing a
1098 credit obligation that the department determines should be
1099 designated a form of limited line credit insurance. The license
1100 may be issued only to an individual employed by a life or health
1101 insurer as an officer or other salaried or commissioned
1102 representative, to an individual employed by or associated with

1103 a lending or financial institution or creditor, or to a lending
1104 or financial institution or creditor, and may authorize the sale
1105 of such insurance only with respect to borrowers or debtors of
1106 such lending or financing institution or creditor. However, only
1107 the individual or entity whose tax identification number is used
1108 in receiving or is credited with receiving the commission from
1109 the sale of such insurance shall be the licensed agent of the
1110 insurer. An ~~No~~ individual ~~while~~ so licensed may not ~~shall~~ hold a
1111 license as an agent as to any other or additional kind or class
1112 of life or health insurance coverage. Effective October 1, 2012,
1113 all valid licenses held by persons for any of the lines of
1114 insurance listed in this paragraph shall be converted to a
1115 credit insurance license. Licensees who wish to obtain a new
1116 license reflecting such change must request a duplicate license
1117 and pay a $5 fee as specified in s. 624.501(15). ~~An entity~~
1118 ~~holding a limited license under this paragraph is also~~
1119 ~~authorized to sell credit insurance and credit property~~
1120 ~~insurance.~~
1121 ~~(f) *Credit insurance*.—License covering only credit~~
1122 ~~insurance, as such insurance is defined in s. 624.605(1)(i), and~~
1123 ~~no individual or entity so licensed shall, during the same~~
1124 ~~period, hold a license as an agent as to any other or additional~~
1125 ~~kind of life or health insurance with the exception of credit~~
1126 ~~life or disability insurance as defined in paragraph (e). The~~
1127 ~~same licensing provisions as outlined in paragraph (e) apply to~~
1128 ~~entities licensed as credit insurance agents under this~~
1129 ~~paragraph.~~
1130 ~~(g) *Credit property insurance*.—A license covering only~~
1131 ~~credit property insurance may be issued to any individual except~~

1132 ~~an individual employed by or associated with a financial~~
1133 ~~institution as defined in s. 655.005 and authorized to sell such~~
1134 ~~insurance only with respect to a borrower or debtor, not to~~
1135 ~~exceed the amount of the loan.~~
1136 (f) ~~(h)~~ *Crop hail and multiple-peril crop insurance*.—License
1137 for insurance covering crops subject to unfavorable weather
1138 conditions, fire or lightening, flood, hail, insect infestation,
1139 disease, or other yield-reducing conditions or perils which is
1140 provided by the private insurance market, or which is subsidized
1141 by the Federal Group Insurance Corporation including multi-peril
1142 crop insurance ~~only crop hail and multiple peril crop insurance~~.
1143 Notwithstanding any other provision of law, the limited license
1144 may be issued to a bona fide salaried employee of an association
1145 chartered under the Farm Credit Act of 1971, 12 U.S.C. ss. 2001
1146 et seq., who satisfactorily completes the examination prescribed
1147 by the department pursuant to s. 626.241(5). The ~~limited~~ agent
1148 must be appointed by, and his or her limited license requested
1149 by, a licensed general lines agent. All business transacted by
1150 the ~~limited~~ agent must be on ~~shall be in~~ behalf of, in the name
1151 of, and countersigned by the agent by whom he or she is
1152 appointed. Sections 626.561 and 626.748, relating to records,
1153 apply to all business written pursuant to this section. The
1154 ~~limited~~ licensee may be appointed by and licensed for only one
1155 general lines agent or agency.
1156 (g) ~~(i)~~ *In-transit and storage personal property insurance*~~,~~
1157 ~~*communications equipment property insurance, communications*~~
1158 ~~*equipment inland marine insurance, and communications equipment*~~
1159 ~~*service warranty agreement sales*.—~~
1160 ~~1. A~~ License for insurance covering only ~~the insurance of~~

1161 personal property not held for resale, covering the risks of
1162 transportation or storage in rented or leased motor vehicles,
1163 trailers, or self-service storage facilities~~,~~ as ~~the latter are~~
1164 defined in s. 83.803. Such license~~,~~ may be issued, without
1165 examination, only to employees or authorized representatives of
1166 lessors who rent or lease motor vehicles, trailers, or self-
1167 service storage facilities and who are authorized by an insurer
1168 to issue certificates or other evidences of insurance to lessees
1169 of such motor vehicles, trailers, or self-service storage
1170 facilities under an insurance policy issued to the lessor. A
1171 person licensed under this paragraph must ~~shall~~ give a
1172 prospective purchaser of in-transit or storage personal property
1173 insurance written notice that his or her homeowner's policy may
1174 provide coverage for the loss of personal property and that the
1175 purchase of such insurance is not required under the lease
1176 terms.
1177 ~~2. A license covering only communications equipment, for~~
1178 ~~the loss, theft, mechanical failure, malfunction of or damage~~
1179 ~~to, communications equipment. The license may be issued only to:~~
1180 ~~a. Employees or authorized representatives of a licensed~~
1181 ~~general lines agent;~~
1182 ~~b. The lead business location of a retail vendor of~~
1183 ~~communications equipment and its branch locations; or~~
1184 ~~c. Employees, agents, or authorized representatives of a~~
1185 ~~retail vendor of communications equipment.~~
1186
1187 ~~The license authorizes the sale of such policies, or~~
1188 ~~certificates under a group master policy, only with respect to~~
1189 ~~the sale of, or provision of communications service for,~~

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1190 ~~communications equipment. A general lines agent is not required~~
1191 ~~to obtain a license under this subparagraph to offer or sell~~
1192 ~~communications equipment property insurance or communication~~
1193 ~~equipment inland marine insurance. The license also authorizes~~
1194 ~~sales of service warranty agreements covering only~~
1195 ~~communications equipment to the same extent as if licensed under~~
1196 ~~s. 634.419 or s. 634.420. The provisions of this chapter~~
1197 ~~requiring submission of fingerprints do not apply to~~
1198 ~~communications equipment licenses issued to qualified entities~~
1199 ~~under this subparagraph. Licensees offering policies under this~~
1200 ~~subparagraph must receive initial training from, and have a~~
1201 ~~contractual relationship with, a general lines agent. For the~~
1202 ~~purposes of this subparagraph, the term "communications~~
1203 ~~equipment" means handsets, pagers, personal digital assistants,~~
1204 ~~portable computers, automatic answering devices, and other~~
1205 ~~devices or accessories used to originate or receive~~
1206 ~~communications signals or service, and includes services related~~
1207 ~~to the use of such devices, such as consumer access to a~~
1208 ~~wireless network; however, the term does not include~~
1209 ~~telecommunications switching equipment, transmission wires, cell~~
1210 ~~site transceiver equipment, or other equipment and systems used~~
1211 ~~by telecommunications companies to provide telecommunications~~
1212 ~~service to consumers. A branch location of a retail vendor of~~
1213 ~~communications equipment licensed pursuant to paragraph (2)(b)~~
1214 ~~may, in lieu of obtaining an appointment from an insurer or~~
1215 ~~warranty association as provided in paragraph (2)(c), obtain a~~
1216 ~~single appointment from the associated lead business location~~
1217 ~~licensee licensed under paragraph (2)(a) and pay the prescribed~~
1218 ~~appointment fee under s. 624.501 provided the lead business~~

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1219 ~~location has a single appointment from each insurer or warranty~~
1220 ~~association represented and such appointment provides that it~~
1221 ~~applies to the lead business location and all of its branch~~
1222 ~~locations. Any branch location individually appointed by an~~
1223 ~~insurer under paragraph (2)(c) prior to January 1, 2006, may~~
1224 ~~replace its appointments with an appointment from its lead~~
1225 ~~location at no charge. Branch location appointments shall be~~
1226 ~~renewed on the first annual anniversary of licensure of the lead~~
1227 ~~business location occurring more than 24 months after the~~
1228 ~~initial appointment date and every 24 months thereafter.~~
1229 ~~Notwithstanding s. 624.501, after July 1, 2006, the renewal fee~~
1230 ~~applicable to such branch location appointments shall be $30 per~~
1231 ~~appointment.~~
1232 (h) *Portable electronics insurance.*—License for property
1233 insurance or inland marine insurance that covers only loss,
1234 theft, mechanical failure, malfunction, or damage for portable
1235 electronics.
1236 1. The license may be issued only to:
1237 a. Employees or authorized representatives of a licensed
1238 general lines agent; or
1239 b. The lead business location of a retail vendor that sells
1240 portable electronics insurance. The lead business location must
1241 have a contractual relationship with a general lines agent.
1242 2. Employees or authorized representatives of a licensee
1243 under subparagraph 1. may sell or offer for sale portable
1244 electronics coverage without being subject to licensure as an
1245 insurance agent if:
1246 a. Such insurance is sold or offered for sale at a licensed
1247 location or at one of the licensee's branch locations if the

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1248 branch location is appointed by the licensed lead business
1249 location or its appointing insurers;
1250 b. The insurer issuing the insurance directly supervises or
1251 appoints a general lines agent to supervise the sale of such
1252 insurance, including the development of a training program for
1253 the employees and authorized representatives of vendors that are
1254 directly engaged in the activity of selling or offering the
1255 insurance; and
1256 c. At each location where the insurance is offered,
1257 brochures or other written materials that provide the
1258 information required by this subparagraph are made available to
1259 all prospective customers. The brochures or written materials
1260 may include information regarding portable electronics
1261 insurance, service warranty agreements, or other incidental
1262 services or benefits offered by a licensee.
1263 3. Individuals not licensed to sell portable electronics
1264 insurance may not be paid commissions based on the sale of such
1265 coverage. However, a licensee who uses a compensation plan for
1266 employees and authorized representatives which includes
1267 supplemental compensation for the sale of noninsurance products,
1268 in addition to a regular salary or hourly wages, may include
1269 incidental compensation for the sale of portable electronics
1270 insurance as a component of the overall compensation plan.
1271 4. Brochures or other written materials related to portable
1272 electronics insurance must:
1273 a. Disclose that such insurance may duplicate coverage
1274 already provided by a customer's homeowners' insurance policy,
1275 renters' insurance policy, or other source of coverage;
1276 b. State that enrollment in insurance coverage is not

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1277 required in order to purchase or lease portable electronics or
1278 services;
1279 c. Summarize the material terms of the insurance coverage,
1280 including the identity of the insurer, the identity of the
1281 supervising entity, the amount of any applicable deductible and
1282 how it is to be paid, the benefits of coverage, and key terms
1283 and conditions of coverage, such as whether portable electronics
1284 may be repaired or replaced with similar make and model
1285 reconditioned or nonoriginal manufacturer parts or equipment;
1286 d. Summarize the process for filing a claim, including a
1287 description of how to return portable electronics and the
1288 maximum fee applicable if the customer fails to comply with
1289 equipment return requirements; and
1290 e. State that an enrolled customer may cancel coverage at
1291 any time and that the person paying the premium will receive a
1292 refund of any unearned premium.
1293 5. A licensed and appointed general lines agent is not
1294 required to obtain a portable electronics insurance license to
1295 offer or sell portable electronics insurance at locations
1296 already licensed as an insurance agency, but may apply for a
1297 portable electronics insurance license for branch locations not
1298 otherwise licensed to sell insurance.
1299 6. A portable electronics license authorizes the sale of
1300 individual policies or certificates under a group or master
1301 insurance policy. The license also authorizes the sale of
1302 service warranty agreements covering only portable electronics
1303 to the same extent as if licensed under s. 634.419 or s.
1304 634.420.
1305 7. A licensee may bill and collect the premium for the

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1306 purchase of portable electronics insurance provided that:
1307 a. If the insurance is included with the purchase or lease
1308 of portable electronics or related services, the licensee
1309 clearly and conspicuously discloses that insurance coverage is
1310 included with the purchase. Disclosure of the dollar amount of
1311 the premium for the insurance must be made on the customer's
1312 bill and in any marketing materials made available at the point
1313 of sale. If the insurance is not included, the charge to the
1314 customer for the insurance must be separately itemized on the
1315 customer's bill.
1316 b. Premiums are incidental to other fees collected, are
1317 maintained in a manner that is readily identifiable, and are
1318 accounted for and remitted to the insurer or supervising entity
1319 within 60 days of receipt. Licensees are not required to
1320 maintain such funds in a segregated account.
1321 c. All funds received by a licensee from an enrolled
1322 customer for the sale of the insurance are considered funds held
1323 in trust by the licensee in a fiduciary capacity for the benefit
1324 of the insurer. Licensees may receive compensation for billing
1325 and collection services.
1326 8. Notwithstanding any other provision of law, the terms
1327 for the termination or modification of coverage under a policy
1328 of portable electronics insurance are those set forth in the
1329 policy.
1330 9. Notice or correspondence required by the policy, or
1331 otherwise required by law, may be provided by electronic means
1332 if the insurer or licensee maintains proof that the notice or
1333 correspondence was sent. Such notice or correspondence may be
1334 sent on behalf of the insurer or licensee by the general lines

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1335 agent appointed by the insurer to supervise the administration
1336 of the program. For purposes of this subparagraph, an enrolled
1337 customer's provision of an electronic mail address to the
1338 insurer or licensee is deemed to be consent to receive notices
1339 and correspondence by electronic means if a conspicuously
1340 located disclosure is provided to the customer indicating the
1341 same.
1342 10. The provisions of this chapter requiring submission of
1343 fingerprints do not apply to licenses issued to qualified
1344 entities under this paragraph.
1345 11. A branch location that sells portable electronics
1346 insurance may, in lieu of obtaining an appointment from an
1347 insurer or warranty association, obtain a single appointment
1348 from the associated lead business location licensee and pay the
1349 prescribed appointment fee under s. 624.501 if the lead business
1350 location has a single appointment from each insurer or warranty
1351 association represented and such appointment applies to the lead
1352 business location and all of its branch locations. Branch
1353 location appointments shall be renewed 24 months after the lead
1354 business location initial appointment date and every 24 months
1355 thereafter. Notwithstanding s. 624.501, the renewal fee
1356 applicable to such branch location appointments is $30 per
1357 appointment.
1358 12. For purposes of this paragraph:
1359 a. "Branch location" means any physical location in this
1360 state at which a licensee offers its products or services for
1361 sale.
1362 b. "Portable electronics" means personal, self-contained,
1363 easily carried by an individual, battery-operated electronic

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1364 communication, viewing, listening, recording, gaming, computing
1365 or global positioning devices, including cell or satellite
1366 phones, pagers, personal global positioning satellite units,
1367 portable computers, portable audio listening, video viewing or
1368 recording devices, digital cameras, video camcorders, portable
1369 gaming systems, docking stations, automatic answering devices,
1370 and other similar devices and their accessories, and service
1371 related to the use of such devices.
1372 c. "Portable electronics transaction" means the sale or
1373 lease of portable electronics or a related service, including
1374 portable electronics insurance.
1375 (4) Except as otherwise expressly provided, a person
1376 applying for or holding a limited license is ~~shall be~~ subject to
1377 the same applicable requirements and responsibilities that ~~as~~
1378 apply to general lines agents in general~~,~~ if licensed as to
1379 motor vehicle physical damage and mechanical breakdown
1380 insurance, ~~credit property insurance,~~ industrial fire insurance
1381 or burglary insurance, motor vehicle rental insurance, credit
1382 insurance, crop hail and multiple-peril crop insurance, in-
1383 transit and storage personal property insurance, or portable
1384 electronics insurance ~~communications equipment property~~
1385 ~~insurance or communications equipment inland marine insurance,~~
1386 ~~baggage and motor vehicle excess liability insurance, or credit~~
1387 ~~insurance~~; or as apply to life agents or health agents in
1388 general, as applicable ~~the case may be~~, if licensed as to travel
1389 ~~personal accident insurance or credit life or credit disability~~
1390 insurance.
1391 Section 17. Section 626.342, Florida Statutes, is amended
1392 to read:

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1393 626.342 Furnishing supplies to unlicensed ~~life, health, or~~
1394 ~~general lines~~ agent prohibited; civil liability.—
1395 (1) An insurer, a managing general agent, an insurance
1396 agency, or an agent, directly or through a ~~any~~ representative,
1397 may not furnish to an ~~any~~ agent any blank forms, applications,
1398 stationery, or other supplies to be used in soliciting,
1399 negotiating, or effecting contracts of insurance on its behalf
1400 unless such blank forms, applications, stationery, or other
1401 supplies relate to a class of business for ~~with respect to~~ which
1402 the agent is licensed and appointed, whether for that insurer or
1403 another insurer.
1404 (2) An ~~Any~~ insurer, general agent, insurance agency, or
1405 agent who furnishes any of the supplies specified in subsection
1406 (1) to an ~~any~~ agent or prospective agent not appointed to
1407 represent the insurer and who accepts from or writes any
1408 insurance business for such agent or agency is subject to civil
1409 liability to an ~~any~~ insured of such insurer to the same extent
1410 and ~~in the same~~ manner as if such agent or prospective agent had
1411 been appointed or authorized by the insurer or such agent to act
1412 on ~~in~~ its or his or her behalf. The provisions of this
1413 subsection do not apply to insurance risk apportionment plans
1414 under s. 627.351.
1415 (3) This section does not apply to the placing of surplus
1416 lines business under the provisions of ss. 626.913-626.937.
1417 Section 18. Subsection (1) of section 626.381, Florida
1418 Statutes, is amended to read:
1419 626.381 Renewal, continuation, reinstatement, or
1420 termination of appointment.—
1421 (1) The appointment of an appointee continues ~~shall~~

1422 ~~continue~~ in force until suspended, revoked, or otherwise
1423 terminated, but is subject to a renewal request filed by the
1424 appointing entity in the appointee's birth month as to natural
1425 persons or the month the original appointment was issued ~~license~~
1426 ~~date~~ as to entities and every 24 months thereafter, accompanied
1427 by payment of the renewal appointment fee and taxes as
1428 prescribed in s. 624.501.
1429 Section 19. Section 626.536, Florida Statutes, is amended
1430 to read:
1431 626.536 Reporting of administrative actions. ~~Each agent and~~
1432 ~~insurance agency shall submit to the department,~~ Within 30 days
1433 after the final disposition of an ~~any~~ administrative action
1434 taken against a licensee ~~the agent~~ or insurance agency by a
1435 governmental agency or other regulatory agency in this or any
1436 other state or jurisdiction relating to the business of
1437 insurance, the sale of securities, or activity involving fraud,
1438 dishonesty, trustworthiness, or breach of a fiduciary duty, the
1439 licensee or insurance agency must submit a copy of the order,
1440 consent to order, or other relevant legal documents to the
1441 department. The department may adopt rules to administer
1442 ~~implementing the provisions of~~ this section.
1443 Section 20. Section 626.551, Florida Statutes, is amended
1444 to read:
1445 626.551 Notice of change of address, name.—A ~~Every~~ licensee
1446 must ~~shall~~ notify the department, in writing, within 30 ~~60~~ days
1447 after a change of name, residence address, principal business
1448 street address, mailing address, contact telephone numbers,
1449 including a business telephone number, or e-mail address. A
1450 licensee ~~licensed agent~~ who has moved his or her residence from

1451 this state shall have his or her license and all appointments
1452 immediately terminated by the department. Failure to notify the
1453 department within the required time ~~period~~ shall result in a
1454 fine not to exceed $250 for the first offense and~~, for~~
1455 ~~subsequent offenses,~~ a fine of at least $500 or suspension or
1456 revocation of the license pursuant to s. 626.611, s. 626.6115,
1457 ~~or~~ s. 626.621, or s. 626.6215 for a subsequent offense. The
1458 department may adopt rules to administer and enforce this
1459 section.
1460 Section 21. Subsection (14) is added to section 626.621,
1461 Florida Statutes, to read:
1462 626.621 Grounds for discretionary refusal, suspension, or
1463 revocation of agent's, adjuster's, customer representative's,
1464 service representative's, or managing general agent's license or
1465 appointment.—The department may, in its discretion, deny an
1466 application for, suspend, revoke, or refuse to renew or continue
1467 the license or appointment of any applicant, agent, adjuster,
1468 customer representative, service representative, or managing
1469 general agent, and it may suspend or revoke the eligibility to
1470 hold a license or appointment of any such person, if it finds
1471 that as to the applicant, licensee, or appointee any one or more
1472 of the following applicable grounds exist under circumstances
1473 for which such denial, suspension, revocation, or refusal is not
1474 mandatory under s. 626.611:
1475 (14) Failure to comply with any civil, criminal, or
1476 administrative action taken by the child support enforcement
1477 program under Title IV-D of the Social Security Act, 42 U.S.C.
1478 ss. 651 et seq., to determine paternity or to establish, modify,
1479 enforce, or collect support.

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1480 Section 22. Subsection (4) of section 626.641, Florida
1481 Statutes, is amended to read:
1482 626.641 Duration of suspension or revocation.—
1483 (4) During the period of suspension or revocation of a ~~the~~
1484 license or appointment, and until the license is reinstated or,
1485 if revoked, a new license issued, the former licensee or
1486 appointee may ~~shall~~ not engage in or attempt or profess to
1487 engage in any transaction or business for which a license or
1488 appointment is required under this code or directly or
1489 indirectly own, control, or be employed in any manner by an ~~any~~
1490 ~~insurance~~ agent, ~~or~~ agency, ~~or~~ adjuster, or adjusting firm.
1491 Section 23. Subsection (1) of section 626.651, Florida
1492 Statutes, is amended to read:
1493 626.651 Effect of suspension, revocation upon associated
1494 licenses and appointments and licensees and appointees.—
1495 (1) Upon suspension, revocation, or refusal to renew or
1496 continue any one license of a licensee ~~an agent or customer~~
1497 ~~representative~~, or upon suspension or revocation of eligibility
1498 to hold a license or appointment, the department shall at the
1499 same time likewise suspend or revoke all other licenses,
1500 appointments, or status of eligibility held by the licensee or
1501 appointee under this code.
1502 Section 24. Subsection (4) of section 626.730, Florida
1503 Statutes, is amended to read:
1504 626.730 Purpose of license.—
1505 (4) This section does not prohibit a person who is employed
1506 by or associated with a motor vehicle sales or financing agency,
1507 a retail sales establishment, or a consumer loan office from
1508 holding ~~the licensing under~~ a limited license for credit

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1509 insurance or ~~as to~~ motor vehicle physical damage and mechanical
1510 breakdown insurance for the purpose of insuring ~~or credit~~
1511 ~~property insurance of any person employed by or associated with~~
1512 ~~a motor vehicle sales or financing agency, a retail sales~~
1513 ~~establishment, or a consumer loan office, other than a consumer~~
1514 ~~loan office owned by or affiliated with a financial institution~~
1515 ~~as defined in s. 655.005, with respect to insurance of~~ the
1516 interest of such entity ~~agency~~ in a motor vehicle sold or
1517 financed by it or in personal property if used as collateral for
1518 a loan.
1519 (5) This section does not apply ~~with respect~~ to the
1520 interest of a real estate mortgagee in or as to insurance
1521 covering such interest or in the real estate subject to such
1522 mortgage.
1523 Section 25. Section 626.732, Florida Statutes, is amended
1524 to read:
1525 626.732 Requirement as to knowledge, experience, or
1526 instruction.—
1527 (1) Except as provided in subsection (4) ~~(3)~~, an ~~no~~
1528 applicant for a license as a general lines agent ~~or personal~~
1529 ~~lines agent~~, except for a chartered property and casualty
1530 underwriter (CPCU), may not ~~other than as to a limited license~~
1531 ~~as to baggage and motor vehicle excess liability insurance,~~
1532 ~~credit property insurance, credit insurance, in-transit and~~
1533 ~~storage personal property insurance, or communications equipment~~
1534 ~~property insurance or communication equipment inland marine~~
1535 ~~insurance, shall~~ be qualified or licensed unless, within the 4
1536 years immediately preceding the date the application for license
1537 is filed with the department, the applicant has:

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1538 (a) Taught or successfully completed classroom courses in
1539 insurance, 3 hours of which must ~~shall~~ be on the subject matter
1540 of ethics, ~~satisfactory to the department~~ at a school, college,
1541 or extension division thereof, approved by the department~~. To~~
1542 ~~qualify for licensure as a personal lines agent, the applicant~~
1543 ~~must complete a total of 52 hours of classroom courses in~~
1544 ~~insurance~~;
1545 (b) Completed a correspondence course in insurance, 3 hours
1546 of which must ~~shall~~ be on the subject matter of ethics,
1547 satisfactory to the department and regularly offered by
1548 accredited institutions of higher learning in this state, and
1549 have~~, except if he or she is applying for a limited license~~
1550 ~~under s. 626.321, for licensure as a general lines agent, has~~
1551 ~~had~~ at least 6 months of responsible insurance duties as a
1552 substantially full-time bona fide employee in all lines of
1553 property and casualty insurance set forth in the definition of
1554 general lines agent under s. 626.015 ~~or, for licensure as a~~
1555 ~~personal lines agent, has completed at least 3 months in~~
1556 ~~responsible insurance duties as a substantially full-time~~
1557 ~~employee in property and casualty insurance sold to individuals~~
1558 ~~and families for noncommercial purposes~~;
1559 (c) ~~For licensure as a general lines agent,~~ Completed at
1560 least 1 year in responsible insurance duties as a substantially
1561 full-time bona fide employee in all lines of property and
1562 casualty insurance~~, exclusive of aviation and wet marine and~~
1563 ~~transportation insurances but not exclusive of boats of less~~
1564 ~~than 36 feet in length or aircraft not held out for hire,~~ as set
1565 forth in the definition of a general lines agent under s.
1566 626.015, but without the education requirement described

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1567 ~~mentioned~~ in paragraph (a) or paragraph (b) ~~or, for licensure as~~
1568 ~~a personal lines agent, has completed at least 6 months in~~
1569 ~~responsible insurance duties as a substantially full-time~~
1570 ~~employee in property and casualty insurance sold to individuals~~
1571 ~~and families for noncommercial purposes without the education~~
1572 ~~requirement in paragraph (a) or paragraph (b)~~;
1573 (d)~~1. For licensure as a general lines agent,~~ Completed at
1574 least 1 year of responsible insurance duties as a licensed and
1575 appointed customer representative or limited customer
1576 representative in commercial or personal lines of property and
1577 casualty insurance and 40 hours of classroom courses approved by
1578 the department covering the areas of property, casualty, surety,
1579 health, and marine insurance; or
1580 ~~2. For licensure as a personal lines agent, completed at~~
1581 ~~least 6 months of responsible duties as a licensed and appointed~~
1582 ~~customer representative or limited customer representative in~~
1583 ~~property and casualty insurance sold to individuals and families~~
1584 ~~for noncommercial purposes and 20 hours of classroom courses~~
1585 ~~approved by the department which are related to property and~~
1586 ~~casualty insurance sold to individuals and families for~~
1587 ~~noncommercial purposes;~~
1588 (e)~~1. For licensure as a general lines agent,~~ Completed at
1589 least 1 year of responsible insurance duties as a licensed and
1590 appointed service representative in ~~either~~ commercial or
1591 personal lines of property and casualty insurance and 80 hours
1592 of classroom courses approved by the department covering the
1593 areas of property, casualty, surety, health, and marine
1594 insurance.~~; or~~
1595 ~~2. For licensure as a personal lines agent, completed at~~

1596 ~~least 6 months of responsible insurance duties as a licensed and~~
1597 ~~appointed service representative in property and casualty~~
1598 ~~insurance sold to individuals and families for noncommercial~~
1599 ~~purposes and 40 hours of classroom courses approved by the~~
1600 ~~department related to property and casualty insurance sold to~~
1601 ~~individuals and families for noncommercial purposes; or~~
1602 (2) Except as provided under subsection (4), an applicant
1603 for a license as a personal lines agent, except for a chartered
1604 property and casualty underwriter (CPCU), may not be qualified
1605 or licensed unless, within the 4 years immediately preceding the
1606 date the application for license is filed with the department,
1607 the applicant has:
1608 (a) Taught or successfully completed classroom courses in
1609 insurance, 3 hours of which must be on the subject matter of
1610 ethics, at a school, college, or extension division thereof,
1611 approved by the department. To qualify for licensure, the
1612 applicant must complete a total of 52 hours of classroom courses
1613 in insurance;
1614 (b) Completed a correspondence course in insurance, 3 hours
1615 of which must be on the subject matter of ethics, satisfactory
1616 to the department and regularly offered by accredited
1617 institutions of higher learning in this state, and completed at
1618 least 3 months of responsible insurance duties as a
1619 substantially full-time employee in the area of property and
1620 casualty insurance sold to individuals and families for
1621 noncommercial purposes;
1622 (c) Completed at least 6 months of responsible insurance
1623 duties as a substantially full-time employee in the area of
1624 property and casualty insurance sold to individuals and families

1625 for noncommercial purposes, but without the education
1626 requirement described in paragraph (a) or paragraph (b);
1627 (d) Completed at least 6 months of responsible duties as a
1628 licensed and appointed customer representative or limited
1629 customer representative in property and casualty insurance sold
1630 to individuals and families for noncommercial purposes and 20
1631 hours of classroom courses approved by the department which are
1632 related to property and casualty insurance sold to individuals
1633 and families for noncommercial purposes;
1634 (e) Completed at least 6 months of responsible insurance
1635 duties as a licensed and appointed service representative in
1636 property and casualty insurance sold to individuals and families
1637 for noncommercial purposes and 40 hours of classroom courses
1638 approved by the department related to property and casualty
1639 insurance sold to individuals and families for noncommercial
1640 purposes; or
1641 (f) ~~For licensure as a personal lines agent,~~ Completed at
1642 least 3 years of responsible duties as a licensed and appointed
1643 customer representative in property and casualty insurance sold
1644 to individuals and families for noncommercial purposes.
1645 (3)~~(2)~~ If ~~Where~~ an applicant's qualifications as required
1646 under subsection (1) or subsection (2) ~~in paragraph (1)(b) or~~
1647 ~~paragraph (1)(c)~~ are based in part upon ~~the~~ periods of
1648 employment in ~~at~~ responsible insurance duties ~~prescribed~~
1649 ~~therein~~, the applicant shall submit with the license application
1650 ~~for license~~, on a form prescribed by the department, an ~~the~~
1651 affidavit of his or her employer setting forth the period of
1652 such employment, that the employment ~~same~~ was substantially
1653 full-time, and giving a brief abstract of the nature of the

1654 duties performed by the applicant.
1655 (4)~~(3)~~ An individual who was or became qualified to sit for
1656 an agent's, customer representative's, or adjuster's examination
1657 at or during the time he or she was employed by the department
1658 or office and who, while so employed, was employed in
1659 responsible insurance duties as a full-time bona fide employee
1660 may ~~shall be permitted to~~ take an examination if application for
1661 such examination is made within 90 days after the date of
1662 termination of ~~his or her~~ employment with the department or
1663 office.
1664 (5)~~(4)~~ Classroom and correspondence courses under
1665 subsections (1) and (2) ~~subsection (1)~~ must include instruction
1666 on the subject matter of unauthorized entities engaging in the
1667 business of insurance. The scope of the topic of unauthorized
1668 entities must ~~shall~~ include the Florida Nonprofit Multiple-
1669 Employer Welfare Arrangement Act and the Employee Retirement
1670 Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates
1671 to the provision of health insurance by employers and the
1672 regulation thereof.
1673 (6) This section does not apply to an individual holding
1674 only a limited license for travel insurance, motor vehicle
1675 rental insurance, credit insurance, in-transit and storage
1676 personal property insurance, or portable electronics insurance.
1677 Section 26. Section 626.8411, Florida Statutes, is amended
1678 to read:
1679 626.8411 Application of Florida Insurance Code provisions
1680 to title insurance agents or agencies.—
1681 (1) The following provisions of part II~~, as~~ applicable to
1682 general lines agents or agencies~~,~~ also apply to title insurance

1683 agents or agencies:
1684 (a) Section 626.734, relating to liability of certain
1685 agents.
1686 ~~(b) Section 626.175, relating to temporary licenses.~~
1687 (b) ~~(c)~~ Section 626.747, relating to branch agencies.
1688 (c) Section 626.749, relating to place of business in
1689 residence.
1690 (d) Section 626.753, relating to sharing of commissions.
1691 (e) Section 626.754, relating to rights of agent following
1692 termination of appointment.
1693 (2) The following provisions of part I do not apply to
1694 title insurance agents or title insurance agencies:
1695 (a) Section 626.112(7), relating to licensing of insurance
1696 agencies.
1697 (b) Section 626.231, relating to eligibility for
1698 examination.
1699 (c) Section 626.572, relating to rebating, when allowed.
1700 (d) Section 626.172, relating to agent in full-time charge.
1701 Section 27. Section 626.8418, Florida Statutes, is amended
1702 to read:
1703 626.8418 Application for title insurance agency license.—
1704 Before ~~Prior to~~ doing business in this state as a title
1705 insurance agency, the ~~a title insurance~~ agency must ~~meet all of~~
1706 ~~the following requirements:~~
1707 ~~(1) The applicant must~~ file with the department an
1708 application for a license as a title insurance agency, on
1709 ~~printed~~ forms furnished by the department, which include ~~that~~
1710 ~~includes~~ all of the following:
1711 (1) ~~(a)~~ The name of each majority owner, partner, officer,

1712 and director of the agency.
1713 (2) ~~(b)~~ The residence address of each person required to be
1714 listed under subsection (1) ~~paragraph (a)~~.
1715 (3) ~~(c)~~ The name of the agency and its principal business
1716 address.
1717 (4) ~~(d)~~ The location of each agency office and the name
1718 under which each ~~agency~~ office conducts or will conduct
1719 business.
1720 (5) ~~(e)~~ The name of each agent to be in full-time charge of
1721 an agency office and the identification ~~specification~~ of such
1722 ~~which~~ office.
1723 (6) ~~(f)~~ Such additional information as the department
1724 requires by rule to ascertain the trustworthiness and competence
1725 of persons required to be listed on the application and to
1726 ascertain that such persons meet the requirements of this code.
1727 ~~(2) The applicant must have deposited with the department~~
1728 ~~securities of the type eligible for deposit under s. 625.52 and~~
1729 ~~having at all times a market value of not less than $35,000. In~~
1730 ~~place of such deposit, the title insurance agency may post a~~
1731 ~~surety bond of like amount payable to the department for the~~
1732 ~~benefit of any appointing insurer damaged by a violation by the~~
1733 ~~title insurance agency of its contract with the appointing~~
1734 ~~insurer. If a properly documented claim is timely filed with the~~
1735 ~~department by a damaged title insurer, the department may remit~~
1736 ~~an appropriate amount of the deposit or the proceeds that are~~
1737 ~~received from the surety in payment of the claim. The required~~
1738 ~~deposit or bond must be made by the title insurance agency, and~~
1739 ~~a title insurer may not provide the deposit or bond directly or~~
1740 ~~indirectly on behalf of the title insurance agency. The deposit~~

1741 ~~or bond must secure the performance by the title insurance~~
1742 ~~agency of its duties and responsibilities under the issuing~~
1743 ~~agency contracts with each title insurer for which it is~~
1744 ~~appointed. The agency may exchange or substitute other~~
1745 ~~securities of like quality and value for securities on deposit,~~
1746 ~~may receive the interest and other income accruing on such~~
1747 ~~securities, and may inspect the deposit at all reasonable times.~~
1748 ~~Such deposit or bond must remain unimpaired as long as the title~~
1749 ~~insurance agency continues in business in this state and until 1~~
1750 ~~year after termination of all title insurance agency~~
1751 ~~appointments held by the title insurance agency. The title~~
1752 ~~insurance agency is entitled to the return of the deposit or~~
1753 ~~bond together with accrued interest after such year has passed,~~
1754 ~~if no claim has been made against the deposit or bond. If a~~
1755 ~~surety bond is unavailable generally, the department may adopt~~
1756 ~~rules for alternative methods to comply with this subsection.~~
1757 ~~With respect to such alternative methods for compliance, the~~
1758 ~~department must be guided by the past business performance and~~
1759 ~~good reputation and character of the proposed title insurance~~
1760 ~~agency. A surety bond is deemed to be unavailable generally if~~
1761 ~~the prevailing annual premium exceeds 25 percent of the~~
1762 ~~principal amount of the bond.~~
1763 Section 28. Section 626.8548, Florida Statutes, is created
1764 to read:
1765 626.8548 “All-lines adjuster” defined.—An “all-lines
1766 adjuster” is a person who is self-employed or employed by an
1767 insurer, a wholly owned subsidiary of an insurer, or an
1768 independent adjusting firm or other independent adjuster, and
1769 who undertakes on behalf of an insurer or other insurers under

1770 common control or ownership to ascertain and determine the
1771 amount of any claim, loss, or damage payable under an insurance
1772 contract or undertakes to effect settlement of such claim, loss,
1773 or damage. The term does not apply to life insurance or annuity
1774 contracts.
1775 Section 29. Section 626.855, Florida Statutes, is amended
1776 to read:
1777 626.855 “Independent adjuster” defined.—An “independent
1778 adjuster” means a ~~is any~~ person licensed as an all-lines
1779 adjuster who is self-appointed ~~self-employed~~ or appointed and ~~is~~
1780 ~~associated with or~~ employed by an independent adjusting firm or
1781 other independent adjuster, and who undertakes on behalf of an
1782 insurer to ascertain and determine the amount of any claim,
1783 loss, or damage payable under an insurance contract or
1784 undertakes to effect settlement of such claim, loss, or damage.
1785 Section 30. Section 626.856, Florida Statutes, is amended
1786 to read:
1787 626.856 “Company employee adjuster” defined.—A “company
1788 employee adjuster” means ~~is~~ a person licensed as an all-lines
1789 adjuster who is appointed and employed on an insurer’s staff of
1790 adjusters or a wholly owned subsidiary of the insurer, and who
1791 undertakes on behalf of such insurer or other insurers under
1792 common control or ownership to ascertain and determine the
1793 amount of any claim, loss, or damage payable under a contract of
1794 insurance, or undertakes to effect settlement of such claim,
1795 loss, or damage.
1796 Section 31. Section 626.858, Florida Statutes, is repealed.
1797 Section 32. Section 626.8584, Florida Statutes, is amended
1798 to read:

1799 626.8584 “Nonresident all-lines ~~independent~~ adjuster”
1800 defined.—A “nonresident all-lines ~~independent~~ adjuster” means ~~is~~
1801 a person who:
1802 (1) Is not a resident of this state;
1803 (2) Is ~~a~~ currently licensed as an ~~independent~~ adjuster in
1804 his or her state of residence for all lines of insurance except
1805 life and annuities ~~the type or kinds of insurance for which the~~
1806 ~~licensee intends to adjust claims in this state~~ or, if a
1807 resident of a state that does not license such ~~independent~~
1808 adjusters, meets the qualifications ~~has passed the department’s~~
1809 ~~adjuster examination as~~ prescribed in s. 626.8734~~(1)(b)~~; and
1810 (3) Is licensed as an all-lines adjuster and self-appointed
1811 or appointed and ~~a self-employed independent adjuster or~~
1812 ~~associated with or~~ employed by an independent adjusting firm or
1813 other independent adjuster, by an insurer admitted to do
1814 business in this state or a wholly-owned subsidiary of an
1815 insurer admitted to do business in this state, or by other
1816 insurers under the common control or ownership of such insurer.
1817 Section 33. Section 626.863, Florida Statutes, is amended
1818 to read:
1819 626.863 Claims referrals to ~~Licensed~~ independent adjusters
1820 ~~required; insurers’ responsibility~~.—
1821 (1) An insurer may ~~shall~~ not knowingly refer any claim or
1822 loss for adjustment in this state to any person purporting to be
1823 or acting as an independent adjuster unless the person is
1824 currently licensed as an all-lines adjuster and appointed as an
1825 independent adjuster under this code.
1826 (2) Before referring any claim or loss, the insurer shall
1827 ascertain from the department whether the proposed independent

1828 adjuster is currently licensed as an all-lines adjuster and
1829 appointed as an independent adjuster ~~such~~. Having ~~once~~
1830 ascertained that a particular person is so licensed and
1831 appointed, the insurer may assume that he or she will continue
1832 to be so licensed and appointed until the insurer has knowledge,
1833 or receives information from the department, to the contrary.
1834 (3) This section does not apply to catastrophe or emergency
1835 adjusters as provided ~~for~~ in this part.
1836 Section 34. Section 626.864, Florida Statutes, is amended
1837 to read:
1838 626.864 Adjuster license types.—
1839 (1) A qualified individual may be licensed ~~and appointed~~ as
1840 ~~either~~:
1841 (a) A public adjuster; or
1842 (b) An all-lines ~~independent~~ adjuster~~; or~~
1843 ~~(c) A company employee adjuster~~.
1844 (2) The same individual may ~~shall~~ not be concurrently
1845 licensed ~~appointed~~ as a public adjuster and an all-lines
1846 adjuster ~~to more than one of the adjuster types referred to in~~
1847 ~~subsection (1)~~.
1848 (3) An all-lines adjuster may be appointed as an
1849 independent adjuster or company employee adjuster, but not both
1850 concurrently.
1851 Section 35. Paragraph (e) is added to subsection (1) of
1852 section 626.865, Florida Statutes, to read:
1853 626.865 Public adjuster’s qualifications, bond.—
1854 (1) The department shall issue a license to an applicant
1855 for a public adjuster’s license upon determining that the
1856 applicant has paid the applicable fees specified in s. 624.501

1857 and possesses the following qualifications:
1858 (e) Is licensed as a public adjuster apprentice under s.
1859 626.8651 and complies with the requirements of that license
1860 throughout the licensure period.
1861 Section 36. Section 626.866, Florida Statutes, is amended
1862 to read:
1863 626.866 All-lines adjuster ~~Independent adjuster's~~
1864 qualifications.—The department shall issue ~~a license to an~~
1865 ~~applicant for~~ an all-lines adjuster ~~independent adjuster's~~
1866 license to an applicant upon determining that the applicable
1867 license fee specified in s. 624.501 has been paid and that the
1868 applicant possesses the following qualifications:
1869 (1) Is a natural person at least 18 years of age.
1870 (2) Is a United States citizen or legal alien who possesses
1871 work authorization from the United States Bureau of Citizenship
1872 and Immigration Services and a bona fide resident of this state.
1873 (3) Is trustworthy and has such business reputation as
1874 would reasonably assure that the applicant will conduct his or
1875 her business as insurance adjuster fairly and in good faith and
1876 without detriment to the public.
1877 (4) Has had sufficient experience, training, or instruction
1878 concerning the adjusting of damage or loss under insurance
1879 contracts, other than life and annuity contracts, is
1880 sufficiently informed as to the terms and the effects of the
1881 provisions of such types of contracts, and possesses adequate
1882 knowledge of the insurance laws of this state relating to such
1883 contracts as to enable and qualify him or her to engage in the
1884 business of insurance adjuster fairly and without injury to the
1885 public or any member thereof with whom he or she may have

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1886 relations as an insurance adjuster and to adjust all claims in
1887 accordance with the policy or contract and the insurance laws of
1888 this state.
1889 (5) Has passed any required written examination or has met
1890 one of the exemptions prescribed under s. 626.221.
1891 Section 37. Section 626.867, Florida Statutes, is repealed.
1892 Section 38. Section 626.869, Florida Statutes, is amended
1893 to read:
1894 626.869 License, adjusters; continuing education.—
1895 (1) Having ~~An applicant for~~ a license as an all-lines
1896 adjuster qualifies the licensee to adjust ~~may qualify and his or~~
1897 ~~her license when issued may cover adjusting in any one of the~~
1898 ~~following classes of insurance:~~
1899 ~~(a)~~ all lines of insurance except life and annuities.
1900 ~~(b) Motor vehicle physical damage insurance.~~
1901 ~~(c) Property and casualty insurance.~~
1902 ~~(d) Workers' compensation insurance.~~
1903 ~~(e) Health insurance.~~
1904
1905 ~~No examination on workers' compensation insurance or health~~
1906 ~~insurance shall be required for public adjusters.~~
1907 (2) All individuals who on October 1, 1990, hold an
1908 adjuster's license and appointment limited to fire and allied
1909 lines, including marine or casualty or boiler and machinery, may
1910 remain licensed and appointed under the limited license and may
1911 renew their appointment, but a ~~no~~ license or appointment that
1912 ~~which~~ has been terminated, not renewed, suspended, or revoked
1913 may not ~~shall~~ be reinstated, and ~~no~~ new or additional licenses
1914 or appointments may not ~~shall~~ be issued.

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1915 (3) All individuals who on October 1, 2012, hold an
1916 adjuster's license and appointment limited to motor vehicle
1917 physical damage and mechanical breakdown, property and casualty,
1918 workers' compensation, or health insurance may remain licensed
1919 and appointed under such limited license and may renew their
1920 appointment, but a license that has been terminated, suspended,
1921 or revoked may not be reinstated, and new or additional licenses
1922 may not be issued. ~~The applicant's application for license shall~~
1923 ~~specify which of the foregoing classes of business the~~
1924 ~~application for license is to cover.~~
1925 (4)~~(a)~~ An ~~Any~~ individual holding a license as a public
1926 adjuster or an all-lines ~~a company employee~~ adjuster must
1927 complete all continuing education requirements as specified in
1928 s. 626.2815. ~~or independent adjuster for 24 consecutive months~~
1929 ~~or longer must, beginning in his or her birth month and every 2~~
1930 ~~years thereafter, have completed 24 hours of courses, 2 hours of~~
1931 ~~which relate to ethics, in subjects designed to inform the~~
1932 ~~licensee regarding the current insurance laws of this state, so~~
1933 ~~as to enable him or her to engage in business as an insurance~~
1934 ~~adjuster fairly and without injury to the public and to adjust~~
1935 ~~all claims in accordance with the policy or contract and the~~
1936 ~~laws of this state.~~
1937 ~~(b) Any individual holding a license as a public adjuster~~
1938 ~~for 24 consecutive months or longer, beginning in his or her~~
1939 ~~birth month and every 2 years thereafter, must have completed 24~~
1940 ~~hours of courses, 2 hours of which relate to ethics, in subjects~~
1941 ~~designed to inform the licensee regarding the current laws of~~
1942 ~~this state pertaining to all lines of insurance other than life~~
1943 ~~and annuities, the current laws of this state pertaining to the~~

1944 ~~duties and responsibilities of public adjusters as set forth in~~
1945 ~~this part, and the current rules of the department applicable to~~
1946 ~~public adjusters and standard or representative policy forms~~
1947 ~~used by insurers, other than forms for life insurance and~~
1948 ~~annuities, so as to enable him or her to engage in business as~~
1949 ~~an adjuster fairly and without injury to the public and to~~
1950 ~~adjust all claims in accordance with the policy or contract and~~
1951 ~~laws of this state. In order to receive credit for continuing~~
1952 ~~education courses, public adjusters must take courses that are~~
1953 ~~specifically designed for public adjusters and approved by the~~
1954 ~~department, provided, however, no continuing education course~~
1955 ~~shall be required for public adjusters for workers' compensation~~
1956 ~~insurance or health insurance.~~
1957 ~~(c) The department shall adopt rules necessary to implement~~
1958 ~~and administer the continuing education requirements of this~~
1959 ~~subsection. For good cause shown, the department may grant an~~
1960 ~~extension of time during which the requirements imposed by this~~
1961 ~~section may be completed, but such extension of time may not~~
1962 ~~exceed 1 year.~~
1963 ~~(d) A nonresident public adjuster must complete the~~
1964 ~~continuing education requirements provided by this section;~~
1965 ~~provided, a nonresident public adjuster may meet the~~
1966 ~~requirements of this section if the continuing education~~
1967 ~~requirements of the nonresident public adjuster's home state are~~
1968 ~~determined to be substantially comparable to the requirements of~~
1969 ~~this state's continuing education requirements and if the~~
1970 ~~resident's state recognizes reciprocity with this state's~~
1971 ~~continuing education requirements. A nonresident public adjuster~~
1972 ~~whose home state does not have such continuing education~~

1973 ~~requirements for adjusters, and who is not licensed as a~~
1974 ~~nonresident adjuster in a state that has continuing education~~
1975 ~~requirements and reciprocates with this state, must meet the~~
1976 ~~continuing education requirements of this section.~~
1977 (5) The regulation of continuing education for licensees,
1978 course providers, instructors, school officials, and monitor
1979 groups shall be as provided ~~for~~ in s. 626.2816.
1980 Section 39. Paragraph (c) of subsection (2) of section
1981 626.8697, Florida Statutes, is amended to read:
1982 626.8697 Grounds for refusal, suspension, or revocation of
1983 adjusting firm license.—
1984 (2) The department may, in its discretion, deny, suspend,
1985 revoke, or refuse to continue the license of any adjusting firm
1986 if it finds that any of the following applicable grounds exist
1987 with respect to the firm or any owner, partner, manager,
1988 director, officer, or other person who is otherwise involved in
1989 the operation of the firm:
1990 (c) Violation of an ~~any~~ order or rule of the department,
1991 office, or commission.
1992 Section 40. Subsections (1) and (5) of section 626.872,
1993 Florida Statutes, are amended to read:
1994 626.872 Temporary license.—
1995 (1) The department may~~, in its discretion,~~ issue a
1996 temporary license as an all-lines ~~independent~~ adjuster ~~or as a~~
1997 ~~company employee adjuster~~, subject to the following conditions:
1998 (a) The applicant must be an employee of an adjuster
1999 currently licensed by the department, ~~an employee of~~ an
2000 authorized insurer, or ~~an employee of~~ an established adjusting
2001 firm or corporation who ~~which~~ is supervised by a currently

2002 licensed all-lines ~~independent~~ adjuster.
2003 ~~(b) The application must be accompanied by a certificate of~~
2004 ~~employment and a report as to the applicant's integrity and~~
2005 ~~moral character on a form prescribed by the department and~~
2006 ~~executed by the employer.~~
2007 (b) ~~(c)~~ The applicant must be a natural person of at least
2008 18 years of age, ~~must be~~ a bona fide resident of this state,
2009 ~~must be~~ trustworthy, and ~~must~~ have a ~~such~~ business reputation
2010 that ~~as~~ would reasonably ensure ~~assure~~ that the applicant will
2011 conduct his or her business as an adjuster fairly and in good
2012 faith and without detriment to the public.
2013 (c) ~~(d)~~ The applicant's employer is responsible for the
2014 adjustment acts of the temporary ~~any~~ licensee ~~under this~~
2015 ~~section~~.
2016 (d) ~~(e)~~ The applicable license fee ~~specified~~ must be paid
2017 before issuance of the temporary license.
2018 (e) ~~(f)~~ The temporary license is ~~shall be~~ effective for ~~a~~
2019 ~~period of~~ 1 year, but is subject to earlier termination at the
2020 request of the employer, ~~or~~ if the licensee fails to take an
2021 examination as an all-lines ~~independent~~ adjuster ~~or company~~
2022 ~~employee adjuster~~ within 6 months after issuance of the
2023 temporary license, or if the temporary license is suspended or
2024 revoked by the department.
2025 (5) The department may ~~shall~~ not issue a temporary license
2026 as an all-lines ~~independent~~ adjuster ~~or as a company employee~~
2027 ~~adjuster~~ to an ~~any~~ individual who has ~~ever~~ held such ~~a~~ license
2028 in this state.
2029 Section 41. Section 626.873, Florida Statutes, is repealed.
2030 Section 42. Section 626.8734, Florida Statutes, is amended

2031 to read:
2032 626.8734 Nonresident all-lines adjuster license ~~independent~~
2033 ~~adjuster's~~ qualifications.—
2034 (1) The department shall~~, upon application therefor,~~ issue
2035 a license to an applicant for a nonresident all-lines adjuster
2036 ~~independent adjuster's~~ license upon determining that the
2037 applicant has paid the applicable license fees required under s.
2038 624.501 and:
2039 (a) Is a natural person at least 18 years of age.
2040 (b) Has passed to the satisfaction of the department a
2041 written Florida all-lines adjuster ~~independent adjuster's~~
2042 examination of the scope prescribed in s. 626.241(6); however,
2043 the requirement for the examination does not apply to ~~any of the~~
2044 ~~following~~:
2045 1. An applicant who is licensed as an all-lines ~~a resident~~
2046 ~~independent~~ adjuster in his or her home state if ~~of residence~~
2047 ~~when~~ that state has entered into ~~requires the passing of a~~
2048 ~~written examination in order to obtain the license and~~ a
2049 reciprocal agreement with the ~~appropriate official of that state~~
2050 ~~has been entered into by the~~ department; or
2051 2. An applicant who is licensed as a nonresident all-lines
2052 ~~independent~~ adjuster in a state other than his or her home state
2053 ~~of residence when the state of licensure requires the passing of~~
2054 ~~a written examination in order to obtain the license~~ and a
2055 reciprocal agreement with the appropriate official of the state
2056 of licensure has been entered into with ~~by~~ the department.
2057 (c) Is licensed as an all-lines adjuster and is self-
2058 appointed, or appointed and employed by an independent adjusting
2059 firm or other independent adjuster, or is an employee of an

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2060 insurer admitted to do business in this state, a wholly owned
2061 subsidiary of an insurer admitted to business in this state, or
2062 other insurers under the common control or ownership of such
2063 insurers ~~self-employed or associated with or employed by an~~
2064 ~~independent adjusting firm or other independent adjuster~~.
2065 Applicants licensed as nonresident all-lines ~~independent~~
2066 adjusters under this section must be appointed as an independent
2067 adjuster or company employee adjuster ~~such~~ in accordance with
2068 ~~the provisions of~~ ss. 626.112 and 626.451. Appointment fees as
2069 ~~in the amount~~ specified in s. 624.501 must be paid to the
2070 department in advance. The appointment of a nonresident
2071 independent adjuster continues ~~shall continue~~ in force until
2072 suspended, revoked, or otherwise terminated, but is subject to
2073 biennial renewal or continuation by the licensee in accordance
2074 with ~~procedures prescribed in~~ s. 626.381 for licensees in
2075 general.
2076 (d) Is trustworthy and has such business reputation as
2077 would reasonably ensure ~~assure~~ that he or she will conduct his
2078 or her business as a nonresident all-lines ~~independent~~ adjuster
2079 fairly and in good faith and without detriment to the public.
2080 (e) Has had sufficient experience, training, or instruction
2081 concerning the adjusting of damages or losses under insurance
2082 contracts, other than life and annuity contracts; is
2083 sufficiently informed as to the terms and effects of ~~the~~
2084 ~~provisions of~~ those types of insurance contracts; and possesses
2085 adequate knowledge of the laws of this state relating to such
2086 contracts as to enable and qualify him or her to engage in the
2087 business of insurance adjuster fairly and without injury to the
2088 public or any member thereof with whom he or she may have

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2089 business as an all-lines ~~independent~~ adjuster.
2090 (2) The applicant must ~~shall~~ furnish the following with his
2091 or her application:
2092 (a) A complete set of his or her fingerprints. The
2093 applicant's fingerprints must be certified by an authorized law
2094 enforcement officer.
2095 (b) If currently licensed as an all-lines ~~a resident~~
2096 ~~independent~~ adjuster in the applicant's home state ~~of residence~~,
2097 a certificate or letter of authorization from the licensing
2098 authority of the applicant's home state ~~of residence,~~ stating
2099 that the applicant holds a current license to act as an all-
2100 lines ~~independent~~ adjuster. The ~~Such~~ certificate or letter of
2101 authorization must be signed by the insurance commissioner, or
2102 his or her deputy or the appropriate licensing official, and
2103 must disclose whether the adjuster has ever had a ~~any~~ license or
2104 eligibility to hold any license declined, denied, suspended,
2105 revoked, or placed on probation or whether an administrative
2106 fine or penalty has been levied against the adjuster and, if so,
2107 the reason for the action. Such certificate or letter is not
2108 required if the nonresident applicant's licensing status can be
2109 verified through the Producer Database maintained by the
2110 National Association of Insurance Commissioners, its affiliates,
2111 or subsidiaries.
2112 (c) If the applicant's home state ~~of residence~~ does not
2113 require licensure as an all-lines ~~independent~~ adjuster and the
2114 applicant has been licensed as a resident insurance adjuster,
2115 agent, broker, or other insurance representative in his or her
2116 home state ~~of residence~~ or any other state within the past 3
2117 years, a certificate or letter of authorization from the

2118 licensing authority stating that the applicant holds or has held
2119 a license to act as an insurance adjuster, agent, or other
2120 insurance representative. The certificate or letter of
2121 authorization must be signed by the insurance commissioner, or
2122 his or her deputy or the appropriate licensing official, and
2123 must disclose whether the adjuster, agent, or other insurance
2124 representative has ever had a ~~any~~ license or eligibility to hold
2125 any license declined, denied, suspended, revoked, or placed on
2126 probation or whether an administrative fine or penalty has been
2127 levied against the adjuster and, if so, the reason for the
2128 action. Such certificate or letter is not required if the
2129 nonresident applicant's licensing status can be verified through
2130 the Producer Database maintained by the National Association of
2131 Insurance Commissioners, its affiliates, or subsidiaries.
2132 (3) The usual and customary records pertaining to
2133 transactions under the license of a nonresident all-lines
2134 ~~independent~~ adjuster must be retained for at least 3 years after
2135 completion of the adjustment and ~~must~~ be made available in this
2136 state to the department upon request. The failure of a
2137 nonresident all-lines ~~independent~~ adjuster to properly maintain
2138 records and make them available to the department upon request
2139 constitutes grounds for the immediate suspension of the license
2140 issued under this section.
2141 (4) ~~After licensure as a nonresident independent adjuster,~~
2142 As a condition of doing business in this state as a nonresident
2143 independent adjuster, the appointee must ~~licensee must annually~~
2144 ~~on or before January 1, on a form prescribed by the department,~~
2145 submit an affidavit to the department certifying that the
2146 licensee is familiar with and understands the insurance laws and

2147 administrative rules of this state and the provisions of the
2148 contracts negotiated or to be negotiated. Compliance with this
2149 filing requirement is a condition precedent to the issuance,
2150 continuation, reinstatement, or renewal of a nonresident
2151 independent adjuster's appointment.
2152 Section 43. Section 626.8736, Florida Statutes, is amended
2153 to read:
2154 626.8736 Nonresident independent or public adjusters;
2155 service of process.—
2156 (1) Each licensed nonresident ~~independent or~~ public
2157 adjuster or all-lines adjuster appointed as an independent
2158 adjuster shall appoint the Chief Financial Officer and his or
2159 her successors in office as his or her attorney to receive
2160 service of legal process issued against such ~~the nonresident~~
2161 ~~independent or public~~ adjuster in this state, upon causes of
2162 action arising within this state out of transactions under his
2163 license and appointment. Service upon the Chief Financial
2164 Officer as attorney constitutes ~~shall constitute~~ effective legal
2165 service upon the nonresident independent or public adjuster.
2166 (2) The appointment of the Chief Financial Officer for
2167 service of process is ~~shall be~~ irrevocable ~~for~~ as long as there
2168 could be any cause of action against the nonresident ~~independent~~
2169 ~~or~~ public adjuster or all-lines adjuster appointed as an
2170 independent adjuster arising out of his or her insurance
2171 transactions in this state.
2172 (3) Duplicate copies of legal process against the
2173 nonresident ~~independent or~~ public adjuster or all-lines adjuster
2174 appointed as an independent adjuster shall be served upon the
2175 Chief Financial Officer by a person competent to serve a

2176 summons.
2177 (4) Upon receiving the service, the Chief Financial Officer
2178 shall ~~forthwith~~ send one of the copies of the process, by
2179 registered mail with return receipt requested, to the defendant
2180 nonresident ~~independent or~~ public adjuster or all-lines adjuster
2181 appointed as an independent adjuster at his or her last address
2182 of record with the department.
2183 (5) The Chief Financial Officer shall keep a record of the
2184 day and hour of service upon him or her of all legal process
2185 received under this section.
2186 Section 44. Subsection (1) of section 626.874, Florida
2187 Statutes, is amended to read:
2188 626.874 Catastrophe or emergency adjusters.—
2189 (1) In the event of a catastrophe or emergency, the
2190 department may issue a license, for the purposes and under the
2191 conditions ~~which it shall fix~~ and for the period of emergency as
2192 it shall determine, to persons who are residents or nonresidents
2193 of this state, who are at least 18 years of age, who are United
2194 States citizens or legal aliens who possess work authorization
2195 from the United States Bureau of Citizenship and Immigration
2196 Services, and who are not licensed adjusters under this part but
2197 who have been designated and certified to it as qualified to act
2198 as adjusters by all-lines ~~independent~~ resident adjusters, ~~or~~ by
2199 an authorized insurer, or by a licensed general lines agent to
2200 adjust claims, losses, or damages under policies or contracts of
2201 insurance issued by such insurers. The fee for the license is
2202 ~~shall be~~ as provided in s. 624.501(12)(c).
2203 Section 45. Subsection (1) of section 626.875, Florida
2204 Statutes, is amended to read:

2205 626.875 Office and records.—
2206 (1) Each appointed ~~Every licensed~~ independent adjuster and
2207 ~~every~~ licensed public adjuster must ~~shall have and~~ maintain ~~in~~
2208 ~~this state~~ a place of business in this state which is accessible
2209 to the public and keep therein the usual and customary records
2210 pertaining to transactions under the license. This provision
2211 does ~~shall~~ not ~~be deemed to~~ prohibit maintenance of such an
2212 office in the home of the licensee.
2213 Section 46. Section 626.876, Florida Statutes, is amended
2214 to read:
2215 626.876 Exclusive employment; public adjusters, independent
2216 adjusters.—
2217 (1) An ~~No~~ individual licensed and appointed as a public
2218 adjuster may not ~~shall~~ be ~~so~~ employed during the same period by
2219 more than one public adjuster or public adjuster firm or
2220 corporation.
2221 (2) An ~~No~~ individual licensed as an all-lines adjuster and
2222 appointed as an independent adjuster may not ~~shall~~ be ~~so~~
2223 employed during the same period by more than one independent
2224 adjuster or independent adjuster firm or corporation.
2225 Section 47. Subsections (5), (6), and (7) of section
2226 626.927, Florida Statutes, are amended to read:
2227 626.927 Licensing of surplus lines agent.—
2228 ~~(5) The applicant must file and thereafter maintain the~~
2229 ~~bond as required under s. 626.928.~~
2230 (5) ~~(6)~~ Examinations as to surplus lines, as required under
2231 subsections (1) and (2), are ~~shall be~~ subject to the provisions
2232 of part I as applicable to applicants for licenses in general.
2233 ~~No such examination shall be required as to persons who held a~~

2234 ~~Florida surplus lines agent's license as of January 1, 1959,~~
2235 ~~except when examinations subsequent to issuance of an initial~~
2236 ~~license are provided for in general under part I.~~
2237 (6) ~~(7)~~ An ~~Any~~ individual who has been licensed by the
2238 department as a surplus lines agent as provided in this section
2239 may be subsequently appointed without additional written
2240 examination if his or her application for appointment is filed
2241 with the department within 48 months after ~~next following~~ the
2242 date of cancellation or expiration of the prior appointment. The
2243 department may~~, in its discretion,~~ require an ~~any~~ individual to
2244 take and successfully pass an examination as for original
2245 issuance of license as a condition precedent to the
2246 reinstatement or continuation of the licensee's current license
2247 or reinstatement or continuation of the licensee's appointment.
2248 Section 48. Section 626.928, Florida Statutes, is repealed.
2249 Section 49. Section 626.933, Florida Statutes, is amended
2250 to read:
2251 626.933 Collection of tax and service fee.—If the tax or
2252 service fee payable by a surplus lines agent under the ~~this~~
2253 Surplus Lines Law is not so paid within the time prescribed, it
2254 ~~the same~~ shall be recoverable in a suit brought by the
2255 department against the surplus lines agent ~~and the surety or~~
2256 ~~sureties on the bond filed by the surplus lines agent under s.~~
2257 ~~626.928~~. The department may authorize the Florida Surplus Lines
2258 Service Office to file suit on its behalf. All costs and
2259 expenses incurred in a suit brought by the office which are not
2260 recoverable from the agent or surety shall be borne by the
2261 office.
2262 Section 50. Subsection (1) of section 626.935, Florida

2263 Statutes, is amended to read:
2264 626.935 Suspension, revocation, or refusal of surplus lines
2265 agent's license.—
2266 (1) The department shall deny an application for, suspend,
2267 revoke, or refuse to renew the appointment of a surplus lines
2268 agent and all other licenses and appointments held by the
2269 licensee under this code, on ~~upon~~ any of the following grounds:
2270 (a) Removal of the licensee's office from the licensee's
2271 state of residence.
2272 (b) Removal of the accounts and records of his or her
2273 surplus lines business from this state or the licensee's state
2274 of residence during the period when such accounts and records
2275 are required to be maintained under s. 626.930.
2276 (c) Closure of the licensee's office for ~~a period of~~ more
2277 than 30 consecutive days.
2278 (d) Failure to make and file his or her affidavit or
2279 reports when due as required by s. 626.931.
2280 (e) Failure to pay the tax or service fee on surplus lines
2281 premiums, as provided ~~for~~ in the ~~this~~ Surplus Lines Law.
2282 ~~(f) Failure to maintain the bond as required by s. 626.928.~~
2283 (f) ~~(g)~~ Suspension, revocation, or refusal to renew or
2284 continue the license or appointment as a general lines agent,
2285 service representative, or managing general agent.
2286 (g) ~~(h)~~ Lack of qualifications as for an original surplus
2287 lines agent's license.
2288 (h) ~~(i)~~ Violation of this Surplus Lines Law.
2289 (i) ~~(j)~~ For any other applicable cause for which the license
2290 of a general lines agent could be suspended, revoked, or refused
2291 under s. 626.611 or s. 626.621.

2292 Section 51. Paragraph (b) of subsection (1) of section
2293 627.952, Florida Statutes, is amended to read:
2294 627.952 Risk retention and purchasing group agents.—
2295 (1) Any person offering, soliciting, selling, purchasing,
2296 administering, or otherwise servicing insurance contracts,
2297 certificates, or agreements for any purchasing group or risk
2298 retention group to any resident of this state, either directly
2299 or indirectly, by the use of mail, advertising, or other means
2300 of communication, shall obtain a license and appointment to act
2301 as a resident general lines agent, if a resident of this state,
2302 or a nonresident general lines agent if not a resident. Any such
2303 person shall be subject to all requirements of the Florida
2304 Insurance Code.
2305 (b) Any person required to be licensed and appointed under
2306 ~~by~~ this subsection, in order to place business through Florida
2307 eligible surplus lines carriers, must ~~shall~~, if a resident of
2308 this state, be licensed and appointed as a surplus lines agent.
2309 ~~Any such person,~~ If not a resident of this state, such person
2310 must ~~shall~~ be licensed and appointed as a surplus lines agent in
2311 her or his state of residence and ~~shall~~ file and ~~thereafter~~
2312 maintain a fidelity bond in favor of the people of the State of
2313 Florida executed by a surety company admitted in this state and
2314 payable to the State of Florida; ~~provided,~~ however, ~~any~~
2315 ~~activities carried out by~~ such nonresident is ~~pursuant to this~~
2316 ~~part shall be~~ limited to the provision of insurance for
2317 purchasing groups. The bond must ~~shall~~ be continuous in form and
2318 ~~maintained~~ in the amount of not less than $50,000, aggregate
2319 liability ~~set out in s. 626.928~~. The bond must ~~shall~~ remain in
2320 force and effect until the surety is released from liability by

2321 the department or until the bond is canceled by the surety. The
2322 surety may cancel the bond and be released from further
2323 liability ~~thereunder~~ upon 30 days' prior written notice to the
2324 department. The cancellation does ~~shall~~ not affect any liability
2325 incurred or accrued ~~thereunder~~ before the termination of the 30-
2326 day period. Upon receipt of a notice of cancellation, the
2327 department shall immediately notify the agent.
2328 Section 52. Subsections (1) and (2) of section 635.051,
2329 Florida Statutes, are amended to read:
2330 635.051 Licensing and appointment of mortgage guaranty
2331 insurance agents.—
2332 (1) Effective October 1, 2012, a person may not transact
2333 mortgage guaranty insurance unless licensed and appointed as a
2334 credit insurance agent in accordance with the applicable
2335 provisions of the insurance code. Mortgage guaranty licenses
2336 held by persons on October 1, 2012, shall be transferred to a
2337 credit insurance agent license. Persons who wish to obtain a new
2338 license identification card that reflects this change must
2339 submit the $5 fee as prescribed in s. 624.501(15). ~~Agents of~~
2340 ~~mortgage guaranty insurers shall be licensed and appointed and~~
2341 ~~shall be subject to the same qualifications and requirements~~
2342 ~~applicable to general lines agents under the laws of this state,~~
2343 ~~except that:~~
2344 ~~(a) Particular preliminary specialized education or~~
2345 ~~training is not required of an applicant for such an agent's~~
2346 ~~license, and continuing education is not required for renewal of~~
2347 ~~the agent's appointment if, as part of the application for~~
2348 ~~license and appointment, the insurer guarantees that the~~
2349 ~~applicant will receive the necessary training to enable him or~~

2350 ~~her properly to hold himself or herself out to the public as a~~
2351 ~~mortgage guaranty insurance agent and if the department, in its~~
2352 ~~discretion, accepts such guaranty;~~
2353 ~~(b) The agent's license and appointment shall be a limited~~
2354 ~~license, limited to the handling of mortgage guaranty insurance~~
2355 ~~only; and~~
2356 ~~(c) An examination may be required of an applicant for such~~
2357 ~~a license if the insurer fails to provide the guaranty described~~
2358 ~~in paragraph (a).~~
2359 (2) Any general lines agent licensed under chapter 626 is
2360 qualified to represent a mortgage guaranty insurer without
2361 additional licensure ~~examination~~.
2362 Section 53. Subsection (1) of section 648.34, Florida
2363 Statutes, is amended to read
2364 648.34 Bail bond agents; qualifications.—
2365 (1) An application for licensure as a bail bond agent must
2366 be submitted on forms prescribed by the department. The
2367 application must include the applicant's full name, date of
2368 birth, social security number, residence address, business
2369 address, mailing address, contact telephone numbers, including a
2370 business telephone number and e-mail address.
2371 Section 54. Subsection (2) of section 648.38, Florida
2372 Statutes, is amended to read:
2373 648.38 Licensure examination for bail bond agents; time;
2374 place; fees; scope.—
2375 (2) The department or a person designated by the department
2376 shall provide ~~mail written~~ notice of the time and place of the
2377 examination to each applicant for licensure required to take an
2378 examination who will be eligible to take the examination as of

2379 the examination date. The notice shall be e-mailed ~~so mailed,~~
2380 ~~postage prepaid, and addressed~~ to the applicant at the e-mail
2381 ~~his or her~~ address shown on his or her application for licensure
2382 ~~or at such other address as requested by the applicant in~~
2383 ~~writing filed with the department prior to the mailing of the~~
2384 ~~notice~~. Notice shall be deemed given when so mailed.
2385 Section 55. Section 648.385, Florida Statutes, is amended
2386 to read:
2387 648.385 Continuing education required; application;
2388 exceptions; requirements; penalties.—
2389 (1) The purpose of this section is to establish
2390 requirements and standards for continuing education courses for
2391 persons authorized to write bail bonds in this state.
2392 (2)~~(a)~~ Each person subject to ~~the provisions of~~ this
2393 chapter must complete a minimum of 14 hours of continuing
2394 education courses every 2 years as specified in s. 626.2815 ~~in~~
2395 ~~courses approved by the department~~. ~~Compliance with continuing~~
2396 ~~education requirements is a condition precedent to the issuance,~~
2397 ~~continuation, or renewal of any appointment subject to the~~
2398 ~~provisions of this chapter.~~
2399 ~~(b) A person teaching any approved course of instruction or~~
2400 ~~lecturing at any approved seminar and attending the entire~~
2401 ~~course or seminar shall qualify for the same number of classroom~~
2402 ~~hours as would be granted to a person taking and successfully~~
2403 ~~completing such course, seminar, or program. Credit shall be~~
2404 ~~limited to the number of hours actually taught unless a person~~
2405 ~~attends the entire course or seminar.~~
2406 ~~(c) For good cause shown, the department may grant an~~
2407 ~~extension of time during which the requirements imposed by this~~

2408 ~~section may be completed, but such extension of time may not~~
2409 ~~exceed 1 year.~~
2410 ~~(3)(a) Any bail-related course developed or sponsored by~~
2411 ~~any authorized insurer or recognized bail bond agents'~~
2412 ~~association, or any independent study program of instruction,~~
2413 ~~subject to approval by the department, qualifies for the~~
2414 ~~equivalency of the number of classroom hours assigned to such~~
2415 ~~course by the department. However, unless otherwise provided in~~
2416 ~~this section, continuing education credit may not be credited~~
2417 ~~toward meeting the requirements of this section unless the~~
2418 ~~course is provided by classroom instruction or results in a~~
2419 ~~monitored examination.~~
2420 ~~(b) Each person or entity sponsoring a course for~~
2421 ~~continuing education credit must furnish, within 30 days after~~
2422 ~~completion of the course, in a form satisfactory to the~~
2423 ~~department or its designee, a written and certified roster~~
2424 ~~showing the name and license number of all persons successfully~~
2425 ~~completing such course and requesting credit, accompanied by the~~
2426 ~~required fee. The department shall refuse to issue, continue, or~~
2427 ~~renew the appointment of any bail bond agent who has not had the~~
2428 ~~continuing education requirements certified unless the agent has~~
2429 ~~been granted an extension by the department.~~
2430 Section 56. Section 648.421, Florida Statutes, is amended
2431 to read
2432 648.421 Notice of change of address or telephone number.—
2433 Each licensee under this chapter must ~~shall~~ notify, in writing,
2434 the department, insurer, managing general agent, and the clerk
2435 of each court in which the licensee is registered within 10
2436 working days after a change in the licensee's principal business

2437 address or telephone number. The licensee must ~~shall~~ also notify
2438 the department within 10 working days after a change of the
2439 name, address, or telephone number of each agency or firm for
2440 which he or she writes bonds and any change in the licensee's
2441 name, home address, e-mail address, or telephone number.
2442 Section 57. Subsection (1) of section 903.27, Florida
2443 Statutes, is amended to read:
2444 903.27 Forfeiture to judgment.—
2445 (1) If the forfeiture is not paid or discharged by court
2446 order ~~of a court of competent jurisdiction~~ within 60 days and
2447 the bond is secured other than by money and bonds authorized
2448 under ~~in~~ s. 903.16, the clerk of the circuit court for the
2449 county where the order was made shall enter a judgment against
2450 the surety for the amount of the penalty and issue execution.
2451 However, if ~~in any case in which~~ the bond forfeiture has been
2452 discharged by the court ~~of competent jurisdiction~~ conditioned
2453 upon the payment by the surety of certain costs or fees as
2454 allowed by statute, the amount for which judgment may be entered
2455 may not exceed the amount of the unpaid fees or costs upon which
2456 the discharge had been conditioned. Judgment for the full amount
2457 of the forfeiture may ~~shall~~ not be entered if payment of a
2458 lesser amount will satisfy the conditions to discharge the
2459 forfeiture. Within 10 days, the clerk shall furnish the
2460 ~~Department of Financial Services and the Office of Insurance~~
2461 ~~Regulation of the Financial Services Commission with a certified~~
2462 ~~copy of the judgment docket and shall furnish the~~ surety company
2463 ~~at its home office~~ a copy of the judgment at its home office,
2464 which includes ~~shall include~~ the power of attorney number of the
2465 bond and the name of the executing agent. If the judgment is not

2466 paid within 60 ~~35~~ days, the clerk shall furnish ~~the Department~~
2467 ~~of Financial Services,~~ the Office of Insurance Regulation~~,~~ and
2468 the sheriff of the county in which the bond was executed, or the
2469 official responsible for operation of the county jail~~,~~ if other
2470 than the sheriff, two certified copies of the transcript of the
2471 docket of the judgment and a certificate stating that the
2472 judgment remains unsatisfied. ~~When and~~ If the judgment is
2473 properly paid or a court ~~an~~ order to vacate the judgment has
2474 been entered ~~by a court of competent jurisdiction~~, the clerk
2475 shall immediately notify the sheriff, or the official
2476 responsible for the operation of the county jail~~,~~ if other than
2477 the sheriff, ~~and the Department of Financial Services~~ and the
2478 Office of Insurance Regulation, if the ~~department and~~ office had
2479 been previously notified of nonpayment, of such payment or order
2480 to vacate the judgment. The clerk shall also immediately prepare
2481 and record in the public records a satisfaction of the judgment
2482 or record the order to vacate judgment. If the defendant is
2483 returned to the county of jurisdiction of the court and~~,~~
2484 ~~whenever~~ a motion to set aside the judgment is filed, the
2485 operation of this section is tolled until the court makes a
2486 disposition of the motion.
2487 Section 58. Except as otherwise expressly provided in this
2488 act, this act shall take effect October 1, 2012.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Budget
Budget - Subcommittee on Health and Human Services Appropriations
Community Affairs
Judiciary
Rules
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR GARRETT RICHTER
37th District

January 20, 2012

The Honorable JD Alexander, Chair
Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

Senate Bill 938, related to Insurance Agents and Adjusters, has been referred to Budget as its third committee of reference. SB 938 passed favorably through the Banking & Insurance committee as well as the Budget sub-committee on General Government Appropriations by unanimous vote. I would appreciate the placing of this bill on your committee's next available agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Terry Rhodes, Staff Director

REPLY TO:
❒ 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
❒ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
❒ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 952

INTRODUCER: Senator Oelrich

SUBJECT: Recreation and Parks

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	**Favorable**
2.	Pigott	DeLoach	BGA	**Favorable**
3.	Pigott	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

The bill repeals duplicative statutes dealing with the authority that cities and counties have to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The statutes also authorize the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.[1]

The bill repeals ss. 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, of the Florida Statutes.

II. Present Situation:

In 1925, part I, of chapter 418, F.S., was enacted authorizing cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The law also authorizes the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.

[1] S 200.001(1)(c), F.S., for counties and s. 200.001(2)(c), F.S., for municipalities.

Section 418.12, F.S., describes the duties and functions of the Division of Recreation and Parks within DEP. The most recent amendment to Part I of chapter 418, F.S., occurred in 1994, to s. 418.12, F.S., when the Department of Natural Resources was changed to the Department of Environmental Protection.

III. Effect of Proposed Changes:

Section 1 repeals ss. 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, F.S. Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap for the creation of recreation facilities.

Section 2 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Oelrich

14-00925-12 2012952__

A bill to be entitled

An act relating to recreation and parks; repealing s. 418.01, F.S., relating to scope of chapter and a definition; repealing s. 418.02, F.S., relating to recreation centers, use and acquisition of land, and equipment and maintenance; repealing s. 418.03, F.S., relating to supervision; repealing s. 418.04, F.S., relating to playground and recreation boards; repealing s. 418.05, F.S., relating to cooperation with other units and boards; repealing s. 418.06, F.S., relating to gifts, grants, devises, and bequests; repealing s. 418.07, F.S., relating to issuance of bonds; repealing s. 418.08, F.S., relating to petition for referendum; repealing s. 418.09, F.S., relating to resolution or ordinance providing for recreation system; repealing s. 418.10, F.S., relating to tax levy; repealing s. 418.11, F.S., relating to payment of expenses and custody of funds; repealing s. 418.12, F.S., relating to duties and functions of the Division of Recreation and Parks of the Department of Environmental Protection; providing an effective date.

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

Section 1. <u>Sections 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, Florida Statutes, are repealed.</u>

Section 2. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 24, 2012

I respectfully request that **Senate Bill # 952**, relating to Recreation and Parks, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Steve Oelrich

Senator Steve Oelrich
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: SB 998

INTRODUCER: Senator Negron and others

SUBJECT: Concealed Weapons or Firearms

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	**Favorable**
2.	Cellon	Cannon	CJ	**Favorable**
3.	Blizzard	DeLoach	BGA	**Favorable**
4.	Blizzard	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

Current law requires that a Florida resident must be at least 21 years of age in order to be eligible to obtain a concealed weapons license. The bill amends the concealed weapons license law to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapons license.

The bill also allows nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapons license from another state which honors Florida's concealed weapons license, to exercise the same concealed weapons license rights available to Florida resident concealed weapons licensees.

The provisions of this bill may result in potential increased economic activity from sales of firearms to previously ineligible concealed weapon or firearm licensees, particularly for merchants in areas with a significant military presence. The department anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees.

The bill creates section 790.062 of the Florida Statutes, and amends section 790.015 of the Florida Statutes.

The bill provides that the act will take effect upon becoming law.

II. Present Situation:

Issuance of Concealed Weapon Licenses
The Department of Agriculture and Consumer Services (department) is statutorily authorized to issue licenses to carry concealed weapons and firearms.[1] Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.[2] An applicant must provide identifying information, including fingerprints, to the department for processing prior to the issuance of a concealed-carry license.

The department examines a number of criteria in determining whether an applicant meets the statutory conditions for issuance of a concealed carry license. The age of the applicant is among the criteria the department examines. An applicant must be 21 years of age of older in order to obtain a concealed-carry license in Florida.[3]

Additional statutory conditions for issuance of a concealed carry license require that an applicant:

- Be a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Not be ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Not have been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the three-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order;

[1] s. 790.06(1), F.S.
[2] *Id.*
[3] s. 790.06(1)(b), F.S.

- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.[4]

Concealed Carry Reciprocity

The state of Florida practices reciprocity with 35 other states which allows concealed weapon licensees from those participating states to carry their concealed weapons in Florida. Accordingly, those states must also recognize and honor concealed weapon licenses issued by the state of Florida.[5]

Section 790.015(1), F.S., provides that a U.S. resident who is a Florida nonresident may carry a concealed weapon or firearm in Florida if the nonresident:

- Is at least 21 years of age; and
- Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.[6]

The concealed carry reciprocity provisions only apply to nonresident concealed weapon or concealed firearm licensees from states that honor Florida concealed weapon or concealed firearm licenses.[7] Additionally, such nonresident licensees are subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.[8]

Active Duty Military and Veterans Under 21 Years of Age

According to data provided by the Florida Department of Military Affairs, as of November 30, 2011 there were a total of 5,608 active duty service members under the age of twenty-one assigned to units in Florida. The data for November 30, 2011 also shows that there were a total of 2,579 National Guard and Reserve members assigned to Florida units.[9]

Data provided by the Florida Department of Veterans' Affairs indicates that on September 30, 2010 there were an estimated 407 military veterans in Florida who were under the age of twenty

[4] s. 790.06(2), F.S
[5] *See*, http://licgweb.doacs.state.fl.us/news/concealed_carry.html for more information on states that recognize Florida's concealed weapons license.
[6] s. 790.015(1), F.S.
[7] s. 790.015(3), F.S.
[8] s. 790.015(2), F.S.
[9] Data on file with the Senate Military Affairs, Space, and Domestic Security Committee.

and 18,036 between 20 and 24 years of age. It is not possible to determine from the data provided how many of the 20-24 year age group are 20 or 21 years old, the persons to whom the bill may apply. The veteran population numbers do not indicate how many of those veterans were honorably discharged.[10]

III. Effect of Proposed Changes:

Section 1 creates s. 790.062, F.S., to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapon or firearm license. The bill also requires the department to accept background check fingerprints for military concealed weapon license applicants which have been prepared by military law enforcement officials.

Section 2 amends s. 790.015, F.S., to allow Florida nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapon license from another state which honors Florida's concealed weapon license, to exercise the same concealed weapon license rights available to Florida resident concealed weapon licensees.

Section 3 provides that the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provisions of this bill may result in potential increased economic activity from increased sales of firearms to previously ineligible concealed weapon or firearm licensees. This would particularly be applicable for merchants in areas with a significant military presence.

[10] *Id.*

C. Government Sector Impact:

The department anticipates some increase in the volume of concealed weapon license application revenue from 18 to 20 year old military servicemembers and honorably discharged veteran applicants based on the provisions in the bill. The amount of the increased revenue is indeterminate.[11]

The department also anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees. These increased costs are indeterminate at this time.[12]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

[11] Florida Department of Agriculture and Consumer Services, *Senate Bill 998 Analysis* (December 6, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).
[12] *Id.*

By Senator Negron

28-00934A-12 2012998__

A bill to be entitled

An act relating to concealed weapons or firearms; creating s. 790.062, F.S.; providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; amending s. 790.015, F.S.; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age; providing an effective date.

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

Section 1. Section 790.062, Florida Statutes, is created to read:

790.062 Members and veterans of United States Armed Forces; exceptions from licensure provisions.—

(1) Notwithstanding s. 790.06(2)(b), the Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm under s. 790.06 if the applicant is otherwise qualified and:

(a) Is a servicemember, as defined in s. 250.01; or

(b) Is a veteran of the United States Armed Forces who was discharged under honorable conditions.

(2) The Department of Agriculture and Consumer Services shall accept fingerprints of an applicant under this section administered by any law enforcement agency, military provost, or

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

28-00934A-12 2012998__

other military unit charged with law enforcement duties or as otherwise provided for in 790.06(5)(c).

Section 2. Section 790.015, Florida Statutes, is amended to read:

790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.—

(1) Notwithstanding s. 790.01, ~~a resident of the United States who is~~ a nonresident of Florida may carry a concealed weapon or concealed firearm while in this state if the nonresident:

(a) Is 21 years of age or older.~~; and~~

(b) Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.

(c) Is a resident of the United States.

(2) A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.

(3) If the resident of another state who is the holder of a valid license to carry a concealed weapon or concealed firearm issued in another state establishes legal residence in this state by:

(a) Registering to vote;~~, or~~

(b) Making a statement of domicile pursuant to s. 222.17;~~,~~ or

(c) Filing for homestead tax exemption on property in this state,

the license shall remain in effect for 90 days following the

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

59 date on which the holder of the license establishes legal state
60 residence.
61 (4) This section applies only to nonresident concealed
62 weapon or concealed firearm licenseholders from states that
63 honor Florida concealed weapon or concealed firearm licenses.
64 (5) The requirement of paragraph (1)(a) does not apply to a
65 person who:
66 (a) Is a servicemember, as defined in s. 250.01; or
67 (b) Is a veteran of the United States Armed Forces who was
68 discharged under honorable conditions.
69 Section 3. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON
28th District

COMMITTEES:
Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:
Protecting Florida's Children, *Chair*

JOINT COMMITTEE:
Legislative Budget Commission

January 19, 2012

The Honorable JD Alexander, Chair
Committee on Budget
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 998

Dear Chairman Alexander:

I would like to request Senate Bill 998 relating to concealed weapons be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 28

JN/hd
c: Terry Rhodes, Staff Director

SENATE APPROPRIATIONS
12 JAN 19 PM 3:15
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 1040

INTRODUCER: Senator Bogdanoff

SUBJECT: Dental Hygienists

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Favorable**
2.	Bradford	Hendon	BHA	**Favorable**
3.	Bradford	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

The bill authorizes dental hygienists to administer local anesthesia to nonsedated adult patients under the direct supervision of a licensed dentist. Dental hygienists desiring this privilege must be certified by the Department of Health (DOH) or its designee, complete an approved course in the administration of local anesthesia, and have current training in basic or advanced cardiac life support. The Board of Dentistry within the DOH may charge a certification fee of up to $35. Certification never expires, and no continuing education is required.

The department indicates that the fiscal impact of this bill is insignificant and can be absorbed with existing resources.

This bill substantially amends ss. 466.017 and 466.023, F.S.

The effective date of this bill is July 1, 2012.

II. Present Situation:

Scope of Practice of Dental Hygienists

A dental hygienist is a person licensed by the DOH to render educational, preventive, and therapeutic dental services and any related extra-oral procedures required in the performance of such services.[1] Dental hygienists practice under the supervision of dentists[2] and may be

[1] Section 466.003(4) and (5), F.S.
[2] Section 466.023(1), F.S. Supervision may be direct, indirect, or general.

delegated various remediable tasks – intraoral treatment tasks which are reversible and do not cause an increased risk to the patient. Dental hygienists may not perform any irremediable tasks – intraoral treatment tasks which are irreversible or cause an increased risk to the patient. The administration of anesthetics other than topical anesthetics is considered to be an irremediable task.[3] Dentists remain primarily responsible for any procedures they delegate.[4]

Tasks dental hygienists may perform under supervision include:[5]

- Removing calculus deposits, accretions, and stains from exposed surfaces of the teeth and gingival sulcus,
- Exposing dental x-ray films,
- Applying topical preventive or prophylactic agents,
- Taking impressions for study casts but not for the purpose of fabricating any intraoral restorations or orthodontic appliance,
- Placing periodontal dressings,
- Removing sutures,
- Placing or removing rubber dams,
- Applying cavity liners, varnishes, or bases,
- Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth, and
- Obtaining bacteriological cytological specimens not involving cutting of the tissue.

Dental hygienists may perform the following services without supervision:

- Providing educational or training programs to faculty or staff,
- Applying fluorides,
- Instructing and supervising a patient in oral hygiene care,[6]
- Dental charting,[7]
- Other services which do not involve diagnosis or treatment of dental conditions, and[8]
- Certain diagnostic and treatment procedures, in emergency situations.[9]

Dental hygienists may perform certain additional tasks, including recording patient histories, measuring blood pressure and oral temperature, and applying dental sealants, without the supervision of a dentist when practicing in a health access setting.[10] Certain disclaimers and other conditions are required.[11]

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[3] Section 466.003, F.S.
[4] Section 466.024(9), F.S.
[5] Section 466.023(1), F.S. A full list tasks which may be performed by dental hygienists is found in Rule 64B5-16.006, F.A.C.
[6] Sections 466.023(3) and 466.024(1), F.S.
[7] Per s. 466.025, F.S., dental charting refers to recording visual observations of clinical conditions of the oral cavity without the use of X-rays, laboratory tests, or other diagnostic methods of equipment, except the instruments necessary to record visual restoration, missing teeth, suspicious areas, and periodontal pockets. Dental charting does not constitute a patient of record or a medical record.
[8] Rule 64B5-16.007(4), F.A.C.
[9] Rule 64B5-16.008, F.A.C. The service may only be provided by a dental hygienist who is currently certified in cardiopulmonary resuscitation (CPR), and the patient must seen by a dentist within 3 days.
[10] A health access setting is defined in s. 466.003(14), F.S., as a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head

Hygienists must undergo training before performing most remediable tasks. This training may be completed via a DOH-approved course or may have been part of the hygienist's initial training program.[12] Certain other remediable tasks require at least 6 months of on-the-job training provided by a licensed dentist.[13] Dental hygienists practicing prior to April 30, 1980 who were at that time authorized to perform tasks set forth by Board of Dentistry (board) rule may continue to perform those tasks without any additional training.[14]

Dental hygienists are never allowed to prescribe medications, make diagnoses, or conduct treatment planning.[15]

Anesthesia in Dentistry

Currently, only licensed dentists may administer general or local anesthetics within the practice of dentistry.[16] The primary anesthesia modalities used in dentistry are local anesthesia, general anesthesia, conscious sedation, and nitrous-oxide inhalation analgesia. Local anesthesia leads to diminished pain sensation in a specific area of the body without loss of consciousness, usually achieved with a topically-applied or superficially-injected numbing agent. General anesthesia refers to a controlled state of pharmacologically-induced unconsciousness accompanied by a partial or complete loss of protective reflexes. Conscious sedation means a depressed level of consciousness produced by a pharmacologic substance in which the patient's ability to independently maintain an airway and respond appropriately to physical and verbal stimulation is retained. Nitrous-oxide inhalation anesthesia is produced by the inhalation of a combination of nitrous-oxide and oxygen and causes an altered level of consciousness while retaining the patient's ability to independently maintain an airway and respond appropriately to physical stimulation or verbal command.[17]

Dentists are automatically authorized to administer local anesthesia and may perform general anesthesia, conscious sedation, or pediatric conscious sedation after obtaining the appropriate permit. Dentists may use nitrous-oxide inhalation analgesia after complying with certain rules. Oral medications may not be used for sedation unless the dentist holds a conscious sedation permit, and the administration of propofol, methohexital, thiopental, or etomidate is prohibited without a general anesthesia permit.[18]

Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, F.S., s. 466.028, F.S., or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

[11] Section 466.024(2)- (5), F.S.
[12] Rule 64B5-16.002(1), F.A.C.
[13] Rule 64B5-16.002(4), F.A.C.
[14] Rule 64B5-16.010, F.A.C.
[15] Section 466.024(8), F.S.
[16] Section 466.017(1), F.S.
[17] Rule 64B5-14.001, F.A.C.
[18] Rule 64B5-14.002, F.A.C.

An applicant for any type of anesthesia permit must demonstrate training and competency in the desired anesthesia modality, including documentation of administration of that type of anesthetic to twenty actual patients within 2 years prior to application and direct observation of the applicant in various simulated emergency situations by a board-appointed consultant.[19,20] The locations in which anesthesia will be administered must also be inspected by the board to ensure that conditions are adequate and appropriate personnel have been trained for maximizing patient safety and managing any anesthesia emergencies.[21]

Anesthesia permits initially cost $300 and must be renewed biennially for $200.[22] Dentists must complete 4 hours of continuing education to be eligible for renewal, including 2 hours dealing with the management of medical emergencies.[23] The board reserves the right to re-evaluate the dentist's office and credentials before renewing a permit.[24] Once granted, permits only authorize anesthesia administration at the location or locations previously inspected by the board.[25]

To perform nitrous-oxide inhalation anesthesia, a dentist must complete a 2-day training course described in the American Dental Association's "Guidelines for Teaching and Comprehensive Control of Pain and Anxiety in Dentistry" or its equivalent (with special exceptions for dentists practicing before January 1, 1986) and have adequate equipment with fail-safe features and a 25 percent minimum oxygen flow. Alternatively, a dentist who holds any type of anesthesia permit is also authorized to perform nitrous-oxide inhalation anesthesia.

All dentists using conscious sedation, general anesthesia, or nitrous-oxide inhalation anesthesia must be currently certified in cardiopulmonary resuscitation (CPR) and either Advanced Cardiac Life Support (ACLS) or Advanced Trauma Life Support. Dentists using pediatric conscious sedation must be certified in ACLS, Pediatric Advanced Life Support (for pediatric conscious sedation), or a similar life support program approved by the board.[26] Dentists using local anesthesia must be currently certified in either basic CPR for health professionals or ACLS.[27]

Current Role of Dental Hygienists in Anesthesia

The presence of at least one assistant is required for all general anesthesia, conscious sedation, and pediatric conscious sedation procedures. Dental hygienists may assist with such procedures under the direct supervision of a permitted dentist if they are CPR-certified at the basic life support level.[28] Dental hygienists may monitor nitrous-oxide inhalation analgesia under the direct supervision of a permitted dentist if they additionally complete at least a 2-day training

[19] Rule 64B5-14.005(2) , (3), and (8), F.A.C.
[20] Rule 64B514.007(2), F.A.C.
[21] Specific guidelines regarding required equipment, medication, training, and records for facilities in which anesthesia is used can be found in Rule 64B5-14.008, 64B5-14.009, and 64B5-14.010, F.A.C., concerning general anesthesia, conscious sedation, and pediatric conscious sedation, respectively.
[22] Rules 64B5-15.017, 64B5-15.018, and 64B5-15.019, F.A.C.
[23] Rule 64B5-14.004(6), F.A.C.
[24] Rule 64B5-14.005(7), F.A.C.
[25] Rule 64B5-14.005(2) , (3), and (8), F.A.C.
[26] Rule 64B5-14.003, F.A.C.
[27] Section 466.017(4), F.S.
[28] Rule 64B5-14.003, F.A.C.

course as described in the American Dental Association's "Guidelines for Teaching and Comprehensive Control of Pain and Anxiety in Dentistry" or an equivalent.[29]

III. Effect of Proposed Changes:

Section 1 amends s. 466.017, F.S., to allow dental hygienists to administer local anesthesia to nonsedated adult patients under the direct supervision of a dentist, notwithstanding s. 466.003(11), F.S., which states that the administration of any anesthesia other than topical anesthesia is an irremediable task. Such hygienists must complete a course in the administration of local anesthesia offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or approved by the board. The course must contain 30 hours each of didactic and clinical instruction and must cover the following topics:

- Theory of pain control,
- Selection-of-pain-control modalities,
- Anatomy,
- Neurophysiology,
- Pharmacology of local anesthetics,
- Pharmacology of vasoconstrictors,
- Psychological aspects of pain control,
- Systemic complications,
- Techniques of maxillary anesthesia,
- Techniques of mandibular anesthesia,
- Infection control, and
- Medical emergencies involving local anesthesia.

Dental hygienists must also be currently certified in basic or advanced cardiac life support.

After completing these two requirements, hygienists can apply for local anesthesia certification from the DOH or its designee. A certification fee, if any, may not exceed $35 and will be used to defray the cost of validating applications and printing certificates. Once granted, local anesthesia certification never has to be renewed but must be prominently displayed at every location at which the hygienist performs local anesthesia.

Section 2 amends s. 466.023, F.S., to add administration of local anesthesia to the list of tasks within a dental hygienist's scope of practice.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

[29] Rule 64B5-14.004(2), F.A.C.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Up to a $35 fee may be levied by the Board of Dentistry in the DOH for providing local anesthesia certification to dental hygienists.

B. Private Sector Impact:

Dental hygienists will be able to perform local anesthesia procedures on adult patients under the direct supervision of a licensed dentist.

C. Government Sector Impact:

The DOH will experience a non-recurring increase in workload for rulemaking and updating its practitioner licensing system. They will also experience a recurring increase in workload relating to processing of local anesthesia certifications for dental hygienists as well as in investigating hygienists who are noncompliant with the bill's provisions, and a potential positive fiscal impact from the collection of corresponding certification fees. The department indicates that the workload increase can be handled with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 54-55 of the bill state that dental hygienists seeking local anesthesia certification must show evidence of basic or advanced cardiac life support certification. However, the bill does not provide any guidance as to which organizations are authorized to provide this certification nor to whom hygienists must show evidence of their certification. Subsection (4) of s. 466.017, F.S., the section which these lines are amending, provides that dentists who administer anesthesia must be certified in basic CPR for health professionals or ACLS approved by the American Red Cross, the American Heart Association, or a similar course with recertification every 2 years.

The bill does not require dental hygienists to complete any continuing education to maintain anesthesia certification. However, some level of continuing education might be advisable to ensure that hygienists are up to date with current anesthesia modalities.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Bogdanoff

25-00525B-12 20121040__

A bill to be entitled

An act relating to dental hygienists; amending s. 466.017, F.S.; authorizing a dental hygienist, under the supervision of a dentist, to administer local anesthesia to certain patients if the hygienist meets certain criteria; providing the criteria that a dental hygienist must meet in order to administer local anesthesia; authorizing a dental hygienist to apply for certification to administer local anesthesia; requiring the Department of Health to issue the certificate under certain circumstances; authorizing the board to charge a fee, not to exceed a specified amount, to defray the cost of verifying criteria and issuing a certificate; providing that the certificate is part of the dental hygienist's permanent record; requiring that the certificate be prominently displayed; amending s. 466.023, F.S.; authorizing a dental hygienist to administer local anesthesia; providing an effective date.

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

Section 1. Present subsections (5) and (6) of section 466.017, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and new subsections (5) and (6) are added to that section, to read:

466.017 Prescription of drugs; anesthesia.—

(5) Notwithstanding s. 466.003(11), a dental hygienist under the direct supervision of a dentist may administer local

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

25-00525B-12 20121040__

anesthesia, including both intraoral block and soft tissue infiltration anesthesia, to a nonsedated patient who is 18 years of age or older, if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia which is offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or approved by the board. A course involving the administration of local anesthesia must contain a minimum of 30 hours of didactic instruction and 30 hours of clinical experience. This course involving the administration of local anesthesia must include instruction in:

1. Theory of pain control.
2. Selection-of-pain-control modalities.
3. Anatomy.
4. Neurophysiology.
5. Pharmacology of local anesthetics.
6. Pharmacology of vasoconstrictors.
7. Psychological aspects of pain control.
8. Systemic complications.
9. Techniques of maxillary anesthesia.
10. Techniques of mandibular anesthesia.
11. Infection control.
12. Medical emergencies involving local anesthesia.

(b) The dental hygienist maintains and shows evidence of current certification in basic or advanced cardiac life support.

(c) The dental hygienist holds a certificate issued under subsection (6).

(6) An individual dental hygienist may apply for

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

59 certification to administer local anesthesia under subsection
60 (5). According to rules adopted by the board, the department or
61 its designee shall issue a certificate to a dental hygienist who
62 proves that he or she has met the criteria in paragraphs (5)(a)
63 and (b). The board may charge a fee, not to exceed $35, to
64 defray the cost of verifying that the dental hygienist has met
65 the criteria in paragraphs (5)(a) and (b) and issuing the
66 certificate. The certificate is not subject to renewal but is
67 part of the dental hygienist's permanent record and must be
68 prominently displayed at the location where the dental hygienist
69 is authorized to administer local anesthesia.
70 Section 2. Subsection (7) is added to section 466.023,
71 Florida Statutes, to read:
72 466.023 Dental hygienists; scope and area of practice.—
73 (7) A dental hygienist may administer local anesthesia as
74 provided in s. 466.017.
75 Section 3. This act shall take effect July 1, 2012.

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)

2-21-12
Meeting Date

Topic: Dental Hygienists

Bill Number: 1040 *(if applicable)*

Name: TREVOR MASK

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 215 S MONROE ST
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: (850)577-0398

E-mail: tmask@cfflaw.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: FLORIDA DENTAL HYGIENE ASSOCIATION

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: Dental Hygienists

Bill Number: SB 1040 *(if applicable)*

Name: Joe Anne Hart

Amendment Barcode: *(if applicable)*

Job Title: Director of Governmental Affairs

Address: 5469 Cadco Drive
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: (850) 224-1059

E-mail: jahart@floridadental.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Dental Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Finance and Tax, *Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

SENATOR ELLYN SETNOR BOGDANOFF
25th District

January 19, 2012

Senator JD Alexander, Chair
Senate Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Re: SB 1040-Relating to Dental Hygienists

Chair Alexander:

I am writing to request that you place **SB 1040-Relating to Dental Hygienists** on the agenda of your Committee on Budget at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Terry Rhodes, Staff Director

SENATE APPROPRIATIONS
12 JAN 19 PM 12:40
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
☐ 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
☐ 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 1084

INTRODUCER: Senator Garcia

SUBJECT: Administrative Procedures

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Seay	Roberts	GO	**Favorable**
2.	Martin	Meyer, R.	BTA	**Favorable**
3.	Martin	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

This bill revises statutory provisions relating to the Florida Administrative Code and the Florida Administrative Weekly. The bill removes the requirement that the Department of State must publish a printed version of the Florida Administrative Code. The bill also provides that the electronic version of the Florida Administrative Code is the official version for the state.

Additionally, the bill changes the name of the Florida Administrative Weekly to the Florida Administrative Register. The bill provides that the electronic version of the Florida Administrative Register is the official version for the state. The bill removes the requirement that the Department of State provide free print copies of the Florida Administrative Register to various federal and state government entities. The bill also provides that the Department of State is no longer responsible for reviewing agency submissions to the Florida Administrative Register for various errors. The bill also includes a directive to the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term Florida Administrative Register for the term Florida Administrative Weekly throughout the Florida Statutes.

This bill substantially amends section 120.55 of the Florida Statutes.

II. Present Situation:

The *Florida Administrative Code* (FAC) is the official compilation of administrative rules for the State of Florida. The Department of State (DOS) oversees the publishing of the FAC and the monthly supplements. The online, unofficial version of the FAC is updated weekly on the department's rulemaking website.

DOS is required to publish the FAC, which contains all rules adopted by agencies, together with references to rulemaking authority and history notes.[1] The FAC must be supplemented at least monthly.[2] DOS currently contracts with LexisNexis for the printing of the FAC.[3] Current law provides that the printed version of the FAC is the official version.[4]

Under current law, DOS is required to publish notices and various other materials filed by the state's administrative agencies in the *Florida Administrative Weekly* (FAW).[5,6] The FAW must contain:

- Notice of adoption of, and an index to, all rules filed during the preceding week;
- All notices required by s. 120.54(3)(a), F.S., concerning agency rulemaking, showing the text of all rules proposed for consideration or a reference to the location in the FAW where the text of the proposed rules is published;
- All notices of public meetings, hearings, and workshops, including a statement of the manner in which a copy of the agenda may be obtained;
- A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules;
- Notice of petitions for declaratory statements or administrative determinations;
- A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week; and
- Any other material required or authorized by law or deemed useful by the department.[7]

Responsibility for the grammatical editing of the FAW is statutorily assigned to DOS.[8] Additionally, DOS is required to adopt rules prescribing the style and form required for rules submitted for filing and establishing the form for rule certification.[9]

DOS contracts with LexisNexis for publication of the FAW in a printed format.[10] The FAW is published on Fridays and distributed for free to administrative agencies, courts, libraries, law schools, and legislative offices.[11] According to DOS, the FAW has approximately 191 paid

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[1] Section 120.55(1)(a)1., F.S.
[2] *Id.*
[3] E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).
[4] Section 120.55(1)(a)1., F.S.
[5] Section 120.55(1)(b), F.S.
[6] According to DOS, approximately 300 entities in the state publish notices in the Florida Administrative Weekly. These entities include state agencies, other units of state and local government, and nongovernmental entities.
[7] Section 120.55(1)(b), F.S.
[8] Section 120.55(1)(e), F.S.
[9] Section 120.55(1)(d), F.S.
[10] E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).
[11] Section 120.55(7)(a)1., F.S., requires the department to furnish the FAW, without charge and upon request, as follows:

- One subscription to each federal and state court having jurisdiction over the residents of the state, the Legislative Library, each state university library, the State Library, each depository library designated pursuant to s. 257.05, F.S., and each standing committee of the Senate and House of Representatives and each state legislator;
- Two subscriptions to each state department;
- Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House of Representatives; and

subscribers, who pay an annual subscription fee of $307 per year.[12] In addition to producing the paper version of the FAW, DOS posts copies of the FAW at *www.flrules.org.*, which may be accessed by the public for free.[13]

Current law requires all fees and moneys collected by DOS under the Administrative Procedure Act (APA)[14] to be deposited in the Records Management Trust Fund for the purpose of paying for the publication of the FAC and FAW, and for associated costs incurred by the department in administering the APA's requirements.[15] The unencumbered balance at the beginning of each fiscal year, which exceeds $300,000, must be transferred to the General Revenue Fund.[16]

The following fees and moneys were collected by DOS under the APA in FY 2010-11:

- DOS collected $552,563 for the space rate, also known as the line charge. The current charge is $1.24 per line.
- DOS collected $51,238 for royalties from the sale of the FAC. Currently, copies of the FAC are sold by LexisNexis. The majority of revenues from the sale of the FAC are retained by the company as compensation for printing the code. DOS receives a small amount in royalties.[17]

Subscription fees charged to FAW subscribers are retained by the publisher as compensation for printing the FAW.[18]

III. Effect of Proposed Changes:

Section 1 amends s. 120.55, F.S., deleting the requirement that the Department of State (DOS) must publish a printed version of the Florida Administrative Code (FAC); providing that the electronic version of the FAC is the official version for the state; allowing DOS to contract with a publisher to provide a printed publication of the FAC; requiring that adopted rules and material incorporated by reference be filed in an electronic format; changing the name of the Florida Administrative Weekly (FAW) to the Florida Administrative Register (FAR); providing that the electronic version of the FAR is the official version for the state; requiring DOS to continually revise the FAR; deleting requirement that the FAR must contain notices of adoption of, and an index to, all rules filed during the preceding week; deleting requirement that the FAR must contain a cumulative list of all rules that have been proposed but not filed for adoption; allowing DOS to contract with a publisher to provide a printed publication of the FAR; providing that a printed copy of the FAR may be made available on an annual subscription basis; providing that DOS is not responsible for reviewing agency submissions to the FAR for various errors; deleting

- Ten subscriptions to the committee.

[12] E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).
[13] Section 120.55(2), F.S.
[14] Chapter 120, F.S.
[15] Section 120.55(8)(a), F.S.
[16] Section 120.55(8)(b), F.S.
[17] E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).
[18] *Id.*

requirement that DOS furnish free print copies of the FAR to federal and state government entities; and replacing references to the FAW to FAR.

Section 2 directs the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term Florida Administrative Register for the term Florida Administrative Weekly throughout the Florida Statutes.

Section 3 provides an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Garcia

40-01075-12 20121084__

A bill to be entitled

An act relating to administrative procedures; amending s. 120.55, F.S.; revising provisions with respect to the revision and publication of the Florida Administrative Code to provide that the Department of State is not required to publish a printed version of the code but may contract with a publishing firm for a printed publication; providing that the electronic version of the code is the official compilation of the administrative rules of the state; providing for adopted rules and material incorporated by reference to be filed in electronic forms; renaming the "Florida Administrative Weekly" as the "Florida Administrative Register"; requiring a continuous revision and publication of the Florida Administrative Register on an Internet website managed by the Department of State; revising content and website search requirements; deleting a requirement to provide printed copies of the Florida Administrative Register to certain federal and state entities; providing a directive to the Division of Statutory Revision; providing an effective date.

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

Section 1. Section 120.55, Florida Statutes, is amended to read:

120.55 Publication.—

(1) The Department of State shall:

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40-01075-12 20121084__

(a)1. Through a continuous revision and publication system, compile and publish electronically, on an Internet website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority and the specific law implemented pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(7), complete indexes to all rules contained in the code, and any other material required or authorized by law or deemed useful by the department. The electronic code shall display each rule chapter currently in effect in browse mode and allow full text search of the code and each rule chapter. The department ~~shall publish a printed version of the Florida Administrative Code and~~ may contract with a publishing firm for a ~~such~~ printed publication; however, the department shall retain responsibility for the code as provided in this section. ~~Supplementation of the printed code shall be made as often as practicable, but at least monthly.~~ The electronic ~~printed~~ publication shall be the official compilation of the administrative rules of this state. The Department of State shall retain the copyright over the Florida Administrative Code.

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or state university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with

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an agency that files copies of its rules with the department, the department shall publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.

5. The department shall allow adopted rules and material incorporated by reference to be filed in electronic form as prescribed by department rule. When a rule is filed for adoption with incorporated material in electronic form, the department's publication of the Florida Administrative Code on its Internet website must contain a hyperlink from the incorporating reference in the rule directly to that material. The department may not allow hyperlinks from rules in the Florida

Administrative Code to any material other than that filed with and maintained by the department, but may allow hyperlinks to incorporated material maintained by the department from the adopting agency's website or other sites.

(b) Electronically publish on an Internet website managed by the department a continuous revision and ~~weekly~~ publication entitled the "Florida Administrative Register ~~Weekly~~," which shall serve as the official ~~Internet website for such~~ publication and must contain:

~~1. Notice of adoption of, and an index to, all rules filed during the preceding week.~~

1.~~2.~~ All notices required by s. 120.54(3)(a), showing the text of all rules proposed for consideration.

2.~~3.~~ All notices of public meetings, hearings, and workshops conducted in accordance with ~~the provisions of~~ s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.

3.~~4.~~ A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.

4.~~5.~~ Notice of petitions for declaratory statements or administrative determinations.

5.~~6.~~ A summary of each objection to any rule filed by the Administrative Procedures Committee ~~during the preceding week~~.

~~7. A cumulative list of all rules that have been proposed but not filed for adoption.~~

6.~~8.~~ Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for a printed publication ~~shall publish a printed version~~ of the Florida Administrative Register ~~Weekly~~ and make copies available on an annual subscription basis. ~~The department may contract with a publishing firm for printed publication of the Florida Administrative Weekly.~~

~~(c) Review notices for compliance with format and numbering requirements before publishing them on the Florida Administrative Weekly Internet website.~~

(c) ~~(d)~~ Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing.

~~(e) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules, after having obtained the advice and consent of the appropriate agency, and insert history notes.~~

(d) ~~(f)~~ Charge each agency using the Florida Administrative Register ~~Weekly~~ a space rate to cover the costs related to the Florida Administrative Register ~~Weekly~~ and the Florida Administrative Code.

(e) ~~(g)~~ Maintain a permanent record of all notices published in the Florida Administrative Register ~~Weekly~~.

(2) The Florida Administrative Register ~~Weekly~~ Internet website must allow users to:

(a) Search for notices by type, publication date, rule number, word, subject, and agency.~~;~~

(b) Search a database that makes available all notices published on the website for a period of at least 5 years.~~;~~

(c) Subscribe to an automated e-mail notification of selected notices to be sent out before or concurrently with

~~weekly~~ publication of the ~~printed and~~ electronic Florida Administrative Register ~~Weekly~~. Such notification must include in the text of the e-mail a summary of the content of each notice.~~;~~

(d) View agency forms and other materials submitted to the department in electronic form and incorporated by reference in proposed rules.~~; and~~

(e) Comment on proposed rules.

(3) Publication of material required by paragraph (1)(b) on the Florida Administrative Register ~~Weekly~~ Internet website does not preclude publication of such material on an agency's website or by other means.

(4) Each agency shall provide copies of its rules upon request, with citations to the grant of rulemaking authority and the specific law implemented for each rule.

(5) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Register ~~Code~~ or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the agency head who approved the rule, and the date upon which the rule was approved.

(6) Access to the Florida Administrative Register ~~Weekly~~ Internet website and its contents, including the e-mail notification service, shall be free for the public.

~~(7)(a) Each year the Department of State shall furnish the Florida Administrative Weekly, without charge and upon request, as follows:~~

~~1. One subscription to each federal and state court having jurisdiction over the residents of the state; the Legislative~~

175 ~~Library; each state university library; the State Library; each~~
176 ~~depository library designated pursuant to s. 257.05; and each~~
177 ~~standing committee of the Senate and House of Representatives~~
178 ~~and each state legislator.~~
179 ~~2. Two subscriptions to each state department.~~
180 ~~3. Three subscriptions to the library of the Supreme Court~~
181 ~~of Florida, the library of each state district court of appeal,~~
182 ~~the division, the library of the Attorney General, each law~~
183 ~~school library in Florida, the Secretary of the Senate, and the~~
184 ~~Clerk of the House of Representatives.~~
185 ~~4. Ten subscriptions to the committee.~~
186 ~~(b) The Department of State shall furnish one copy of the~~
187 ~~Florida Administrative Weekly, at no cost, to each clerk of the~~
188 ~~circuit court and each state department, for posting for public~~
189 ~~inspection.~~
190 (7) ~~(8)~~ (a) All fees and moneys collected by the Department
191 of State under this chapter shall be deposited in the Records
192 Management Trust Fund for the purpose of paying for costs
193 incurred by the department in carrying out this chapter.
194 (b) The unencumbered balance in the Records Management
195 Trust Fund for fees collected pursuant to this chapter may not
196 exceed $300,000 at the beginning of each fiscal year, and any
197 excess shall be transferred to the General Revenue Fund.
198 Section 2. The Division of Statutory Revision of the Office
199 of Legislative Services is requested to prepare a reviser's bill
200 for the 2013 Regular Session of the Legislature to substitute
201 the term "Florida Administrative Register" for the term "Florida
202 Administrative Weekly" throughout the Florida Statutes.
203 Section 3. This act shall take effect October 1, 2012.

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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)

2/21/12
Meeting Date

Topic: Florida Administrative Weekly

Bill Number: SB1084 *(if applicable)*

Name: Chris Snow

Amendment Barcode: *(if applicable)*

Job Title: Senior Director of Government Relations

Address: 1580 Waldo Palmer Lane
Street

Tallahassee, FL 32317
City, State, Zip

Phone: 3214749754

E-mail: csnow@spaceflorida.gov

Speaking: [✓] For [ ] Against [ ] Information

Representing: Space 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.

S-001 (10/20/11)

BC

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services
Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

February 3, 2012

The Honorable JD Alexander
Chair, Budget Committee
201 Capitol Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander,

This letter should serve as a request to have my bill ***SB 1084 Administrative Procedures*** heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García
District 40

RG:dm

CC: Terry Rhodes, Staff Director

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Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: SB 1090

INTRODUCER: Senator Richter

SUBJECT: Uniform Commercial Code

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Favorable**
2.	Matiyow	Burgess	BI	**Favorable**
3.	Betta	DeLoach	BGA	**Favorable**
4.	Betta	Rhodes	BC	**Favorable**
5.				
6.				

I. Summary:

SB 1090 adopts the 2010 amendment to Article 9 of the Uniform Commercial Code (UCC). The bill provides the following changes to Article 9: revises statute as it relates to governing the name of a debtor for purposes of filing a financing statement; modifies definitions; revises s. 679.301, F.S., relating to the location of debtors; modifies provisions relating to guidelines for the continued perfection of security interests that were perfected according to the law of another jurisdiction; provides rules for transition to the proposed version of Article 9; and makes numerous stylistic and grammatical changes.

This bill amends the following sections: 679.1021, 679.1051, 679.3071, 679.3111, 679.3161, 679.3171, 679.326, 679.4061, 679.4081, 679.5021, 679.5031, 679.5071, 679.515, 679.516, 679.518, 679.607, 680.1031, F.S.

This bill creates: part VIII of ch. 679, F.S. consisting of ss. 679.801, 679.802, 679.803, 679.804, 679.805, 679.806, 679.807. and 679.808, F.S.

II. Present Situation:

Background

The Uniform Commercial Code (UCC) is a set of uniform laws regulating various business transactions and trade. The drafts of the code are developed by the Uniform Law Commissioners (ULC), who are members of the National Conference of Commissioners on Uniform State Laws, a group of scholars and business representatives. “Conference members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and

law professors, who have been appointed by state governments, as well as the District of Columbia, Puerto Rico and the U.S Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical."[1] The term "uniform" refers to how the separate states of the Union have separately enacted the various parts of the Uniform Commercial Code in laws that are uniform to one another.

Participation in the conference is not limited to lawyers since "stakeholder" meetings are held, where the opinions of all groups concerned with a particular area can be heard.[2] Every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands is assessed a specific amount for the maintenance of the ULC based upon state population. Florida's assessment for 2009-2010 is $96,700.[3]

Article 9 of the UCC governs secured transactions in personal property. A secured transaction is a "business arrangement by which a buyer or borrower gives collateral to the seller or lender to guarantee payment of an obligation."[4] In 1998, Article 9 was substantially revised and adopted by all states and U.S. territories, except Puerto Rico, where it is currently being considered.[5] In 2010, the commission drafted and adopted amendments to Article 9.

The 2010 Amendments to Article 9 modify the existing statute to respond to filing issues and address other matters that have arisen in practice following passage of the 1998 version of Article 9. The Article 9 amendments have been adopted in Connecticut, Indiana, Minnesota, Nebraska, Nevada, North Dakota, Rhode Island, Texas, and Washington. They are also currently being considered in a number of other states and U.S. territories.[6]

Issues Concerning Filing

Identifying the Debtor

The purpose of the UCC filing system is to give notice to creditors and other interested parties that there is a valid, perfected security interest in property of the debtor.[7] A security interest is a "property interest created by agreement or by operation of law to secure performance of an obligation" (i.e. payment of a debt).[8] An individual or entity files a financial statement to notify third parties — typically prospective buyers and lenders — of a secured party's security interest in goods or real property. Financing statements are indexed under the name of the debtor;

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[1] Information provided at: http://www.nccusl.org/Update/DesktopDefault.aspx?tabindex=0&tabid=9 (last visited January 17, 2012).
[2] *2008 Commission Annual Report*, p.10, available online: http://www.nccusl.org/nccusl/docs/AnnReport_08_web.pdf (last visited January 17, 2012).
[3] *2009 Annual Report of the Florida Commissioners to the National Conference on Uniform State Laws,* (January 2010) (report prepared by the Office of Legislative Services for submission to the Governor and both houses of the Legislature through their respective presiding officers.).
[4] Black's Law Dictionary (9th ed. 2009).
[5] Article is codified in Florida law in ch. 679, F.S. It was adopted in 2001 by ch. 2001-198 L.O.F.
[6] Information provided at: http://www.nccusl.org/Act.aspx?title=UCC Article 9 Amendments (last visited January 17, 2012) (pending legislation in Washington D.C., Kentucky, Massachusetts, Oklahoma, and Puerto Rico).
[7] *See Matter of Glasco, Inc.*, 642 F.2d 793, 795 (5th Cir. 1981).
[8] Black's Law Dictionary (9th ed. 2009).

therefore, an individual looking for a specific financing statement will search for it under the debtor's name.

Section 679.5031(1), F.S., explains what constitutes the debtor's name for purposes of a financing statement where the debtor is a registered organization,[9] a decedent's estate, or a trust or trustee acting with regard to property held in trust. Under current law, a financing statement sufficiently provides the name of a debtor that is a registered organization if it provides the name as indicated on the public record of the jurisdiction where the debtor organized. If the debtor is a decedent's estate, the financing statement must provide the decedent's name and indicate that the debtor is an estate. If the debtor is a trust or trustee acting with regard to property held in trust, the financing statement must:

- Provide the name for the trust in its organic record or, if no name is specified, the settlor's name and additional information to distinguish the debtor from other trusts with one or more of the same settlors; and
- Indicate in the debtor's name or otherwise that the debtor is a trust or trustee acting for trust property.

In other cases, if the debtor has a name, current law requires the financing statement to provide the debtor's individual or organizational name. If the debtor does not have a name, it must provide the names of the partners, members, associates, or other persons comprising the debtor.

Claim Concerning Inaccurate or Wrongfully Filed Record

Current law authorizes the debtor to file a correction statement: a claim that a financing statement filed against it was in fact unauthorized.[10] While this filing has no legal effect on the underlying claim, it does put in the public record the debtor's claim that the financing statement was wrongfully filed.

Perfection of Security Interests

"Perfection of a security interest gives constructive notice to the world of the claim or interest of the one asserting it."[11] Article 9 provides guidelines for the continued perfection of security interests that have been perfected according to the law of another jurisdiction.[12] Generally, a security interest perfected according to another jurisdiction's or state's law is not automatically "unperfected." Current law provides that a security interest perfected by filing continues for 4 months after the jurisdiction in which the debtor is located changes. However, this temporary period of perfection applies only with respect to collateral owned by the debtor at the time of the change. Even if the security interest attaches to after-acquired collateral, there is currently no perfection with respect to such new collateral, unless and until the secured party perfects pursuant to the law of the new jurisdiction.

[9] Current law provides that a registered organization is "an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized." *See.* S. 679.1021(1)(qqq), F.S.
[10] Section 679.518, F.S.
[11] *Bay Co. Sheriff's Office v. Tyndall Fed. Credit Union*, 738 So. 2d 456, 458 (Fla. 1st DCA 1999).
[12] Section 679.3161, F.S.

Control of Electronic Chattel Paper

Current law provides that control of electronic chattel paper is the functional equivalent of possession of tangible chattel paper. "Chattel paper" is a record or records that show both a monetary obligation and a security interest in specific goods.[13] "Electronic chattel paper" is "chattel paper evidenced by record or records consisting of information stored in an electronic medium."[14] Current law provides that a secured party has control of electronic chattel paper if the record comprising the chattel paper are created, stored and assigned according to six requirements.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 679.1021, F.S., to revise the definitions of "authenticate" and "certificate of title," as well as insert a new definition for "public organic record."

The definition for "authenticate" will now mean to sign or, "with the present intent, to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process."

"Certificate of title" is also amended to specify that the "term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest at issue to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral."

Lastly, this section defines a "public organic record" as follows: a record that is available to the public for inspection that is as follows: a record consisting of the record initially filed with or issued by a state or the United States (U.S.) to form or organize an organization and any record filed with or issued by the state or the United States. that amends or restates the initial record; an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state that amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or a record consisting of legislation enacted by the Legislature of a state or U.S. Congress that forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States that amends or restates the name of the organization.

Section 2 amends s. 679.1051, F.S., to specify that a secured party has control of electronic chattel paper if a system employed for evidencing the transfer or interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

Additionally, copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party. Also, all references to "revisions" are replaced with the term "amendments."

[13] Section 679.1021(1)(k), F.S.
[14] Section 679.1021(1)(ee), F.S.
[15] See s. 679.1051, F.S.

Section 3 amends s. 679.3071, F.S., to specify that an organization may designate its state of location by designating its main office, home office, or other comparable office.

Section 4 amends s. 679.3111, F.S., by clarifying the requirement of a certificate of title under current law when the statute of a particular jurisdiction requires such a document as a condition to filing.

Section 5 amends s. 679.3161, F.S., by revising the law as it relates to the effect of a change in governing law to the collateral of a security interest within 4 months after a debtor changes its location to another jurisdiction.

As such, a financing statement filed before the change of the debtor's location pursuant to the law of the jurisdiction designated is effective to perfect a security interest in the collateral if the financing statement would have been effective had the debtor not changed its location.
In such cases, if a security interest that is perfected becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated or the 4 month period, then it remains perfected. However, if the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Additionally, if a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated and the new debtor is located in another jurisdiction, then the financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires right within 4 months after the new debtor becomes bound. This rule is subject to the condition that the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor.

Similarly, a security interest for a new debtor that is perfected by the financing statement and that becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the 4 month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated remains perfected. Conversely, a security interest that is perfected by the financing statement, but that does not become perfected under the law of the other jurisdiction before the earlier time or event, becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Section 6 amends s. 679.3171, F.S., by referring to accounts, electronic chattel paper, electronic documents, general intangibles, or investment property as collateral. As such, a licensee of a general intangible or a buyer, but not a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certified security takes free of a security interest, if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Section 7 amends s. 679.326, F.S., to provide that a security interest that is created by a new debtor in collateral for which the new debtor has or acquires rights and is perfected by a filed financing statement that would be ineffective to perfect the security interest but for the

application of some other specified statute found in this chapter is subordinate to a security interest in the same collateral that is perfected other than by such a filed financing statement.

Section 8 amends s. 679.4061, F.S., to provide that the limitations reflected in subparagraph (4) do not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under s. 679.610, F.S., or an acceptance of collateral under s. 679.620, F.S.

Section 9 amends s. 679.4081, F.S., to provide that restrictions on assignments of promissory notes concerning health-care insurance receivable apply only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under s. 679.610, F.S., or an acceptance of collateral, under s. 679.620, F.S.

Section 10 amends 679.5021, F.S., to specify that the record of a mortgage satisfies the requirements for a financing statement, although it need not indicate that it is to be filed in the real property records, and provides the individual name of the debtor or the surname and first personal name of the debtor.

Section 11 amends s. 679.5031, F.S., to provide that a financing statement sufficiently provides the name of the debtor when the debtor is a registered organization or the collateral is held in a trust that is a registered organization only if the financing statement provides the registered organization's name on the public organic record most recently filed with, issued, or enacted by the registered organization's jurisdiction of organization that purports to state, amend, or restate the registered organization's name.

Similarly, if the collateral is being administered by the personal representative of a decedent, the financing statement is sufficient if it provides, as the name of the debtor, the name of the decedent, and in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative.

In contrast, if the collateral is held in a trust that is not a registered organization, a financing statement will sufficiently provide the name of the debtor if the financing statement provides for the name of the trust as reflected in the organic record or, if the name is not specified, then the name of the settlor or testator. Additionally, a document will also be considered sufficient if in a separate part of the financing statement the name is provided indicating that that the collateral is held in trust or provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlor or the same testator, which indicates that their collateral is held in a trust.

Additionally, a financing statement will sufficiently provide the name of the debtor if the debtor is an individual to whom this state has issued a driver license or personal identification card that has not expired and that name matches the one reflected in the financing statement. Also, if the individual does not have a driver license or personal identification card, then the financing statement will be sufficient if it provides the individual name of the debtor or the surname and first personal name of the debtor and, in the case of an organization, the organization's name. Likewise, if the debtor does not have a name, then a financing statement will sufficiently provide the name of the debtor if it provides the names of the partners, members, associates, or other

persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

Finally, the name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent. Also, if the state has issued to an individual more than one driver license or personal identification card, then the one most recently issued is the one to be used.
As used in this section the term "name of settlor" means a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organizational or, in other cases, the name of the settler or testator indicated in the trust's organic record.

Section 12 amends s. 679.5071, F.S., to provide that if the name in a filed financing statement provided for a debtor becomes insufficient as the name of the debtor, then the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the filed financing statement becomes seriously misleading. Similarly, the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the filed financing statement becomes seriously misleading, unless an amendment which renders the financing statement not seriously misleading is filed within 4 months after that event.

Section 13 amends s. 679.515, F.S., to provide that if a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

Section 14 amends s. 679.516, F.S., to replace the term "correction statement" with "information statement." Furthermore, filing does not occur with respect to a record that a filing office refuses to accept because, in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide a mailing address for the debtor or indicate whether the name provided as the name of the debtor is the name of an individual or an organization.

Section 15 amends s. 679.518, F.S., to update references to "information statement," as well as provide that a person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so.

Additionally, an information statement under this section must do the following: identify the record to which it relates by file number assigned to the initial financing; indicate that it is an information statement; and provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the basis for the person's belief that the record was wrongfully filed.

Section 16 amends s. 679.607, F.S., to specify that a secured party's sworn affidavit in recordable form stating that a default has occurred with respect to the obligation secured by the

mortgage, among other things, is required in order to enforce a mortgage nonjudicially outside this state.

Section 17 creates Part VIII of ch. 679, F.S., consisting of ss. 679.801, 679.802, 679.803, 679.804, 679.805, 679.806, 679.807. and 679.808, F.S.

Section 678.801, F.S., creates a saving clause stating that, except as otherwise provided in this part, this part applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013. Amendments to this chapter by this act do not affect an action, case, or proceeding commenced before July 1, 2013.

Section 679.802, F.S., provides that a security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under this chapter, on July 1, 2013, if the applicable requirements for attachment and perfection under this chapter are satisfied without further action. Note that if the applicable requirements for perfection under this chapter are not satisfied on July 1, 2013, then the security remains perfected thereafter only if the applicable requirements for perfection are satisfied no later than July 1, 2014.

Section 679.803, F.S., specifies that a security interest that is an unperfected security interest immediately before July 1, 2013, becomes a perfected security interest without further action on July 1, 2013, if the applicable requirements for perfection under this chapter are satisfied or when the applicable requirements for perfection are satisfied, if the requirements are satisfied after that time.

Section 679.804, F.S., provides that the filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter. Amendments to this chapter do not render ineffective an effective financing statement that was filed before July 1, 2013, and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as it existed before July 1, 2013.

However, except as otherwise provided, the financing statement ceases to be effective under the following circumstances: the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or if the financing statement is filed in another jurisdiction, at the earlier of, the time the financing statement would have ceased to be effective under the law of that jurisdiction or by June 30, 2018.

Note that the June 30, 2018, filing date applies to a financing statement that was filed before July 1, 2013, against a transmitting utility that satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before July 1, 2013, to the extent that this chapter provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

The filing of a continuation statement on or after July 1, 2013, does not continue the effectiveness of the financing statement filed before July 1, 2013. However, on the timely filing of a continuation statement on or after July 1, 2013, and in accordance with the law of the

jurisdiction governing perfection, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

A financing statement that includes a financing statement filed before July 1, 2013, or a continuation statement filed on or after July 1, 2013, is effective only to the extent that it satisfies the requirements of part V, as amended by this act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust, as amended by this act.

Section 679.805, F.S., provides that the filing of an initial financing statement with the Clerk of Court or Florida Secured Transaction Registry continues the effectiveness of a financings statement filed before July 1, 2013, under the following circumstances: the filing of an initial financing statement in that office would be effective to perfect a security interest under this chapter; the financing statement filed before July 1, 2013, was filed in an office in another state; and the initial financing statement satisfied certain requirements

To be effective, an initial financing statement must meet the following additional requirements: satisfy the requirements of part IV, as amended by this act, for an initial financing statement; identify the filing statement filed before July 1, 2013, by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and indicate that the financing statement filed before July 1, 2013, remains ineffective..

The filing of an initial financing statement continues the effectiveness of the financing statement filed before July 1, 2013: the initial financing statement is filed before July 1, 2013, for the period provided in the statute, as it existed before its amendment by this act, with respect to an initial financing statement and the initial financing statement is filed on or after July 1, 2013, for the period provided in this act with respect to an initial financing statement.

Section 679.806, F.S., provides that on or after July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a financing statement only filed before July 1, 2013, in accordance with the law of the jurisdiction governing perfection as provided in this chapter. However, the effectiveness of a financing statement filed before July 1, 2013, also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

Unless as otherwise provided, if the law of this state governs perfection of a security interest, the information in a financing statement filed before July 1, 2013, may be amended after July 1, 2013, only as follows: the financing statement is filed before July 1, 2013, and an amendment is filed with the Clerk of Court or the Florida Secured Transaction Registry; an amendment is filed in that office concurrently with, or after the filing in that office, of an initial financing statement that satisfies s. 679.805(3), F.S., or an initial financing statement that provides the information as amended and satisfies s. 679.805(3), F.S., is filed in the office.

Lastly, if the law of this state governs perfection of a security interest, the effectiveness of a financing statement filed before July 1, 2013, may be continued only under s. 679.804(3) and (5), F.S., or s. 679.805, F.S. Irrespective of whether or not the law of this state governs perfection of a security interest, the effectiveness of a financing statement filed in this state before July 1, 2013, may be terminated on or after July 1, 2013, by filing a termination statement in the office in which the financing statement filed before July 1, 2013, is filed, unless an initial financing statement that satisfied s. 679.805(3), F.S., has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this chapter as the office in which to file a financing statement.

Section 679.807, F.S., specifies that a person may file an initial financing statement or a continuation statement under this part to continue the effectiveness of a financing statement filed before July 1, 2013, or perfect or continue the perfection of a security interest.

Section 679.808, F.S., states that this part and the amendments to this chapter made by this act determine the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this chapter as it existed before July 1, 2013, determines priority.

Section 18 amends s. 680.1031, F.S., to correct a cross-reference.

Section 19 creates an undesignated section directing the Division of Statutory Revision to replace the phrase "this act" wherever it occurs in certain enumerated sections within the assigned chapter number of the act.

Section 20 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Richter

37-00774A-12 20121090__

A bill to be entitled

An act relating to the Uniform Commercial Code; revising and providing provisions of the Uniform Commercial Code relating to secured transactions to conform to the revised Article 9 of the Uniform Commercial Code as prepared by the National Conference of Commissioners on Uniform State Laws; amending s. 679.1021, F.S.; revising and providing definitions; amending s. 679.1051, F.S.; revising provisions relating to control of electronic chattel paper; amending s. 679.3071, F.S.; revising provisions relating to the location of debtors; amending s. 679.3111, F.S.; making editorial changes; amending s. 679.3161, F.S.; providing rules that apply to certain collateral to which a security interest attaches; providing rules relating to certain financing statements; amending s. 679.3171, F.S.; revising provisions relating to interests that take priority over or take free of a security interest or agricultural lien; amending s. 679.326, F.S.; revising priority of security interests created by a new debtor; amending ss. 679.4061 and 679.4081, F.S.; revising application; amending s. 679.5021, F.S.; revising when a record of a mortgage satisfying the requirements of ch. 697, F.S., is effective as a filing statement; amending s. 679.5031, F.S.; revising when a financing statement sufficiently provides the name of the debtor; amending s. 679.5071, F.S.; revising the effect of certain events on the

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effectiveness of a financing statement; amending s. 679.515, F.S.; revising the duration and effectiveness of a financing statement; amending s. 679.516, F.S.; revising instances when filing does not occur with respect to a record that a filing office refuses to accept; amending s. 679.518, F.S.; revising requirements for claims concerning an inaccurate or wrongfully filed record; amending s. 679.607, F.S.; revising recording requirements for the enforcement of mortgages nonjudicially outside this state; creating part VIII of ch. 679, F.S., relating to transition from prior law under the chapter to law under the chapter as amended by the act; creating s. 679.801, F.S.; providing scope of application and limitations; creating s. 679.802, F.S.; providing that security interests perfected under prior law that also satisfy the requirements for perfection under the act remain effective; creating s. 679.803, F.S.; providing that security interests unperfected under prior law but that satisfy the requirements for perfection under this act will become effective July 1, 2013; creating s. 679.804, F.S.; providing when financing statements effective under prior law in a different jurisdiction remain effective; creating s. 679.805, F.S.; requiring the recording of a financing statement in lieu of a continuation statement under certain conditions; providing for the continuation of the effectiveness of a financing statement filed before the effective date of the act under certain conditions; creating s.

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679.806, F.S.; providing requirements for the amendment of financing statements filed before the effective date of the act; providing requirements for financing statements prior to amendment; creating s. 679.807, F.S.; providing person entitled to file initial financing statement or continuation statement; creating s. 679.808, F.S.; providing priority of conflicting claims to collateral; amending s. 680.1031, F.S.; conforming a cross-reference; providing a directive to the Division of Statutory Revision; providing an effective date.

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

Section 1. Paragraphs (ooo) through (aaaa) of subsection (1) of section 679.1021, Florida Statutes, are redesignated as paragraphs (ppp) through (bbbb), respectively, a new paragraph (ooo) is added to that subsection, and present paragraphs (g), (j), (xx), and (qqq) of subsection (1) of that section are amended to read:

679.1021 Definitions and index of definitions.—

(1) In this chapter, the term:

(g) "Authenticate" means:

1. To sign; or

2. ~~To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part,~~ With the present intent ~~of the authenticating person~~ to ~~identify the person and~~ adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(xx) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(ooo) "Public organic record" means a record that is available to the public for inspection and that is:

1. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States that amends or restates the initial record;

2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state that amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

3. A record consisting of legislation enacted by the Legislature of a state or the Congress of the United States that forms or organizes an organization, any record amending the

117 legislation, and any record filed with or issued by the state or
118 the United States that amends or restates the name of the
119 organization.
120 (rrr) ~~(qqq)~~ "Registered organization" means an organization
121 formed or organized solely under the law of a single state or
122 the United States by the filing of a public organic record with,
123 the issuance of a public organic record by, or the enactment of
124 legislation by ~~and as to which~~ the state or the United States
125 ~~must maintain a public record showing the organization to have~~
126 ~~been organized~~. The term includes a business trust that is
127 formed or organized under the law of a single state if a statute
128 of the state governing business trusts requires that the
129 business trust's organic record be filed with the state.
130 Section 2. Section 679.1051, Florida Statutes, is amended
131 to read:
132 679.1051 Control of electronic chattel paper.—
133 (1) A secured party has control of electronic chattel paper
134 if a system employed for evidencing the transfer of interests in
135 the chattel paper reliably establishes the secured party as the
136 person to which the chattel paper was assigned.
137 (2) A system satisfies subsection (1), and a secured party
138 has control of electronic chattel paper, if the record or
139 records comprising the chattel paper are created, stored, and
140 assigned in such a manner that:
141 (a) ~~(1)~~ A single authoritative copy of the record or records
142 exists which is unique, identifiable and, except as otherwise
143 provided in paragraphs (d), (e), and (f) ~~subsections (4), (5),~~
144 ~~and (6)~~, unalterable;
145 (b) ~~(2)~~ The authoritative copy identifies the secured party

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146 as the assignee of the record or records;
147 (c) ~~(3)~~ The authoritative copy is communicated to and
148 maintained by the secured party or its designated custodian;
149 (d) ~~(4)~~ Copies or amendments ~~revisions~~ that add or change an
150 identified assignee of the authoritative copy can be made only
151 with the consent ~~participation~~ of the secured party;
152 (e) ~~(5)~~ Each copy of the authoritative copy and any copy of
153 a copy is readily identifiable as a copy that is not the
154 authoritative copy; and
155 (f) ~~(6)~~ Any amendment ~~revision~~ of the authoritative copy is
156 readily identifiable as ~~an~~ authorized or unauthorized ~~revision~~.
157 Section 3. Subsection (6) of section 679.3071, Florida
158 Statutes, is amended to read:
159 679.3071 Location of debtor.—
160 (6) Except as otherwise provided in subsection (9), a
161 registered organization that is organized under the law of the
162 United States and a branch or agency of a bank that is not
163 organized under the law of the United States or a state are
164 located:
165 (a) In the state that the law of the United States
166 designates, if the law designates a state of location;
167 (b) In the state that the registered organization, branch,
168 or agency designates, if the law of the United States authorizes
169 the registered organization, branch, or agency to designate its
170 state of location, including by designating its main office,
171 home office, or other comparable office; or
172 (c) In the District of Columbia, if neither paragraph (a)
173 nor paragraph (b) applies.
174 Section 4. Paragraph (c) of subsection (1) of section

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175 679.3111, Florida Statutes, is amended to read:
176 679.3111 Perfection of security interests in property
177 subject to certain statutes, regulations, and treaties.—
178 (1) Except as otherwise provided in subsection (4), the
179 filing of a financing statement is not necessary or effective to
180 perfect a security interest in property subject to:
181 (c) A ~~certificate of title~~ statute of another jurisdiction
182 which provides for a security interest to be indicated on a ~~the~~
183 certificate of title as a condition or result of the security
184 interest's obtaining priority over the rights of a lien creditor
185 with respect to the property.
186 Section 5. Subsections (8) and (9) are added to section
187 679.3161, Florida Statutes, to read:
188 679.3161 Effect ~~Continued perfection~~ of ~~security interest~~
189 ~~following~~ change in governing law.—
190 (8) The following rules apply to collateral to which a
191 security interest attaches within 4 months after the debtor
192 changes its location to another jurisdiction:
193 (a) A financing statement filed before the change of the
194 debtor's location pursuant to the law of the jurisdiction
195 designated in s. 679.3011(1) or s. 679.3051(3) is effective to
196 perfect a security interest in the collateral if the financing
197 statement would have been effective to perfect a security
198 interest in the collateral if the debtor had not changed its
199 location.
200 (b) If a security interest that is perfected by a financing
201 statement that is effective under paragraph (a) becomes
202 perfected under the law of the other jurisdiction before the
203 earlier of the time the financing statement would have become

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204 ineffective under the law of the jurisdiction designated in s.
205 679.3011(1) or s. 679.3051(3) or the expiration of the 4-month
206 period, it remains perfected thereafter. If the security
207 interest does not become perfected under the law of the other
208 jurisdiction before the earlier time or event, it becomes
209 unperfected and is deemed never to have been perfected as
210 against a purchaser of the collateral for value.
211 (9) If a financing statement naming an original debtor is
212 filed pursuant to the law of the jurisdiction designated in s.
213 679.3011(1) or s. 679.3051(3) and the new debtor is located in
214 another jurisdiction, the following rules apply:
215 (a) The financing statement is effective to perfect a
216 security interest in collateral in which the new debtor has or
217 acquires rights before or within 4 months after the new debtor
218 becomes bound under s. 679.2031(4), if the financing statement
219 would have been effective to perfect a security interest in the
220 collateral if the collateral had been acquired by the original
221 debtor.
222 (b) A security interest that is perfected by the financing
223 statement and that becomes perfected under the law of the other
224 jurisdiction before the earlier of the expiration of the 4-month
225 period or the time the financing statement would have become
226 ineffective under the law of the jurisdiction designated in s.
227 679.3011(1) or s. 679.3051(3) remains perfected thereafter. A
228 security interest that is perfected by the financing statement
229 but that does not become perfected under the law of the other
230 jurisdiction before the earlier time or event becomes
231 unperfected and is deemed never to have been perfected as
232 against a purchaser of the collateral for value.

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Section 6. Subsections (2) and (4) of section 679.3171, Florida Statutes, are amended to read:

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a certificated security ~~certificate~~ takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of collateral ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property~~ other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Section 7. Section 679.326, Florida Statutes, is amended to read:

679.326 Priority of security interests created by new debtor.—

(1) Subject to subsection (2), a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and ~~which is~~ perfected by a filed financing statement that would be ineffective to perfect the security interest but for the application of s. 679.508 or ss. 679.508 and 679.3161(9)(a) ~~is effective solely under s. 679.508 in collateral in which a new debtor has or acquires rights~~ is

subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement ~~that is effective solely under s. 679.508~~.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (1) ~~that are effective solely under s. 679.508~~. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Section 8. Subsection (5) of section 679.4061, Florida Statutes, is amended to read:

679.4061 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.—

(5) Subsection (4) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under s. 679.610 or an acceptance of collateral under s. 679.620.

Section 9. Subsection (2) of section 679.4081, Florida Statutes, is amended to read:

679.4081 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.—

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or

291 promissory note, other than a sale pursuant to a disposition
292 under s. 679.610 or an acceptance of collateral under s.
293 679.620.
294 Section 10. Subsection (3) of section 679.5021, Florida
295 Statutes, is amended to read:
296 679.5021 Contents of financing statement; record of
297 mortgage as financing statement; time of filing financing
298 statement.—
299 (3) A record of a mortgage satisfying the requirements of
300 chapter 697 is effective, from the date of recording, as a
301 financing statement filed as a fixture filing or as a financing
302 statement covering as-extracted collateral or timber to be cut
303 only if:
304 (a) The record of a mortgage indicates the goods or
305 accounts that it covers;
306 (b) The goods are or are to become fixtures related to the
307 real property described in the record of a mortgage or the
308 collateral is related to the real property described in the
309 mortgage and is as-extracted collateral or timber to be cut;
310 (c) The record of a mortgage satisfies ~~complies with~~ the
311 requirements for a financing statement in this section,
312 although:
313 1. The record of a mortgage need not indicate ~~other than an~~
314 ~~indication~~ that it is to be filed in the real property records;
315 and
316 2. The record of a mortgage sufficiently provides the name
317 of a debtor who is an individual if it provides the individual
318 name of the debtor or the surname and first personal name of the
319 debtor, even if the debtor is an individual to whom s.

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320 679.5031(1)(d) or (e) applies; and
321 (d) The record of a mortgage is recorded as required by
322 chapter 697.
323 Section 11. Subsections (1) and (2) of section 679.5031,
324 Florida Statutes, are amended, and subsections (6), (7), and (8)
325 are added to that section, to read:
326 679.5031 Name of debtor and secured party.—
327 (1) A financing statement sufficiently provides the name of
328 the debtor:
329 (a) Except as otherwise provided in paragraph (c), if the
330 debtor is a registered organization or the collateral is held in
331 a trust that is a registered organization, only if the financing
332 statement provides the name that is stated to be the registered
333 organization's name ~~of the debtor indicated~~ on the public
334 organic record most recently filed with or issued or enacted by
335 ~~of~~ the registered organization's ~~debtor's~~ jurisdiction of
336 organization that purports to state, amend, or restate the
337 registered organization's name ~~which shows the debtor to have~~
338 ~~been organized~~;
339 (b) Subject to subsection (6), if the collateral is being
340 administered by the personal representative of a decedent ~~debtor~~
341 ~~is a decedent's estate~~, only if the financing statement
342 provides, as the name of the debtor, the name of the decedent
343 and, in a separate part of the financing statement, indicates
344 that the collateral is being administered by a personal
345 representative ~~debtor is an estate~~;
346 (c) If the collateral ~~debtor~~ is held in a trust that is not
347 a registered organization ~~or a trustee acting with respect to~~
348 ~~property held in trust~~, only if the financing statement:

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349 1. Provides, as the name of the debtor:
350 a. If the organic record of the trust specifies a name~~, if~~
351 ~~any, specified~~ for the trust, the ~~in its organic documents or,~~
352 ~~if no~~ name so ~~is~~ specified; or
353 b. If the organic record of the trust does not specify a
354 name for the trust, ~~provides~~ the name of the settlor or testator
355 ~~and additional information sufficient to distinguish a debtor~~
356 ~~from other trusts having one or more of the same settlors~~; and
357 2. In a separate part of the financing statement:
358 a. If the name is provided in accordance with sub-
359 subparagraph 1.a., indicates~~, in the debtor's name or otherwise,~~
360 that the collateral ~~debtor~~ is held in a trust ~~or is a trustee~~
361 ~~acting with respect to property held in trust~~; or
362 b. If the name is provided in accordance with sub-
363 subparagraph 1.b., provides additional information sufficient to
364 distinguish the trust from other trusts having one or more of
365 the same settlors or the same testator and indicates that the
366 collateral is held in a trust, unless the additional information
367 so indicates;
368 (d) Subject to subsection (7), if the debtor is an
369 individual to whom this state has issued a driver license that
370 has not expired or to whom the agency of this state that issues
371 driver licenses has issued, in lieu of a driver license, a
372 personal identification card that has not expired, only if the
373 financing statement provides the name of the individual that is
374 indicated on the driver license or personal identification card;
375 (e) If the debtor is an individual to whom paragraph (d)
376 does not apply, only if the financing statement provides the
377 individual name of the debtor or the surname and first personal

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378 name of the debtor; and
379 (f)~~(d)~~ In other cases:
380 1. If the debtor has a name, only if it provides the
381 ~~individual or~~ organizational name of the debtor; and
382 2. If the debtor does not have a name, only if it provides
383 the names of the partners, members, associates, or other persons
384 comprising the debtor, in a manner that each name provided would
385 be sufficient if the person named were the debtor.
386 (2) A financing statement that provides the name of the
387 debtor in accordance with subsection (1) is not rendered
388 ineffective by the absence of:
389 (a) A trade name or other name of the debtor; or
390 (b) Unless required under subparagraph (1)(f)2. ~~(1)(d)2.~~,
391 names of partners, members, associates, or other persons
392 comprising the debtor.
393 (6) The name of the decedent indicated on the order
394 appointing the personal representative of the decedent issued by
395 the court having jurisdiction over the collateral is sufficient
396 as the name of the decedent under paragraph (1)(b).
397 (7) If this state has issued to an individual more than one
398 driver license or, if none, more than one identification card,
399 of a kind described in paragraph (1)(d), the driver license or
400 identification card, as applicable, that was issued most
401 recently is the one to which paragraph (1)(d) refers.
402 (8) As used in this section, the term "name of the settlor
403 or testator" means:
404 (a) If the settlor is a registered organization, the name
405 of the registered organization indicated on the public organic
406 record filed with or issued or enacted by the registered

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407 organization's jurisdiction of organization; or
408 (b) In other cases, the name of the settlor or testator
409 indicated in the trust's organic record.
410 Section 12. Subsection (3) of section 679.5071, Florida
411 Statutes, is amended to read:
412 679.5071 Effect of certain events on effectiveness of
413 financing statement.—
414 (3) If the ~~a debtor so changes its~~ name that a filed
415 financing statement provides for a debtor becomes insufficient
416 as the name of the debtor under s. 679.5031(1) so that the
417 financing statement becomes seriously misleading under the
418 standard set forth in s. 679.5061:
419 (a) The financing statement is effective to perfect a
420 security interest in collateral acquired by the debtor before,
421 or within 4 months after, the filed financing statement becomes
422 seriously misleading ~~change~~; and
423 (b) The financing statement is not effective to perfect a
424 security interest in collateral acquired by the debtor more than
425 4 months after the filed financing statement becomes seriously
426 misleading ~~change~~, unless an amendment to the financing
427 statement which renders the financing statement not seriously
428 misleading is filed within 4 months after that event ~~the change~~.
429 Section 13. Subsection (6) of section 679.515, Florida
430 Statutes, is amended to read:
431 679.515 Duration and effectiveness of financing statement;
432 effect of lapsed financing statement.—
433 (6) If a debtor is a transmitting utility and a filed
434 initial financing statement so indicates, the financing
435 statement is effective until a termination statement is filed.

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436 Section 14. Subsection (2) of section 679.516, Florida
437 Statutes, is amended to read:
438 679.516 What constitutes filing; effectiveness of filing.—
439 (2) Filing does not occur with respect to a record that a
440 filing office refuses to accept because:
441 (a) The record is not communicated by a method or medium of
442 communication authorized by the filing office;
443 (b) An amount equal to or greater than the applicable
444 processing fee is not tendered;
445 (c) The filing office is unable to index the record
446 because:
447 1. In the case of an initial financing statement, the
448 record does not provide an organization's name or, if an
449 individual, the individual's last name and first name;
450 2. In the case of an amendment or information ~~correction~~
451 statement, the record:
452 a. Does not correctly identify the initial financing
453 statement as required by s. 679.512 or s. 679.518, as
454 applicable; or
455 b. Identifies an initial financing statement the
456 effectiveness of which has lapsed under s. 679.515;
457 3. In the case of an initial financing statement that
458 provides the name of a debtor identified as an individual or an
459 amendment that provides a name of a debtor identified as an
460 individual which was not previously provided in the financing
461 statement to which the record relates, the record does not
462 identify the debtor's surname ~~last name~~ and first personal name;
463 or
464 4. In the case of a record filed or recorded in the filing

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465 office described in s. 679.5011(1)(a), the record does not
466 provide a sufficient description of the real property to which
467 it relates;
468 (d) In the case of an initial financing statement or an
469 amendment that adds a secured party of record, the record does
470 not provide an organization's name or, if an individual, the
471 individual's last name and first name and mailing address for
472 the secured party of record;
473 (e) In the case of an initial financing statement or an
474 amendment that provides a name of a debtor which was not
475 previously provided in the financing statement to which the
476 amendment relates, the record does not:
477 1. Provide a mailing address for the debtor; or
478 2. Indicate whether the name provided as the name of the
479 debtor is the name of an individual or an organization; ~~or~~
480 ~~3. If the financing statement indicates that the debtor is~~
481 ~~an organization, provide:~~
482 ~~a. A type of organization for the debtor;~~
483 ~~b. A jurisdiction of organization for the debtor; or~~
484 ~~c. An organizational identification number for the debtor~~
485 ~~or indicate that the debtor has none;~~
486 (f) In the case of an assignment reflected in an initial
487 financing statement under s. 679.514(1) or an amendment filed
488 under s. 679.514(2), the record does not provide an
489 organization's name or, if an individual, the individual's last
490 name and first name and mailing address for the assignee;
491 (g) In the case of a continuation statement, the record is
492 not filed within the 6-month period prescribed by s. 679.515(4);
493 (h) In the case of an initial financing statement or an

494 amendment, which amendment requires the inclusion of a
495 collateral statement but the record does not provide any, the
496 record does not provide a statement of collateral; or
497 (i) The record does not include the notation required by s.
498 201.22 indicating that the excise tax required by chapter 201
499 had been paid or is not required.
500 Section 15. Section 679.518, Florida Statutes, is amended
501 to read:
502 679.518 Claim concerning inaccurate or wrongfully filed
503 record.—
504 (1) A person may file in the filing office an information ~~a~~
505 ~~correction~~ statement with respect to a record indexed there
506 under the person's name if the person believes that the record
507 is inaccurate or was wrongfully filed.
508 (2) An information ~~A correction~~ statement under subsection
509 (1) must:
510 (a) Identify the record to which it relates by the file
511 number assigned to the initial financing statement, the debtor,
512 and the secured party of record to which the record relates;
513 (b) Indicate that it is an information ~~a correction~~
514 statement; and
515 (c) Provide the basis for the person's belief that the
516 record is inaccurate and indicate the manner in which the person
517 believes the record should be amended to cure any inaccuracy or
518 provide the basis for the person's belief that the record was
519 wrongfully filed.
520 (3) A person may file in the filing office an information
521 statement with respect to a record filed there if the person is
522 a secured party of record with respect to the financing

523 statement to which the record relates and believes that the
524 person that filed the record was not entitled to do so under s.
525 679.509(3).
526 (4) An information statement under subsection (3) must:
527 (a) Identify the record to which it relates by file number
528 assigned to the initial financing statement to which the record
529 relates;
530 (b) Indicate that it is an information statement; and
531 (c) Provide the basis for the person's belief that the
532 record is inaccurate and indicate the manner in which the person
533 believes the record should be amended to cure any inaccuracy or
534 provide the basis for the person's belief that the record was
535 wrongfully filed.
536 (5) ~~(3)~~ The filing of an information ~~a correction~~ statement
537 does not affect the effectiveness of an initial financing
538 statement or other filed record.
539 Section 16. Subsection (2) of section 679.607, Florida
540 Statutes, is amended to read:
541 679.607 Collection and enforcement by secured party.—
542 (2) If necessary to enable a secured party to exercise
543 under paragraph (1)(c) the right of a debtor to enforce a
544 mortgage nonjudicially outside this state, the secured party may
545 record in the office in which a record of the mortgage is
546 recorded:
547 (a) A copy of the security agreement that creates or
548 provides for a security interest in the obligation secured by
549 the mortgage; and
550 (b) The secured party's sworn affidavit in recordable form
551 stating that:

552 1. A default has occurred with respect to the obligation
553 secured by the mortgage; and
554 2. The secured party is entitled to enforce the mortgage
555 nonjudicially outside this state.
556 Section 17. Part VIII of chapter 679, Florida Statutes,
557 consisting of sections 679.801, 679.802, 679.803, 679.804,
558 679.805, 679.806, 679.807, and 679.808, Florida Statutes, is
559 created to read:
560 679.801 Saving clause.—
561 (1) Except as otherwise provided in this part, this part
562 applies to a transaction or lien within its scope, even if the
563 transaction or lien was entered into or created before July 1,
564 2013.
565 (2) The amendments to this chapter by this act do not
566 affect an action, case, or proceeding commenced before July 1,
567 2013.
568 679.802 Security interest perfected before effective date.—
569 (1) A security interest that is a perfected security
570 interest immediately before July 1, 2013, is a perfected
571 security interest under this chapter, as amended by this act, on
572 July 1, 2013, if the applicable requirements for attachment and
573 perfection under this chapter, as amended by this act, are
574 satisfied without further action.
575 (2) Except as otherwise provided in s. 679.804, if a
576 security interest is a perfected security interest immediately
577 before July 1, 2013, but the applicable requirements for
578 perfection under this chapter, as amended by this act, are not
579 satisfied on July 1, 2013, the security interest remains
580 perfected thereafter only if the applicable requirements for

581 perfection under this chapter, as amended by this act, are
582 satisfied no later than July 1, 2014.
583 679.803 Security interest unperfected before effective
584 date.—A security interest that is an unperfected security
585 interest immediately before July 1, 2013, becomes a perfected
586 security interest:
587 (1) Without further action, on July 1, 2013, if the
588 applicable requirements for perfection under this chapter, as
589 amended by this act, are satisfied before or at that time; or
590 (2) When the applicable requirements for perfection are
591 satisfied if the requirements are satisfied after that time.
592 679.804 Effectiveness of action taken before effective
593 date.—
594 (1) The filing of a financing statement before July 1,
595 2013, is effective to perfect a security interest to the extent
596 the filing would satisfy the applicable requirements for
597 perfection under this chapter, as amended by this act.
598 (2) The amendments to this chapter by this act do not
599 render ineffective an effective financing statement that was
600 filed before July 1, 2013, and satisfies the applicable
601 requirements for perfection under the law of the jurisdiction
602 governing perfection as provided in this chapter as it existed
603 before July 1, 2013. However, except as otherwise provided in
604 subsections (3) and (4) and s. 679.805, the financing statement
605 ceases to be effective:
606 (a) If the financing statement is filed in this state, at
607 the time the financing statement would have ceased to be
608 effective had this act not taken effect; or
609 (b) If the financing statement is filed in another

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610 jurisdiction, at the earlier of:
611 1. The time the financing statement would have ceased to be
612 effective under the law of that jurisdiction; or
613 2. By June 30, 2018.
614 (3) The filing of a continuation statement on or after July
615 1, 2013, does not continue the effectiveness of the financing
616 statement filed before July 1, 2013. However, on the timely
617 filing of a continuation statement on or after July 1, 2013, and
618 in accordance with the law of the jurisdiction governing
619 perfection as provided in this chapter, as amended by this act,
620 the effectiveness of a financing statement filed in the same
621 office in that jurisdiction before July 1, 2013, continues for
622 the period provided by the law of that jurisdiction.
623 (4) Subparagraph (2)(b)2., applies to a financing statement
624 that was filed before July 1, 2013, against a transmitting
625 utility and satisfies the applicable requirements for perfection
626 under the law of the jurisdiction governing perfection as
627 provided in this chapter as it existed before July 1, 2013, only
628 to the extent that this chapter, as amended by this act,
629 provides that the law of a jurisdiction other than the
630 jurisdiction in which the financing statement is filed governs
631 perfection of a security interest in collateral covered by the
632 financing statement.
633 (5) A financing statement that includes a financing
634 statement filed before July 1, 2013, or a continuation statement
635 filed on or after July 1, 2013, is effective only to the extent
636 that it satisfies the requirements of part V, as amended by this
637 act, for an initial financing statement. A financing statement
638 that indicates that the debtor is a decedent's estate indicates

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639 that the collateral is being administered by a personal
640 representative within the meaning of s. 679.5031(1)(b), as
641 amended by this act. A financing statement that indicates that
642 the debtor is a trust or is a trustee acting with respect to
643 property held in trust indicates that the collateral is held in
644 a trust within the meaning of s. 679.5031(1)(c), as amended by
645 this act.
646 679.805 When initial financing statement suffices to
647 continue effectiveness of financing statement.—
648 (1) The filing of an initial financing statement in the
649 office specified in s. 679.5011 continues the effectiveness of a
650 financing statement filed before July 1, 2013, if:
651 (a) The filing of an initial financing statement in that
652 office would be effective to perfect a security interest under
653 this chapter, as amended by this act;
654 (b) The financing statement filed before July 1, 2013, was
655 filed in an office in another state; and
656 (c) The initial financing statement satisfies subsection
657 (3).
658 (2) The filing of an initial financing statement under
659 subsection (1) continues the effectiveness of the financing
660 statement filed before July 1, 2013, if:
661 (a) The initial financing statement is filed before July 1,
662 2013, for the period provided in s. 679.515, as it existed
663 before its amendment by this act, with respect to an initial
664 financing statement; and
665 (b) The initial financing statement is filed on or after
666 July 1, 2013, for the period provided in s. 679.515, as amended
667 by this act, with respect to an initial financing statement.

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668 (3) To be effective for purposes of subsection (1), an
669 initial financing statement must:
670 (a) Satisfy the requirements of part IV, as amended by this
671 act, for an initial financing statement;
672 (b) Identify the financing statement filed before July 1,
673 2013, by indicating the office in which the financing statement
674 was filed and providing the dates of filing and file numbers, if
675 any, of the financing statement and of the most recent
676 continuation statement filed with respect to the financing
677 statement; and
678 (c) Indicate that the financing statement filed before July
679 1, 2013, remains effective.
680 679.806 Amendment of financing statement filed before July
681 1, 2013.—
682 (1) On or after July 1, 2013, a person may add or delete
683 collateral covered by, continue or terminate the effectiveness
684 of, or otherwise amend the information provided in, a financing
685 statement only filed before July 1, 2013, in accordance with the
686 law of the jurisdiction governing perfection as provided in this
687 chapter, as amended by this act. However, the effectiveness of a
688 financing statement filed before July 1, 2013, also may be
689 terminated in accordance with the law of the jurisdiction in
690 which the financing statement is filed.
691 (2) Except as otherwise provided in subsection (3), if the
692 law of this state governs perfection of a security interest, the
693 information in a financing statement filed before July 1, 2013,
694 may be amended after July 1, 2013, only if:
695 (a) The financing statement filed before July 1, 2013, and
696 an amendment are filed in the office specified in s. 679.5011;

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697 (b) An amendment is filed in the office specified in s.
698 679.5011 concurrently with, or after the filing in that office
699 of, an initial financing statement that satisfies s. 679.805(3);
700 or
701 (c) An initial financing statement that provides the
702 information as amended and satisfies s. 679.805(3) is filed in
703 the office specified in s. 679.5011.
704 (3) If the law of this state governs perfection of a
705 security interest, the effectiveness of a financing statement
706 filed before July 1, 2013, may be continued only under s.
707 679.804(3) and (5) or s. 679.805.
708 (4) Whether or not the law of this state governs perfection
709 of a security interest, the effectiveness of a financing
710 statement filed in this state before July 1, 2013, may be
711 terminated on or after July 1, 2013, by filing a termination
712 statement in the office in which the financing statement filed
713 before July 1, 2013, is filed, unless an initial financing
714 statement that satisfies s. 679.805(3) has been filed in the
715 office specified by the law of the jurisdiction governing
716 perfection as provided in this chapter, as amended by this act,
717 as the office in which to file a financing statement.
718 679.807 Person entitled to file initial financing statement
719 or continuation statement.—A person may file an initial
720 financing statement or a continuation statement under this part
721 if:
722 (1) The secured party of record authorizes the filing; and
723 (2) The filing is necessary under this part:
724 (a) To continue the effectiveness of a financing statement
725 filed before July 1, 2013; or

726 (b) To perfect or continue the perfection of a security
727 interest.
728 679.808 Priority.—This part and the amendments to this
729 chapter made by this act determine the priority of conflicting
730 claims to collateral. However, if the relative priorities of the
731 claims were established before July 1, 2013, this chapter as it
732 existed before July 1, 2013, determines priority.
733 Section 18. Paragraph (m) of subsection (3) of section
734 680.1031, Florida Statutes, is amended to read:
735 680.1031 Definitions and index of definitions.—
736 (3) The following definitions in other chapters of this
737 code apply to this chapter:
738 (m) "Pursuant to a commitment," s. 679.1021(1)(ppp)
739 ~~679.1021(1)(ooo)~~.
740 Section 19. The Division of Statutory Revision is directed
741 to replace the phrase "this act" wherever it occurs in sections
742 679.801, 679.802, 679.803, 679.804, 679.805, 679.806, 679.807,
743 and 679.808, Florida Statutes, with the assigned chapter number
744 of this act.
745 Section 20. This act shall take effect July 1, 2013.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-21-12
Meeting Date

Topic: UCC

Bill Number: SB 1090 *(if applicable)*

Name: BILL WILEY

Amendment Barcode: *(if applicable)*

Job Title: ATTORNEY

Address: 3647 LAFAYETTE LANE
Street

TALLAHASSEE, FL 32312
City *State* *Zip*

Phone: 545-9438

E-mail: wiley@billwiley law.com

Speaking: [x] For [ ] Against [ ] Information WAIVE IN SUPPORT

Representing: BUSINESS LAW SECTION, THE FLORIDA BAR

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb. 21st 2012
Meeting Date

Topic: UCC Article 9

Bill Number: 1090 *(if applicable)*

Name: Kim Siomkos

Amendment Barcode: *(if applicable)*

Job Title: Asst. VP of Gov. Relations

Address: 1001 Thomasville Rd. Suite 201
Street

Tallahassee
City *State* *Zip*

Phone: 561 317 4704

E-mail: ksiomkos@floridabanks.com

Speaking: ☑ For ☐ Against ☐ Information

Representing: Florida Bankers Association

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 (10/20/11)

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 Budget Committee

BILL: SB 1112

INTRODUCER: Senator Altman

SUBJECT: Certification of Minority Business Enterprises

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Philo	Hrdlicka	CM	**Favorable**
2.	Betta	DeLoach	BGA	**Favorable**
3.	Betta	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

SB 1112 deletes provisions that provide for the establishment and responsibilities of the Minority Business Certification Task Force (task force). The task force is a statutorily created advisory group attached to the Office of Supplier Diversity within the Department of Management Services (DMS). The task force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. The Florida Advisory Council on Small and Minority Business Development can pursue reciprocal agreements with other certification entities under its existing statutory authority, and has already provided input and guidance in this context to the Office of Supplier Diversity.

Abolishing the task force was recommended by the Office of Program Policy Analysis & Government Accountability as part of its sunset review of DMS.

There is no fiscal impact associated with the abolishment of the non-operational task force.

This bill substantially amends s. 287.0943, F.S.

II. Present Situation:

During the 2010 Regular Session, the Department of Management Services was among the departments that the Legislature reviewed under the Florida Government Accountability Act.[1,2]

[1] *See* ss. 11.901-11.920, F.S. (2010). The Florida Government Accountability Act was repealed during the 2011 Regular Session. *See* ch. 2011-34, L.O.F. (2011).
[2] *See* s. 11.905, F.S. (2010).

The act previously subjected most state agencies to a sunset review process to determine whether the agency should be retained, modified, or abolished. Part of that review included an examination of agency advisory committees.[3]

Two statutorily created advisory committees, the Florida Advisory Council on Small and Minority Business Development and the Minority Business Certification Task Force, are assigned to the Office of Supplier Diversity within the Department of Management Services (DMS) to assist in specified responsibilities.[4]

The Minority Business Certification Task Force (task force) was created in s. 287.0943, F.S., to propose uniform criteria and procedures by which participating entities and organizations can qualify businesses to participate in procurement or contracting programs as certified minority business enterprises.[5,6] The primary purpose of the task force is to propose a final list of the criteria and procedures for consideration by the Secretary of DMS. The task force is authorized to seek technical assistance from qualified providers of technical, business, and managerial expertise to ensure the reliability of the certification criteria developed.

The 19-member task force is intended to be regionally balanced and primarily comprised of officials representing governmental entities who administer programs to assist minority businesses procure or develop government-sponsored programs. Six organizations (Florida League of Cities, Florida Association of Counties, Florida School Boards Association, Association of Special Districts, Florida Association of Minority Business Enterprise Officials, and Florida Association of Government Purchasing Officials) are each authorized to appoint two members to the task force. The Office of Supplier Diversity within DMS appoints seven members, consisting of three representatives of minority business enterprises, two office representatives, and two at-large members.

The task force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. DMS placed the criteria in the Florida Administrative Code over 14 years ago.[7] According to the Office of Supplier Diversity, the task force has not met in recent years primarily because the use of reciprocal agreements (agreements to accept a business's certified minority enterprise status issued by other entities) ended in 2003.[8] Although the Secretary of DMS wishes to reestablish reciprocal agreements with other certification entities, such as cities

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[3] *See* s. 11.906, F.S. (2010).

[4] The Office of Supplier Diversity's function is to improve business and economic opportunities for Florida minority, women, and service-disabled veteran business enterprises. To accomplish this goal the primary functions of the office include certification of business enterprises, advocacy and outreach, and matchmaking activities. *See* DMS website for information on the responsibilities of the office at http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd.

[5] *See* ch. 94-322, L.O.F.

[6] Pursuant to s. 20.03(8), F.S., a task force created by specific statutory enactment is, by definition, limited to "a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment."

[7] Office of Program Policy Analysis & Government Accountability Sunset Review Report, *Department of Management Services Advisory Committees Assessment*, Report No. 08-S11 (Dec. 2008) (OPPAGA Sunset Review Report), at 4 (available online at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/08-S11.pdf, and on file with the Senate Commerce and Tourism Committee).

[8] *Id.* This information was also confirmed by Mr. Thad Fortune, Certification Administrator (Senior Manager), Office of Supplier Diversity, DMS, via telephone on January 13, 2012.

and school districts, it is not necessary to reconvene the task force to pursue such agreements. Instead, the Florida Advisory Council on Small and Minority Business Development can pursue reciprocal agreements with other certification entities under its existing statutory authority to advise and assist DMS in this general context.[9]

Abolishing the task force was recommended by the Office of Program Policy Analysis & Government Accountability as part of its sunset review of DMS.[10]

III. Effect of Proposed Changes:

The bill abolishes the Minority Business Certification Task Force. Abolishment will have no effect since the statutory responsibility of the task force has been fulfilled, the task force has not been functional for several years, and the statutory authority of the Florida Advisory Council on Small and Minority Business Development permits the council to provide guidance and assistance to the Office of Supplier Diversity in this context.[11]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

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[9] *See* s. 287.0947, F.S.; OPPAGA Sunset Review Report, at 4.
[10] OPPAGA Sunset Review Report, at 4.
[11] According to the Office of Supplier Diversity, the office has begun reaching out to local governments for reciprocal agreements, now referred to as certification agreements. The office has already received some guidance from the Florida Advisory Council on Small and Minority Business Development relating to reciprocal agreements. This information was confirmed by Mr. Thad Fortune at DMS via telephone on January 13, 2012. Mr. Fortune advised that the renewal of use of the task force had been discussed but not pursued by DMS.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Altman

24-00933-12 20121112__

A bill to be entitled

An act relating to the certification of minority business enterprises; amending s. 287.0943, F.S.; deleting provisions establishing the Minority Business Certification Task Force, requiring that criteria for the certification of minority business enterprises be approved by the task force, and authorizing the task force to amend the statewide and interlocal agreement for the certification of minority business enterprises; conforming provisions; providing an effective date.

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

Section 1. Subsection (2) and paragraph (e) of subsection (3) of section 287.0943, Florida Statutes, are amended to read:

287.0943 Certification of minority business enterprises.—

(2)~~(a) The office is hereby directed to convene a "Minority Business Certification Task Force." The task force shall meet as often as necessary, but no less frequently than annually.~~

~~(b) The task force shall be regionally balanced and comprised of officials representing the department, counties, municipalities, school boards, special districts, and other political subdivisions of the state who administer programs to assist minority businesses in procurement or development in government sponsored programs. The following organizations may appoint two members each of the task force who fit the description above:~~

~~1. The Florida League of Cities, Inc.~~

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24-00933-12 20121112__

~~2. The Florida Association of Counties.~~

~~3. The Florida School Boards Association, Inc.~~

~~4. The Association of Special Districts.~~

~~5. The Florida Association of Minority Business Enterprise Officials.~~

~~6. The Florida Association of Government Purchasing Officials.~~

~~In addition, the Office of Supplier Diversity shall appoint seven members consisting of three representatives of minority business enterprises, one of whom should be a woman business owner, two officials of the office, and two at-large members to ensure balance. A quorum shall consist of one-third of the current members, and the task force may take action by majority vote. Any vacancy may only be filled by the organization or agency originally authorized to appoint the position.~~

~~(c) The purpose of the task force will be to propose uniform criteria and procedures by which participating entities and organizations can qualify businesses to participate in procurement or contracting programs as certified minority business enterprises in accordance with the certification criteria established by law.~~

~~(d) A final list of the criteria and procedures proposed by the task force shall be considered by the secretary. The task force may seek technical assistance from qualified providers of technical, business, and managerial expertise to ensure the reliability of the certification criteria developed.~~

(a)~~(e)~~ In assessing the status of ownership and control, certification criteria shall, at a minimum:

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

1. Link ownership by a minority person as defined in s. 288.703, or as dictated by the legal obligations of a certifying organization, to day-to-day control and financial risk by the qualifying minority owner, and to demonstrated expertise or licensure of a minority owner in any trade or profession that the minority business enterprise will offer to the state when certified. Businesses must comply with all state licensing requirements before becoming certified as a minority business enterprise.

2. If present ownership was obtained by transfer, require the minority person on whom eligibility is based to have owned at least 51 percent of the applicant firm for a minimum of 2 years, when any previous majority ownership interest in the firm was by a nonminority who is or was a relative, former employer, or current employer of the minority person on whom eligibility is based. This requirement does not apply to minority persons who are otherwise eligible who take a 51-percent-or-greater interest in a firm that requires professional licensure to operate and who will be the qualifying licenseholder for the firm when certified. A transfer made within a related immediate family group from a nonminority person to a minority person in order to establish ownership by a minority person is ~~shall be~~ deemed to be ~~have been~~ made solely for purposes of satisfying certification criteria and renders ~~shall render~~ such ownership invalid for purposes of qualifying for such certification if the combined total net asset value of all members of such family group exceeds $1 million. For purposes of this subparagraph, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the

spouse of such parent residing in the same house or living unit.

3. Require that prospective certified minority business enterprises be currently performing or seeking to perform a useful business function. For purposes of this subparagraph, the term ~~A~~ "useful business function" means ~~is defined as~~ a business function that ~~which~~ results in the provision of materials, supplies, equipment, or services to customers. Acting as a conduit to transfer funds to a nonminority business does not constitute a useful business function unless it is done so in a normal industry practice. As used in this section, the term "acting as a conduit" means, in part, not acting as a regular dealer by making sales of material, goods, or supplies from items bought, kept in stock, and regularly sold to the public in the usual course of business. Brokers, manufacturer's representatives, sales representatives, and nonstocking distributors are considered as conduits that do not perform a useful business function, unless normal industry practice dictates.

(b) ~~(f)~~ When a business receives payments or awards exceeding $100,000 in any one fiscal year, a review of its certification status or an audit must ~~will~~ be conducted within 2 years. In addition, the Office of Supplier Diversity may, as it deems appropriate, require that random reviews or audits ~~will~~ be conducted ~~as deemed appropriate by the Office of Supplier Diversity~~.

(c) ~~(g)~~ The certification criteria ~~approved by the task force and~~ adopted by the Department of Management Services shall be included in a statewide and interlocal agreement as defined in s. 287.09431 and, in accordance with s. 163.01, shall be

117 executed according to the terms included therein.
118 (d) ~~(h)~~ The certification procedures should allow an
119 applicant seeking certification to designate on the application
120 form the information the applicant considers to be proprietary,
121 confidential business information. As used in this paragraph,
122 "proprietary, confidential business information" includes, but
123 is not limited to, any information that would be exempt from
124 public inspection pursuant to the provisions of chapter 119;
125 trade secrets; internal auditing controls and reports; contract
126 costs; or other information the disclosure of which would injure
127 the affected party in the marketplace or otherwise violate s.
128 286.041. The executor in receipt of the application shall issue
129 written and final notice of any information for which
130 noninspection is requested but not provided for by law.
131 (e) ~~(i)~~ A business that is certified under ~~the provisions of~~
132 the statewide and interlocal agreement is ~~shall be~~ deemed a
133 certified minority enterprise in all jurisdictions or
134 organizations where the agreement is in effect, and that
135 business is deemed available to do business as such within any
136 such jurisdiction or with any such organization statewide. All
137 state agencies must accept minority business enterprises
138 certified in accordance with the statewide and interlocal
139 agreement of s. 287.09431, and that business is ~~shall~~ also ~~be~~
140 deemed a "certified minority business enterprise" as defined in
141 s. 288.703. However, any governmental jurisdiction or
142 organization that administers a minority business purchasing
143 program may reserve the right to establish further certification
144 procedures necessary to comply with federal law.
145 ~~(j) The statewide and interlocal agreement shall be guided~~

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146 ~~by the terms and conditions found therein and may be amended at~~
147 ~~any meeting of the task force and subsequently adopted by the~~
148 ~~secretary of the Department of Management Services. The amended~~
149 ~~agreement must be enacted, initialed, and legally executed by at~~
150 ~~least two-thirds of the certifying entities party to the~~
151 ~~existing agreement and adopted by the state as originally~~
152 ~~executed in order to bind the certifying entity.~~
153 ~~(k) The task force shall meet for the first time no later~~
154 ~~than 45 days after the effective date of this act.~~
155 (3)
156 (e) Any participating program receiving three or more
157 challenges to its certification decisions pursuant to subsection
158 (4) from other organizations that are executors to the statewide
159 and interlocal agreement, is ~~shall be~~ subject to a review by the
160 office, as provided in paragraphs (a) and (b), of the
161 organization's capacity to perform under such agreement and in
162 accordance with the certification core criteria ~~established by~~
163 ~~the task force~~. The office shall submit a report to the
164 secretary of the Department of Management Services regarding the
165 results of the review.
166 Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN
24th District

January 26, 2012

The Honorable JD Alexander, Chair
Senate Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Alexander:

I respectfully request that SB 1112, related to *Certification of Minority Business Enterprises,* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Thad Altman

Thad Altman
TA/vc

CC: Terry Rhodes, Staff Director, 201 The Capitol Building

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 1132

INTRODUCER: Budget Subcommittee on General Government Appropriations; Senators Hays and Montford

SUBJECT: Agriculture

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Buford	AG	**Favorable**
2.	Blizzard	DeLoach	BGA	**Fav/CS**
3.	Blizzard	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill revises definitions[1] in the Florida Right to Farm Act for "farm operation" and "farm product" so that the definitions include honeybee and aquaculture activities and the placement and operation of an apiary. It revises the definition of "apiary" to allow honeybee hives to be placed on agricultural land or land integral to a beekeeping operation, and creates a definition for "apiculture." The bill grants the Department of Agriculture and Consumer Services (DACS) exclusive authority to regulate, inspect, permit, and determine placement of managed honeybee colonies and authorizes the DACS to adopt rules for this purpose after consulting with local governments and other affected stakeholders.

The bill creates a definition for "farm sign" and exempts a farm sign from the Florida Building Code and any county or municipal code or fee.

This bill substantially amends sections 604.50, 823.14, 586.02, and 586.10 of the Florida Statutes.

[1] See s. 823.14(3), F.S., for definitions.

II. Present Situation:

Beekeeping

The Bureau of Plant & Apiary Inspection of the DACS plays a vital role in Florida agriculture as inspectors work to prevent the introduction and establishment of honey bee pests and diseases. Florida's honey industry ranks among the top five in the nation with an annual worth of $13 million. Seventeen million pounds of honey are produced in Florida each year. Additionally, honeybee operations benefit the state's fruit and vegetable industry by providing an estimated $20 million in increased production numbers created by managed pollination services for over 100 varieties of popular fruits and vegetables. Florida Apiary Inspectors certify movement of honey bee colonies throughout the state and the nation. The DACS has the most comprehensive state program (e.g., number of inspectors and traps) to prevent the accidental introduction of the unwanted Africanized honey bee.[2]

The Florida Legislature first provided for inspection and "certification of honey" in 1953 by authorizing the then Commissioner of Agriculture to establish standards of grade and quality to qualify for the label of "certified honey" and further gave the commissioner authority to make rules and regulations as necessary to implement a certification program.[3] This function was transferred to the DACS upon its creation in a 1969 reorganization of the executive branch of government.[4] The laws regulating honey certification were substantially reworded in 1986 and expanded to include regulation of honeybees and honeybee products at which time the Honeybee Technical Council was also created.[5] Currently, chapter 586, F.S., gives the DACS the powers and duties to regulate honeybees, honeybee pests, honeybee products, and beekeeping equipment. Beekeepers are required to register their hives and submit to an annual inspection. Based on inspection programs and inspection results, the DACS also has authority to regulate the certification and labeling of Florida-produced honey and the issuance of certificates of registration and inspection.

Researchers at the University of Florida's Institute of Food and Agriculture Sciences estimate that as much as 30 percent of all foods in the human diet depend upon pollination by honey bees. In addition, these insects pollinate livestock forage crops such as alfalfa and clover and are also important for dairy, poultry and swine production for that reason.[6]

Florida Right to Farm Act

The Florida Right to Farm Act[7] (act) makes legislative findings that agricultural production is a major contributor to the economy of the state and that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of farm land from agricultural use. The act also prohibits local government from adopting any ordinance, regulation, rule, or

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[2] Retrieved from http://ww.freshfromflorida.com/pi/plantinsp/apiary/apiary.html. Site last visited April 17, 2012.
[3] L.O.F. 28167.
[4] L.O.F. 69-106.
[5] L.O.F. 86-62
[6] G. B. Crawford, "The buzz about bees," Florida Agriculture, The Voice of Agriculture in Florida, Vol. 71, No. 10, October 2011.
[7] Section 823.14, F.S.

policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, DACS, or water management districts and adopted under chapter 120 as a part of a statewide or regional program. The definition of "farm operation" in the act does not include honeybee or aquaculture products or the placement of an apiary. Further the definition of "farm product" includes animals useful to humans, but not insects. The act defines apiary, but not apiculture, and is silent as to where an apiary may be located.

Some local governments greatly restrict or ban honey bee colony placement within their jurisdictions with the consequence of reducing pollination of plants and creating a more favorable environment for unwanted, more aggressive African honey bees to colonize.[8] Additionally, honey bees, honey bee products, and aquaculture products are being produced in farming operations but may not be included in the current law as farm products.[9]

Farm Signs

Section 604.50, F.S., specifies that any nonresidential farm building or farm fence is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. "Farm" means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.[10] "Nonresidential farm building" means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house. A farm sign is not specifically exempted from complying with the provisions of s. 604.50, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 823.14, F.S., to revise the definition of "farm operation" to include honeybee and aquaculture activities and to, additionally, include the placement and operation of an apiary. It expands the definition of "farm product" to include "insects" useful to humans.

Section 2 amends s. 586.02, F.S., to revise the definition of "apiary" to specify that an apiary may be located on land classified as agriculture under s. 193.461, F.S., or on land that is integral to a beekeeping operation. It provides a definition for "apiculture" which is the raising, caring, and breeding of honeybees.

Section 3 amends s. 586.10, F.S., to preempt to the state the authority to regulate, inspect, and permit managed honeybee colonies and to adopt rules regarding the placement and location of managed colonies which would supersede any local ordinances regarding these matters. It makes

[8] DACS bill analysis for SB 1132, January 10, 2012, on file with the Senate Agriculture Committee.
[9] *Id*.
[10] Section 823.14, F.S.

DACS's enumerated powers and duties mandatory and gives the DACS authority to adopt rules to implement this section after consulting with local governments and other affected stakeholders.

Section 4 defines "farm sign" as a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or service sold, produced, manufactured, or furnished on the farm. It exempts a "farm sign" from the Florida Building Code and any county or municipal code or fee except for code provisions implementing local, state, or federal floodplain management regulations.

Section 5 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Article VII of the State Constitution limits the power of the Legislature to enact laws impacting certain revenues and expenditures of municipalities and counties. The mandates provision appears to apply because the bill exempts farm signs from any county or municipal code or fee, and preempts the regulation of honeybee activities to the state; however, this provision appears to have a fiscal impact of less than $1.9 million statewide on counties and municipalities and is deemed an insignificant fiscal impact, and thus an exemption for the purposes of Section 18, Article VII of the Constitution appears to apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Local governments may suffer a revenue loss due to being preempted from regulating honeybee activities and farm signs. Although the fiscal impact is indeterminate, it is likely to be insignificant.

B. Private Sector Impact:

This bill may have a positive fiscal impact of an indeterminate amount on the private sector as there is the ability to construct farm signs without being subject to fees or fines and the potential for elimination of duplicate regulation.

C. Government Sector Impact:

The fiscal impact to local governments due to the loss of revenue arising from the regulation of honeybee activities and farm signs is indeterminate, but it is likely insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Budget Subcommittee on General Government Appropriations on February 2, 2012:
The committee substitute differs from the original bill by adding a definition for farm signs and exempting farm signs from the Florida Building Code and any county or municipal code or fee. It also adds a provision giving the DACS rulemaking authority to implement the provisions of the bill related to beekeeping after consultation with local governments and other affected shareholders.

B. Amendments:

None.

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

By the Committee on Budget Subcommittee on General Government Appropriations; and Senators Hays and Montford

601-02811-12 20121132c1

A bill to be entitled

An act relating to agriculture; amending s. 823.14, F.S.; revising definitions relating to the Florida Right to Farm Act to include beekeeping; amending s. 586.02, F.S.; revising the definition of the term "apiary" and adding a definition for the term "apiculture"; amending s. 586.10, F.S.; providing that authority to regulate honeybee colonies is preempted to the state; requiring that the Department of Agriculture and Consumer Services adopt rules after consulting with local governments and other affected stakeholders; reordering and amending s. 604.50, F.S.; providing an exemption from the Florida Building Code for farm signs; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (3) of section 823.14, Florida Statutes, are amended to read:

823.14 Florida Right to Farm Act.—

(3) DEFINITIONS.—As used in this section:

(b) "Farm operation" means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or aquaculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary;

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601-02811-12 20121132c1

the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

(c) "Farm product" means any plant, as defined in s. 581.011, or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

Section 2. Subsection (1) of section 586.02, Florida Statutes, is amended, present subsections (2) through (14) of that section are redesignated as subsections (3) through (15), respectively, and a new subsection (2) is added to that section, to read:

586.02 Definitions.—As used in this chapter:

(1) "Apiary" means a beeyard or site where honeybee hives, honeybees, or honeybee equipment is located. The beeyard or site may be located on land classified as agricultural under s. 193.461 or on land that is integral to a beekeeping operation.

(2) "Apiculture" means the raising, caring, and breeding of honeybees.

Section 3. Section 586.10, Florida Statutes, is amended to read:

586.10 Powers and duties of department.—The authority to regulate, inspect, and permit managed honeybee colonies and to adopt rules on the placement and location of registered inspected managed honeybee colonies is preempted to the state through the department and supersedes any related ordinance adopted by a county, municipality, or political subdivision thereof. The department shall ~~have the powers and duties to~~:

(1) After consulting with local governments and other affected stakeholders, adopt rules to administer this section.

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

(2) ~~(1)~~ Administer and enforce the provisions of this chapter.

(3) ~~(2)~~ Adopt ~~Promulgate~~ rules necessary to the enforcement of this chapter.

(4) ~~(3)~~ Adopt ~~Promulgate~~ rules relating to standard grades for honey and other honeybee products.

(5) ~~(4)~~ Enter upon any public or private premise or carrier during regular business hours for the purpose of inspection, quarantine, destruction, or treatment of honeybees, used beekeeping equipment, unwanted races of honeybees, or regulated articles.

(6) ~~(5)~~ Declare a honeybee pest or unwanted race of honeybees to be a nuisance to the beekeeping industry as well as any honeybee or other ~~article~~ infested or infected article ~~therewith or~~ that has been exposed to infestation or infection in a manner believed likely to communicate the infection or infestation.

(7) ~~(6)~~ Declare a quarantine against any area, place, or political unit within this state or other states, territories, or foreign countries, or portion thereof, in reference to honeybee pests or unwanted races of honeybees and prohibit the movement within this state from other states, territories, or foreign countries of all honeybees, honeybee products, used beekeeping equipment, or other articles from such quarantined places or areas which are likely to carry honeybee pests or unwanted races of honeybees if the quarantine is determined, after due investigation, to be necessary in order to protect this state's beekeeping industry, honeybees, and the public. In such cases, the quarantine may be made absolute or rules may be

adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold in, or otherwise disposed of in this state.

(8) ~~(7)~~ Enter into cooperative arrangements with any person, municipality, county, or other department of this state or any agency, officer, or authority of other states or the United States Government, including the United States Department of Agriculture, for inspection of honeybees, honeybee pests, or unwanted races of honeybees and products thereof and the control or eradication of honeybee pests and unwanted races of honeybees, and contribute a share of the expenses incurred under such arrangements.

(9) ~~(8)~~ Carry on investigations of methods of control, eradication, and prevention of dissemination of honeybee pests or unwanted races of honeybees.

(10) ~~(9)~~ Inspect or cause to be inspected all apiaries in the state at such intervals as it may deem best and to keep a complete, accurate, and current list of all inspected apiaries to include the:

(a) Name of the apiary.

(b) Name of the owner of the apiary.

(c) Mailing address of the apiary owner.

(d) Location of the apiary.

(e) Number of hives in the apiary.

(f) Pest problems associated with the apiary.

(g) Brands used by beekeepers where applicable.

(11) ~~(10)~~ Collect or accept from other agencies or individuals specimens of arthropods, nematodes, fungi, bacteria, or other organisms for identification.

(12) ~~(11)~~ Confiscate, destroy, or make use of abandoned beehives or beekeeping equipment.

(13) ~~(12)~~ Require the identification of ownership of apiaries.

(14) ~~(13)~~ Enter into a compliance agreement with any person engaged in purchasing, assembling, exchanging, processing, utilizing, treating, or moving beekeeping equipment or honeybees.

(15) ~~(14)~~ Make and issue to beekeepers certificates of registration and inspection, following proper inspection and certification of their honeybee colonies.

(16) ~~(15)~~ Revoke or suspend a beekeeper's or honeybee product processor's certificate of inspection or the use of a certificate or permit issued by the department if the department determines that the ~~a~~ beekeeper or honeybee product processor is selling or offering for sale or is distributing or offering to distribute honeybees, honeybee products, or beekeeping equipment in violation of this chapter or rules adopted under this chapter, or has aided or abetted in such ~~the~~ violation~~, the department may revoke or suspend her or his certificate of inspection or the use of any certificate or permit issued by the department~~.

(17) ~~(16)~~ ~~The department may~~ Refuse the certification of any honeybees, honeybee products, or beekeeping equipment if ~~when~~ it is determined that an unwanted race of honeybees exists, or honeybee pests exist on honeybees, honeybee products, or beekeeping equipment, or that the condition of the apiary inhibits a thorough and efficient inspection by the department.

(18) ~~(17)~~ ~~The department is authorized to~~ Conduct,

supervise, or cause the fumigation, destruction, or treatment of honeybees, including unwanted races of honeybees, honeybee products, and used beekeeping equipment or other articles infested or infected by honeybee pests or unwanted races of honeybees or so exposed to infection or infestation that it is reasonably believed that infection or infestation could exist.

(19) ~~(18)~~ ~~The department may~~ Require the removal from this state of any honeybees or beekeeping equipment that ~~which~~ has been brought into the state in violation of this chapter or the rules adopted under this chapter.

Section 4. Section 604.50, Florida Statutes, is reordered and amended to read:

604.50 Nonresidential farm buildings, ~~and~~ farm fences, and farm signs.—

(1) Notwithstanding any other law to the contrary, any nonresidential farm building, ~~or~~ farm fence, or farm sign is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations.

(2) As used in this section, the term:

(c) ~~(a)~~ "Nonresidential farm building" means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(9)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

175 (a) ~~(b)~~ "Farm" has the same meaning as provided in s.
176 823.14.
177 (b) "Farm sign" means a sign erected, used, or maintained
178 on a farm by the owner or lessee of the farm which relates
179 solely to farm produce, merchandise, or service sold, produced,
180 manufactured, or furnished on the farm.
181 Section 5. This act shall take effect July 1, 2012.

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

BC

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR D. ALAN HAYS
20th District

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
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Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

February 6, 2012

Senator J.D. Alexander, Chair
Budget Committee
412 Senate Office Building
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 1132 Relating to Beekeeping

Dear Chair Alexander:

I respectfully request my above bill be heard before your committee. I feel this bill will benefit the citizens of our state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD

D. Alan Hays, DMD
Senate District 20

CC: **Terry Rhodes,** *Staff Director*
Alicia Weiss, *Committee Administrative Assistant*

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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/CS/SB 1150

INTRODUCER: Budget Subcommittee on Finance and Tax; Commerce and Tourism Committee; and Senator Richter

SUBJECT: New Markets Development Program

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Fav/CS**
2.	Babin	Diez-Arguelles	BFT	**Fav/CS**
3.	Babin	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary

CS/CS/SB 1150 ("the bill") increases the total amount of tax credits available to be allocated for the New Markets Development Program from $97.5 million to $195 million, as well as increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million. According to the Revenue Estimating Conference, the bill will have an $18 million negative fiscal impact on General Revenue in FY 2014-15, and a recurring $20 million negative fiscal impact on General Revenue thereafter.

The bill also increases the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments from 6 years to 7 years. Lastly, the bill is amended to specify that a qualified community development entity's cumulative operating income should be calculated without giving effect to the interest expense on such long-term debt security.

This bill amends sections 288.9914 and 288.9915, F.S.

II. Present Situation:

Background

Florida's New Markets Tax Credits Program was enacted in 2009.[1] The program was "established to encourage capital investment in rural and urban low-income communities by allowing taxpayers to earn credits against specified taxes by investing in qualified community development entities that make qualified low-income community investments in qualified active low-income community businesses to create and retain jobs."[2]

Under this program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity (DEO) for a certification of Florida tax credits.[3] The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups. DEO is also able to request additional information needed to verify continued certification. DEO certifies qualified applications on a first-come, first-served basis. Once DEO certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to DEO information including:

- Audited financial statements;
- The industries for the investments;
- The counties investments were made in;
- The number of jobs created; and
- Verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.[4]

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.[5]

Tax Credits

The New Markets Tax Credit Program allows a tax credit to be taken against the corporate income tax found in s. 220.11, F.S., or the insurance premium tax found in s. 624.509, F.S.[6] This credit may be claimed after the investment has been made and held for a minimum of 2 years. Therefore, no credit can be claimed in the first 2 years. In year 3, the annual credit is equal to 7 percent of the investment, and from the fourth year through the seventh year the annual credit is

[1] Florida's New Markets Development Program Act is codified at ch. 288, part XII, F.S.
[2] Section 288.9912, F.S.
[3] Section 288.9914, F.S.
[4] Section 288.9918, F.S.
[5] Section 288.9920, F.S.
[6] Section 288.9916, F.S.

equal to 8 percent. Over 7 years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022.

Additionally, the program has a cap of $97.5 million on the total of tax credits allowed to be allocated to all investments with the caveat that no more than $20 million in tax credits may be claimed in a single state fiscal year. The program does not allow the transfer or sale of tax credits, but does allow a tax credit to travel with the purchase of an investment to a new owner.

Federal New Markets Tax Credit[7]

Florida's New Markets Tax Credit Program was mirrored after the federal program. The Federal New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs).[8] The CDE must, in turn, invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a 7-year period. In each of the first 3 years, the investor receives a credit equal to 5 percent of the total amount paid for the stock or capital interest at the time of purchase. For the final 4 years, the credit is equal to 6 percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the 7-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, the federal program and the state program each provide credits totaling 39 percent of the investment over a 7 year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over 7 years. In addition to the tax credits that are received, the investor also has the potential to receive benefits from the results of the investment and eventual return of their principal.

[7] Information on the federal New Markets Tax Credit Program can be found at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited February 6, 2012).
[8] 15 U.S.C. sec. 689, *et. seq*.

III. Effect of Proposed Changes:

Section 1 amends s. 288.9914, F.S., to increase the total amount of tax credits available to be allocated for the New Markets Development Program from $97.5 million to $195 million during the existence of the program, and it increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million.

Section 2 amends s. 288.9915, F.S., to increase the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their cumulative operating income on long term debt securities issued as qualified investments from 6 to 7 years. Moreover, the bill provides that a qualified community development entity's cumulative operating income should be calculated without giving effect to the interest expense on such long-term debt security.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

On January 6, 2011, the Revenue Estimating Conference determined that the effects of this bill will result in an $18 million negative fiscal impact on General Revenue in the 2014-15 fiscal year, and a recurring $20 million negative fiscal impact on General Revenue thereafter. There is no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years.

B. Private Sector Impact:

The New Markets Development program draws private sector investment into low-income rural and urban communities that may not otherwise have occurred.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Finance and Tax on February 9, 2012:
The amendment included in this Committee Substitute clarifies language that limits the amount of interest that a qualified community development entity can pay during the first 7 years of a long-term debt security that is a qualified investment.

CS by Commerce on January 19, 2012:
Increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million.

B. Amendments:

None.

By the Committees on Budget Subcommittee on Finance and Tax; and Commerce and Tourism; and Senators Richter, Bennett, Lynn, and Detert

593-03183-12 20121150c2

A bill to be entitled

An act relating to the New Markets Development Program; amending s. 288.9914, F.S.; revising limits on tax credits that may be claimed by qualified community development entities under the program; amending s. 288.9915, F.S.; revising restrictions on a qualified community development entity's making of cash interest payments on certain long-term debt securities; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 288.9914, Florida Statutes, is amended to read:

288.9914 Certification of qualified investments; investment issuance reporting.—

(3) REVIEW.—

(c) The department may not approve a cumulative amount of qualified investments that may result in the claim of more than $195 ~~$97.5~~ million in tax credits during the existence of the program or more than $40 ~~$20~~ million in tax credits in a single state fiscal year. However, the potential for a taxpayer to carry forward an unused tax credit may not be considered in calculating the annual limit.

Section 2. Subsection (1) of section 288.9915, Florida Statutes, is amended to read:

288.9915 Use of proceeds from qualified investments; recordkeeping.—

(1) For the period from the issuance of the qualified

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

593-03183-12 20121150c2

investment to the 7th anniversary of such issuance, a qualified community development entity may ~~not~~ make cash interest payments on a long-term debt security that is a qualified investment, but not in excess of the entity's cumulative operating income as of the date of the cash interest payment. For purposes of calculating operating income under this section, the interest expense on the security is disregarded ~~for 6 years following the issuance of the security~~.

Section 3. This act shall take effect July 1, 2012.

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)

2/21/12
Meeting Date

Topic _____

Bill Number 1150 *(if applicable)*

Name Michael Preston

Amendment Barcode _____ *(if applicable)*

Job Title Dir. Gov't Relations – Enterprise Florida

Address 325 John Knox Rd
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850-298-6630

E-mail _____

Speaking: [✓] For [ ] Against [ ] Information

Representing Enterprise 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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: New Markets

Bill Number: 1150 *(if applicable)*

Name: Justin Day

Amendment Barcode: *(if applicable)*

Job Title: Director

Address: 215 S. Monroe St, Ste 602
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-222-8900

E-mail: jd@cardenaspartners.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Associated Industries of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: New Markets

Bill Number: SB 1150 *(if applicable)*

Name: Pablo Diaz

Amendment Barcode: *(if applicable)*

Job Title: Legislative Director

Address: 110 E. Jefferson St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone:

E-mail:

Speaking: [x] For [ ] Against [ ] Information

Representing: National Federation of Independent Business

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/2012
Meeting Date

Topic: New Markets

Bill Number: 1150 *(if applicable)*

Name: Ryan West

Amendment Barcode: *(if applicable)*

Job Title: Policy Director

Address: 136 South Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850 521-1200

E-mail: rwest@flchamber.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Chamber of Commerce

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/12
Meeting Date

Topic: NEW MARKETS

Bill Number: 1150 *(if applicable)*

Name: SLATER BAILISS

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 215 S. MONROE ST
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 850-222-8900

E-mail: SW3@cardenaspartners.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: ADVANTAGE CAPITAL PARTNERS

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 (10/20/11)

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 Budget Committee

BILL: SB 1152

INTRODUCER: Senator Richter

SUBJECT: Repeal of Workers' Compensation Actuarial Peer Review Requirement

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubio	Burgess	BI	**Favorable**
2.	Betta	DeLoach	BGA	**Favorable**
3.	Betta	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

Under Section 627.285, F.S., the Financial Services Commission (commission) is required to contract every other year for an independent actuarial peer review of the ratemaking processes for any licensed rating organization that makes rate filings for workers' compensation insurance. The final report must be submitted to the commission, the President of the Senate, and the Speaker of the House of Representatives by February 1st.

Senate Bill 1152 repeals s. 627.285, F.S., repealing the requirement of an independent actuarial peer review.

This bill repeals the following sections of the Florida Statutes: 627.285.

II. Present Situation:

Under s. 627.285, F.S., the Financial Services Commission must contract every other year for an independent actuarial peer review of the ratemaking processes of any licensed rating organization that makes rate filings for workers' compensation insurance. The commission oversees the Office of Insurance Regulation (OIR), and through the OIR publishes Request for Proposals (RFPs) and executes contracts every other year for consultant actuarial services to perform the required independent peer reviews. The independent peer reviews must be submitted to the commission, the President of the Senate, and the Speaker of the House of Representatives by February 1st.[1] A total of four reports have been submitted since the enactment of the statute in

[1] Section 627.285, F.S.

2003 and a fifth is due on February 1, 2012.[2] The costs of the independent actuarial peer reviews are paid from the Workers' Compensation Administration Trust Fund and have ranged in costs from $104,000 for the 2004 report to $35,000 for the 2010 report.[3]

Section 627.285, F.S., only applies to the National Council on Compensation Insurance (NCCI) since it is the sole licensed rating organization responsible for making workers' compensation rate filings on behalf of Florida insurers. The NCCI independently conducts actuarial analyses and presents its recommendations on its rate filing to the OIR. The OIR then undertakes an extensive actuarial review of the filing before it is approved or denied by the OIR. Since the OIR performs an extensive actuarial review of NCCI's rate filing, s. 627.285, F.S., serves to add an additional independent actuarial review on top of the OIR's review.

III. Effect of Proposed Changes:

The bill would repeal s. 627.285, F.S., thereby repealing the requirement of an independent actuarial review in addition to the OIR's review of the NCCI ratemaking processes. The OIR suggests that the requirement of an additional independent actuarial review does not serve to enhance the process of actuarial reviews conducted by the OIR. The OIR indicates that the past independent reviews have mainly served to validate the actuarial reviews conducted by the OIR, because any issues raised or proposed solutions discussed in the independent reviews were items already identified by the OIR.[4] The repeal of s. 627.285, F.S., would allow the OIR to save the resources currently required to complete and review the RFPs.[5]

The repeal would take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[2] Florida Office of Insurance Regulation Bill Analysis, January 10, 2012.
[3] Florida Office of Insurance Regulation Bill Analysis, January 10, 2012.
[4] Florida Office of Insurance Regulation Bill Analysis, January 10, 2012.
[5] Florida Office of Insurance Regulation Bill Analysis, January 10, 2012.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The actuarial consulting firms that otherwise would be hired to conduct the independent actuarial peer review would lose these contracts.

C. Government Sector Impact:

The repeal of s. 627.285, F.S., would save the Workers' Compensation Administration Trust Fund approximately $35,000 to $104,000 in actuarial consulting fees for the independent reviews.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

By Senator Richter

37-01231-12 20121152__

A bill to be entitled

An act relating to repeal of a workers' compensation independent actuarial peer review requirement; repealing s. 627.285, F.S., relating to the duty of the Financial Services Commission to contract for a periodic report regarding an actuarial peer review and analysis of the ratemaking process of any licensed rating organization that makes rate filings for workers' compensation insurance; providing an effective date.

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

Section 1. Section 627.285, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Budget
Budget - Subcommittee on Health and Human Services Appropriations
Community Affairs
Judiciary
Rules
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR GARRETT RICHTER
37th District

February 3, 2012

The Honorable JD Alexander, Chair
Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Alexander:

Senate Bill 1152, relating to repeal of a worker's compensation actuarial peer review requirement has been unanimously passed by both the Banking and Insurance committee and the Budget subcommittee on General Government Appropriations . The next committee of reference is Budget. I would appreciate the placing of this bill on the committee's next agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Terry Rhodes, Staff Director

REPLY TO:
☐ 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
☐ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 1204

INTRODUCER: Commerce and Tourism Committee and Commerce and Tourism Committee

SUBJECT: Governmental Reorganization

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Favorable**
2.	Martin/Smith	Meyer, R.	BTA	**Favorable**
3.	Martin/Smith	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1204 is the result of a review of the Florida Statutes for changes necessary due to the governmental reorganization provided by ch. 2011-142, L.O.F. The CS updates references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation; updates provisions or references which were enacted by other chapter laws; revises provisions or references which were drafting errors; and repeals any remaining outdated provisions.

This CS amends the following sections of the Florida Statutes: 20.60, 68.096, 68.105, 159.81, 163.2517, 163.3178, 163.3191, 163.3204, 163.3221, 163.3246, 163.3247, 163.336, 163.458, 163.460, 163.461, 163.462, 163.5055, 163.506, 163.508, 163.511, 163.512, 212.096, 213.053, 215.55865, 218.411, 220.153, 220.183, 220.194, 258.501, 259.042, 259.101, 282.201, 288.021, 288.1045, 288.106, 288.108, 288.1083, 288.1089, 288.1097, 288.11621, 288.1168, 288.1171, 288.1254, 288.714, 288.7102, 288.987, 290.0055, 290.0065, 290.00726, 290.00727, 290.00728, 311.09, 320.08058, 320.080578, 339.135, 342.201, 377.703, 377.809, 380.06, 402.56, 403.0891, 420.503, 420.507, 420.101, 420.0005, 420.0006, 443.036, 443.091, 443.111, 443.141, 443.1715, 443.17161, 446.50, 450.261, 509.032, 624.5105, 1002.75, 1002.79, 259.035, 288.12265, 288.901, 288.980, and 331.3081.

This CS repeals ss. 163.03, 373.461(5), and 379.2353, F.S.

II. Present Situation:

Governmental Reorganization[1]

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of state government. Many of the functions and responsibilities of the Department of Community Affairs (DCA), the Agency for Workforce Innovation (AWI), and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor (OTTED) were transferred into a new state agency called the Department of Economic Opportunity (DEO).

Public/Private Partnerships

The law also reorganized several public/private partnerships. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc (EFI). The Florida Commission on Tourism was abolished and much of its responsibilities and functions were transferred to the Division of Tourism Promotion within EFI. The Florida Tourism Industry Marketing Corporation (Visit Florida) was directed to contract with EFI. Further, the appointed members of the board of directors for EFI now also serve as the board of directors of Space Florida, which is still an independent special district.

Other Transfers

Other functions of DCA, AWI, and OTTED were transferred to other state agencies, including:

- The Florida Building Code Commission was transferred from DCA to the Department of Business and Professional Regulation.
- The Division of Emergency Management (DEM) was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. DEM was transferred to the Executive Office of the Governor, while retaining its status as a separate budget entity.
- The Florida Communities Trust, the Parks and Open Space Florida Forever Grant Program, and the Stan Mayfield Working Waterfronts Florida Forever Grant Program were transferred from DCA to the Department of Environmental Protection.
- The Office of Early Learning within AWI was transferred to the Department of Education as a separate budget entity and is not subject to control, supervision, or direction by the department.

Office of Energy

Additionally, the law reorganized a portion of the state's energy policy, by abolishing the Florida Energy and Climate Commission (FECC) and transferring the majority of its functions and responsibilities to the Department of Agriculture and Consumer Services (DACS). There is now

[1] For further information see Committee on Commerce and Tourism, the Florida Senate, Identification, Review, and Recommendation Relating to Statutory Changes Necessary to Implement the Governmental Reorganization Required by ch. 2011-142, L.O.F. (October 2011), Interim Report 2012-112, available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-112cm.pdf (last visited 1/13/2012).

an Office of Energy within DACS.[2] Additionally, FECC's emergency management responsibilities were transferred to the Division of Emergency Management and administration of the Coastal Energy Impact Program was transferred to the Department of Environmental Protection.

Ready to Work

The law also transferred the administration of the Florida Ready to Work Program from the Department of Education to DEO.[3] However, the program must be implemented by DEO in coordination with the Department of Education.

Interim Report 2012-112

The Legislature recognized the need to conform the Florida Statutes to the policy decisions reflected in ch. 2011-142, L.O.F., and resolve apparent conflicts between any other legislation passed during the 2011 Regular Session and the transfer of duties made by the law.[4] Interim Report 2012-112 reviewed the reorganization provided for in ch. 2011-142, L.O.F., and Florida Statutes for any statutory changes necessary to implement the law.

This included review of the Florida Statutes for obsolete references, inconsistencies, or statutory notes by the Division of Statutory Revision related to the reorganization.[5] Additionally, staff contacted the transition coordinators for the various affected agencies for input.

Committee staff found several references remaining in statute to DCA, AWI, and OTTED. Some of these references exist due to other laws passed in the 2011 Regular Session. Additionally, committee staff discovered some idiosyncrasies due to multiple revisions of the original bill. Some agencies and transition coordinators also directed staff to inappropriate changes in references.

III. Effect of Proposed Changes:

Based upon the review of the Florida Statutes, Interim Report 2012-112 recommended that draft legislation be developed to:

- Update references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation;
- Update provisions or references which were enacted by other chapter laws;
- Revise provisions or references which were drafting errors; and
- Repeal any remaining outdated provisions.

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[2] See the Office of Energy website, which includes a history of state entities dealing with Florida energy policy, available at http://www.freshfromflorida.com/offices/energy/ (last visited 1/13/2012).

[3] Florida Ready to Work is an employee credentialing program that is funded by the state. The program allows participants to take a skills test and credentialing classes online to earn a "career readiness certificate."

[4] Section 10, ch. 2011-142, L.O.F., also directs the Division of Statutory Revision to assist substantive committees to identify issues.

[5] The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve the clarity and facilitate the correct and proper interpretation of the statutes. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes, showing the changes made and the reason for such recommended change.

Specifically, CS/SB 1204 implements these recommendations in the following manner:

Update references to the former Department of Community Affairs

Sections 1 and 2 update references in the Florida Access to Civil Legal Assistance Act in ss. 68.096 and 68.105, F.S., related to administration of the program from DCA to the Department of Legal Affairs. This program was funded through the Department of Legal Affairs in the FY 2011-12 budget.[6]

References in the following sections are updated to refer to DEO or the "state land planning agency," which is currently DEO:

- s. 163.2517(6), F.S. (**Section 4**);
- s. 163.3178(3), F.S. (**Section 5**);
- s. 163.3204, F.S. (**Section 7**);
- s. 163.3221(14), F.S. (**Section 8**);
- s. 163.3246(1), F.S. (**Section 9**);
- s. 163.3247(5), F.S. (**Section 10**);
- s. 163.336(2), F.S. (**Section 11**);
- s. 163.458, F.S. (**Section 12**);
- s. 163.460, F.S. (**Section 13**);
- s. 163.461, F.S. (**Section 14**);
- s. 163.462, F.S. (**Section 15**);
- s. 163.5055(1), F.S. (**Section 16**);
- s. 163.506(1), F.S. (**Section 17**);
- s. 163.508(1), F.S. (**Section 18**);
- s. 163.511(1), F.S. (**Section 19**);
- s. 163.512(1), F.S. (**Section 20**);
- s. 218.411(1), F.S. (**Section 24**);
- s. 258.501, F.S. (**Section 28**);
- s. 259.042(3), F.S. (**Section 29**);
- s. 282.201(4), F.S. (**Section 31**);
- s. 311.09, F.S. (**Section 51**);
- s. 320.08058(62), F.S. (**Section 52**);
- s. 377.703(2), F.S. (**Section 55**);
- s. 403.0891(6), F.S. (**Section 59**); and
- s. 509.032(7), F.S. (**Section 73**).

Section 5 also amends s. 163.3178, F.S., to remove obsolete language related to county marina siting plans and a defunct Coastal Resources Interagency Management Committee.

Section 23 amends s. 215.55865, F.S., to update a reference from DCA to the Florida Building Commission.

[6] Line 1294A, ch. 2011-69, L.O.F. The Legislature appropriated $1 million from general revenue for the program.

Section 30 amends s. 259.101(3), F.S., to update a reference from DCA to the Department of Environmental Protection.

Section 54 amends s. 342.201, F.S., to correct a reference for the administration of the Waterfronts Florida Program. This program had been administered by DCA, but is currently administered by DEO.

References in the following sections are updated to refer to the executive director of DEO instead of the secretary of DCA:

- s. 420.503(8), F.S. (**Section 60**);
- s. 420.507(30), F.S. (**Section 61**);
- s. 420.101(1), F.S. (**Section 62**);
- s. 420.0005, F.S. (**Section 63**);
- s. 420.0006, F.S. (**Section 64**); and
- s. 450.261, F.S. (**Section 72**).

Section 77 amends s. 259.035, F.S., to correct a reference to the number of members of the Acquisition and Restoration Council. The secretary of DCA was removed from the council by s. 119, ch. 2011-142, L.O.F.

Section 83 repeals s. 163.03, F.S., which deals specifically with the powers and duties of the secretary of DCA and functions of DCA. Much of these powers, duties, and functions have been transferred to DEO.[7]

Update references to the former Agency for Workforce Innovation

References in the following sections are updated to refer to DEO:

- s. 212.096(1), F.S. (**Section 21**);
- s. 220.194(3), F.S. (**Section 27**);
- s. 288.021(1), F.S. (**Section 32**);
- s. 443.036(26), F.S. (**Section 65**);
- s. 443.091(1), F.S. (**Section 66**);
- s. 443.111(5), F.S. (**Section 67**);
- s. 443.141(1), F.S. (**Section 68**);
- s. 443.1715(2), F.S. (**Section 69**);
- s. 443.17161, F.S. (**Section 70**);
- s. 446.50(2), F.S. (**Section 71**);
- s. 1002.75(4), F.S. (**Section 75**); and
- s. 1002.79(2), F.S. (**Section 76**).

Section 58 amends s. 402.56(4), F.S., to correct a reference to the Office of Early Learning.

[7] See s. 20.60, F.S.

Update references to the former Office of Tourism, Trade, and Economic Development

References in the following sections are updated to refer to DEO:

- s. 159.81(1), F.S. (**Section 3**);
- s. 213.053(8), F.S. (**Section 22**);
- s. 220.153, F.S. (**Section 25**);
- s. 220.183(2), F.S. (**Section 26**);
- s. 220.194, F.S. (**Section 27**);
- s. 288.1045, F.S. (**Section 33**);
- s. 288.106, F.S. (**Section 34**);
- s. 288.108(3), F.S. (**Section 35**);
- s. 288.1083(3), F.S. (**Section 36**);
- s. 288.1089(2), F.S. (**Section 37**);
- s. 288.1097(2), F.S. (**Section 38**);
- s. 288.11621(3), F.S. (**Section 39**);
- s. 288.1168(6), F.S. (**Section 40**);
- s. 288.1171(4), F.S. (**Section 41**);
- s. 288.1254(8), F.S. (**Section 42**);
- s. 288.987, F.S. (**Section 45**);
- s. 290.0055(6), F.S. (**Section 46**);
- s. 290.0065(4), F.S. (**Section 47**);
- s. 290.00726, F.S. (**Section 48**);
- s. 290.00727, F.S. (**Section 49**);
- s. 290.00728, F.S. (**Section 50**);
- s. 339.135(5), F.S. (**Section 53**);
- s. 377.809(4), F.S. (**Section 56**);
- s. 380.06(19), F.S. (**Section 57**); and
- s. 624.5105(3), F.S. (**Section 74**).

Section 80 amends s. 288.980, F.S., to correct a reference to the number of grant programs relating to the Florida Economic Reinvestment Initiative. It also updates a reference to the former OTTED.

Section 84 repeals s. 373.461(5), F.S., which deals with the purchase of land for the restoration of the Lake Apopka Basin and certain requirements which had to be met in 1997.

Section 85 repeals s. 379.2353, F.S., which deals with enterprise zone designations for communities suffering adverse impacts from the adoption of the 1995 constitutional amendment limiting the use of nets to harvest marine species. The statute states that any enterprise zone that designated under the paragraph which was effective on or before January 1, 2005, would cease to exist after December 31, 2005. Redesignated enterprise zones after that date were required to comply with the Florida Enterprise Zone Act in ch. 290, F.S.

Update references to Public/Private Partnerships

Sections 43 and 44 amend ss. 288.714(2) and 288.7102(7), F.S., to update references to the former Black Business Investment Board.

Section 52 amends s. 320.08058(9) and (35), F.S., to update references from the former Florida Sports Foundation to EFI.

Section 78 amends s. 288.12265, F.S., to authorize EFI to contract with the Florida Tourism Industry Marketing Corporation (Visit Florida) for the management and operation of the welcome centers.

Section 79 amends s. 288.901(5), F.S., to limit the requirement that members of the board of directors of EFI be confirmed by the Senate to those members who are appointed by the Governor. Members appointed by the President of the Senate or the Speaker of the House of Representatives would not be confirmed by the Senate.

Section 81 amends s. 331.3081, F.S., to add the Governor or the Governor's designee as a member and chair of the board of directors of Space Florida. This increases the number of members on the board from an even 12 to 13-members. Historically, the Governor or Lieutenant Governor has served on the board as the chair. Additionally, the CS eliminates the advisory board for Space Florida.

Department of Economic Opportunity

Section 82 amends s. 20.60, F.S., to add the Division of Information Technology to DEO. This division already exists within the organizational structure of DEO.

Cross-References

Section 6 amends s. 163.3191(3), F.S., to update a cross-reference.

Section 57 amends s. 380.06(6), (24), and (29), F.S., to update cross-references.

Effective Date

Section 86 provides an effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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. 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 1/19/2012:
The committee substitute makes the following changes to the bill as originally filed:

- Removes obsolete language related to county marina siting plans and a defunct Coastal Resources Interagency Management Committee;
- Eliminates the advisory board for Space Florida; and
- Adds the Division of Information Technology to DEO.

B. Amendments:

None.

By the Committees on Commerce and Tourism; and Commerce and Tourism

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A bill to be entitled

An act relating to governmental reorganization; amending ss. 68.096, 68.105, 159.81, 163.2517, 163.3178, 163.3191, 163.3204, 163.3221, 163.3246, 163.3247, 163.336, 163.458, 163.460, 163.461, 163.462, 163.5055, 163.506, 163.508, 163.511, 163.512, 212.096, 213.053, 215.55865, 218.411, 220.153, 220.183, 220.194, 258.501, 259.042, 259.101, 282.201, 288.021, 288.1045, 288.106, 288.108, 288.1083, 288.1089, 288.1097, 288.11621, 288.1168, 288.1171, 288.1254, 288.714, 288.7102, 288.987, 290.0055, 290.0065, 290.00726, 290.00727, 290.00728, 311.09, 320.08058, 339.135, 342.201, 377.703, 377.809, 380.06, 402.56, 403.0891, 420.503, 420.507, 420.101, 420.0005, 420.0006, 443.036, 443.091, 443.111, 443.141, 443.1715, 443.17161, 446.50, 450.261, 509.032, 624.5105, 1002.75, and 1002.79, F.S.; correcting references to agency names and divisions and correcting cross-references to conform to the governmental reorganization resulting from the enactment of chapter 2011-142, Laws of Florida; making technical and grammatical changes; amending s. 163.3178, F.S.; deleting obsolete provisions related to countywide marina siting plans; conforming a cross-reference; amending s. 259.035, F.S.; correcting a reference to the number of members of the Acquisition and Restoration Council; amending s. 288.12265, F.S.; authorizing Enterprise Florida, Inc., to contract with the Florida Tourism Industry Marketing Corporation for

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management and operation of welcome centers; amending s. 288.901, F.S.; limiting the requirement that members of the board of directors of Enterprise Florida, Inc., be confirmed by the Senate to those members who are appointed by the Governor; amending s. 288.980, F.S.; changing a reference to the Office of Tourism, Trade, and Economic Development to the Department of Economic Opportunity; correcting the number of grant programs relating to the Florida Economic Reinvestment Initiative; amending s. 331.3081, F.S.; adding the Governor or the Governor's designee as a member and chair of the board of directors of Space Florida; deleting provisions establishing the Space Florida advisory council; amending s. 20.60, F.S.; establishing the Division of Information Technology within the Department of Economic Opportunity; repealing s. 163.03, F.S., relating to the powers and duties of the Secretary of Community Affairs and functions of Department of Community Affairs with respect to federal grant-in-aid programs; amending s. 373.461, F.S.; removing obsolete provisions related to the purchase of land for the restoration of the Lake Apopka Basin; repealing s. 379.2353, F.S., relating to the designation of enterprise zones in communities suffering adverse impacts from the adoption of the constitutional amendment limiting the use of nets to harvest marine species; providing an effective date.

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

Section 1. Subsection (1) of section 68.096, Florida Statutes, is amended to read:

68.096 Definitions.—For purposes of this act:

(1) "Department" means the Department of Legal ~~Community~~ Affairs.

Section 2. Section 68.105, Florida Statutes, is amended to read:

68.105 Use of funds; reports.—All appropriations made for the purposes of the Florida Access to Civil Legal Assistance ~~this~~ Act shall ~~only~~ be used only for legal education or assistance in family law, juvenile law, entitlement to federal benefits, protection from domestic violence, elder abuse, child abuse, or immigration law. These funds may ~~shall~~ not be used in criminal or postconviction relief matters;~~,~~ for lobbying activities;~~,~~ to sue the state, its agencies or political subdivisions, or colleges or universities;~~,~~ for class action lawsuits, to provide legal assistance with respect to noncriminal infractions pursuant to chapter 316, chapter 318, chapter 320, or chapter 322;~~,~~ to contest regulatory decisions of any municipal, county, or state administrative or legislative body;~~,~~ or to file or assist in the filing of private causes of action under federal or state statutes relating to or arising out of employment or terms or conditions of employment. The contracting organization shall require pilot projects to provide data on the number of clients served, the types of cases, the reasons the cases were closed, and the state dollars saved and federal dollars brought into the state because of the legal

services provided. The contracting organization shall provide to the department ~~of Community Affairs~~, within 60 days after completing ~~of the completion of~~ the contract, a report on the legal services provided, the state dollars saved, and the federal dollars brought into the state.

Section 3. Subsection (1) of section 159.81, Florida Statutes, is amended to read:

159.81 Unused allocations; carryforwards.—

(1) The division shall, when requested, provide carryforwards pursuant to s. 146(f) of the Code for written confirmations for priority projects which qualify for a carryforward pursuant to s. 146(f) of the Code, if such request is accompanied by an opinion of bond counsel to that effect. In addition, in the case of Florida First Business projects, the division shall, when requested, grant requests for carryforward only after receipt of a certification from the Department of Economic Opportunity ~~Office of Tourism, Trade, and Economic Development~~ that the project has been approved by the ~~such~~ department ~~office~~ to receive carryforward.

Section 4. Paragraph (b) of subsection (6) of section 163.2517, Florida Statutes, is amended to read:

163.2517 Designation of urban infill and redevelopment area.—

(6)

(b) If the local government fails to implement the urban infill and redevelopment plan in accordance with the deadlines set forth in the plan, the state land planning agency ~~Department of Community Affairs~~ may seek to rescind the economic and regulatory incentives granted to the urban infill and

117 redevelopment area, subject to the provisions of chapter 120.
118 The action to rescind may be initiated 90 days after issuing a
119 written letter of warning to the local government.
120 Section 5. Paragraph (h) of subsection (2) and subsections
121 (3) and (6) of section 163.3178, Florida Statutes, are amended,
122 and present subsections (7) through (9) of that section are
123 renumbered as subsections (6) through (8), respectively, to
124 read:
125 163.3178 Coastal management.—
126 (2) Each coastal management element required by s.
127 163.3177(6)(g) shall be based on studies, surveys, and data; be
128 consistent with coastal resource plans prepared and adopted
129 pursuant to general or special law; and contain:
130 (h) Designation of coastal high-hazard areas and the
131 criteria for mitigation for a comprehensive plan amendment in a
132 coastal high-hazard area as defined in subsection (8) ~~(9)~~. The
133 coastal high-hazard area is the area below the elevation of the
134 category 1 storm surge line as established by a Sea, Lake, and
135 Overland Surges from Hurricanes (SLOSH) computerized storm surge
136 model. Application of mitigation and the application of
137 development and redevelopment policies, pursuant to s.
138 380.27(2), and any rules adopted thereunder, shall be at the
139 discretion of local government.
140 (3) Expansions to port harbors, spoil disposal sites,
141 navigation channels, turning basins, harbor berths, and other
142 related inwater harbor facilities of ports listed in s.
143 403.021(9); port transportation facilities and projects listed
144 in s. 311.07(3)(b); intermodal transportation facilities
145 identified pursuant to s. 311.09(3); and facilities determined

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146 by the state land planning agency ~~Department of Community~~
147 ~~Affairs~~ and applicable general-purpose local government to be
148 port-related industrial or commercial projects located within 3
149 miles of or in a port master plan area which rely upon the use
150 of port and intermodal transportation facilities may ~~shall~~ not
151 be designated as developments of regional impact if such
152 expansions, projects, or facilities are consistent with
153 comprehensive master plans that are in compliance with this
154 section.
155 ~~(6) Local governments are encouraged to adopt countywide~~
156 ~~marina siting plans to designate sites for existing and future~~
157 ~~marinas. The Coastal Resources Interagency Management Committee,~~
158 ~~at the direction of the Legislature, shall identify incentives~~
159 ~~to encourage local governments to adopt such siting plans and~~
160 ~~uniform criteria and standards to be used by local governments~~
161 ~~to implement state goals, objectives, and policies relating to~~
162 ~~marina siting. These criteria must ensure that priority is given~~
163 ~~to water-dependent land uses. Countywide marina siting plans~~
164 ~~must be consistent with state and regional environmental~~
165 ~~planning policies and standards. Each local government in the~~
166 ~~coastal area which participates in adoption of a countywide~~
167 ~~marina siting plan shall incorporate the plan into the coastal~~
168 ~~management element of its local comprehensive plan.~~
169 Section 6. Subsection (3) of section 163.3191, Florida
170 Statutes, is amended to read:
171 163.3191 Evaluation and appraisal of comprehensive plan.—
172 (3) Local governments are encouraged to comprehensively
173 evaluate and, as necessary, update comprehensive plans to
174 reflect changes in local conditions. Plan amendments transmitted

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175 pursuant to this section shall be reviewed pursuant to ~~in~~
176 ~~accordance with~~ s. 163.3184(4).
177 Section 7. Section 163.3204, Florida Statutes, is amended
178 to read:
179 163.3204 Cooperation by state and regional agencies.—The
180 state land planning agency ~~Department of Community Affairs~~ and
181 any ad hoc working groups appointed by the department and all
182 state and regional agencies involved in the administration and
183 implementation of the Community Planning ~~this~~ Act shall
184 cooperate and work with units of local government in the
185 preparation and adoption of comprehensive plans, or elements or
186 portions thereof, and of local land development regulations.
187 Section 8. Subsection (14) of section 163.3221, Florida
188 Statutes, is amended to read:
189 163.3221 Florida Local Government Development Agreement
190 Act; definitions.—As used in ss. 163.3220-163.3243:
191 (14) "State land planning agency" means the Department of
192 Economic Opportunity ~~Community Affairs~~.
193 Section 9. Subsection (1) of section 163.3246, Florida
194 Statutes, is amended to read:
195 163.3246 Local government comprehensive planning
196 certification program.—
197 (1) There is created the Local Government Comprehensive
198 Planning Certification Program to be administered by the state
199 land planning agency ~~Department of Community Affairs~~. The
200 purpose of the program is to create a certification process for
201 local governments who identify a geographic area for
202 certification within which they commit to directing growth and
203 who, because of a demonstrated record of effectively adopting,

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204 implementing, and enforcing its comprehensive plan, the level of
205 technical planning experience exhibited by the local government,
206 and a commitment to implement exemplary planning practices,
207 require less state and regional oversight of the comprehensive
208 plan amendment process. The purpose of the certification area is
209 to designate areas that are contiguous, compact, and appropriate
210 for urban growth and development within a 10-year planning
211 timeframe. Municipalities and counties are encouraged to jointly
212 establish the certification area, and subsequently enter into
213 joint certification agreement with the department.
214 Section 10. Paragraphs (a) and (b) of subsection (5) of
215 section 163.3247, Florida Statutes, are amended to read:
216 163.3247 Century Commission for a Sustainable Florida.—
217 (5) EXECUTIVE DIRECTOR; STAFF AND OTHER ASSISTANCE.—
218 (a) The executive director of the state land planning
219 agency ~~Secretary of Community Affairs~~ shall select an executive
220 director of the commission, and the executive director of the
221 commission shall serve at the pleasure of the executive director
222 of the state land planning agency ~~secretary~~ under the
223 supervision and control of the commission.
224 (b) The state land planning agency ~~Department of Community~~
225 ~~Affairs~~ shall provide staff and other resources necessary to
226 accomplish the goals of the commission based upon
227 recommendations of the Governor.
228 Section 11. Paragraph (c) of subsection (2) of section
229 163.336, Florida Statutes, is amended to read:
230 163.336 Coastal resort area redevelopment pilot project.—
231 (2) PILOT PROJECT ADMINISTRATION.—
232 (c) The Office of the Governor, the Department of

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233 Environmental Protection, and the Department of Economic
234 Opportunity ~~Community Affairs~~ are directed to provide technical
235 assistance to expedite permitting for redevelopment projects and
236 construction activities within the pilot project areas
237 consistent with the principles, processes, and timeframes
238 provided in s. 403.973.
239 Section 12. Section 163.458, Florida Statutes, is amended
240 to read:
241 163.458 Three-tiered plan.—The Department of Economic
242 Opportunity may ~~Community Affairs is authorized to~~ award core
243 administrative and operating grants. Administrative and
244 operating grants shall be used for staff salaries and
245 administrative expenses for eligible community-based development
246 organizations selected through a competitive three-tiered
247 process for the purpose of housing and economic development
248 projects. The department shall adopt by rule a set of criteria
249 for three-tiered funding which ~~that~~ shall ensure equitable
250 geographic distribution of the funding throughout the state.
251 This three-tiered plan shall include emerging, intermediate, and
252 mature community-based development organizations recognizing the
253 varying needs of the three tiers. Funding shall be provided for
254 core administrative and operating grants for all levels of
255 community-based development organizations. Priority shall be
256 given to those organizations that demonstrate community-based
257 productivity and high performance as evidenced by past projects
258 developed with stakeholder input that have responded to
259 neighborhood needs, and have current projects located in high-
260 poverty neighborhoods, and to emerging community-based
261 development corporations that demonstrate a positive need

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262 identified by stakeholders. Persons, equipment, supplies, and
263 other resources funded in whole or in part by grant funds shall
264 be used ~~utilized~~ to further the purposes of the Community-Based
265 Development Organization Assistance ~~this~~ Act, and may be used
266 ~~utilized~~ to further the goals and objectives of the Front Porch
267 Florida Initiative. Each community-based development
268 organization is ~~shall be~~ eligible to apply for a grant of up to
269 $50,000 per year for a period of 5 years.
270 Section 13. Section 163.460, Florida Statutes, is amended
271 to read:
272 163.460 Application requirements.—A community-based
273 development organization applying for a core administrative and
274 operating grant pursuant to the Community-Based Development
275 Organization Assistance ~~this~~ Act must submit a proposal to the
276 Department of Economic Opportunity which ~~Community Affairs that~~
277 includes:
278 (1) A map and narrative description of the service areas
279 for the community-based development organization.
280 (2) A copy of the documents creating the community-based
281 development organization.
282 (3) A listing of the membership of the board of the
283 community-based development organization, including individual
284 members' terms of office and the number of low-income residents
285 on the board.
286 (4) The organization's annual revitalization plan that
287 describes the expenditure of the funds, including goals,
288 objectives, and expected results, and has a clear relationship
289 to the local municipality's comprehensive plan.
290 (5) Other supporting information that may be required by

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291 the Department of Economic Opportunity ~~Community Affairs~~ to
292 determine the organization's capacity and productivity.
293 (6) A description of the location, financing plan, and
294 potential impact of the business enterprises on residential,
295 commercial, or industrial development, which ~~that~~ shows a clear
296 relationship to the organization's annual revitalization plan
297 and demonstrates how the proposed expenditures are directly
298 related to the scope of work for the proposed projects in the
299 annual revitalization plan.
300 Section 14. Section 163.461, Florida Statutes, is amended
301 to read:
302 163.461 Reporting and evaluation requirements.—Community-
303 based development organizations that receive funds under the
304 Community-Based Development Organization Assistance ~~this~~ Act
305 shall provide the following information to the Department of
306 Economic Opportunity ~~Community Affairs~~ annually:
307 (1) A listing of business firms and individuals assisted by
308 the community-based development organization during the
309 reporting period.
310 (2) A listing of the type, source, purpose, and amount of
311 each individual grant, loan, or donation received by the
312 community-based development organization during the reporting
313 period.
314 (3) The number of paid and voluntary positions within the
315 community-based development organization.
316 (4) A listing of the salaries and administrative and
317 operating expenses of the community-based development
318 organization.
319 (5) An identification and explanation of changes in the

320 boundaries of the target area.
321 (6) The amount of earned income from projects, programs,
322 and development activities.
323 (7) The number and description of projects in
324 predevelopment phase, projects under construction, ongoing
325 service programs, construction projects completed, and projects
326 at sell-out or lease-up and property management phase, and a
327 written explanation of the reasons that caused any projects not
328 to be completed for the projected development phase.
329 (8) The impact of the projects, as a result of receiving
330 funding under this act, on residents in the target area, and the
331 relationship of this impact to expected outcomes listed in the
332 organization's annual revitalization plan.
333 (9) The number of housing units rehabilitated or
334 constructed at various stages of development, predevelopment
335 phase, construction phase, completion and sell-out or lease-up
336 phase, and condominium or property management phase by the
337 community-based development organization within the service area
338 during the reporting period.
339 (10) The number of housing units, number of projects, and
340 number of persons served by prior projects developed by the
341 organization, the amounts of project financing leverage with
342 state funds for each prior and current project, and the
343 incremental amounts of local and state real estate tax and sales
344 tax revenue generated directly by the projects and programs
345 annually.
346 (11) The number of jobs, both permanent and temporary,
347 received by individuals who were directly assisted by the
348 community-based development organization through assistance to

349 the business such as a loan or other credit assistance.
350 (12) An identification and explanation of changes in the
351 boundaries of the service area.
352 (13) The impact of completed projects on residents in the
353 target area and the relationship of this impact to expected
354 outcomes listed in the organization's annual revitalization
355 plan.
356 (14) Such other information as the Department of Economic
357 Opportunity ~~Community Affairs~~ requires.
358 Section 15. Section 163.462, Florida Statutes, is amended
359 to read:
360 163.462 Rulemaking authority.—The Department of Economic
361 Opportunity ~~Community Affairs~~ shall adopt rules for the
362 administration of the Community-Based Development Organization
363 Assistance ~~this~~ Act.
364 Section 16. Subsection (1) of section 163.5055, Florida
365 Statutes, is amended to read:
366 163.5055 Registration of district establishment; notice of
367 dissolution.—
368 (1)(a) Each neighborhood improvement district authorized
369 and established under this part shall within 30 days thereof
370 register with both the Department of Economic Opportunity
371 ~~Community Affairs~~ and the Department of Legal Affairs by
372 providing these departments with the district's name, location,
373 size, and type, and such other information as the departments
374 may require.
375 (b) Each local governing body that ~~which~~ authorizes the
376 dissolution of a district shall notify both the Department of
377 Economic Opportunity ~~Community Affairs~~ and the Department of

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378 Legal Affairs within 30 days after the dissolution of the
379 district.
380 Section 17. Paragraph (h) of subsection (1) of section
381 163.506, Florida Statutes, is amended to read:
382 163.506 Local government neighborhood improvement
383 districts; creation; advisory council; dissolution.—
384 (1) After a local planning ordinance has been adopted
385 authorizing the creation of local government neighborhood
386 improvement districts, the local governing body of a
387 municipality or county may create local government neighborhood
388 improvement districts by the enactment of a separate ordinance
389 for each district, which ordinance:
390 (h) Requires the district to notify the Department of Legal
391 Affairs and the Department of Economic Opportunity ~~Community~~
392 ~~Affairs~~ in writing of its establishment within 30 days thereof
393 pursuant to s. 163.5055.
394 Section 18. Paragraph (g) of subsection (1) of section
395 163.508, Florida Statutes, is amended to read:
396 163.508 Property owners' association neighborhood
397 improvement districts; creation; powers and duties; duration.—
398 (1) After a local planning ordinance has been adopted
399 authorizing the creation of property owners' association
400 neighborhood improvement districts, the local governing body of
401 a municipality or county may create property owners' association
402 neighborhood improvement districts by the enactment of a
403 separate ordinance for each district, which ordinance:
404 (g) Requires the district to notify the Department of Legal
405 Affairs and the Department of Economic Opportunity ~~Community~~
406 ~~Affairs~~ in writing of its establishment within 30 days thereof

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407 pursuant to s. 163.5055.
408 Section 19. Paragraph (i) of subsection (1) of section
409 163.511, Florida Statutes, is amended to read:
410 163.511 Special neighborhood improvement districts;
411 creation; referendum; board of directors; duration; extension.—
412 (1) After a local planning ordinance has been adopted
413 authorizing the creation of special neighborhood improvement
414 districts, the governing body of a municipality or county may
415 declare the need for and create special residential or business
416 neighborhood improvement districts by the enactment of a
417 separate ordinance for each district, which ordinance:
418 (i) Requires the district to notify the Department of Legal
419 Affairs and the Department of Economic Opportunity ~~Community~~
420 ~~Affairs~~ in writing of its establishment within 30 days thereof
421 pursuant to s. 163.5055.
422 Section 20. Paragraph (i) of subsection (1) of section
423 163.512, Florida Statutes, is amended to read:
424 163.512 Community redevelopment neighborhood improvement
425 districts; creation; advisory council; dissolution.—
426 (1) Upon the recommendation of the community redevelopment
427 agency and after a local planning ordinance has been adopted
428 authorizing the creation of community redevelopment neighborhood
429 improvement districts, the local governing body of a
430 municipality or county may create community redevelopment
431 neighborhood improvement districts by the enactment of a
432 separate ordinance for each district, which ordinance:
433 (i) Requires the district to notify the Department of Legal
434 Affairs and the Department of Economic Opportunity ~~Community~~
435 ~~Affairs~~ in writing of its establishment within 30 days thereof

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436 pursuant to s. 163.5055.
437 Section 21. Paragraph (d) of subsection (1) of section
438 212.096, Florida Statutes, is amended to read:
439 212.096 Sales, rental, storage, use tax; enterprise zone
440 jobs credit against sales tax.—
441 (1) For the purposes of the credit provided in this
442 section:
443 (d) "Job" means a full-time position, as consistent with
444 terms used by the Department of Economic Opportunity ~~Agency for~~
445 ~~Workforce Innovation~~ and the United States Department of Labor
446 for purposes of unemployment compensation tax administration and
447 employment estimation resulting directly from a business
448 operation in this state. This term does ~~may~~ not include a
449 temporary construction job involved with the construction of
450 facilities or any job that has previously been included in any
451 application for tax credits under s. 220.181(1). The term also
452 includes employment of an employee leased from an employee
453 leasing company licensed under chapter 468 if such employee has
454 been continuously leased to the employer for an average of at
455 least 36 hours per week for more than 6 months.
456
457 A person shall be deemed to be employed if the person performs
458 duties in connection with the operations of the business on a
459 regular, full-time basis, provided the person is performing such
460 duties for an average of at least 36 hours per week each month.
461 The person must be performing such duties at a business site
462 located in the enterprise zone.
463 Section 22. Paragraphs (k) and (bb) of subsection (8) of
464 section 213.053, Florida Statutes, are amended, and present

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465 paragraphs (l) through (bb) of that subsection are redesignated
466 as paragraphs (k) through (aa), respectively, to read:
467 213.053 Confidentiality and information sharing.—
468 (8) Notwithstanding any other provision of this section,
469 the department may provide:
470 ~~(k) Information relative to single sales factor~~
471 ~~apportionment used by a taxpayer to the Office of Tourism,~~
472 ~~Trade, and Economic Development or its employees or agents who~~
473 ~~are identified in writing by the office to the department for~~
474 ~~use by the office to administer s. 220.153.~~
475 (aa)~~(bb)~~ Information relating to tax credits taken under s.
476 220.194 ~~to the Office of Tourism, Trade, and Economic~~
477 ~~Development or~~ to Space Florida.
478
479 Disclosure of information under this subsection shall be
480 pursuant to a written agreement between the executive director
481 and the agency. Such agencies, governmental or nongovernmental,
482 shall be bound by the same requirements of confidentiality as
483 the Department of Revenue. Breach of confidentiality is a
484 misdemeanor of the first degree, punishable as provided by s.
485 775.082 or s. 775.083.
486 Section 23. Section 215.55865, Florida Statutes, is amended
487 to read:
488 215.55865 Uniform home grading scale.—The Financial
489 Services Commission shall adopt a uniform home grading scale to
490 grade the ability of a home to withstand the wind load from a
491 sustained severe tropical storm or hurricane. The commission
492 shall coordinate with the Office of Insurance Regulation, the
493 Department of Financial Services, and the Florida Building

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494 Commission ~~Department of Community Affairs~~ in developing the
495 grading scale, which must be based upon and consistent with the
496 rating system required by chapter 2006-12, Laws of Florida. ~~The~~
497 ~~commission shall adopt the uniform grading scale by rule no~~
498 ~~later than June 30, 2007.~~
499 Section 24. Paragraph (c) of subsection (1) of section
500 218.411, Florida Statutes, is amended to read:
501 218.411 Authorization for state technical and advisory
502 assistance.—
503 (1) The board is authorized, upon request, to assist local
504 governments in investing funds that are temporarily in excess of
505 operating needs by:
506 (c) Providing, in cooperation with the Department of
507 Economic Opportunity ~~Community Affairs~~, technical assistance to
508 local governments in investment of surplus funds.
509 Section 25. Subsections (1), (2), and (3), paragraphs (b)
510 and (c) of subsection (4), and subsection (5) of section
511 220.153, Florida Statutes, are amended to read:
512 220.153 Apportionment by sales factor.—
513 (1) DEFINITIONS.—As used in this section, the term~~:~~
514 ~~(a) "Office" means the Office of Tourism, Trade, and~~
515 ~~Economic Development~~.
516 ~~(b)~~ "qualified capital expenditures" means expenditures in
517 this state for purposes substantially related to a business's
518 production or sale of goods or services. The expenditure must
519 fund the acquisition of additional real property (land,
520 buildings, including appurtenances, fixtures and fixed
521 equipment, structures, etc.), including additions, replacements,
522 major repairs, and renovations to real property which materially

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523 extend its useful life or materially improve or change its
524 functional use and the furniture and equipment necessary to
525 furnish and operate a new or improved facility. The term
526 ~~"qualified capital expenditures"~~ does not include an expenditure
527 for a passive investment or for an investment intended for the
528 accumulation of reserves or the realization of profit for
529 distribution to any person holding an ownership interest in the
530 business. The term ~~"qualified capital expenditures"~~ does not
531 include expenditures to acquire an existing business or
532 expenditures in excess of $125 million to acquire land or
533 buildings.
534 (2) APPORTIONMENT OF TAXES; ELIGIBILITY.—A taxpayer, not
535 including a financial organization as defined in s. 220.15(6) or
536 a bank, savings association, international banking facility, or
537 banking organization as defined in s. 220.62, doing business
538 within and without this state, who applies and demonstrates to
539 the Department of Economic Opportunity ~~office~~ that, within a 2-
540 year period beginning on or after July 1, 2011, it has made
541 qualified capital expenditures equal to or exceeding $250
542 million may apportion its adjusted federal income solely by the
543 sales factor set forth in s. 220.15(5), commencing in the
544 taxable year that the Department of Economic Opportunity ~~office~~
545 approves the application, but not before a taxable year that
546 begins on or after January 1, 2013. Once approved, a taxpayer
547 may elect to apportion its adjusted federal income for any
548 taxable year using the method provided under this section or the
549 method provided under s. 220.15.
550 (3) QUALIFICATION PROCESS.—
551 (a) To qualify as a taxpayer who is eligible to apportion

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552 its adjusted federal income under this section:
553 1. The taxpayer must notify the Department of Economic
554 Opportunity ~~office~~ of its intent to submit an application to
555 apportion its adjusted federal income in order to commence the
556 2-year period for measuring qualified capital expenditures.
557 2. The taxpayer must submit an application to apportion its
558 adjusted federal income under this section to the Department of
559 Economic Opportunity ~~office~~ within 2 years after notifying the
560 Department of Economic Opportunity ~~office~~ of the taxpayer's
561 intent to qualify. The application must be made under oath and
562 provide such information as the Department of Economic
563 Opportunity ~~office~~ reasonably requires by rule for determining
564 the applicant's eligibility to apportion adjusted federal income
565 under this section. The taxpayer is responsible for
566 affirmatively demonstrating to the satisfaction of the
567 Department of Economic Opportunity ~~office~~ that it meets the
568 eligibility requirements.
569 (b) The taxpayer notice and application forms shall be
570 established by the Department of Economic Opportunity ~~office~~ by
571 rule. The Department of Economic Opportunity ~~office~~ shall
572 acknowledge receipt of the notice and approve or deny the
573 application in writing within 45 days after receipt.
574 (4) REVIEW AUTHORITY; RECAPTURE OF TAX.—
575 (b) The Department of Economic Opportunity ~~office~~ may, by
576 order, revoke its decision to grant eligibility for
577 apportionment pursuant to this section, and may also order the
578 recalculation of apportionment factors to those applicable under
579 s. 220.15 if, as the result of an audit, investigation, or
580 examination, it determines that information provided by the

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taxpayer in the application, or in a statement, representation, record, report, plan, or other document provided to the Department of Economic Opportunity ~~office~~ to become eligible for apportionment, was materially false at the time it was made and that an individual acting on behalf of the taxpayer knew, or should have known, that the information submitted was false. The taxpayer shall pay such additional taxes and interest as may be due pursuant to this chapter computed as the difference between the tax that would have been due under the apportionment formula provided in s. 220.15 for such years and the tax actually paid. In addition, the department shall assess a penalty equal to 100 percent of the additional tax due.

(c) The Department of Economic Opportunity ~~office~~ shall immediately notify the department of an order affecting a taxpayer's eligibility to apportion tax pursuant to this section. A taxpayer who is liable for past tax must file an amended return with the department, or such other report as the department prescribes by rule, and pay any required tax, interest, and penalty within 60 days after the taxpayer receives notification from the Department of Economic Opportunity ~~office~~ that the previously approved credits have been revoked. If the revocation is contested, the taxpayer shall file an amended return or other report within 30 days after an order becomes final. A taxpayer who fails to pay the past tax, interest, and penalty by the due date is subject to the penalties provided in s. 220.803.

(5) RULES.—The Department of Economic Opportunity ~~office~~ and the department may adopt rules to administer this section.

Section 26. Paragraph (b) of subsection (2) of section

220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(2) ELIGIBILITY REQUIREMENTS.—

(b)1. All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t).

2. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity ~~office~~ shall grant the tax credits for those applications as follows:

a. If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credit shall be granted in full if the tax credit applications are approved.

b. If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted under sub-subparagraph a. shall be

639 subtracted from the amount of available tax credits, and the
640 remaining credits shall be granted to each approved tax credit
641 application on a pro rata basis.
642 3. If, during the first 10 business days of the state
643 fiscal year, eligible tax credit applications for projects other
644 than those that provide homeownership opportunities for low-
645 income or very-low-income households as defined in s.
646 420.9071(19) and (28) are received for less than the annual tax
647 credits available for those projects, the Department of Economic
648 Opportunity ~~office~~ shall grant tax credits for those
649 applications and shall grant remaining tax credits on a first-
650 come, first-served basis for any subsequent eligible
651 applications received before the end of the state fiscal year.
652 If, during the first 10 business days of the state fiscal year,
653 eligible tax credit applications for projects other than those
654 that provide homeownership opportunities for low-income or very-
655 low-income households as defined in s. 420.9071(19) and (28) are
656 received for more than the annual tax credits available for
657 those projects, the Department of Economic Opportunity ~~office~~
658 shall grant the tax credits for those applications on a pro rata
659 basis.
660 Section 27. Paragraphs (b), (d), (e), and (f) of subsection
661 (3), paragraphs (a), (c), and (e) of subsection (4), subsection
662 (5), paragraph (b) of subsection (6), paragraphs (a), (b), (d),
663 and (e) of subsection (7), paragraph (a) of subsection (8), and
664 subsection (9) of section 220.194, Florida Statutes, are amended
665 to read:
666 220.194 Corporate income tax credits for spaceflight
667 projects.—

668 (3) DEFINITIONS.—As used in this section, the term:
669 (b) "Certified" means that a spaceflight business has been
670 certified by the Department of Economic Opportunity ~~office~~ as
671 meeting all of the requirements necessary to obtain at least one
672 of the approved tax credits available under this section,
673 including approval to transfer a credit.
674 (d) "New job" means the full-time employment of an employee
675 in a manner that is consistent with terms used by the Department
676 of Economic Opportunity ~~Agency for Workforce Innovation~~ and the
677 United States Department of Labor for purposes of unemployment
678 compensation tax administration and employment estimation. In
679 order to meet the requirement for certification specified in
680 paragraph (5)(b), a new job must:
681 1. Pay new employees at least 115 percent of the statewide
682 or countywide average annual private sector wage for the 3
683 taxable years immediately preceding filing an application for
684 certification;
685 2. Require a new employee to perform duties on a regular
686 full-time basis in this state for an average of at least 36
687 hours per week each month for the 3 taxable years immediately
688 preceding filing an application for certification; and
689 3. Not be held by a person who has previously been included
690 as a new employee on an application for any credit authorized
691 under this section.
692 ~~(e) "Office" means the Office of Tourism, Trade, and~~
693 ~~Economic Development.~~
694 (e) ~~(f)~~ "Payload" means an object built or assembled in this
695 state to be placed into earth's upper atmospheres or space.
696 (4) TAX CREDITS.—

697 (a) If approved and certified pursuant to subsection (5),
698 the following tax credits may be taken on a return for a taxable
699 year beginning on or after October 1, 2015:
700 1. A certified spaceflight business may take a
701 nontransferable corporate income tax credit for up to 50 percent
702 of the business's tax liability under this chapter for the
703 taxable year in which the credit is taken. The maximum
704 nontransferable tax credit amount that may be approved per
705 taxpayer for a taxable year is $1 million. No more than $3
706 million in total tax credits pursuant to this subparagraph may
707 be certified pursuant to subsection (5). No credit may be
708 approved after October 1, 2017.
709 2. A certified spaceflight business may transfer, in whole
710 or in part, its Florida net operating loss that would otherwise
711 be available to be taken on a return filed under this chapter,
712 provided that the activity giving rise to such net operating
713 loss must have occurred after July 1, 2011. The transfer allowed
714 under this subparagraph will be in the form of a transferable
715 tax credit equal to the amount of the net operating loss
716 eligible to be transferred. The maximum transferable tax credit
717 amount that may be approved per taxpayer for a taxable year is
718 $2.5 million. No more than $7 million in total tax credits
719 pursuant to this subparagraph may be certified pursuant to
720 subsection (5). No credit may be approved after October 1, 2017.
721 a. In order to transfer the credit, the business must:
722 (I) Have been approved to transfer the tax credit for the
723 taxable year in which it is transferred;
724 (II) Have incurred a qualifying net operating loss on
725 activity in this state after July 1, 2011, directly associated

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726 with one or more spaceflight projects in any of its 3 previous
727 taxable years;
728 (III) Not be 50 percent or more owned or controlled,
729 directly or indirectly, by another corporation that has
730 demonstrated positive net income in any of the 3 previous
731 taxable years of ongoing operations; and
732 (IV) Not be part of a consolidated group of affiliated
733 corporations, as filed for federal income tax purposes, which in
734 the aggregate demonstrated positive net income in any of the 3
735 previous taxable years.
736 b. The credit that may be transferred by a certified
737 spaceflight business:
738 (I) Is limited to the amount of eligible net operating
739 losses incurred in the immediate 3 taxable years before the
740 transfer; and
741 (II) Must be directly associated with a spaceflight project
742 in this state as verified through an audit or examination by a
743 certified public accountant licensed to do business in this
744 state and as verified by the Department of Economic Opportunity
745 ~~office~~.
746 (c) Credits approved under subparagraph (a)1. may be taken
747 only against the corporate income tax liability generated by or
748 arising out of a spaceflight project in this state, as verified
749 through an audit or examination by a certified public accountant
750 licensed to do business in this state and as verified by the
751 Department of Economic Opportunity ~~office~~.
752 (e) The certified spaceflight business or transferee must
753 demonstrate to the satisfaction of the Department of Economic
754 Opportunity ~~office~~ and the department that it is eligible to

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755 take the credits approved under this section.
756 (5) APPLICATION AND CERTIFICATION.—
757 (a) In order to claim a tax credit under this section, a
758 spaceflight business must first submit an application to the
759 Department of Economic Opportunity ~~office~~ for approval to earn
760 tax credits or create transferable tax credits. The application
761 must be filed by the date established by the Department of
762 Economic Opportunity ~~office~~. In addition to any information that
763 the Department of Economic Opportunity ~~office~~ may require, the
764 applicant must provide a complete description of the activity in
765 this state which demonstrates to the Department of Economic
766 Opportunity ~~office~~ the applicant's likelihood to be certified to
767 take or transfer a credit. The applicant must also provide a
768 description of the total amount and type of credits for which
769 approval is sought. The Department of Economic Opportunity
770 ~~office~~ may consult with Space Florida regarding the
771 qualifications of an applicant. The applicant shall provide an
772 affidavit certifying that all information contained in the
773 application is true and correct.
774 1. Approval of the credits shall be provided on a first-
775 come, first-served basis, based on the date the completed
776 applications are received by the Department of Economic
777 Opportunity ~~office~~. A taxpayer may not submit more than one
778 completed application per state fiscal year. The Department of
779 Economic Opportunity ~~office~~ may not accept an incomplete
780 placeholder application, and the submission of such an
781 application will not secure a place in the first-come, first-
782 served application line.
783 2. The Department of Economic Opportunity ~~office~~ has 60

784 days after the receipt of a completed application within which
785 to issue a notice of intent to deny or approve an application
786 for credits. The Department of Economic Opportunity ~~office~~ must
787 ensure that the corporate income tax credits approved for all
788 applicants do not exceed the limits provided in this section.
789 (b) In order to take a tax credit under subparagraph (a)1.
790 or, if applicable, to transfer an approved credit under
791 subparagraph (a)2., a spaceflight business must submit an
792 application for certification to the Department of Economic
793 Opportunity ~~office~~ along with a nonrefundable $250 fee.
794 1. The application must include:
795 a. The name and physical in-state address of the taxpayer.
796 b. Documentation demonstrating to the satisfaction of the
797 Department of Economic Opportunity ~~office~~ that:
798 (I) The taxpayer is a spaceflight business.
799 (II) The business has engaged in a qualifying spaceflight
800 project before taking or transferring a credit under this
801 section.
802 c. In addition to any requirement specific to a credit,
803 documentation that the business has:
804 (I) Created 35 new jobs in this state directly associated
805 with spaceflight projects during its immediately preceding 3
806 taxable years. The business shall be deemed to have created new
807 jobs if the number of full-time jobs located in this state at
808 the time of application for certification is greater than the
809 total number of full-time jobs located in this state at the time
810 of application for approval to earn credits; and
811 (II) Invested a total of at least $15 million in this state
812 on a spaceflight project during its immediately preceding 3

813 taxable years.
814 d. The total amount and types of credits sought.
815 e. An acknowledgment that a transfer of a tax credit is to
816 be accomplished pursuant to subsection (5).
817 f. A copy of an audit or audits of the preceding 3 taxable
818 years, prepared by a certified public accountant licensed to
819 practice in this state, which identifies that portion of the
820 business's activities in this state related to spaceflight
821 projects in this state.
822 g. An acknowledgment that the business must file an annual
823 report on the spaceflight project's progress with the Department
824 of Economic Opportunity ~~office~~.
825 h. Any other information necessary to demonstrate that the
826 applicant meets the job creation, investment, and other
827 requirements of this section.
828 2. Within 60 days after receipt of the application for
829 certification, the Department of Economic Opportunity ~~office~~
830 shall evaluate the application and recommend the business for
831 certification or denial. The executive director of the
832 Department of Economic Opportunity ~~office~~ must approve or deny
833 the application within 30 days after receiving the
834 recommendation. If approved, the Department of Economic
835 Opportunity ~~office~~ must provide a letter of certification to the
836 applicant consistent with any restrictions imposed. If the
837 Department of Economic Opportunity ~~office~~ denies any part of the
838 requested credit, the Department of Economic Opportunity ~~office~~
839 must inform the applicant of the grounds for the denial. A copy
840 of the certification shall be submitted to the department within
841 10 days after the executive director's approval.

842 (6) TRANSFERABILITY OF CREDIT.—
843 (b) In order to perfect the transfer, the transferor shall
844 provide the department with a written transfer statement that
845 has been approved by the Department of Economic Opportunity
846 ~~office~~ notifying the department of the transferor's intent to
847 transfer the tax credits to the transferee; the date that the
848 transfer is effective; the transferee's name, address, and
849 federal taxpayer identification number; the tax period; and the
850 amount of tax credits to be transferred. Upon receipt of the
851 approved transfer statement, the department shall provide the
852 transferee and the Department of Economic Opportunity ~~office~~
853 with a certificate reflecting the tax credit amounts
854 transferred. A copy of the certificate must be attached to each
855 tax return for which the transferee seeks to apply the credits.
856 (7) AUDIT AUTHORITY; RECAPTURE OF CREDITS.—
857 (a) In addition to its existing audit and investigative
858 authority, the department may perform any additional financial
859 and technical audits and investigations, including examining the
860 accounts, books, and financial records of the tax credit
861 applicant, which are necessary for verifying the accuracy of the
862 return and to ensure compliance with this section. If requested
863 by the department, the Department of Economic Opportunity ~~office~~
864 and Space Florida must provide technical assistance for any
865 technical audits or examinations performed under this
866 subsection.
867 (b) Grounds for forfeiture of previously claimed tax
868 credits approved under this section exist if the department
869 determines, as a result of an audit or examination, or from
870 information received from the Department of Economic Opportunity

871 ~~office~~, that a certified spaceflight business, or in the case of
872 transferred tax credits, a taxpayer received tax credits for
873 which the certified spaceflight business or taxpayer was not
874 entitled. The spaceflight business or transferee must file an
875 amended return reflecting the disallowed credits and paying any
876 tax due as a result of the amendment.
877 (d) The Department of Economic Opportunity ~~office~~ may
878 revoke or modify a certification granting eligibility for tax
879 credits if it finds that the certified spaceflight business made
880 a false statement or representation in any application, record,
881 report, plan, or other document filed in an attempt to receive
882 tax credits under this section. The Department of Economic
883 Opportunity ~~office~~ shall immediately notify the department of
884 any revoked or modified orders affecting previously granted tax
885 credits. The certified spaceflight business must also notify the
886 department of any change in its claimed tax credit.
887 (e) The certified spaceflight business must file with the
888 department an amended return or other report required by the
889 department by rule and pay any required tax and interest within
890 60 days after the certified business receives notification from
891 the Department of Economic Opportunity ~~office~~ that previously
892 approved tax credits have been revoked or modified. If the
893 revocation or modification order is contested, the spaceflight
894 business must file the amended return or other report within 60
895 days after a final order is issued.
896 (8) RULES.—
897 (a) The Department of Economic Opportunity ~~office~~, in
898 consultation with Space Florida, shall adopt rules to administer
899 this section, including rules relating to application forms for

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900 credit approval and certification, and the application and
901 certification procedures, guidelines, and requirements necessary
902 to administer this section.
903 (9) ANNUAL REPORT.—Beginning in 2014, the Department of
904 Economic Opportunity ~~office~~, in cooperation with Space Florida
905 and the department, shall submit an annual report summarizing
906 activities relating to the Florida Space Business Incentives Act
907 established under this section to the Governor, the President of
908 the Senate, and the Speaker of the House of Representatives by
909 each November 30.
910 Section 28. Paragraph (b) of subsection (3), paragraph (b)
911 of subsection (4), subsection (6), paragraph (a) of subsection
912 (7), and paragraph (c) of subsection (9) of section 258.501,
913 Florida Statutes, are amended to read:
914 258.501 Myakka River; wild and scenic segment.—
915 (3) DEFINITIONS.—As used in this section, the term:
916 (b) "Agreement" means the interagency operating agreement
917 between the department, the Department of Economic Opportunity
918 ~~Community Affairs~~, and Sarasota County or the City of North
919 Port.
920 (4) DESIGNATION OF WILD AND SCENIC RIVER.—
921 (b) The governments of Sarasota County and the City of
922 North Port shall manage the Myakka River wild and scenic
923 protection zone under their existing authorities for
924 comprehensive planning, the regulation of land development
925 activities, and other necessary or appropriate ordinances and in
926 conformance with this section, the management plan required
927 under subsection (5), and the agreements adopted by the
928 department and the Department of Economic Opportunity ~~Community~~

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929 ~~Affairs~~ with the city and county pursuant to this section.
930 (6) AMENDMENT OF REGULATIONS AND COMPREHENSIVE PLANS.—
931 (a) Sarasota County and the City of North Port shall amend
932 their comprehensive plans so that the parts of such plans that
933 affect the wild and scenic protection zone conform to, or are
934 more stringent than, this section, the river management plan,
935 and management guidelines and performance standards to be
936 developed and contained within agreements to be adopted by the
937 department, the Department of Economic Opportunity ~~Community~~
938 ~~Affairs~~, and the city and county. The guidelines and performance
939 standards must be used by the department and the Department of
940 Economic Opportunity ~~Community Affairs~~ to review and monitor the
941 regulation of activities by the city and county in the wild and
942 scenic protection zone. Amendments to those comprehensive plans
943 must include specific policies and guidelines for minimizing
944 adverse impacts on resources in the river area and for managing
945 the wild and scenic protection zone in conformance with this
946 section, the river management plan, and the agreement. Such
947 comprehensive plans must be amended within 1 year after the
948 adoption date of the agreement, and thereafter, within 6 months
949 following an amendment to this section, the river management
950 plan, or the agreement, as may be necessary. For the purposes
951 established in this subsection, such amendments need not conform
952 to statutory or local ordinance limitations on the frequency of
953 consideration of amendments to local comprehensive plans.
954 (b) Sarasota County and the City of North Port shall adopt
955 or amend, within 1 year after the department and the Department
956 of Economic Opportunity ~~Community Affairs~~ adopt with the city
957 and with the county agreements for regulating activities in the

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958 wild and scenic protection zone, any necessary ordinances and
959 land development regulations so that those ordinances and
960 regulations conform to the purposes of this section, the river
961 management plan, and the agreement. Thereafter, following any
962 amendment to this section, the river management plan, or the
963 agreement, the city and county must amend or adopt, within 1
964 year, appropriate ordinances and land development regulations to
965 maintain such local ordinances and regulations in conformance
966 with this section, the river management plan, and the agreement.
967 Those ordinances and regulations must provide that activities
968 must be prohibited, or must undergo review and either be denied
969 or permitted with or without conditions, so as to minimize
970 potential adverse physical and visual impacts on resource values
971 in the river area and to minimize adverse impacts on private
972 landowners' use of land for residential purposes. The resource
973 values of concern are those identified in this section and by
974 the coordinating council in the river management plan.
975 Activities which may be prohibited, subject to the agreement,
976 include, but are not limited to, landfills, clear cuttings,
977 major new infrastructure facilities, major activities that would
978 alter historic water or flood flows, multifamily residential
979 construction, commercial and industrial development, and mining
980 and major excavations. However, appurtenant structures for these
981 activities may be permitted if such structures do not have
982 adverse visual or measurable adverse environmental impacts to
983 resource values in the river area.
984 (c) If the Department of Economic Opportunity ~~Community~~
985 ~~Affairs~~ determines that the local comprehensive plan or land
986 development regulations, as amended or supplemented by the local

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987 government, are not in conformance with the purposes of this
988 section, the river management plan, and the agreement, the
989 Department of Economic Opportunity ~~Community Affairs~~ shall issue
990 a notice of intent to find the plan not in compliance and such
991 plan shall be subject to the administrative proceedings in
992 accordance with s. 163.3184.
993 (7) MANAGEMENT COORDINATING COUNCIL.—
994 (a) Upon designation, the department shall create a
995 permanent council to provide interagency and intergovernmental
996 coordination in the management of the river. The coordinating
997 council shall be composed of one representative appointed from
998 each of the following: the department, the Department of
999 Transportation, the Fish and Wildlife Conservation Commission,
1000 the Department of Economic Opportunity ~~Community Affairs~~, the
1001 Division of Forestry of the Department of Agriculture and
1002 Consumer Services, the Division of Historical Resources of the
1003 Department of State, the Tampa Bay Regional Planning Council,
1004 the Southwest Florida Water Management District, the Southwest
1005 Florida Regional Planning Council, Manatee County, Sarasota
1006 County, Charlotte County, the City of Sarasota, the City of
1007 North Port, agricultural interests, environmental organizations,
1008 and any others deemed advisable by the department.
1009 (9) RULEMAKING AUTHORITY.—
1010 (c) The department and the Department of Economic
1011 Opportunity ~~Community Affairs~~ must enter into agreements with
1012 the City of North Port and Sarasota County which ~~that~~ provide
1013 for guiding and monitoring the regulation of activities by the
1014 city and county, in accordance with subsection (6). Such
1015 agreements shall include guidelines and performance standards

1016 for regulating proposed activities so as to minimize adverse
1017 environmental and visual impacts of such activities on the
1018 resource values in the river area, and to minimize adverse
1019 impacts to landowners' use of land for residential purposes.
1020 Section 29. Subsection (3) of section 259.042, Florida
1021 Statutes, is amended to read:
1022 259.042 Tax increment financing for conservation lands.—
1023 (3) The governing body of the jurisdiction that will
1024 administer the separate reserve account shall provide
1025 documentation to the Department of Economic Opportunity
1026 ~~Community Affairs~~ identifying the boundary of the tax increment
1027 area. The department shall determine whether the boundary is
1028 appropriate in that property owners within the boundary will
1029 receive a benefit from the proposed purchase of identified
1030 conservation lands. The department must issue a letter of
1031 approval stating that the establishment of the tax increment
1032 area and the proposed purchases would benefit property owners
1033 within the boundary and serve a public purpose before any tax
1034 increment funds are deposited into the separate reserve account.
1035 If the department fails to provide the required letter within 90
1036 days after receiving sufficient documentation of the boundary,
1037 the establishment of the area and the proposed purchases are
1038 deemed to provide such benefit and serve a public purpose.
1039 Section 30. Paragraph (c) of subsection (3) of section
1040 259.101, Florida Statutes, is amended to read:
1041 259.101 Florida Preservation 2000 Act.—
1042 (3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.—Less the costs
1043 of issuance, the costs of funding reserve accounts, and other
1044 costs with respect to the bonds, the proceeds of bonds issued

1045 pursuant to this act shall be deposited into the Florida
1046 Preservation 2000 Trust Fund created by s. 375.045. In fiscal
1047 year 2000-2001, for each Florida Preservation 2000 program
1048 described in paragraphs (a)-(g), that portion of each program's
1049 total remaining cash balance which, as of June 30, 2000, is in
1050 excess of that program's total remaining appropriation balances
1051 shall be redistributed by the department and deposited into the
1052 Save Our Everglades Trust Fund for land acquisition. For
1053 purposes of calculating the total remaining cash balances for
1054 this redistribution, the Florida Preservation 2000 Series 2000
1055 bond proceeds, including interest thereon, and the fiscal year
1056 1999-2000 General Appropriations Act amounts shall be deducted
1057 from the remaining cash and appropriation balances,
1058 respectively. The remaining proceeds shall be distributed by the
1059 Department of Environmental Protection in the following manner:
1060 (c) Ten percent to the Department of Environmental
1061 Protection ~~Community Affairs~~ to provide land acquisition grants
1062 and loans to local governments through the Florida Communities
1063 Trust pursuant to part III of chapter 380. From funds allocated
1064 to the trust, $3 million annually shall be used by the Division
1065 of State Lands within the Department of Environmental Protection
1066 to implement the Green Swamp Land Protection Initiative
1067 specifically for the purchase of conservation easements, as
1068 defined in s. 380.0677(3), of lands, or severable interests or
1069 rights in lands, in the Green Swamp Area of Critical State
1070 Concern. From funds allocated to the trust, $3 million annually
1071 shall be used by the Monroe County Comprehensive Plan Land
1072 Authority specifically for the purchase of a real property
1073 interest in those lands subject to the Rate of Growth Ordinances

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1074 adopted by local governments in Monroe County or those lands
1075 within the boundary of an approved Conservation and Recreation
1076 Lands project located within the Florida Keys or Key West Areas
1077 of Critical State Concern; however, title to lands acquired
1078 within the boundary of an approved Conservation and Recreation
1079 Lands project may, in accordance with an approved joint
1080 acquisition agreement, vest in the Board of Trustees of the
1081 Internal Improvement Trust Fund. Of the remaining funds, one-
1082 half shall be matched by local governments on a dollar-for-
1083 dollar basis. To the extent allowed by federal requirements for
1084 the use of bond proceeds, the trust shall expend Preservation
1085 2000 funds to carry out the purposes of part III of chapter 380.
1086
1087 Local governments may use federal grants or loans, private
1088 donations, or environmental mitigation funds, including
1089 environmental mitigation funds required pursuant to s. 338.250,
1090 for any part or all of any local match required for the purposes
1091 described in this subsection. Bond proceeds allocated pursuant
1092 to paragraph (c) may be used to purchase lands on the priority
1093 lists developed pursuant to s. 259.035. Title to lands purchased
1094 pursuant to paragraphs (a), (d), (e), (f), and (g) shall be
1095 vested in the Board of Trustees of the Internal Improvement
1096 Trust Fund. Title to lands purchased pursuant to paragraph (c)
1097 may be vested in the Board of Trustees of the Internal
1098 Improvement Trust Fund. The board of trustees shall hold title
1099 to land protection agreements and conservation easements that
1100 were or will be acquired pursuant to s. 380.0677, and the
1101 Southwest Florida Water Management District and the St. Johns
1102 River Water Management District shall monitor such agreements

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1103 and easements within their respective districts until the state
1104 assumes this responsibility.
1105 Section 31. Paragraphs (e) and (h) of subsection (4) of
1106 section 282.201, Florida Statutes, are amended to read:
1107 282.201 State data center system; agency duties and
1108 limitations.—A state data center system that includes all
1109 primary data centers, other nonprimary data centers, and
1110 computing facilities, and that provides an enterprise
1111 information technology service as defined in s. 282.0041, is
1112 established.
1113 (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—
1114 (e) During the 2012-2013 fiscal year, the following shall
1115 be consolidated into the Southwood Shared Resource Center:
1116 1. By September 30, 2012, the Division of Emergency
1117 Management ~~and the Department of Community Affairs~~, except for
1118 the Emergency Operation Center's management system in
1119 Tallahassee and the Camp Blanding Emergency Operations Center in
1120 Starke.
1121 2. By September 30, 2012, the Department of Revenue's
1122 Carlton Building and Imaging Center locations.
1123 3. By December 31, 2012, the Department of Health's Test
1124 and Development Lab and all remaining data center resources
1125 located at the Capital Circle Office Complex.
1126 (h) During the 2014-2015 fiscal year, the following
1127 agencies shall work with the Agency for Enterprise Information
1128 Technology to begin preliminary planning for consolidation into
1129 a primary data center:
1130 1. The Department of Health's Jacksonville Lab Data Center.
1131 2. The Department of Transportation's district offices,

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1132 toll offices, and the District Materials Office.
1133 3. The Department of Military Affairs' Camp Blanding Joint
1134 Training Center in Starke.
1135 4. The ~~Department of Community Affairs'~~ Camp Blanding
1136 Emergency Operations Center in Starke.
1137 5. The Department of Education's Division of Blind Services
1138 disaster recovery site in Daytona Beach.
1139 6. The Department of Education's disaster recovery site at
1140 Santa Fe College.
1141 7. The Department of the Lottery's Disaster Recovery Backup
1142 Data Center in Orlando.
1143 8. The Fish and Wildlife Conservation Commission's Fish and
1144 Wildlife Research Institute in St. Petersburg.
1145 9. The Department of Children and Family Services' Suncoast
1146 Data Center in Tampa.
1147 10. The Department of Children and Family Services' Florida
1148 State Hospital in Chattahoochee.
1149 Section 32. Subsection (1) of section 288.021, Florida
1150 Statutes, is amended to read:
1151 288.021 Economic development liaison.—
1152 (1) The heads of the Department of Transportation, the
1153 Department of Environmental Protection and an additional member
1154 appointed by the secretary of the department, ~~the Agency for~~
1155 ~~Workforce Innovation,~~ the Department of Education, the
1156 Department of Management Services, the Department of Revenue,
1157 the Fish and Wildlife Conservation Commission, each water
1158 management district, and each Department of Transportation
1159 District office shall designate a high-level staff member from
1160 within such agency to serve as the economic development liaison

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1161 for the agency. This person shall report to the agency head and
1162 have general knowledge both of the state's permitting and other
1163 regulatory functions and of the state's economic goals,
1164 policies, and programs. This person shall also be the primary
1165 point of contact for the agency with the department on issues
1166 and projects important to the economic development of Florida,
1167 including its rural areas, to expedite project review, to ensure
1168 a prompt, effective response to problems arising with regard to
1169 permitting and regulatory functions, and to work closely with
1170 the other economic development liaisons to resolve interagency
1171 conflicts.
1172 Section 33. Paragraph (f) of subsection (2) and paragraph
1173 (c) of subsection (5) of section 288.1045, Florida Statutes, are
1174 amended to read:
1175 288.1045 Qualified defense contractor and space flight
1176 business tax refund program.—
1177 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—
1178 (f) After entering into a tax refund agreement pursuant to
1179 subsection (4), a qualified applicant may:
1180 1. Receive refunds from the account for corporate income
1181 taxes due and paid pursuant to chapter 220 by that business
1182 beginning with the first taxable year of the business which
1183 begins after entering into the agreement.
1184 2. Receive refunds from the account for the following taxes
1185 due and paid by that business after entering into the agreement:
1186 a. Taxes on sales, use, and other transactions paid
1187 pursuant to chapter 212.
1188 b. Intangible personal property taxes paid pursuant to
1189 chapter 199.

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1190 c. Excise taxes paid on documents pursuant to chapter 201.
1191 d. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on
1192 June 1, 1996.
1193 e. State communications services taxes administered under
1194 chapter 202. This provision does not apply to the gross receipts
1195 tax imposed under chapter 203 and administered under chapter 202
1196 or the local communications services tax authorized under s.
1197 202.19.
1198
1199 However, a qualified applicant may not receive a tax refund
1200 pursuant to this section for any amount of credit, refund, or
1201 exemption granted such contractor for any of such taxes. If a
1202 refund for such taxes is provided by the department, which taxes
1203 are subsequently adjusted by the application of any credit,
1204 refund, or exemption granted to the qualified applicant other
1205 than that provided in this section, the qualified applicant
1206 shall reimburse the Economic Development Trust Fund for the
1207 amount of such credit, refund, or exemption. A qualified
1208 applicant must notify and tender payment to the department
1209 ~~office~~ within 20 days after receiving a credit, refund, or
1210 exemption, other than that provided in this section.
1211 (5) ANNUAL CLAIM FOR REFUND.—
1212 (c) A tax refund may not be approved for any qualified
1213 applicant unless local financial support has been paid to the
1214 Economic Development Trust Fund for that refund. If the local
1215 financial support is less than 20 percent of the approved tax
1216 refund, the tax refund shall be reduced. The tax refund paid may
1217 not exceed 5 times the local financial support received. Funding
1218 from local sources includes tax abatement under s. 196.1995 or

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1219 the appraised market value of municipal or county land,
1220 including any improvements or structures, conveyed or provided
1221 at a discount through a sale or lease to that applicant. The
1222 amount of any tax refund for an applicant approved under this
1223 section shall be reduced by the amount of any such tax abatement
1224 granted or the value of the land granted, including the value of
1225 any improvements or structures; and the limitations in
1226 subsection (2) shall be reduced by the amount of any such tax
1227 abatement or the value of the land granted, including any
1228 improvements or structures. A report listing all sources of the
1229 local financial support shall be provided to the department
1230 ~~office~~ when such support is paid to the Economic Development
1231 Trust Fund.
1232 Section 34. Paragraph (f) of subsection (4) and paragraphs
1233 (c), (d), and (e) of subsection (6) of section 288.106, Florida
1234 Statutes, are amended to read:
1235 288.106 Tax refund program for qualified target industry
1236 businesses.—
1237 (4) APPLICATION AND APPROVAL PROCESS.—
1238 (f) ~~Effective July 1, 2011,~~ Notwithstanding paragraph
1239 (2)(j) ~~(2)(k)~~, the department ~~office~~ may reduce the local
1240 financial support requirements of this section by one-half for a
1241 qualified target industry business located in Bay County,
1242 Escambia County, Franklin County, Gadsden County, Gulf County,
1243 Jefferson County, Leon County, Okaloosa County, Santa Rosa
1244 County, Wakulla County, or Walton County, if the department
1245 ~~office~~ determines that such reduction of the local financial
1246 support requirements is in the best interest of the state and
1247 facilitates economic development, growth, or new employment

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1248 opportunities in such county. This paragraph expires June 30,
1249 2014.
1250 (6) ANNUAL CLAIM FOR REFUND.—
1251 (c) The department may waive the requirement for proof of
1252 taxes paid in future years for a qualified target industry
1253 business that provides the department ~~office~~ with proof that, in
1254 a single year, the business has paid an amount of state taxes
1255 from the categories in paragraph (3)(d) which ~~that~~ is at least
1256 equal to the total amount of tax refunds that the business may
1257 receive through successful completion of its tax refund
1258 agreement.
1259 (d) A tax refund may not be approved for a qualified target
1260 industry business unless the required local financial support
1261 has been paid into the account for that refund. If the local
1262 financial support provided is less than 20 percent of the
1263 approved tax refund, the tax refund must be reduced. In no event
1264 may the tax refund exceed an amount that is equal to 5 times the
1265 amount of the local financial support received. Further, funding
1266 from local sources includes any tax abatement granted to that
1267 business under s. 196.1995 or the appraised market value of
1268 municipal or county land conveyed or provided at a discount to
1269 that business. The amount of any tax refund for such business
1270 approved under this section must be reduced by the amount of any
1271 such tax abatement granted or the value of the land granted, and
1272 the limitations in subsection (3) and paragraph (4)(e) must be
1273 reduced by the amount of any such tax abatement or the value of
1274 the land granted. A report listing all sources of the local
1275 financial support shall be provided to the department ~~office~~
1276 when such support is paid to the account.

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1277 (e) A prorated tax refund, less a 5 percent ~~5-percent~~
1278 penalty, shall be approved for a qualified target industry
1279 business if all other applicable requirements have been
1280 satisfied and the business proves to the satisfaction of the
1281 department ~~office~~ that:
1282 1. It has achieved at least 80 percent of its projected
1283 employment; and
1284 2. The average wage paid by the business is at least 90
1285 percent of the average wage specified in the tax refund
1286 agreement, but in no case less than 115 percent of the average
1287 private sector wage in the area available at the time of
1288 certification, or 150 percent or 200 percent of the average
1289 private sector wage if the business requested the additional
1290 per-job tax refund authorized in paragraph (3)(b) for wages
1291 above those levels. The prorated tax refund shall be calculated
1292 by multiplying the tax refund amount for which the qualified
1293 target industry business would have been eligible, if all
1294 applicable requirements had been satisfied, by the percentage of
1295 the average employment specified in the tax refund agreement
1296 which was achieved, and by the percentage of the average wages
1297 specified in the tax refund agreement which was achieved.
1298 Section 35. Paragraph (a) of subsection (3) of section
1299 288.108, Florida Statutes, is amended to read:
1300 288.108 High-impact business.—
1301 (3) HIGH-IMPACT SECTOR PERFORMANCE GRANTS; ELIGIBLE
1302 AMOUNTS.—
1303 (a) Upon commencement of operations, a qualified high-
1304 impact business is eligible to receive a high-impact business
1305 performance grant in the amount as determined by the department

1306 ~~office~~ under subsection (5), consistent with eligible amounts as
1307 provided in paragraph (b), and specified in the qualified high-
1308 impact business agreement. The precise conditions that are
1309 considered commencement of operations must be specified in the
1310 qualified high-impact business agreement.
1311 Section 36. Subsection (3) of section 288.1083, Florida
1312 Statutes, is amended to read:
1313 288.1083 Manufacturing and Spaceport Investment Incentive
1314 Program.—
1315 (3) Beginning July 1, 2010, and ending June 30, 2011, and
1316 beginning July 1, 2011, and ending June 30, 2012, sales and use
1317 tax paid in this state on eligible equipment purchases may
1318 qualify for a refund as provided in this section. The total
1319 amount of refunds that may be allocated by the department ~~office~~
1320 to all applicants during the period beginning July 1, 2010, and
1321 ending June 30, 2011, is $19 million. The total amount of tax
1322 refunds that may be allocated to all applicants during the
1323 period beginning July 1, 2011, and ending June 30, 2012, is $24
1324 million. An applicant may not be allocated more than $50,000 in
1325 refunds under this section for a single year. Preliminary refund
1326 allocations that are revoked or voluntarily surrendered shall be
1327 immediately available for reallocation.
1328 Section 37. Paragraph (l) of subsection (2) of section
1329 288.1089, Florida Statutes, is amended to read:
1330 288.1089 Innovation Incentive Program.—
1331 (2) As used in this section, the term:
1332 (l) “Match” means funding from local sources, public or
1333 private, which will be paid to the applicant and which is equal
1334 to 100 percent of an award. Eligible match funding may include

1335 any tax abatement granted to the applicant under s. 196.1995 or
1336 the appraised market value of land, buildings, infrastructure,
1337 or equipment conveyed or provided at a discount to the
1338 applicant. Complete documentation of a match payment or other
1339 conveyance must be presented to and verified by the department
1340 ~~office~~ prior to transfer of state funds to an applicant. An
1341 applicant may not provide, directly or indirectly, more than 5
1342 percent of match funding in any fiscal year. The sources of such
1343 funding may not include, directly or indirectly, state funds
1344 appropriated from the General Revenue Fund or any state trust
1345 fund, excluding tax revenues shared with local governments
1346 pursuant to law.
1347 Section 38. Subsection (2) of section 288.1097, Florida
1348 Statutes, is amended to read:
1349 288.1097 Qualified job training organizations;
1350 certification; duties.—
1351 (2) To be eligible for funding, an organization must be
1352 certified by the department ~~Office of Tourism, Trade, and~~
1353 ~~Economic Development~~ as meeting the criteria in subsection (1).
1354 After certification, the department ~~Office of Tourism, Trade,~~
1355 ~~and Economic Development~~ may release funds to the qualified job
1356 training organization pursuant to a contract with the
1357 organization. The contract must include the performance
1358 conditions that must be met in order to obtain the award or
1359 portions of the award, including, but not limited to, net new
1360 employment in the state, the methodology for validating
1361 performance, the schedule of payments, and sanctions for failure
1362 to meet the performance requirements including any provisions
1363 for repayment of awards. The contract must also require that

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1364 salaries paid to officers and employees of the qualified job
1365 training organization comply with s. 4958 of the Internal
1366 Revenue Code of 1986, as amended.
1367 Section 39. Paragraph (c) of subsection (3) of section
1368 288.11621, Florida Statutes, is amended to read:
1369 288.11621 Spring training baseball franchises.—
1370 (3) USE OF FUNDS.—
1371 (c) The Department of Revenue may not distribute funds to
1372 an applicant certified on or after July 1, 2010, until it
1373 receives notice from the department ~~office~~ that the certified
1374 applicant has encumbered funds under subparagraph (a)2.
1375 Section 40. Subsection (6) of section 288.1168, Florida
1376 Statutes, is amended to read:
1377 288.1168 Professional golf hall of fame facility.—
1378 (6) The department ~~Office of Tourism, Trade, and Economic~~
1379 ~~Development~~ must recertify every 10 years that the facility is
1380 open, continues to be the only professional golf hall of fame in
1381 the United States recognized by the PGA Tour, Inc., and is
1382 meeting the minimum projections for attendance or sales tax
1383 revenue as required at the time of original certification. If
1384 the facility is not certified as meeting the minimum
1385 projections, the PGA Tour, Inc., shall increase its required
1386 advertising contribution of $2 million annually to $2.5 million
1387 annually in lieu of reduction of any funds as provided by s.
1388 212.20. The additional $500,000 must be allocated in its
1389 entirety for the use and promotion of generic Florida
1390 advertising as determined by the department ~~Office of Tourism,~~
1391 ~~Trade, and Economic Development~~. If the facility is not open to
1392 the public or is no longer in use as the only professional golf

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1393 hall of fame in the United States recognized by the PGA Tour,
1394 Inc., the entire $2.5 million for advertising must be used for
1395 generic Florida advertising as determined by the department
1396 ~~Office of Tourism, Trade, and Economic Development~~.
1397 Section 41. Subsection (4) of section 288.1171, Florida
1398 Statutes, is amended to read:
1399 288.1171 Motorsports entertainment complex; definitions;
1400 certification; duties.—
1401 (4) Upon determining that an applicant meets the
1402 requirements of subsection (3), the department ~~office~~ shall
1403 notify the applicant and the executive director of the
1404 Department of Revenue of such certification by means of an
1405 official letter granting certification. If the applicant fails
1406 to meet the certification requirements of subsection (3), the
1407 department ~~office~~ shall notify the applicant not later than 10
1408 days following such determination.
1409 Section 42. Paragraph (a) of subsection (8) of section
1410 288.1254, Florida Statutes, is amended to read:
1411 288.1254 Entertainment industry financial incentive
1412 program.—
1413 (8) RULES, POLICIES, AND PROCEDURES.—
1414 (a) The department ~~Office of Tourism, Trade, and Economic~~
1415 ~~Development~~ may adopt rules pursuant to ss. 120.536(1) and
1416 120.54 and develop policies and procedures to implement and
1417 administer this section, including, but not limited to, rules
1418 specifying requirements for the application and approval
1419 process, records required for substantiation for tax credits,
1420 procedures for making the election in paragraph (4)(d), the
1421 manner and form of documentation required to claim tax credits

1422 awarded or transferred under this section, and marketing
1423 requirements for tax credit recipients.
1424 Section 43. Subsection (2) of section 288.714, Florida
1425 Statutes, is amended to read:
1426 288.714 Quarterly and annual reports.—
1427 (2) The department must compile a summary of all quarterly
1428 reports ~~and provide a copy of the summary to the board~~ within 30
1429 days after the end of each calendar quarter which ~~that~~ includes
1430 a detailed summary of the recipient's performance of the duties
1431 imposed by s. 288.7102.
1432 Section 44. Subsection (7) of section 288.7102, Florida
1433 Statutes, is amended to read:
1434 288.7102 Black Business Loan Program.—
1435 (7) The department~~, in consultation with the board,~~ shall
1436 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
1437 this section.
1438 Section 45. Subsections (5) and (7) of section 288.987,
1439 Florida Statutes, are amended to read:
1440 288.987 Florida Defense Support Task Force.—
1441 (5) The executive director of the Department of Economic
1442 Opportunity ~~Office of Tourism, Trade, and Economic Development~~
1443 ~~within the Executive Office of the Governor~~, or his or her
1444 designee, shall serve as the ex officio, nonvoting executive
1445 director of the task force.
1446 (7) The department ~~Office of Tourism, Trade, and Economic~~
1447 ~~Development~~ shall contract with the task force for expenditure
1448 of appropriated funds, which may be used by the task force for
1449 economic and product research and development, joint planning
1450 with host communities to accommodate military missions and

1451 prevent base encroachment, advocacy on the state's behalf with
1452 federal civilian and military officials, assistance to school
1453 districts in providing a smooth transition for large numbers of
1454 additional military-related students, job training and placement
1455 for military spouses in communities with high proportions of
1456 active duty military personnel, and promotion of the state to
1457 military and related contractors and employers. The task force
1458 may annually spend up to $200,000 of funds appropriated to the
1459 department ~~Executive Office of the Governor, Office of Tourism,~~
1460 ~~Trade, and Economic Development,~~ for the task force for staffing
1461 and administrative expenses of the task force, including travel
1462 and per diem costs incurred by task force members who are not
1463 otherwise eligible for state reimbursement.
1464 Section 46. Paragraph (d) of subsection (6) of section
1465 290.0055, Florida Statutes, is amended to read:
1466 290.0055 Local nominating procedure.—
1467 (6)
1468 (d)1. The governing body of a jurisdiction which has
1469 nominated an application for an enterprise zone that is no
1470 larger than 12 square miles and includes a portion of the state
1471 designated as a rural area of critical economic concern under s.
1472 288.0656(7) may apply to the department ~~Office of Tourism,~~
1473 ~~Trade, and Economic Development~~ to expand the boundary of the
1474 enterprise zone by not more than 3 square miles. An application
1475 to expand the boundary of an enterprise zone under this
1476 paragraph must be submitted by December 31, 2012.
1477 2. Notwithstanding the area limitations specified in
1478 subsection (4), the department ~~Office of Tourism, Trade, and~~
1479 ~~Economic Development~~ may approve the request for a boundary

1480 amendment if the area continues to satisfy the remaining
1481 requirements of this section.
1482 3. The department ~~Office of Tourism, Trade, and Economic~~
1483 ~~Development~~ shall establish the initial effective date of an
1484 enterprise zone designated under this paragraph.
1485 Section 47. Paragraph (a) of subsection (4) of section
1486 290.0065, Florida Statutes, is amended to read:
1487 290.0065 State designation of enterprise zones.—
1488 (4)(a) Notwithstanding s. 290.0055, the department may
1489 redesignate any state enterprise zone having an effective date
1490 on or before January 1, 2005, as a state enterprise zone upon
1491 completion and submittal to the department ~~office~~ by the
1492 governing body for an enterprise zone of the following:
1493 1. An updated zone profile for the enterprise zone based on
1494 the most recent census data that complies with s. 290.0055,
1495 except that pervasive poverty criteria may be set aside for
1496 rural enterprise zones.
1497 2. A resolution passed by the governing body for that
1498 enterprise zone requesting redesignation and explaining the
1499 reasons the conditions of the zone merit redesignation.
1500 3. Measurable goals for the enterprise zone developed by
1501 the enterprise zone development agency, which may be the goals
1502 established in the enterprise zone's strategic plan.
1503
1504 The governing body may also submit a request for a boundary
1505 change in an enterprise zone in the same application to the
1506 department as long as the new area complies with the
1507 requirements of s. 290.0055, except that pervasive poverty
1508 criteria may be set aside for rural enterprise zones.

1509 Section 48. Section 290.00726, Florida Statutes, is amended
1510 to read:
1511 290.00726 Enterprise zone designation for Martin County.—
1512 Martin County may apply to the department ~~Office of Tourism,~~
1513 ~~Trade, and Economic Development~~ for designation of one
1514 enterprise zone for an area within Martin County, which zone
1515 shall encompass an area of up to 10 square miles consisting of
1516 land within the primary urban services boundary and focusing on
1517 Indiantown, but excluding property owned by Florida Power and
1518 Light to the west, two areas to the north designated as estate
1519 residential, and the county-owned Timer Powers Recreational
1520 Area. Within the designated enterprise zone, Martin County shall
1521 exempt residential condominiums from benefiting from state
1522 enterprise zone incentives, unless prohibited by law. The
1523 application must have been submitted by December 31, 2011, and
1524 must comply with the requirements of s. 290.0055.
1525 Notwithstanding s. 290.0065 limiting the total number of
1526 enterprise zones designated and the number of enterprise zones
1527 within a population category, the department ~~Office of Tourism,~~
1528 ~~Trade, and Economic Development~~ may designate one enterprise
1529 zone under this section. The department ~~Office of Tourism,~~
1530 ~~Trade, and Economic Development~~ shall establish the initial
1531 effective date of the enterprise zone designated under this
1532 section.
1533 Section 49. Section 290.00727, Florida Statutes, is amended
1534 to read:
1535 290.00727 Enterprise zone designation for the City of Palm
1536 Bay.—The City of Palm Bay may apply to the department ~~Office of~~
1537 ~~Tourism, Trade, and Economic Development~~ for designation of one

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1538 enterprise zone for an area within the northeast portion of the
1539 city, which zone shall encompass an area of up to 5 square
1540 miles. The application must have been submitted by December 31,
1541 2011, and must comply with the requirements of s. 290.0055.
1542 Notwithstanding s. 290.0065 limiting the total number of
1543 enterprise zones designated and the number of enterprise zones
1544 within a population category, the department ~~Office of Tourism,~~
1545 ~~Trade, and Economic Development~~ may designate one enterprise
1546 zone under this section. The department ~~Office of Tourism,~~
1547 ~~Trade, and Economic Development~~ shall establish the initial
1548 effective date of the enterprise zone designated under this
1549 section.
1550 Section 50. Section 290.00728, Florida Statutes, is amended
1551 to read:
1552 290.00728 Enterprise zone designation for Lake County.—Lake
1553 County may apply to the department ~~Office of Tourism, Trade, and~~
1554 ~~Economic Development~~ for designation of one enterprise zone,
1555 which zone shall encompass an area of up to 10 square miles
1556 within Lake County. The application must have been submitted by
1557 December 31, 2011, and must comply with the requirements of s.
1558 290.0055. Notwithstanding s. 290.0065 limiting the total number
1559 of enterprise zones designated and the number of enterprise
1560 zones within a population category, the department ~~Office of~~
1561 ~~Tourism, Trade, and Economic Development~~ may designate one
1562 enterprise zone under this section. The department ~~Office of~~
1563 ~~Tourism, Trade, and Economic Development~~ shall establish the
1564 initial effective date of the enterprise zone designated under
1565 this section.
1566 Section 51. Subsections (1) and (6) of section 311.09,

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1567 Florida Statutes, are amended to read:
1568 311.09 Florida Seaport Transportation and Economic
1569 Development Council.—
1570 (1) The Florida Seaport Transportation and Economic
1571 Development Council is created within the Department of
1572 Transportation. The council consists of the following 17 ~~18~~
1573 members: the port director, or the port director's designee, of
1574 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
1575 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
1576 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
1577 West, and Fernandina; the secretary of the Department of
1578 Transportation or his or her designee; and the director of the
1579 Department of Economic Opportunity or his or her designee.
1580 (6) The Department of Economic Opportunity ~~Community~~
1581 ~~Affairs~~ shall review the list of projects approved by the
1582 council to determine consistency with approved local government
1583 comprehensive plans of the units of local government in which
1584 the port is located and consistency with the port master plan.
1585 The Department of Economic Opportunity ~~Community Affairs~~ shall
1586 identify and notify the council of those projects that ~~which~~ are
1587 not consistent, to the maximum extent feasible, with such
1588 comprehensive plans and port master plans.
1589 Section 52. Paragraph (b) of subsection (9), paragraph (a)
1590 of subsection (35), and paragraph (b) of subsection (62) of
1591 section 320.08058, Florida Statutes, are amended to read:
1592 320.08058 Specialty license plates.—
1593 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—
1594 (b) The license plate annual use fees are to be annually
1595 distributed as follows:

1596 1. Fifty-five percent of the proceeds from the Florida
1597 Professional Sports Team plate must be deposited into the
1598 Professional Sports Development Trust Fund within the Department
1599 of Economic Opportunity. These funds must be used solely to
1600 attract and support major sports events in this state. As used
1601 in this subparagraph, the term "major sports events" means, but
1602 is not limited to, championship or all-star contests of Major
1603 League Baseball, the National Basketball Association, the
1604 National Football League, the National Hockey League, the men's
1605 and women's National Collegiate Athletic Association Final Four
1606 basketball championship, or a horseracing or dogracing Breeders'
1607 Cup. All funds must be used to support and promote major
1608 sporting events, and the uses must be approved by the Department
1609 of Economic Opportunity ~~Florida Sports Foundation~~.
1610 2. The remaining proceeds of the Florida Professional
1611 Sports Team license plate must be allocated to Enterprise
1612 Florida, Inc. These funds must be deposited into the
1613 Professional Sports Development Trust Fund within the Department
1614 of Economic Opportunity. These funds must be used by Enterprise
1615 Florida, Inc., to promote the economic development of the sports
1616 industry; to distribute licensing and royalty fees to
1617 participating professional sports teams; to promote education
1618 programs in Florida schools that provide an awareness of the
1619 benefits of physical activity and nutrition standards; to
1620 partner with the Department of Education and the Department of
1621 Health to develop a program that recognizes schools whose
1622 students demonstrate excellent physical fitness or fitness
1623 improvement; to institute a grant program for communities
1624 bidding on minor sporting events that create an economic impact

1625 for the state; to distribute funds to Florida-based charities
1626 designated by Enterprise Florida, Inc., and the participating
1627 professional sports teams; and to fulfill the sports promotion
1628 responsibilities of the Department of Economic Opportunity.
1629 3. Enterprise Florida, Inc., shall provide an annual
1630 financial audit in accordance with s. 215.981 of its financial
1631 accounts and records by an independent certified public
1632 accountant pursuant to the contract established by the
1633 Department of Economic Opportunity. The auditor shall submit the
1634 audit report to the Department of Economic Opportunity for
1635 review and approval. If the audit report is approved, the
1636 Department of Economic Opportunity shall certify the audit
1637 report to the Auditor General for review.
1638 4. Notwithstanding the provisions of subparagraphs 1. and
1639 2., proceeds from the Professional Sports Development Trust Fund
1640 may also be used for operational expenses of Enterprise Florida,
1641 Inc., and financial support of the Sunshine State Games.
1642 (35) FLORIDA GOLF LICENSE PLATES.—
1643 (a) The Department of Highway Safety and Motor Vehicles
1644 shall develop a Florida Golf license plate as provided in this
1645 section. The word "Florida" must appear at the bottom of the
1646 plate. The Dade Amateur Golf Association, following consultation
1647 with the PGA TOUR, Enterprise Florida, Inc., ~~the Florida Sports~~
1648 ~~Foundation,~~ the LPGA, and the PGA of America, may submit a
1649 revised sample plate for consideration by the department.
1650 (62) PROTECT FLORIDA SPRINGS LICENSE PLATES.—
1651 (b) The annual use fees shall be distributed to the
1652 Wildlife Foundation of Florida, Inc., a citizen support
1653 organization created pursuant to s. 379.223, which shall

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1654 administer the fees as follows:
1655 1. Wildlife Foundation of Florida, Inc., shall retain the
1656 first $60,000 of the annual use fees as direct reimbursement for
1657 administrative costs, startup costs, and costs incurred in the
1658 development and approval process.
1659 2. Thereafter, a maximum of 10 percent of the fees may be
1660 used for administrative costs directly associated with education
1661 programs, conservation, springs research, and grant
1662 administration of the foundation. A maximum of 15 percent of the
1663 fees may be used for continuing promotion and marketing of the
1664 license plate.
1665 3. At least 55 percent of the fees shall be available for
1666 competitive grants for targeted community-based springs research
1667 not currently available for state funding. The remaining 20
1668 percent shall be directed toward community outreach programs
1669 aimed at implementing such research findings. The competitive
1670 grants shall be administered and approved by the board of
1671 directors of the Wildlife Foundation of Florida. The granting
1672 advisory committee shall be composed of nine members, including
1673 one representative from the Fish and Wildlife Conservation
1674 Commission, one representative from the Department of
1675 Environmental Protection, one representative from the Department
1676 of Health, one representative from the Department of Economic
1677 Opportunity ~~Community Affairs~~, three citizen representatives,
1678 and two representatives from nonprofit stakeholder groups.
1679 4. The remaining funds shall be distributed with the
1680 approval of and accountability to the board of directors of the
1681 Wildlife Foundation of Florida, and shall be used to support
1682 activities contributing to education, outreach, and springs

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1683 conservation.
1684 Section 53. Paragraph (b) of subsection (5) of section
1685 339.135, Florida Statutes, is amended to read:
1686 339.135 Work program; legislative budget request;
1687 definitions; preparation, adoption, execution, and amendment.—
1688 (5) ADOPTION OF THE WORK PROGRAM.—
1689 (b) Notwithstanding paragraph (a), and for the 2011-2012
1690 fiscal year only, the Department of Transportation shall
1691 transfer funds to the Department of Economic Opportunity ~~Office~~
1692 ~~of Tourism, Trade, and Economic Development~~ in an amount equal
1693 to $15 million for the purpose of funding transportation-related
1694 needs of economic development projects. This transfer does ~~shall~~
1695 not reduce, delete, or defer any existing projects funded, as of
1696 July 1, 2011, in the Department of Transportation's 5-year work
1697 program. This paragraph expires July 1, 2012.
1698 Section 54. Subsection (1) of section 342.201, Florida
1699 Statutes, is amended to read:
1700 342.201 Waterfronts Florida Program.—
1701 (1) There is established within the Department of Economic
1702 Opportunity ~~Environmental Protection~~ the Waterfronts Florida
1703 Program to provide technical assistance and support to
1704 communities in revitalizing waterfront areas in this state.
1705 Section 55. Paragraph (h) of subsection (2) of section
1706 377.703, Florida Statutes, is amended to read:
1707 377.703 Additional functions of the Department of
1708 Agriculture and Consumer Services.—
1709 (2) DUTIES.—The department shall perform the following
1710 functions, unless as otherwise provided, consistent with the
1711 development of a state energy policy:

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1712 (h) The department shall promote the development and use of
1713 renewable energy resources, in conformance with ~~the provisions~~
1714 ~~of~~ chapter 187 and s. 377.601, by:
1715 1. Establishing goals and strategies for increasing the use
1716 of solar energy in this state.
1717 2. Aiding and promoting the commercialization of solar
1718 energy technology, in cooperation with the Florida Solar Energy
1719 Center, Enterprise Florida, Inc., and any other federal, state,
1720 or local governmental agency which may seek to promote research,
1721 development, and demonstration of solar energy equipment and
1722 technology.
1723 3. Identifying barriers to greater use of solar energy
1724 systems in this state, and developing specific recommendations
1725 for overcoming identified barriers, with findings and
1726 recommendations to be submitted annually in the report to the
1727 Governor and Legislature required under paragraph (f).
1728 4. In cooperation with the Department of Environmental
1729 Protection, the Department of Transportation, the Department of
1730 Economic Opportunity ~~Community Affairs~~, Enterprise Florida,
1731 Inc., the Florida Solar Energy Center, and the Florida Solar
1732 Energy Industries Association, investigating opportunities,
1733 pursuant to the National Energy Policy Act of 1992, the Housing
1734 and Community Development Act of 1992, and any subsequent
1735 federal legislation, for solar electric vehicles and other solar
1736 energy manufacturing, distribution, installation, and financing
1737 efforts which will enhance this state's position as the leader
1738 in solar energy research, development, and use.
1739 5. Undertaking other initiatives to advance the development
1740 and use of renewable energy resources in this state.

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1741
1742 In the exercise of its responsibilities under this paragraph,
1743 the department shall seek the assistance of the solar energy
1744 industry in this state and other interested parties and is
1745 authorized to enter into contracts, retain professional
1746 consulting services, and expend funds appropriated by the
1747 Legislature for such purposes.
1748 Section 56. Paragraphs (c) and (d) of subsection (4) of
1749 section 377.809, Florida Statutes, are amended to read:
1750 377.809 Energy Economic Zone Pilot Program.—
1751 (4)
1752 (c) Upon approving an incentive for an eligible business,
1753 the governing body that has jurisdiction over the energy
1754 economic zone shall provide the taxpayer with a certificate
1755 indicating the name and federal identification number of the
1756 eligible business, the date the incentive is provided, the name
1757 of the energy economic zone, the incentive type, and the
1758 incentive amount. The local governing body shall certify to the
1759 Department of Revenue or the Department of Economic Opportunity
1760 ~~Office of Tourism, Trade, and Economic Development~~, whichever is
1761 applicable, which businesses or properties are eligible to
1762 receive any or all of the state incentives according to their
1763 statutory requirements. The governing body that has jurisdiction
1764 over the energy economic zone shall provide a copy of the
1765 certificate to the Department of Revenue and the Department of
1766 Economic Opportunity ~~Office of Tourism, Trade, and Economic~~
1767 ~~Development~~ as notification that such incentives were approved
1768 for the specific eligible business or property. For incentives
1769 to be claimed against the sales and use tax under chapter 212,

1770 the Department of Revenue shall send, within 14 days after
1771 receipt, written instructions to an eligible business on how to
1772 claim the credit on a sales and use tax return initiated through
1773 an electronic data interchange. Any credit against the sales and
1774 use tax shall be deducted from any sales and use tax remitted by
1775 the dealer to the Department of Revenue by electronic funds
1776 transfer and may be deducted only on a sales and use tax return
1777 initiated through an electronic data interchange. The dealer
1778 shall separately state the credit on the electronic return. The
1779 net amount of tax due and payable must be remitted by electronic
1780 funds transfer. If the credit exceeds the amount owed on the
1781 sales and use tax return, such excess amount may be carried
1782 forward for a period not to exceed 12 months after the date that
1783 the credit is initially claimed.
1784 (d) If all conditions are deemed met, the Department of
1785 Economic Opportunity ~~Office of Tourism, Trade, and Economic~~
1786 ~~Development~~ and the Department of Revenue may adopt emergency
1787 rules pursuant to ss. 120.536(1) and 120.54 to administer ~~the~~
1788 ~~provisions of~~ this subsection. The emergency rules shall remain
1789 in effect for 6 months after the rules are adopted, and the
1790 rules may be renewed while the procedures to adopt permanent
1791 rules addressing the subject of the emergency rules are pending.
1792 Section 57. Paragraph (b) of subsection (6), paragraph (b)
1793 of subsection (19), paragraphs (l) and (q) of subsection (24),
1794 and paragraphs (b) and (c) of subsection (29) of section 380.06,
1795 Florida Statutes, are amended to read:
1796 380.06 Developments of regional impact.—
1797 (6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT
1798 PLAN AMENDMENTS.—

1799 (b) Any local government comprehensive plan amendments
1800 related to a proposed development of regional impact, including
1801 any changes proposed under subsection (19), may be initiated by
1802 a local planning agency or the developer and must be considered
1803 by the local governing body at the same time as the application
1804 for development approval using the procedures provided for local
1805 plan amendment in s. 163.3187 and applicable local ordinances,
1806 without regard to local limits on the frequency of consideration
1807 of amendments to the local comprehensive plan. This paragraph
1808 does not require favorable consideration of a plan amendment
1809 solely because it is related to a development of regional
1810 impact. The procedure for processing such comprehensive plan
1811 amendments is as follows:
1812 1. If a developer seeks a comprehensive plan amendment
1813 related to a development of regional impact, the developer must
1814 so notify in writing the regional planning agency, the
1815 applicable local government, and the state land planning agency
1816 no later than the date of preapplication conference or the
1817 submission of the proposed change under subsection (19).
1818 2. When filing the application for development approval or
1819 the proposed change, the developer must include a written
1820 request for comprehensive plan amendments that would be
1821 necessitated by the development-of-regional-impact approvals
1822 sought. That request must include data and analysis upon which
1823 the applicable local government can determine whether to
1824 transmit the comprehensive plan amendment pursuant to s.
1825 163.3184.
1826 3. The local government must advertise a public hearing on
1827 the transmittal within 30 days after filing the application for

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1828 development approval or the proposed change and must make a
1829 determination on the transmittal within 60 days after the
1830 initial filing unless that time is extended by the developer.
1831 4. If the local government approves the transmittal,
1832 procedures set forth in s. 163.3184(3)(b) and (c)
1833 ~~163.3184(4)(b)-(d)~~ must be followed.
1834 5. Notwithstanding subsection (11) or subsection (19), the
1835 local government may not hold a public hearing on the
1836 application for development approval or the proposed change or
1837 on the comprehensive plan amendments sooner than 30 days after
1838 ~~from~~ receipt of the response from the state land planning agency
1839 pursuant to s. 163.3184(3)(c)1. ~~163.3184(4)(d).~~
1840 6. The local government must hear both the application for
1841 development approval or the proposed change and the
1842 comprehensive plan amendments at the same hearing. However, the
1843 local government must take action separately on the application
1844 for development approval or the proposed change and on the
1845 comprehensive plan amendments.
1846 7. Thereafter, the appeal process for the local government
1847 development order must follow the provisions of s. 380.07, and
1848 the compliance process for the comprehensive plan amendments
1849 must follow the provisions of s. 163.3184.
1850 (19) SUBSTANTIAL DEVIATIONS.—
1851 (b) Any proposed change to a previously approved
1852 development of regional impact or development order condition
1853 which, either individually or cumulatively with other changes,
1854 exceeds any of the following criteria shall constitute a
1855 substantial deviation and shall cause the development to be
1856 subject to further development-of-regional-impact review without

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1857 the necessity for a finding of same by the local government:
1858 1. An increase in the number of parking spaces at an
1859 attraction or recreational facility by 15 percent or 500 spaces,
1860 whichever is greater, or an increase in the number of spectators
1861 that may be accommodated at such a facility by 15 percent or
1862 1,500 spectators, whichever is greater.
1863 2. A new runway, a new terminal facility, a 25 percent ~~25-~~
1864 ~~percent~~ lengthening of an existing runway, or a 25 percent ~~25-~~
1865 ~~percent~~ increase in the number of gates of an existing terminal,
1866 but only if the increase adds at least three additional gates.
1867 3. An increase in land area for office development by 15
1868 percent or an increase of gross floor area of office development
1869 by 15 percent or 100,000 gross square feet, whichever is
1870 greater.
1871 4. An increase in the number of dwelling units by 10
1872 percent or 55 dwelling units, whichever is greater.
1873 5. An increase in the number of dwelling units by 50
1874 percent or 200 units, whichever is greater, provided that 15
1875 percent of the proposed additional dwelling units are dedicated
1876 to affordable workforce housing, subject to a recorded land use
1877 restriction that shall be for a period of not less than 20 years
1878 and that includes resale provisions to ensure long-term
1879 affordability for income-eligible homeowners and renters and
1880 provisions for the workforce housing to be commenced prior to
1881 the completion of 50 percent of the market rate dwelling. For
1882 purposes of this subparagraph, the term "affordable workforce
1883 housing" means housing that is affordable to a person who earns
1884 less than 120 percent of the area median income, or less than
1885 140 percent of the area median income if located in a county in

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1886 which the median purchase price for a single-family existing
1887 home exceeds the statewide median purchase price of a single-
1888 family existing home. For purposes of this subparagraph, the
1889 term "statewide median purchase price of a single-family
1890 existing home" means the statewide purchase price as determined
1891 in the Florida Sales Report, Single-Family Existing Homes,
1892 released each January by the Florida Association of Realtors and
1893 the University of Florida Real Estate Research Center.
1894 6. An increase in commercial development by 60,000 square
1895 feet of gross floor area or of parking spaces provided for
1896 customers for 425 cars or a 10 percent ~~10 percent~~ increase,
1897 whichever is greater.
1898 7. An increase in a recreational vehicle park area by 10
1899 percent or 110 vehicle spaces, whichever is less.
1900 8. A decrease in the area set aside for open space of 5
1901 percent or 20 acres, whichever is less.
1902 9. A proposed increase to an approved multiuse development
1903 of regional impact where the sum of the increases of each land
1904 use as a percentage of the applicable substantial deviation
1905 criteria is equal to or exceeds 110 percent. The percentage of
1906 any decrease in the amount of open space shall be treated as an
1907 increase for purposes of determining when 110 percent has been
1908 reached or exceeded.
1909 10. A 15 percent ~~15-percent~~ increase in the number of
1910 external vehicle trips generated by the development above that
1911 which was projected during the original development-of-regional-
1912 impact review.
1913 11. Any change that ~~which~~ would result in development of
1914 any area which was specifically set aside in the application for

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1915 development approval or in the development order for
1916 preservation or special protection of endangered or threatened
1917 plants or animals designated as endangered, threatened, or
1918 species of special concern and their habitat, any species
1919 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or
1920 archaeological and historical sites designated as significant by
1921 the Division of Historical Resources of the Department of State.
1922 The refinement of the boundaries and configuration of such areas
1923 shall be considered under sub-subparagraph (e)2.j.
1924
1925 The substantial deviation numerical standards in subparagraphs
1926 3., 6., and 9., excluding residential uses, and in subparagraph
1927 10., are increased by 100 percent for a project certified under
1928 s. 403.973 which creates jobs and meets criteria established by
1929 the Department of Economic Opportunity ~~Office of Tourism, Trade,~~
1930 ~~and Economic Development~~ as to its impact on an area's economy,
1931 employment, and prevailing wage and skill levels. The
1932 substantial deviation numerical standards in subparagraphs 3.,
1933 4., 5., 6., 9., and 10. are increased by 50 percent for a
1934 project located wholly within an urban infill and redevelopment
1935 area designated on the applicable adopted local comprehensive
1936 plan future land use map and not located within the coastal high
1937 hazard area.
1938 (24) STATUTORY EXEMPTIONS.—
1939 (l) Any proposed development within an urban service
1940 boundary established under s. 163.3177(14), Florida Statutes
1941 (2010), which is not otherwise exempt pursuant to subsection
1942 (29), is exempt from this section if the local government having
1943 jurisdiction over the area where the development is proposed has

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1944 adopted the urban service boundary and has entered into a
1945 binding agreement with jurisdictions that would be impacted and
1946 with the Department of Transportation regarding the mitigation
1947 of impacts on state and regional transportation facilities.
1948 (q) Any development identified in an airport master plan
1949 and adopted into the comprehensive plan pursuant to s.
1950 163.3177(6)(k), Florida Statutes (2010) is exempt from this
1951 section.
1952
1953 If a use is exempt from review as a development of regional
1954 impact under paragraphs (a)-(u), but will be part of a larger
1955 project that is subject to review as a development of regional
1956 impact, the impact of the exempt use must be included in the
1957 review of the larger project, unless such exempt use involves a
1958 development of regional impact that includes a landowner,
1959 tenant, or user that has entered into a funding agreement with
1960 the Department of Economic Opportunity under the Innovation
1961 Incentive Program and the agreement contemplates a state award
1962 of at least $50 million.
1963 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
1964 (b) If a municipality that does not qualify as a dense
1965 urban land area ~~pursuant to s. 163.3164~~ designates any of the
1966 following areas in its comprehensive plan, any proposed
1967 development within the designated area is exempt from the
1968 development-of-regional-impact process:
1969 1. Urban infill as defined in s. 163.3164;
1970 2. Community redevelopment areas as defined in s. 163.340;
1971 3. Downtown revitalization areas as defined in s. 163.3164;
1972 4. Urban infill and redevelopment under s. 163.2517; or

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1973 5. Urban service areas as defined in s. 163.3164 or areas
1974 within a designated urban service boundary under s.
1975 163.3177(14).
1976 (c) If a county that does not qualify as a dense urban land
1977 area ~~pursuant to s. 163.3164~~ designates any of the following
1978 areas in its comprehensive plan, any proposed development within
1979 the designated area is exempt from the development-of-regional-
1980 impact process:
1981 1. Urban infill as defined in s. 163.3164;
1982 2. Urban infill and redevelopment under s. 163.2517; or
1983 3. Urban service areas as defined in s. 163.3164.
1984 Section 58. Paragraph (a) of subsection (4) of section
1985 402.56, Florida Statutes, is amended to read:
1986 402.56 Children's cabinet; organization; responsibilities;
1987 annual report.—
1988 (4) MEMBERS.—The cabinet shall consist of 14 members
1989 including the Governor and the following persons:
1990 (a)1. The Secretary of Children and Family Services;
1991 2. The Secretary of Juvenile Justice;
1992 3. The director of the Agency for Persons with
1993 Disabilities;
1994 4. The director of the Office ~~Division~~ of Early Learning;
1995 5. The State Surgeon General;
1996 6. The Secretary of Health Care Administration;
1997 7. The Commissioner of Education;
1998 8. The director of the Statewide Guardian Ad Litem Office;
1999 9. The director of the Office of Child Abuse Prevention;
2000 and
2001 10. Five members representing children and youth advocacy

2002 organizations, who are not service providers and who are
2003 appointed by the Governor.
2004 Section 59. Subsection (6) of section 403.0891, Florida
2005 Statutes, is amended to read:
2006 403.0891 State, regional, and local stormwater management
2007 plans and programs.—The department, the water management
2008 districts, and local governments shall have the responsibility
2009 for the development of mutually compatible stormwater management
2010 programs.
2011 (6) The department and the Department of Economic
2012 Opportunity ~~Community Affairs~~, in cooperation with local
2013 governments in the coastal zone, shall develop a model
2014 stormwater management program that could be adopted by local
2015 governments. The model program shall contain dedicated funding
2016 options, including a stormwater utility fee system based upon an
2017 equitable unit cost approach. Funding options shall be designed
2018 to generate capital to retrofit existing stormwater management
2019 systems, build new treatment systems, operate facilities, and
2020 maintain and service debt.
2021 Section 60. Subsection (8) of section 420.503, Florida
2022 Statutes, is amended to read:
2023 420.503 Definitions.—As used in this part, the term:
2024 (8) "Contract" means the contract between the executive
2025 director ~~secretary~~ of the department and the corporation for
2026 provision of housing services referenced in s. 420.0006.
2027 Section 61. Subsection (30) of section 420.507, Florida
2028 Statutes, is amended to read:
2029 420.507 Powers of the corporation.—The corporation shall
2030 have all the powers necessary or convenient to carry out and

2031 effectuate the purposes and provisions of this part, including
2032 the following powers which are in addition to all other powers
2033 granted by other provisions of this part:
2034 (30) To prepare and submit to the executive director
2035 ~~secretary~~ of the department a budget request for purposes of the
2036 corporation, which request shall, notwithstanding the provisions
2037 of chapter 216 and in accordance with s. 216.351, contain a
2038 request for operational expenditures and separate requests for
2039 other authorized corporation programs. The request need ~~shall~~
2040 not ~~be required to~~ contain information on the number of
2041 employees, salaries, or any classification thereof, and the
2042 approved operating budget therefor need not comply with s.
2043 216.181(8)-(10). The executive director may ~~secretary is~~
2044 ~~authorized to~~ include within the department's budget request the
2045 corporation's budget request in the form as authorized by this
2046 section.
2047 Section 62. Paragraph (d) of subsection (1) of section
2048 420.101, Florida Statutes, is amended to read:
2049 420.101 Housing Development Corporation of Florida;
2050 creation, membership, and purposes.—
2051 (1) Twenty-five or more persons, a majority of whom shall
2052 be residents of this state, who may desire to create a housing
2053 development corporation under the provisions of this part for
2054 the purpose of promoting and developing housing and advancing
2055 the prosperity and economic welfare of the state and, to that
2056 end, to exercise the powers and privileges hereinafter provided,
2057 may be incorporated by filing in the Department of State, as
2058 hereinafter provided, articles of incorporation. The articles of
2059 incorporation shall contain:

2060 (d) The names and post office addresses of the members of
2061 the first board of directors. The first board of directors shall
2062 be elected by and from the stockholders of the corporation and
2063 shall consist of 21 members. However, five of such members shall
2064 consist of the following persons, who shall be nonvoting
2065 members: the executive director ~~secretary~~ of the Department of
2066 Economic Opportunity or her or his designee; the head of the
2067 Department of Financial Services or her or his designee with
2068 expertise in banking matters; a designee of the head of the
2069 Department of Financial Services with expertise in insurance
2070 matters; one state senator appointed by the President of the
2071 Senate; and one representative appointed by the Speaker of the
2072 House of Representatives.
2073 Section 63. Section 420.0005, Florida Statutes, is amended
2074 to read:
2075 420.0005 State Housing Trust Fund; State Housing Fund.—
2076 There is ~~hereby~~ established in the State Treasury a separate
2077 trust fund to be named the "State Housing Trust Fund." There
2078 shall be deposited in the fund all moneys appropriated by the
2079 Legislature, or moneys received from any other source, for the
2080 purpose of this chapter, and all proceeds derived from the use
2081 of such moneys. The fund shall be administered by the Florida
2082 Housing Finance Corporation on behalf of the department, as
2083 specified in this chapter. Money deposited to the fund and
2084 appropriated by the Legislature must, notwithstanding the
2085 provisions of chapter 216 or s. 420.504(3), be transferred
2086 quarterly in advance, to the extent available, or, if not so
2087 available, as soon as received into the State Housing Trust
2088 Fund, and subject to the provisions of s. 420.5092(6)(a) and (b)

2089 by the Chief Financial Officer to the corporation upon
2090 certification by the executive director of the Department of
2091 Economic Opportunity that the corporation is in compliance with
2092 the requirements of s. 420.0006. The certification made by the
2093 executive director ~~secretary~~ shall also include the split of
2094 funds among programs administered by the corporation and the
2095 department as specified in chapter 92-317, Laws of Florida, as
2096 amended. Moneys advanced by the Chief Financial Officer must be
2097 deposited by the corporation into a separate fund established
2098 with a qualified public depository meeting the requirements of
2099 chapter 280 to be named the "State Housing Fund" and used for
2100 the purposes of this chapter. Administrative and personnel costs
2101 incurred in implementing this chapter may be paid from the State
2102 Housing Fund, but such costs may not exceed 5 percent of the
2103 moneys deposited into such fund. To the State Housing Fund shall
2104 be credited all loan repayments, penalties, and other fees and
2105 charges accruing to such fund under this chapter. It is the
2106 intent of this chapter that all loan repayments, penalties, and
2107 other fees and charges collected be credited in full to the
2108 program account from which the loan originated. Moneys in the
2109 State Housing Fund which are not currently needed for the
2110 purposes of this chapter shall be invested in such manner as is
2111 provided for by statute. The interest received on any such
2112 investment shall be credited to the State Housing Fund.
2113 Section 64. Section 420.0006, Florida Statutes, is amended
2114 to read:
2115 420.0006 Authority to contract with corporation; contract
2116 requirements; nonperformance.—The executive director ~~secretary~~
2117 of the department shall contract, notwithstanding ~~the provisions~~

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2118 ~~of~~ part I of chapter 287, with the Florida Housing Finance
2119 Corporation on a multiyear basis to stimulate, provide, and
2120 foster affordable housing in the state. The contract must
2121 incorporate the performance measures required by s. 420.511 and
2122 must be consistent with the provisions of the corporation's
2123 strategic plan prepared in accordance with s. 420.511. The
2124 contract must provide that, in the event the corporation fails
2125 to comply with any of the performance measures required by s.
2126 420.511, the executive director ~~secretary~~ shall notify the
2127 Governor and shall refer the nonperformance to the department's
2128 inspector general for review and determination as to whether
2129 such failure is due to forces beyond the corporation's control
2130 or whether such failure is due to inadequate management of the
2131 corporation's resources. Advances shall continue to be made
2132 pursuant to s. 420.0005 during the pendency of the review by the
2133 department's inspector general. If such failure is due to
2134 outside forces, it shall not be deemed a violation of the
2135 contract. If such failure is due to inadequate management, the
2136 department's inspector general shall provide recommendations
2137 regarding solutions. The Governor is authorized to resolve any
2138 differences of opinion with respect to performance under the
2139 contract and may request that advances continue in the event of
2140 a failure under the contract due to inadequate management. The
2141 Chief Financial Officer shall approve the request absent a
2142 finding by the Chief Financial Officer that continuing such
2143 advances would adversely impact the state; however, in any event
2144 the Chief Financial Officer shall provide advances sufficient to
2145 meet the debt service requirements of the corporation and
2146 sufficient to fund contracts committing funds from the State

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2147 Housing Trust Fund so long as such contracts are in accordance
2148 with the laws of this state.
2149 Section 65. Subsection (26) of section 443.036, Florida
2150 Statutes, is amended to read:
2151 443.036 Definitions.—As used in this chapter, the term:
2152 (26) "Initial skills review" means an online education or
2153 training program, such as that established under s. 1004.99,
2154 which ~~that~~ is approved by the Department of Economic Opportunity
2155 ~~Agency for Workforce Innovation~~ and designed to measure an
2156 individual's mastery level of workplace skills.
2157 Section 66. Paragraphs (c) and (d) of subsection (1) of
2158 section 443.091, Florida Statutes, are amended to read:
2159 443.091 Benefit eligibility conditions.—
2160 (1) An unemployed individual is eligible to receive
2161 benefits for any week only if the Department of Economic
2162 Opportunity finds that:
2163 (c) To make continued claims for benefits, she or he is
2164 reporting to the department in accordance with this paragraph
2165 and department ~~agency~~ rules, and participating in an initial
2166 skills review as directed by the department ~~agency~~. Department
2167 ~~Agency~~ rules may not conflict with s. 443.111(1)(b), which
2168 requires that each claimant continue to report regardless of any
2169 pending appeal relating to her or his eligibility or
2170 disqualification for benefits.
2171 1. For each week of unemployment claimed, each report must,
2172 at a minimum, include the name, address, and telephone number of
2173 each prospective employer contacted, or the date the claimant
2174 reported to a one-stop career center, pursuant to paragraph (d).
2175 2. The administrator or operator of the initial skills

2176 review shall notify the department ~~agency~~ when the individual
2177 completes the initial skills review and report the results of
2178 the review to the regional workforce board or the one-stop
2179 career center as directed by the workforce board. The workforce
2180 board shall use the initial skills review to develop a plan for
2181 referring individuals to training and employment opportunities.
2182 The failure of the individual to comply with this requirement
2183 will result in the individual being determined ineligible for
2184 benefits for the week in which the noncompliance occurred and
2185 for any subsequent week of unemployment until the requirement is
2186 satisfied. However, this requirement does not apply if the
2187 individual is able to affirmatively attest to being unable to
2188 complete such review due to illiteracy or a language impediment.
2189 (d) She or he is able to work and is available for work. In
2190 order to assess eligibility for a claimed week of unemployment,
2191 the department shall develop criteria to determine a claimant's
2192 ability to work and availability for work. A claimant must be
2193 actively seeking work in order to be considered available for
2194 work. This means engaging in systematic and sustained efforts to
2195 find work, including contacting at least five prospective
2196 employers for each week of unemployment claimed. The department
2197 ~~agency~~ may require the claimant to provide proof of such efforts
2198 to the one-stop career center as part of reemployment services.
2199 The department ~~agency~~ shall conduct random reviews of work
2200 search information provided by claimants. As an alternative to
2201 contacting at least five prospective employers for any week of
2202 unemployment claimed, a claimant may, for that same week, report
2203 in person to a one-stop career center to meet with a
2204 representative of the center and access reemployment services of

2205 the center. The center shall keep a record of the services or
2206 information provided to the claimant and shall provide the
2207 records to the department ~~agency~~ upon request by the department
2208 ~~agency~~. However:
2209 1. Notwithstanding any other provision of this paragraph or
2210 paragraphs (b) and (e), an otherwise eligible individual may not
2211 be denied benefits for any week because she or he is in training
2212 with the approval of the department, or by reason of s.
2213 443.101(2) relating to failure to apply for, or refusal to
2214 accept, suitable work. Training may be approved by the
2215 department in accordance with criteria prescribed by rule. A
2216 claimant's eligibility during approved training is contingent
2217 upon satisfying eligibility conditions prescribed by rule.
2218 2. Notwithstanding any other provision of this chapter, an
2219 otherwise eligible individual who is in training approved under
2220 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
2221 determined ineligible or disqualified for benefits due to
2222 enrollment in such training or because of leaving work that is
2223 not suitable employment to enter such training. As used in this
2224 subparagraph, the term "suitable employment" means work of a
2225 substantially equal or higher skill level than the worker's past
2226 adversely affected employment, as defined for purposes of the
2227 Trade Act of 1974, as amended, the wages for which are at least
2228 80 percent of the worker's average weekly wage as determined for
2229 purposes of the Trade Act of 1974, as amended.
2230 3. Notwithstanding any other provision of this section, an
2231 otherwise eligible individual may not be denied benefits for any
2232 week because she or he is before any state or federal court
2233 pursuant to a lawfully issued summons to appear for jury duty.

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2234 Section 67. Paragraph (a) of subsection (5) of section
2235 443.111, Florida Statutes, is amended to read:
2236 443.111 Payment of benefits.—
2237 (5) DURATION OF BENEFITS.—
2238 (a) As used in this section, the term "Florida average
2239 unemployment rate" means the average of the 3 months for the
2240 most recent third calendar year quarter of the seasonally
2241 adjusted statewide unemployment rates as published by the
2242 Department of Economic Opportunity ~~Agency for Workforce~~
2243 ~~Innovation~~.
2244 Section 68. Paragraph (b) of subsection (1) of section
2245 443.141, Florida Statutes, is amended to read:
2246 443.141 Collection of contributions and reimbursements.—
2247 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
2248 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—
2249 (b) *Penalty for delinquent, erroneous, incomplete, or*
2250 *insufficient reports.*—
2251 1. An employing unit that fails to file any report required
2252 by the Department of Economic Opportunity or its tax collection
2253 service provider, in accordance with rules for administering
2254 this chapter, shall pay to the service provider for each
2255 delinquent report the sum of $25 for each 30 days or fraction
2256 thereof that the employing unit is delinquent, unless the
2257 department ~~agency~~ or its service provider, whichever required
2258 the report, finds that the employing unit has good reason for
2259 failing to file the report. The department or its service
2260 provider may assess penalties only through the date of the
2261 issuance of the final assessment notice. However, additional
2262 penalties accrue if the delinquent report is subsequently filed.

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2263 2.a. An employing unit that files an erroneous, incomplete,
2264 or insufficient report with the department or its tax collection
2265 service provider shall pay a penalty. The amount of the penalty
2266 is $50 or 10 percent of any tax due, whichever is greater, but
2267 no more than $300 per report. The penalty shall be added to any
2268 tax, penalty, or interest otherwise due.
2269 b. The department or its tax collection service provider
2270 shall waive the penalty if the employing unit files an accurate,
2271 complete, and sufficient report within 30 days after a penalty
2272 notice is issued to the employing unit. The penalty may not be
2273 waived pursuant to this subparagraph more than one time during a
2274 12-month period.
2275 c. As used in this subsection, the term "erroneous,
2276 incomplete, or insufficient report" means a report so lacking in
2277 information, completeness, or arrangement that the report cannot
2278 be readily understood, verified, or reviewed. Such reports
2279 include, but are not limited to, reports having missing wage or
2280 employee information, missing or incorrect social security
2281 numbers, or illegible entries; reports submitted in a format
2282 that is not approved by the department or its tax collection
2283 service provider; and reports showing gross wages that do not
2284 equal the total of the wages of each employee. However, the term
2285 does not include a report that merely contains inaccurate data
2286 that was supplied to the employer by the employee, if the
2287 employer was unaware of the inaccuracy.
2288 3. Penalties imposed pursuant to this paragraph shall be
2289 deposited in the Special Employment Security Administration
2290 Trust Fund.
2291 4. The penalty and interest for a delinquent, erroneous,

2292 incomplete, or insufficient report may be waived if the penalty
2293 or interest is inequitable. The provisions of s. 213.24(1) apply
2294 to any penalty or interest that is imposed under this section.
2295 Section 69. Paragraph (b) of subsection (2) of section
2296 443.1715, Florida Statutes, is amended to read:
2297 443.1715 Disclosure of information; confidentiality.—
2298 (2) DISCLOSURE OF INFORMATION.—
2299 (b) The employer or the employer's workers' compensation
2300 carrier against whom a claim for benefits under chapter 440 has
2301 been made, or a representative of either, may request from the
2302 department records of wages of the employee reported to the
2303 department by any employer for the quarter that includes the
2304 date of the accident that is the subject of such claim and for
2305 subsequent quarters.
2306 1. The request must be made with the authorization or
2307 consent of the employee or any employer who paid wages to the
2308 employee after the date of the accident.
2309 2. The employer or carrier shall make the request on a form
2310 prescribed by rule for such purpose by the department ~~agency~~.
2311 Such form shall contain a certification by the requesting party
2312 that it is a party entitled to the information requested.
2313 3. The department shall provide the most current
2314 information readily available within 15 days after receiving the
2315 request.
2316 Section 70. Subsections (1), (2), (4), (5), (6), and (7) of
2317 section 443.17161, Florida Statutes, are amended to read:
2318 443.17161 Authorized electronic access to employer
2319 information.—
2320 (1) Notwithstanding any other provision of this chapter,

2321 the Department of Economic Opportunity ~~Agency for Workforce~~
2322 ~~Innovation~~ shall contract with one or more consumer reporting
2323 agencies to provide users with secured electronic access to
2324 employer-provided information relating to the quarterly wages
2325 report submitted in accordance with the state's unemployment
2326 compensation law. The access is limited to the wage reports for
2327 the appropriate amount of time for the purpose the information
2328 is requested.
2329 (2) Users must obtain consent in writing or by electronic
2330 signature from an applicant for credit, employment, or other
2331 permitted purposes. Any written or electronic signature consent
2332 from an applicant must be signed and must include the following:
2333 (a) Specific notice that information concerning the
2334 applicant's wage and employment history will be released to a
2335 consumer reporting agency;
2336 (b) Notice that the release is made for the sole purpose of
2337 reviewing the specific application for credit, employment, or
2338 other permitted purpose made by the applicant;
2339 (c) Notice that the files of the Department of Economic
2340 Opportunity ~~Agency for Workforce Innovation~~ or its tax
2341 collection service provider containing information concerning
2342 wage and employment history which is submitted by the applicant
2343 or his or her employers may be accessed; and
2344 (d) A listing of the parties authorized to receive the
2345 released information.
2346 (4) If a consumer reporting agency or user violates this
2347 section, the Department of Economic Opportunity ~~Agency for~~
2348 ~~Workforce Innovation~~ shall, upon 30 days' written notice to the
2349 consumer reporting agency, terminate the contract established

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2350 between the Department of Economic Opportunity ~~Agency for~~
2351 ~~Workforce Innovation~~ and the consumer reporting agency or
2352 require the consumer reporting agency to terminate the contract
2353 established between the consumer reporting agency and the user
2354 under this section.
2355 (5) The Department of Economic Opportunity ~~Agency for~~
2356 ~~Workforce Innovation~~ shall establish minimum audit, security,
2357 net worth, and liability insurance standards, technical
2358 requirements, and any other terms and conditions considered
2359 necessary in the discretion of the state agency to safeguard the
2360 confidentiality of the information released under this section
2361 and to otherwise serve the public interest. The Department of
2362 Economic Opportunity ~~Agency for Workforce Innovation~~ shall also
2363 include, in coordination with any necessary state agencies,
2364 necessary audit procedures to ensure that these rules are
2365 followed.
2366 (6) In contracting with one or more consumer reporting
2367 agencies under this section, any revenues generated by the
2368 contract must be used to pay the entire cost of providing access
2369 to the information. Further, in accordance with federal
2370 regulations, any additional revenues generated by the Department
2371 of Economic Opportunity ~~Agency for Workforce Innovation~~ or the
2372 state under this section must be paid into the Administrative
2373 Trust Fund of the Department of Economic Opportunity ~~Agency for~~
2374 ~~Workforce Innovation~~ for the administration of the unemployment
2375 compensation system or be used as program income.
2376 (7) The Department of Economic Opportunity ~~Agency for~~
2377 ~~Workforce Innovation~~ may not provide wage and employment history
2378 information to any consumer reporting agency before the consumer

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2379 reporting agency or agencies under contract with the Department
2380 of Economic Opportunity ~~Agency for Workforce Innovation~~ pay all
2381 development and other startup costs incurred by the state in
2382 connection with the design, installation, and administration of
2383 technological systems and procedures for the electronic access
2384 program.
2385 Section 71. Subsection (2) of section 446.50, Florida
2386 Statutes, is amended to read:
2387 446.50 Displaced homemakers; multiservice programs; report
2388 to the Legislature; Displaced Homemaker Trust Fund created.—
2389 (2) DEFINITION.—For the purposes of this section, the term
2390 "displaced homemaker" means an individual who:
2391 (a) Is 35 years of age or older;
2392 (b) Has worked in the home, providing unpaid household
2393 services for family members;
2394 (c) Is not adequately employed, as defined by rule of the
2395 department ~~agency~~;
2396 (d) Has had, or would have, difficulty in securing adequate
2397 employment; and
2398 (e) Has been dependent on the income of another family
2399 member but is no longer supported by such income, or has been
2400 dependent on federal assistance.
2401 Section 72. Section 450.261, Florida Statutes, is amended
2402 to read:
2403 450.261 Interstate Migrant Labor Commission; Florida
2404 membership.—In selecting the Florida membership of the
2405 Interstate Migrant Labor Commission, the Governor may designate
2406 the executive director ~~secretary~~ of the Department of Economic
2407 Opportunity as his or her representative.

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2408 Section 73. Paragraph (c) of subsection (7) of section
2409 509.032, Florida Statutes, is amended to read:
2410 509.032 Duties.—
2411 (7) PREEMPTION AUTHORITY.—
2412 (c) Paragraph (b) does not apply to any local law,
2413 ordinance, or regulation exclusively relating to property
2414 valuation as a criterion for vacation rental if the local law,
2415 ordinance, or regulation is required to be approved by the state
2416 land planning agency ~~Department of Community Affairs~~ pursuant to
2417 an area of critical state concern designation.
2418 Section 74. Subsection (3) of section 624.5105, Florida
2419 Statutes, is amended to read:
2420 624.5105 Community contribution tax credit; authorization;
2421 limitations; eligibility and application requirements;
2422 administration; definitions; expiration.—
2423 (3) APPLICATION REQUIREMENTS.—
2424 (a) Any eligible sponsor wishing to participate in this
2425 program must submit a proposal to the Department of Economic
2426 Opportunity ~~Office of Tourism, Trade, and Economic Development~~
2427 which sets forth the sponsor, the project, the area in which the
2428 project is located, and such supporting information as may be
2429 prescribed by rule. The proposal shall also contain a resolution
2430 from the local governmental unit in which the proposed project
2431 is located certifying that the project is consistent with local
2432 plans and regulations.
2433 (b)1. Any insurer wishing to participate in this program
2434 must submit an application for tax credit to the Department of
2435 Economic Opportunity ~~office~~ which sets forth the sponsor; the
2436 project; and the type, value, and purpose of the contribution.

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2437 The sponsor must verify, in writing, the terms of the
2438 application and indicate its willingness to receive the
2439 contribution, which verification must accompany the application
2440 for tax credit.
2441 2. The insurer must submit a separate application for tax
2442 credit for each individual contribution which it proposes to
2443 contribute to each individual project.
2444 Section 75. Subsection (4) of section 1002.75, Florida
2445 Statutes, is amended to read:
2446 1002.75 Office of Early Learning; powers and duties;
2447 operational requirements.—
2448 (4) The Office of Early Learning shall also adopt
2449 procedures for the ~~agency's~~ distribution of funds to early
2450 learning coalitions under s. 1002.71.
2451 Section 76. Subsection (2) of section 1002.79, Florida
2452 Statutes, is amended to read:
2453 1002.79 Rulemaking authority.—
2454 (2) The Office of Early Learning shall adopt rules under
2455 ss. 120.536(1) and 120.54 to administer the provisions of this
2456 part conferring duties upon the office ~~agency~~.
2457 Section 77. Paragraph (a) of subsection (1) of section
2458 259.035, Florida Statutes, is amended to read:
2459 259.035 Acquisition and Restoration Council.—
2460 (1) There is created the Acquisition and Restoration
2461 Council.
2462 (a) The council shall be composed of 10 ~~eleven~~ voting
2463 members, four of whom shall be appointed by the Governor. Of
2464 these four appointees, three shall be from scientific
2465 disciplines related to land, water, or environmental sciences

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2466 and the fourth shall have at least 5 years of experience in
2467 managing lands for both active and passive types of recreation.
2468 They shall serve 4-year terms, except that, initially, to
2469 provide for staggered terms, two of the appointees shall serve
2470 2-year terms. All subsequent appointments shall be for 4-year
2471 terms. An ~~No~~ appointee may not ~~shall~~ serve more than 6 years.
2472 The Governor may at any time fill a vacancy for the unexpired
2473 term of a member appointed under this paragraph.
2474 Section 78. Subsection (2) of section 288.12265, Florida
2475 Statutes, is amended to read:
2476 288.12265 Welcome centers.—
2477 (2) Enterprise Florida, Inc., shall administer and operate
2478 the welcome centers. Pursuant to a contract with the Department
2479 of Transportation, Enterprise Florida, Inc., shall be
2480 responsible for routine repair, replacement, or improvement and
2481 the day-to-day management of interior areas occupied by the
2482 welcome centers. All other repairs, replacements, or
2483 improvements to the welcome centers shall be the responsibility
2484 of the Department of Transportation. Enterprise Florida, Inc.,
2485 may contract with the Florida Tourism Industry Marketing
2486 Corporation for the management and operation of the welcome
2487 centers.
2488 Section 79. Paragraph (a) of subsection (5) of section
2489 288.901, Florida Statutes, is amended to read:
2490 288.901 Enterprise Florida, Inc.—
2491 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—
2492 (a) In addition to the Governor or the Governor's designee,
2493 the board of directors shall consist of the following appointed
2494 members:

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2495 1. The Commissioner of Education or the commissioner's
2496 designee.
2497 2. The Chief Financial Officer or his or her designee.
2498 3. The chairperson of the board of directors of Workforce
2499 Florida, Inc.
2500 4. The Secretary of State or the secretary's designee.
2501 5. Twelve members from the private sector, six of whom
2502 shall be appointed by the Governor, three of whom shall be
2503 appointed by the President of the Senate, and three of whom
2504 shall be appointed by the Speaker of the House of
2505 Representatives. Members appointed by the Governor ~~All~~
2506 ~~appointees~~ are subject to Senate confirmation.
2507 Section 80. Paragraph (d) of subsection (2) and subsection
2508 (3) of section 288.980, Florida Statutes, are amended to read:
2509 288.980 Military base retention; legislative intent; grants
2510 program.—
2511 (2)
2512 (d) In making grant awards the department ~~office~~ shall
2513 consider, at a minimum, the following factors:
2514 1. The relative value of the particular military
2515 installation in terms of its importance to the local and state
2516 economy relative to other military installations vulnerable to
2517 closure.
2518 2. The potential job displacement within the local
2519 community should the military installation be closed.
2520 3. The potential adverse impact on industries and
2521 technologies which service the military installation.
2522 (3) The Florida Economic Reinvestment Initiative is
2523 established to respond to the need for this state and defense-

2524 dependent communities in this state to develop alternative
2525 economic diversification strategies to lessen reliance on
2526 national defense dollars in the wake of base closures and
2527 reduced federal defense expenditures and the need to formulate
2528 specific base reuse plans and identify any specific
2529 infrastructure needed to facilitate reuse. The initiative shall
2530 consist of the following three ~~two~~ distinct grant programs to be
2531 administered by the department:
2532 (a) The Florida Defense Planning Grant Program, through
2533 which funds shall be used to analyze the extent to which the
2534 state is dependent on defense dollars and defense infrastructure
2535 and prepare alternative economic development strategies. The
2536 state shall work in conjunction with defense-dependent
2537 communities in developing strategies and approaches that will
2538 help communities make the transition from a defense economy to a
2539 nondefense economy. Grant awards may not exceed $250,000 per
2540 applicant and shall be available on a competitive basis.
2541 (b) The Florida Defense Implementation Grant Program,
2542 through which funds shall be made available to defense-dependent
2543 communities to implement the diversification strategies
2544 developed pursuant to paragraph (a). Eligible applicants include
2545 defense-dependent counties and cities, and local economic
2546 development councils located within such communities. Grant
2547 awards may not exceed $100,000 per applicant and shall be
2548 available on a competitive basis. Awards shall be matched on a
2549 one-to-one basis.
2550 (c) The Florida Military Installation Reuse Planning and
2551 Marketing Grant Program, through which funds shall be used to
2552 help counties, cities, and local economic development councils

2553 develop and implement plans for the reuse of closed or realigned
2554 military installations, including any necessary infrastructure
2555 improvements needed to facilitate reuse and related marketing
2556 activities.
2557
2558 Applications for grants under this subsection must include a
2559 coordinated program of work or plan of action delineating how
2560 the eligible project will be administered and accomplished,
2561 which must include a plan for ensuring close cooperation between
2562 civilian and military authorities in the conduct of the funded
2563 activities and a plan for public involvement.
2564 Section 81. Section 331.3081, Florida Statutes, is amended
2565 to read:
2566 331.3081 Board of directors~~; advisory board~~.—
2567 ~~(1)~~ Space Florida shall be governed by a 13-member ~~12-~~
2568 ~~member~~ independent board of directors that consists of the
2569 members appointed to the board of directors of Enterprise
2570 Florida, Inc., by the Governor, the President of the Senate, and
2571 the Speaker of the House of Representatives pursuant to s.
2572 288.901(5)(a)5. The Governor or the Governor's designee shall be
2573 an ex officio voting member and shall serve as the chair of the
2574 board.
2575 ~~(2) Space Florida shall have a 15-member advisory council,~~
2576 ~~appointed by the Governor from a list of nominations submitted~~
2577 ~~by the board of directors. The advisory council shall be~~
2578 ~~composed of Florida residents with expertise in the space~~
2579 ~~industry, and each of the following areas of expertise or~~
2580 ~~experience must be represented by at least one advisory council~~
2581 ~~member: human space-flight programs, commercial launches into~~

2582 ~~space, organized labor with experience working in the aerospace~~
2583 ~~industry, aerospace-related industries, a commercial company~~
2584 ~~working under Federal Government contracts to conduct space-~~
2585 ~~related business, an aerospace company whose primary client is~~
2586 ~~the United States Department of Defense, and an alternative~~
2587 ~~energy enterprise with potential for aerospace applications. The~~
2588 ~~advisory council shall elect a member to serve as the chair of~~
2589 ~~the council.~~
2590 ~~(3) The advisory council shall make recommendations to the~~
2591 ~~board of directors of Enterprise Florida, Inc., on the operation~~
2592 ~~of Space Florida, including matters pertaining to ways to~~
2593 ~~improve or enhance Florida's efforts to expand its existing~~
2594 ~~space and aerospace industry, to improve management and use of~~
2595 ~~Florida's state-owned real property assets related to space and~~
2596 ~~aerospace, how best to retain and, if necessary, retrain~~
2597 ~~Florida's highly skilled space and aerospace workforce, and how~~
2598 ~~to strengthen bonds between this state, NASA, the Department of~~
2599 ~~Defense, and private space and aerospace industries.~~
2600 ~~(4) The term for an advisory council member is 4 years. A~~
2601 ~~member may not serve more than two consecutive terms. The~~
2602 ~~Governor may remove any member for cause and shall fill all~~
2603 ~~vacancies that occur.~~
2604 ~~(5) Advisory council members shall serve without~~
2605 ~~compensation but may be reimbursed for all reasonable,~~
2606 ~~necessary, and actual expenses as determined by the board of~~
2607 ~~directors of Enterprise Florida, Inc.~~
2608 Section 82. Paragraph (e) is added to subsection (3) of
2609 section 20.60, Florida Statutes, to read:
2610 20.60 Department of Economic Opportunity; creation; powers

2611 and duties.—
2612 (3) The following divisions of the Department of Economic
2613 Opportunity are established:
2614 (e) The Division of Information Technology.
2615 Section 83. Section 163.03, Florida Statutes, is repealed.
2616 Section 84. Subsection (5) of section 373.461, Florida
2617 Statutes, is amended, and present subsections (6) and (7) of
2618 that section are renumbered as subsections (5) and (6),
2619 respectively, to read:
2620 373.461 Lake Apopka improvement and management.—
2621 ~~(5) PURCHASE OF AGRICULTURAL LANDS.~~
2622 ~~(a) The Legislature finds that it is in the public interest~~
2623 ~~of the state to acquire lands in agricultural production, along~~
2624 ~~with their related facilities, which contribute, directly or~~
2625 ~~indirectly, to phosphorus discharges to Lake Apopka, for the~~
2626 ~~purpose of improving water quality in Lake Apopka. These lands~~
2627 ~~consist of those farming entities on Lake Apopka having consent~~
2628 ~~and settlement agreements with the district and those sand land~~
2629 ~~farms discharging indirectly to Lake Apopka through Lake Level~~
2630 ~~Canal, Apopka-Beauclair Canal, or McDonald Canal. The district~~
2631 ~~is granted the power of eminent domain on those properties.~~
2632 ~~(b) In determining the fair market value of lands to be~~
2633 ~~purchased from willing sellers, all appraisals of such lands may~~
2634 ~~consider income from the use of the property for farming and,~~
2635 ~~for this purpose, such income shall be deemed attributable to~~
2636 ~~the real estate.~~
2637 ~~(c) The district shall explore the availability of funding~~
2638 ~~from all sources, including any federal, state, regional, and~~
2639 ~~local land acquisition funding programs, to purchase the~~

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

2640 ~~agricultural lands described in paragraph (a). It is the~~
2641 ~~Legislature's intent that, if such funding sources can be~~
2642 ~~identified, acquisition of the lands described in paragraph (a)~~
2643 ~~may be undertaken by the district to purchase these properties~~
2644 ~~from willing sellers. However, the purchase price paid for~~
2645 ~~acquisition of such lands that were in active cultivation during~~
2646 ~~1996 shall not exceed the highest appraisal obtained by the~~
2647 ~~district for these lands from a state-certified general~~
2648 ~~appraiser following the Uniform Standards of Professional~~
2649 ~~Appraisal Practice. This maximum purchase price limitation shall~~
2650 ~~not include, nor be applicable to, that portion of the purchase~~
2651 ~~price attributable to consideration of income described in~~
2652 ~~paragraph (b), or that portion attributable to related~~
2653 ~~facilities, or closing costs.~~
2654 ~~(d) In connection with successful acquisition of any of the~~
2655 ~~lands described in this section which are not needed for~~
2656 ~~stormwater management facilities, the district shall give the~~
2657 ~~seller the option to lease the land for a period not to exceed 5~~
2658 ~~years, at a fair market lease value for similar agricultural~~
2659 ~~lands. Proceeds derived from such leases shall be used to offset~~
2660 ~~the cost of acquiring the land.~~
2661 ~~(e) If all the lands within Zellwood are purchased in~~
2662 ~~accordance with this section prior to expiration of the consent~~
2663 ~~agreement between Zellwood and the district, Zellwood shall be~~
2664 ~~reimbursed for any costs described in subsection (4).~~
2665 ~~(f)1. Tangible personal property acquired by the district~~
2666 ~~as part of related facilities pursuant to this section, and~~
2667 ~~classified as surplus by the district, shall be sold by the~~
2668 ~~Department of Management Services. The Department of Management~~

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

2669 ~~Services shall deposit the proceeds of such sale in the Economic~~
2670 ~~Development Trust Fund in the Executive Office of the Governor.~~
2671 ~~The proceeds shall be used for the purpose of providing economic~~
2672 ~~and infrastructure development in portions of northwestern~~
2673 ~~Orange County and east central Lake County which will be~~
2674 ~~adversely affected economically due to the acquisition of lands~~
2675 ~~pursuant to this subsection.~~
2676 ~~2. The Office of Tourism, Trade, and Economic Development~~
2677 ~~shall, upon presentation of the appropriate documentation~~
2678 ~~justifying expenditure of the funds deposited pursuant to this~~
2679 ~~paragraph, pay any obligation for which it has sufficient funds~~
2680 ~~from the proceeds of the sale of tangible personal property and~~
2681 ~~which meets the limitations specified in paragraph (g). The~~
2682 ~~authority of the Office of Tourism, Trade, and Economic~~
2683 ~~Development to expend such funds shall expire 5 years from the~~
2684 ~~effective date of this paragraph. Such expenditures may occur~~
2685 ~~without future appropriation from the Legislature.~~
2686 ~~3. Funds deposited under this paragraph may not be used for~~
2687 ~~any purpose other than those enumerated in paragraph (g).~~
2688 ~~(g)1. The proceeds of sale of tangible personal property~~
2689 ~~authorized by paragraph (f) shall be distributed as follows: 60~~
2690 ~~percent to Orange County; 25 percent to the City of Apopka; and~~
2691 ~~15 percent to Lake County.~~
2692 ~~2. Such proceeds shall be used to implement the~~
2693 ~~redevelopment plans adopted by the Orange County Board of County~~
2694 ~~Commissioners, Apopka City Commission, and Lake County Board of~~
2695 ~~County Commissioners.~~
2696 ~~3. Of the total proceeds, the Orange County Board of County~~
2697 ~~Commissioners, Apopka City Commission, and Lake County Board of~~

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

2698 ~~County Commissioners, may not expend more than:~~
2699 ~~a. Twenty percent for labor force training related to the~~
2700 ~~redevelopment plan;~~
2701 ~~b. Thirty-three percent for financial or economic~~
2702 ~~incentives for business location or expansion in the~~
2703 ~~redevelopment area; and~~
2704 ~~c. Four percent for administration, planning, and marketing~~
2705 ~~the redevelopment plan.~~
2706 ~~4. The Orange County Board of County Commissioners, Apopka~~
2707 ~~City Commission, and Lake County Board of County Commissioners~~
2708 ~~must spend those revenues not expended under subparagraph 3. for~~
2709 ~~infrastructure needs necessary for the redevelopment plan.~~
2710 Section 85. Section 379.2353, Florida Statutes, is
2711 repealed.
2712 Section 86. This act shall take effect upon becoming a law.

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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)

2/21/12
Meeting Date

Topic: Economic Development Reorganization

Bill Number: SB1204 *(if applicable)*

Name: Chris Snow

Amendment Barcode: *(if applicable)*

Job Title: Senior Director of Government Relation

Address: 1580 Waldo Palmer Lane
Street

Tallahassee, FL 32317
City, State, Zip

Phone: 3214749754

E-mail: csnow@spaceflorida.gov

Speaking: [✓] For [ ] Against [ ] Information

Representing: Space 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.

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: February 7, 2012

I respectfully request that **Senate Bill #1204**, relating to Governmental Reorganization, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

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 Budget Committee

BILL: SB 1220

INTRODUCER: Senator Garcia

SUBJECT: Repeal of Health Insurance Provisions

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burgess	Burgess	BI	**Favorable**
2.	Betta	DeLoach	BGA	**Favorable**
3.	Betta	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

The bill deletes s. 627.64872(6), F.S., which requires the Board of Directors of the Florida Health Insurance Plan to submit to the Governor, the President of the Senate and the Speaker of the House of Representatives, an annual report which is to include an independent actuarial study.

The bill deletes s. 627.6699(15)(l), F.S., which requires the Office of Insurance Regulation to submit to the Governor, the President of the Senate and the Speaker of the House of Representatives, an annual report which summarizes the activities of the Small Employer Access Program, including written and earned premiums, program enrollment, administrative expenses, and paid and incurred losses.

This bill substantially amends the following sections of the Florida Statutes: 627.64872, 627.6699.

II. Present Situation:

Florida Health Insurance Plan (FHIP)

In 1983, the Florida Legislature created the Florida Comprehensive Health Association (FCHA), to cover individuals who were unable to purchase health insurance from the open market due to pre-existing conditions. The program is financed through premiums from the participants and assessments on insurance companies, but has been closed to new enrollment since 1991.[1]
In 2004, the Legislature created the Florida Health Insurance Plan (FHIP),[2] which was intended to replace the FCHA as the state's high risk insurance pool.[3] The benefits provided by the FHIP are the same as the standard and basic plans for small employers. The FHIP must also provide an option for the purchase of alternative coverage, such as catastrophic coverage which includes a minimum level of primary care coverage, and a high deductible plan that meets all the requirements for a health savings account. Eligibility for the plan is limited to individuals who have received two notices of rejection for coverage from health insurers and individuals covered under the FCHA at the time the FHIP was created.[4]

The FHIP was created to be run by a nine person Board of Directors, chaired by the Director of the Office of Insurance Regulation (OIR). Five Board members would be appointed by the Governor and one member each would be appointed by the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer.[5] The Board is required to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, an annual report which is to include an independent actuarial study.

According to the OIR, funds for the start-up of the FHIP have not been appropriated, and as a result, the FHIP is not in operation. Therefore, the requirement that a report be provided that includes an independent actuarial study is moot.

Small Employers Access Program

In 1992, the Legislature enacted the Employee Health Care Access Act (EHCAA).[6] The purpose of the act was to promote the availability of health insurance coverage to small employers, regardless of claims experience or their employees' health status.[7] In 2004, the Small Employers Access Program (Program) was created within the EHCAA.[8] The purpose of the Program was to provide additional health insurance options for small businesses consisting of up to 25 employees, including any municipality, county, school district, hospital located in a rural community, and any nursing home employer.[9] The OIR is required to submit an annual report to

[1] See Department of Financial Services website: myfloridacfo.com/Residual Markets – Florida Comprehensive Health Association; last visited January 15, 2012.
[2] Section 627.64872, F.S.
[3] See Department of Financial Services website: myfloridacfo.com/Residual Markets – Florida Health Insurance Plan; last visited January 15, 2012.
[4] Section 627.64872(9), F.S.
[5] Section 627.64872(3), F.S.
[6] Ch. 92-33, s. 117, L.O.F.
[7] Section 627.6699(2), F.S.
[8] Ch. 2004-297, s. 24, L.O.F.
[9] Section 627.6699(15)(b), F.S.

the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Program over the past year, including written and earned premiums, program enrollment, administrative expenses, and paid and incurred losses.[10]

According to the OIR, the Small Employers Access Program is not operational. The enacting legislation required a competitive bid for an insurer to administer the program. The OIR issued the required request for proposals (RFP) in 2004, and no insurer submitted a bid. Therefore, the annual reporting requirement contained in the section is moot.

III. Effect of Proposed Changes:

Section 1. The bill deletes s. 627.64872(6), F.S., thereby eliminating the annual reporting requirement for the FHIP. The Board of Directors of the FHIP would no longer be required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 2. The bill deletes s. 627.6699(15)(l), F.S., thereby eliminating the annual reporting requirement for the Small Employers Access Program. The OIR would no longer be required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3. The bill has an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[10] Section 627.6699(15)(l), F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

By Senator Garcia

40-01235-12 20121220__

A bill to be entitled

An act relating to the repeal of health insurance provisions; amending s. 627.64872, F.S.; deleting a requirement that the Florida Health Insurance Plan's board of directors annually report to the Governor and the Legislature concerning the Florida Health Insurance Plan; deleting redundant provisions making the implementation of the plan by the board contingent upon certain appropriations; amending s. 627.6699, F.S.; deleting a requirement that the Office of Insurance Regulation of the Department of Financial Services annually report to the Governor and the Legislature concerning the Small Employers Access Program; providing an effective date.

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

Section 1. Subsections (7) through (20) of section 627.64872, Florida Statutes, are renumbered as subsections (6) through (19), respectively, and paragraph (b) of subsection (4), present subsection (6), and paragraph (a) of present subsection (20) of that section are amended to read:

627.64872 Florida Health Insurance Plan.—

(4) PLAN OF OPERATION.—The plan of operation shall:

(b) Establish procedures for selecting an administrator in accordance with subsection (10) ~~(11)~~.

~~(6) ANNUAL REPORT.—The board shall annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that includes an independent~~

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

40-01235-12 20121220__

~~actuarial study to determine, without limitation, the following:~~

~~(a) The effect the creation of the plan has on the small group and individual insurance market, specifically on the premiums paid by insureds, including an estimate of the total anticipated aggregate savings for all small employers in the state.~~

~~(b) The actual number of individuals covered at the current funding and benefit level, the projected number of individuals that may seek coverage in the forthcoming fiscal year, and the projected funding needed to cover anticipated increase or decrease in plan participation.~~

~~(c) A recommendation as to the best source of funding for the anticipated deficits of the pool.~~

~~(d) A summary of the activities of the plan in the preceding calendar year, including the net written and earned premiums, plan enrollment, the expense of administration, and the paid and incurred losses.~~

~~(e) A review of the operation of the plan as to whether the plan has met the intent of this section.~~

~~The board may not implement the Florida Health Insurance Plan until funds are appropriated for startup costs and any projected deficits; however, the board may complete the actuarial study authorized in this subsection.~~

(19) ~~(20)~~ COMBINING MEMBERSHIP OF THE FLORIDA COMPREHENSIVE HEALTH ASSOCIATION; ASSESSMENT.—

(a)1. Upon implementation of the Florida Health Insurance Plan, the Florida Comprehensive Health Association, as specified in s. 627.6488, is abolished as a separate nonprofit entity and

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59 shall be subsumed under the board of directors of the Florida
60 Health Insurance Plan. All individuals actively enrolled in the
61 Florida Comprehensive Health Association shall be enrolled in
62 the plan subject to its rules and requirements, except as
63 otherwise specified in this section. Maximum lifetime benefits
64 paid to an individual in the plan shall not exceed the amount
65 established under subsection (15) ~~(16)~~, and benefits previously
66 paid for any individual by the Florida Comprehensive Health
67 Association shall be used in the determination of total lifetime
68 benefits paid under the plan.
69 2. All persons enrolled in the Florida Comprehensive Health
70 Association upon implementation of the Florida Health Insurance
71 Plan are only eligible for the benefits authorized under
72 subsection (15) ~~(16)~~. Persons identified by this section shall
73 convert to the benefits authorized under subsection (15) ~~(16)~~ no
74 later than January 1, 2005.
75 3. Except as otherwise provided in this section, the
76 administration of the coverage of persons actively enrolled in
77 the Florida Comprehensive Health Association shall operate under
78 the existing plan of operation without modification until the
79 adoption of the new plan of operation for the Florida Health
80 Insurance Plan.
81 Section 2. Paragraph (l) of subsection (15) of section
82 627.6699, Florida Statutes, is amended to read:
83 627.6699 Employee Health Care Access Act.—
84 (15) SMALL EMPLOYERS ACCESS PROGRAM.—
85 ~~(l) *Annual reporting*.—The office shall make an annual~~
86 ~~report to the Governor, the President of the Senate, and the~~
87 ~~Speaker of the House of Representatives. The report shall~~

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

88 ~~summarize the activities of the program in the preceding~~
89 ~~calendar year, including the net written and earned premiums,~~
90 ~~program enrollment, the expense of administration, and the paid~~
91 ~~and incurred losses. The report shall be submitted no later than~~
92 ~~March 15 following the close of the prior calendar year.~~
93 Section 3. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services
Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

January 19, 2012

The Honorable JD Alexander
Chair, Budget Committee
201 Capitol Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

This letter should serve as a request to have my bill *SB 1220 Repeal of Health Insurance Provisions* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García
District 40

RG:dm

cc: Terry Rhodes, Staff Director

STATE DIR.
2 JAN 19 AM 9:1
SENATE APPROPRIATIONS

REPLY TO:
☐ 3814 West 12th Avenue, Hialeah, Florida 33012 (305) 824-5058
☐ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5106

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services
Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

January 30, 2012

The Honorable JD Alexander
Chair, Budget Committee
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

This letter should serve as a request to have my bill *SB 1220 Repeal of Health Insurance Provisions* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García
District 40

RG:dm

CC: Terry Rhodes, Staff Director

REPLY TO:
☐ 3814 West 12th Avenue, Hialeah, Florida 33012 (305) 824-5058
☐ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5106

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 1258

INTRODUCER: Health Regulation Committee and Senator Benacquisto

SUBJECT: Continuing Education for Athletic Trainers and Massage Therapists

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Steele	Stovall	HR	**Fav/CS**
2.	Bradford	Hendon	BHA	**Favorable**
3.	Bradford	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill repeals s. 456.034, F.S., to delete the requirement for a massage therapist or an athletic trainer to complete an educational course in HIV/AIDS as part of the initial application for licensure and continuing education in HIV/AIDS as part of licensure renewal.

This bill has no fiscal impact on the Department of Health. Massage therapists and athletic trainers may see a reduction in course fees related to the elimination of the specific course requirements.

This bill repeals the following sections of the Florida Statutes: 456.034.

II. Present Situation:

Acquired Immune Deficiency Syndrome (AIDS) is a disorder that results in the irreparable degradation of a patient's immune system. It is caused by a retrovirus known as the Human Immunodeficiency Virus (HIV). HIV and AIDS remain leading causes of illness and death in the United States.

The Centers for Disease Control and Prevention (CDC) estimated that at the end of 2006, over one million persons in the United States were living with HIV or AIDS.[1] According to the CDC, the annual number of AIDS cases and deaths declined substantially after 1994; and stabilized during the period 1999-2004.[2] Florida ranks third[3] among the states in the cumulative number of reported AIDS cases, with 123,112 cases reported through August 2011.[4]

HIV can be transmitted through certain body fluids (blood, semen, vaginal secretions, and breast milk) from an HIV-infected person. These specific fluids must come in contact with a mucous membrane or damaged tissue or be directly injected into the bloodstream (from a needle or syringe) for transmission to possibly occur. In the United States, HIV is most commonly transmitted through specific sexual behaviors (anal or vaginal sex) or sharing needles with an infected person.[5]

The risk of healthcare workers acquiring HIV on the job is very low, especially if they carefully follow universal precautions (e.g., using protective practices and personal protective equipment to prevent HIV and other blood-borne infections).[6] The greatest risk of exposure is from an injury, such as a cut from a contaminated sharp object, but can also occur from a splash to the eyes, nose, or mouth; contact on non-intact (broken or cracked) skin; or a human bite. HIV is not transmitted through normal skin contact.[7]

According to the CDC, implementation of "Standard Precautions" constitutes the primary strategy for the prevention of health care-associated transmission of infectious agents among patients and health care personnel. Standard precautions are based on the principle that all blood, body fluids, secretions, excretions (except sweat), non-intact skin, and mucous membranes may contain transmissible infectious agents. Standard precautions include a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which health care is delivered. These include hand hygiene; use of gloves, gowns, masks, eye protection, or face shields, depending on the anticipated exposure; and safe injection practices. Also, equipment or items in the patient environment likely to have been contaminated with infectious body fluids must be handled in a manner to prevent transmission of infectious agents (e.g., wear gloves for direct contact, contain heavily soiled

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[1] *HIV in the United States: An Overview*, Revised July 2010, CDC. Available at: <http://www.cdc.gov/hiv/topics/surveillance/resources/factsheets/pdf/us_overview.pdf> (Last visited on January 20, 2011).
[2] CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings. MMWR (Morbidity and Mortality Weekly Report), September 22, 2006; 55(RR 14):1-17. Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm> (Last visited on January 20, 2011).
[3] Florida – 2010 Profile. Found at: <http://www.cdc.gov/nchhstp/stateprofiles/pdf/florida_profile.pdf> (Last visited on January 20, 2011).
[4] The Florida Department of Health, Division of Disease Control, *Monthly Surveillance Report* (Hepatitis, HIV/AIDS, STD and TB), September 2011, p. 16. Available at: <http://www.doh.state.fl.us/disease_ctrl/aids/trends/msr/2011/MSR0911b.pdf> (Last visited on January 20, 2011).
[5] CDC, HIV Transmission, *How is HIV passed from one person to another?* Found at: <http://www.cdc.gov/hiv/resources/qa/transmission.htm> (Last visited on January 20, 2011).
[6] Paul J. Kaprocki, *HIV/AIDS: Information for Massage Therapists*, 1 Edt., January 2011. Available at: <http://www.body-balancing.com/CEU%20Documents/CEU%20Document%20-%20HIV%20Aids%20for%20Massage%20Therapists.pdf > (Last visited on January 20, 2012); Center for Disease Control and Prevention. *HIV Transmission*. Available at: <http://www.cdc.gov/hiv/resources/qa/transmission.htm> (Last visited on January 20, 2012).
[7] Australasian College of Dermatologists. *A-Z of Skin: HIV and the Skin*. Available at: <http://www.dermcoll.asn.au/public/a-z_of_skin-hiv_and_the_skin.asp> (Last visited on January 20, 2012).

equipment, and properly clean and disinfect or sterilize reusable equipment before use on another patient).[8]

The CDC and state health departments have been investigating cases of HIV infection in health care personnel without identified risk factors since the early days of the AIDS epidemic. There have been no confirmed cases of occupational HIV transmission to health care workers in the United States since 1999.[9] Of those health care professionals in the "other healthcare occupation" category for whom case investigations were completed from 1981 to 2010 there were six *possible* cases of professionals having acquired HIV infection through occupational exposure, but no documented cases.[10]

Athletic Trainers, Standards and Certification

Athletic training is the recognition, prevention, and treatment of athletic injuries.[11] An athletic injury is an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.[12] An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.[13]

In 1994, the Florida Legislature began licensing and fully regulating athletic trainers to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.[14] Athletic trainers are regulated by the Florida Department of Health (DOH), Division of Medical Quality Assurance and the Board of Athletic Training.[15] There are 1,488 active, licensed athletic trainers in Florida.[16]

An applicant seeking licensure as an athletic trainer must:[17]

- Complete the application form and remit the required fees;
- Be at least 21 years of age;

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[8] Jane D. Siegel, MD; Emily Rhinehart, RN MPH CIC; Marguerite Jackson, PhD; Linda Chiarello, RN MS; the Healthcare Infection Control Practices Advisory Committee, CDC, *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, p. 66. Available at: <http://www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf> (Last visited on January 20, 2011).

[9] Center for Disease Control and Prevention. *Occupational HIV Transmission and Prevention among Health Care Workers*. Aug. 2011. Available at: <http://www.cdc.gov/hiv/resources/factsheets/PDF/hcw.pdf> (Last visited on January 20, 2011).

[10] CDC, *Surveillance of Occupationally Acquired HIV/AIDS in Healthcare Personnel, as of December 2010*, updated May, 2011. Available at: <http://www.cdc.gov/HAI/organisms/hiv/Surveillance-Occupationally-Acquired-HIV-AIDS.html> (Last visited on January 20, 2011).

[11] S. 468.701(5), F.S.

[12] S. 468.701(3), F.S.

[13] S. 468.701(2), F.S.

[14] S. 320, ch. 94-119; s 468.70, F.S.

[15] S. 468.701(8), F.S.; S. 468.701(6), F.S.

[16] Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <http://www.doh.state.fl.us/mqa/Publications/10-11mqa-ara.pdf > (Last visited on January 20, 2011).

[17] S. 468.707, F.S.

- Possess a baccalaureate degree from a college or university accredited by the United States Department of Education (U.S. DOE) or the Commission on Recognition of Postsecondary Accreditation (Commission), or from a program approved by the board;
- Complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the U.S. DOE or the Commission, or approved by the board;
- Be certified in cardiopulmonary resuscitation (CPR) from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the board;
- Submit proof of taking a 2-hour course on the prevention of medical errors;
- Submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results; and
- Submit a certificate of completion for a 1-hour course on HIV/AIDS.[18]

Licensed athletic trainers are required to complete 24 hours of continuing education courses biennially, including a minimum of 1 hour in HIV/AIDS, a 2-hour course in prevention of medical errors, and current certification in CPR with an automated external defibrillator (AED) at the professional rescue level. According to the DOH, HIV/AIDS is covered in the CPR-AED Professional Rescuer course and the medical errors course that must be taken every 2 years by athletic trainers.[19]

The additional hours of continuing education must focus on the prevention of athletic injuries; recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.[20]

The Board of Athletic Training unanimously approved deletion of the biennial HIV/AIDS requirement at its board meeting on April 8, 2011.[21]

Massage Therapists, Standards and Certification

Massage is the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.[22] Massage therapists are regulated by the Florida Department of Health, Division of Medical Quality Assurance and the Board of Massage Therapy.[23] There

[18] Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <http://www.doh.state.fl.us/mqa/athtrain/info_AT_Lic_req.pdf> (Last visited on January 20, 2011). *See also* Rule 64B33-2.002, F.A.C.
[19] Department of Health *Bill Analysis, Economic State and Fiscal Note* for SB 1258 (dated January 12, 2012), on file with the Senate Health Regulation Committee.
[20] S. 456.034, F.S., and Rule 64B33-2.003, F.A.C.
[21] *Supra* fn. 20.
[22] S. 480.033(3), F.S.
[23] S. 480.033(1), F.S. and S. 480.033(2), F.S.

are 30,323 active, licensed massage therapists in Florida.[24] All massage therapists are required to renew their licenses biennially on or before August 31.[25]

Currently, an individual is qualified for an active license as a massage therapist in Florida if the individual:[26]

- Completes the application form and remits the required fees;
- Is at least 18 years of age or possesses a high school diploma or graduate equivalency diploma;
- Has completed a course of study at a board-approved massage school or completed an apprenticeship program that meets the standards adopted by the board;
- Received a passing grade on the national examination administered by the DOH, and
- Completes a 3-hour educational course that has been approved by the board on HIV/AIDS.

Finally, licensed massage therapists are required to complete one continuing education hour for each month or part of a month that has elapsed since the issuance of the license for which renewal is sought, up to a maximum of 24 hours.[27] The courses must focus on massage therapy techniques, the prevention of medical errors, professional ethics, and laws and rules of massage therapy.[28] In addition, the licensee must complete a 1-hour continuing education course on HIV/AIDS for biennial licensure renewal.

The Board of Massage Therapy unanimously approved deletion of the biennial HIV/AIDS requirement at its board meeting on May 23, 2011.[29]

III. Effect of Proposed Changes:

This bill repeals s. 456.034, F.S., to delete the requirement for a massage therapist or athletic trainer to complete an educational course in HIV/AIDS as part of the initial application for licensure and continuing education in HIV/AIDS as part of their biennial licensure renewals. The corresponding rulemaking authority in this section is also repealed.

This bill has an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of article VII, section 18 of the Florida Constitution.

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[24] Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <http://www.doh.state.fl.us/mqa/Publications/10-11mqa-ara.pdf > (Last visited on January 20, 2011).
[25] Rule 64B7-28.001, F.A.C.
[26] S. 480.041, F.S., and Rule 64B7-25.0012, F.A.C.
[27] S. 456.034, F.S.; Rules 64B7-28.001 and 64B7-28.009, F.A.C.
[28] Rule 64B7-28.009(3)(a)-(c), F.A.C.
[29] *Supra* fn. 20.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of article I, section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of article III, subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There would be an impact to the providers of both initial and continuing education courses for instruction on HIV/AIDS awareness. Massage therapists and athletic trainers may see a reduction in course fees related to the elimination of the specific course requirements.

C. Government Sector Impact:

The Boards of Athletic Training and Massage Therapy will need to repeal or amend current rules relating to the educational requirements. The department indicates that there is no fiscal impact related to this legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Health Regulation Committee on January 25, 2012:
The title was revised to remove references to "continuing education," because the bill concerns both continuing education and initial training.

B. Amendments:

None.

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

By the Committee on Health Regulation; and Senator Benacquisto

588-02376-12 20121258c1

A bill to be entitled

An act relating to education for athletic trainers and massage therapists; repealing s. 456.034, F.S., relating to the requirement for athletic trainers and massage therapists to complete education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome; providing an effective date.

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

Section 1. Section 456.034, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Budget - Subcommittee on General Government Appropriations, *Vice Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO
27th District

January 26, 2012

The Honorable JD Alexander
Senate Budget, Chair
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1258 – Continuing Education to Athletic Trainers

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda 1258, relating to Continuing Education to Athletic Trainers, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto

Lizbeth Benacquisto
Senate District 27

Cc: Terry Rhodes

REPLY TO:
☐ 12165 West Forest Hill Boulevard, Suite 1B, Wellington, Florida 33414 (561) 753-2440
☐ 17595 South Tamiami Trail, Suite 200-9, Fort Myers, Florida 33908 (239) 433-6599
☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5356

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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Budget - Subcommittee on General Government Appropriations, *Vice Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO
27th District

February 9, 2012

The Honorable JD Alexander
Senate Budget, Chair
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1258 – Continuing Education to Athletic Trainers

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda 1258, relating to Continuing Education to Athletic Trainers, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto

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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Budget Committee

BILL: CS/SB 1392

INTRODUCER: Transportation Committee and Senator Benacquisto

SUBJECT: Transportation Accessibility

DATE: February 21, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	**Fav/CS**
2.	Cote	Diez-Arguelles	BFT	**Favorable**
3.	Cote	Rhodes	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1392 ("the bill") creates a new, unnumbered section of the Florida Statutes which directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study in order to determine the availability of accessible taxicabs operating in metropolitan and tourist destination areas. OPPAGA is directed to look at several enumerated factors and must issue a final report by February 1, 2013 and present recommendations to the Legislature.

The bill amends s. 212.08, F.S., to add an exemption for the sale or lease of accessible taxicabs, as defined, provided that, should the accessible vehicle be an aftermarket conversion, only the price of the conversion is exempt from the tax.

II. Present Situation:

Currently, there is no state or federal requirement that taxicab companies purchase or maintain accessible taxicabs, as defined in the bill, unless they purchase vehicles larger than automobiles. Under s. 49 CFR 37.29(b), "[p]roviders of taxi service are not required to purchase or lease accessible automobiles." However, "[i]f a taxi company purchases a larger vehicle, like a van, it is subject to the same rules as any other private entity primarily engaged in the business of

transporting people which operates a demand responsive service. That is, unless it is already providing equivalent service, any van it acquires must be accessible."[1]

However, local jurisdictions sometimes require or incentivize taxicab companies to provide accessible vehicles. For example, Miami-Dade County requires that "at least three (3) percent of the total number of for-hire taxicab licenses are operated using accessible vehicles."[2] And, the City of Orlando allows taxicab companies to increase their fleet size by adding dual-purpose taxicabs which are defined as cabs "specifically equipped for transporting handicapped or wheelchair bound passengers."[3]

In addition to these potential requirements, the state also provides accessible transportation, by request, through the Florida Commission for the Transportation Disadvantaged (FCTD). FCTD provides accessible and affordable rides, for both Medicaid and non-Medicaid purposes, to people with disabilities by contracting with 48 local Community Transportation Coordinators and, in the case of Medicaid based transportation, 10 Sub-contracted Transportation Providers. According to the FCTD's 2011 Annual Performance Report, the FCTD's "Coordinated Transportation System…provided 51.1 million trips to over 700,000 older adults, persons with disabilities, people with low income, or at-risk children."[4] For non-emergency Medicaid patients alone FTCD provided 586,419 wheelchair trips.[5] Also, even though the FCTD was not able to meet requests for 228,640 trips, only 4,821 trip requests were denied due to a lack of a vehicle.[6]

Currently, there is no sales tax exemption for accessible taxicabs such as the one provided for in the bill. Though it is possible to retrofit vehicles in order to comply with ADA specifications for accessible vehicles, only one company currently manufactures such vehicles from the ground up and, as such, can take full advantage of the sales tax exemption.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 212.08, F.S., to add an exemption for the sale or lease of an accessible taxicab, provided that, should the accessible taxicab be an aftermarket conversion, only the price of the conversion is exempt from the tax. "Accessible taxicab" means a chauffeur driven taxi, limousine, sedan, van, or other passenger vehicle where the operator and the motor vehicle are hired and used for the transportation of persons for compensation, and which transports eight passengers or fewer and is equipped with a lift or ramp designed specifically to transport physically disabled persons, including persons who use wheelchairs, motorized wheelchairs, or similar mobility aids. The accessible taxicabs must comply with ADA accessibility requirements.

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[1] Appendix D to Part 37 – Construction and Interpretation of Provisions of 49 CFR Part 37 – Section 37.29 Private Providers of Taxi Service, found at http://www.fta.dot.gov/12876_3906.html, last viewed on January 17, 2012.
[2] Miami-Dade County code, s. 31-82(k)(1)
[3] City of Orlando Code of Ordinances, s. 55.25(3)
[4] 2011 Annual Performance Report, Florida Commission for the Transportation Disadvantaged, Jan. 1, 2012, pg. 6
[5] Id. at 15
[6] Id. at 55-57

Section 2 of the bill creates a new, unnumbered section of the Florida Statutes which directs OPPAGA to conduct a study in order to determine the availability of accessible taxicabs operating in metropolitan and tourist destination areas. OPPAGA is directed to look at:

- the number of accessible taxicabs available in the counties being studied;
- the availability of taxicabs at airports and seaports;
- statements from persons who work with disabled and senior communities regarding the availability of accessible taxicabs for use in everyday life;
- a synopsis of any recent court decisions related to the availability of accessible taxicabs and the potential effect of such decisions;
- a comparison of major cities in Florida with other major cities around the country in terms of operation and regulation of accessible and available taxicabs;
- information on cooperative agreements between smaller taxicab companies and larger vendors who act as partners to satisfy demand for accessible taxicabs.

OPPAGA must issue a final report to the President of the Senate and the Speaker of the House by February 1, 2013 and must also present recommendations to the Legislature.

Section 3 of the bill creates an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimate Conference (REC) estimates that adding an exemption for the sale or lease of an accessible taxicab will decrease general revenue by $0.2 million in FY 2012-13 with a $0.2 million recurring impact. The impact on local governments is negative but insignificant.

B. Private Sector Impact:

The bill could have a potential but indeterminate positive impact on companies who sell vehicles that comply with the criteria of the tax exemption or retrofit vehicles to comply with the criteria of the tax exemption.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Transportation on January 26, 2012:

- Section 1 of the bill, which defined terms and required various actions with regards to accessible taxicabs, is removed.
- Section 3 of the bill, which required that all vehicles used to provide transportation for Medicaid be accessible, is removed.
- Section 2 of the bill, which grants a tax exemption for the purchase or retrofitting of accessible vehicles, is renumbered as section 1 and the term "accessible vehicles" is changed to "accessible taxicabs" and redefined so as to exempt a smaller class of vehicles.
- A new section 2 is created which mandates the OPPAGA study outlined above.

B. Amendments:

None.

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

By the Committee on Transportation; and Senator Benacquisto

596-02448-12 20121392c1

A bill to be entitled

An act relating to transportation accessibility; amending s. 212.08, F.S.; providing a tax exemption for the sale or lease of accessible vehicles; providing a definition; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study to determine the availability of accessible taxicabs operating in metropolitan and tourist destination areas of the state; describing the information to be collected in the study; requiring the Office of Program Policy Analysis and Government Accountability to include in its final report recommendations for consideration by the Legislature; providing an effective date.

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

Section 1. Paragraph (hhh) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means,

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596-02448-12 20121392c1

including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(hhh) *Accessible vehicles.*—The sale or lease of accessible taxicabs is exempt from the tax imposed by this chapter. As used in this paragraph, the term “accessible taxicab” means a chauffeur-driven taxi, limousine, sedan, van, or other passenger vehicle where the operator and the motor vehicle are hired and used for the transportation of persons for compensation, and which transports eight passengers or fewer and is equipped with a lift or ramp designed specifically to transport physically disabled persons or contains any other device designed to permit access to and enable the transportation of physically disabled persons, including persons who use wheelchairs, motorized wheelchairs, or similar mobility aids; complies with the accessibility requirements of the Americans with Disabilities Act of 1990, 49 C.F.R., ss. 38.23, 38.25, and 38.31, as amended, whether or not such regulations would apply under federal law;

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59 and meets all applicable federal motor vehicle safety standards
60 and regulations adopted thereunder. If such equipment is
61 installed through an aftermarket conversion of a stock vehicle,
62 only the value of the conversion is exempt from the tax imposed
63 by this chapter.
64 Section 2. (1) The Office of Program Policy Analysis and
65 Government Accountability shall conduct a study to determine the
66 availability of accessible taxicabs operating in metropolitan
67 and tourist-destination areas, including, but not limited, to
68 Miami-Dade, Broward, Palm Beach, Orange, Hillsborough, Duval,
69 Lee, Escambia, and Volusia Counties.
70 (2) Specifically, the Office of Program Policy Analysis and
71 Government Accountability shall collect the following
72 information:
73 (a) The number of accessible taxicabs available in the
74 counties being studied, including the total percentage of
75 accessible cabs relative to the entire fleet of taxicabs.
76 (b) The availability of accessible taxicabs at airports and
77 seaports, including average wait times for passengers needing
78 such vehicles.
79 (c) Statements from persons who work with disabled and
80 senior communities regarding the availability of accessible
81 taxicabs for use in everyday life, such as access to grocery
82 stores, doctor offices, and recreational activities, along with
83 the availability of accessible vehicles when traveling
84 throughout the state.
85 (d) A synopsis of any recent court decisions related to
86 availability of accessible taxicabs and the potential effect of
87 such decisions on persons desiring accessible vehicles in this

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

88 state.
89 (e) Information relating to how major cities in Florida
90 compare to other cities around the country in terms of the
91 operation and regulation of accessible and available taxicabs,
92 including Washington, D.C., Chicago, New York City, Atlanta, and
93 Philadelphia.
94 (f) Information concerning cooperative agreements in this
95 state between smaller taxi vendors and larger taxi vendors who
96 act as partners to satisfy demand for accessible transportation.
97 (3) The Office of Program Policy Analysis and Government
98 Accountability shall issue a final report and present
99 recommendations to the Legislature for planning and providing
100 funding for the provision of accessible vehicles. The report
101 shall be submitted to the President of the Senate and the
102 Speaker of the House of Representatives by February 1, 2013.
103 Section 3. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Budget - Subcommittee on General Government Appropriations, *Vice Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO
27th District

February 9, 2012

The Honorable JD Alexander
Senate Transportation, Chair
412 Senate Office Building
405 South Monroe Street
Tallahassee, FL 32399

RE: SB 1392 – Transportation Accessibility

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda 1392, relating to Transportation Accessibility, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto

Lizbeth Benacquisto
Senate District 27

Cc: Terry Rhodes

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Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Budget Committee **Judge:**

Started: 2/21/2012 4:00:55 PM
Ends: 2/21/2012 5:15:09 PM Length: 01:14:15

4:01:01 PM	Sen. Alexander (Chair)
4:03:19 PM	S 758
4:03:38 PM	Sen. Jones
4:03:57 PM	S 678
4:04:57 PM	Sen. Smith
4:06:27 PM	S 798
4:06:38 PM	Sen. Detert
4:08:06 PM	S 416
4:08:27 PM	Sen. Detert
4:08:37 PM	Chris Nuland, Florida Public Health Association
4:08:47 PM	Michelle Jacquis, Director of Legislative Advocacy, Florida Medical Association
4:08:54 PM	Kenya Cory, Lobbyist, National Solid Wastes Management Assn., Florida Chapter
4:08:58 PM	Karen MacFarland, Legislative Director, AAA Auto Club Group
4:09:00 PM	
4:09:02 PM	Shane Summers, Sheriff's Captain, Florida Sheriff's Association, Volusia Co. Sheriff
4:09:03 PM	
4:09:10 PM	Mark Reichert, Assistant Executive Director, Florida Transportation Commission
4:09:17 PM	Laura Cantwell, AARP
4:09:23 PM	Mindy Hass, Vice President, Florida Parent Teachers Association
4:10:50 PM	S 1204
4:10:59 PM	Sen. Detert
4:11:04 PM	Chris Snow, Senior Director of Government Relations, Space Florida
4:12:12 PM	S 182
4:12:13 PM	Sen. Garcia
4:13:36 PM	S 1084
4:13:37 PM	Sen. Garcia
4:13:56 PM	C. Snow
4:14:55 PM	S 1220
4:15:01 PM	Sen. Garcia
4:16:10 PM	S 80
4:16:16 PM	Sen. Joyner
4:17:00 PM	M. Hass
4:18:01 PM	S 192
4:18:11 PM	Sen. Bennett
4:18:30 PM	Chris Lyon, Attorney, Florida Association of Special Districts
4:19:38 PM	S 244
4:20:06 PM	Sen. Bennett
4:21:09 PM	S 316
4:21:21 PM	Sen. Wise
4:21:54 PM	Sen. Alexander
4:22:06 PM	Greg Black, Florida Academy of Family Physicians
4:22:07 PM	Jerry Swanson, ARC of Florida
4:22:11 PM	Fely Curva, Partner Curva and Associates, LLC, Alzheimer's Foundation of America
4:22:18 PM	L. Cantwell
4:22:25 PM	Jim Akin, Executive Director, National Association of Social Workers, Florida Chapter
4:22:30 PM	Sen. Alexander
4:23:25 PM	S 366

4:23:31 PM Sen. Gaetz
4:23:57 PM Leticia Adams, Director of Infrastructure and Governance Policy, Florida Chamber of Commerce
4:24:58 PM S 376
4:25:06 PM Sen. Flores
4:26:23 PM
4:26:24 PM Sen. Alexander
4:26:30 PM S 414
4:26:31 PM Sen. Negron
4:26:46 PM Sen. Alexander
4:27:10 PM Stephen R. Winn, Executive Director, Florida Osteopathic Medical Association
4:27:17 PM M. Jacquis
4:28:19 PM S 432
4:28:31 PM Sen. Flores
4:29:43 PM S 488
4:29:53 PM Sen. Rich
4:30:50 PM Kate Macfall, The American Society for the Prevention of Cruelty to Animals
4:31:45 PM S 502
4:31:53 PM Sen. Hays
4:33:05 PM S 538
4:33:14 PM Sen. Bogdanoff
4:33:44 PM Harry Duncanson, Chairman Government Affairs, Printing Association of Florida
4:34:45 PM S 544
4:34:54 PM Sen. Sobel
4:35:39 PM Chris Nuland, Florida Society of Plastic Surgeons
4:35:41 PM Michelle Jacquis, Director of Legislative Advocacy, Florida Medical Association
4:36:43 PM S 562
4:36:51 PM Sen. Lynn
4:37:56 PM S 616
4:38:18 PM Sen. Flores
4:38:54 PM James Mosteller, Government Relations Director, American Heart Association
4:40:02 PM S 704
4:40:21 PM Sen. Bennett
4:40:32 PM Cam Fentriss, Legal Counsel, Florida Association of Plumbing Contractors, Florida Refrigeration and Air Conditioning Contractors
4:40:34 PM Richard Gentry, Associated Industries of Florida
4:41:50 PM S 730
4:42:03 PM Sen. Flores
4:42:30 PM Sen. Alexander
4:42:37 PM Melanie Shanks, Humana Insurance
4:43:32 PM S 752
4:43:45 PM Sen. Flores
4:45:28 PM S 938
4:45:33 PM Sen. Richter
4:47:02 PM S 408
4:47:09 PM Sen. Simmons
4:48:46 PM S 582
4:48:52 PM Sen. Simmons
4:49:07 PM David Cruz, Legislative Advocate, Florida League of Cities
4:49:13 PM Kathy Russell, Director of Government Relations, City of Orlando
4:49:20 PM Stephanie Howell, Government Affairs, Downtown South Neighborhood Improvement District
4:49:24 PM Jay Marsh, Chief of Government Affairs, LYNX
4:49:31 PM David Sigersan, City of Margate
4:50:36 PM S 952
4:50:43 PM Frank Blanco, Legislative Assistant to Senator Oelrich
4:52:51 PM S 1040
4:53:08 PM Sen. Bogdanoff

4:53:26 PM Trevor Mask, Attorney, Florida Dental Hygiene Association
4:53:29 PM Joe Anne Hart, Director of Govermental Affairs, Florida Dental Associates
4:54:37 PM S 998
4:54:42 PM Sen. Negron
4:56:16 PM S 1090
4:56:27 PM Sen. Richter
4:56:45 PM Kim Siomkos, Assistant Vice President of Government Relations, Florida Bankers Association
4:56:54 PM Bill Wiley, Attorney, Business Law Sectior, The Florida Bar
4:57:56 PM S 1112
4:58:13 PM Sen. Altman
4:59:21 PM S 1132
4:59:26 PM Sen. Hays
5:00:45 PM S 1150
5:00:49 PM Sen. Richter
5:01:08 PM Slater Bailiss, Advantage Capital Partners
5:01:10 PM Ryan West, Policy Director, Florida Chamber of Commerce
5:01:15 PM Pablo Diaz, Legislative Director, National Federation of Independent Business
5:01:19 PM Justin Day, Director, Associated Industries of Florida
5:01:27 PM Michael Preston, Director Government Relations, Enterprise Florida
5:02:46 PM S 1152
5:04:00 PM Sen. Richter
5:04:22 PM S 1258
5:04:40 PM Sen. Benacquisto
5:05:50 PM S 1392
5:06:00 PM Sen. Benacquisto
5:06:21 PM Sen. Joyner
5:06:31 PM Sen. Benacquisto
5:06:48 PM Sen. Norman
5:08:12 PM S 188
5:08:26 PM Sen. Alexander
5:08:56 PM Sen. Negron
5:09:21 PM Sen. Benacquisto
5:09:55 PM Sen. Bogdanoff
5:10:36 PM Sen. Flores
5:10:57 PM Sen. Rich
5:12:17 PM Sen. Flores
5:13:42 PM Sen. Flores
5:14:05 PM Sen. Simmons