SB 1346 by **Oelrich (CO-INTRODUCERS) Lynn**; (Identical to H 1127) Citizens Property Insurance Corporation

796246	D	S	WD	BC, Alexander	Delete everything after	03/03 03:13 PM
769348	A	S	RCS	BC, Alexander	btw L.31 - 32:	03/03 02:44 PM

CS/SB 256 by **BEA, Flores**; (Compare to CS/1ST ENG/H 0291) Youth and Student Athletes

535120	D	S	RCS	BC, Flores	Delete everything after	03/03 04:09 PM

CS/SB 1382 by **CF, Bennett**; (Identical to CS/CS/H 1077) Service Animals

610732	A	S	RCS	BC, Bennett	Delete L.245 - 252:	03/03 04:09 PM
757156	A	S	RCS	BC, Bennett	Delete L.281 - 285:	03/03 04:09 PM

CS/SB 1782 by **EP, Latvala (CO-INTRODUCERS) Alexander**; (Similar to CS/CS/H 1383) Fish and Wildlife Conservation Commission

CS/CS/SB 1626 by **GO, BI, Gaetz**; (Similar to CS/H 1409) State Contracting

112828	D	S	RCS	BC, Gaetz	Delete everything after	03/03 04:09 PM
488222	AA	S	RCS	BC, Bennett	btw L.153 - 154:	03/03 04:09 PM

SB 1274 by **Latvala**; (Identical to H 1015) Tourist Development Tax

CS/CS/SB 1358 by **BGA, GO, Hays**; (Identical to CS/CS/CS/1ST ENG/H 1205) Employee Drug Testing

194550	A	S	WD	BC, Negron	btw L.577 - 578:	03/03 04:09 PM
155992	T	S	RCS	BC, Hays	In title, delete L.2 -	03/03 04:09 PM

CS/SB 1314 by **CM, Gaetz (CO-INTRODUCERS) Gardiner**; (Compare to CS/CS/1ST ENG/H 7059) Career-themed Courses

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BUDGET
Senator Alexander, Chair
Senator Negron, Vice Chair

MEETING DATE: Friday, March 2, 2012
TIME: 2:30 —5:30 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, Gardiner, 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
1	**SB 1346** Oelrich (Identical H 1127)	Citizens Property Insurance Corporation; Reducing to 2 percent from 6 percent the amount of the projected deficit in the coastal account for the prior calendar year which is recovered through regular assessments; requiring that remaining projected deficits in personal and commercial lines accounts be recovered through emergency assessments after accounting for the Citizens policyholder surcharge; requiring the Office of Insurance Regulation of the Financial Services Commission to notify assessable insurers and the Florida Surplus Lines Service Office of the dates assessable insurers shall collect and pay emergency assessments, etc. BI 01/19/2012 Favorable BGA 01/26/2012 Favorable BC 03/02/2012 Not Considered	Not Considered
2	**CS/SB 256** Budget Subcommittee on Education Pre-K - 12 Appropriations / Flores (Compare CS/H 291, S 948)	Youth and Student Athletes; Requiring independent sanctioning authorities to adopt policies to inform certain officials, coaches, and youth athletes and their parents of the nature and risk of certain head injuries; requiring that a signed consent form be obtained before the youth participates in athletic practices or competitions; requiring that a youth athlete be immediately removed from an athletic activity following a suspected head injury; requiring written clearance from an appropriately licensed and trained physician who is qualified in the field of neurology before the youth resumes athletic activities; requiring the Florida High School Athletic Association to adopt policies to inform certain officials, coaches, and student athletes and their parents of the nature and risk of certain head injuries, etc. ED 11/02/2011 Favorable HR 12/07/2011 Favorable BEA 01/24/2012 Temporarily Postponed BEA 01/31/2012 Fav/CS BC 02/28/2012 Not Considered BC 02/29/2012 Not Considered BC 03/01/2012 Not Considered BC 03/02/2012 Fav/CS	Fav/CS Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 1382** Children, Families, and Elder Affairs / Bennett (Identical CS/CS/H 1077)	Service Animals; Citing this as the "Dawson and David Caras Act"; removing provisions related to service animals; specifying rights of an individual accompanied by a service animal; providing penalties for denying or interfering with admittance to or enjoyment of a public accommodation; providing rights of housing to the owner or trainer of a service animal; providing a penalty for misrepresentation as an owner or trainer, etc. CF 02/09/2012 Fav/CS BC 02/28/2012 Not Considered BC 02/29/2012 Not Considered BC 03/01/2012 Not Considered BC 03/02/2012 Fav/CS	Fav/CS Yeas 21 Nays 0
4	**CS/SB 1782** Environmental Preservation and Conservation / Latvala (Similar CS/CS/H 1383)	Fish and Wildlife Conservation Commission; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; reassigning the Bureau of Emergency Response within the Department of Environmental Protection to the Secretary of Environmental Protection, as the Office of Emergency Response, within the Department of Environmental Protection; providing for a memorandum of agreement between the department and the commission regarding the responsibilities between the commission and the department, etc. EP 01/30/2012 Fav/CS AG 02/13/2012 Favorable BC 02/28/2012 Not Considered BC 02/29/2012 Not Considered BC 03/01/2012 Not Considered BC 03/02/2012 Favorable	Favorable Yeas 21 Nays 0
5	**CS/CS/SB 1626** Governmental Oversight and Accountability / Banking and Insurance / Gaetz (Similar CS/H 1409, Compare CS/H 5203, S 1992)	State Contracting; Revising provisions relating to the distribution of the list of entities failing to comply with transparency requirements; requiring agreements funded with state or federal financial assistance to include a performance measure for each deliverable, to be reviewed and approved in accordance with rules adopted by the Department of Financial Services, and to have the contracting entity assign a grants manager who is responsible for enforcing performance of the agreement; revising provisions relating to the Chief Financial Officer's intergovernmental contract tracking system under the Transparency Florida Act, etc. BI 02/02/2012 Fav/CS GO 02/07/2012 Fav/CS BC 03/01/2012 Not Considered BC 03/02/2012 Fav/CS	Fav/CS Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 1274** Latvala (Identical H 1015)	Tourist Development Tax; Providing for the proceeds of the tourist development tax to be used for the benefit of certain aquariums, etc. CM 01/19/2012 Favorable BFT 02/01/2012 Favorable BC 03/01/2012 Not Considered BC 03/02/2012 Favorable	Favorable Yeas 19 Nays 1
7	**CS/CS/SB 1358** Budget Subcommittee on General Government Appropriations / Governmental Oversight and Accountability / Hays (Identical CS/CS/CS/H 1205)	Employee Drug Testing; Removing the definition of the term “safety-sensitive position;” requiring drug testing to be conducted within each state agency’s appropriation; authorizing a state agency to conduct random drug testing every 3 months; providing that an agency may discharge or discipline an employee following a first-time positive confirmed drug test result; requiring participation in an employee assistance program or an alcohol and drug rehabilitation program at the employee’s own expense, etc. HR 01/25/2012 Fav/1 Amendment GO 02/01/2012 Fav/CS BGA 02/28/2012 Fav/CS BC 03/01/2012 Not Considered BC 03/02/2012 Fav/CS	Fav/CS Yeas 12 Nays 6
8	**CS/SB 1314** Commerce and Tourism / Gaetz (Compare CS/CS/H 7059)	Career-themed Courses; Revising provisions relating to the Florida Career and Professional Education Act; requiring that each district school board, in collaboration with regional workforce boards, economic development agencies, and postsecondary institutions, develop a strategic 3-year plan addressing and meeting local and regional workforce demands; revising the requirements of the strategic 3-year plan to include career-themed courses and specified strategies; revising provisions relating to the computation of the annual allocation of funds to each school district for operation, etc. ED 01/24/2012 Favorable CM 02/02/2012 Fav/CS BC 03/01/2012 Not Considered BC 03/02/2012 Favorable	Favorable Yeas 18 Nays 0
	Other Related 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: CS/SB 1346

INTRODUCER: Budget Committee and Senators Oelrich and Lynn

SUBJECT: Property Insurance

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Favorable**
2.	Betta	DeLoach	BGA	**Favorable**
3.	Betta, Knudson	Rhodes	BC	**Fav/CS**
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 the assessment authority of the Citizens Property Insurance Corporation (Citizens) and reduces the reinsurance coverage provided by the Florida Hurricane Catastrophe Fund.

Citizens Property Insurance Corporation

The committee substitute reduces Citizens regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice[1]) in the state, including Citizens' own policies.

[1] Section 627.351(6)(b)3.e., F.S.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. Citizens is authorized to levy the policyholder surcharge, a regular assessment for the Coastal Account, and emergency assessments upon a determination by the Citizens Board of Directors that a Citizens account has a projected deficit. The Office of Insurance Regulation (OIR) is authorized to assist Citizens to collect assessments in any way that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office (FSLSO) must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment.

Florida Hurricane Catastrophe Fund

The bill also revises the Florida Hurricane Catastrophe Fund (FHCF or Fund) coverage limits and reimbursement percentage. The bill is designed to reduce the overall financial obligations of the fund, reducing the likelihood and amount of bonding and emergency assessments needed to fund deficits in the event the Fund experiences a shortfall after a major hurricane. These provisions are effective upon the bill becoming law. The major proposed changes are summarized as follows:

The bill phases in annual decreases of the FHCF mandatory coverage limit beginning in the 2012-2013 contract year as follows:

- For the 2012-2013 contract year, $17 billion (the current Fund limit).
- For the 2013-2014 contract year, $16 billion.
- For the 2014-2015 contract year, $15 billion

The bill reduces the maximum reimbursement amount from 90 percent to the following percentages:

- For the 2013-2014 contract year, 85 percent.
- For the 2014-2015 contract year, 80 percent

The effective date of the bill is July 1, 2012, except as otherwise provided.

This bill substantially amends sections 215.555 and 627.351, Florida Statutes.

II. Present Situation:

Citizens Property Insurance Corporation

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[2] Citizens is not a private insurance company,[3] and its book of

[2] See Section 627.351(6)(a), F.S.
[3] See Section 627.351(6)(a)1., F.S.

business is divided into three statutorily separate accounts.[4] Each of the three Citizens accounts has separate calculations with regard to surplus and deficits. By statute, assets of each account may not be comingled or used to fund losses in another account. Citizens' three accounts are:

Personal Lines Account (PLA) – Multi-peril policies which consist of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies covering damage to property from windstorm and from other perils.

Commercial Lines Account (CLA) – Multi-peril policies which consist of condominium association, apartment building and homeowners' association policies covering damage to property from windstorm and from other perils, as well as Commercial Non-Residential Multi-peril policies.

Coastal Account (Coastal) – Wind-only and Multi-peril policies which consist of personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas which cover damage to property from windstorm only. It also consists of personal and commercial residential multi-peril policies in specified coastal areas (wind-only zones) issued since 2007 which cover damage to property from windstorm and from other perils. Recently some Commercial Non-Residential Multi-peril policies have been added as well.

Assessments

In the event Citizens incurs a deficit, i.e., its obligations to pay claims exceed its capital plus reinsurance recoveries, it may levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.[5] The three Citizens' accounts calculate deficits and resulting assessment needs independently:

Citizens Policyholder Surcharges:[6] Citizens will first levy surcharges on its policyholders of up to 15 percent of premium per account for a maximum total of 45 percent. This surcharge is collected over 12 months on all Citizens' policies and collected upon issuance and renewal.

Regular Assessments:[7] Upon the exhaustion of the Citizens policyholder surcharge for a particular account, Citizens may levy a regular assessment of up to 6 percent of premium or 6 percent of the deficit per account, for a maximum total of 18 percent. The regular assessment is levied on all lines of property and casualty policies in the state except workers' compensation and medical malpractice, but is not levied on Citizens' policies. Property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Citizens has usually been able to collect regular assessment funds within 30 days after being levied.

[4] Section 627.351(6)(b)2.a., F.S.
[5] Section 627.351(6)(b)3., F.S.
[6] Section 627.351(6)(b)3.h., F.S.
[7] Section 627.351(6)(b)3.a.-b., F.S.

Emergency Assessments:[8] Upon the exhaustion of the Citizens' policyholder surcharge and regular assessment for a particular account, Citizens may levy an emergency assessment of up to 10 percent of premium or 10 percent of the deficit per account, for a maximum total of 30 percent. This assessment can be collected for as many years as is necessary to rectify a deficit. Emergency assessments are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies. Initially, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied, but will collect funds intermittently throughout the collection period as policies are renewed and new policies are written.

Citizens Assessment Capacity

Issue Brief 2012-226 by the Banking and Insurance Committee presented findings on the financial condition of Citizens and the corporation's claims resources in the event of a major hurricane event. Due to lack of storm activity for the last 5 years, the current surplus held by Citizens for all three accounts is $5.742 billon: $2.686 billion Coastal and $3.056 billion PLA/CLA. Pursuant to estimates provided by Citizens to committee staff, Citizens has the following assessment capacity:

- Policyholder Surcharge – approximately $1.172 billion: $391 million surcharge capacity for Coastal and $781 million surcharge capacity for PLA/CLA.
- Regular Assessment – approximately $5.580 billion: $1.860 billion Regular Assessment capacity for Coastal and $3.720 billion Regular Assessment capacity for PLA/CLA.
- Emergency Assessment - Citizens Emergency Assessment capacity is unlimited. The projected 1-100 year storm Emergency Assessment estimate is $6.468 billion for Coastal Account.

Reinsurance

A direct insurance writer will often spread its risk by purchasing reinsurance coverage from a reinsurance carrier. The reinsurance contract will specify the layer of the direct writer's risk that is shifted to the reinsurer and the premium that the direct writer must pay the reinsurer to assume the risk. For the contract year 2011-2012, Citizens has purchased private reinsurance coverage totaling $575 million for the Coastal account.

The Florida Hurricane Catastrophe Fund (FHCF or CAT fund)

The FHCF is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA) and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).The FHCF provides insurers an additional source of reinsurance that is significantly less expensive than what is available in the private market, enabling insurers to generally write

[8] Section 627.351(6)(b)3.c., F.S.

more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers. The FHCF must charge insurers the actuarially indicated premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.

FHCF Mandatory Coverage

All insurers that write residential property insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF. The FHCF is authorized by statute to sell $17 billion of mandatory layer coverage. Each insurer that purchases coverage may receive up to its proportional share of the $17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. For example, if an insurer paid 10 percent of the total premium paid in a contract-year, then that insurer would be eligible to receive up to 10 percent of the mandatory layer of coverage ($1.7 billion of the $17 billion mandatory layer).

Insurers that experience multiple hurricanes causing loss during the contract year may receive reimbursement from the FHCF for losses that exceed the applicable retention. The insurer's full retention is applied to each hurricane causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer's retention is only one-third of the full retention.

To access the CAT fund an insurer must have incurred losses above the retention levels calculated and set by statute. When faced with a multi-storm season, insurers must reach their full retention levels on the two largest storms of the season. The retention level is then reduced to one-third the normal amount for any other storms that season. Citizens Property Insurance Corporation is the largest purchaser of CAT Fund coverage. If Citizens were to incur losses above its retention levels, the CAT fund could provide Citizens with an additional $6.591 billion in coverage: $4.010 billion would be available for Coastal and $2.581 billion would be available for PLA/CLA.

FHCF Premiums

The FHCF must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology. The "actuarially indicated" premium is an amount that is adequate to pay current and future obligations and expenses of the fund.[9] In practice, each insurer pays the FHCF annual reimbursement premiums that are proportionate to each insurer's share of the FHCF's risk exposure. The cost of FHCF coverage is significantly lower than the cost of private reinsurance due to the fact that the fund is a tax-exempt non-profit corporation and does not charge a "risk load."

FHCF Bonding and Assessment Authority

[9] Section 215.555(2)(a), F.S. Additional amounts needed to pay debt service on revenue bonds and provide required debt service coverage may also be included in the actuarially indicated premium that an insurer pays.

Reimbursements to insurers for losses above the current cash balance of the fund are financed through bonding. When the cash balance of the FHCF is insufficient to cover losses, the law authorizes the FHCF to issue revenue bonds, which are funded by emergency assessments on property and casualty policyholders. If a large storm triggered the full capacity of the FHCF, bond issues totaling over $11 billion could be necessary for the fund to meet its maximum obligations.

Bonds would be funded by an emergency assessment of up to 6 percent of premium on most lines of property and casualty insurance for funding losses from a single year, and up to 10 percent of premium for funding losses from multiple years. All lines of property and casualty insurance, including surplus lines insurance, are subject to emergency assessment except for workers' compensation and medical malpractice liability insurance. The FHCF's broad-based assessment authority is one of the reasons the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.

FHCF Financial Obligations and Claims Paying Resources

The FHCF's coverage obligations for the 2011-2012 hurricane season totaled $18.389 billion dollars for a single storm, which consisted of:

- $17 billion of mandatory coverage;
- $994 million dollars in optional TICL[10] coverage; and
- $395 million in optional coverage for insurers that qualify as limited apportionment companies[11] or were approved to participate in the Insurance Capital Buildup Program.

The FHCF cash balance for the 2011-2012 hurricane season was $7.17 billion. Obligations exceeding the cash balance of the FHCF would require bonding of up to $11.219 billion. The assessment base for the FHCF is approximately $33.603 billion for premiums written at year end 2010.

[10] Legislation enacted in 2007 (ch. 2007-1, L.O.F.), increased the coverage limits of the FHCF for the 2007, 2008 and 2009 hurricane seasons by adding two additional layers of optional coverage that property insurers may buy: Temporary Increase in Coverage Limit Options ("TICL"), that allows residential property insurers to purchase additional reinsurance above the FHCF mandatory coverage and Temporary Emergency Additional Coverage Options ("TEACO"), that allows such insurers to purchase additional coverage below each insurer's market share of the FHCF retention. In 2009, the Legislature reduced the FHCF's exposure and payout by phasing out the TICL layer of coverage over a 6 year period at a rate of $2 billion a year until the TICL coverage is completely phased out in the 2014-2015 contract year (ch. 2009-87, L.O.F.).

[11] Section 627.351(6)(c)13., F.S.

FHCF Claims-Paying Capacity Estimates

In May and October of each contract year, the SBA is required to publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity, the fund's estimated claims-paying capacity, and the projected balance of the fund as of December 31. After the end of each calendar year, the board is required to notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes.

The October 18, 2011, Claims Paying Capacity Estimate (Estimate) is the most recent such report to be issued. The report, prepared by Raymond James, evaluated the FHCF's bonding capacity by analyzing the current financial markets and obtaining written feedback from a senior managing underwriter from four large financial services firms (Barclay's, Citi, Goldman Sachs, and J.P. Morgan). The October 18, 2011 Estimate noted that the FHCF's total obligations of $18.389 billion exceed the projected year-end fund balance of $7.170 billion, thus the FHCF may need to raise up to $11.219 billion through bonding in order to fund its liabilities.

The senior managers from Citi, Goldman Sachs, J.P. Morgan, and Barclays estimated the bonding capacity of the FHCF to be from $5 billion to $11 billion over the 12 months following a storm, leading to an average estimate of $8 billion in bonding capacity. However, the Estimate anticipates that the FHCF will have an additional bonding capacity of $6 billion from 12 to 24 months after the hurricane, which would enable the FHCF to pay its entire obligations and leave an estimated $2.78 billion in bonding capacity to fund losses in a subsequent hurricane season. The first Claims Paying Capacity Estimate for the 2012-2013 hurricane season is due to be published in May 2012.

The Estimate expressed concerns about the ability of the FHCF to successfully issue $11 billion in bonding over the first 12 months after a hurricane. The report notes that the largest single issue in the municipal market since 2009 was a $6.543 billion dollar tax-exempt bond issue by the State of California. The report also found that municipal bond issuance for 2011 declined over 35 percent from the prior year and opined weak economic conditions and investor reluctance to invest capital in such issues as likely major factors in this reduction. However, the Estimate also noted that California was able to issue over $23 billion in municipal debt in 2009 and $10.544 billion in 2010, perhaps indicating that the FHCF could issue sufficient debt to pay its maximum obligation.

III. Effect of Proposed Changes:

Section 1 amends s. 627.351(6), F.S., to reduce the Citizens regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens'

own policies. In the event of a storm that requires emergency assessments, Citizens policyholders will be subject to higher assessment liabilities than under current law because regular assessments do not include such policyholders within the assessment base, but emergency assessments do. Conversely, policyholders of property and casualty lines of insurance policies subject to assessment will be subject to lower levels of assessment liability.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. The bill authorizes the Citizens Board of Governors to levy surcharges and assessments upon projecting that a Citizens account will incur a deficit. Current law requires that the Citizens account actually incur a deficit prior to the levy of surcharges or assessments. Under the bill, the various surcharges and assessments may be levied upon the following determinations:

- Policyholder Surcharge – Upon a determination by the board that a Citizens account has a projected deficit.
- Regular assessments for the Coastal Account – Upon a determination by the board that a Coastal Account will have a projected deficit after accounting for the policyholder surcharge.
- Emergency assessments – Upon a determination by the board that a Citizens account will have a projected deficit after accounting for the policyholder surcharge and, for the Coastal Account, regular assessments.

The Office of Insurance Regulation is authorized to assist Citizens to collect assessments in any ways that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment.

Section 2. amends s. 215.555, F.S. by reducing the Florida Hurricane Catastrophe Fund coverage limits and reducing the maximum reimbursement percentage. This section is effective upon becoming a law. The major proposed changes are summarized as follows:

<u>Decreases the Maximum Reimbursement Percentage for FHCF Coverage</u>

Under current law, insurers have the option to purchase FHCF reinsurance that provides reimbursement of 90 percent, 75 percent, or 45 percent of the insurer's losses within the mandatory FHCF layer of coverage. The bill reduces the maximum reimbursement amount from 90 percent to the following percentages:

- For the 2012-2013 contract year, 90 percent (current law).
- For the 2013-2014 contract year, 85 percent.
- For the 2014-2015 contract year and thereafter, 80 percent.

The bill requires insurers that elect the maximum coverage level available must purchase the following year's renewal of the reimbursement contract at the highest available coverage level if revenue bonds after a covered event (hurricane) are outstanding.

Decreases the FHCF Mandatory Coverage Limit

The bill phases in annual decreases of the FHCF mandatory coverage limit beginning in the 2012-2013 contract year as follows:

- For the 2012-2013 contract year, $17 billion (current law).
- For the 2013-2014 contract year, $16 billion.
- For the 2014-2015 contract year, $15 billion.

Section 3 provides an effective date of July 1, 2012, except for this section and as otherwise provided in the bill.

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:

Representatives from multiple Florida admitted insurance companies assert that the requirement that property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders may delay the ability of some insurers to make timely claim payments to their own policyholders. These representatives have also raised the possibility that the requirement to front regular assessment liabilities could imperil the solvency of some insurers.

Representatives from the Office of Insurance Regulation report that some non-admitted property and casualty insurers have cited the requirement that insurers pre-pay the regular

assessment up front to Citizens as a reason they have chosen not to write residential property insurance in the state.

Representatives from the FHCF state that the current mandatory layer of coverage ($17 billion) plus the optional coverages offered under current law ($4 billion in TICL coverage for 2012-2013) place potential liabilities on the fund that it may not be able to meet due to the current status of the financial markets. These representatives note that if a major hurricane had fallen upon Florida during the 2011 hurricane season, the Fund would have needed to rely upon an $11.3 billion bond issue, which would have been a record for municipal debt issuance if issued in a short period of time. Though additional bonding capacity may be available if the bond issues are spread out over a longer period of time (2 years instead of 1 year), the FHCF notes that some private market insurers will likely require prompt payment of FHCF funds to maintain their ability to pay claims timely and avoid insolvency in the event of a major storm.

Representatives from the FHCF assert that residential policyholders save approximately 25 percent to 30 percent on their annual residential property insurance premiums due to savings attributable to reinsurance sold by the Fund. These savings total approximately $2 billion per year. These representatives concede that reducing the Fund's capacity and reimbursement percentage will cause approximately a cumulative 2 percent increase in policyholder premiums over the 2013-2014 and 2014-2015 contract years because insurers will replace FHCF reinsurance coverage with private market reinsurance at higher costs.

Representatives of some business groups have voiced support for reducing the CAT Fund's capacity and reimbursement percentage because these changes will reduce the likelihood that the FHCF will be required to levy assessments on all property and casualty lines of business (except workers' compensation and medical malpractice liability insurance). Many of these business groups view these assessments as a "tax" on other lines of insurance (such as motor vehicle insurance) that subsidizes the residential property insurance market.

C. Government Sector Impact:

Representatives from Citizens state that the bill will not have a negative impact on the corporation's ability to timely pay claims in the event of a storm that triggers emergency assessments. Citizens' representatives assert that the ability of the corporation to issue debt will enable it to maintain sufficient funds to timely pay claims and meet its obligations in the event of a storm that requires the levy of emergency assessments. Additionally, allowing Citizens to levy surcharges and assessments upon a determination by the Board of Directors that a deficit exists in a Citizens account will allow Citizens to begin the process of collecting those levies at an earlier time than under current law.According to the Office of Insurance Regulation, there will be an increase in workload associated with the additional regulation related to section 2 of the bill; however, it is unknown if there will be additional costs associated or the OIR can handle within existing resources.

The bill reduces the assessment liability of the FHCF, which decreases the probability that the Fund will be required to issue bonds to meet its financial obligations. Supporters of the legislation also note that the FHCF is not the only insurance-related state entity granted assessment authority. Citizens and the Florida Insurance Guaranty Association each have statutory authority to issue bond debt to meet obligations incurred in the event a major hurricane exhausts the financial resources of each entity. Reducing the likelihood of FHCF bonding and assessments will assist Citizens and FIGA in being able to raise funds from bond issues because FHCF bonds will be less likely to be in competition for investors in the event of a storm.

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 on March 3, 2012:
The CS changes the bill by revising the Florida Hurricane Catastrophe Fund (FHCF or Fund) coverage limits and reimbursement percentage to reduce the overall financial obligations of the fund, reducing the likelihood and amount of bonding and emergency assessments needed to fund deficits in the event the Fund experiences a shortfall after a major hurricane. These provisions are effective upon the bill becoming law. The major proposed changes are summarized as follows:

Annual decreases of the FHCF mandatory coverage limit beginning in the 2012-2013 contract year as follows:

- For the 2012-2013 contract year, $17 billion (the current Fund limit).
- For the 2013-2014 contract year, $16 billion.
- For the 2014-2015 contract year, $15 billion

Reduction of the maximum reimbursement amount from 90 percent to the following percentages:

- For the 2013-2014 contract year, 85 percent.
- For the 2014-2015 contract year, 80 percent

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/03/2012	.	
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	.	
	.	

The Committee on Budget (Alexander) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraph (e) of subsection (2), paragraphs (b)
6 and (c) of subsection (4), and paragraph (b) of subsection (5)
7 of section 215.555, Florida Statutes, are amended to read:
8 215.555 Florida Hurricane Catastrophe Fund.—
9 (2) DEFINITIONS.—As used in this section:
10 (e) “Retention” means the amount of losses below which an
11 insurer is not entitled to reimbursement from the fund. An
12 insurer’s retention shall be calculated as follows:
13 1. The board shall calculate and report to each insurer the

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14 retention multiples for that year.
15 a. For the contract year beginning June 1, 2005, the
16 retention multiple shall be equal to $4.5 billion divided by the
17 total estimated reimbursement premium for the contract year; for
18 subsequent years, up to and including the 2012-2013 contract
19 year, the retention multiple shall be equal to $4.5 billion,
20 adjusted based upon the reported exposure for the contract year
21 occurring 2 years before the particular contract year to reflect
22 the percentage growth in exposure to the fund for covered
23 policies since 2004, divided by the total estimated
24 reimbursement premium for the contract year.
25 b. For the 2012-2013 contract year, the total reimbursement
26 premium for purposes of the calculation under this subparagraph
27 shall be estimated using the assumption that all insurers have
28 selected the 90-percent coverage level.
29 c. In order to implement the phase-in of reduced coverage
30 levels as provided in paragraph (4)(b), total reimbursement
31 premium for purposes of the calculation under this subparagraph
32 shall be estimated using the following assumptions:
33 (I) For the 2013-2014 contract year, the assumption is that
34 all insurers have selected the 85-percent coverage level.
35 (II) For the 2014-2015 contract year and subsequent
36 contract years, the assumption is that all insurers have
37 selected the 80-percent coverage level.
38 2. The retention multiple as determined under subparagraph
39 1. shall be adjusted to reflect the coverage level elected by
40 the insurer.
41 a. For an insurer electing the maximum coverage level
42 available under paragraph (4)(b) for a particular contract year

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43 ~~For insurers electing the 90-percent coverage level~~, the
44 adjusted retention multiple is 100 percent of the amount
45 determined under subparagraph 1.
46 b. In order to implement the phase-in of reduced coverage
47 levels as provided in paragraph (4)(b), for an insurer electing
48 a coverage level other than the maximum coverage level, the
49 adjusted retention multiple is as follows:
50 (I) With respect to the 2012-2013 contract year, for an
51 insurer ~~For insurers~~ electing the 75-percent coverage level, the
52 retention multiple is 90/75ths ~~120 percent~~ of the amount
53 determined under subparagraph 1., and for an insurer ~~For~~
54 ~~insurers~~ electing the 45-percent coverage level, the adjusted
55 retention multiple is 90/45ths ~~200 percent~~ of the amount
56 determined under subparagraph 1.
57 (II) With respect to the 2013-2014 contract year, for an
58 insurer electing the 75-percent coverage level, the retention
59 multiple is 85/75ths of the amount determined under subparagraph
60 1., and for an insurer electing the 45-percent coverage level,
61 the retention multiple is 85/45ths of the amount determined
62 under subparagraph 1.
63 (III) With respect to the 2014-2015 contract year and
64 subsequent contract years, for an insurer electing the 75-
65 percent coverage level, the retention multiple is 80/75ths of
66 the amount determined under subparagraph 1., and for an insurer
67 electing the 45-percent coverage level, the retention multiple
68 is 80/45ths of the amount determined under subparagraph 1.
69 3. An insurer shall determine its provisional retention by
70 multiplying its provisional reimbursement premium by the
71 applicable adjusted retention multiple and shall determine its

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72 actual retention by multiplying its actual reimbursement premium
73 by the applicable adjusted retention multiple.
74 4. For insurers who experience multiple covered events
75 causing loss during the contract year, beginning June 1, 2005,
76 each insurer's full retention shall be applied to each of the
77 covered events causing the two largest losses for that insurer.
78 For each other covered event resulting in losses, the insurer's
79 retention shall be reduced to one-third of the full retention.
80 The reimbursement contract must ~~shall~~ provide for the
81 reimbursement of losses for each covered event based on the full
82 retention with adjustments made to reflect the reduced
83 retentions on or after January 1 of the contract year provided
84 the insurer reports its losses as specified in the reimbursement
85 contract.
86 (4) REIMBURSEMENT CONTRACTS.—
87 (b)1. The contract shall contain a promise by the board to
88 reimburse the insurer for a specified percentage ~~45 percent, 75~~
89 ~~percent, or 90 percent~~ of its losses from each covered event in
90 excess of the insurer's retention, plus 5 percent of the
91 reimbursed losses to cover loss adjustment expenses. The
92 available coverage levels are as follows:
93 a. For the 2012-2013 contract year, 90 percent, 75 percent,
94 and 45 percent.
95 b. For the 2013-2014 contract year, 85 percent, 75 percent,
96 and 45 percent.
97 c. For the 2014-2015 contract year, 80 percent, 75 percent,
98 and 45 percent.
99 2.a. The insurer must elect one of the percentage coverage
100 levels specified in this paragraph and may, upon renewal of a

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101 reimbursement contract, elect a lower percentage coverage level
102 if no revenue bonds issued under subsection (6) after a covered
103 event are outstanding, or elect a higher percentage coverage
104 level, regardless of whether or not revenue bonds are
105 outstanding. All members of an insurer group must elect the same
106 percentage coverage level. A ~~Any~~ joint underwriting association,
107 risk apportionment plan, or other entity created under s.
108 627.351 must elect the maximum ~~90-percent~~ coverage level
109 available under subparagraph 1.
110 b. In order to implement the phase-in of reduced coverage
111 levels as provided in subparagraph 1., and notwithstanding sub-
112 subparagraph a., if revenue bonds issued under subsection (6)
113 after a covered event are outstanding and the insurer has
114 elected the maximum coverage level available under subparagraph
115 1., the insurer must, upon renewal of the reimbursement
116 contract, elect the maximum coverage level available under
117 subparagraph 1. for the renewal contract year.
118 3. The contract must ~~shall~~ provide that reimbursement
119 amounts ~~shall~~ not be reduced by reinsurance paid or payable to
120 the insurer from other sources.
121 4. Notwithstanding any other provision ~~contained~~ in this
122 section, the board shall make available to insurers that
123 purchased coverage provided by this subparagraph in 2008,
124 insurers qualifying as limited apportionment companies under s.
125 627.351(6)(c), and insurers that have been approved to
126 participate in the Insurance Capital Build-Up Incentive Program
127 pursuant to s. 215.5595 a contract or contract addendum that
128 provides an additional amount of reimbursement coverage of up to
129 $10 million. The premium to be charged for this additional

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130 reimbursement coverage shall be 50 percent of the additional
131 reimbursement coverage provided, which must ~~shall~~ include one
132 prepaid reinstatement. The minimum retention level that an
133 eligible participating insurer must retain associated with this
134 additional coverage layer is 30 percent of the insurer's surplus
135 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
136 ~~December 31, 2009, for the 2010-2011 contract year; and~~ as of
137 December 31, 2010, for the 2011-2012 contract year. This
138 coverage is ~~shall be~~ in addition to all other coverage that may
139 be provided under this section. The coverage provided by the
140 fund under this subparagraph is ~~shall be~~ in addition to the
141 claims-paying capacity as defined in subparagraph (c)1., but
142 only with respect to those insurers that select the additional
143 coverage option and meet the requirements of this subparagraph.
144 The claims-paying capacity with respect to all other
145 participating insurers and limited apportionment companies that
146 do not select the additional coverage option shall be limited to
147 their reimbursement premium's proportionate share of the actual
148 claims-paying capacity otherwise defined in subparagraph (c)1.
149 and as provided for under the terms of the reimbursement
150 contract. The optional coverage retention as specified shall be
151 accessed before the mandatory coverage under the reimbursement
152 contract, but once the limit of coverage selected under this
153 option is exhausted, the insurer's retention under the mandatory
154 coverage applies ~~will apply~~. This coverage will apply and be
155 paid concurrently with mandatory coverage. This subparagraph
156 expires on May 31, 2012.
157 (c)1. The contract must ~~shall~~ also provide that the
158 obligation of the board with respect to all contracts covering a

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159 particular contract year ~~shall~~ not exceed the actual claims-
160 paying capacity of the fund up to the limit specified in this
161 subparagraph.
162 a. For the 2012-2013 contract year, the limit is $17
163 billion.
164 b. For the 2013-2014 contract year, the limit is $16
165 billion.
166 c. For the 2014-2015 contract year, the limit is $15
167 billion.
168 d. For contract years after the 2014-2015 contract year, if
169 ~~a limit of $17 billion for that contract year, unless~~ the board
170 determines that there is sufficient estimated claims-paying
171 capacity to provide $15 ~~$17~~ billion of capacity for the current
172 contract year and an additional $15 ~~$17~~ billion of capacity for
173 subsequent contract years~~. If the board makes such a~~
174 ~~determination~~, the estimated claims-paying capacity for the
175 particular contract year shall be determined by adding to the
176 $15 ~~$17~~ billion limit one-half of the fund's estimated claims-
177 paying capacity in excess of $30 ~~$34~~ billion. However, the
178 dollar growth in the limit may not increase in any year by an
179 amount greater than the dollar growth of the balance of the fund
180 as of December 31, ~~less any premiums or interest attributable to~~
181 ~~optional coverage,~~ as defined by rule, which occurred over the
182 prior calendar year.
183 2. In May and October of the contract year, the board shall
184 publish in the Florida Administrative Weekly a statement of the
185 fund's estimated borrowing capacity, the fund's estimated
186 claims-paying capacity, and the projected balance of the fund as
187 of December 31. After the end of each calendar year, the board

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188 shall notify insurers of the estimated borrowing capacity,
189 estimated claims-paying capacity, and the balance of the fund as
190 of December 31 to provide insurers with data necessary to assist
191 them in determining their retention and projected payout from
192 the fund for loss reimbursement purposes. In conjunction with
193 the development of the premium formula~~,~~ as provided ~~for~~ in
194 subsection (5), the board shall publish factors or multiples
195 that assist insurers in determining their retention and
196 projected payout for the next contract year. For all regulatory
197 and reinsurance purposes, an insurer may calculate its projected
198 payout from the fund as its share of the total fund premium for
199 the current contract year multiplied by the sum of the projected
200 balance of the fund as of December 31 and the estimated
201 borrowing capacity for that contract year as reported under this
202 subparagraph.
203 (5) REIMBURSEMENT PREMIUMS.—
204 (b) The State Board of Administration shall select an
205 independent consultant to develop a formula for determining the
206 actuarially indicated premium to be paid to the fund. The
207 formula shall specify, for each zip code or other limited
208 geographical area, the amount of premium to be paid by an
209 insurer for each $1,000 of insured value under covered policies
210 in that zip code or other area. In establishing premiums, the
211 board shall consider the coverage elected under paragraph (4)(b)
212 and any factors that tend to enhance the actuarial
213 sophistication of ratemaking for the fund, including
214 deductibles, type of construction, type of coverage provided,
215 relative concentration of risks, and other such factors deemed
216 by the board to be appropriate.

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217 1. The formula must provide for a cash build-up factor as
218 follows:~~. For the 2009-2010 contract year, the factor is 5~~
219 ~~percent. For the 2010-2011 contract year, the factor is 10~~
220 ~~percent.~~
221 a. For the 2011-2012 contract year, the factor is 15
222 percent.
223 b. For the 2012-2013 contract year, the factor is 20
224 percent.
225 c. For the 2013-2014 contract year ~~and thereafter~~, the
226 factor is 25 percent.
227 2. The formula may provide ~~for~~ a procedure to determine the
228 premiums to be paid by new insurers that begin writing covered
229 policies after the beginning of a contract year, taking into
230 consideration when the insurer starts writing covered policies,
231 the potential exposure of the insurer, the potential exposure of
232 the fund, the administrative costs to the insurer and to the
233 fund, and any other factors deemed appropriate by the board. The
234 formula must be approved by unanimous vote of the board. The
235 board may, at any time, revise the formula pursuant to the
236 procedure provided in this paragraph.
237 (6) REVENUE BONDS.—
238 (d) *State Board of Administration* ~~*Florida Hurricane*~~
239 ~~*Catastrophe Fund*~~ *Finance Corporation.*—
240 1. In addition to the findings and declarations in
241 subsection (1), the Legislature also finds and declares that:
242 a. The public benefits corporation created under this
243 paragraph shall ~~will~~ provide a mechanism necessary for the cost-
244 effective and efficient issuance of bonds. This mechanism will
245 eliminate unnecessary costs in the bond issuance process,

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246 thereby increasing the amounts available to pay reimbursement
247 for losses to property sustained as a result of hurricane
248 damage.
249 b. The purpose of such bonds is to fund reimbursements
250 through the Florida Hurricane Catastrophe Fund to pay for the
251 costs of construction, reconstruction, repair, restoration, and
252 other costs associated with damage to properties of
253 policyholders of covered policies due to the occurrence of a
254 hurricane.
255 c. The efficacy of the financing mechanism will be enhanced
256 by the corporation's ownership of the assessments, by insulating
257 ~~the insulation of~~ the assessments from possible bankruptcy
258 proceedings, and by covenants of the state with the
259 corporation's bondholders.
260 2.~~a.~~ There is created a public benefits corporation, which
261 is an instrumentality of the state, to be known as the State
262 Board of Administration ~~Florida Hurricane Catastrophe Fund~~
263 Finance Corporation.
264 a.~~b.~~ The corporation shall operate under a five-member
265 board of directors consisting of the Governor or a designee, the
266 Chief Financial Officer or a designee, the Attorney General or a
267 designee, the director of the Division of Bond Finance of the
268 State Board of Administration, and the Chief Operating Officer
269 ~~senior employee of the State Board of Administration responsible~~
270 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.
271 b.~~c.~~ The corporation has all of the powers of corporations
272 under chapter 607 and under chapter 617, subject only to the
273 provisions of this subsection.
274 c.~~d.~~ The corporation may issue bonds and engage in such

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275 other financial transactions as are necessary to provide
276 sufficient funds to achieve the purposes of this section.
277 d.~~e.~~ The corporation may invest in any of the investments
278 authorized under s. 215.47.
279 e.~~f.~~ There shall be no liability on the part of, and no
280 cause of action shall arise against, any board members or
281 employees of the corporation for any actions taken by them in
282 the performance of their duties under this paragraph.
283 3.a. In actions under chapter 75 to validate any bonds
284 issued by the corporation, the notice required by s. 75.06 shall
285 be published only in Leon County and in two newspapers of
286 general circulation in the state, and the complaint and order of
287 the court shall be served only on the State Attorney of the
288 Second Judicial Circuit.
289 b. The state hereby covenants with holders of bonds of the
290 corporation that the state will not repeal or abrogate the power
291 of the board to direct the Office of Insurance Regulation to
292 levy the assessments and to collect the proceeds of the revenues
293 pledged to the payment of such bonds as long as any such bonds
294 remain outstanding unless adequate provision has been made for
295 the payment of such bonds pursuant to the documents authorizing
296 the issuance of such bonds.
297 4. The bonds of the corporation are not a debt of the state
298 or of any political subdivision, and neither the state nor any
299 political subdivision is liable on such bonds. The corporation
300 does not have the power to pledge the credit, the revenues, or
301 the taxing power of the state or of any political subdivision.
302 The credit, revenues, or taxing power of the state or of any
303 political subdivision shall not be deemed to be pledged to the

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304 payment of any bonds of the corporation.
305 5.a. The property, revenues, and other assets of the
306 corporation; the transactions and operations of the corporation
307 and the income from such transactions and operations; and all
308 bonds issued under this paragraph and interest on such bonds are
309 exempt from taxation by the state and any political subdivision,
310 including the intangibles tax under chapter 199 and the income
311 tax under chapter 220. This exemption does not apply to any tax
312 imposed by chapter 220 on interest, income, or profits on debt
313 obligations owned by corporations other than the State Board of
314 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
315 Corporation.
316 b. All bonds of the corporation shall be and constitute
317 legal investments without limitation for all public bodies of
318 this state; for all banks, trust companies, savings banks,
319 savings associations, savings and loan associations, and
320 investment companies; for all administrators, executors,
321 trustees, and other fiduciaries; for all insurance companies and
322 associations and other persons carrying on an insurance
323 business; and for all other persons who are now or may hereafter
324 be authorized to invest in bonds or other obligations of the
325 state and shall be and constitute eligible securities to be
326 deposited as collateral for the security of any state, county,
327 municipal, or other public funds. This sub-subparagraph shall be
328 considered as additional and supplemental authority and shall
329 not be limited without specific reference to this sub-
330 subparagraph.
331 6. The corporation and its corporate existence shall
332 continue until terminated by law; however, ~~no~~ such law will not

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333 ~~shall~~ take effect if ~~as long as~~ the corporation has bonds
334 outstanding unless adequate provision has been made for the
335 payment of such bonds pursuant to the documents authorizing the
336 issuance of such bonds. Upon termination of the ~~existence of the~~
337 corporation, all of its rights and properties in excess of its
338 obligations shall pass to and be vested in the state.
339 7. The State Board of Administration Finance Corporation is
340 for all purposes the successor to the Florida Hurricane
341 Catastrophe Fund Finance Corporation.
342 Section 2. Effective July 1, 2012, paragraphs (b), (c),
343 (q), and (w) of subsection (6) of section 627.351, Florida
344 Statutes, are amended to read:
345 627.351 Insurance risk apportionment plans.—
346 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
347 (b)1. All insurers authorized to write one or more subject
348 lines of business in this state are subject to assessment by the
349 corporation and, for the purposes of this subsection, are
350 referred to collectively as “assessable insurers.” Insurers
351 writing one or more subject lines of business in this state
352 pursuant to part VIII of chapter 626 are not assessable
353 insurers, but insureds who procure one or more subject lines of
354 business in this state pursuant to part VIII of chapter 626 are
355 subject to assessment by the corporation and are referred to
356 collectively as “assessable insureds.” An insurer’s assessment
357 liability begins on the first day of the calendar year following
358 the year in which the insurer was issued a certificate of
359 authority to transact insurance for subject lines of business in
360 this state and terminates 1 year after the end of the first
361 calendar year during which the insurer no longer holds a

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362 certificate of authority to transact insurance for subject lines
363 of business in this state.
364 2.a. All revenues, assets, liabilities, losses, and
365 expenses of the corporation shall be divided into three separate
366 accounts as follows:
367 (I) A personal lines account for personal residential
368 policies issued by the corporation, or issued by the Residential
369 Property and Casualty Joint Underwriting Association and renewed
370 by the corporation, which provides comprehensive, multiperil
371 coverage on risks that are not located in areas eligible for
372 coverage by the Florida Windstorm Underwriting Association as
373 those areas were defined on January 1, 2002, and for policies
374 that do not provide coverage for the peril of wind on risks that
375 are located in such areas;
376 (II) A commercial lines account for commercial residential
377 and commercial nonresidential policies issued by the
378 corporation, or issued by the Residential Property and Casualty
379 Joint Underwriting Association and renewed by the corporation,
380 which provides coverage for basic property perils on risks that
381 are not located in areas eligible for coverage by the Florida
382 Windstorm Underwriting Association as those areas were defined
383 on January 1, 2002, and for policies that do not provide
384 coverage for the peril of wind on risks that are located in such
385 areas; and
386 (III) A coastal account for personal residential policies
387 and commercial residential and commercial nonresidential
388 property policies issued by the corporation, or transferred to
389 the corporation, which provides coverage for the peril of wind
390 on risks that are located in areas eligible for coverage by the

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391 Florida Windstorm Underwriting Association as those areas were
392 defined on January 1, 2002. The corporation may offer policies
393 that provide multiperil coverage and the corporation shall
394 continue to offer policies that provide coverage only for the
395 peril of wind for risks located in areas eligible for coverage
396 in the coastal account. In issuing multiperil coverage, the
397 corporation may use its approved policy forms and rates for the
398 personal lines account. An applicant or insured who is eligible
399 to purchase a multiperil policy from the corporation may
400 purchase a multiperil policy from an authorized insurer without
401 prejudice to the applicant’s or insured’s eligibility to
402 prospectively purchase a policy that provides coverage only for
403 the peril of wind from the corporation. An applicant or insured
404 who is eligible for a corporation policy that provides coverage
405 only for the peril of wind may elect to purchase or retain such
406 policy and also purchase or retain coverage excluding wind from
407 an authorized insurer without prejudice to the applicant’s or
408 insured’s eligibility to prospectively purchase a policy that
409 provides multiperil coverage from the corporation. It is the
410 goal of the Legislature that there be an overall average savings
411 of 10 percent or more for a policyholder who currently has a
412 wind-only policy with the corporation, and an ex-wind policy
413 with a voluntary insurer or the corporation, and who obtains a
414 multiperil policy from the corporation. It is the intent of the
415 Legislature that the offer of multiperil coverage in the coastal
416 account be made and implemented in a manner that does not
417 adversely affect the tax-exempt status of the corporation or
418 creditworthiness of or security for currently outstanding
419 financing obligations or credit facilities of the coastal

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420 account, the personal lines account, or the commercial lines
421 account. The coastal account must also include quota share
422 primary insurance under subparagraph (c)2. The area eligible for
423 coverage under the coastal account also includes the area within
424 Port Canaveral, which is bordered on the south by the City of
425 Cape Canaveral, bordered on the west by the Banana River, and
426 bordered on the north by Federal Government property.
427 b. The three separate accounts must be maintained as long
428 as financing obligations entered into by the Florida Windstorm
429 Underwriting Association or Residential Property and Casualty
430 Joint Underwriting Association are outstanding, in accordance
431 with the terms of the corresponding financing documents. If the
432 financing obligations are no longer outstanding, the corporation
433 may use a single account for all revenues, assets, liabilities,
434 losses, and expenses of the corporation. Consistent with this
435 subparagraph and prudent investment policies that minimize the
436 cost of carrying debt, the board shall exercise its best efforts
437 to retire existing debt or obtain the approval of necessary
438 parties to amend the terms of existing debt, so as to structure
439 the most efficient plan to consolidate the three separate
440 accounts into a single account.
441 c. Creditors of the Residential Property and Casualty Joint
442 Underwriting Association and the accounts specified in sub-sub-
443 subparagraphs a.(I) and (II) may have a claim against, and
444 recourse to, those accounts and no claim against, or recourse
445 to, the account referred to in sub-sub-subparagraph a.(III).
446 Creditors of the Florida Windstorm Underwriting Association have
447 a claim against, and recourse to, the account referred to in
448 sub-sub-subparagraph a.(III) and no claim against, or recourse

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449 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
450 (II).
451 d. Revenues, assets, liabilities, losses, and expenses not
452 attributable to particular accounts shall be prorated among the
453 accounts.
454 e. The Legislature finds that the revenues of the
455 corporation are revenues that are necessary to meet the
456 requirements set forth in documents authorizing the issuance of
457 bonds under this subsection.
458 f. ~~No part of~~ The income of the corporation may not inure
459 to the benefit of any private person.
460 3. With respect to a deficit in an account:
461 a. After accounting for the Citizens policyholder surcharge
462 imposed under sub-subparagraph i. ~~h.~~, if the remaining projected
463 deficit incurred in the coastal account in a particular calendar
464 year:
465 (I) Is not greater than 2 ~~6~~ percent of the aggregate
466 statewide direct written premium for the subject lines of
467 business for the prior calendar year, the entire deficit shall
468 be recovered through regular assessments of assessable insurers
469 under paragraph (q) and assessable insureds.
470 (II) Exceeds 2 ~~6~~ percent of the aggregate statewide direct
471 written premium for the subject lines of business for the prior
472 calendar year, the corporation shall levy regular assessments on
473 assessable insurers under paragraph (q) and on assessable
474 insureds in an amount equal to the greater of 2 ~~6~~ percent of the
475 projected deficit or 2 ~~6~~ percent of the aggregate statewide
476 direct written premium for the subject lines of business for the
477 prior calendar year. Any remaining projected deficit shall be

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478 recovered through emergency assessments under sub-subparagraph
479 d. ~~e.~~
480 b. Each assessable insurer's share of the amount being
481 assessed under sub-subparagraph a. must be in the proportion
482 that the assessable insurer's direct written premium for the
483 subject lines of business for the year preceding the assessment
484 bears to the aggregate statewide direct written premium for the
485 subject lines of business for that year. The assessment
486 percentage applicable to each assessable insured is the ratio of
487 the amount being assessed under sub-subparagraph a. to the
488 aggregate statewide direct written premium for the subject lines
489 of business for the prior year. Assessments levied by the
490 corporation on assessable insurers under sub-subparagraph a.
491 must be paid as required by the corporation's plan of operation
492 and paragraph (q). Assessments levied by the corporation on
493 assessable insureds under sub-subparagraph a. shall be collected
494 by the surplus lines agent at the time the surplus lines agent
495 collects the surplus lines tax required by s. 626.932, and paid
496 to the Florida Surplus Lines Service Office at the time the
497 surplus lines agent pays the surplus lines tax to that office.
498 Upon receipt of regular assessments from surplus lines agents,
499 the Florida Surplus Lines Service Office shall transfer the
500 assessments directly to the corporation as determined by the
501 corporation.
502 c. After accounting for the Citizens policyholder surcharge
503 imposed under sub-subparagraph i., the remaining projected
504 deficits in the personal lines account and in the commercial
505 lines account in a particular calendar year shall be recovered
506 through emergency assessments under sub-subparagraph d.

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507 d.~~c.~~ Upon a determination by the board of governors that a
508 projected deficit in an account exceeds the amount that is
509 expected to ~~will~~ be recovered through regular assessments under
510 sub-subparagraph a., plus the amount that is expected to be
511 recovered through surcharges under sub-subparagraph i. ~~h.~~, the
512 board, after verification by the office, shall levy emergency
513 assessments for as many years as necessary to cover the
514 deficits, to be collected by assessable insurers and the
515 corporation and collected from assessable insureds upon issuance
516 or renewal of policies for subject lines of business, excluding
517 National Flood Insurance policies. The amount collected in a
518 particular year must be a uniform percentage of that year's
519 direct written premium for subject lines of business and all
520 accounts of the corporation, excluding National Flood Insurance
521 Program policy premiums, as annually determined by the board and
522 verified by the office. The office shall verify the arithmetic
523 calculations involved in the board's determination within 30
524 days after receipt of the information on which the determination
525 was based. The office shall notify assessable insurers and the
526 Florida Surplus Lines Service Office of the date on which
527 assessable insurers shall begin to collect and assessable
528 insureds shall begin to pay such assessment. The date may be not
529 less than 90 days after the date the corporation levies
530 emergency assessments pursuant to this sub-subparagraph.
531 Notwithstanding any other provision of law, the corporation and
532 each assessable insurer that writes subject lines of business
533 shall collect emergency assessments from its policyholders
534 without such obligation being affected by any credit,
535 limitation, exemption, or deferment. Emergency assessments

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536 levied by the corporation on assessable insureds shall be
537 collected by the surplus lines agent at the time the surplus
538 lines agent collects the surplus lines tax required by s.
539 626.932 and paid to the Florida Surplus Lines Service Office at
540 the time the surplus lines agent pays the surplus lines tax to
541 that office. The emergency assessments collected shall be
542 transferred directly to the corporation on a periodic basis as
543 determined by the corporation and held by the corporation solely
544 in the applicable account. The aggregate amount of emergency
545 assessments levied for an account under this sub-subparagraph in
546 any calendar year may be less than but not exceed the greater of
547 10 percent of the amount needed to cover the deficit, plus
548 interest, fees, commissions, required reserves, and other costs
549 associated with financing the original deficit, or 10 percent of
550 the aggregate statewide direct written premium for subject lines
551 of business and all accounts of the corporation for the prior
552 year, plus interest, fees, commissions, required reserves, and
553 other costs associated with financing the deficit.
554 e.~~d.~~ The corporation may pledge the proceeds of
555 assessments, projected recoveries from the Florida Hurricane
556 Catastrophe Fund, other insurance and reinsurance recoverables,
557 policyholder surcharges and other surcharges, and other funds
558 available to the corporation as the source of revenue for and to
559 secure bonds issued under paragraph (q), bonds or other
560 indebtedness issued under subparagraph (c)3., or lines of credit
561 or other financing mechanisms issued or created under this
562 subsection, or to retire any other debt incurred as a result of
563 deficits or events giving rise to deficits, or in any other way
564 that the board determines will efficiently recover such

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565 deficits. The purpose of the lines of credit or other financing
566 mechanisms is to provide additional resources to assist the
567 corporation in covering claims and expenses attributable to a
568 catastrophe. As used in this subsection, the term "assessments"
569 includes regular assessments under sub-subparagraph a. or
570 subparagraph (q)1. and emergency assessments under sub-
571 subparagraph d. Emergency assessments collected under sub-
572 subparagraph d. are not part of an insurer's rates, are not
573 premium, and are not subject to premium tax, fees, or
574 commissions; however, failure to pay the emergency assessment
575 shall be treated as failure to pay premium. The emergency
576 assessments under sub-subparagraph d. ~~e.~~ shall continue as long
577 as any bonds issued or other indebtedness incurred with respect
578 to a deficit for which the assessment was imposed remain
579 outstanding, unless adequate provision has been made for the
580 payment of such bonds or other indebtedness pursuant to the
581 documents governing such bonds or indebtedness.
582 f.~~e.~~ As used in this subsection for purposes of any deficit
583 incurred on or after January 25, 2007, the term "subject lines
584 of business" means insurance written by assessable insurers or
585 procured by assessable insureds for all property and casualty
586 lines of business in this state, but not including workers'
587 compensation or medical malpractice. As used in this sub-
588 subparagraph, the term "property and casualty lines of business"
589 includes all lines of business identified on Form 2, Exhibit of
590 Premiums and Losses, in the annual statement required of
591 authorized insurers under s. 624.424 and any rule adopted under
592 this section, except for those lines identified as accident and
593 health insurance and except for policies written under the

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594 National Flood Insurance Program or the Federal Crop Insurance
595 Program. For purposes of this sub-subparagraph, the term
596 “workers’ compensation” includes both workers’ compensation
597 insurance and excess workers’ compensation insurance.
598 g.~~f.~~ The Florida Surplus Lines Service Office shall
599 determine annually the aggregate statewide written premium in
600 subject lines of business procured by assessable insureds and
601 report that information to the corporation in a form and at a
602 time the corporation specifies to ensure that the corporation
603 can meet the requirements of this subsection and the
604 corporation’s financing obligations.
605 h.~~g.~~ The Florida Surplus Lines Service Office shall verify
606 the proper application by surplus lines agents of assessment
607 percentages for regular assessments and emergency assessments
608 levied under this subparagraph on assessable insureds and assist
609 the corporation in ensuring the accurate, timely collection and
610 payment of assessments by surplus lines agents as required by
611 the corporation.
612 i.~~h.~~ ~~If a deficit is incurred in any account~~ In 2008 or
613 thereafter, upon a determination by the board of governors that
614 an account has a projected deficit, the board shall levy a
615 Citizens policyholder surcharge against all policyholders of the
616 corporation.
617 (I) The surcharge shall be levied as a uniform percentage
618 of the premium for the policy of up to 15 percent of such
619 premium, which funds shall be used to offset the deficit.
620 (II) The surcharge is payable upon cancellation or
621 termination of the policy, upon renewal of the policy, or upon
622 issuance of a new policy by the corporation within the first 12

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623 months after the date of the levy or the period of time
624 necessary to fully collect the surcharge amount.
625 (III) The corporation may not levy any regular assessments
626 under paragraph (q) pursuant to sub-subparagraph a. or sub-
627 subparagraph b. with respect to a particular year's deficit
628 until the corporation has first levied the full amount of the
629 surcharge authorized by this sub-subparagraph.
630 (IV) The surcharge is not considered premium and is not
631 subject to commissions, fees, or premium taxes. However, failure
632 to pay the surcharge shall be treated as failure to pay premium.
633 j.~~i.~~ If the amount of any assessments or surcharges
634 collected from corporation policyholders, assessable insurers or
635 their policyholders, or assessable insureds exceeds the amount
636 of the deficits, such excess amounts shall be remitted to and
637 retained by the corporation in a reserve to be used by the
638 corporation, as determined by the board of governors and
639 approved by the office, to pay claims or reduce any past,
640 present, or future plan-year deficits or to reduce outstanding
641 debt.
642 (c) The corporation's plan of operation:
643 1. Must provide for adoption of residential property and
644 casualty insurance policy forms and commercial residential and
645 nonresidential property insurance forms, which must be approved
646 by the office before use. The corporation shall adopt the
647 following policy forms:
648 a. Standard personal lines policy forms that are
649 comprehensive multiperil policies providing full coverage of a
650 residential property equivalent to the coverage provided in the
651 private insurance market under an HO-3, HO-4, or HO-6 policy.

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652 b. Basic personal lines policy forms that are policies
653 similar to an HO-8 policy or a dwelling fire policy that provide
654 coverage meeting the requirements of the secondary mortgage
655 market, but which is more limited than the coverage under a
656 standard policy.
657 c. Commercial lines residential and nonresidential policy
658 forms that are generally similar to the basic perils of full
659 coverage obtainable for commercial residential structures and
660 commercial nonresidential structures in the admitted voluntary
661 market.
662 d. Personal lines and commercial lines residential property
663 insurance forms that cover the peril of wind only. The forms are
664 applicable only to residential properties located in areas
665 eligible for coverage under the coastal account referred to in
666 sub-subparagraph (b)2.a.
667 e. Commercial lines nonresidential property insurance forms
668 that cover the peril of wind only. The forms are applicable only
669 to nonresidential properties located in areas eligible for
670 coverage under the coastal account referred to in sub-
671 subparagraph (b)2.a.
672 f. The corporation may adopt variations of the policy forms
673 listed in sub-subparagraphs a.-e. which contain more restrictive
674 coverage.
675 2. Must provide that the corporation adopt a program in
676 which the corporation and authorized insurers enter into quota
677 share primary insurance agreements for hurricane coverage, as
678 defined in s. 627.4025(2)(a), for eligible risks, and adopt
679 property insurance forms for eligible risks which cover the
680 peril of wind only.

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681 a. As used in this subsection, the term:
682 (I) "Quota share primary insurance" means an arrangement in
683 which the primary hurricane coverage of an eligible risk is
684 provided in specified percentages by the corporation and an
685 authorized insurer. The corporation and authorized insurer are
686 each solely responsible for a specified percentage of hurricane
687 coverage of an eligible risk as set forth in a quota share
688 primary insurance agreement between the corporation and an
689 authorized insurer and the insurance contract. The
690 responsibility of the corporation or authorized insurer to pay
691 its specified percentage of hurricane losses of an eligible
692 risk, as set forth in the agreement, may not be altered by the
693 inability of the other party to pay its specified percentage of
694 losses. Eligible risks that are provided hurricane coverage
695 through a quota share primary insurance arrangement must be
696 provided policy forms that set forth the obligations of the
697 corporation and authorized insurer under the arrangement,
698 clearly specify the percentages of quota share primary insurance
699 provided by the corporation and authorized insurer, and
700 conspicuously and clearly state that the authorized insurer and
701 the corporation may not be held responsible beyond their
702 specified percentage of coverage of hurricane losses.
703 (II) "Eligible risks" means personal lines residential and
704 commercial lines residential risks that meet the underwriting
705 criteria of the corporation and are located in areas that were
706 eligible for coverage by the Florida Windstorm Underwriting
707 Association on January 1, 2002.
708 b. The corporation may enter into quota share primary
709 insurance agreements with authorized insurers at corporation

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710 coverage levels of 90 percent and 50 percent.
711 c. If the corporation determines that additional coverage
712 levels are necessary to maximize participation in quota share
713 primary insurance agreements by authorized insurers, the
714 corporation may establish additional coverage levels. However,
715 the corporation’s quota share primary insurance coverage level
716 may not exceed 90 percent.
717 d. Any quota share primary insurance agreement entered into
718 between an authorized insurer and the corporation must provide
719 for a uniform specified percentage of coverage of hurricane
720 losses, by county or territory as set forth by the corporation
721 board, for all eligible risks of the authorized insurer covered
722 under the agreement.
723 e. Any quota share primary insurance agreement entered into
724 between an authorized insurer and the corporation is subject to
725 review and approval by the office. However, such agreement shall
726 be authorized only as to insurance contracts entered into
727 between an authorized insurer and an insured who is already
728 insured by the corporation for wind coverage.
729 f. For all eligible risks covered under quota share primary
730 insurance agreements, the exposure and coverage levels for both
731 the corporation and authorized insurers shall be reported by the
732 corporation to the Florida Hurricane Catastrophe Fund. For all
733 policies of eligible risks covered under such agreements, the
734 corporation and the authorized insurer must maintain complete
735 and accurate records for the purpose of exposure and loss
736 reimbursement audits as required by fund rules. The corporation
737 and the authorized insurer shall each maintain duplicate copies
738 of policy declaration pages and supporting claims documents.

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739 g. The corporation board shall establish in its plan of
740 operation standards for quota share agreements which ensure that
741 there is no discriminatory application among insurers as to the
742 terms of the agreements, pricing of the agreements, incentive
743 provisions if any, and consideration paid for servicing policies
744 or adjusting claims.
745 h. The quota share primary insurance agreement between the
746 corporation and an authorized insurer must set forth the
747 specific terms under which coverage is provided, including, but
748 not limited to, the sale and servicing of policies issued under
749 the agreement by the insurance agent of the authorized insurer
750 producing the business, the reporting of information concerning
751 eligible risks, the payment of premium to the corporation, and
752 arrangements for the adjustment and payment of hurricane claims
753 incurred on eligible risks by the claims adjuster and personnel
754 of the authorized insurer. Entering into a quota sharing
755 insurance agreement between the corporation and an authorized
756 insurer is voluntary and at the discretion of the authorized
757 insurer.
758 3.a. May provide that the corporation may employ or
759 otherwise contract with individuals or other entities to provide
760 administrative or professional services that may be appropriate
761 to effectuate the plan. The corporation may borrow funds by
762 issuing bonds or by incurring other indebtedness, and shall have
763 other powers reasonably necessary to effectuate the requirements
764 of this subsection, including, without limitation, the power to
765 issue bonds and incur other indebtedness in order to refinance
766 outstanding bonds or other indebtedness. The corporation may
767 seek judicial validation of its bonds or other indebtedness

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768 under chapter 75. The corporation may issue bonds or incur other
769 indebtedness, or have bonds issued on its behalf by a unit of
770 local government pursuant to subparagraph (q)2. in the absence
771 of a hurricane or other weather-related event, upon a
772 determination by the corporation, subject to approval by the
773 office, that such action would enable it to efficiently meet the
774 financial obligations of the corporation and that such
775 financings are reasonably necessary to effectuate the
776 requirements of this subsection. The corporation may take all
777 actions needed to facilitate tax-free status for such bonds or
778 indebtedness, including formation of trusts or other affiliated
779 entities. The corporation may pledge assessments, projected
780 recoveries from the Florida Hurricane Catastrophe Fund, other
781 reinsurance recoverables, policyholder surcharges ~~market~~
782 ~~equalization~~ and other surcharges, and other funds available to
783 the corporation as security for bonds or other indebtedness. In
784 recognition of s. 10, Art. I of the State Constitution,
785 prohibiting the impairment of obligations of contracts, it is
786 the intent of the Legislature that no action be taken whose
787 purpose is to impair any bond indenture or financing agreement
788 or any revenue source committed by contract to such bond or
789 other indebtedness.
790 b. To ensure that the corporation is operating in an
791 efficient and economic manner while providing quality service to
792 policyholders, applicants, and agents, the board shall
793 commission an independent third-party consultant having
794 expertise in insurance company management or insurance company
795 management consulting to prepare a report and make
796 recommendations on the relative costs and benefits of

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797 outsourcing various policy issuance and service functions to
798 private servicing carriers or entities performing similar
799 functions in the private market for a fee, rather than
800 performing such functions in-house. In making such
801 recommendations, the consultant shall consider how other
802 residual markets, both in this state and around the country,
803 outsource appropriate functions or use servicing carriers to
804 better match expenses with revenues that fluctuate based on a
805 widely varying policy count. The report must be completed by
806 July 1, 2012. Upon receiving the report, the board shall develop
807 a plan to implement the report and submit the plan for review,
808 modification, and approval to the Financial Services Commission.
809 Upon the commission's approval of the plan, the board shall
810 begin implementing the plan by January 1, 2013.
811 4. Must require that the corporation operate subject to the
812 supervision and approval of a board of governors consisting of
813 eight individuals who are residents of this state, from
814 different geographical areas of this state.
815 a. The Governor, the Chief Financial Officer, the President
816 of the Senate, and the Speaker of the House of Representatives
817 shall each appoint two members of the board. At least one of the
818 two members appointed by each appointing officer must have
819 demonstrated expertise in insurance and is deemed to be within
820 the scope of the exemption provided in s. 112.313(7)(b). The
821 Chief Financial Officer shall designate one of the appointees as
822 chair. All board members serve at the pleasure of the appointing
823 officer. All members of the board are subject to removal at will
824 by the officers who appointed them. All board members, including
825 the chair, must be appointed to serve for 3-year terms beginning

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826 annually on a date designated by the plan. However, for the
827 first term beginning on or after July 1, 2009, each appointing
828 officer shall appoint one member of the board for a 2-year term
829 and one member for a 3-year term. A board vacancy shall be
830 filled for the unexpired term by the appointing officer. The
831 Chief Financial Officer shall appoint a technical advisory group
832 to provide information and advice to the board in connection
833 with the board's duties under this subsection. The executive
834 director and senior managers of the corporation shall be engaged
835 by the board and serve at the pleasure of the board. Any
836 executive director appointed on or after July 1, 2006, is
837 subject to confirmation by the Senate. The executive director is
838 responsible for employing other staff as the corporation may
839 require, subject to review and concurrence by the board.
840 b. The board shall create a Market Accountability Advisory
841 Committee to assist the corporation in developing awareness of
842 its rates and its customer and agent service levels in
843 relationship to the voluntary market insurers writing similar
844 coverage.
845 (I) The members of the advisory committee consist of the
846 following 11 persons, one of whom must be elected chair by the
847 members of the committee: four representatives, one appointed by
848 the Florida Association of Insurance Agents, one by the Florida
849 Association of Insurance and Financial Advisors, one by the
850 Professional Insurance Agents of Florida, and one by the Latin
851 American Association of Insurance Agencies; three
852 representatives appointed by the insurers with the three highest
853 voluntary market share of residential property insurance
854 business in the state; one representative from the Office of

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855 Insurance Regulation; one consumer appointed by the board who is
856 insured by the corporation at the time of appointment to the
857 committee; one representative appointed by the Florida
858 Association of Realtors; and one representative appointed by the
859 Florida Bankers Association. All members shall be appointed to
860 3-year terms and may serve for consecutive terms.
861 (II) The committee shall report to the corporation at each
862 board meeting on insurance market issues which may include rates
863 and rate competition with the voluntary market; service,
864 including policy issuance, claims processing, and general
865 responsiveness to policyholders, applicants, and agents; and
866 matters relating to depopulation.
867 5. Must provide a procedure for determining the eligibility
868 of a risk for coverage, as follows:
869 a. Subject to s. 627.3517, with respect to personal lines
870 residential risks, if the risk is offered coverage from an
871 authorized insurer at the insurer’s approved rate under a
872 standard policy including wind coverage or, if consistent with
873 the insurer’s underwriting rules as filed with the office, a
874 basic policy including wind coverage, for a new application to
875 the corporation for coverage, the risk is not eligible for any
876 policy issued by the corporation unless the premium for coverage
877 from the authorized insurer is more than 15 percent greater than
878 the premium for comparable coverage from the corporation. If the
879 risk is not able to obtain such offer, the risk is eligible for
880 a standard policy including wind coverage or a basic policy
881 including wind coverage issued by the corporation; however, if
882 the risk could not be insured under a standard policy including
883 wind coverage regardless of market conditions, the risk is

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884 eligible for a basic policy including wind coverage unless
885 rejected under subparagraph 8. However, a policyholder of the
886 corporation or a policyholder removed from the corporation
887 through an assumption agreement until the end of the assumption
888 period remains eligible for coverage from the corporation
889 regardless of any offer of coverage from an authorized insurer
890 or surplus lines insurer. The corporation shall determine the
891 type of policy to be provided on the basis of objective
892 standards specified in the underwriting manual and based on
893 generally accepted underwriting practices.
894 (I) If the risk accepts an offer of coverage through the
895 market assistance plan or through a mechanism established by the
896 corporation before a policy is issued to the risk by the
897 corporation or during the first 30 days of coverage by the
898 corporation, and the producing agent who submitted the
899 application to the plan or to the corporation is not currently
900 appointed by the insurer, the insurer shall:
901 (A) Pay to the producing agent of record of the policy for
902 the first year, an amount that is the greater of the insurer's
903 usual and customary commission for the type of policy written or
904 a fee equal to the usual and customary commission of the
905 corporation; or
906 (B) Offer to allow the producing agent of record of the
907 policy to continue servicing the policy for at least 1 year and
908 offer to pay the agent the greater of the insurer's or the
909 corporation's usual and customary commission for the type of
910 policy written.
911
912 If the producing agent is unwilling or unable to accept

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913 appointment, the new insurer shall pay the agent in accordance
914 with sub-sub-sub-subparagraph (A).
915 (II) If the corporation enters into a contractual agreement
916 for a take-out plan, the producing agent of record of the
917 corporation policy is entitled to retain any unearned commission
918 on the policy, and the insurer shall:
919 (A) Pay to the producing agent of record, for the first
920 year, an amount that is the greater of the insurer's usual and
921 customary commission for the type of policy written or a fee
922 equal to the usual and customary commission of the corporation;
923 or
924 (B) Offer to allow the producing agent of record to
925 continue servicing the policy for at least 1 year and offer to
926 pay the agent the greater of the insurer's or the corporation's
927 usual and customary commission for the type of policy written.
928
929 If the producing agent is unwilling or unable to accept
930 appointment, the new insurer shall pay the agent in accordance
931 with sub-sub-sub-subparagraph (A).
932 b. With respect to commercial lines residential risks, for
933 a new application to the corporation for coverage, if the risk
934 is offered coverage under a policy including wind coverage from
935 an authorized insurer at its approved rate, the risk is not
936 eligible for a policy issued by the corporation unless the
937 premium for coverage from the authorized insurer is more than 15
938 percent greater than the premium for comparable coverage from
939 the corporation. If the risk is not able to obtain any such
940 offer, the risk is eligible for a policy including wind coverage
941 issued by the corporation. However, a policyholder of the

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942 corporation or a policyholder removed from the corporation
943 through an assumption agreement until the end of the assumption
944 period remains eligible for coverage from the corporation
945 regardless of an offer of coverage from an authorized insurer or
946 surplus lines insurer.
947 (I) If the risk accepts an offer of coverage through the
948 market assistance plan or through a mechanism established by the
949 corporation before a policy is issued to the risk by the
950 corporation or during the first 30 days of coverage by the
951 corporation, and the producing agent who submitted the
952 application to the plan or the corporation is not currently
953 appointed by the insurer, the insurer shall:
954 (A) Pay to the producing agent of record of the policy, for
955 the first year, an amount that is the greater of the insurer's
956 usual and customary commission for the type of policy written or
957 a fee equal to the usual and customary commission of the
958 corporation; or
959 (B) Offer to allow the producing agent of record of the
960 policy to continue servicing the policy for at least 1 year and
961 offer to pay the agent the greater of the insurer's or the
962 corporation's usual and customary commission for the type of
963 policy written.
964
965 If the producing agent is unwilling or unable to accept
966 appointment, the new insurer shall pay the agent in accordance
967 with sub-sub-sub-subparagraph (A).
968 (II) If the corporation enters into a contractual agreement
969 for a take-out plan, the producing agent of record of the
970 corporation policy is entitled to retain any unearned commission

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971 on the policy, and the insurer shall:
972 (A) Pay to the producing agent of record, for the first
973 year, an amount that is the greater of the insurer’s usual and
974 customary commission for the type of policy written or a fee
975 equal to the usual and customary commission of the corporation;
976 or
977 (B) Offer to allow the producing agent of record to
978 continue servicing the policy for at least 1 year and offer to
979 pay the agent the greater of the insurer’s or the corporation’s
980 usual and customary commission for the type of policy written.
981
982 If the producing agent is unwilling or unable to accept
983 appointment, the new insurer shall pay the agent in accordance
984 with sub-sub-sub-subparagraph (A).
985 c. For purposes of determining comparable coverage under
986 sub-subparagraphs a. and b., the comparison must be based on
987 those forms and coverages that are reasonably comparable. The
988 corporation may rely on a determination of comparable coverage
989 and premium made by the producing agent who submits the
990 application to the corporation, made in the agent’s capacity as
991 the corporation’s agent. A comparison may be made solely of the
992 premium with respect to the main building or structure only on
993 the following basis: the same coverage A or other building
994 limits; the same percentage hurricane deductible that applies on
995 an annual basis or that applies to each hurricane for commercial
996 residential property; the same percentage of ordinance and law
997 coverage, if the same limit is offered by both the corporation
998 and the authorized insurer; the same mitigation credits, to the
999 extent the same types of credits are offered both by the

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1000 corporation and the authorized insurer; the same method for loss
1001 payment, such as replacement cost or actual cash value, if the
1002 same method is offered both by the corporation and the
1003 authorized insurer in accordance with underwriting rules; and
1004 any other form or coverage that is reasonably comparable as
1005 determined by the board. If an application is submitted to the
1006 corporation for wind-only coverage in the coastal account, the
1007 premium for the corporation’s wind-only policy plus the premium
1008 for the ex-wind policy that is offered by an authorized insurer
1009 to the applicant must be compared to the premium for multiperil
1010 coverage offered by an authorized insurer, subject to the
1011 standards for comparison specified in this subparagraph. If the
1012 corporation or the applicant requests from the authorized
1013 insurer a breakdown of the premium of the offer by types of
1014 coverage so that a comparison may be made by the corporation or
1015 its agent and the authorized insurer refuses or is unable to
1016 provide such information, the corporation may treat the offer as
1017 not being an offer of coverage from an authorized insurer at the
1018 insurer’s approved rate.
1019 6. Must include rules for classifications of risks and
1020 rates.
1021 7. Must provide that if premium and investment income for
1022 an account attributable to a particular calendar year are in
1023 excess of projected losses and expenses for the account
1024 attributable to that year, such excess shall be held in surplus
1025 in the account. Such surplus must be available to defray
1026 deficits in that account as to future years and used for that
1027 purpose before assessing assessable insurers and assessable
1028 insureds as to any calendar year.

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1029 8. Must provide objective criteria and procedures to be
1030 uniformly applied to all applicants in determining whether an
1031 individual risk is so hazardous as to be uninsurable. In making
1032 this determination and in establishing the criteria and
1033 procedures, the following must be considered:
1034 a. Whether the likelihood of a loss for the individual risk
1035 is substantially higher than for other risks of the same class;
1036 and
1037 b. Whether the uncertainty associated with the individual
1038 risk is such that an appropriate premium cannot be determined.
1039
1040 The acceptance or rejection of a risk by the corporation shall
1041 be construed as the private placement of insurance, and the
1042 provisions of chapter 120 do not apply.
1043 9. Must provide that the corporation make its best efforts
1044 to procure catastrophe reinsurance at reasonable rates, to cover
1045 its projected 100-year probable maximum loss as determined by
1046 the board of governors.
1047 10. Must ensure that the policies issued by the corporation
1048 ~~must~~ provide that if the corporation or the market assistance
1049 plan obtains an offer from an authorized insurer to cover the
1050 risk at its approved rates, the risk is no longer eligible for
1051 renewal through the corporation, except as otherwise provided in
1052 this subsection.
1053 11. Must ensure that corporation policies and applications
1054 ~~must~~ include a notice that the corporation policy could, under
1055 this section, be replaced with a policy issued by an authorized
1056 insurer which does not provide coverage identical to the
1057 coverage provided by the corporation. The notice must also

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1058 specify that acceptance of corporation coverage creates a
1059 conclusive presumption that the applicant or policyholder is
1060 aware of this potential.
1061 12. May establish, subject to approval by the office,
1062 different eligibility requirements and operational procedures
1063 for any line or type of coverage for any specified county or
1064 area if the board determines that such changes are justified due
1065 to the voluntary market being sufficiently stable and
1066 competitive in such area or for such line or type of coverage
1067 and that consumers who, in good faith, are unable to obtain
1068 insurance through the voluntary market through ordinary methods
1069 continue to have access to coverage from the corporation. If
1070 coverage is sought in connection with a real property transfer,
1071 the requirements and procedures may not provide an effective
1072 date of coverage later than the date of the closing of the
1073 transfer as established by the transferor, the transferee, and,
1074 if applicable, the lender.
1075 13. Must provide that, with respect to the coastal account,
1076 any assessable insurer with a surplus as to policyholders of $25
1077 million or less writing 25 percent or more of its total
1078 countrywide property insurance premiums in this state may
1079 petition the office, within the first 90 days of each calendar
1080 year, to qualify as a limited apportionment company. A regular
1081 assessment levied by the corporation on a limited apportionment
1082 company for a deficit incurred by the corporation for the
1083 coastal account may be paid to the corporation on a monthly
1084 basis as the assessments are collected by the limited
1085 apportionment company from its insureds ~~pursuant to s. 627.3512~~,
1086 but a limited apportionment company must begin collecting the

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1087 regular assessments not later than 90 days after the regular
1088 assessments are levied by the corporation, and the regular
1089 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months
1090 after being levied by the corporation. A limited apportionment
1091 company shall collect from its policyholders any emergency
1092 assessment imposed under sub-subparagraph (b)3.d. The plan must
1093 provide that, if the office determines that any regular
1094 assessment will result in an impairment of the surplus of a
1095 limited apportionment company, the office may direct that all or
1096 part of such assessment be deferred as provided in subparagraph
1097 (q)4. However, an emergency assessment to be collected from
1098 policyholders under sub-subparagraph (b)3.d. may not be limited
1099 or deferred.
1100 14. Must provide that the corporation appoint as its
1101 licensed agents only those agents who also hold an appointment
1102 as defined in s. 626.015(3) with an insurer who at the time of
1103 the agent's initial appointment by the corporation is authorized
1104 to write and is actually writing personal lines residential
1105 property coverage, commercial residential property coverage, or
1106 commercial nonresidential property coverage within the state.
1107 15. Must provide a premium payment plan option to its
1108 policyholders which, at a minimum, allows for quarterly and
1109 semiannual payment of premiums. A monthly payment plan may, but
1110 is not required to, be offered.
1111 16. Must limit coverage on mobile homes or manufactured
1112 homes built before 1994 to actual cash value of the dwelling
1113 rather than replacement costs of the dwelling.
1114 17. May provide such limits of coverage as the board
1115 determines, consistent with the requirements of this subsection.

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1116 18. May require commercial property to meet specified
1117 hurricane mitigation construction features as a condition of
1118 eligibility for coverage.
1119 19. Must provide that new or renewal policies issued by the
1120 corporation on or after January 1, 2012, which cover sinkhole
1121 loss do not include coverage for any loss to appurtenant
1122 structures, driveways, sidewalks, decks, or patios that are
1123 directly or indirectly caused by sinkhole activity. The
1124 corporation shall exclude such coverage using a notice of
1125 coverage change, which may be included with the policy renewal,
1126 and not by issuance of a notice of nonrenewal of the excluded
1127 coverage upon renewal of the current policy.
1128 20. As of January 1, 2012, must require that the agent
1129 obtain from an applicant for coverage from the corporation an
1130 acknowledgement signed by the applicant, which includes, at a
1131 minimum, the following statement:
1132
1133 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGEAND ASSESSMENT LIABILITY:
1134
1135 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1136 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1137 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1138 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1139 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1140 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1141 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1142 LEGISLATURE.
1143 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1144 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER

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1145 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1146 FLORIDA LEGISLATURE.
1147 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1148 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1149 STATE OF FLORIDA.
1150
1151 a. The corporation shall maintain, in electronic format or
1152 otherwise, a copy of the applicant's signed acknowledgement and
1153 provide a copy of the statement to the policyholder as part of
1154 the first renewal after the effective date of this subparagraph.
1155 b. The signed acknowledgement form creates a conclusive
1156 presumption that the policyholder understood and accepted his or
1157 her potential surcharge and assessment liability as a
1158 policyholder of the corporation.
1159 (q)1. The corporation shall certify to the office its needs
1160 for annual assessments as to a particular calendar year, and for
1161 any interim assessments that it deems to be necessary to sustain
1162 operations as to a particular year pending the receipt of annual
1163 assessments. Upon verification, the office shall approve such
1164 certification, and the corporation shall levy such annual or
1165 interim assessments. Such assessments shall be prorated as
1166 provided in paragraph (b). The corporation shall take all
1167 reasonable and prudent steps necessary to collect the amount of
1168 assessments ~~assessment~~ due from each assessable insurer,
1169 including, if prudent, filing suit to collect the assessments,
1170 and the office may provide such assistance to the corporation it
1171 deems appropriate ~~such assessment~~. If the corporation is unable
1172 to collect an assessment from any assessable insurer, the
1173 uncollected assessments shall be levied as an additional

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1174 assessment against the assessable insurers and any assessable
1175 insurer required to pay an additional assessment as a result of
1176 such failure to pay shall have a cause of action against such
1177 nonpaying assessable insurer. Assessments shall be included as
1178 an appropriate factor in the making of rates. The failure of a
1179 surplus lines agent to collect and remit any regular or
1180 emergency assessment levied by the corporation is considered to
1181 be a violation of s. 626.936 and subjects the surplus lines
1182 agent to the penalties provided in that section.
1183 2. The governing body of any unit of local government, any
1184 residents of which are insured by the corporation, may issue
1185 bonds as defined in s. 125.013 or s. 166.101 from time to time
1186 to fund an assistance program, in conjunction with the
1187 corporation, for the purpose of defraying deficits of the
1188 corporation. In order to avoid needless and indiscriminate
1189 proliferation, duplication, and fragmentation of such assistance
1190 programs, any unit of local government, any residents of which
1191 are insured by the corporation, may provide for the payment of
1192 losses, regardless of whether or not the losses occurred within
1193 or outside of the territorial jurisdiction of the local
1194 government. Revenue bonds under this subparagraph may not be
1195 issued until validated pursuant to chapter 75, unless a state of
1196 emergency is declared by executive order or proclamation of the
1197 Governor pursuant to s. 252.36 making such findings as are
1198 necessary to determine that it is in the best interests of, and
1199 necessary for, the protection of the public health, safety, and
1200 general welfare of residents of this state and declaring it an
1201 essential public purpose to permit certain municipalities or
1202 counties to issue such bonds as will permit relief to claimants

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1203 and policyholders of the corporation. Any such unit of local
1204 government may enter into such contracts with the corporation
1205 and with any other entity created pursuant to this subsection as
1206 are necessary to carry out this paragraph. Any bonds issued
1207 under this subparagraph shall be payable from and secured by
1208 moneys received by the corporation from emergency assessments
1209 under sub-subparagraph (b)3.d., and assigned and pledged to or
1210 on behalf of the unit of local government for the benefit of the
1211 holders of such bonds. The funds, credit, property, and taxing
1212 power of the state or of the unit of local government shall not
1213 be pledged for the payment of such bonds.
1214 3.a. The corporation shall adopt one or more programs
1215 subject to approval by the office for the reduction of both new
1216 and renewal writings in the corporation. Beginning January 1,
1217 2008, any program the corporation adopts for the payment of
1218 bonuses to an insurer for each risk the insurer removes from the
1219 corporation shall comply with s. 627.3511(2) and may not exceed
1220 the amount referenced in s. 627.3511(2) for each risk removed.
1221 The corporation may consider any prudent and not unfairly
1222 discriminatory approach to reducing corporation writings, and
1223 may adopt a credit against assessment liability or other
1224 liability that provides an incentive for insurers to take risks
1225 out of the corporation and to keep risks out of the corporation
1226 by maintaining or increasing voluntary writings in counties or
1227 areas in which corporation risks are highly concentrated and a
1228 program to provide a formula under which an insurer voluntarily
1229 taking risks out of the corporation by maintaining or increasing
1230 voluntary writings will be relieved wholly or partially from
1231 assessments under sub-subparagraphs (b)3.a. and b. However, any

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1232 "take-out bonus" or payment to an insurer must be conditioned on
1233 the property being insured for at least 5 years by the insurer,
1234 unless canceled or nonrenewed by the policyholder. If the policy
1235 is canceled or nonrenewed by the policyholder before the end of
1236 the 5-year period, the amount of the take-out bonus must be
1237 prorated for the time period the policy was insured. When the
1238 corporation enters into a contractual agreement for a take-out
1239 plan, the producing agent of record of the corporation policy is
1240 entitled to retain any unearned commission on such policy, and
1241 the insurer shall either:
1242 (I) Pay to the producing agent of record of the policy, for
1243 the first year, an amount which is the greater of the insurer's
1244 usual and customary commission for the type of policy written or
1245 a policy fee equal to the usual and customary commission of the
1246 corporation; or
1247 (II) Offer to allow the producing agent of record of the
1248 policy to continue servicing the policy for a period of not less
1249 than 1 year and offer to pay the agent the insurer's usual and
1250 customary commission for the type of policy written. If the
1251 producing agent is unwilling or unable to accept appointment by
1252 the new insurer, the new insurer shall pay the agent in
1253 accordance with sub-sub-subparagraph (I).
1254 b. Any credit or exemption from regular assessments adopted
1255 under this subparagraph shall last no longer than the 3 years
1256 following the cancellation or expiration of the policy by the
1257 corporation. With the approval of the office, the board may
1258 extend such credits for an additional year if the insurer
1259 guarantees an additional year of renewability for all policies
1260 removed from the corporation, or for 2 additional years if the

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1261 insurer guarantees 2 additional years of renewability for all
1262 policies so removed.
1263 c. There shall be no credit, limitation, exemption, or
1264 deferment from emergency assessments to be collected from
1265 policyholders pursuant to sub-subparagraph (b)3.d.
1266 4. The plan shall provide for the deferment, in whole or in
1267 part, of the assessment of an assessable insurer, other than an
1268 emergency assessment collected from policyholders pursuant to
1269 sub-subparagraph (b)3.d., if the office finds that payment of
1270 the assessment would endanger or impair the solvency of the
1271 insurer. In the event an assessment against an assessable
1272 insurer is deferred in whole or in part, the amount by which
1273 such assessment is deferred may be assessed against the other
1274 assessable insurers in a manner consistent with the basis for
1275 assessments set forth in paragraph (b).
1276 5. Effective July 1, 2007, in order to evaluate the costs
1277 and benefits of approved take-out plans, if the corporation pays
1278 a bonus or other payment to an insurer for an approved take-out
1279 plan, it shall maintain a record of the address or such other
1280 identifying information on the property or risk removed in order
1281 to track if and when the property or risk is later insured by
1282 the corporation.
1283 6. Any policy taken out, assumed, or removed from the
1284 corporation is, as of the effective date of the take-out,
1285 assumption, or removal, direct insurance issued by the insurer
1286 and not by the corporation, even if the corporation continues to
1287 service the policies. This subparagraph applies to policies of
1288 the corporation and not policies taken out, assumed, or removed
1289 from any other entity.

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1290 (w) Notwithstanding any other provision of law:
1291 1. The pledge or sale of, the lien upon, and the security
1292 interest in any rights, revenues, or other assets of the
1293 corporation created or purported to be created pursuant to any
1294 financing documents to secure any bonds or other indebtedness of
1295 the corporation shall be and remain valid and enforceable,
1296 notwithstanding the commencement of and during the continuation
1297 of, and after, any rehabilitation, insolvency, liquidation,
1298 bankruptcy, receivership, conservatorship, reorganization, or
1299 similar proceeding against the corporation under the laws of
1300 this state.
1301 2. The ~~No such~~ proceeding does not ~~shall~~ relieve the
1302 corporation of its obligation, or otherwise affect its ability
1303 to perform its obligation, to continue to collect, or levy and
1304 collect, assessments, policyholder surcharges ~~market~~
1305 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.
1306 ~~subparagraph (c)10.~~, or any other rights, revenues, or other
1307 assets of the corporation pledged pursuant to any financing
1308 documents.
1309 3. Each such pledge or sale of, lien upon, and security
1310 interest in, including the priority of such pledge, lien, or
1311 security interest, any such assessments, policyholder surcharges
1312 ~~market equalization~~ or other surcharges, or other rights,
1313 revenues, or other assets which are collected, or levied and
1314 collected, after the commencement of and during the pendency of,
1315 or after, any such proceeding shall continue unaffected by such
1316 proceeding. As used in this subsection, the term “financing
1317 documents” means any agreement or agreements, instrument or
1318 instruments, or other document or documents now existing or

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1319 hereafter created evidencing any bonds or other indebtedness of
1320 the corporation or pursuant to which any such bonds or other
1321 indebtedness has been or may be issued and pursuant to which any
1322 rights, revenues, or other assets of the corporation are pledged
1323 or sold to secure the repayment of such bonds or indebtedness,
1324 together with the payment of interest on such bonds or such
1325 indebtedness, or the payment of any other obligation or
1326 financial product, as defined in the plan of operation of the
1327 corporation related to such bonds or indebtedness.
1328 4. Any such pledge or sale of assessments, revenues,
1329 contract rights, or other rights or assets of the corporation
1330 shall constitute a lien and security interest, or sale, as the
1331 case may be, that is immediately effective and attaches to such
1332 assessments, revenues, or contract rights or other rights or
1333 assets, whether or not imposed or collected at the time the
1334 pledge or sale is made. Any such pledge or sale is effective,
1335 valid, binding, and enforceable against the corporation or other
1336 entity making such pledge or sale, and valid and binding against
1337 and superior to any competing claims or obligations owed to any
1338 other person or entity, including policyholders in this state,
1339 asserting rights in any such assessments, revenues, or contract
1340 rights or other rights or assets to the extent set forth in and
1341 in accordance with the terms of the pledge or sale contained in
1342 the applicable financing documents, whether or not any such
1343 person or entity has notice of such pledge or sale and without
1344 the need for any physical delivery, recordation, filing, or
1345 other action.
1346 5. As long as the corporation has any bonds outstanding,
1347 the corporation may not file a voluntary petition under chapter

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1348 9 of the federal Bankruptcy Code or such corresponding chapter
1349 or sections as may be in effect, from time to time, and a public
1350 officer or any organization, entity, or other person may not
1351 authorize the corporation to be or become a debtor under chapter
1352 9 of the federal Bankruptcy Code or such corresponding chapter
1353 or sections as may be in effect, from time to time, during any
1354 such period.
1355 6. If ordered by a court of competent jurisdiction, the
1356 corporation may assume policies or otherwise provide coverage
1357 for policyholders of an insurer placed in liquidation under
1358 chapter 631, under such forms, rates, terms, and conditions as
1359 the corporation deems appropriate, subject to approval by the
1360 office.
1361 Section 3. Except as otherwise expressly provided in this
1362 act, this act shall take effect upon becoming law.
1363
1364 ========== T I T L E A M E N D M E N T ==========
1365 And the title is amended as follows:
1366 Delete everything before the enacting clause
1367 and insert:
1368 A bill to be entitled
1369 An act relating to property insurance; amending s.
1370 215.555, F.S.; revising the definition of “retention”;
1371 providing for calculation of an insurer’s
1372 reimbursement premium and retention under the
1373 reimbursement contract; revising coverage levels
1374 available under the reimbursement contract; revising
1375 aggregate coverage limits; providing for the phase-in
1376 of changes to coverage levels and limits; amending s.

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1377 627.351, F.S.; conforming cross-references; reducing
1378 to 2 percent from 6 percent the amount of the
1379 projected deficit in the coastal account for the prior
1380 calendar year which is recovered through regular
1381 assessments; requiring that remaining projected
1382 deficits in personal and commercial lines accounts be
1383 recovered through emergency assessments after
1384 accounting for the Citizens policyholder surcharge;
1385 requiring the Office of Insurance Regulation of the
1386 Financial Services Commission to notify assessable
1387 insurers and the Florida Surplus Lines Service Office
1388 of the dates assessable insurers shall collect and pay
1389 emergency assessments; removing reference to
1390 recoupment of residual market deficit assessments;
1391 requiring the board of governors to make a
1392 determination that an account has a projected deficit
1393 before it levies a Citizens policy holder surcharge;
1394 requiring that a limited apportionment company begin
1395 collecting regular assessments within 90 days and pay
1396 in full within 15 months after the assessment is
1397 levied; authorizing the Office of Insurance Regulation
1398 to assist the Citizens Property Insurance Corporation
1399 in the collection of assessments; replacing the term
1400 “market equalization surcharge” with the term
1401 “policyholder surcharge”; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Alexander) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 31 and 32
4 insert:
5 Section 1. Effective upon this act becoming a law,
6 paragraph (e) of subsection (2) and paragraphs (b) and (c) of
7 subsection (4) of section 215.555, Florida Statutes, are amended
8 to read:
9 215.555 Florida Hurricane Catastrophe Fund.—
10 (2) DEFINITIONS.—As used in this section:
11 (e) “Retention” means the amount of losses below which an
12 insurer is not entitled to reimbursement from the fund. An
13 insurer’s retention shall be calculated as follows:

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14 1. The board shall calculate and report to each insurer the
15 retention multiples for that year.
16 a. For the contract year beginning June 1, 2005, the
17 retention multiple shall be equal to $4.5 billion divided by the
18 total estimated reimbursement premium for the contract year; for
19 subsequent years, the retention multiple shall be equal to $4.5
20 billion, adjusted based upon the reported exposure for the
21 contract year occurring 2 years before the particular contract
22 year to reflect the percentage growth in exposure to the fund
23 for covered policies since 2004, divided by the total estimated
24 reimbursement premium for the contract year.
25 b. For the 2012-2013 contract year, the total reimbursement
26 premium for purposes of the calculation under this subparagraph
27 shall be estimated using the assumption that all insurers have
28 selected the 90-percent coverage level.
29 c. In order to implement the phase-in of reduced coverage
30 levels as provided in paragraph (4)(b), total reimbursement
31 premium for purposes of the calculation under this subparagraph
32 shall be estimated using the following assumptions:
33 (I) For the 2013-2014 contract year, the assumption is that
34 all insurers have selected the 85-percent coverage level.
35 (II) For the 2014-2015 contract year and subsequent
36 contract years, the assumption is that all insurers have
37 selected the 80-percent coverage level.
38 2. The retention multiple as determined under subparagraph
39 1. shall be adjusted to reflect the coverage level elected by
40 the insurer.
41 a. For an insurer electing the maximum coverage level
42 available under paragraph (4)(b) for a particular contract year

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43 ~~For insurers electing the 90-percent coverage level~~, the
44 adjusted retention multiple is 100 percent of the amount
45 determined under subparagraph 1.
46 b. In order to implement the phase-in of reduced coverage
47 levels as provided in paragraph (4)(b), for an insurer electing
48 a coverage level other than the maximum coverage level, the
49 adjusted retention multiple is as follows:
50 (I) With respect to the 2012-2013 contract year, for an
51 insurer ~~For insurers~~ electing the 75-percent coverage level, the
52 retention multiple is 90/75ths ~~120 percent~~ of the amount
53 determined under subparagraph 1., and for an insurer ~~For~~
54 ~~insurers~~ electing the 45-percent coverage level, the adjusted
55 retention multiple is 90/45ths ~~200 percent~~ of the amount
56 determined under subparagraph 1.
57 (II) With respect to the 2013-2014 contract year, for an
58 insurer electing the 75-percent coverage level, the retention
59 multiple is 85/75ths of the amount determined under subparagraph
60 1., and for an insurer electing the 45-percent coverage level,
61 the retention multiple is 85/45ths of the amount determined
62 under subparagraph 1.
63 (III) With respect to the 2014-2015 contract year and
64 subsequent contract years, for an insurer electing the 75-
65 percent coverage level, the retention multiple is 80/75ths of
66 the amount determined under subparagraph 1., and for an insurer
67 electing the 45-percent coverage level, the retention multiple
68 is 80/45ths of the amount determined under subparagraph 1.
69 3. An insurer shall determine its provisional retention by
70 multiplying its provisional reimbursement premium by the
71 applicable adjusted retention multiple and shall determine its

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72 actual retention by multiplying its actual reimbursement premium
73 by the applicable adjusted retention multiple.
74 4. For insurers who experience multiple covered events
75 causing loss during the contract year, beginning June 1, 2005,
76 each insurer's full retention shall be applied to each of the
77 covered events causing the two largest losses for that insurer.
78 For each other covered event resulting in losses, the insurer's
79 retention shall be reduced to one-third of the full retention.
80 The reimbursement contract must ~~shall~~ provide for the
81 reimbursement of losses for each covered event based on the full
82 retention with adjustments made to reflect the reduced
83 retentions on or after January 1 of the contract year provided
84 the insurer reports its losses as specified in the reimbursement
85 contract.
86 (4) REIMBURSEMENT CONTRACTS.—
87 (b)1. The contract shall contain a promise by the board to
88 reimburse the insurer for a specified percentage ~~45 percent, 75~~
89 ~~percent, or 90 percent~~ of its losses from each covered event in
90 excess of the insurer's retention, plus 5 percent of the
91 reimbursed losses to cover loss adjustment expenses. The
92 available coverage levels are as follows:
93 a. For the 2012-2013 contract year, 90 percent, 75 percent,
94 and 45 percent.
95 b. For the 2013-2014 contract year, 85 percent, 75 percent,
96 and 45 percent.
97 c. For the 2014-2015 contract year and subsequent contract
98 years, 80 percent, 75 percent, and 45 percent.
99 2.a. The insurer must elect one of the percentage coverage
100 levels specified in this paragraph and may, upon renewal of a

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101 reimbursement contract, elect a lower percentage coverage level
102 if no revenue bonds issued under subsection (6) after a covered
103 event are outstanding, or elect a higher percentage coverage
104 level, regardless of whether or not revenue bonds are
105 outstanding. All members of an insurer group must elect the same
106 percentage coverage level. A ~~Any~~ joint underwriting association,
107 risk apportionment plan, or other entity created under s.
108 627.351 must elect the maximum ~~90-percent~~ coverage level
109 available under subparagraph 1.
110 b. In order to implement the phase-in of reduced coverage
111 levels as provided in subparagraph 1., and notwithstanding sub-
112 subparagraph a., if revenue bonds issued under subsection (6)
113 after a covered event are outstanding and the insurer has
114 elected the maximum coverage level available under subparagraph
115 1., the insurer must, upon renewal of the reimbursement
116 contract, elect the maximum coverage level available under
117 subparagraph 1. for the renewal contract year.
118 3. The contract must ~~shall~~ provide that reimbursement
119 amounts ~~shall~~ not be reduced by reinsurance paid or payable to
120 the insurer from other sources.
121 4. Notwithstanding any other provision ~~contained~~ in this
122 section, the board shall make available to insurers that
123 purchased coverage provided by this subparagraph in 2008,
124 insurers qualifying as limited apportionment companies under s.
125 627.351(6)(c), and insurers that have been approved to
126 participate in the Insurance Capital Build-Up Incentive Program
127 pursuant to s. 215.5595 a contract or contract addendum that
128 provides an additional amount of reimbursement coverage of up to
129 $10 million. The premium to be charged for this additional

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130 reimbursement coverage shall be 50 percent of the additional
131 reimbursement coverage provided, which must ~~shall~~ include one
132 prepaid reinstatement. The minimum retention level that an
133 eligible participating insurer must retain associated with this
134 additional coverage layer is 30 percent of the insurer's surplus
135 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
136 ~~December 31, 2009, for the 2010-2011 contract year; and~~ as of
137 December 31, 2010, for the 2011-2012 contract year. This
138 coverage is ~~shall be~~ in addition to all other coverage that may
139 be provided under this section. The coverage provided by the
140 fund under this subparagraph is ~~shall be~~ in addition to the
141 claims-paying capacity as defined in subparagraph (c)1., but
142 only with respect to those insurers that select the additional
143 coverage option and meet the requirements of this subparagraph.
144 The claims-paying capacity with respect to all other
145 participating insurers and limited apportionment companies that
146 do not select the additional coverage option shall be limited to
147 their reimbursement premium's proportionate share of the actual
148 claims-paying capacity otherwise defined in subparagraph (c)1.
149 and as provided for under the terms of the reimbursement
150 contract. The optional coverage retention as specified shall be
151 accessed before the mandatory coverage under the reimbursement
152 contract, but once the limit of coverage selected under this
153 option is exhausted, the insurer's retention under the mandatory
154 coverage applies ~~will apply~~. This coverage will apply and be
155 paid concurrently with mandatory coverage. This subparagraph
156 expires on May 31, 2012.
157 (c)1. The contract must ~~shall~~ also provide that the
158 obligation of the board with respect to all contracts covering a

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159 particular contract year ~~shall~~ not exceed the actual claims-
160 paying capacity of the fund up to the limit specified in this
161 subparagraph.
162 a. For the 2012-2013 contract year, the limit is $17
163 billion.
164 b. For the 2013-2014 contract year, the limit is $16
165 billion.
166 c. For the 2014-2015 contract year, the limit is $15
167 billion.
168 d. For contract years after the 2014-2015 contract year, if
169 ~~a limit of $17 billion for that contract year, unless~~ the board
170 determines that there is sufficient estimated claims-paying
171 capacity to provide $15 ~~$17~~ billion of capacity for the current
172 contract year and an additional $15 ~~$17~~ billion of capacity for
173 subsequent contract years~~. If the board makes such a~~
174 ~~determination~~, the estimated claims-paying capacity for the
175 particular contract year shall be determined by adding to the
176 $15 ~~$17~~ billion limit one-half of the fund's estimated claims-
177 paying capacity in excess of $30 ~~$34~~ billion. However, the
178 dollar growth in the limit may not increase in any year by an
179 amount greater than the dollar growth of the balance of the fund
180 as of December 31, ~~less any premiums or interest attributable to~~
181 ~~optional coverage,~~ as defined by rule, which occurred over the
182 prior calendar year.
183 2. In May and October of the contract year, the board shall
184 publish in the Florida Administrative Weekly a statement of the
185 fund's estimated borrowing capacity, the fund's estimated
186 claims-paying capacity, and the projected balance of the fund as
187 of December 31. After the end of each calendar year, the board

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188 shall notify insurers of the estimated borrowing capacity,
189 estimated claims-paying capacity, and the balance of the fund as
190 of December 31 to provide insurers with data necessary to assist
191 them in determining their retention and projected payout from
192 the fund for loss reimbursement purposes. In conjunction with
193 the development of the premium formula~~,~~ as provided ~~for~~ in
194 subsection (5), the board shall publish factors or multiples
195 that assist insurers in determining their retention and
196 projected payout for the next contract year. For all regulatory
197 and reinsurance purposes, an insurer may calculate its projected
198 payout from the fund as its share of the total fund premium for
199 the current contract year multiplied by the sum of the projected
200 balance of the fund as of December 31 and the estimated
201 borrowing capacity for that contract year as reported under this
202 subparagraph.
203
204 Delete line 1050
205 and insert:
206 Section 3. Except as otherwise expressly provided in this
207 act and except for this section, which shall take effect upon
208 this act becoming a law, this act shall take effect July 1,
209 2012.
210
211 ========== T I T L E A M E N D M E N T ==========
212 And the title is amended as follows:
213 Delete lines 2 - 3
214 and insert:
215 An act relating to property insurance; amending s.
216 215.555, F.S.; revising the definition of “retention”;

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217 providing for calculation of an insurer's
218 reimbursement premium and retention under the
219 reimbursement contract; revising coverage levels
220 available under the reimbursement contract; revising
221 aggregate coverage limits; providing for the phase-in
222 of changes to coverage levels and limits; amending s.
223 627.351, F.S.; conforming
224
225 Delete line 28
226 and insert:
227 providing effective dates.

By Senator Oelrich

14-01193C-12 20121346__

A bill to be entitled

An act relating to Citizens Property Insurance Corporation; amending s. 627.351, F.S.; conforming cross-references; reducing to 2 percent from 6 percent the amount of the projected deficit in the coastal account for the prior calendar year which is recovered through regular assessments; requiring that remaining projected deficits in personal and commercial lines accounts be recovered through emergency assessments after accounting for the Citizens policyholder surcharge; requiring the Office of Insurance Regulation of the Financial Services Commission to notify assessable insurers and the Florida Surplus Lines Service Office of the dates assessable insurers shall collect and pay emergency assessments; removing reference to recoupment of residual market deficit assessments; requiring the board of governors to make a determination that an account has a projected deficit before it levies a Citizens policy holder surcharge; requiring that a limited apportionment company begin collecting regular assessments within 90 days and pay in full within 15 months after the assessment is levied; authorizing the Office of Insurance Regulation to assist the Citizens Property Insurance Corporation in the collection of assessments; replacing the term "market equalization surcharge" with the term "policyholder surcharge"; providing an effective date.

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

14-01193C-12 20121346__

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

Section 1. Paragraphs (b), (c), (q), and (w) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation, or issued by the Residential Property and Casualty Joint Underwriting Association and renewed

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59 by the corporation, which provides comprehensive, multiperil
60 coverage on risks that are not located in areas eligible for
61 coverage by the Florida Windstorm Underwriting Association as
62 those areas were defined on January 1, 2002, and for policies
63 that do not provide coverage for the peril of wind on risks that
64 are located in such areas;
65 (II) A commercial lines account for commercial residential
66 and commercial nonresidential policies issued by the
67 corporation, or issued by the Residential Property and Casualty
68 Joint Underwriting Association and renewed by the corporation,
69 which provides coverage for basic property perils on risks that
70 are not located in areas eligible for coverage by the Florida
71 Windstorm Underwriting Association as those areas were defined
72 on January 1, 2002, and for policies that do not provide
73 coverage for the peril of wind on risks that are located in such
74 areas; and
75 (III) A coastal account for personal residential policies
76 and commercial residential and commercial nonresidential
77 property policies issued by the corporation, or transferred to
78 the corporation, which provides coverage for the peril of wind
79 on risks that are located in areas eligible for coverage by the
80 Florida Windstorm Underwriting Association as those areas were
81 defined on January 1, 2002. The corporation may offer policies
82 that provide multiperil coverage and the corporation shall
83 continue to offer policies that provide coverage only for the
84 peril of wind for risks located in areas eligible for coverage
85 in the coastal account. In issuing multiperil coverage, the
86 corporation may use its approved policy forms and rates for the
87 personal lines account. An applicant or insured who is eligible

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88 to purchase a multiperil policy from the corporation may
89 purchase a multiperil policy from an authorized insurer without
90 prejudice to the applicant's or insured's eligibility to
91 prospectively purchase a policy that provides coverage only for
92 the peril of wind from the corporation. An applicant or insured
93 who is eligible for a corporation policy that provides coverage
94 only for the peril of wind may elect to purchase or retain such
95 policy and also purchase or retain coverage excluding wind from
96 an authorized insurer without prejudice to the applicant's or
97 insured's eligibility to prospectively purchase a policy that
98 provides multiperil coverage from the corporation. It is the
99 goal of the Legislature that there be an overall average savings
100 of 10 percent or more for a policyholder who currently has a
101 wind-only policy with the corporation, and an ex-wind policy
102 with a voluntary insurer or the corporation, and who obtains a
103 multiperil policy from the corporation. It is the intent of the
104 Legislature that the offer of multiperil coverage in the coastal
105 account be made and implemented in a manner that does not
106 adversely affect the tax-exempt status of the corporation or
107 creditworthiness of or security for currently outstanding
108 financing obligations or credit facilities of the coastal
109 account, the personal lines account, or the commercial lines
110 account. The coastal account must also include quota share
111 primary insurance under subparagraph (c)2. The area eligible for
112 coverage under the coastal account also includes the area within
113 Port Canaveral, which is bordered on the south by the City of
114 Cape Canaveral, bordered on the west by the Banana River, and
115 bordered on the north by Federal Government property.
116 b. The three separate accounts must be maintained as long

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117 as financing obligations entered into by the Florida Windstorm
118 Underwriting Association or Residential Property and Casualty
119 Joint Underwriting Association are outstanding, in accordance
120 with the terms of the corresponding financing documents. If the
121 financing obligations are no longer outstanding, the corporation
122 may use a single account for all revenues, assets, liabilities,
123 losses, and expenses of the corporation. Consistent with this
124 subparagraph and prudent investment policies that minimize the
125 cost of carrying debt, the board shall exercise its best efforts
126 to retire existing debt or obtain the approval of necessary
127 parties to amend the terms of existing debt, so as to structure
128 the most efficient plan to consolidate the three separate
129 accounts into a single account.
130 c. Creditors of the Residential Property and Casualty Joint
131 Underwriting Association and the accounts specified in sub-sub-
132 subparagraphs a.(I) and (II) may have a claim against, and
133 recourse to, those accounts and no claim against, or recourse
134 to, the account referred to in sub-sub-subparagraph a.(III).
135 Creditors of the Florida Windstorm Underwriting Association have
136 a claim against, and recourse to, the account referred to in
137 sub-sub-subparagraph a.(III) and no claim against, or recourse
138 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
139 (II).
140 d. Revenues, assets, liabilities, losses, and expenses not
141 attributable to particular accounts shall be prorated among the
142 accounts.
143 e. The Legislature finds that the revenues of the
144 corporation are revenues that are necessary to meet the
145 requirements set forth in documents authorizing the issuance of

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146 bonds under this subsection.
147 f. ~~No part of~~ The income of the corporation may not inure
148 to the benefit of any private person.
149 3. With respect to a deficit in an account:
150 a. After accounting for the Citizens policyholder surcharge
151 imposed under sub-subparagraph i. ~~h.~~, if the remaining projected
152 deficit incurred in the coastal account in a particular calendar
153 year:
154 (I) Is not greater than 2 ~~6~~ percent of the aggregate
155 statewide direct written premium for the subject lines of
156 business for the prior calendar year, the entire deficit shall
157 be recovered through regular assessments of assessable insurers
158 under paragraph (q) and assessable insureds.
159 (II) Exceeds 2 ~~6~~ percent of the aggregate statewide direct
160 written premium for the subject lines of business for the prior
161 calendar year, the corporation shall levy regular assessments on
162 assessable insurers under paragraph (q) and on assessable
163 insureds in an amount equal to the greater of 2 ~~6~~ percent of the
164 projected deficit or 2 ~~6~~ percent of the aggregate statewide
165 direct written premium for the subject lines of business for the
166 prior calendar year. Any remaining projected deficit shall be
167 recovered through emergency assessments under sub-subparagraph
168 d. ~~e.~~
169 b. Each assessable insurer's share of the amount being
170 assessed under sub-subparagraph a. must be in the proportion
171 that the assessable insurer's direct written premium for the
172 subject lines of business for the year preceding the assessment
173 bears to the aggregate statewide direct written premium for the
174 subject lines of business for that year. The assessment

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175 percentage applicable to each assessable insured is the ratio of
176 the amount being assessed under sub-subparagraph a. to the
177 aggregate statewide direct written premium for the subject lines
178 of business for the prior year. Assessments levied by the
179 corporation on assessable insurers under sub-subparagraph a.
180 must be paid as required by the corporation's plan of operation
181 and paragraph (q). Assessments levied by the corporation on
182 assessable insureds under sub-subparagraph a. shall be collected
183 by the surplus lines agent at the time the surplus lines agent
184 collects the surplus lines tax required by s. 626.932, and paid
185 to the Florida Surplus Lines Service Office at the time the
186 surplus lines agent pays the surplus lines tax to that office.
187 Upon receipt of regular assessments from surplus lines agents,
188 the Florida Surplus Lines Service Office shall transfer the
189 assessments directly to the corporation as determined by the
190 corporation.
191 c. After accounting for the Citizens policyholder surcharge
192 imposed under sub-subparagraph i., the remaining projected
193 deficits in the personal lines account and in the commercial
194 lines account in a particular calendar year shall be recovered
195 through emergency assessments under sub-subparagraph d.
196 d.~~e.~~ Upon a determination by the board of governors that a
197 projected deficit in an account exceeds the amount that is
198 expected to ~~will~~ be recovered through regular assessments under
199 sub-subparagraph a., plus the amount that is expected to be
200 recovered through surcharges under sub-subparagraph i. ~~h.~~, the
201 board, after verification by the office, shall levy emergency
202 assessments for as many years as necessary to cover the
203 deficits, to be collected by assessable insurers and the

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204 corporation and collected from assessable insureds upon issuance
205 or renewal of policies for subject lines of business, excluding
206 National Flood Insurance policies. The amount collected in a
207 particular year must be a uniform percentage of that year's
208 direct written premium for subject lines of business and all
209 accounts of the corporation, excluding National Flood Insurance
210 Program policy premiums, as annually determined by the board and
211 verified by the office. The office shall verify the arithmetic
212 calculations involved in the board's determination within 30
213 days after receipt of the information on which the determination
214 was based. The office shall notify assessable insurers and the
215 Florida Surplus Lines Service Office of the date on which
216 assessable insurers shall begin to collect and assessable
217 insureds shall begin to pay such assessment. The date may be not
218 less than 90 days after the date the corporation levies
219 emergency assessments pursuant to this sub-subparagraph.
220 Notwithstanding any other provision of law, the corporation and
221 each assessable insurer that writes subject lines of business
222 shall collect emergency assessments from its policyholders
223 without such obligation being affected by any credit,
224 limitation, exemption, or deferment. Emergency assessments
225 levied by the corporation on assessable insureds shall be
226 collected by the surplus lines agent at the time the surplus
227 lines agent collects the surplus lines tax required by s.
228 626.932 and paid to the Florida Surplus Lines Service Office at
229 the time the surplus lines agent pays the surplus lines tax to
230 that office. The emergency assessments collected shall be
231 transferred directly to the corporation on a periodic basis as
232 determined by the corporation and held by the corporation solely

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233 in the applicable account. The aggregate amount of emergency
234 assessments levied for an account under this sub-subparagraph in
235 any calendar year may be less than but not exceed the greater of
236 10 percent of the amount needed to cover the deficit, plus
237 interest, fees, commissions, required reserves, and other costs
238 associated with financing the original deficit, or 10 percent of
239 the aggregate statewide direct written premium for subject lines
240 of business and all accounts of the corporation for the prior
241 year, plus interest, fees, commissions, required reserves, and
242 other costs associated with financing the deficit.
243 e.~~d.~~ The corporation may pledge the proceeds of
244 assessments, projected recoveries from the Florida Hurricane
245 Catastrophe Fund, other insurance and reinsurance recoverables,
246 policyholder surcharges and other surcharges, and other funds
247 available to the corporation as the source of revenue for and to
248 secure bonds issued under paragraph (q), bonds or other
249 indebtedness issued under subparagraph (c)3., or lines of credit
250 or other financing mechanisms issued or created under this
251 subsection, or to retire any other debt incurred as a result of
252 deficits or events giving rise to deficits, or in any other way
253 that the board determines will efficiently recover such
254 deficits. The purpose of the lines of credit or other financing
255 mechanisms is to provide additional resources to assist the
256 corporation in covering claims and expenses attributable to a
257 catastrophe. As used in this subsection, the term "assessments"
258 includes regular assessments under sub-subparagraph a. or
259 subparagraph (q)1. and emergency assessments under sub-
260 subparagraph d. Emergency assessments collected under sub-
261 subparagraph d. are not part of an insurer's rates, are not

262 premium, and are not subject to premium tax, fees, or
263 commissions; however, failure to pay the emergency assessment
264 shall be treated as failure to pay premium. The emergency
265 assessments under sub-subparagraph d. ~~c.~~ shall continue as long
266 as any bonds issued or other indebtedness incurred with respect
267 to a deficit for which the assessment was imposed remain
268 outstanding, unless adequate provision has been made for the
269 payment of such bonds or other indebtedness pursuant to the
270 documents governing such bonds or indebtedness.
271 f.~~e.~~ As used in this subsection for purposes of any deficit
272 incurred on or after January 25, 2007, the term "subject lines
273 of business" means insurance written by assessable insurers or
274 procured by assessable insureds for all property and casualty
275 lines of business in this state, but not including workers'
276 compensation or medical malpractice. As used in this sub-
277 subparagraph, the term "property and casualty lines of business"
278 includes all lines of business identified on Form 2, Exhibit of
279 Premiums and Losses, in the annual statement required of
280 authorized insurers under s. 624.424 and any rule adopted under
281 this section, except for those lines identified as accident and
282 health insurance and except for policies written under the
283 National Flood Insurance Program or the Federal Crop Insurance
284 Program. For purposes of this sub-subparagraph, the term
285 "workers' compensation" includes both workers' compensation
286 insurance and excess workers' compensation insurance.
287 g.~~f.~~ The Florida Surplus Lines Service Office shall
288 determine annually the aggregate statewide written premium in
289 subject lines of business procured by assessable insureds and
290 report that information to the corporation in a form and at a

291 time the corporation specifies to ensure that the corporation
292 can meet the requirements of this subsection and the
293 corporation's financing obligations.
294 h.~~g.~~ The Florida Surplus Lines Service Office shall verify
295 the proper application by surplus lines agents of assessment
296 percentages for regular assessments and emergency assessments
297 levied under this subparagraph on assessable insureds and assist
298 the corporation in ensuring the accurate, timely collection and
299 payment of assessments by surplus lines agents as required by
300 the corporation.
301 i.~~h.~~ ~~If a deficit is incurred in any account~~ In 2008 or
302 thereafter, upon a determination by the board of governors that
303 an account has a projected deficit, the board shall levy a
304 Citizens policyholder surcharge against all policyholders of the
305 corporation.
306 (I) The surcharge shall be levied as a uniform percentage
307 of the premium for the policy of up to 15 percent of such
308 premium, which funds shall be used to offset the deficit.
309 (II) The surcharge is payable upon cancellation or
310 termination of the policy, upon renewal of the policy, or upon
311 issuance of a new policy by the corporation within the first 12
312 months after the date of the levy or the period of time
313 necessary to fully collect the surcharge amount.
314 (III) The corporation may not levy any regular assessments
315 under paragraph (q) pursuant to sub-subparagraph a. or sub-
316 subparagraph b. with respect to a particular year's deficit
317 until the corporation has first levied the full amount of the
318 surcharge authorized by this sub-subparagraph.
319 (IV) The surcharge is not considered premium and is not

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320 subject to commissions, fees, or premium taxes. However, failure
321 to pay the surcharge shall be treated as failure to pay premium.
322 j.~~i.~~ If the amount of any assessments or surcharges
323 collected from corporation policyholders, assessable insurers or
324 their policyholders, or assessable insureds exceeds the amount
325 of the deficits, such excess amounts shall be remitted to and
326 retained by the corporation in a reserve to be used by the
327 corporation, as determined by the board of governors and
328 approved by the office, to pay claims or reduce any past,
329 present, or future plan-year deficits or to reduce outstanding
330 debt.
331 (c) The corporation's plan of operation:
332 1. Must provide for adoption of residential property and
333 casualty insurance policy forms and commercial residential and
334 nonresidential property insurance forms, which must be approved
335 by the office before use. The corporation shall adopt the
336 following policy forms:
337 a. Standard personal lines policy forms that are
338 comprehensive multiperil policies providing full coverage of a
339 residential property equivalent to the coverage provided in the
340 private insurance market under an HO-3, HO-4, or HO-6 policy.
341 b. Basic personal lines policy forms that are policies
342 similar to an HO-8 policy or a dwelling fire policy that provide
343 coverage meeting the requirements of the secondary mortgage
344 market, but which is more limited than the coverage under a
345 standard policy.
346 c. Commercial lines residential and nonresidential policy
347 forms that are generally similar to the basic perils of full
348 coverage obtainable for commercial residential structures and

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349 commercial nonresidential structures in the admitted voluntary
350 market.
351 d. Personal lines and commercial lines residential property
352 insurance forms that cover the peril of wind only. The forms are
353 applicable only to residential properties located in areas
354 eligible for coverage under the coastal account referred to in
355 sub-subparagraph (b)2.a.
356 e. Commercial lines nonresidential property insurance forms
357 that cover the peril of wind only. The forms are applicable only
358 to nonresidential properties located in areas eligible for
359 coverage under the coastal account referred to in sub-
360 subparagraph (b)2.a.
361 f. The corporation may adopt variations of the policy forms
362 listed in sub-subparagraphs a.-e. which contain more restrictive
363 coverage.
364 2. Must provide that the corporation adopt a program in
365 which the corporation and authorized insurers enter into quota
366 share primary insurance agreements for hurricane coverage, as
367 defined in s. 627.4025(2)(a), for eligible risks, and adopt
368 property insurance forms for eligible risks which cover the
369 peril of wind only.
370 a. As used in this subsection, the term:
371 (I) "Quota share primary insurance" means an arrangement in
372 which the primary hurricane coverage of an eligible risk is
373 provided in specified percentages by the corporation and an
374 authorized insurer. The corporation and authorized insurer are
375 each solely responsible for a specified percentage of hurricane
376 coverage of an eligible risk as set forth in a quota share
377 primary insurance agreement between the corporation and an

378 authorized insurer and the insurance contract. The
379 responsibility of the corporation or authorized insurer to pay
380 its specified percentage of hurricane losses of an eligible
381 risk, as set forth in the agreement, may not be altered by the
382 inability of the other party to pay its specified percentage of
383 losses. Eligible risks that are provided hurricane coverage
384 through a quota share primary insurance arrangement must be
385 provided policy forms that set forth the obligations of the
386 corporation and authorized insurer under the arrangement,
387 clearly specify the percentages of quota share primary insurance
388 provided by the corporation and authorized insurer, and
389 conspicuously and clearly state that the authorized insurer and
390 the corporation may not be held responsible beyond their
391 specified percentage of coverage of hurricane losses.
392 (II) "Eligible risks" means personal lines residential and
393 commercial lines residential risks that meet the underwriting
394 criteria of the corporation and are located in areas that were
395 eligible for coverage by the Florida Windstorm Underwriting
396 Association on January 1, 2002.
397 b. The corporation may enter into quota share primary
398 insurance agreements with authorized insurers at corporation
399 coverage levels of 90 percent and 50 percent.
400 c. If the corporation determines that additional coverage
401 levels are necessary to maximize participation in quota share
402 primary insurance agreements by authorized insurers, the
403 corporation may establish additional coverage levels. However,
404 the corporation's quota share primary insurance coverage level
405 may not exceed 90 percent.
406 d. Any quota share primary insurance agreement entered into

407 between an authorized insurer and the corporation must provide
408 for a uniform specified percentage of coverage of hurricane
409 losses, by county or territory as set forth by the corporation
410 board, for all eligible risks of the authorized insurer covered
411 under the agreement.
412 e. Any quota share primary insurance agreement entered into
413 between an authorized insurer and the corporation is subject to
414 review and approval by the office. However, such agreement shall
415 be authorized only as to insurance contracts entered into
416 between an authorized insurer and an insured who is already
417 insured by the corporation for wind coverage.
418 f. For all eligible risks covered under quota share primary
419 insurance agreements, the exposure and coverage levels for both
420 the corporation and authorized insurers shall be reported by the
421 corporation to the Florida Hurricane Catastrophe Fund. For all
422 policies of eligible risks covered under such agreements, the
423 corporation and the authorized insurer must maintain complete
424 and accurate records for the purpose of exposure and loss
425 reimbursement audits as required by fund rules. The corporation
426 and the authorized insurer shall each maintain duplicate copies
427 of policy declaration pages and supporting claims documents.
428 g. The corporation board shall establish in its plan of
429 operation standards for quota share agreements which ensure that
430 there is no discriminatory application among insurers as to the
431 terms of the agreements, pricing of the agreements, incentive
432 provisions if any, and consideration paid for servicing policies
433 or adjusting claims.
434 h. The quota share primary insurance agreement between the
435 corporation and an authorized insurer must set forth the

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436 specific terms under which coverage is provided, including, but
437 not limited to, the sale and servicing of policies issued under
438 the agreement by the insurance agent of the authorized insurer
439 producing the business, the reporting of information concerning
440 eligible risks, the payment of premium to the corporation, and
441 arrangements for the adjustment and payment of hurricane claims
442 incurred on eligible risks by the claims adjuster and personnel
443 of the authorized insurer. Entering into a quota sharing
444 insurance agreement between the corporation and an authorized
445 insurer is voluntary and at the discretion of the authorized
446 insurer.
447 3.a. May provide that the corporation may employ or
448 otherwise contract with individuals or other entities to provide
449 administrative or professional services that may be appropriate
450 to effectuate the plan. The corporation may borrow funds by
451 issuing bonds or by incurring other indebtedness, and shall have
452 other powers reasonably necessary to effectuate the requirements
453 of this subsection, including, without limitation, the power to
454 issue bonds and incur other indebtedness in order to refinance
455 outstanding bonds or other indebtedness. The corporation may
456 seek judicial validation of its bonds or other indebtedness
457 under chapter 75. The corporation may issue bonds or incur other
458 indebtedness, or have bonds issued on its behalf by a unit of
459 local government pursuant to subparagraph (q)2. in the absence
460 of a hurricane or other weather-related event, upon a
461 determination by the corporation, subject to approval by the
462 office, that such action would enable it to efficiently meet the
463 financial obligations of the corporation and that such
464 financings are reasonably necessary to effectuate the

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465 requirements of this subsection. The corporation may take all
466 actions needed to facilitate tax-free status for such bonds or
467 indebtedness, including formation of trusts or other affiliated
468 entities. The corporation may pledge assessments, projected
469 recoveries from the Florida Hurricane Catastrophe Fund, other
470 reinsurance recoverables, policyholder surcharges ~~market~~
471 ~~equalization~~ and other surcharges, and other funds available to
472 the corporation as security for bonds or other indebtedness. In
473 recognition of s. 10, Art. I of the State Constitution,
474 prohibiting the impairment of obligations of contracts, it is
475 the intent of the Legislature that no action be taken whose
476 purpose is to impair any bond indenture or financing agreement
477 or any revenue source committed by contract to such bond or
478 other indebtedness.
479 b. To ensure that the corporation is operating in an
480 efficient and economic manner while providing quality service to
481 policyholders, applicants, and agents, the board shall
482 commission an independent third-party consultant having
483 expertise in insurance company management or insurance company
484 management consulting to prepare a report and make
485 recommendations on the relative costs and benefits of
486 outsourcing various policy issuance and service functions to
487 private servicing carriers or entities performing similar
488 functions in the private market for a fee, rather than
489 performing such functions in-house. In making such
490 recommendations, the consultant shall consider how other
491 residual markets, both in this state and around the country,
492 outsource appropriate functions or use servicing carriers to
493 better match expenses with revenues that fluctuate based on a

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494 widely varying policy count. The report must be completed by
495 July 1, 2012. Upon receiving the report, the board shall develop
496 a plan to implement the report and submit the plan for review,
497 modification, and approval to the Financial Services Commission.
498 Upon the commission's approval of the plan, the board shall
499 begin implementing the plan by January 1, 2013.
500 4. Must require that the corporation operate subject to the
501 supervision and approval of a board of governors consisting of
502 eight individuals who are residents of this state, from
503 different geographical areas of this state.
504 a. The Governor, the Chief Financial Officer, the President
505 of the Senate, and the Speaker of the House of Representatives
506 shall each appoint two members of the board. At least one of the
507 two members appointed by each appointing officer must have
508 demonstrated expertise in insurance and is deemed to be within
509 the scope of the exemption provided in s. 112.313(7)(b). The
510 Chief Financial Officer shall designate one of the appointees as
511 chair. All board members serve at the pleasure of the appointing
512 officer. All members of the board are subject to removal at will
513 by the officers who appointed them. All board members, including
514 the chair, must be appointed to serve for 3-year terms beginning
515 annually on a date designated by the plan. However, for the
516 first term beginning on or after July 1, 2009, each appointing
517 officer shall appoint one member of the board for a 2-year term
518 and one member for a 3-year term. A board vacancy shall be
519 filled for the unexpired term by the appointing officer. The
520 Chief Financial Officer shall appoint a technical advisory group
521 to provide information and advice to the board in connection
522 with the board's duties under this subsection. The executive

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523 director and senior managers of the corporation shall be engaged
524 by the board and serve at the pleasure of the board. Any
525 executive director appointed on or after July 1, 2006, is
526 subject to confirmation by the Senate. The executive director is
527 responsible for employing other staff as the corporation may
528 require, subject to review and concurrence by the board.
529 b. The board shall create a Market Accountability Advisory
530 Committee to assist the corporation in developing awareness of
531 its rates and its customer and agent service levels in
532 relationship to the voluntary market insurers writing similar
533 coverage.
534 (I) The members of the advisory committee consist of the
535 following 11 persons, one of whom must be elected chair by the
536 members of the committee: four representatives, one appointed by
537 the Florida Association of Insurance Agents, one by the Florida
538 Association of Insurance and Financial Advisors, one by the
539 Professional Insurance Agents of Florida, and one by the Latin
540 American Association of Insurance Agencies; three
541 representatives appointed by the insurers with the three highest
542 voluntary market share of residential property insurance
543 business in the state; one representative from the Office of
544 Insurance Regulation; one consumer appointed by the board who is
545 insured by the corporation at the time of appointment to the
546 committee; one representative appointed by the Florida
547 Association of Realtors; and one representative appointed by the
548 Florida Bankers Association. All members shall be appointed to
549 3-year terms and may serve for consecutive terms.
550 (II) The committee shall report to the corporation at each
551 board meeting on insurance market issues which may include rates

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552 and rate competition with the voluntary market; service,
553 including policy issuance, claims processing, and general
554 responsiveness to policyholders, applicants, and agents; and
555 matters relating to depopulation.
556 5. Must provide a procedure for determining the eligibility
557 of a risk for coverage, as follows:
558 a. Subject to s. 627.3517, with respect to personal lines
559 residential risks, if the risk is offered coverage from an
560 authorized insurer at the insurer's approved rate under a
561 standard policy including wind coverage or, if consistent with
562 the insurer's underwriting rules as filed with the office, a
563 basic policy including wind coverage, for a new application to
564 the corporation for coverage, the risk is not eligible for any
565 policy issued by the corporation unless the premium for coverage
566 from the authorized insurer is more than 15 percent greater than
567 the premium for comparable coverage from the corporation. If the
568 risk is not able to obtain such offer, the risk is eligible for
569 a standard policy including wind coverage or a basic policy
570 including wind coverage issued by the corporation; however, if
571 the risk could not be insured under a standard policy including
572 wind coverage regardless of market conditions, the risk is
573 eligible for a basic policy including wind coverage unless
574 rejected under subparagraph 8. However, a policyholder of the
575 corporation or a policyholder removed from the corporation
576 through an assumption agreement until the end of the assumption
577 period remains eligible for coverage from the corporation
578 regardless of any offer of coverage from an authorized insurer
579 or surplus lines insurer. The corporation shall determine the
580 type of policy to be provided on the basis of objective

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581 standards specified in the underwriting manual and based on
582 generally accepted underwriting practices.
583 (I) If the risk accepts an offer of coverage through the
584 market assistance plan or through a mechanism established by the
585 corporation before a policy is issued to the risk by the
586 corporation or during the first 30 days of coverage by the
587 corporation, and the producing agent who submitted the
588 application to the plan or to the corporation is not currently
589 appointed by the insurer, the insurer shall:
590 (A) Pay to the producing agent of record of the policy for
591 the first year, an amount that is the greater of the insurer's
592 usual and customary commission for the type of policy written or
593 a fee equal to the usual and customary commission of the
594 corporation; or
595 (B) Offer to allow the producing agent of record of the
596 policy to continue servicing the policy for at least 1 year and
597 offer to pay the agent the greater of the insurer's or the
598 corporation's usual and customary commission for the type of
599 policy written.
600
601 If the producing agent is unwilling or unable to accept
602 appointment, the new insurer shall pay the agent in accordance
603 with sub-sub-sub-subparagraph (A).
604 (II) If the corporation enters into a contractual agreement
605 for a take-out plan, the producing agent of record of the
606 corporation policy is entitled to retain any unearned commission
607 on the policy, and the insurer shall:
608 (A) Pay to the producing agent of record, for the first
609 year, an amount that is the greater of the insurer's usual and

610 customary commission for the type of policy written or a fee
611 equal to the usual and customary commission of the corporation;
612 or
613 (B) Offer to allow the producing agent of record to
614 continue servicing the policy for at least 1 year and offer to
615 pay the agent the greater of the insurer's or the corporation's
616 usual and customary commission for the type of policy written.
617
618 If the producing agent is unwilling or unable to accept
619 appointment, the new insurer shall pay the agent in accordance
620 with sub-sub-sub-subparagraph (A).
621 b. With respect to commercial lines residential risks, for
622 a new application to the corporation for coverage, if the risk
623 is offered coverage under a policy including wind coverage from
624 an authorized insurer at its approved rate, the risk is not
625 eligible for a policy issued by the corporation unless the
626 premium for coverage from the authorized insurer is more than 15
627 percent greater than the premium for comparable coverage from
628 the corporation. If the risk is not able to obtain any such
629 offer, the risk is eligible for a policy including wind coverage
630 issued by the corporation. However, a policyholder of the
631 corporation or a policyholder removed from the corporation
632 through an assumption agreement until the end of the assumption
633 period remains eligible for coverage from the corporation
634 regardless of an offer of coverage from an authorized insurer or
635 surplus lines insurer.
636 (I) If the risk accepts an offer of coverage through the
637 market assistance plan or through a mechanism established by the
638 corporation before a policy is issued to the risk by the

639 corporation or during the first 30 days of coverage by the
640 corporation, and the producing agent who submitted the
641 application to the plan or the corporation is not currently
642 appointed by the insurer, the insurer shall:
643 (A) Pay to the producing agent of record of the policy, for
644 the first year, an amount that is the greater of the insurer's
645 usual and customary commission for the type of policy written or
646 a fee equal to the usual and customary commission of the
647 corporation; or
648 (B) Offer to allow the producing agent of record of the
649 policy to continue servicing the policy for at least 1 year and
650 offer to pay the agent the greater of the insurer's or the
651 corporation's usual and customary commission for the type of
652 policy written.
653
654 If the producing agent is unwilling or unable to accept
655 appointment, the new insurer shall pay the agent in accordance
656 with sub-sub-sub-subparagraph (A).
657 (II) If the corporation enters into a contractual agreement
658 for a take-out plan, the producing agent of record of the
659 corporation policy is entitled to retain any unearned commission
660 on the policy, and the insurer shall:
661 (A) Pay to the producing agent of record, for the first
662 year, an amount that is the greater of the insurer's usual and
663 customary commission for the type of policy written or a fee
664 equal to the usual and customary commission of the corporation;
665 or
666 (B) Offer to allow the producing agent of record to
667 continue servicing the policy for at least 1 year and offer to

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668 pay the agent the greater of the insurer's or the corporation's
669 usual and customary commission for the type of policy written.
670
671 If the producing agent is unwilling or unable to accept
672 appointment, the new insurer shall pay the agent in accordance
673 with sub-sub-sub-subparagraph (A).
674 c. For purposes of determining comparable coverage under
675 sub-subparagraphs a. and b., the comparison must be based on
676 those forms and coverages that are reasonably comparable. The
677 corporation may rely on a determination of comparable coverage
678 and premium made by the producing agent who submits the
679 application to the corporation, made in the agent's capacity as
680 the corporation's agent. A comparison may be made solely of the
681 premium with respect to the main building or structure only on
682 the following basis: the same coverage A or other building
683 limits; the same percentage hurricane deductible that applies on
684 an annual basis or that applies to each hurricane for commercial
685 residential property; the same percentage of ordinance and law
686 coverage, if the same limit is offered by both the corporation
687 and the authorized insurer; the same mitigation credits, to the
688 extent the same types of credits are offered both by the
689 corporation and the authorized insurer; the same method for loss
690 payment, such as replacement cost or actual cash value, if the
691 same method is offered both by the corporation and the
692 authorized insurer in accordance with underwriting rules; and
693 any other form or coverage that is reasonably comparable as
694 determined by the board. If an application is submitted to the
695 corporation for wind-only coverage in the coastal account, the
696 premium for the corporation's wind-only policy plus the premium

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697 for the ex-wind policy that is offered by an authorized insurer
698 to the applicant must be compared to the premium for multiperil
699 coverage offered by an authorized insurer, subject to the
700 standards for comparison specified in this subparagraph. If the
701 corporation or the applicant requests from the authorized
702 insurer a breakdown of the premium of the offer by types of
703 coverage so that a comparison may be made by the corporation or
704 its agent and the authorized insurer refuses or is unable to
705 provide such information, the corporation may treat the offer as
706 not being an offer of coverage from an authorized insurer at the
707 insurer's approved rate.
708 6. Must include rules for classifications of risks and
709 rates.
710 7. Must provide that if premium and investment income for
711 an account attributable to a particular calendar year are in
712 excess of projected losses and expenses for the account
713 attributable to that year, such excess shall be held in surplus
714 in the account. Such surplus must be available to defray
715 deficits in that account as to future years and used for that
716 purpose before assessing assessable insurers and assessable
717 insureds as to any calendar year.
718 8. Must provide objective criteria and procedures to be
719 uniformly applied to all applicants in determining whether an
720 individual risk is so hazardous as to be uninsurable. In making
721 this determination and in establishing the criteria and
722 procedures, the following must be considered:
723 a. Whether the likelihood of a loss for the individual risk
724 is substantially higher than for other risks of the same class;
725 and

726 b. Whether the uncertainty associated with the individual
727 risk is such that an appropriate premium cannot be determined.
728
729 The acceptance or rejection of a risk by the corporation shall
730 be construed as the private placement of insurance, and the
731 provisions of chapter 120 do not apply.
732 9. Must provide that the corporation make its best efforts
733 to procure catastrophe reinsurance at reasonable rates, to cover
734 its projected 100-year probable maximum loss as determined by
735 the board of governors.
736 10. The policies issued by the corporation must provide
737 that if the corporation or the market assistance plan obtains an
738 offer from an authorized insurer to cover the risk at its
739 approved rates, the risk is no longer eligible for renewal
740 through the corporation, except as otherwise provided in this
741 subsection.
742 11. Corporation policies and applications must include a
743 notice that the corporation policy could, under this section, be
744 replaced with a policy issued by an authorized insurer which
745 does not provide coverage identical to the coverage provided by
746 the corporation. The notice must also specify that acceptance of
747 corporation coverage creates a conclusive presumption that the
748 applicant or policyholder is aware of this potential.
749 12. May establish, subject to approval by the office,
750 different eligibility requirements and operational procedures
751 for any line or type of coverage for any specified county or
752 area if the board determines that such changes are justified due
753 to the voluntary market being sufficiently stable and
754 competitive in such area or for such line or type of coverage

755 and that consumers who, in good faith, are unable to obtain
756 insurance through the voluntary market through ordinary methods
757 continue to have access to coverage from the corporation. If
758 coverage is sought in connection with a real property transfer,
759 the requirements and procedures may not provide an effective
760 date of coverage later than the date of the closing of the
761 transfer as established by the transferor, the transferee, and,
762 if applicable, the lender.
763 13. Must provide that, with respect to the coastal account,
764 any assessable insurer with a surplus as to policyholders of $25
765 million or less writing 25 percent or more of its total
766 countrywide property insurance premiums in this state may
767 petition the office, within the first 90 days of each calendar
768 year, to qualify as a limited apportionment company. A regular
769 assessment levied by the corporation on a limited apportionment
770 company for a deficit incurred by the corporation for the
771 coastal account may be paid to the corporation on a monthly
772 basis as the assessments are collected by the limited
773 apportionment company from its insureds ~~pursuant to s. 627.3512~~,
774 but a limited apportionment company must begin collecting the
775 regular assessments not later than 90 days after the regular
776 assessments are levied by the corporation, and the regular
777 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months
778 after being levied by the corporation. A limited apportionment
779 company shall collect from its policyholders any emergency
780 assessment imposed under sub-subparagraph (b)3.d. The plan must
781 provide that, if the office determines that any regular
782 assessment will result in an impairment of the surplus of a
783 limited apportionment company, the office may direct that all or

784 part of such assessment be deferred as provided in subparagraph
785 (q)4. However, an emergency assessment to be collected from
786 policyholders under sub-subparagraph (b)3.d. may not be limited
787 or deferred.
788 14. Must provide that the corporation appoint as its
789 licensed agents only those agents who also hold an appointment
790 as defined in s. 626.015(3) with an insurer who at the time of
791 the agent's initial appointment by the corporation is authorized
792 to write and is actually writing personal lines residential
793 property coverage, commercial residential property coverage, or
794 commercial nonresidential property coverage within the state.
795 15. Must provide a premium payment plan option to its
796 policyholders which, at a minimum, allows for quarterly and
797 semiannual payment of premiums. A monthly payment plan may, but
798 is not required to, be offered.
799 16. Must limit coverage on mobile homes or manufactured
800 homes built before 1994 to actual cash value of the dwelling
801 rather than replacement costs of the dwelling.
802 17. May provide such limits of coverage as the board
803 determines, consistent with the requirements of this subsection.
804 18. May require commercial property to meet specified
805 hurricane mitigation construction features as a condition of
806 eligibility for coverage.
807 19. Must provide that new or renewal policies issued by the
808 corporation on or after January 1, 2012, which cover sinkhole
809 loss do not include coverage for any loss to appurtenant
810 structures, driveways, sidewalks, decks, or patios that are
811 directly or indirectly caused by sinkhole activity. The
812 corporation shall exclude such coverage using a notice of

813 coverage change, which may be included with the policy renewal,
814 and not by issuance of a notice of nonrenewal of the excluded
815 coverage upon renewal of the current policy.
816 20. As of January 1, 2012, must require that the agent
817 obtain from an applicant for coverage from the corporation an
818 acknowledgement signed by the applicant, which includes, at a
819 minimum, the following statement:
820
821 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
822 AND ASSESSMENT LIABILITY:
823
824 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
825 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
826 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
827 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
828 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
829 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
830 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
831 LEGISLATURE.
832 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
833 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
834 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
835 FLORIDA LEGISLATURE.
836 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
837 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
838 STATE OF FLORIDA.
839
840 a. The corporation shall maintain, in electronic format or
841 otherwise, a copy of the applicant's signed acknowledgement and

842 provide a copy of the statement to the policyholder as part of
843 the first renewal after the effective date of this subparagraph.
844 b. The signed acknowledgement form creates a conclusive
845 presumption that the policyholder understood and accepted his or
846 her potential surcharge and assessment liability as a
847 policyholder of the corporation.
848 (q)1. The corporation shall certify to the office its needs
849 for annual assessments as to a particular calendar year, and for
850 any interim assessments that it deems to be necessary to sustain
851 operations as to a particular year pending the receipt of annual
852 assessments. Upon verification, the office shall approve such
853 certification, and the corporation shall levy such annual or
854 interim assessments. Such assessments shall be prorated as
855 provided in paragraph (b). The corporation shall take all
856 reasonable and prudent steps necessary to collect the amount of
857 assessments ~~assessment~~ due from each assessable insurer,
858 including, if prudent, filing suit to collect the assessments,
859 and the office may provide such assistance to the corporation it
860 deems appropriate ~~such assessment~~. If the corporation is unable
861 to collect an assessment from any assessable insurer, the
862 uncollected assessments shall be levied as an additional
863 assessment against the assessable insurers and any assessable
864 insurer required to pay an additional assessment as a result of
865 such failure to pay shall have a cause of action against such
866 nonpaying assessable insurer. Assessments shall be included as
867 an appropriate factor in the making of rates. The failure of a
868 surplus lines agent to collect and remit any regular or
869 emergency assessment levied by the corporation is considered to
870 be a violation of s. 626.936 and subjects the surplus lines

871 agent to the penalties provided in that section.
872 2. The governing body of any unit of local government, any
873 residents of which are insured by the corporation, may issue
874 bonds as defined in s. 125.013 or s. 166.101 from time to time
875 to fund an assistance program, in conjunction with the
876 corporation, for the purpose of defraying deficits of the
877 corporation. In order to avoid needless and indiscriminate
878 proliferation, duplication, and fragmentation of such assistance
879 programs, any unit of local government, any residents of which
880 are insured by the corporation, may provide for the payment of
881 losses, regardless of whether or not the losses occurred within
882 or outside of the territorial jurisdiction of the local
883 government. Revenue bonds under this subparagraph may not be
884 issued until validated pursuant to chapter 75, unless a state of
885 emergency is declared by executive order or proclamation of the
886 Governor pursuant to s. 252.36 making such findings as are
887 necessary to determine that it is in the best interests of, and
888 necessary for, the protection of the public health, safety, and
889 general welfare of residents of this state and declaring it an
890 essential public purpose to permit certain municipalities or
891 counties to issue such bonds as will permit relief to claimants
892 and policyholders of the corporation. Any such unit of local
893 government may enter into such contracts with the corporation
894 and with any other entity created pursuant to this subsection as
895 are necessary to carry out this paragraph. Any bonds issued
896 under this subparagraph shall be payable from and secured by
897 moneys received by the corporation from emergency assessments
898 under sub-subparagraph (b)3.d., and assigned and pledged to or
899 on behalf of the unit of local government for the benefit of the

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900 holders of such bonds. The funds, credit, property, and taxing
901 power of the state or of the unit of local government shall not
902 be pledged for the payment of such bonds.
903 3.a. The corporation shall adopt one or more programs
904 subject to approval by the office for the reduction of both new
905 and renewal writings in the corporation. Beginning January 1,
906 2008, any program the corporation adopts for the payment of
907 bonuses to an insurer for each risk the insurer removes from the
908 corporation shall comply with s. 627.3511(2) and may not exceed
909 the amount referenced in s. 627.3511(2) for each risk removed.
910 The corporation may consider any prudent and not unfairly
911 discriminatory approach to reducing corporation writings, and
912 may adopt a credit against assessment liability or other
913 liability that provides an incentive for insurers to take risks
914 out of the corporation and to keep risks out of the corporation
915 by maintaining or increasing voluntary writings in counties or
916 areas in which corporation risks are highly concentrated and a
917 program to provide a formula under which an insurer voluntarily
918 taking risks out of the corporation by maintaining or increasing
919 voluntary writings will be relieved wholly or partially from
920 assessments under sub-subparagraphs (b)3.a. and b. However, any
921 “take-out bonus” or payment to an insurer must be conditioned on
922 the property being insured for at least 5 years by the insurer,
923 unless canceled or nonrenewed by the policyholder. If the policy
924 is canceled or nonrenewed by the policyholder before the end of
925 the 5-year period, the amount of the take-out bonus must be
926 prorated for the time period the policy was insured. When the
927 corporation enters into a contractual agreement for a take-out
928 plan, the producing agent of record of the corporation policy is

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929 entitled to retain any unearned commission on such policy, and
930 the insurer shall either:
931 (I) Pay to the producing agent of record of the policy, for
932 the first year, an amount which is the greater of the insurer's
933 usual and customary commission for the type of policy written or
934 a policy fee equal to the usual and customary commission of the
935 corporation; or
936 (II) Offer to allow the producing agent of record of the
937 policy to continue servicing the policy for a period of not less
938 than 1 year and offer to pay the agent the insurer's usual and
939 customary commission for the type of policy written. If the
940 producing agent is unwilling or unable to accept appointment by
941 the new insurer, the new insurer shall pay the agent in
942 accordance with sub-sub-subparagraph (I).
943 b. Any credit or exemption from regular assessments adopted
944 under this subparagraph shall last no longer than the 3 years
945 following the cancellation or expiration of the policy by the
946 corporation. With the approval of the office, the board may
947 extend such credits for an additional year if the insurer
948 guarantees an additional year of renewability for all policies
949 removed from the corporation, or for 2 additional years if the
950 insurer guarantees 2 additional years of renewability for all
951 policies so removed.
952 c. There shall be no credit, limitation, exemption, or
953 deferment from emergency assessments to be collected from
954 policyholders pursuant to sub-subparagraph (b)3.d.
955 4. The plan shall provide for the deferment, in whole or in
956 part, of the assessment of an assessable insurer, other than an
957 emergency assessment collected from policyholders pursuant to

958 sub-subparagraph (b)3.d., if the office finds that payment of
959 the assessment would endanger or impair the solvency of the
960 insurer. In the event an assessment against an assessable
961 insurer is deferred in whole or in part, the amount by which
962 such assessment is deferred may be assessed against the other
963 assessable insurers in a manner consistent with the basis for
964 assessments set forth in paragraph (b).
965 5. Effective July 1, 2007, in order to evaluate the costs
966 and benefits of approved take-out plans, if the corporation pays
967 a bonus or other payment to an insurer for an approved take-out
968 plan, it shall maintain a record of the address or such other
969 identifying information on the property or risk removed in order
970 to track if and when the property or risk is later insured by
971 the corporation.
972 6. Any policy taken out, assumed, or removed from the
973 corporation is, as of the effective date of the take-out,
974 assumption, or removal, direct insurance issued by the insurer
975 and not by the corporation, even if the corporation continues to
976 service the policies. This subparagraph applies to policies of
977 the corporation and not policies taken out, assumed, or removed
978 from any other entity.
979 (w) Notwithstanding any other provision of law:
980 1. The pledge or sale of, the lien upon, and the security
981 interest in any rights, revenues, or other assets of the
982 corporation created or purported to be created pursuant to any
983 financing documents to secure any bonds or other indebtedness of
984 the corporation shall be and remain valid and enforceable,
985 notwithstanding the commencement of and during the continuation
986 of, and after, any rehabilitation, insolvency, liquidation,

987 bankruptcy, receivership, conservatorship, reorganization, or
988 similar proceeding against the corporation under the laws of
989 this state.
990 2. The ~~No such~~ proceeding does not ~~shall~~ relieve the
991 corporation of its obligation, or otherwise affect its ability
992 to perform its obligation, to continue to collect, or levy and
993 collect, assessments, policyholder surcharges ~~market~~
994 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.
995 ~~subparagraph (c)10.~~, or any other rights, revenues, or other
996 assets of the corporation pledged pursuant to any financing
997 documents.
998 3. Each such pledge or sale of, lien upon, and security
999 interest in, including the priority of such pledge, lien, or
1000 security interest, any such assessments, policyholder surcharges
1001 ~~market equalization~~ or other surcharges, or other rights,
1002 revenues, or other assets which are collected, or levied and
1003 collected, after the commencement of and during the pendency of,
1004 or after, any such proceeding shall continue unaffected by such
1005 proceeding. As used in this subsection, the term "financing
1006 documents" means any agreement or agreements, instrument or
1007 instruments, or other document or documents now existing or
1008 hereafter created evidencing any bonds or other indebtedness of
1009 the corporation or pursuant to which any such bonds or other
1010 indebtedness has been or may be issued and pursuant to which any
1011 rights, revenues, or other assets of the corporation are pledged
1012 or sold to secure the repayment of such bonds or indebtedness,
1013 together with the payment of interest on such bonds or such
1014 indebtedness, or the payment of any other obligation or
1015 financial product, as defined in the plan of operation of the

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1016 corporation related to such bonds or indebtedness.
1017 4. Any such pledge or sale of assessments, revenues,
1018 contract rights, or other rights or assets of the corporation
1019 shall constitute a lien and security interest, or sale, as the
1020 case may be, that is immediately effective and attaches to such
1021 assessments, revenues, or contract rights or other rights or
1022 assets, whether or not imposed or collected at the time the
1023 pledge or sale is made. Any such pledge or sale is effective,
1024 valid, binding, and enforceable against the corporation or other
1025 entity making such pledge or sale, and valid and binding against
1026 and superior to any competing claims or obligations owed to any
1027 other person or entity, including policyholders in this state,
1028 asserting rights in any such assessments, revenues, or contract
1029 rights or other rights or assets to the extent set forth in and
1030 in accordance with the terms of the pledge or sale contained in
1031 the applicable financing documents, whether or not any such
1032 person or entity has notice of such pledge or sale and without
1033 the need for any physical delivery, recordation, filing, or
1034 other action.
1035 5. As long as the corporation has any bonds outstanding,
1036 the corporation may not file a voluntary petition under chapter
1037 9 of the federal Bankruptcy Code or such corresponding chapter
1038 or sections as may be in effect, from time to time, and a public
1039 officer or any organization, entity, or other person may not
1040 authorize the corporation to be or become a debtor under chapter
1041 9 of the federal Bankruptcy Code or such corresponding chapter
1042 or sections as may be in effect, from time to time, during any
1043 such period.
1044 6. If ordered by a court of competent jurisdiction, the

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1045 corporation may assume policies or otherwise provide coverage
1046 for policyholders of an insurer placed in liquidation under
1047 chapter 631, under such forms, rates, terms, and conditions as
1048 the corporation deems appropriate, subject to approval by the
1049 office.
1050 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)

3/2/12
Meeting Date

Topic: Citizens Property Insurance Corporation

Bill Number: 1346 *(if applicable)*

Name: Jose Gonzalez

Amendment Barcode: Strike-all & Bill *(if applicable)*

Job Title: Vice President for Gov't Affairs

Address: 516 N. Adams St.
Street

Tallahassee, Fl 32301
City *State* *Zip*

Phone: (850) 224-7173

E-mail: Jgonzalez@aif.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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)

3/2/12
Meeting Date

Topic: Strike all Amendment

Bill Number: SB 1340 (if applicable)

Name: Jack Nicholson

Amendment Barcode: (if applicable)

Job Title: Chief Operating Officer - FHCF

Address: 1801 Hermitage Centre
Street

City *State* *Zip*

Phone: 850-413-1340

E-mail: jack.nicholson@SBAFLA.com

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

Representing: SBA - FHCF

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.

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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)

3/2/12
Meeting Date

Amend to:

Topic: FHCF

Bill Number: 1346 (if applicable)

Name: Jay Liles

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: PO Box 6870
Street

Tallahassee FL 32314
City State Zip

Phone: 850-656-7113

E-mail: jliles@fwfonline.org

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

Representing: Florida Wildlife Federation

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.

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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)

March
Meeting Date

Topic: CAT

Bill Number: 1346 *(if applicable)*

Name: Alice Vickers

Amendment Barcode: Sen. Richter strike-all amend *(if applicable)*

Job Title: Attorney

Address: 623 Beard st.
Street

Tallahassee FL 32303
City *State* *Zip*

Phone: 850 556-3121

E-mail: alice@fcan.org

Richter strike-all

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

Representing: Florida Consumer Action Network

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)

3-2-12
Meeting Date

Topic: CITIZENS INS

Bill Number: 1346 (STRIKE ALL) *(if applicable)*

Name: DAVID HART

Amendment Barcode: *(if applicable)*

Job Title: EXEC. VP

Address: 136 S. BRONOUGH
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone: 850.521.1200

E-mail: dhart@flchamber.com

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

Representing: FL CHAMBER

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)

3/2/2012
Meeting Date

Topic: (SP) CITIZENS/CAT FUND

Bill Number: 1346 *(if applicable)*

Name: CHRISTIAN CAMARA

Amendment Barcode: STRIKE-ALL *(if applicable)*

Job Title: FLA DIRECTOR

Address: PO BOX 10330
Street

TALLY FL 32302
City *State* *Zip*

Phone: (305) 608-4300

E-mail: CCAMARA@HEARTLAND.ORG

Speaking: ☐ For ☐ Against ☒ Information

Representing: HEARTLAND INST.

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)

3/2/12
Meeting Date

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Bill Number: 1346 (if applicable)

Name: CHRISTIAN CAMARA

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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 # 1346**, relating to Citizens Property Insurance, 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: CS/CS/SB 256

INTRODUCER: Budget Committee, Budget Subcommittee on Education Pre-K-12 Appropriations, and Senator Flores

SUBJECT: Youth and Student Athletes

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	**Favorable**
2.	Wilson	Stovall	HR	**Favorable**
3.	Armstrong	Hamon	BEA	**Fav/CS**
4.	Hamon	Rhodes	BC	**Fav/CS**
5.				
6.				

I. Summary:

This bill requires independent sanctioning authorities of youth athletic teams, and the Florida High School Athletic Association (FHSAA), to adopt guidelines, bylaws or policies for:

- Educating athletic coaches, officials, administrators, and student athletes and their parents on concussions and head injuries;
- Requiring parents or guardians to sign a consent form that explains the nature and risk of concussion and head injury;
- Requiring a youth or student athlete suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity; and
- Prohibiting a youth or student athlete who has been removed from a practice or competition from returning to practice or competition until the youth submits to the athletic coach written medical clearance from the appropriate health care practitioner trained in the diagnosis, evaluation, and management of concussions.

The FHSAA is required to establish, through bylaw, a sports medicine advisory committee composed of medical doctors, a chiropractor, a podiatrist, a dentist, athletic trainers and a high school head coach.

The Sports Medicine Advisory Committee would define and determine which medical professionals would qualify as an appropriate health care practitioner, for purposes of the medical clearance.

This bill substantially amends sections 943.0438 and 1006.20, Florida Statutes.

II. Present Situation:

Independent Sanctioning Authorities

An independent sanctioning authority is defined in statute as a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in Florida if the team includes one or more minors and is not affiliated with a private school.[1] An independent sanctioning authority is currently required to screen each current and prospective athletic coach against state and federal registries of sexual predators and sexual offenders. The independent sanctioning authority must disqualify any person from acting as an athletic coach if he or she is identified on one of these registries.

The Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA), established in s. 1006.20, F.S., is the governing body of Florida public school athletics. Currently, the FHSAA is required to adopt bylaws to:

- Establish eligibility requirements for all students;
- Prohibit recruiting students for athletic purposes; and
- Require students participating in athletics to satisfactorily pass an annual medical evaluation.

Unless otherwise specifically provided by statute, the bylaws are the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed. The bylaws are published in a handbook that is available online.[2] Currently, the FHSAA governs almost 800 public and private member schools.[3]

On June 14, 2011, the FHSAA Board of Directors adopted the *FHSAA Concussion Action Plan*, which is now Appendix B in the 2011-12 FHSAA Handbook; added language to the *Consent and Release from Liability Certificate* (FHSAA Form EL3) about the potential dangers of concussions and/or health and neck injuries in interscholastic athletics; and added a required course, *Concussion in Sports – What You Need to Know*, for all FHSAA-member school head coaches and paid/supplemental coaches.[4]

Sports-related Head Injury

The Centers for Disease Control and Prevention (CDC) defines a concussion as a traumatic brain injury caused by a bump, blow, or jolt to the head that can change the way the brain normally works. Concussions can also occur from a blow to the body that causes the head to move rapidly

[1] *See* s. 943.0438, F.S.
[2] Florida High School Athletic Association Handbook, 2011-2012 Edition. Found at: <http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf> (Last visited on November 29, 2011).
[3] About the FHSAA. Found at: <http://www.fhsaa.org/about> (Last visited on November 29, 2011).
[4] *See* 2012 Agency Legislative Bill Analysis for SB 256, Florida Department of Education, on file with the Florida Senate Health Regulation Committee.

back and forth. The risk of catastrophic injuries or death can be significant especially in youth athletes when a concussion or head injury is not properly evaluated or managed. In an effort to raise awareness and provide education to coaches, athletes and parents of athletes, the CDC has created free tools that provide important information on preventing, recognizing, and responding to a concussion.[5]

According to the CDC:

- Approximately 173,000 young people 19 years old or younger receive treatment in emergency department settings annually for nonfatal traumatic brain injuries resulting from sports and recreation activities;
- Researchers observed a considerable increase in the number of emergency department visits for traumatic brain injuries in the years studied (2001-2009), from 153,375 to 248,418 visits, most significantly among males aged 10-19 years; and
- From 2001-2009, the number of sports and recreation-related emergency department visits for traumatic brain injury among persons 19 years old or younger increased 62 percent and the rate of traumatic brain injury visits increased 57 percent.[6]

For persons suspected of incurring a traumatic brain injury during sports play, the CDC recommends immediate removal from play with a blanket prohibition on return the same day, and return to play only after evaluation and clearance by a health care provider with specific expertise in diagnosing and managing traumatic brain injury.[7] The CDC provides the following information to help coaches recognize a possible concussion in an athlete.[8] To help recognize a concussion, a coach should watch for two things:

- A forceful bump, blow, or jolt to the head or body that results in rapid movement of the head.
- Any change in the athlete's behavior, thinking, or physical functioning.

The changes in the athlete's behavior, thinking, or physical functioning include *any* of the following:

Signs Observed by Coaching Staff	**Symptoms Reported by Athlete**
Appears dazed or stunned	Headache or "pressure" in head
Is confused about assignment or position	Nausea or vomiting
Forgets an instruction	Balance problems or dizziness
Is unsure of game, score, or opponent	Double or blurry vision
Moves clumsily	Sensitivity to light

[5] CDC, Injury Prevention and Control: Traumatic Brain Injury, *Concussion in Sports*. Found at: <http://www.cdc.gov/concussion/sports/index.html> (Last visited on November 29, 2011).
[6] *Nonfatal Traumatic Brain Injuries Related to Sports and Recreation Activities Among Persons Aged Less Than or Equal to 19 Years --- United States, 2001-2009*, CDC, Morbidity and Mortality Weekly Report (MMWR), October 7, 2011/60(39);1337-1342. Found at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6039a1.htm?s_cid=mm6039a1_w> (Last visited on November 29, 2011).
[7] *Id.*
[8] CDC, *Injury Prevention and Control: Traumatic Brain Injury, Concussion in Sports*. Found at: <http://www.cdc.gov/concussion/sports/recognize.html> (Last visited on November 29, 2011).

Signs Observed by Coaching Staff	Symptoms Reported by Athlete
Answers questions slowly	Sensitivity to noise
Loses consciousness *(even briefly)*	Feeling sluggish, hazy, foggy, or groggy
Shows mood, behavior or personality changes	Concentration or memory problems
Can't recall events *prior* to hit or fall	Confusion
Can't recall events *after* hit or fall	Does not "feel right" or is "feeling down"

The CDC has also developed online training for health care professionals that addresses concussion in sports among young athletes.[9] The training includes a 5-step Return to Play progression for determining if an athlete should be cleared to return to athletic activities.

The "Zackery Lystedt Law"

Named for a young football player who sustained serious injury in 2006 after he returned to play too soon following a concussion, the "Zackery Lystedt Law" was enacted by the Washington State Legislature in 2009. The law took effect on July 26, 2009. The law provided for education on the dangers of concussions, removal of head-injured athletes from competition, and delayed return to play until a medical professional provides a clearance.

On May 21, 2010, Roger Goodell, Commissioner of the National Football League, sent a letter to state governors urging their support of legislation that would better protect young athletes by mandating a more formal and aggressive approach to treatment of concussions.[10] The letter cites the Zackery Lystedt Law. As of November 2011, thirty-four states have enacted legislation that targets youth sports-related head injuries.[11] Most of these laws are similar in content to the Zackery Lystedt Law.

Health Care Practitioners

Health care practitioners are regulated under the general provisions of ch. 456, F.S., and specific licensing statutes for each type of practitioner.

- Medical practice is governed by ch. 458, F.S., under the Board of Medicine within the Department of Health.
- The practice of osteopathic medicine is governed by ch. 459, F.S., under the Board of Osteopathic Medicine within the Department of Health.
- Nursing practice is governed by ch. 464, F.S., under the Board of Nursing within the Department of Health. Section 464.012, F.S., provides for the certification of registered nurses as advanced registered nurse practitioners. A nurse practitioner may perform certain acts within the framework of an established protocol with a physician.

[9] CDC, *Heads Up to Clinicians: Addressing Concussion in Sports among Kids and Teens*. Found at: <http://www.cdc.gov/concussion/headsup/clinicians.html> (Last visited on November 29, 2011).
[10] NFL Commissioner Goodell's Letter to New Jersey Governor Christie. Found at: <http://nflhealthandsafety.files.wordpress.com/2011/01/njgovernorletterrg-508.pdf> (Last visited on November 29, 2011).
[11] National Conference of State Legislatures, *State Laws on Traumatic Brain Injury: 2009-2011*. Found at: <http://www.ncsl.org/default.aspx?tabid=18687> (Last visited on November 29, 2011).

- Physician assistants are governed by sections 458.347 and 459.022, F.S., under the Board of Medicine and the Board of Osteopathic Medicine within the Department of Health. Physician assistants perform certain medical services delegated by a supervising physician.
- Athletic trainers are governed by part XIII, ch. 468, F.S., under the Board of Athletic Trainers within the Department of Health. Athletic trainers practice within a written protocol established between the athletic trainer and a supervising physician licensed under ch. 458, ch. 459, or ch. 460 (chiropractic medicine), F.S.
- The practice of psychology is governed by ch. 490, F.S., under the Board of Psychology within the Department of Health.

Each of these health care practitioners must be licensed in order to practice in this state. They must practice only within their specific scope of practice as established in the applicable licensing law and rules adopted by the applicable board. A health care practitioner may seek a declaratory statement from the applicable board if the practitioner is unclear about whether a specific act is within his or her scope of practice.

III. Effect of Proposed Changes:

The bill requires independent sanctioning authorities for youth athletic teams and the FHSAA to adopt guidelines to educate officials, administrators, athletic coaches, and youth athletes and their parents or guardians of the nature and risk of concussion and head injury.

In addition, the bill requires independent sanctioning authorities and the FHSAA to adopt bylaws or policies requiring:

- The parent or guardian of a minor, before the minor participates in a competition, practice, or other activity, to sign and return a consent form which explains the nature and risk of concussion and head injury, including the risk of continuing to play after a concussion or head injury has occurred; and
- A youth or student athlete who is suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity and prohibiting the youth or student athlete from returning to practice or competition until the youth submits to the athletic coach written medical clearance to return from an appropriate health care practitioner trained in diagnosis, evaluation, and management of concussions.

The FHSAA is required to establish, through bylaw, a sports medicine advisory committee[12] composed of:

- Eight medical physicians or osteopathic physicians (at least one physician must be an osteopath);
- One chiropractor;
- One podiatrist;
- One dentist;

[12] The FHSAA already has in place a Sports Medicine Advisory Committee (SMAC). The SMAC has 13 members, including medical doctors, osteopaths, athletic trainers, and a former football head coach. Current members are listed at: http://www.fhsaa.org/gov/sportsmed.

- Three licensed athletic trainers; and
- One current or retired high school head coach.

The identification and scope of qualifying health care practitioners, for purposes of providing written medical clearance for a youth to return to play, is to be determined by the SMAC of the FHSAA.

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:

Independent sanctioning authorities and the FHSAA may have some cost in the development of guidelines and bylaws or policies, if they have not already adopted such guidelines, bylaws or policies.

The Department of Education indicates that on June 14, 2011, the FHSAA Board of Directors approved the following policies:

- Adopted the FHSAA Concussion Action Plan, incorporated into the 2011-12 FHSAA Handbook;
- Added language to the "Consent and Release from Liability Certificate" form regarding the potential dangers of concussions and head and neck injuries incurred in sports play; and
- Added the required course of "Concussion in Sports – What You Need to Know", for all FHSAA-member school head coaches and paid/supplemental coaches.

Provisions of the bill relating to informed consent and a prohibition on athletes returning to play until they are medically cleared may reduce liability costs for sports-related injuries. In addition, the requirements in this bill may lessen the severity of sports-related

head injuries to children, with a possible reduction of long term personal medical and other related costs.

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 by Budget on March 2, 2012:

The committee substitute:

- Requires that where a student athlete is immediately removed from play due to concussion or injury, the medical clearance required must be given by an appropriate health care practitioner;
- Requires the FHSAA to adopt bylaws which establish a sports medicine advisory committee, composed of:
  - Eight licensed physicians;
  - One chiropractor;
  - One podiatrist;
  - One dentist;
  - Three licensed athletic trainers; and
  - One former or current high school head coach; and
- Requires the Sports Medicine Advisory Committee to define and determine the scope of qualifying appropriate health care practitioners for purposes of the medical clearance.

CS by Budget Subcommittee on Education Pre K-12 on January 31, 2012:

The committee substitute:

- Provides that a student athlete who is suspected of sustaining a concussion or head injury in practice or competition and who has been removed from that activity may not return until the youth receives written clearance from an appropriately licensed and trained physician who is qualified in the field of neurology.

- Removes references to specific statutes relating to the licensing of certain physicians.
- Removes authority for a physician to delegate the performance of medical care of a student athlete who is suspected of sustaining a concussion or head injury in practice or competition and who has been removed from that activity.

B. Amendments:

None.

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

535120

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (e), (f), and (g) are added to subsection (2) of section 943.0438, Florida Statutes, to read:

943.0438 Athletic coaches for independent sanctioning authorities.—

(2) An independent sanctioning authority shall:

(e) Adopt guidelines to educate athletic coaches, officials, administrators, and youth athletes and their parents or guardians of the nature and risk of concussion and head injury.

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14 (f) Adopt bylaws or policies that require the parent or
15 guardian of a youth who is participating in athletic competition
16 or who is a candidate for an athletic team to sign and return an
17 informed consent that explains the nature and risk of concussion
18 and head injury, including the risk of continuing to play after
19 concussion or head injury, each year before participating in
20 athletic competition or engaging in any practice, tryout,
21 workout, or other physical activity associated with the youth's
22 candidacy for an athletic team.
23 (g) Adopt bylaws or policies that require each youth
24 athlete who is suspected of sustaining a concussion or head
25 injury in a practice or competition to be immediately removed
26 from the activity. A youth athlete who has been removed from an
27 activity may not return to practice or competition until the
28 youth submits to the athletic coach a written medical clearance
29 to return stating that the youth athlete no longer exhibits
30 signs, symptoms, or behaviors consistent with a concussion or
31 other head injury. Medical clearance must be authorized by the
32 appropriate health care practitioner trained in the diagnosis,
33 evaluation, and management of concussions as defined by the
34 Sports Medicine Advisory Committee of the Florida High School
35 Athletic Association.
36 Section 2. Paragraphs (e), (f), (g), and (h) are added to
37 subsection (2) of section 1006.20, Florida Statutes, to read:
38 1006.20 Athletics in public K-12 schools.—
39 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—
40 (e) The organization shall adopt guidelines to educate
41 athletic coaches, officials, administrators, and student
42 athletes and their parents of the nature and risk of concussion

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43 and head injury.
44 (f) The organization shall adopt bylaws or policies that
45 require the parent of a student who is participating in
46 interscholastic athletic competition or who is a candidate for
47 an interscholastic athletic team to sign and return an informed
48 consent that explains the nature and risk of concussion and head
49 injury, including the risk of continuing to play after
50 concussion or head injury, each year before participating in
51 interscholastic athletic competition or engaging in any
52 practice, tryout, workout, or other physical activity associated
53 with the student's candidacy for an interscholastic athletic
54 team.
55 (g) The organization shall adopt bylaws or policies that
56 require each student athlete who is suspected of sustaining a
57 concussion or head injury in a practice or competition to be
58 immediately removed from the activity. A student athlete who has
59 been removed from an activity may not return to practice or
60 competition until the student submits to the school a written
61 medical clearance to return stating that the student athlete no
62 longer exhibits signs, symptoms, or behaviors consistent with a
63 concussion or other head injury. Medical clearance must be
64 authorized by the appropriate health care practitioner trained
65 in the diagnosis, evaluation, and management of concussions as
66 defined by the Sports Medicine Advisory Committee of the Florida
67 High School Athletic Association.
68 (h) The organization shall adopt bylaws for the
69 establishment and duties of a sports medicine advisory committee
70 composed of the following members:
71 1. Eight physicians licensed under chapter 458 or chapter

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72 459 with at least one member licensed under chapter 459.
73 2. One chiropractor licensed under chapter 460.
74 3. One podiatrist licensed under chapter 461.
75 4. One dentist licensed under chapter 466.
76 5. Three athletic trainers licensed under part XIII of
77 chapter 468.
78 6. One member who is a current or retired head coach of a
79 high school in the state.
80 Section 3. This act shall take effect July 1, 2012.
81
82 ========== T I T L E A M E N D M E N T ==========
83 And the title is amended as follows:
84 Delete everything before the enacting clause
85 and insert:
86 A bill to be entitled
87 An act relating to youth athletes; amending ss.
88 943.0438 and 1006.20, F.S.; requiring an independent
89 sanctioning authority for youth athletic teams and the
90 Florida High School Athletic Association to adopt
91 guidelines, bylaws, and policies relating to the
92 nature and risk of concussion and head injury in youth
93 athletes; requiring informed consent for participation
94 in practice or competition; requiring removal from
95 practice or competition under certain circumstances
96 and written medical clearance to return; requiring the
97 Florida High School Athletic Association to adopt
98 bylaws for the establishment and duties of a sports
99 medicine advisory committee; specifying membership;
100 providing an effective date.

By the Committee on Budget Subcommittee on Education Pre-K - 12 Appropriations; and Senator Flores

602-02667-12 2012256c1

A bill to be entitled

An act relating to youth and student athletes; amending s. 943.0438, F.S.; requiring independent sanctioning authorities to adopt policies to inform certain officials, coaches, and youth athletes and their parents of the nature and risk of certain head injuries; requiring that a signed consent form be obtained before the youth participates in athletic practices or competitions; requiring that a youth athlete be immediately removed from an athletic activity following a suspected head injury; requiring written clearance from an appropriately licensed and trained physician who is qualified in the field of neurology before the youth resumes athletic activities; amending s. 1006.20, F.S.; requiring the Florida High School Athletic Association to adopt policies to inform certain officials, coaches, and student athletes and their parents of the nature and risk of certain head injuries; requiring that a signed consent form be obtained before a student athlete participates in athletic practices or competitions; requiring that a student athlete be immediately removed from an athletic activity following a suspected head injury; requiring written clearance from an appropriately licensed and trained physician who is qualified in the field of neurology before the student resumes athletic activities; providing an effective date.

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

602-02667-12 2012256c1

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

Section 1. Paragraph (e) is added to subsection (2) of section 943.0438, Florida Statutes, to read:

943.0438 Athletic coaches for independent sanctioning authorities.—

(2) An independent sanctioning authority shall:

(e)1. Adopt guidelines to educate officials, administrators, athletic coaches, and youth athletes and their parents or guardians of the nature and risk of concussion and head injury.

2. Adopt bylaws or policies that require the parent or guardian of a minor who participates in athletic practices or competitions of the independent sanctioning authority, before the minor participates in a competition, practice, or other activity, to sign and return a consent form that explains the nature and risk of concussion and head injury, including the risk of continuing to play after a concussion or head injury has occurred.

3. Adopt bylaws or policies that:

a. Require a youth athlete who is suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity; and

b. Provide that a youth athlete who has been removed may not return to practice or competition until the youth receives written clearance to return from an appropriately licensed and trained physician who is qualified in the field of neurology.

Section 2. Paragraphs (e), (f), and (g) are added to subsection (2) of section 1006.20, Florida Statutes, to read:

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

59 1006.20 Athletics in public K-12 schools.—
60 (2) ADOPTION OF BYLAWS.—
61 (e) The organization shall adopt guidelines to educate
62 officials, administrators, coaches, and student athletes and
63 their parents or guardians of the nature and risk of concussion
64 and head injury.
65 (f) The organization shall adopt bylaws or policies that
66 require the parent or guardian of a student who participates in
67 interscholastic athletic competition or who is a candidate for
68 an interscholastic athletic team, before the student
69 participates in a competition, practice, or other activity, to
70 annually sign and return a consent form that explains the nature
71 and risk of concussion and head injury, including the risk of
72 continuing to play after a concussion or head injury has
73 occurred.
74 (g) The organization shall adopt bylaws or policies that:
75 1. Require a student athlete who is suspected of sustaining
76 a concussion or head injury in a practice or competition to be
77 immediately removed from the activity; and
78 2. Provide that a student athlete who has been removed may
79 not return to practice or competition until the student receives
80 written clearance to return from an appropriately licensed and
81 trained physician who is qualified in the field of neurology.
82 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)

Meeting Date

Topic: Head Injuries

Bill Number: 256 (if applicable)

Name: John Mixon

Amendment Barcode: (if applicable)

Job Title: Consultant

Address: 119 E Park Ave (Street)

Tall FL 32301 (City, State, Zip)

Phone: 2222591

E-mail:

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

Representing: Fla High School Ath Assoc.

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)

3 / 2 /2012
Meeting Date

Topic _____

Bill Number 256 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3-2-12
Meeting Date

Topic: YOUTH & STUDENT ATHLETES

Bill Number: SB 256 *(if applicable)*

Name: LAYNE SMITH

Amendment Barcode: *(if applicable)*

Job Title: Government Relations DIRECTOR

Address: 4500 SAN PABLO Road
Street

Jacksonville FL 32224
City *State* *Zip*

Phone: 904-953-7334

E-mail: smith.layne@mayo.edu

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

Representing: Mayo CLINIC

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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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)

3-2-2012
Meeting Date

Topic: YOUTH AND STUDENT ATHLETES

Bill Number: SB 256 *(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: 878-7364

E-mail:

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

WAIVE TIME IN SUPPORT

Representing: FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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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)

3/2/12
Meeting Date

Topic _____

Bill Number 256 *(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 Chapter, American College of 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)

3/2/12
Meeting Date

Topic: Concussion Prevention

Bill Number: SB 256 (if applicable)

Name: Lindy Kennedy

Amendment Barcode: (if applicable)

Job Title:

Address: 101 Gadsden
Street

Tallahassee FL 32301
City State Zip

Phone: 850 201 2096

E-mail: lkennedy@chgmail.com

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

Representing: National Football League

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:
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 33 PM 4: 16
SENT TO: CHAIRMAN_____
STAFF DIR._____STAFF_____

February 2, 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 256, regarding youth and student athletes, on the expedited calendar. This bill has passed through all committees of reference 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/CS/SB 1382

INTRODUCER: Budget Committee; Children, Families, and Elder Affairs Committee; and Senator Bennett

SUBJECT: Service Animals

DATE: March 4, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	**Fav/CS**
2.	Bradford	Rhodes	BC	**Fav/CS**
3.				
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 makes changes to the law relating to the rights of an individual with a disability and the use of a service animal, including the following:

- Cites the act as the "Dawson and David Caras Act;"
- Removes provisions relating to service animals from s. 413.08, F.S.; and
- Creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:
  - Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
  - Extends the use of service animals to a person with a psychological or neurological disability;
  - Provides that an individual with a disability or a person who trains service animals and is a student at a public or private school in this state has the right to be accompanied by a service animal;
  - Provides that if federal law, rule or agency requires a public accommodation to provide care, food, or a special location for an animal to relieve itself, that public accommodation must do so;

- Prohibits a person, firm or corporation, from denying or interfering with the renting, leasing, or purchasing of housing accommodations for an individual who requires assistance or for a service animal trainer. Penalties are imposed for a violation of this prohibition;
- Provides that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations;
- Provides that a trainer of service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal; and
- Creates a new second-degree misdemeanor for any person who knowingly and fraudulently misrepresents himself or herself as a service animal owner or trainer.

There is no fiscal impact on the Department of Health. There is insignificant fiscal impact on local governments.

This bill amends section 413.08, Florida Statutes.

The bill creates section 413.083, Florida Statutes.

The effective date of this legislation is July 1, 2012.

II. Present Situation:

Background

The first systematic use of companion animals to assist individuals with disabilities was the training of dogs to assist people who are blind and visually impaired. The first guide dog in the United States was trained in 1929 at The Seeing Eye, Inc., in Morristown, New Jersey.[1] For many years The Seeing Eye was the only training school for guide dogs in this country, which is why is it not uncommon to hear guide dogs called "seeing eye dogs." Since the 1960's, the practice of using companion animals to increase the physical mobility and personal independence of individuals with disabilities has become more widespread.[2]

While guide dogs for the blind are the most commonly identified companions for people with disabilities, a number of other training programs have been initiated. In 1975, Canine Companions for Independence (CCI) pioneered the concept of the service dog, a highly trained canine able to provide specialized services to assist people with disabilities.[3] CCI classifies specific types of service dogs by function:

- Service dogs perform tasks such as operating light switches, retrieving items, pulling wheelchairs, and opening doors;
- Hearing dogs assist people who are deaf or hearing impaired by alerting them to sounds such as telephone rings, crying infants, alarms, and people calling them by name;
- Facility dogs work with a professional in a visitation, education or healthcare setting; and

[1] The Seeing Eye, Inc. Retrieved February 2, 2012, from www.seeingeye.org.
[2] Kelly Henderson, *No Dogs Allowed?, Federal Policies On Access For Service Animals*. Animal Welfare Information Center Newsletter, Summer 1996, http://www.nal.usda.gov/awic/newsletters/v7n2/7n2hende.htm.
[3] Canine Companions for Independence. Retrieved February 2, 2012, from www.caninecompanions.org

- Skilled companion dogs enhance independence for children and adults with physical, cognitive and developmental disabilities.

More recently, there has been an increase in the use of what is being termed, "psychiatric service dogs" that are trained to work or perform tasks for the benefit of an individual disabled by mental illness. Psychiatric service dogs are being used with individuals diagnosed with major depression, bipolar disorder, schizophrenia, panic disorder, social anxiety disorder, agoraphobia, obsessive compulsive disorder and post-traumatic stress disorder. They are also finding their way into homes with autistic children.[4,5]

While dogs are by far the most common type of service animal, a wide variety of animals including cats, pot bellied pigs, capuchin monkeys, miniature horses, and birds are now being trained to assist individuals with disabilities. In 1979, Helping Hands, Monkey Helpers for the Disabled, trained and placed the first capuchin monkey as a helper and a companion to an individual who was paralyzed. From its inception, the organization's mission has been to provide assistance to people with the greatest needs: those individuals who have become quadriplegic as a result of an accident, injury, or disease.[6]

Social animals, those used to address animal-assisted therapy goals, are trained and used in a wide variety of settings including hospitals, nursing facilities, schools, and other institutions. While several national organizations provide structured training and certification programs for these animals, most are not recognized as "service animals" under federal law.[7]

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[4] The Psychiatric Dog Service Society defines a psychiatric service dog as dog that is individually trained to do work or perform tasks for the benefit of an individual disabled by severe mental illness. The society recommends that disabled individuals train their own dogs under the guidance of a 'regular' professional dog trainer in private sessions. Retrieved February 3, 2012, from http://www.psychdog.org/brochures/consumer.pdf.

[5] Heeling Allies privately trains Mental Health Service Dogs, Emotional Support Dogs and Skilled Companion Dogs that enrich the lives of individuals living with psychological, neurological and developmental impairments such as, Post Traumatic Stress Disorder (PTSD), Depressive and Anxiety Disorders, Asperger's Syndrome, and Tourette Syndrome. Retrieved February 3, 2012, from http://www.mentalhealthdogs.org/default.html.

[6] Helping Hands raises, trains, and places capuchin monkeys to be service animals: the monkeys are born at a closed colony at Southwick's Zoo in the Boston area; they are raised in volunteer foster homes until they move to the training center. The monkeys are educated at the Helping Hands Carvel Foundation Training Center in Boston where they are taught essential helping tasks, then matched by personality and needs to a particular recipient, and finally prepared for tasks specific to the needs of the selected recipient. Monkeys are placed in the home of the recipient during a special placement week that includes eight days of set-up and on-site training by the placement team. Each monkey is supported post-placement by a placement specialist (including life-long health and behavioral support) and training for new tasks, when needed. Monkeys are provided with lifetime medical care overseen and paid for by Helping Hands, including all necessary care for chronic illnesses and geriatric care, by a specially selected network of veterinary and human doctors. Finally, the monkeys are given all necessary respite and retirement care, if needed. Retrieved February 5, 2012, from www.monkeyhelpers.org.

[7] The Delta Society, for example, has a Pet Partners program that trains volunteers and screens volunteers and their pets for visiting animal programs in hospitals, nursing homes, rehabilitation centers, schools and other facilities. The Pet Partners program was established in 1990 to ensure that "both ends of the leash," people as well as animals, were well-prepared to participate in animal-assisted activity and animal-assisted therapy programs. Retrieved February 3, 2012, from http://www.deltasociety.org/Page.aspx?pid=259.

Federal Law[8]

As the use of service animals became increasingly popular, individual states and the federal government enacted legislation providing access rights for these animals.[9] While all fifty states now have passed some legislation related to service animal access, nonetheless, when federal legislation provides greater protection for individuals with disabilities, it preempts local and state laws and regulations.[10] The major federal legislation addressing individuals with disabilities who have service animals includes:

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act defines an individual with a disability as someone who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The ADA provides that persons with disabilities shall not be discriminated against when applying for a job, and that public services and transportation shall accommodate such individuals.[11]

The ADA provides that an individual with a disability is permitted to bring his or her service animal to publicly and privately owned businesses that serve the public such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.[12]

Effective March 15, 2011, the federal Department of Justice (DOJ) offered definitions relating to nondiscrimination on the basis of disability by public accommodations and in commercial facilities. According to DOJ's definitions, a service animal is "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. . ."Other species of animals are specifically excluded from the definition of service animals. According to DOJ, the "provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."[13]

Fair Housing Act

The Fair Housing Act prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. Its coverage includes private housing, housing that receives federal financial assistance, and state and local government housing. It is unlawful to

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[8] In addition to the Fair Housing Act and the Americans with Disabilities Act, the Air Carrier Access Act of 1986 (ACAA) was the first Federal legislation to directly address public access rights of people with disabilities who have service animals. The ACAA regulations provide one of the most specific statements of federal policy regarding accommodation of service animals. The act requires air carriers to permit service animals to accompany people with disabilities on flights. (14 CFR 382.55 (a) (16).

[9] Kelly Henderson, *No Dogs Allowed?, Federal Policies On Access For Service Animals*. Animal Welfare Information Center Newsletter, Summer 1996, http://www.nal.usda.gov/awic/newsletters/v7n2/7n2hende.htm.

[10] U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *Commonly Asked Questions About Service Animals in Places of Business*, Retrieved February 2, 2012, from http://www.ada.gov/qasrvc.htm.

[11] 42 U.S.C. 12101, et. seq.

[12] *Id*.

[13] 28 C.F.R. s. 36.104.

discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that individual, an individual associated with the buyer or renter, or an individual who intends to live in the residence.[14]

The U.S. Department of Housing and Urban Development investigates complaints of violations against the Fair Housing Act, including discrimination in housing.[15] If someone is convicted of violating the Fair Housing Act he or she may be required to do the following:

- Compensate the victim for actual damages, including humiliation, pain and suffering;
- Provide injunctive or other equitable relief;
- Pay the federal government a civil penalty to vindicate the public interest;[16]and
- Pay reasonable attorney's fees and costs.[17]

Florida Law

In 2005, the Florida Legislature significantly amended the law related to service animals to more closely mirror the provisions of the federal Americans with Disabilities Act of 1990. Specifically, the legislation amended definitions and changed the manner in which state and local governments and public accommodation facilities must provide access to service animals that accompany individuals with disabilities.[18]

Raising and Training Service Animals

While the earliest formal training of guide dogs in the United States dates back 65 years, widespread training has only occurred during the last three decades. There are no universally accepted methods for training or certifying assistance dogs. However, Assistance Dogs International (ADI) has developed minimum training standards for its member organizations to follow. In addition to the training requirements, ADI has developed a Code of Standards and Ethics for its members and is creating minimum requirements for assistance dog partners and assistance dog trainers.[19]

Likewise, service animal trainers are not "certified" and may be independent or affiliated with a service animal training school. In addition, individuals with disabilities sometimes train their own service animals. Although service animals are defined in the ADA, there are no criteria requiring identification or certification of a service animal. Public entities are prohibited from requiring certification of a service animal for the purpose of access.[20]

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[14] 42 U.S.C. s. 3601, et. seq.
[15] U.S. Department of Housing and Urban Development. Housing. Retrieved February 2, 2012, from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement.
[16] The maximum penalties are $16,000 for a first violation and $65,000 for a third violation within seven years.
[17] U.S. Department of Housing and Urban Development. Housing. Retrieved February 2, 2012, from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement
[18] Chapter 2005-63, L.O.F.
[19] Assistance Dogs International. Training Standards. Retrieved February 5, 2012, from http://www.assistancedogsinternational.org/Standards/.
[20] U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *Commonly Asked Questions About Service Animals in Places of Business*, Retrieved February 2, 2012, from http://www.ada.gov/qasrvc.htm.

The largest of service animal training organizations, CCI has five training centers across the United States, including one in Orlando, Florida.[21] Other groups operate training facilities either nationally or regionally. Policies vary by organization although many facilities prepare dogs to serve both mobility-impaired individuals and those with hearing impairments. Although there are no set training criteria, service dogs, guide dogs, and hearing dogs trained by assistance animal schools do go through a similar pattern of training, as described below:[22]

- Puppies are given to volunteer "puppy raisers" who will care for them until they are old enough to begin advanced training. During this phase, most puppies will be taken to obedience training to learn basic obedience commands. At the same time, they are socialized with other dogs and humans. Some puppy raisers take their puppies with them to school or work. The intent is to expose the dog to as many different experiences as possible so it will be well-mannered and not easily distracted by new sights, sounds, and smells. When in public, these puppies often wear capes identifying them as puppies in training. Some states allow puppies in training to have access to public accommodations including public transportation, but this varies by state.[23]
- When puppies are 15-18 months of age they are returned to the training school to receive their assistance dog training. They are carefully evaluated to test their temperament and natural abilities. Dogs selected to continue in the training program spend additional time – typically 6-9 months – learning to perform specific tasks (e.g., guiding a person who is blind, responding to doorbells and telephones, fetching dropped items, pulling a wheelchair). Not every dog makes it through the training program, either because of temperament, health or physical problems.[24]
- After a service dog completes its training program, it is matched with a human partner. Trainers attempt to match skills, physical size, and personality types of both the dog and human. Teams are then trained together for up to several weeks or longer, if needed, so they can bond and learn how to work with each other and develop proper public etiquette. During this phase the person also learns about caring for his or her dog, including veterinary care requirements, flea and tick control, grooming, and good nutrition. Once the trainer is satisfied the pair has sufficiently bonded and learned to work together, the team graduates. Some training organizations provide annual follow-up evaluations to ensure that no bad habits have developed and to correct any training deficiencies. At that time they also can retrain the dog or person if a person's functional abilities have changed.[25]

While many federal laws grant access to a disabled person with their service animal, these laws do not apply to service animals in training or animals being fostered until they are old enough to begin training. Some states have implemented laws to bridge this gap in coverage to allow volunteers, who raise young animals for trainers or who are trainers, full access to places of public accommodation for the purposes of socializing and training. Some of these laws enacted

[21] Canine Companions for Independence. Retrieved February 5, 2012, from http://www.cci.org/site/c.cdKGIRNqEmG/b.4010989/k.C6DF/History.htm.
[22] Canine Companions for Independence. Retrieved February 5, 2012, from http://www.cci.org/site/c.cdKGIRNqEmG/b.4011115/k.65BA/Training_assistance_dogs.htm.
[23] *Id*.
[24] *Id*.
[25] *Id*.

by states, however, have provisions limited to only one type of animal or to animals being raised or trained by "certified" centers or trainers.[26]

The Animal Behavior College offers courses for people interested in becoming a certified dog trainer. Courses include, but are not limited to, a basic study of canines, learning theory, training, obedience and safety.[27] Similar courses are also available for miniature horse trainers[28] and monkey trainers.[29]

III. Effect of Proposed Changes:

The bill makes a number of changes to law relating to the rights of an individual with a disability and the use of a service animal. Specifically, the bill:

- Cites the act as the "Dawson and David Caras Act;"
- Removes provisions relating to service animals from s. 413.08, F.S.; and
- Creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:
  - Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
  - Extends the use of service animals to a person with a psychological or neurological disability;
  - Provides that an individual, with a disability or a person who trains service animals and is a student at a public or private school in this state, has the right to be accompanied by a service animal;
  - Provides that if federal law, rule or agency requires a public accommodation to provide care, food, or a special location for an animal to relieve itself, that public accommodation must do so;
  - Provides that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations;
  - Provides that a trainer of service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal; and
  - Creates a new second-degree misdemeanor for any person who knowingly and fraudulently misrepresents himself or herself as a service animal owner or trainer.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[26] Animal Legal and Historical Center. Michigan State College of Law, Table of State Assistance Animal Laws. Retrieved February 4, 2012, from http://animallaw.info/articles/ddusassistanceanimaltable.htm.
[27] Animal Behavior College. Retrieved February 5, 2012, from http://www.animalbehaviorcollege.com/curriculum.asp.
[28] The Guide Horse Foundation. Retrieved February 5, 2012, from http://www.guidehorse.com/training.htm.
[29] Helping Hands, Monkey Helpers for the Disabled. Retrieved February 5, 2012, from http://www.monkeyhelpers.org/ourprograms/monkey-college/.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is a 2nd misdemeanor penalty for those holding themselves out to be "owners" or "trainers" of service dogs and they are not. There is insignificant fiscal impact on local governments for this.

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 on March 2, 2012:
The committee substitute:

- Changes the language back to existing law relating to the penalty for interfering with the rights of an individual requiring assistance while accompanied by a service animal or the trainer of a service animal while engaged in the training of that animal;
- Narrows the definition of one who knowingly and fraudulently represents himself or herself as an individual requiring assistance of a service animal or as the owner or trainer of a service animal to include the intent to receive benefits from the claim.

CS by the Children, Families, and Elder Affairs Committee on February 9, 2012:
The committee substitute is different from the original bill in that it:

- Cites the act as the “Dawson and David Caras Act;”
- Removes provisions relating to service animals from s. 413.08, F.S. and creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:

- Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
- Provides that if federal law, rule or agency requires a public accommodation to provide care, food, or a special location for an animal to relieve itself, that public accommodation must do so;
- Provides that a person, firm or corporation, may not deny or interfere with the renting, leasing, or purchasing of housing accommodations for an individual requiring assistance or a service animal trainer and provides penalties for violation;
- Provides that a trainer of service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal, but does not extend those rights, privileges, and liabilities to those who raise service animals;
- Removes reference to “accredited school”, and
- Removes criteria that must be met in order for trainers to have access to housing accommodations.

B. Amendments:

None.

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

610732

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Bennett) recommended the following:

Senate Amendment

Delete lines 245 - 252
and insert:

training of such an animal pursuant to subsection (5) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

757156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Bennett) recommended the following:

Senate Amendment

Delete lines 281 - 285
and insert:
(6) A person who knowingly and fraudulently represents himself or herself to a third party as an individual requiring assistance or as the owner or trainer of service animal with the intent to avail himself or herself of the benefits of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

586-03230-12 20121382c1

A bill to be entitled

An act relating to service animals; providing a short title; amending s. 413.08, F.S.; removing provisions related to service animals; creating s. 413.083, F.S.; providing definitions; specifying rights of an individual accompanied by a service animal; providing that documentation that a service animal is trained is not a precondition for providing certain services to an individual accompanied by a service animal; authorizing a public accommodation to make certain inquiries regarding the animal; providing restrictions for a public accommodation imposing a deposit or surcharge; providing for liability of an individual accompanied by or the trainer of a service animal under certain circumstances; providing responsibility for care and supervision of a service animal; providing conditions for exclusion or removal of a service animal from a public accommodation; providing penalties for denying or interfering with admittance to or enjoyment of a public accommodation; specifying rights to housing accommodations for an individual accompanied by a service animal; providing limitations; providing rights of housing to the owner or trainer of a service animal; providing a penalty for misrepresentation as an owner or trainer; amending s. 252.355, F.S.; conforming a cross-reference; providing an effective date.

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

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

586-03230-12 20121382c1

Section 1. This act may be cited as the "Dawson and David Caras Act."

Section 2. Section 413.08, Florida Statutes, is amended to read:

413.08 Rights of an individual with a disability; ~~use of a service animal;~~ discrimination in public employment or housing accommodations; penalties.—

(1) As used in this section ~~and s. 413.081~~, the term:

(a) "Housing accommodation" means any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons, but does not include any single-family residence, the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(b) "Individual with a disability" means a person who is deaf, hard of hearing, blind, visually impaired, or otherwise physically disabled. As used in this paragraph, the term:

1. "Hard of hearing" means an individual who has suffered a permanent hearing impairment that is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

2. "Physically disabled" means any person who has a physical impairment that substantially limits one or more major life activities.

(c) "Public accommodation" means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation;

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

59 hotel; lodging place; place of public accommodation, amusement,
60 or resort; and other places to which the general public is
61 invited, subject only to the conditions and limitations
62 established by law and applicable alike to all persons.
63 ~~(d) "Service animal" means an animal that is trained to~~
64 ~~perform tasks for an individual with a disability. The tasks may~~
65 ~~include, but are not limited to, guiding a person who is~~
66 ~~visually impaired or blind, alerting a person who is deaf or~~
67 ~~hard of hearing, pulling a wheelchair, assisting with mobility~~
68 ~~or balance, alerting and protecting a person who is having a~~
69 ~~seizure, retrieving objects, or performing other special tasks.~~
70 ~~A service animal is not a pet.~~
71 (2) An individual with a disability is entitled to full and
72 equal accommodations, advantages, facilities, and privileges in
73 all public accommodations. This section does not require any
74 person, firm, business, or corporation, or any agent thereof, to
75 modify or provide any vehicle, premises, facility, or service to
76 a higher degree of accommodation than is required for a person
77 not so disabled.
78 ~~(3) An individual with a disability has the right to be~~
79 ~~accompanied by a service animal in all areas of a public~~
80 ~~accommodation that the public or customers are normally~~
81 ~~permitted to occupy.~~
82 ~~(a) Documentation that the service animal is trained is not~~
83 ~~a precondition for providing service to an individual~~
84 ~~accompanied by a service animal. A public accommodation may ask~~
85 ~~if an animal is a service animal or what tasks the animal has~~
86 ~~been trained to perform in order to determine the difference~~
87 ~~between a service animal and a pet.~~

88 ~~(b) A public accommodation may not impose a deposit or~~
89 ~~surcharge on an individual with a disability as a precondition~~
90 ~~to permitting a service animal to accompany the individual with~~
91 ~~a disability, even if a deposit is routinely required for pets.~~
92 ~~(c) An individual with a disability is liable for damage~~
93 ~~caused by a service animal if it is the regular policy and~~
94 ~~practice of the public accommodation to charge nondisabled~~
95 ~~persons for damages caused by their pets.~~
96 ~~(d) The care or supervision of a service animal is the~~
97 ~~responsibility of the individual owner. A public accommodation~~
98 ~~is not required to provide care or food or a special location~~
99 ~~for the service animal or assistance with removing animal~~
100 ~~excrement.~~
101 ~~(e) A public accommodation may exclude or remove any animal~~
102 ~~from the premises, including a service animal, if the animal's~~
103 ~~behavior poses a direct threat to the health and safety of~~
104 ~~others. Allergies and fear of animals are not valid reasons for~~
105 ~~denying access or refusing service to an individual with a~~
106 ~~service animal. If a service animal is excluded or removed for~~
107 ~~being a direct threat to others, the public accommodation must~~
108 ~~provide the individual with a disability the option of~~
109 ~~continuing access to the public accommodation without having the~~
110 ~~service animal on the premises.~~
111 (3) ~~(4)~~ A ~~Any~~ person, firm, or corporation, or the agent of
112 any person, firm, or corporation, who denies or interferes with
113 admittance to, or enjoyment of, a public accommodation or
114 otherwise interferes with the rights of an individual with a
115 disability ~~or the trainer of a service animal while engaged in~~
116 ~~the training of such an animal pursuant to subsection (8),~~

117 commits a misdemeanor of the second degree, punishable as
118 provided in s. 775.082 or s. 775.083.
119 (4) ~~(5)~~ It is the policy of this state that an individual
120 with a disability be employed in the service of the state or
121 political subdivisions of the state, in the public schools, and
122 in all other employment supported in whole or in part by public
123 funds, and an employer may not refuse employment to such a
124 person on the basis of the disability alone, unless it is shown
125 that the particular disability prevents the satisfactory
126 performance of the work involved.
127 (5) ~~(6)~~ An individual with a disability is entitled to rent,
128 lease, or purchase, as other members of the general public, any
129 housing accommodations offered for rent, lease, or other
130 compensation in this state, subject to the conditions and
131 limitations established by law and applicable alike to all
132 persons.
133 ~~(a)~~ This section does not require any person renting,
134 leasing, or otherwise providing real property for compensation
135 to modify her or his property in any way or provide a higher
136 degree of care for an individual with a disability than for a
137 person who is not disabled.
138 ~~(b) An individual with a disability who has a service~~
139 ~~animal or who obtains a service animal is entitled to full and~~
140 ~~equal access to all housing accommodations provided for in this~~
141 ~~section, and such a person may not be required to pay extra~~
142 ~~compensation for the service animal. However, such a person is~~
143 ~~liable for any damage done to the premises or to another person~~
144 ~~on the premises by such an animal. A housing accommodation may~~
145 ~~request proof of compliance with vaccination requirements.~~

146 (6) ~~(7)~~ An employer covered under subsection (4) ~~(5)~~ who
147 discriminates against an individual with a disability in
148 employment, unless it is shown that the particular disability
149 prevents the satisfactory performance of the work involved, or
150 any person, firm, or corporation, or the agent of any person,
151 firm, or corporation, providing housing accommodations as
152 provided in subsection (5) ~~(6)~~ who discriminates against an
153 individual with a disability, commits a misdemeanor of the
154 second degree, punishable as provided in s. 775.082 or s.
155 775.083.
156 ~~(8) Any trainer of a service animal, while engaged in the~~
157 ~~training of such an animal, has the same rights and privileges~~
158 ~~with respect to access to public facilities and the same~~
159 ~~liability for damage as is provided for those persons described~~
160 ~~in subsection (3) accompanied by service animals.~~
161 Section 3. Section 413.083, Florida Statutes, is created to
162 read:
163 413.083 Use of a service animal; penalties.—
164 (1) As used in this section and s. 413.081, the term:
165 (a) "Individual requiring assistance" means any person who
166 is deaf, hard of hearing as defined in s. 413.08(1)(b)1., blind,
167 visually impaired, or physically disabled as defined in s.
168 413.08(1)(b)2. or who has a psychological or neurological
169 disability.
170 (b) "Owner" means a person who owns a service animal or who
171 is authorized by the owner to use a service animal.
172 (c) "Service animal" means any domesticated animal that is
173 individually trained to do work or perform tasks for the benefit
174 of an individual with a disability, including a physical,

175 sensory, psychiatric, intellectual, or other mental disability.
176 The work or tasks performed by a service animal must be directly
177 related to the handler's disability. Examples of work or tasks
178 include, but are not limited to, assisting individuals who are
179 blind or have low vision with navigation and other tasks,
180 alerting individuals who are deaf or hard of hearing to the
181 presence of people or sounds, providing nonviolent protection or
182 rescue work, pulling a wheelchair, assisting an individual
183 during a seizure, alerting individuals to the presence of
184 allergens, retrieving items such as medicine or the telephone,
185 providing physical support and assistance with balance and
186 stability to individuals with mobility disabilities, and helping
187 individuals with psychiatric or neurological disabilities by
188 preventing or interrupting impulsive or destructive behaviors.
189 The crime deterrent effects of an animal's presence and the
190 provision of emotional support, well-being, comfort, or
191 companionship do not constitute work or tasks for the purposes
192 of this paragraph.
193 (2) An individual requiring assistance has the right to be
194 accompanied by a service animal in all areas of a public
195 accommodation that the public or customers are normally
196 permitted to occupy. If an individual requiring assistance or an
197 individual who trains service animals is a student at a private
198 or public school in the state, that individual has the right to
199 be accompanied by a service animal, subject to the conditions
200 established under this section.
201 (a) Documentation that the service animal is trained is not
202 a precondition for providing service to an individual
203 accompanied by a service animal. A public accommodation may ask

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

204 if an animal is a service animal or what tasks the animal has
205 been trained to perform in order to determine the difference
206 between a service animal and a pet.
207 (b) A public accommodation may not impose a deposit or
208 surcharge on an individual requiring assistance as a
209 precondition to permitting a service animal to accompany the
210 individual requiring assistance, even if a deposit is routinely
211 required for pets.
212 (c) An individual with a disability is liable for damage
213 caused by a service animal if it is the regular policy and
214 practice of the public accommodation to charge nondisabled
215 persons for damages caused by their pets.
216 (d) The care or supervision of a service animal is the
217 responsibility of the owner. A public accommodation is not
218 required to provide care, food, or a special location for the
219 service animal or assistance with removing animal excrement
220 unless required by any federal agency, federal law, or federal
221 regulation. In such an instance, if a public accommodation has a
222 secured area, the public accommodation must provide a special
223 location for the service animal to relieve itself within that
224 secured area.
225 (e) A public accommodation may exclude or remove any animal
226 from the premises, including a service animal, if the animal
227 fails to remain under the control of the handler or if the
228 animal displays inappropriate behavior, including, but not
229 limited to, growling, excessive barking, or biting, or poses a
230 direct threat to the health and safety of others. Allergies and
231 fear of animals are not valid reasons for denying access or
232 refusing service to an individual accompanied by a service

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

233 animal. If a service animal is excluded or removed for being a
234 direct threat to others, the public accommodation must provide
235 the individual requiring assistance the option of continuing
236 access to the public accommodation without having the service
237 animal on the premises.
238 (3) A person, firm, or corporation, or the agent of any
239 person, firm, or corporation, who denies or interferes with
240 admittance to, or enjoyment of, a public accommodation,
241 interferes with the renting, leasing, or purchasing of housing
242 accommodations, or otherwise interferes with the rights of an
243 individual requiring assistance while accompanied by a service
244 animal or the trainer of a service animal while engaged in the
245 training of such an animal pursuant to subsection (5):
246 (a) For a first offense, commits a noncriminal violation
247 punishable as provided in s. 775.083. The offender may contest
248 the citation or may, within 30 days after receiving the
249 citation, elect to pay a civil penalty of $50 plus court costs.
250 (b) For a second or subsequent offense, commits a
251 misdemeanor of the second degree, punishable as provided in s.
252 775.082 or s. 775.083.
253 (4) An individual requiring assistance who is accompanied
254 by a service animal is entitled to full and equal advantages,
255 facilities, and privileges in all housing accommodations and is
256 entitled to rent, lease, or purchase, as are other members of
257 the general public, any housing accommodation offered for rent,
258 lease, or other compensation in this state, subject to the
259 conditions and limitations established by law and applicable
260 alike to all persons.
261 (a) This section does not require any person renting,

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262 leasing, or otherwise providing real property for compensation
263 to modify her or his property in any way or provide a higher
264 degree of care for an individual requiring assistance than for a
265 person who does not have a disability.
266 (b) An individual requiring assistance who has a service
267 animal or an individual who is the trainer of a service animal
268 is entitled to full and equal access to all housing
269 accommodations provided for in this section, and that individual
270 is not required to pay extra compensation for the service
271 animal. However, the individual is liable for any damage done to
272 the premises or to another individual on the premises by the
273 service animal. A housing accommodation may request proof of
274 compliance with vaccination requirements.
275 (5) A person who trains a service animal, while engaged in
276 the training of such an animal, has the same rights and
277 privileges with respect to access to public facilities and
278 housing accommodations and the same liability for damage as is
279 provided for a person described in subsection (2) who is
280 accompanied by a service animal.
281 (6) A person who knowingly and fraudulently represents
282 herself or himself, through her or his conduct or verbal or
283 written notice, as the owner or trainer of a service animal
284 commits a misdemeanor of the second degree, punishable as
285 provided in s. 775.082 or s. 775.083.
286 Section 4. Subsection (3) of section 252.355, Florida
287 Statutes, is amended to read:
288 252.355 Registry of persons with special needs; notice.—
289 (3) A person with special needs must be allowed to bring
290 his or her service animal into a special needs shelter in

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291 accordance with s. 413.083 ~~413.08~~.

292 Section 5. 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)

3/2/2012
Meeting Date

Topic: Service Animals

Bill Number: SB 1382 *(if applicable)*

Name: DANA FARMER

Amendment Barcode: *(if applicable)*

Job Title: DIR. LEGISLATIVE & PUBLIC AFFAIRS

Address: 2728 Centerview Dr., Ste. 102
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone: 850.488.9071

E-mail: danaf@disabilityrightsflorida.org

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

Representing: DISABILITY RIGHTS 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)

3 / 2 /2012
Meeting Date

Topic _____ Bill Number 1382 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

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

Representing JUSTICE-2-JESUS

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 14, 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 S1382, relating to Service Animals, 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 1782

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Latvala

SUBJECT: Fish and Wildlife Conservation Commission

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	**Fav/CS**
2.	Akhavein	Buford	AG	**Favorable**
3.	DeLoach	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 transfers and reassigns functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection (DEP) to the Division of Law Enforcement (DLE) within the Fish and Wildlife Conservation Commission (FWC). The bill provides for the transfer of additional positions to FWC if needed. The bill provides for a memorandum of agreement between the DEP and the FWC regarding the responsibilities of the FWC to the DEP. The bill also transfers and reassigns functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program (CARL) and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services (DACS), and the investigator responsible for the enforcement of aquaculture violations in the DACS to the DLE within the FWC.

The bill provides for transition of advisory working groups, assigning powers, duties, responsibilities, and functions for the enforcement of the laws and rules governing certain lands managed to the DEP and certain lands and aquaculture managed by the DACS to the FWC. The bill confers the full power to the law enforcement officers of the FWC to investigate and arrest for violations of rules of the DEP and the DACS to fill positions transferred to the FWC.

This bill amends sections 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, and 932.7055 of the Florida Statutes.

This bill creates section 258.601 of the Florida Statutes.

II. Present Situation:

Senate Bill 2160, passed by the 2011 Legislature, established the Law Enforcement Consolidation Task Force, to conduct a review of the conservation law enforcement activities and assets of the DACS, the DEP, and the FWC, and to evaluate if any duplication of law enforcement functions exists between the agencies. As part of the task force, the Environmental Unit Sub-Team conducted the review. The team determined that the patrols of state-owned and managed lands provided by the FWC, the DEP, and the DACS (in particular the CARL officer positions and Aquaculture positions) have elements that are duplicative and, in turn, have exacerbated a manpower shortage for the agencies. The duplication of functions is most notable in the existence of three separate management and support structures for the sole purpose of providing law enforcement patrol to all state-owned/managed lands and is most apparent when comparing the FWC and the DEP. The identified DACS positions, on the other hand, do not necessarily have a duplicative structure, but rather DACS provides duplicative management/ support services for its officers at the expense of attending to the agency's primary duties and responsibilities. The DACS management support staff provides something that is already provided by both the FWC and the DEP, while diminishing to some degree the provision of those services to the DACS' core functions. Consolidation of these management structures and functions into the existing structure at the FWC could eliminate this duplication.[1]

The Environmental Unit Sub-Team also identified inefficiency with the current dispersal of patrol responsibilities among the three agencies, which leads to the appearance or even public perception of duplication of services. The inefficiency arises from having three different agencies providing separate law enforcement services based on the pretense, for law enforcement purposes, of state-owned/managed lands being divided into different types of properties (i.e., wildlife management areas, wildlife and environmental management areas, state parks, greenways and trails, coastal and aquatic managed areas, and state forests). Due to this, there may be an FWC officer patrolling a management area adjacent to a state park that is being patrolled by a DEP officer that is also adjacent to a state forest being patrolled by a DACS CARL officer. While state lands are managed differently based on their designated use, conservation law enforcement strategies remain essentially the same, independent of the prevailing land management approach. Consolidation of these artificial distinctions between all state-owned/managed lands as it relates to law enforcement services would allow a more efficient use of rank and file officers and provide a welcome opportunity to establish law enforcement coverage in areas of the state that have historically received little or no patrol due to staffing issues. The responsibilities and activities of these three agencies are closely aligned and similar enough in scope so that significant efficiencies in the delivery of law enforcement

[1] Recommendations for the Law Enforcement Consolidation Task Force, by Colonel Jim Brown, Division Director, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, October 11, 2011.

services as well as cost savings can be realized by consolidating the functions as discussed below.[2]

Findings of the Task Force

- All three agencies have responsibility to provide law enforcement patrol, investigative, and forensic services on state-managed lands, which are frequently located within close proximity to each other.
- The enforcement functions for each entity are established by the Legislature.
- Investigative activities of the three agencies are similar in scope and approach.
- The three bureaus (Park Police, Environmental Investigations, and Emergency Response) within the DEP Division of Law Enforcement (DLE) are interdependent resulting in value-added services that are not present when separated.
- Integration of the DEP officers and the DACS CARL and Aquaculture officers in the the FWC will improve response time, increase personnel available for patrol coverage across conservation lands and state waters, and decrease the burden on local law enforcement agencies.
- Consolidation will result in a streamlined agency with approximately 10 percent of sworn supervisory positions being reassigned to field positions leading to increased response time.
- In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided the Legislature with four policy options related to environmental law enforcement. The third option was the centralization of environmental law enforcement under one state agency that currently has this function. The joint agency recommendation is a variation of the third option, capturing all of the advantages while minimizing adverse impacts.

Recommendations

The Environmental Unit Sub-Team recommended the following:

- Integration of the DEP Division of Law Enforcement, in its entirety, into the FWC Division of Law Enforcement (175.5 positions and additional support positions).
- Integration of the DACS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWC Division of Law Enforcement (15 positions).
- Enact statutory and administrative code changes where appropriate to integrate the functions.

Conclusion

The Task Force concluded that consolidating the three agencies will result in a highly effective, more efficient state law enforcement division with complete jurisdiction over the natural and historic resources and publicly-owned and managed lands and waters of the state having enhanced patrol capability response presence.

[2] *Id*.

Department of Environmental Protection, Division of Law Enforcement

The DEP's Division of Law Enforcement is Florida's oldest state law enforcement agency, dating back to 1913 when the Legislature created the shellfish commission to supervise the newly emerging commercial fishing industry. The Division oversees the following bureaus:

Emergency Response- The Division of Law Enforcement's Bureau of Emergency Response (BER) responds to environmental pollution threats in every form. Responding to incidents involving petroleum spills caused by vehicle accidents to chemical plant explosions to coastal oil spills, the BER provides technical and on-site assistance to ensure threats to the environment and human safety are quickly and effectively addressed. In addition, the BER works with local public safety officials and emergency response contractors to minimize threats to the environment. The BER offices are located throughout the state with headquarters in Tallahassee.

Criminal Investigations- Special agents from the Criminal Investigations Bureau are sworn state law enforcement investigators, with full powers of arrest in Florida and its jurisdictional waters. Special agents investigate crimes and violations that generally have a negative impact on Florida's environment, including the improper storage, transport, or disposal of hazardous waste; destruction or illegal filling of wetlands; or the burying or burning of prohibited materials. Fraud, forgery, conspiracy, and organized crime are some of the traditional crimes that can be associated with environmental violations. These specialized criminal investigations are often long-term and complex, and are built upon the expert assessment and testimony of the DEP regulatory and scientific professionals.

Park Police- The Division of Law Enforcement's Bureau of Park Police is comprised of state law enforcement officers with full powers of arrest and who patrol more than 800,000 acres of Florida's state-owned lands, providing law enforcement and public service within state parks, preserves, recreational areas, as well as greenways and trails. The officers also patrol more than four million acres of submerged coastal and aquatic managed areas that include 41 aquatic preserves, three national estuarine research reserves and the Florida Keys National Marine Sanctuary. Officers are called on to respond to hurricanes, civil disorder, or other threatening conditions that may endanger life, property, or Florida's natural resources, and they also provide assistance with search and rescue missions.

Office of Training and Professional Standards- The Division of Law Enforcement's Office of Training and Professional Standards provides training courses for the DEP's 138 officers. The Office of Training and Professional Standards works closely with the Florida Department of Law Enforcement's Division of Law Enforcement Professionalism, the Florida Criminal Justice Standards and Training Commission, and other Florida law enforcement training centers to provide consistent and current law enforcement information and training to the DEP law enforcement officers.

Department of Agriculture and Consumer Services

Florida Forest Service- The Florida Forest Service mission is to protect and manage the forest resources of Florida, ensuring that they are available for future generations. Wildfire prevention

and suppression are key components in their efforts to protect homeowners from the threat of damage in a natural, fire-dependent environment.

In addition to managing over one million acres of state forests for multiple public uses, including timber, recreation, and wildlife habitat, the Forest Service provides services to landowners throughout the state including technical information and grant programs.

The Forest Service's forestry programs are implemented by its field operations staff within 15 field units across the state. Field personnel and equipment provide a more responsive and comprehensive approach to land management and wildfire control statewide.

Bureau of Investigative Services- This bureau's primary enforcement mission focuses on agricultural, consumer protection, and food safety related issues rather than environmental or resource protection. This bureau does, however, maintain one sworn investigator who is responsible for inspecting certain commercial aquaculture activities (farm-raised shellfish) and for investigating associated violations.

Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement

The FWC officers provide protection to residents and visitors who enjoy Florida's natural resources, while enforcing resource protection and boating safety laws on land and on the waters of the state in keeping with the Division's core missions. The FWC officers have full police powers and statewide jurisdiction. They patrol rural, wilderness, and inshore and offshore areas, and are often the sole law enforcement presence in many remote parts of the state. The Division of Law Enforcement has cooperative agreements with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Officers are also cross-deputized to enforce federal marine fisheries and wildlife laws, thus ensuring state and federal consistency in resource-protection efforts. The Division of Law Enforcement is divided into the following sections:

- **Operations:** The Operations section's six regions throughout the state are responsible for uniformed patrol and investigative law enforcement services of the FWC's 700-plus officer workforce. The officers and investigators protect fish, wildlife, and the citizens of Florida and provide boating safety patrols. Investigators are able to conduct both overt (uniform) and covert (plainclothes) investigations. They allow the FWC to target hard-core commercial violators by conducting long-term undercover investigations. Investigators are also responsible for inspecting personal and commercial native and exotic wildlife facilities as well as investigating, hunting and boating accidents. This section also provides statewide coordination of all aviation, offshore vessel, K-9, and Special Operations Group activities. Aviation assets play a vital role in the agency's effort to enforce conservation and boating laws, protect endangered and threatened species, and safeguard outdoor users. The Division's offshore patrol vessels concentrate on offshore fisheries and protected marine areas as well as public safety. The K-9 teams are specially trained in tracking and wildlife detection. The K-9s receive no aggression training and are very "user-friendly." In addition to their law enforcement functions, they have proved to be a great community oriented policing relations tool.

- **Law Enforcement Support:**
  - **Boating, Waterways and Program Coordination-** The FWC manages state waterways, the markers and the signs, to protect boaters and wildlife. They coordinate the removal of derelict vessels and the development of boating infrastructure. They use many methods to promote boating safety, from education and outreach, to investigation and analysis of boating accident data.

  - **Field Services-** Officers provide support with radio technology and systems engineering; fleet management; research, testing and acquisition of new computer and telecommunications technology; and arrest/warning citation and disposition data management. They maintain the Computer Aided Dispatch (CAD) system which enhances officer safety and efficiency.

  - **Training -** Trainers provide professional basic recruiting and advanced training and career development programs to officers statewide. They train the FWC officers in the aspects of non-traditional policing as well as ensuring basic law enforcement standards are met and maintained.

- **Officers' Authority:** Sworn personnel are fully constituted police officers as provided under s. 379.3311, F.S. This gives them the authority to enforce all laws of the state, not just those relating to resource enforcement. The officers are also cross-deputized to enforce federal fisheries and wildlife laws.

- **Officers' Responsibilities:**
  - Provide protection and enforce laws relating to all wild animal and aquatic resources of the state. This includes game, non-game, furbearers, threatened and endangered wildlife and fish, and marine mammals; encompassing approximately 672 species of wildlife, 208 species of freshwater fish, and over 500 saltwater fish species. In doing so, officers patrol over 37 million acres of public and private land, 8,246 miles of tidal coastline, 12,000 miles of rivers and streams, 3 million acres of lakes and ponds and 11,000 miles of canals.
  - Provide boating safety enforcement on the state's waters in order to ensure the safe usage of resources. Includes enforcement of boating under the influence laws, as well as laws relating to the safe and prudent operation of watercraft, investigating boating accidents, and search and rescue missions.
  - Provide general law enforcement protection to the human resources of the state. One aspect of this is providing general law enforcement patrol in rural, semi-wilderness, wilderness, and offshore areas where no other law enforcement agencies routinely patrol. Officers also respond to a variety of emergencies including natural disasters, civil disturbances, and search and rescue missions. These include such diverse phenomena as hurricanes, riots, wildfires, floods and providing protection for elected officials (governors and presidents).

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if

certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed there from or abolished.

(a) Any agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.
(b) Unless otherwise provided by law, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions, to the extent authorized in this chapter.
(c) Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

Section 1 provides for a type two transfer of the Division of Law Enforcement (DLE), excluding the Bureau of Emergency Response, within the DEP to the Division of Law Enforcement within the FWC. This transfer includes all powers, duties, and related functions, including personnel, property and all related rules and functions and unexpended balances, appropriations, and allocations from the Division of Law Enforcement within the DEP to the Division of Law Enforcement within the FWC (transferred by a type two transfer as defined in s. 20.06 (2), F.S.). The section specifies the number of administrative, auditing, inspector general, attorney, and operational support positions proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from the DEP to the FWC. A memorandum of agreement shall be developed between the DEP and the FWC detailing the responsibilities of the FWC to the DEP to include, at a minimum:

- support and response for oil spills and natural disasters;
- law enforcement patrol and investigative services for all state-owned lands;
- law enforcement services, including investigative services, for all criminal law violations of chapters 258, 376, and 403, F.S.;
- enforcement services for all civil violation of all department administrative rules related to the following programs;
    - Division of Recreation and Parks,
    - Office of Coastal and Aquatic Managed Areas, and
    - Office of Greenways and Trails.

Section 2 provides for a type two transfer of the DACS sworn positions assigned to the Florida Forest Service and funded by the Conservation and Recreation Lands Program and the

investigator responsible for the enforcement of aquaculture violations (as of July 1, 2011) to the DLE within the FWC.

Section 3 provides for transition advisory working groups.

Section 4 confers full power to the law enforcement officers of the FWC to investigate and arrest for violation of laws and rules of the DEP, the Board of Trustees of the Internal Improvement Trust Fund, and the DACS, including state parks, coastal and aquatic managed areas, greenways and trails, CARL lands, and aquaculture lands.

Section 5 provides for the retention and transfer of specified benefits for employees that are transferred from the DEP and the DACS to fill positions transferred to the FWC. The bill provides that the DLE within the FWC is authorized to use available funds to provide for general salary increases or pay additives for positions having the same job classification or job occupations in order to bring pay parity between positions of the FWC and the positions being transferred from the DEP and the DACS, and for those positions assuming significant additional duties or an increased work load as a result of this bill.

Section 6 creates part IV of chapter 258, F.S., providing specific powers and duties of the FWC relating to state parks, aquatic preserves and wild and scenic rivers.

Section 7 amends s. 20.255, F.S., to add the Office of Emergency Management to the list of established offices within the DEP.

Sections 8-29 amends ss. 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, and 932.7055, F.S., to provide conforming provisions to changes made by the bill. It removes references to DEP and replaces those references with FWC.

Section 30 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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill transfers 147.5 positions from the DEP and 15 positions from the DACS to the FWC.

According to the FWC, there will be a cost savings of approximately $3.1 million over a five year period. Duplicative positions with like functions can be eliminated with the consolidation. The cost savings come from eliminating duplicative management positions and support staff while establishing additional patrol and first response capacity.

The FWC estimates that a total $285,505 will be needed to support the pay parity issue and can be handled within existing budget.

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 Environmental Preservation and Conservation Committee on January 30, 2012: The CS does not transfer the Bureau of Emergency Response from DEP and provides that the DLE within the FWC is authorized to use funds for general salary increases to bring pay parity for positions being transferred from DEP and DACS to FWC and for those positions assuming significant additional duties or an increased work load as a result of this CS.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senators Latvala and Alexander

592-02644-12 20121782c1

A bill to be entitled

An act relating to the Fish and Wildlife Conservation Commission; transferring and reassigning functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; reassigning the Bureau of Emergency Response within the Department of Environmental Protection to the Secretary of Environmental Protection, as the Office of Emergency Response, within the Department of Environmental Protection; providing for the transfer of additional positions to the commission; providing for a memorandum of agreement between the department and the commission regarding the responsibilities of the commission to the department; transferring and reassigning functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services and the investigator responsible for the enforcement of aquaculture violations at the Department of Agriculture and Consumer Services to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; providing for a memorandum of agreement between the department and the commission regarding the responsibilities between the commission and the department; providing for

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transition advisory working groups; assigning powers, duties, responsibilities, and functions for enforcement of the laws and rules governing certain lands managed by the Department of Environmental Protection and certain lands and aquaculture managed by the Department of Agriculture and Consumer Services to the Fish and Wildlife Conservation Commission; conferring full power to the law enforcement officers of the Fish and Wildlife Conservation Commission to investigate and arrest for violations of rules of the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund; authorizing salary parity and other pay adjustments for positions transferred by the act; providing for the retention and transfer of specified benefits for employees who are transferred from the Department of Environmental Protection and the Department of Agriculture and Consumer Services to fill positions transferred to the Fish and Wildlife Conservation Commission; creating s. 258.601, F.S.; specifying powers and duties of the commission relating to state parks and preserves and wild and scenic rivers; amending ss. 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, and 932.7055, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. (1) All powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Division of Law Enforcement within the Department of Environmental Protection, excluding the Bureau of Emergency Response, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Division of Law Enforcement within the Florida Fish and Wildlife Conservation Commission.

(2) The Bureau of Emergency Response within the Department of Environmental Protection is reassigned to the Secretary of Environmental Protection, as the Office of Emergency Response, within the Department of Environmental Protection.

(3) The Secretary of Environmental Protection shall transfer to the Fish and Wildlife Conservation Commission the number of administrative, auditing, inspector general, attorney, and operational support positions, including any related powers, duties, functions, property, and funding, proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from the department to the commission.

(4) A memorandum of agreement shall be developed between the department and the commission detailing the responsibilities of the commission to the department, to include, at a minimum, the following:

(a) Support and response for oil spills, hazardous spills, and natural disasters.

(b) Law enforcement patrol and investigative services for all state-owned lands managed by the department.

(c) Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, and 403, Florida Statutes.

(d) Enforcement services for all civil violations of all department administrative rules related to the following program areas:

1. The Division of Recreation and Parks.

2. The Office of Coastal and Aquatic Managed Areas.

3. The Office of Greenways and Trails.

(e) Current and future funding for positions and property being transferred from the department to the commission which are funded through any trust fund.

Section 2. (1) All powers, duties, functions, records, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services as of July 1, 2011, and the investigator responsible for the enforcement of aquaculture violations at the Department of Agriculture and Consumer Services as of July 1, 2011, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission.

117 (2) A memorandum of agreement shall be developed between
118 the department and the commission detailing the responsibilities
119 between the commission and the department, to include, at a
120 minimum, the following:
121 (a) Law enforcement patrol and investigative services for
122 all state-owned forests managed by the department.
123 (b) Current and future funding for positions and property
124 assigned to the Conservation and Recreation Lands Program which
125 are transferred from the department to the commission.
126 Section 3. (1) The Secretary of Environmental Protection
127 and the Executive Director of the Fish and Wildlife Conservation
128 Commission shall each appoint three staff members to a
129 transition advisory working group to review and determine the
130 following:
131 (a) The appropriate proportionate number of administrative,
132 auditing, inspector general, attorney, and operational support
133 positions and their related funding levels and sources and
134 assigned property to be transferred from the Office of General
135 Counsel, the Office of Inspector General, and the Division of
136 Administrative Services, or other relevant offices or divisions
137 within the Department of Environmental Protection, to the Fish
138 and Wildlife Conservation Commission.
139 (b) The development of a recommended plan addressing the
140 transfer or shared use of buildings, regional offices, and other
141 facilities used or owned by the Department of Environmental
142 Protection.
143 (c) Any operating budget adjustments that are necessary to
144 implement the requirements of this act. Adjustments made to the
145 operating budgets of the department and the commission in the

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146 implementation of this act must be made in consultation with the
147 appropriate substantive and fiscal committees of the Senate and
148 the House of Representatives. The revisions to the approved
149 operating budgets for the 2012-2013 fiscal year which are
150 necessary to reflect the organizational changes made by this act
151 shall be implemented pursuant to s. 216.292(4)(d), Florida
152 Statutes, and subject to s. 216.177, Florida Statutes.
153 Subsequent adjustments between agencies which are determined
154 necessary by the department or commission and approved by the
155 Executive Office of the Governor are authorized and subject to
156 s. 216.177, Florida Statutes. The appropriate substantive
157 committees of the Senate and the House of Representatives shall
158 also be notified of the proposed revisions to ensure consistency
159 with legislative policy and intent.
160 (2) The Secretary of Environmental Protection, the
161 Commissioner of Agriculture, and the Executive Director of the
162 Fish and Wildlife Conservation Commission shall each appoint two
163 staff members to a transition advisory working group to identify
164 rules of the Department of Environmental Protection, the Board
165 of Trustees of the Internal Improvement Trust Fund, the
166 Department of Agriculture and Consumer Services, and the Fish
167 and Wildlife Conservation Commission which need to be amended to
168 reflect the changes made by this act.
169 Section 4. (1) The Fish and Wildlife Conservation
170 Commission is assigned all powers, duties, responsibilities,
171 functions, positions, and property necessary for enforcement of
172 the laws and rules governing:
173 (a) Management, protection, conservation, improvement, and
174 expansion of the state-owned lands managed by the Department of

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175 Environmental Protection, including state parks, coastal and
176 aquatic managed areas, and greenways and trails.
177 (b) Conservation and recreation lands and commercial
178 aquaculture managed by the Department of Agriculture and
179 Consumer Services.
180 (2) Law enforcement officers of the Fish and Wildlife
181 Conservation Commission are conferred full power to investigate
182 and arrest for any violation of the rules of the Department of
183 Agriculture and Consumer Services, the Department of
184 Environmental Protection, and the Board of Trustees of the
185 Internal Improvement Trust Fund.
186 Section 5. (1) Notwithstanding ss. 110.2035 and 216.251,
187 Florida Statutes, the Division of Law Enforcement within the
188 Fish and Wildlife Conservation Commission may use available
189 funds to provide for general salary increases or pay additives
190 for positions sharing the same job classification or job
191 occupations in order to bring pay parity between positions of
192 the Fish and Wildlife Conservation Commission and the positions
193 transferring to the commission from the Department of
194 Agriculture and Consumer Services and the Department of
195 Environmental Protection and for those positions assuming
196 significant additional duties or an increased work load as a
197 result of this act.
198 (2) Notwithstanding chapter 60K-5, Florida Administrative
199 Code, or any provision of law to the contrary, employees who are
200 transferred from the Department of Environmental Protection and
201 the Department of Agriculture and Consumer Services to fill
202 positions transferred to the Fish and Wildlife Conservation
203 Commission shall retain and transfer any accrued annual leave,

204 sick leave, and regular and special compensatory leave balances.
205 Section 6. Part IV of chapter 258, Florida Statutes,
206 consisting of section 258.601, is created to read:
207 PART IV
208 MISCELLANEOUS PROVISIONS
209 258.601 Enforcement of prohibited activities.—Prohibited
210 activities under this chapter shall be enforced by the
211 Department of Environmental Protection and the Division of Law
212 Enforcement of the Fish and Wildlife Conservation Commission and
213 its officers.
214 Section 7. Subsections (5) through (8) of section 20.255,
215 Florida Statutes, are renumbered as subsections (4) through (7),
216 respectively, and present subsections (2), (3), and (4) of that
217 section are amended to read:
218 20.255 Department of Environmental Protection.—There is
219 created a Department of Environmental Protection.
220 (2)(a) There shall be three deputy secretaries who are to
221 be appointed by and shall serve at the pleasure of the
222 secretary. The secretary may assign any deputy secretary the
223 responsibility to supervise, coordinate, and formulate policy
224 for any division, office, or district. The following special
225 offices are established and headed by managers, each of whom is
226 to be appointed by and serve at the pleasure of the secretary:
227 1. Office of Chief of Staff;
228 2. Office of General Counsel;
229 3. Office of Inspector General;
230 4. Office of External Affairs;
231 5. Office of Legislative Affairs;
232 6. Office of Intergovernmental Programs; ~~and~~

7. Office of Greenways and Trails; and~~.~~

8. Office of Emergency Management.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j).

(3) The following divisions of the Department of Environmental Protection are established:

(a) Division of Administrative Services.

(b) Division of Air Resource Management.

(c) Division of Water Resource Management.

~~(d) Division of Law Enforcement.~~

(d) ~~(e)~~ Division of Environmental Assessment and Restoration.

(e) ~~(f)~~ Division of Waste Management.

(f) ~~(g)~~ Division of Recreation and Parks.

(g) ~~(h)~~ Division of State Lands, the director of which is to be appointed by the secretary of the department, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

In order to ensure statewide and intradepartmental consistency, the department's divisions shall direct the district offices and bureaus on matters of interpretation and applicability of the department's rules and programs.

~~(4) Law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.~~

Section 8. Subsection (1) of section 258.008, Florida Statutes, is amended to read:

258.008 Prohibited activities; penalties.—

(1) Except as provided in subsection (3), any person who violates or otherwise fails to comply with the rules adopted under this chapter commits a noncriminal infraction for which ejection from all property managed by the Division of Recreation and Parks and a fine of up to $500 may be imposed by the division. Fines paid under this subsection shall be paid to the Fish and Wildlife Conservation Commission ~~Department of Environmental Protection~~ and deposited in the State Game ~~Park~~ Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

Section 9. Subsection (16) of section 258.501, Florida Statutes, is amended to read:

258.501 Myakka River; wild and scenic segment.—

291 (16) ENFORCEMENT.—~~Officers of~~ The Fish and Wildlife
292 Conservation Commission and the department shall have full
293 authority to enforce any rule adopted by the department ~~under~~
294 ~~this section with the same police powers given them by law to~~
295 ~~enforce the rules of state parks and the rules pertaining to~~
296 ~~saltwater areas under the jurisdiction of the Florida Marine~~
297 ~~Patrol~~.
298 Section 10. Paragraph (a) of subsection (2) of section
299 282.709, Florida Statutes, is amended to read:
300 282.709 State agency law enforcement radio system and
301 interoperability network.—
302 (2) The Joint Task Force on State Agency Law Enforcement
303 Communications is created adjunct to the department to advise
304 the department of member-agency needs relating to the planning,
305 designing, and establishment of the statewide communication
306 system.
307 (a) The Joint Task Force on State Agency Law Enforcement
308 Communications shall consist of the following ~~eight~~ members~~, as~~
309 ~~follows~~:
310 1. A representative of the Division of Alcoholic Beverages
311 and Tobacco of the Department of Business and Professional
312 Regulation who shall be appointed by the secretary of the
313 department.
314 2. A representative of the Division of Florida Highway
315 Patrol of the Department of Highway Safety and Motor Vehicles
316 who shall be appointed by the executive director of the
317 department.
318 3. A representative of the Department of Law Enforcement
319 who shall be appointed by the executive director of the

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320 department.
321 4. A representative of the Fish and Wildlife Conservation
322 Commission who shall be appointed by the executive director of
323 the commission.
324 ~~5. A representative of the Division of Law Enforcement of~~
325 ~~the Department of Environmental Protection who shall be~~
326 ~~appointed by the secretary of the department.~~
327 5.~~6.~~ A representative of the Department of Corrections who
328 shall be appointed by the secretary of the department.
329 6.~~7.~~ A representative of the Division of State Fire Marshal
330 of the Department of Financial Services who shall be appointed
331 by the State Fire Marshal.
332 7.~~8.~~ A representative of the Department of Transportation
333 who shall be appointed by the secretary of the department.
334 Section 11. Subsection (1) of section 316.003, Florida
335 Statutes, is amended to read:
336 316.003 Definitions.—The following words and phrases, when
337 used in this chapter, shall have the meanings respectively
338 ascribed to them in this section, except where the context
339 otherwise requires:
340 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire
341 department (fire patrol), police vehicles, and such ambulances
342 and emergency vehicles of municipal departments, public service
343 corporations operated by private corporations, the Department of
344 Environmental Protection, the Fish and Wildlife Conservation
345 Commission, the Department of Health, the Department of
346 Transportation, and the Department of Corrections as are
347 designated or authorized by their respective department or the
348 chief of police of an incorporated city or any sheriff of any of

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349 the various counties.
350 Section 12. Subsections (3) and (9) of section 316.2397,
351 Florida Statutes, are amended to read:
352 316.2397 Certain lights prohibited; exceptions.—
353 (3) Vehicles of the fire department and fire patrol,
354 including vehicles of volunteer firefighters as permitted under
355 s. 316.2398, vehicles of medical staff physicians or technicians
356 of medical facilities licensed by the state as authorized under
357 s. 316.2398, ambulances as authorized under this chapter, and
358 buses and taxicabs as authorized under s. 316.2399 may ~~are~~
359 ~~permitted to~~ show or display red lights. Vehicles of the fire
360 department, fire patrol, police vehicles, and such ambulances
361 and emergency vehicles of municipal and county departments,
362 public service corporations operated by private corporations,
363 the Fish and Wildlife Conservation Commission, the Department of
364 Environmental Protection, the Department of Transportation, the
365 Department of Agriculture and Consumer Services, and the
366 Department of Corrections as are designated or authorized by
367 their respective department or the chief of police of an
368 incorporated city or any sheriff of any county may ~~are hereby~~
369 ~~authorized to~~ operate emergency lights and sirens in an
370 emergency. Wreckers, mosquito control fog and spray vehicles,
371 and emergency vehicles of governmental departments or public
372 service corporations may show or display amber lights when in
373 actual operation or when a hazard exists provided they are not
374 used going to and from the scene of operation or hazard without
375 specific authorization of a law enforcement officer or law
376 enforcement agency. Wreckers must use amber rotating or flashing
377 lights while performing recoveries and loading on the roadside

378 day or night, and may use such lights while towing a vehicle on
379 wheel lifts, slings, or under reach if the operator of the
380 wrecker deems such lights necessary. A flatbed, car carrier, or
381 rollback may not use amber rotating or flashing lights when
382 hauling a vehicle on the bed unless it creates a hazard to other
383 motorists because of protruding objects. Further, escort
384 vehicles may show or display amber lights when in the actual
385 process of escorting overdimensioned equipment, material, or
386 buildings as authorized by law. Vehicles owned or leased by
387 private security agencies may show or display green and amber
388 lights, with either color being no greater than 50 percent of
389 the lights displayed, while the security personnel are engaged
390 in security duties on private or public property.
391 (9) Flashing red lights may be used by emergency response
392 vehicles of the Fish and Wildlife Conservation Commission, the
393 Department of Environmental Protection and the Department of
394 Health when responding to an emergency in the line of duty.
395 Section 13. Paragraph (a) of subsection (1) of section
396 316.640, Florida Statutes, is amended to read:
397 316.640 Enforcement.—The enforcement of the traffic laws of
398 this state is vested as follows:
399 (1) STATE.—
400 (a)1.a. The Division of Florida Highway Patrol of the
401 Department of Highway Safety and Motor Vehicles; the Division of
402 Law Enforcement of the Fish and Wildlife Conservation
403 Commission; ~~the Division of Law Enforcement of the Department of~~
404 ~~Environmental Protection;~~ and the agents, inspectors, and
405 officers of the Department of Law Enforcement each have
406 authority to enforce all of the traffic laws of this state on

407 all the streets and highways thereof and elsewhere throughout
408 the state wherever the public has a right to travel by motor
409 vehicle.
410 b. University police officers may ~~shall have authority to~~
411 enforce all of the traffic laws of this state when violations
412 occur on or within 1,000 feet of any property or facilities that
413 are under the guidance, supervision, regulation, or control of a
414 state university, a direct-support organization of such state
415 university, or any other organization controlled by the state
416 university or a direct-support organization of the state
417 university, or when such violations occur within a specified
418 jurisdictional area as agreed upon in a mutual aid agreement
419 entered into with a law enforcement agency pursuant to s.
420 23.1225(1). Traffic laws may also be enforced off-campus when
421 hot pursuit originates on or within 1,000 feet of any such
422 property or facilities, or as agreed upon in accordance with the
423 mutual aid agreement.
424 c. Community college police officers may ~~shall have the~~
425 ~~authority to~~ enforce all the traffic laws of this state only
426 when such violations occur on any property or facilities that
427 are under the guidance, supervision, regulation, or control of
428 the community college system.
429 d. Police officers employed by an airport authority may
430 ~~shall have the authority to~~ enforce all of the traffic laws of
431 this state only when such violations occur on any property or
432 facilities that are owned or operated by an airport authority.
433 (I) An airport authority may employ as a parking
434 enforcement specialist any individual who successfully completes
435 a training program established and approved by the Criminal

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436 Justice Standards and Training Commission for parking
437 enforcement specialists but who does not otherwise meet the
438 uniform minimum standards established by the commission for law
439 enforcement officers or auxiliary or part-time officers under s.
440 943.12. ~~Nothing in~~ This sub-sub-subparagraph does not ~~shall be~~
441 ~~construed to~~ permit the carrying of firearms or other weapons,
442 nor shall such parking enforcement specialist have arrest
443 authority.
444 (II) A parking enforcement specialist employed by an
445 airport authority may ~~is authorized to~~ enforce all state,
446 county, and municipal laws and ordinances governing parking only
447 when such violations are on property or facilities owned or
448 operated by the airport authority employing the specialist, by
449 appropriate state, county, or municipal traffic citation.
450 e. The Office of Agricultural Law Enforcement of the
451 Department of Agriculture and Consumer Services may ~~shall have~~
452 ~~the authority to~~ enforce traffic laws of this state.
453 f. School safety officers may ~~shall have the authority to~~
454 enforce all of the traffic laws of this state when such
455 violations occur on or about any property or facilities which
456 are under the guidance, supervision, regulation, or control of
457 the district school board.
458 2. An agency of the state as described in subparagraph 1.
459 is prohibited from establishing a traffic citation quota. A
460 violation of this subparagraph is not subject to the penalties
461 provided in chapter 318.
462 3. Any disciplinary action taken or performance evaluation
463 conducted by an agency of the state as described in subparagraph
464 1. of a law enforcement officer's traffic enforcement activity

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465 must be in accordance with written work-performance standards.
466 Such standards must be approved by the agency and any collective
467 bargaining unit representing such law enforcement officer. A
468 violation of this subparagraph is not subject to the penalties
469 provided in chapter 318.
470 4. The Division of the Florida Highway Patrol may employ as
471 a traffic accident investigation officer any individual who
472 successfully completes instruction in traffic accident
473 investigation and court presentation through the Selective
474 Traffic Enforcement Program as approved by the Criminal Justice
475 Standards and Training Commission and funded through the
476 National Highway Traffic Safety Administration or a similar
477 program approved by the commission, but who does not necessarily
478 meet the uniform minimum standards established by the commission
479 for law enforcement officers or auxiliary law enforcement
480 officers under chapter 943. Any such traffic accident
481 investigation officer who makes an investigation at the scene of
482 a traffic accident may issue traffic citations, based upon
483 personal investigation, when he or she has reasonable and
484 probable grounds to believe that a person who was involved in
485 the accident committed an offense under this chapter, chapter
486 319, chapter 320, or chapter 322 in connection with the
487 accident. This subparagraph does not permit the officer to carry
488 firearms or other weapons, and such an officer does not have
489 authority to make arrests.
490 Section 14. Subsection (4) of section 375.041, Florida
491 Statutes, is amended to read:
492 375.041 Land Acquisition Trust Fund.—
493 (4) The department may disburse moneys in the Land

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494 Acquisition Trust Fund to pay all necessary expenses to carry
495 out the purposes of this act. The department shall disburse
496 moneys from the Land Acquisition Trust Fund to the Fish and
497 Wildlife Conservation Commission for the purpose of funding law
498 enforcement services on state lands.
499 Section 15. Subsection (5) of section 376.065, Florida
500 Statutes, is amended to read:
501 376.065 Operation of terminal facility without discharge
502 prevention and response certificate prohibited; penalty.—
503 (5)(a) A ~~Any~~ person who violates this section or the terms
504 and requirements of such certification commits a noncriminal
505 infraction. The civil penalty for any such infraction shall be
506 $500, except as otherwise provided in this section.
507 (b) A ~~Any~~ person cited for an infraction under this section
508 may:
509 1. Pay the civil penalty;
510 2. Post a bond equal to the amount of the applicable civil
511 penalty; or
512 3. Sign and accept a citation indicating a promise to
513 appear before the county court.
514
515 The department employee ~~officer~~ authorized to issue these
516 citations may indicate on the citation the time and location of
517 the scheduled hearing and shall indicate the applicable civil
518 penalty.
519 (c) A ~~Any~~ person who willfully refuses to post bond or
520 accept and sign a citation commits a misdemeanor of the second
521 degree, punishable as provided in s. 775.082 or s. 775.083.
522 (d) After compliance with ~~the provisions of~~ subparagraph

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523 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a
524 noncriminal infraction under this section may:
525 1. Pay the civil penalty, either by mail or in person,
526 within 30 days after the date of receiving the citation; or
527 2. If the person has posted bond, forfeit the bond by not
528 appearing at the designated time and location.
529
530 A person cited for an infraction under this section who pays the
531 civil penalty or forfeits the bond has admitted the infraction
532 and waives the right to a hearing on the issue of commission of
533 the infraction. Such admission may not be used as evidence in
534 any other proceedings.
535 (e) A ~~Any~~ person who elects to appear before the county
536 court or who is required to so appear waives the limitations of
537 the civil penalty specified in paragraph (a). The court, after a
538 hearing, shall make a determination as to whether an infraction
539 has been committed. If the commission of the infraction is
540 proved, the court shall impose a civil penalty of $500.
541 (f) At a hearing under this subsection, the commission of a
542 charged infraction must be proved by the greater weight of the
543 evidence.
544 (g) A person who is found by the hearing official to have
545 committed an infraction may appeal that finding to the circuit
546 court.
547 (h) A ~~Any~~ person who has not posted bond and who fails
548 either to pay the fine specified in paragraph (a) within 30 days
549 after receipt of the citation or to appear before the court
550 commits a misdemeanor of the second degree, punishable as
551 provided in s. 775.082 or s. 775.083.

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552 Section 16. Subsection (3) of section 376.07, Florida
553 Statutes, is amended to read:
554 376.07 Regulatory powers of department; penalties for
555 inadequate booming by terminal facilities.—
556 (3) The department shall not require vessels to maintain
557 discharge prevention gear, holding tanks, and containment gear
558 which exceed federal requirements. However, a terminal facility
559 transferring heavy oil to or from a vessel with a heavy oil
560 storage capacity greater than 10,000 gallons shall be required,
561 considering existing weather and tidal conditions, to adequately
562 boom or seal off the transfer area during a transfer, including,
563 but not limited to, a bunkering operation, to minimize the
564 escape of such pollutants from the containment area. As used in
565 this subsection, the term “adequate booming” means booming with
566 proper containment equipment which is employed and located for
567 the purpose of preventing, for the most likely discharge, as
568 much of the pollutant as possible from escaping out of the
569 containment area.
570 (a) The owner or operator of a terminal facility involved
571 in the transfer of such pollutant to or from a vessel which is
572 not adequately boomed commits a noncriminal infraction and shall
573 be cited for such infraction. The civil penalty for such an
574 infraction shall be $2,500, except as otherwise provided in this
575 section.
576 (b) A ~~Any~~ person cited for an infraction under this section
577 may:
578 1. Pay the civil penalty;
579 2. Post bond equal to the amount of the applicable civil
580 penalty; or

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581 3. Sign and accept a citation indicating a promise to
582 appear before the county court.
583
584 The department employee ~~officer~~ authorized to issue these
585 citations may indicate on the citation the time and location of
586 the scheduled hearing and shall indicate the applicable civil
587 penalty.
588 (c) A ~~Any~~ person who willfully refuses to post bond or
589 accept and sign a citation commits a misdemeanor of the second
590 degree, punishable as provided in s. 775.082 or s. 775.083.
591 (d) After compliance with subparagraph (b)2. or
592 subparagraph (b)3., a ~~any~~ person charged with a noncriminal
593 infraction under this section may:
594 1. Pay the civil penalty, either by mail or in person,
595 within 30 days after the date of receiving the citation; or
596 2. If the person has posted bond, forfeit the bond by not
597 appearing at the designated time and location.
598
599 A person cited for an infraction under this section who pays the
600 civil penalty or forfeits the bond has admitted the infraction
601 and waives the right to a hearing on the issue of commission of
602 the infraction. Such admission may not be used as evidence in
603 any other proceedings.
604 (e) A ~~Any~~ person who elects to appear before the county
605 court or who is required to appear waives the limitations of the
606 civil penalty specified in paragraph (a). The issue of whether
607 an infraction has been committed and the severity of the
608 infraction shall be determined by a hearing official at a
609 hearing. If the commission of the infraction is proved by the

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610 greater weight of the evidence, the court shall impose a civil
611 penalty of $2,500. If the court determines that the owner or
612 operator of the terminal facility failed to deploy any boom
613 equipment during such a transfer, including, but not limited to,
614 a bunkering operation, the civil penalty shall be $5,000.
615 (f) A person who is found by the hearing official to have
616 committed an infraction may appeal that finding to the circuit
617 court.
618 (g) A ~~Any~~ person who has not posted bond and who fails
619 either to pay the civil penalty specified in paragraph (a)
620 within 30 days after receipt of the citation or to appear before
621 the court commits a misdemeanor of the second degree, punishable
622 as provided in s. 775.082 or s. 775.083.
623 Section 17. Subsection (2) of section 376.071, Florida
624 Statutes, is amended to read:
625 376.071 Discharge contingency plan for vessels.—
626 (2)(a) A ~~Any~~ master of a vessel that ~~which~~ violates
627 subsection (1) commits a noncriminal infraction and shall be
628 cited for such infraction. The civil penalty for such an
629 infraction shall be $5,000, except as otherwise provided in this
630 subsection.
631 (b) A ~~Any~~ person charged with a noncriminal infraction
632 under this section may:
633 1. Pay the civil penalty;
634 2. Post bond equal to the amount of the applicable civil
635 penalty; or
636 3. Sign and accept a citation indicating a promise to
637 appear before the county court for the county in which the
638 violation occurred or the county closest to the location at

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639 which the violation occurred.
640
641 The department employee ~~officer~~ authorized to issue these
642 citations may indicate on the citation the time and location of
643 the scheduled hearing and shall indicate the applicable civil
644 penalty.
645 (c) A ~~Any~~ person who willfully refuses to post bond or
646 accept and sign a citation commits a misdemeanor of the second
647 degree, punishable as provided in s. 775.082 or s. 775.083.
648 (d) After complying with ~~the provisions of~~ subparagraph
649 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a
650 noncriminal infraction under this section may:
651 1. Pay the civil penalty, either by mail or in person,
652 within 30 days after the date of receiving the citation; or
653 2. If the person has posted bond, forfeit the bond by not
654 appearing at the designated time and location.
655
656 A person cited for an infraction under this section who pays the
657 civil penalty or forfeits the bond has admitted the infraction
658 and waives the right to a hearing on the issue of commission of
659 the infraction. Such admission may not be used as evidence in
660 any other proceedings.
661 (e) A ~~Any~~ person who elects to appear before the county
662 court or who is required to appear waives the limitations of the
663 civil penalty specified in paragraph (a). The court, after a
664 hearing, shall make a determination as to whether an infraction
665 has been committed. If the commission of the infraction is
666 proved, the court shall impose a civil penalty of $5,000.
667 (f) At a hearing under this subsection, the commission of a

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668 charged infraction must be proved by the greater weight of the
669 evidence.
670 (g) A person who is found by the hearing official to have
671 committed an infraction may appeal that finding to the circuit
672 court.
673 (h) A ~~Any~~ person who has not posted bond and who fails
674 either to pay the civil penalty specified in paragraph (a)
675 within 30 days after receipt of the citation or to appear before
676 the court commits a misdemeanor of the second degree, punishable
677 as provided in s. 775.082 or s. 775.083.
678 Section 18. Subsection (4) of section 376.16, Florida
679 Statutes, is amended to read:
680 376.16 Enforcement and penalties.—
681 (4) A ~~Any~~ person charged with a noncriminal infraction
682 pursuant to subsection (2) or subsection (3) may:
683 (a) Pay the civil penalty;
684 (b) Post a bond equal to the amount of the applicable civil
685 penalty; or
686 (c) Sign and accept a citation indicating a promise to
687 appear before the county court.
688
689 The department employee ~~officer~~ authorized to issue these
690 citations may indicate on the citation the time and location of
691 the scheduled hearing and shall indicate the applicable civil
692 penalty.
693 Section 19. Paragraph (q) is added to subsection (4) of
694 section 376.3071, Florida Statutes, to read:
695 376.3071 Inland Protection Trust Fund; creation; purposes;
696 funding.—

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697 (4) USES.—Whenever, in its determination, incidents of
698 inland contamination related to the storage of petroleum or
699 petroleum products may pose a threat to the environment or the
700 public health, safety, or welfare, the department shall obligate
701 moneys available in the fund to provide for:
702 (q) Enforcement of this section and ss. 376.30-376.317 by
703 the Fish and Wildlife Conservation Commission. The department
704 shall disburse moneys to the commission for such purpose.
705
706 The Inland Protection Trust Fund may only be used to fund the
707 activities in ss. 376.30-376.317 except ss. 376.3078 and
708 376.3079. Amounts on deposit in the Inland Protection Trust Fund
709 in each fiscal year shall first be applied or allocated for the
710 payment of amounts payable by the department pursuant to
711 paragraph (o) under a service contract entered into by the
712 department pursuant to s. 376.3075 and appropriated in each year
713 by the Legislature prior to making or providing for other
714 disbursements from the fund. Nothing in this subsection shall
715 authorize the use of the Inland Protection Trust Fund for
716 cleanup of contamination caused primarily by a discharge of
717 solvents as defined in s. 206.9925(6), or polychlorinated
718 biphenyls when their presence causes them to be hazardous
719 wastes, except solvent contamination which is the result of
720 chemical or physical breakdown of petroleum products and is
721 otherwise eligible. Facilities used primarily for the storage of
722 motor or diesel fuels as defined in ss. 206.01 and 206.86 shall
723 be presumed not to be excluded from eligibility pursuant to this
724 section.
725 Section 20. Section 379.3311, Florida Statutes, is amended

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726 to read:
727 379.3311 Police powers of commission and its agents.—
728 (1) The ~~Fish and Wildlife Conservation~~ commission, the
729 executive director and the executive director's assistants
730 designated by her or him, and each commission ~~wildlife~~ officer
731 are constituted peace officers with the power to make arrests
732 for violations of the laws of this state when committed in the
733 presence of the officer or when committed on lands under the
734 supervision and management of the commission, the department,
735 the Board of Trustees of the Internal Improvement Trust Fund, or
736 the Department of Agricultural and Consumer Services, including
737 state parks, coastal and aquatic managed areas, and greenways
738 and trails. The general laws applicable to arrests by peace
739 officers of this state shall also be applicable to the ~~said~~
740 director, assistants, and wildlife officers. Such persons may
741 enter upon any land or waters of the state for performance of
742 their lawful duties and may take with them any necessary
743 equipment, and such entry does ~~shall~~ not constitute a trespass.
744 (2) Such officers may ~~shall have power and authority to~~
745 enforce throughout the state all laws relating to game, nongame
746 birds, fish, and fur-bearing animals and all rules and
747 regulations of the ~~Fish and Wildlife Conservation~~ commission
748 relating to wild animal life, marine life, and freshwater
749 aquatic life, and in connection with the ~~said~~ laws, rules, and
750 regulations, in the enforcement thereof and in the performance
751 of their duties thereunder, to:
752 (a) Go upon all premises, posted or otherwise;
753 (b) Execute warrants and search warrants for the violation
754 of the ~~said~~ laws;

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755 (c) Serve subpoenas issued for the examination,
756 investigation, and trial of all offenses against the ~~said~~ laws;
757 (d) Carry firearms or other weapons, concealed or
758 otherwise, in the performance of their duties;
759 (e) Arrest upon probable cause without warrant any person
760 found in the act of violating any such ~~of the provisions of said~~
761 laws or, in pursuit immediately following such violations, to
762 examine any person, boat, conveyance, vehicle, game bag, game
763 coat, or other receptacle for wild animal life, marine life, or
764 freshwater aquatic life, or any camp, tent, cabin, or roster, in
765 the presence of any person stopping at or belonging to such
766 camp, tent, cabin, or roster, when the ~~said~~ officer has reason
767 to believe, and has exhibited her or his authority and stated to
768 the suspected person in charge the officer's reason for
769 believing, that any of the aforesaid laws have been violated at
770 such camp;
771 (f) Secure and execute search warrants and in pursuance
772 thereof to enter any building, enclosure, or car and to break
773 open, when found necessary, any apartment, chest, locker, box,
774 trunk, crate, basket, bag, package, or container and examine the
775 contents thereof;
776 (g) Seize and take possession of all wild animal life,
777 marine life, or freshwater aquatic life taken or in possession
778 or under control of, or shipped or about to be shipped by, any
779 person at any time in any manner contrary to the ~~said~~ laws.
780 (3) It is unlawful for a ~~any~~ person to resist an arrest
781 authorized by this section or in any manner to interfere, either
782 by abetting, assisting such resistance, or otherwise interfering
783 with the ~~said~~ executive director, assistants, or wildlife

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784 officers while engaged in the performance of the duties imposed
785 upon them by law or regulation of the ~~Fish and Wildlife~~
786 ~~Conservation~~ commission, the department, the Board of Trustees
787 of the Internal Improvement Trust Fund, or the Department of
788 Agriculture and Consumer Services.
789 (4) Upon final disposition of any alleged offense for which
790 a citation for any violation of this chapter or the rules of the
791 commission has been issued, the court shall, within 10 days
792 after the final disposition of the action, certify the
793 disposition to the commission.
794 Section 21. Section 379.3312, Florida Statutes, is amended
795 to read:
796 379.3312 Powers of arrest by agents of ~~Department of~~
797 ~~Environmental Protection or Fish and Wildlife Conservation~~
798 commission.—Any certified law enforcement officer of the
799 ~~Department of Environmental Protection or the Fish and Wildlife~~
800 ~~Conservation~~ commission, upon receiving information, relayed to
801 her or him from any law enforcement officer stationed on the
802 ground, on the water, or in the air, that a driver, operator, or
803 occupant of any vehicle, boat, or airboat has violated any
804 section of chapter 327, chapter 328, or this chapter, or s.
805 597.010 or s. 597.020, may arrest the driver, operator, or
806 occupant for violation of such ~~said~~ laws when reasonable and
807 proper identification of the vehicle, boat, or airboat and
808 reasonable and probable grounds to believe that the driver,
809 operator, or occupant has committed or is committing any such
810 offense have been communicated to the arresting officer by the
811 other officer stationed on the ground, on the water, or in the
812 air.

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Section 22. Subsection (1) of section 379.3313, Florida Statutes, is amended to read:

379.3313 Powers of commission law enforcement officers.—

(1) Law enforcement officers of the commission are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, and the Department of Agriculture and Consumer Services under their jurisdiction. The general laws applicable to arrests by peace officers of this state shall also be applicable to law enforcement officers of the commission. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the commission or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules adopted ~~promulgated~~ under this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any

time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule of the commission. Such law enforcement officers may arrest any person in the act of violating ~~any of the provisions of~~ this law, the rules of the commission, or any of the laws of this state. It is hereby declared unlawful for a ~~any~~ person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or rule of the commission.

Section 23. Subsections (1) and (2) of section 379.333, Florida Statutes, are amended to read:

379.333 Arrest by officers of the ~~Fish and Wildlife Conservation~~ commission; recognizance; cash bond; citation.—

(1) In all cases of arrest by officers of the ~~Fish and Wildlife Conservation~~ commission ~~and the Department of Environmental Protection~~, the person arrested shall be delivered forthwith by the ~~said~~ officer to the sheriff of the county, or shall obtain from the ~~such~~ person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for her or his appearance before the proper tribunal of the ~~such~~ county to answer the charge for which the person has been arrested.

(2) All officers of the commission shall ~~and the department are hereby directed to~~ deliver all bonds accepted and approved by them to the sheriff of the county in which the offense is alleged to have been committed.

871 Section 24. Subsection (1) of section 379.341, Florida
872 Statutes, is amended to read:
873 379.341 Disposition of illegal fishing devices; exercise of
874 police power.—
875 (1) In all cases of arrest and conviction for use of
876 illegal nets or traps or fishing devices, as provided in this
877 chapter, the ~~such~~ illegal net, trap, or fishing device is
878 declared to be a nuisance and shall be seized and carried before
879 the court having jurisdiction of the ~~such~~ offense and the ~~said~~
880 court shall order the ~~such~~ illegal trap, net, or fishing device
881 forfeited to the commission immediately after trial and
882 conviction of the person in whose possession they were found.
883 When any illegal net, trap, or fishing device is found in the
884 fresh waters of the state, and the owner of same is ~~shall~~ not ~~be~~
885 known to the officer finding the same, the ~~such~~ officer shall
886 immediately procure from the county court judge an order
887 forfeiting the ~~said~~ illegal net, trap, or fishing device to the
888 commission. The commission may destroy the ~~such~~ illegal net,
889 trap, or fishing device, if in its judgment the ~~said~~ net, trap,
890 or fishing device is ~~not~~ of no value in the work of the
891 commission ~~department~~.
892 Section 25. Subsection (2) of section 403.413, Florida
893 Statutes, is reordered and amended to read:
894 403.413 Florida Litter Law.—
895 (2) DEFINITIONS.—As used in this section:
896 (f) ~~(a)~~ "Litter" means any garbage; rubbish; trash; refuse;
897 can; bottle; box; container; paper; tobacco product; tire;
898 appliance; mechanical equipment or part; building or
899 construction material; tool; machinery; wood; motor vehicle or

900 motor vehicle part; vessel; aircraft; farm machinery or
901 equipment; sludge from a waste treatment facility, water supply
902 treatment plant, or air pollution control facility; or substance
903 in any form resulting from domestic, industrial, commercial,
904 mining, agricultural, or governmental operations.
905 (h) ~~(b)~~ "Person" means any individual, firm, sole
906 proprietorship, partnership, corporation, or unincorporated
907 association.
908 (e) ~~(c)~~ "Law enforcement officer" means any officer of the
909 Florida Highway Patrol, a county sheriff's department, a
910 municipal law enforcement department, a law enforcement
911 department of any other political subdivision, ~~the department,~~
912 or the Fish and Wildlife Conservation Commission. In addition,
913 and solely for the purposes of this section, "law enforcement
914 officer" means any employee of a county or municipal park or
915 recreation department designated by the department head as a
916 litter enforcement officer.
917 (a) ~~(d)~~ "Aircraft" means a motor vehicle or other vehicle
918 that is used or designed to fly but does not include a parachute
919 or any other device used primarily as safety equipment.
920 (b) ~~(e)~~ "Commercial purpose" means for the purpose of
921 economic gain.
922 (c) ~~(f)~~ "Commercial vehicle" means a vehicle that is owned
923 or used by a business, corporation, association, partnership, or
924 sole proprietorship or any other entity conducting business for
925 a commercial purpose.
926 (d) ~~(g)~~ "Dump" means to dump, throw, discard, place,
927 deposit, or dispose of.
928 (g) ~~(h)~~ "Motor vehicle" means an automobile, motorcycle,

929 truck, trailer, semitrailer, truck tractor, or semitrailer
930 combination or any other vehicle that is powered by a motor.
931 (i) "Vessel" means a boat, barge, or airboat or any other
932 vehicle used for transportation on water.
933 Section 26. Paragraph (d) of subsection (1) of section
934 784.07, Florida Statutes, is amended to read:
935 784.07 Assault or battery of law enforcement officers,
936 firefighters, emergency medical care providers, public transit
937 employees or agents, or other specified officers;
938 reclassification of offenses; minimum sentences.—
939 (1) As used in this section, the term:
940 (d) "Law enforcement officer" includes a law enforcement
941 officer, a correctional officer, a correctional probation
942 officer, a part-time law enforcement officer, a part-time
943 correctional officer, an auxiliary law enforcement officer, and
944 an auxiliary correctional officer, as those terms are
945 respectively defined in s. 943.10, and any county probation
946 officer; an employee or agent of the Department of Corrections
947 who supervises or provides services to inmates; an officer of
948 the Parole Commission; a federal law enforcement officer as
949 defined in s. 901.1505; and law enforcement personnel of the
950 Fish and Wildlife Conservation Commission~~, the Department of~~
951 ~~Environmental Protection,~~ or the Department of Law Enforcement.
952 Section 27. Section 843.08, Florida Statutes, is amended to
953 read:
954 843.08 Falsely personating officer, etc.—A person who
955 falsely assumes or pretends to be a sheriff, officer of the
956 Florida Highway Patrol, officer of the Fish and Wildlife
957 Conservation Commission, ~~officer of the Department of~~

958 ~~Environmental Protection,~~ officer of the Department of
959 Transportation, officer of the Department of Financial Services,
960 officer of the Department of Corrections, correctional probation
961 officer, deputy sheriff, state attorney or assistant state
962 attorney, statewide prosecutor or assistant statewide
963 prosecutor, state attorney investigator, coroner, police
964 officer, lottery special agent or lottery investigator, beverage
965 enforcement agent, or watchman, or any member of the Parole
966 Commission and any administrative aide or supervisor employed by
967 the commission, or any personnel or representative of the
968 Department of Law Enforcement, or a federal law enforcement
969 officer as defined in s. 901.1505, and takes upon himself or
970 herself to act as such, or to require any other person to aid or
971 assist him or her in a matter pertaining to the duty of any such
972 officer, commits a felony of the third degree, punishable as
973 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
974 person who falsely personates any such officer during the course
975 of the commission of a felony commits a felony of the second
976 degree, punishable as provided in s. 775.082, s. 775.083, or s.
977 775.084.~~; except that~~ If the commission of the felony results in
978 the death or personal injury of another human being, the person
979 commits a felony of the first degree, punishable as provided in
980 s. 775.082, s. 775.083, or s. 775.084.
981 Section 28. Section 870.04, Florida Statutes, is amended to
982 read:
983 870.04 Specified officers to disperse riotous assembly.—If
984 any number of persons, whether armed or not, are unlawfully,
985 riotously or tumultuously assembled in any county, city or
986 municipality, the sheriff or the sheriff's deputies, or the

987 mayor, or any commissioner, council member, alderman or police
988 officer of the ~~said~~ city or municipality, or any officer or
989 member of the Florida Highway Patrol, or any officer or agent of
990 the Fish and Wildlife Conservation Commission, a ~~Department of~~
991 ~~Environmental Protection, or~~ beverage enforcement agent, any
992 personnel or representatives of the Department of Law
993 Enforcement or its successor, or any other peace officer, shall
994 go among the persons so assembled, or as near to them as may be
995 done with safety, and shall in the name of the state command all
996 the persons so assembled immediately and peaceably to disperse;
997 and if such persons do not thereupon immediately and peaceably
998 disperse, such ~~said~~ officers shall command the assistance of all
999 such persons in seizing, arresting and securing such persons in
1000 custody.~~; and~~ If a ~~any~~ person present being so commanded to aid
1001 and assist in seizing and securing such rioter or persons so
1002 unlawfully assembled, or in suppressing a ~~such~~ riot or unlawful
1003 assembly, refuses or neglects to obey such command, or, when
1004 required by the ~~such~~ officers to depart from the place, refuses
1005 and neglects to do so, the person shall be deemed one of the
1006 rioters or persons unlawfully assembled, and may be prosecuted
1007 and punished accordingly.
1008 Section 29. Paragraphs (c) through (n) of subsection (6) of
1009 section 932.7055, Florida Statutes, are redesignated as
1010 paragraphs (b) through (m), respectively, and present paragraph
1011 (b) of that subsection is amended to read:
1012 932.7055 Disposition of liens and forfeited property.—
1013 (6) If the seizing agency is a state agency, all remaining
1014 proceeds shall be deposited into the General Revenue Fund.
1015 However, if the seizing agency is:

1016 ~~(b) The Department of Environmental Protection, the~~
1017 ~~proceeds accrued pursuant to the provisions of the Florida~~
1018 ~~Contraband Forfeiture Act shall be deposited into the Internal~~
1019 ~~Improvement Trust Fund.~~
1020 Section 30. 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)

3/2/2012
Meeting Date

Topic: Dep/FWC consolidation

Bill Number: 1782 *(if applicable)*

Name: Katie Kelly

Amendment Barcode: _____ *(if applicable)*

Job Title: Leg. affairs director

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

E-mail: _____

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

Representing: DEP

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)

March 2, 2012
Meeting Date

Topic: Environmental Law Enforcement Consolidation

Bill Number: 1782 *(if applicable)*

Name: Col. Jim Brown

Amendment Barcode: *(if applicable)*

Job Title: Director, FWC Division of Law Enforcement

Address: 620 S. Meridian Street
Street

Tallahassee, 32399
City *State* *Zip*

Phone: 488-6251

E-mail: jim.brown@myfwc.com

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

Representing: Fish + Wildlife Conservation Commission

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)

3/2/2012
Meeting Date

Topic: Law Enforcement Consolidation

Bill Number: 1782 (if applicable)

Name: GRACE LOVETT

Amendment Barcode: _____ (if applicable)

Job Title: Div. of Legislative Affairs

Address: PL 10 The Capitol
Street

Tallahassee FL 32301
City State Zip

Phone: 488 3022

E-mail: grace.lovett@freshfromflorida.com

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

Representing: Dept. of Agriculture + Consumer Services

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)

SENATOR JACK LATVALA
16th District

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Environmental Preservation and Conservation
Governmental Oversight and Accountability
Health Regulation
Reapportionment

February 13, 2012

The Honorable Senator JD Alexander, Chair
Senate Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request that Senate Bill 1782 regarding the Fish and Wildlife Conservation Commission be placed on the agenda of the Senate Committee on Budget at your earliest convenience.

The purpose of this bill is to enhance the efficiency and effectiveness of state government by consolidating law enforcement services among state entities where unnecessary duplication currently exists. I would appreciate the opportunity to present this legislation as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you for your consideration.

Sincerely,

Jack

Jack Latvala
State Senator
District 16

cc: Terry Rhodes, Staff Director; Alicia Weiss, Administrative Assistant

REPLY TO:
❒ 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
❒ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

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/CS/SB 1626

INTRODUCER: Budget Committee, Governmental Oversight and Accountability Committee, Banking and Insurance Committee, and Senator Gaetz

SUBJECT: State Contracting

DATE: March 5, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubio	Burgess	BI	**Fav/CS**
2.	McKay	Roberts	GO	**Fav/CS**
3.	Betta	Rhodes	BC	**Fav/CS**
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 specifies the contract reporting requirements for state agencies using the contract management system in the Transparency Florida Act. The bill also specifies Auditor General's reporting requirements under the Transparency Florida Act.

The bill also requires that during the initial stage of a selection process for professional services, proposals must be evaluated on the basis of the compensation proposed by the competing firms.

This bill substantially amends sections 11.45 and 215.985, Florida Statutes.

The bill repeals section 216.0111, Florida Statutes.

The bill creates an unnumbered section of law.

II. Present Situation:

Department of Management Services and Chapter 287, F.S.

Under ch. 287, F.S., the Division of State Purchasing in the Department of Management Services (DMS) is responsible for developing and administering standardized procurement policies, procedures, and practices to be used by state agencies in acquiring commodities, contractual services, and information technology. A variety of procurement methods are available for use by the agencies depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. To guide the procedures for the procurement method to be used, the type of review required, and the method for the award of any contract the following purchasing categories with threshold amounts have been established:

- Category one: $20,000
- Category two: $35,000
- Category three: $65,000
- Category four: $195,000
- Category five: $325,000[1]

The DMS prescribes methods of securing competitive sealed bids, proposals, and replies.[2] The competitive solicitation process must be used for procurement of commodities or contractual services in excess of the category two threshold amount, and include the following solicitation methods: invitations to bid, requests of proposals, and invitations to negotiate.[3] Many services procured by state agencies are exempt from competitive solicitation requirements regardless of whether the purchase exceeds the applicable cost threshold, including artistic services, auditing services, and legal services.[4] Agencies currently must seek approval from the DMS to use an alternate contract source to purchase commodities or services from term contracts or requirements contracts competitively established by other governmental entities. In approving the alternate contract source, the DMS determines that the contract source is cost-effective and in the best interest of the State.[5]

All agreements in excess of the category two threshold must be evidenced by a written agreement and include provisions for the required minimum level of service to be performed by the contractor, criteria for evaluating the successful completion of each deliverable, and financial consequences for nonperformance. There must also be a provision dividing the contract into quantifiable, measurable, and verifiable units of deliverables 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.[6]

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[1] Section 287.017, F.S.
[2] Rule 60A-1.041, F.A.C.
[3] Section 287.057, F.S.
[4] Section 287.057(3)(f), F.S.
[5] Rule 60A-1.047, F.A.C.
[6] Section 287.058(1), F.S.

Each agency is required to appoint at least one contract administrator responsible for maintaining a contract file and financial information on all contractual services contracts and who serves as a liaison with the contract managers and the DMS.[7] The DMS designates certain minimum required documentation that must be in the contract file. Additionally, for each contractual services contract the agency must designate an employee to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor, but there is no similar requirement for grants. Each contract manager who is responsible for contracts in excess of the threshold amount for category two ($35,000) must attend training conducted by the CFO for accountability in contracts and grant management.[8] Additional certifications were later required for contracts in excess of category four threshold[9] and $250,000 annual funding was appropriated to accomplish the certification, however no funding has been appropriated for this purpose for the past fiscal year.[10] The DMS currently offers several training and certification programs including an optional Florida Certified Contract Manager designation.

Under s. 287.057(18), F.S., agencies must establish a review and approval process to be completed before contracts exceeding category three threshold ($65,000) are executed. Under s. 216.3475, F.S., each agency shall maintain records to support a cost analysis, which includes a detailed budget submitted by the person or entity awarded funding and the agency's documented review of individual cost elements from the submitted budget for allowability, reasonableness, and necessity.

Using these various procurement methods, the DMS also negotiates state term contracts and purchasing agreements that are intended to leverage the states' buying power. The DMS is also responsible for compiling statistical procurement data concerning the method of procurement, terms, usage, and disposition of commodities and contractual services by agencies.[11] This data is available in the Florida Accounting Information Resource Subsystem (FLAIR) and the State's My Florida Market Place (MFMP) centralized e-procurement system.[12]

The DMS facilitates the production and processing of these competitive solicitations through the MFMP system, which is the state's e-procurement system, and provides a standardized process for developing and processing solicitations. The MFMP system has four modules: the Buyer Module, Invoicing Module, Vendor Registration Module, and Sourcing Module. However, according to the DMS, the individual state agencies determine whether to use the MFMP e-procurement system.[13] The DMS develops procedures to be used by agencies for advertising and issuing solicitations through the Vendor Bid System. Currently all solicitations and procurement related decisions/intended decisions are required to be posted on the Vendor Bid System.[14] The

[7] Section 287.057(15), F.S.
[8] Section 287.057(14), F.S.
[9] Section 287.057(16)(b), F.S.
[10] Department of Management Services SB1626 Bill Analysis, January 23, 2012.
[11] Section 287.042(10), F.S.
[12] Department of Management Services Operational Audit, Report No. 2011-075, January 2011.
[13] Department of Management Services SB 1626 Bill Analysis, January 23, 2012.
[14] http://myflorida.com/apps/vbs/vbs_www.main_menu

DMS currently posts lists of firms not permitted to do business with the state online.[15] The DMS also maintains a list of vendors by classes of commodities within the MFMP system.[16]

In August 2011, the DMS with the participation of eight agencies and nine local government representatives initiated the Procurement Process Improvement Project to examine the policy, procedure, practice, and technology for conducting procurements. The intent of the project is to improve the effectiveness and efficiency of state purchasing through establishing standardized processes and procedures, better leveraging the MFMP sourcing module, and developing a continuous improvement protocol to better monitor and actively manage sourcing activities.[17]

Chief Financial Officer

The CFO is the chief fiscal officer of the state and is responsible for examining, auditing, settling, and approving payment of all accounts against the state and keeping all state funds and securities.[18] The CFO functions are carried out by the Department of Financial Services (DFS). The DFS's Division of Accounting and Auditing pays all the state's bills, including employees' salaries, payments for goods and services used by state agencies and benefit payments, promote financial accountability throughout state government by providing information about its fiscal soundness, and investigate allegations of waste, fraud, and abuse of taxpayers' money.[19]

Transparency Florida Act

The Transparency Florida Act[20] in s. 215.985, F.S., requires the Executive Office of the Governor, in consultation with appropriations committees from the Senate and House, to establish a public access website that provides information relating to each appropriation in the General Appropriations Act for each branch of state government and state agency.[21] In 2011, a requirement was added that the CFO must provide access to a state contract management system that provides information and documentation relating to contracts procured by governmental entities. This contract management system is under development, and will become a part of the current DFS transparency website.[22] [23]

Office of the Auditor General

The Office of the Auditor General conducts financial audits of the accounts and records of State agencies, conducts operational and performance audits of public records and information technology systems, adopts rules for financial audits performed by independent certified public accountants of local governmental entities, and reviews all audit reports of local governmental

[15] http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists
[16] Department of Management Services SB1626 Bill Analysis, January 23, 2012.
[17] Department of Management Services Bill Analysis, January 23, 2012.
[18] Section 17.001, F.S.
[19] Department of Financial Services website, http://www.myfloridacfo.com/sitePages/agency/sections/AccountingAuditing.aspx, (last viewed January 31, 2012).
[20] Enacted in 2009 by s. 2, ch. 2009-74, L.O.F.
[21] This website is available at http://www.transparencyflorida.gov/Home.aspx?FY=12.
[22] The DFS transparency website is located at http://www.myfloridacfo.com/Transparency/.
[23] According to information given to committee staff from DFS staff on 3 February, 2012.

entities.[24] The Auditor General must annually notify the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services of all educational entities and water management districts that have failed to comply with transparency requirements as identified in audit reports.[25]

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.[26] Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

The Consultants' Competitive Negotiation Act

In 1972, Congress passed the Brooks Act (Public Law 92-582), which codified Qualifications-Based Selection (QBS) as the federal procurement method for design professional services. The QBS process entails first soliciting statements of qualifications from licensed architectural and engineering providers, selecting the most qualified respondent, and then negotiating a fair and reasonable price. The vast majority of states currently require a QBS process when selecting the services of design professionals.

Florida's Consultants' Competitive Negotiation Act (CCNA), was enacted by the Legislature in 1973,[27] to specify the procedures to be followed when procuring professional services[28] by an agency.[29] The CCNA did not prohibit discussion of compensation in the initial vendor selection phase until 1988, when the Legislature enacted a provision requiring that consideration of compensation occur only during the selection phase.[30]

Currently, the CCNA, codified in s. 287.055, F.S., specifies the process to be followed when state and local government agencies procure the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper. The CCNA requires that state agencies publicly announce, in a consistent and uniform manner, each occasion when professional services must be purchased for one of the following:[31]

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[24] Section 11.45(2), F.S.
[25] Section 11.45(7)(i), F.S.
[26] Article I, s. 24(c) of the Fla. Const.
[27] Chapter 73-19, L.O.F.
[28] Professional services are the services of architects, engineers, landscape architects, and surveyors and mappers.
[29] "Agency" is defined as the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06, F.S., or ss. 163.3220-163.3243, F.S.
[30] Chapter 88-108, L.O.F.
[31] *See*, s. 287.055(3)(a)1., F.S.

- A project, when the basic construction cost is estimated by the agency to exceed $325,000.
- A planning or study activity, when the fee for professional services exceeds $35,000.

The public notice must provide a general description of the project and describe how the interested consultants may apply for consideration.

The CCNA provides a two-phase selection process.[32] In the first phase, the "competitive selection," the agency evaluates the qualifications and past performance of no fewer than three bidders. The agency selects the bidders, ranked in order of preference, it considers the most highly qualified to perform the required services. The CCNA requires consideration of several factors in determining the most highly qualified bidders, including willingness to meet time and budget requirements, past performance, location, recent, current, and projected firm workloads, volume of work previously awarded to the firm, and whether the firm is certified as a minority business.[33]

The CCNA prohibits the agency from requesting, accepting, and considering, during the selection process, proposals for the compensation to be paid.[34] Section 287.055(2)(d), F.S., defines the term "compensation" to mean "the amount paid by the agency for professional services," regardless of whether stated as compensation or as other types of rates.

In the second phase, the "competitive negotiation," the agency then negotiates compensation with the most qualified of the three selected firms for professional services at compensation which the agency determines is "fair, competitive, and reasonable."[35] If a satisfactory contract cannot be negotiated, the agency must formally terminate negotiations with that firm and must then negotiate with the second most qualified firm. The agency must negotiate with the third most qualified firm if the negotiation with the second most qualified firm fails to produce a satisfactory contract.[36] If a satisfactory contract cannot be negotiated with any of the three selected, the agency must select additional firms in order of their competence and qualifications and continue negotiations until a contract is reached.[37] Once negotiations with a firm are terminated, the agency cannot resume negotiations with that firm for the project.

In October 2011, Attorney General Bondi opined that local governments could not create a hybrid procurement process for awarding projects but instead is limited to utilizing the statutorily defined procedures.[38]

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[32] Sections 287.055(4) and (5), F.S.
[33] The following is a full listing of the factors that s. 287.055(4)(b), F.S., requires agencies to consider: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and, the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.
[34] Section 287.055(4)(b), F.S.
[35] Section 287.055(5)(a), F.S.
[36] Section 287.055(5)(b), F.S.
[37] Section 287.055(5)(c), F.S.
[38] Fla. AGO 2011-21 (October 4, 2011).

III. Effect of Proposed Changes:

Section 1 amends s. 11.45, F.S., to require the Auditor General to provide notification of certain governmental entities' failure to comply with the reporting requirements of the Transparency Florida Act in s. 215.985, F.S., or annual financial audit reports specified in s. 218.39, F.S. The Auditor General must produce an annual report on which entities have not complied with the transparency requirement.

This provision would require the Auditor General to report on the failure of specified entities to supply data, even though the Auditor General does not have any audit authority over some of those entities.

Section 2 amends s. 215.985(16), F.S., to modify requirements related to the state contract management system, which must be used by state agencies. Within 30 calendar days after executing a contract, state agencies must post on the contract tracking system specified contract information and documentation, to include:

- The name of the contracting entities;
- The procurement method;
- The beginning and ending dates of the contract;
- The nature of the commodities or services purchased;
- Contract unit prices and deliverables;
- Total compensation to be paid or received;
- All payments made to the vendor to date;
- All commodities or services received from vendor to date;
- Applicable contract performance measures;
- Contract extensions or renewals, if any;
- Justification for not using competitive solicitation, if applicable; and
- Electronic copies of contract and procurement documents.

Each state agency must redact exempt or confidential information from the procurement or contract documents before posting. If a party to a contract discovers that a document has not been properly redacted, the party may request that the posting entity redact the information; upon receipt of such a request, the posting entity must redact the confidential or exempt information. The bill provides a disclaimer from liability to the CFO and DFS for the failure of a posting entity to properly redact information. Requests for copies of documents in the system, or subpoenas for documents, must be made to or served on the entity that maintains the original documents, not the CFO or DFS.

The bill allows the CFO to make information posted on the system available for viewing and downloading by the public. The CFO may prohibit the posting of records on the public website that could jeopardize the health, safety, or welfare of the public. Requests for copies of documents on the system must be made to the entity that is a party to the contract, as must subpoenas for copies.

The bill provides DFS authority to adopt rules to administer the subsection.

Section 3 repeals s. 216.0111, F.S., which specifies the agency contract information required to be submitted to DFS. That information is now included in s. 215.985, F.S.

Section 4 creates an unnumbered section as follows:

> Notwithstanding any law to the contrary, a state agency, a special district, or a local government may seek competitive bids for professional services. During the initial stage of this selection process, proposals shall be evaluated on the basis of the compensation proposed by the competing firms or vendors to provide professional services. A proposal shall then be evaluated on the basis of any other qualifications the agency, special district, or local government deems applicable to the selection of a qualified firm or vendor. Each agency that is subject to chapter 120, Florida Statutes, shall adopt rules for the competitive bidding of professional services.

This section appears to modify the existing provisions of the CCNA in s. 287.055, F.S. The section is unnumbered, however, which could make implementation problematic, if the provision is placed in a section without definitions inconsistent with the terms used in the provision.

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:

The bill does not appear to create a new public records exemption; it requires compliance with existing public records exemptions.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 4 of the bill is unnumbered, though it appears designed to modify the CCNA in s. 287.055, F.S. To avoid difficulty in implementing this provision, the Legislature should specify where it is to be placed.

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 on March 1, 2012:
The CS removes all provisions from the bill except those relating to Auditor General reporting requirements, and CFO and state agency duties related to the contract management system, which must be used by state agencies, but not other entities. The CS also adds a requirement that during the initial stage of a selection process for professional services, proposals must be evaluated on the basis of the compensation proposed by the competing firms.

CS/CS by Governmental Oversight and Accountability on February 7, 2012:
The CS added a requirement that the Auditor General must send, to the Joint Legislative Auditing Committee, an annual report on which entities have not complied with the transparency requirement. The CS also specified the appropriation for the CFO's expanded contract auditing responsibilities as $4,067,000 and 36 full-time equivalent positions.

CS by Banking and Insurance on February 2, 2012:
The bill retains many of the same provisions of the bill as filed and makes the following major changes:
Provides for the establishment, by the CFO, of dollar thresholds and criteria for determining agreements funded with state or federal assistance that are to be reviewed prior to execution.

- Provides that the CFO may review and approve contracts prior to execution in accordance with rules adopted by the DFS.
- Allots 30 days for the DFS to make a final determination regarding approval of the agreement; which may be extended to ensure a thorough review.
- Provides a list of records the DFS may search for when reviewing contracts.
- Requires the DFS to establish a training certification program for negotiators of contracts and grants.
- Inserts and revises effective dates for certain provisions.

- Makes drafting changes to the bill by inserting and revising sections and deleting certain language.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (i) of subsection (7) of section 11.45, Florida Statutes, are amended to read:

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(a) The Auditor General must ~~shall~~ notify the Legislative Auditing Committee of any local governmental entity, district school board, charter school, or charter technical career center that does not comply with the reporting requirements of s. 215.985 or s. 218.39.

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14 (i) Beginning in 2012, the Auditor General shall annually
15 transmit by July 15, to the President of the Senate, the Speaker
16 of the House of Representatives, and the Department of Financial
17 Services, a list of all school districts, charter schools,
18 charter technical career centers, Florida College System
19 institutions, state universities, and water management districts
20 that have failed to comply with the transparency requirements of
21 s. 215.985 as identified in the audit reports reviewed pursuant
22 to paragraph (b) and those conducted pursuant to subsection (2).
23 Section 2. Subsection (16) of section 215.985, Florida
24 Statutes, is amended to read
25 215.985 Transparency in government spending.—
26 (16) The Chief Financial Officer shall provide public
27 access to a state contract management system ~~that provides~~
28 ~~information and documentation relating to contracts procured by~~
29 ~~governmental entities~~.
30 (a) Within 30 calendar days after executing a contract,
31 each state agency as defined in s. 216.011(1) must post the
32 following information and documentation relating to that
33 contract on the contract management system:
34 1. The name of the contracting entities;
35 2. The procurement method;
36 3. The contract beginning and ending dates;
37 4. The nature or type of the commodities or services
38 purchased;
39 5. Applicable contract unit prices and deliverables;
40 6. Total compensation to be paid or received under the
41 contract;
42 7. All payments made to the contract vendor to date;

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43 8. All commodities or services received from the contract
44 vendor to date;
45 9. Applicable contract performance measures;
46 10. Contract extensions or renewals, if any;
47 11. The justification for not using competitive
48 solicitation to procure the contract, including citation to any
49 statutory exemption or exception from competitive solicitation,
50 if applicable; and
51 12. Electronic copies of the contract and procurement
52 documents that have been redacted to conceal exempt or
53 confidential information.
54 ~~(a) The data collected in the system must include, but need~~
55 ~~not be limited to, the contracting agency; the procurement~~
56 ~~method; the contract beginning and ending dates; the type of~~
57 ~~commodity or service; the purpose of the commodity or service;~~
58 ~~the compensation to be paid; compliance information, such as~~
59 ~~performance metrics for the service or commodity; contract~~
60 ~~violations; the number of extensions or renewals; and the~~
61 ~~statutory authority for providing the service.~~
62 (b) Within 30 calendar days after a major modification or
63 amendment ~~change~~ to an existing contract, ~~or the execution of a~~
64 ~~new contract, agency procurement staff of~~ the affected state
65 governmental entity must ~~shall~~ update the ~~necessary~~ information
66 described in paragraph (a) in the state contract management
67 system. A major modification or amendment ~~change~~ to a contract
68 includes, but is not limited to, a renewal, termination, or
69 extension of the contract, or an amendment to the contract.
70 (c) Each entity identified in paragraph (a) must redact, as
71 defined in s. 119.011, any exempt or confidential information

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72 from the contract or procurement documents before posting an
73 electronic copy of such documents on the contract tracking
74 system.
75 1. If an entity becomes aware that an electronic copy of a
76 contract or procurement document that it posted has not been
77 properly redacted, the entity must replace the electronic copy
78 of the documents with a redacted copy.
79 2. If a party to a contract, or an authorized
80 representative thereof, discovers that an electronic copy of a
81 contract or procurement document on the system has not been
82 properly redacted, the party or representative may request the
83 entity that posted the document to redact the exempt or
84 confidential information. Upon receipt of a request in
85 compliance with this subparagraph, the entity that posted the
86 document shall redact the exempt or confidential information.
87 a. Such request must be in writing and delivered by mail,
88 facsimile, or electronic transmission, or in person to the
89 entity that posted the information. The request must identify
90 the specific document, the page numbers that include the exempt
91 or confidential information, the information that is exempt or
92 confidential, and the relevant statutory exemption. A fee may
93 not be charged for a redaction made pursuant to such request.
94 b. If necessary, a party to the contract may petition the
95 circuit court for an order directing compliance with this
96 paragraph.
97 3. The Chief Financial Officer, the Department of Financial
98 Services, or any officer, employee, or contractor thereof, is
99 not responsible for redacting exempt or confidential information
100 from an electronic copy of a contract or procurement document

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101 posted by another entity on the system, and is not liable for
102 the failure of the entity to redact the exempt or confidential
103 information. The Department of Financial Services may notify the
104 posting entity if it discovers that a document posted on the
105 tracking system contains exempt or confidential information.
106 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial
107 Officer may make information posted on the contract tracking
108 system available for viewing and downloading by the public
109 through a secure website. Unless otherwise provided by law,
110 information retrieved electronically pursuant to this paragraph
111 is not admissible in court as an authenticated document.
112 1. The Chief Financial Officer may regulate and prohibit
113 the posting of records that could facilitate identity theft or
114 fraud, such as signatures; compromise or reveal an agency
115 investigation; reveal the identity of undercover personnel;
116 reveal proprietary confidential business information or trade
117 secrets; reveal an individual's medical information; or reveal
118 any other record or information that the Chief Financial Officer
119 believes may jeopardize the health, safety, or welfare of the
120 public. However, such prohibition does not eliminate the duty of
121 an entity to provide a copy of a public record upon request. The
122 Chief Financial Officer shall use appropriate Internet security
123 measures to ensure that no person has the ability to alter or
124 modify records available on the website.
125 2. Records made available on the website, including
126 electronic copies of contracts or procurement documents, may not
127 reveal information made exempt or confidential by law. Notice of
128 the right of an affected party to request redaction of exempt or
129 confidential information pursuant to paragraph (c) must be

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130 conspicuously and clearly displayed on the website.
131 (e) The posting of information on the contract tracking
132 system or the provision of contract information on a website for
133 public viewing and downloading does not eliminate the duty of an
134 entity to respond to a public record request for such
135 information or to a subpoena for such information.
136 1. A request for a copy of a contract or procurement
137 document or a certified copy of a contract or procurement
138 document shall be made to the entity that is party to the
139 contract. Such request may not be made to the Chief Financial
140 Officer or the Department of Financial Services or any officer,
141 employee, or contractor thereof unless the Chief Financial
142 Officer or the department is a party to the contract.
143 2. A subpoena for a copy of a contract or procurement
144 document or certified copy of a contract or procurement document
145 must be served on the entity that is a party to the contract and
146 that maintains the original documents. The Chief Financial
147 Officer or the Department of Financial Services or any officer,
148 employee, or contractor thereof may not be served a subpoena for
149 those records unless the Chief Financial Officer or the
150 department is a party to the contract.
151 (f) The Department of Financial Services may adopt rules to
152 administer this subsection.
153 Section 3. Section 216.0111, Florida Statutes, is repealed.
154 Section 4. This act shall take effect July 1, 2012.
155
156 ========== T I T L E A M E N D M E N T ==========
157 And the title is amended as follows:
158 Delete everything before the enacting clause

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159 and insert:
160 A bill to be entitled
161 An act relating to state contracting; amending s.
162 11.45, F.S.; conforming provisions to changes made by
163 the act; amending s. 215.985, F.S.; revising
164 provisions relating to the Chief Financial Officer's
165 intergovernmental contract tracking system under the
166 Transparency Florida Act; requiring state agencies to
167 post certain information in the tracking system and to
168 update that information; requiring that exempt and
169 confidential information be redacted from contracts
170 and procurement documents posted on the system;
171 authorizing the Chief Financial Officer to make
172 available the information posted on the system to the
173 public through a secure website; authorizing the
174 Department of Financial Services to adopt rules;
175 repealing s. 216.0111, F.S., relating to a requirement
176 that state agencies report certain contract
177 information to the Department of Financial Services
178 and transferring that requirement to s. 215.985, F.S.;
179 providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
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The Committee on Budget (Bennett) recommended the following:

Senate Amendment to Amendment (112828) (with title amendment)

Between lines 153 and 154
insert:

Section 4. Notwithstanding any law to the contrary, a state agency, a special district, or a local government may seek competitive bids for professional services. During the initial stage of this selection process, proposals shall be evaluated on the basis of the compensation proposed by the competing firms or vendors to provide professional services. A proposal shall then be evaluated on the basis of any other qualifications the agency, special district, or local government deems applicable

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14 to the selection of a qualified firm or vendor. Each agency that
15 is subject to chapter 120, Florida Statutes, shall adopt rules
16 for the competitive bidding of professional services.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete line 178
21 and insert:
22 and transferring that requirement to s. 215.985, F.S.;
23 authorizing a state agency, a special district, or a
24 local government to competitively bid professional
25 services; providing a procedure for considering
26 proposals for the selection of competing firms or
27 vendors; requiring that each agency adopt rules;

By the Committees on Governmental Oversight and Accountability; and Banking and Insurance; and Senator Gaetz

585-03103-12 20121626c2

A bill to be entitled

An act relating to state contracting; amending s. 11.45, F.S.; revising provisions relating to the distribution of the list of entities failing to comply with transparency requirements; conforming provisions to changes made by the act; amending s. 215.971, F.S.; requiring agreements funded with state or federal financial assistance to include a performance measure for each deliverable, to be reviewed and approved in accordance with rules adopted by the Department of Financial Services, and to have the contracting entity assign a grants manager who is responsible for enforcing performance of the agreement; amending s. 215.985, F.S.; revising provisions relating to the Chief Financial Officer's intergovernmental contract tracking system under the Transparency Florida Act; specifying the entities that are included in the tracking system; requiring that exempt and confidential information be redacted from contracts and procurement documents posted on the system; authorizing the Chief Financial Officer to make available the information posted on the system to the public through a secure website; authorizing the Department of Financial Services to adopt rules; repealing s. 216.0111, F.S., relating to a requirement that state agencies report certain contract information to the Department of Financial Services and transferring that requirement to s. 215.985, F.S.; amending s. 287.032, F.S.; dividing the

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responsibilities of the Department of Management Services under ch. 287, F.S., with the Department of Financial Services; amending s. 287.042, F.S.; limiting the duties of the Department of Management Services to the procurement of commodities and contractual services; directing the department to develop a list of interested vendors; deleting provisions requiring that the department perform duties relating to procurement and contracting policies and procedures; creating s. 287.044, F.S.; assigning duties relating to procurement and contracting policies and procedures to the Department of Financial Services; requiring the department to develop a list of vendors not allowed to do business with the state; amending s. 287.057, F.S.; revising the list of contractual services and commodities that are exempt from competitive solicitation to delete certain services from the exemption; revising provisions prohibiting an agency from dividing a solicitation; conforming provisions to changes made by the act; authorizing an agency or other eligible user to purchase commodities or services through another agency's contract; amending s. 287.058, F.S.; requiring contracts to include a performance measure for each deliverable; authorizing the Chief Financial Officer to review and approve contracts; providing requirements for such reviews; authorizing the Chief Financial Officer to establish dollar thresholds and another criteria for sampling agreements that are to

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be reviewed before execution; providing criteria for the department's review of contract documentation; requiring that the department verify that a competitive process was used and that a contract was appropriately awarded; providing for the review of procurement record for contracts not competitively awarded; specifying the number of days that the department must make its final determination regarding the approval of a contract; authorizing the department and the agency to agree to a longer review period; repealing s. 287.095(3), F.S., relating to certain products produced by inmate labor; creating s. 287.1312, F.S.; requiring certification of contract managers by the Department of Financial Services for contracts of more than a certain amount; requiring the training program for the certification to provide training in certain areas; authorizing the department to adopt rules to administer the program; amending s. 287.133, F.S.; revising the definition of "department" to mean the Department of Financial Services rather than the Department of Management Services with respect to provisions governing public entity crimes and placement on the convicted vendor list; amending ss. 255.25, 287.012, 402.7305, 427.0135, and 946.515, F.S.; conforming cross-references; requiring the Chief Financial Officer to conduct a study of current procurement laws pursuant to such policies; requiring that the Chief Financial Officer submit a report to the Legislature and Governor by a certain date on such

study; repealing ch. 287, F.S., on a future date; providing appropriations; providing effective dates.

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

Section 1. Paragraphs (a) and (i) of subsection (7) of section 11.45, Florida Statutes, are amended to read:

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(a) The Auditor General must ~~shall~~ notify the Legislative Auditing Committee of any local governmental entity, district school board, charter school, or charter technical career center that does not comply with the reporting requirements of s. 215.985 or s. 218.39.

(i) ~~Beginning in 2012,~~ The Auditor General shall annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, and the Department of Financial Services, a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, local governmental entities, and water management districts that have failed to comply with the transparency requirements of s. 215.985 as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Section 2. Section 215.971, Florida Statutes, is amended to read:

215.971 Agreements funded with federal and state assistance.—

117 (1) For an agency agreement that provides state financial
118 assistance to a recipient or subrecipient, as those terms are
119 defined in s. 215.97, or that provides federal financial
120 assistance to a subrecipient, as defined by applicable United
121 States Office of Management and Budget circulars, the agreement
122 must ~~shall~~ include a provision:
123 (a) ~~(1) A provision~~ Specifying a scope of work that clearly
124 establishes the tasks that the recipient or subrecipient is
125 required to perform; and
126 (b) ~~(2) A provision~~ Dividing the agreement into quantifiable
127 units of deliverables which ~~that~~ must be received and accepted
128 in writing by the agency before payment. Each deliverable must
129 be directly related to the scope of work and ~~must~~ specify a
130 performance measure. As used in this paragraph, the term
131 "performance measure" means the required minimum level of
132 service to be performed and the criteria for evaluating the
133 successful completion of each deliverable.
134 (2) Effective October 1, 2012, before execution, agreements
135 to be funded with state or federal financial assistance must be
136 submitted for review and approval in accordance with rules
137 adopted by the Department of Financial Services. The review must
138 ensure that the agreement document contains a clear statement of
139 work, quantifiable and measureable deliverables, performance
140 measures, and financial consequences for nonperformance. An
141 agreement that does not comply with this subsection may be
142 rejected and returned to the submitting agency for revision.
143 (3) The Chief Financial Officer may establish dollar
144 thresholds and other criteria for sampling the agreements that
145 are to be reviewed prior to execution. The Chief Financial

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146 Officer may revise such thresholds and other criteria for an
147 agency or the unit of any agency as he or she deems appropriate.
148 (4) The department has 30 days to make a final
149 determination regarding approval of an agreement. The department
150 and the agency entering into the agreement may agree to a longer
151 review period to ensure the thorough consideration of the
152 procurement process and its results.
153 (5) For each agreement funded with federal or state
154 assistance, the contracting agency shall designate an employee
155 to function as grant manager who shall be responsible for
156 enforcing performance of the agreement terms and conditions and
157 serve as a liaison with the recipient. A grant manager who is
158 responsible for one or more agreements in excess of the
159 threshold amount provided in s. 287.017 for CATEGORY FIVE must
160 be certified under s. 287.1312. The Chief Financial Officer
161 shall establish and disseminate uniform procedures for payment
162 requests pursuant to s. 17.03(3) to ensure that services are
163 rendered in accordance with the agreement terms before the
164 agency processes an invoice for payment. The procedures must
165 include, but need not be limited to, procedures for monitoring
166 and documenting a recipient's performance, reviewing and
167 documenting all deliverables for which payment is requested by
168 the recipient, and providing written certification by the grant
169 manager of the agency's receipt of goods and services.
170 Section 3. Subsection (16) of section 215.985, Florida
171 Statutes, is amended to read:
172 215.985 Transparency in government spending.—
173 (16) The Chief Financial Officer shall establish and
174 maintain a secure, shared, intergovernmental contract tracking

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175 ~~provide public access to a state contract management~~ system.
176 (a) Within 30 calendar days after executing a contract,
177 each state agency as defined in s. 216.011(1), and, effective
178 November 1, 2013, each local governmental entity and independent
179 special district as defined in s. 218.31, each district school
180 board as described in s. 1001.32, the Board of Governors of the
181 State University System as described in s. 1001.70, and each
182 Florida College System institution board of trustees as
183 described in s. 1001.61 must post the following ~~that provides~~
184 information and documentation relating to that contract on the
185 contract tracking system: ~~contracts procured by governmental~~
186 ~~entities.~~
187 1. The name of the contracting entities;
188 2. The procurement method;
189 3. The contract beginning and ending dates;
190 4. The nature or type of the commodities or services
191 purchased;
192 5. Applicable contract unit prices and deliverables;
193 6. Total compensation to be paid or received under the
194 contract;
195 7. All payments made to the contract vendor to date;
196 8. All commodities or services received from the contract
197 vendor to date;
198 9. Applicable contract performance measures;
199 10. Contract extensions or renewals, if any;
200 11. The justification for not using competitive
201 solicitation to procure the contract, including citation to any
202 statutory exemption or exception from competitive solicitation,
203 if applicable;

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204 12. Electronic copies of the contract and procurement
205 documents, including any provision that may have been redacted
206 to conceal exempt or confidential information; and
207 13. Any other information regarding the contract or the
208 procurement which may be required by the Department of Financial
209 Services.
210 ~~(a) The data collected in the system must include, but need~~
211 ~~not be limited to, the contracting agency; the procurement~~
212 ~~method; the contract beginning and ending dates; the type of~~
213 ~~commodity or service; the purpose of the commodity or service;~~
214 ~~the compensation to be paid; compliance information, such as~~
215 ~~performance metrics for the service or commodity; contract~~
216 ~~violations; the number of extensions or renewals; and the~~
217 ~~statutory authority for providing the service.~~
218 (b) Within 30 calendar days after a major modification or
219 amendment ~~change~~ to an existing contract, ~~or the execution of a~~
220 ~~new contract, agency procurement staff of~~ the affected ~~state~~
221 ~~governmental~~ entity must ~~shall~~ update the ~~necessary~~ information
222 described in paragraph (a) in the ~~state~~ contract tracking
223 ~~management~~ system. A major modification or amendment ~~change~~ to a
224 contract includes, but is not limited to, a renewal,
225 termination, or extension of the contract, or an amendment to
226 the contract as determined by the Chief Financial Officer.
227 (c) Each entity identified in paragraph (a) must redact, as
228 defined in s. 119.011, any exempt or confidential information,
229 including trade secrets as defined in s. 688.002 or s. 812.081,
230 from the contract or procurement documents before posting an
231 electronic copy of such documents on the contract tracking
232 system.

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233 1. If an entity becomes aware that an electronic copy of a
234 contract or procurement document that it posted has not been
235 properly redacted, the entity must replace the electronic copy
236 of the documents with a redacted copy.
237 2. If a party to a contract, or an authorized
238 representative thereof, discovers that an electronic copy of a
239 contract or procurement document on the system has not been
240 properly redacted, the party or representative may request the
241 entity that posted the document to redact the exempt or
242 confidential information. Upon receipt of a request in
243 compliance with this subparagraph, the entity that posted the
244 document shall redact the exempt or confidential information.
245 a. Such request must be in writing and delivered by mail,
246 facsimile, or electronic transmission, or in person to the
247 entity that posted the information. The request must identify
248 the specific document, the page numbers that include the exempt
249 or confidential information, the information that is exempt or
250 confidential, and the relevant statutory exemption. A fee may
251 not be charged for a redaction made pursuant to such request.
252 b. If necessary, a party to the contract may petition the
253 circuit court for an order directing compliance with this
254 paragraph.
255 3. The Chief Financial Officer, the Department of Financial
256 Services, or any officer, employee, or contractor thereof, is
257 not responsible for redacting exempt or confidential information
258 from an electronic copy of a contract or procurement document
259 posted by another entity on the system, and is not liable for
260 the failure of the entity to redact the exempt or confidential
261 information. The Department of Financial Services may notify the

262 posting entity if it discovers that a document posted on the
263 tracking system contains exempt or confidential information.
264 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial
265 Officer may make information posted on the contract tracking
266 system available for viewing and downloading by the public
267 through a secure website. Unless otherwise provided by law,
268 information retrieved electronically pursuant to this paragraph
269 is not admissible in court as an authenticated document.
270 1. The Chief Financial Officer may regulate and prohibit
271 the posting of records that could facilitate identity theft or
272 fraud, such as signatures; compromise or reveal an agency
273 investigation; reveal the identity of undercover personnel;
274 reveal proprietary confidential business information or trade
275 secrets; reveal an individual's medical information; or reveal
276 any other record or information that the Chief Financial Officer
277 believes may jeopardize the health, safety, or welfare of the
278 public. However, such prohibition does not eliminate the duty of
279 an entity to provide a copy of a public record upon request. The
280 Chief Financial Officer shall use appropriate Internet security
281 measures to ensure that no person has the ability to alter or
282 modify records available on the website.
283 2. Records made available on the website, including
284 electronic copies of contracts or procurement documents, may not
285 reveal information made exempt or confidential by law. Notice of
286 the right of an affected party to request redaction of exempt or
287 confidential information pursuant to paragraph (c) must be
288 conspicuously and clearly displayed on the website. This
289 includes, but is not limited to:
290 a. Criminal intelligence or criminal investigative

291 information as defined in s. 119.011;
292 b. Surveillance techniques or procedures or personnel;
293 c. The identity of a confidential informant or confidential
294 source;
295 d. The identify of undercover personnel of a criminal
296 justice agency;
297 e. A security system plan; or
298 f. Trade secret as defined in s. 688.002 or s. 812.081.
299 (e) The posting of information on the contract tracking
300 system or the provision of contract information on a website for
301 public viewing and downloading does not eliminate the duty of an
302 entity to respond to a public record request for such
303 information or to a subpoena for such information.
304 1. A request for a copy of a contract or procurement
305 document or a certified copy of a contract or procurement
306 document shall be made to the entity that is party to the
307 contract and that maintains the original documents. Such request
308 may not be made to the Chief Financial Officer or the Department
309 of Financial Services or any officer, employee, or contractor
310 thereof unless the Chief Financial Officer or the department is
311 a party to the contract.
312 2. A subpoena for a copy of a contract or procurement
313 document or certified copy of a contract or procurement document
314 must be served on the entity that is a party to the contract and
315 that maintains the original documents. The Chief Financial
316 Officer or the Department of Financial Services or any officer,
317 employee, or contractor thereof may not be served a subpoena for
318 those records unless the Chief Financial Officer or the
319 department is a party to the contract.

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320 (f) The Department of Financial Services may adopt rules to
321 administer this subsection.
322 Section 4. Section 216.0111, Florida Statutes, is repealed.
323 Section 5. Effective October 1, 2013, section 287.032,
324 Florida Statutes, is amended to read:
325 287.032 Departmental responsibility ~~purpose of department~~.—
326 Pursuant to the administration of this chapter:
327 (1) ~~It shall be~~ The responsibility ~~purpose~~ of the
328 Department of Management Services is to:
329 (a) ~~(1) To~~ Promote efficiency, economy, and the conservation
330 of energy and coordinate ~~to effect coordination in~~ the purchase
331 of commodities and contractual services for the state.
332 ~~(2) To provide uniform commodity and contractual service~~
333 ~~procurement policies, rules, procedures, and forms for use by~~
334 ~~agencies and eligible users.~~
335 (b) ~~(3) To~~ Procure and distribute federal surplus tangible
336 personal property allocated to the state by the Federal
337 Government.
338 (2) The responsibility of the Department of Financial
339 Services is to:
340 (a) Provide uniform commodity and contractual service
341 procurement policies, rules, procedures, and forms for use by
342 agencies and eligible users.
343 (b) Monitor agencies with respect to compliance with
344 established policies, rules, and procedures.
345 Section 6. Effective October 1, 2013, section 287.042,
346 Florida Statutes, is amended to read:
347 287.042 Powers, duties, and functions of the Department of
348 Management Services.—The department is responsible for the

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349 procurement of commodities and contractual services for agencies
350 and has ~~shall have~~ the following powers, duties, and functions:
351 (1) ~~(a)~~ To canvass all sources of supply, establish and
352 maintain a vendor list, and contract for the purchase, lease, or
353 acquisition, including purchase by installment sales or lease-
354 purchase contracts which may provide for the payment of interest
355 on unpaid portions of the purchase price, of all commodities and
356 contractual services required by an ~~any~~ agency under this
357 chapter. A ~~Any~~ contract providing for deferred payments and the
358 payment of interest is ~~shall be~~ subject to specific rules
359 adopted by the Department of Financial Services.
360 (a) ~~(b)~~ The department shall develop a list of interested
361 vendors to be maintained by classes of commodities and
362 contractual services. The list may not be used to prequalify a
363 vendor or to exclude an interested vendor from bidding. However,
364 a vendor barred by the Chief Financial Officer pursuant to s.
365 287.044(7) may not be included on the list. The department may
366 remove from the ~~its~~ vendor list any source of supply which fails
367 to fulfill any of its duties specified in a contract with the
368 state. The department ~~It~~ may reinstate ~~any~~ such source of supply
369 if the department ~~when it~~ is satisfied that further instances of
370 default will not occur.
371 (b) ~~(c)~~ In order to promote the cost-effective procurement
372 of commodities and contractual services, the department or an
373 agency may enter into contracts that limit the liability of a
374 vendor consistent with s. 672.719.
375 ~~(d) The department shall issue commodity numbers for all~~
376 ~~products of the corporation operating the correctional industry~~
377 ~~program which meet or exceed department specifications.~~

378 (c) ~~(e)~~ The department shall include the products offered by
379 the corporation operating the correctional industry program on
380 any listing prepared by the department which lists state term
381 contracts executed by the department. The products or services
382 shall be placed on such list in a category based upon
383 specification criteria developed through a joint effort of the
384 department and the corporation and approved by the department.
385 1. ~~(f)~~ The corporation may submit products and services to
386 the department for testing, analysis, and review relating to the
387 quality and cost comparability. If, after review and testing,
388 the department approves ~~of~~ the products and services, the
389 department shall give written notice ~~thereof~~ to the corporation.
390 The corporation shall pay a reasonable fee ~~charged~~ for the
391 testing of its products by the Department of Agriculture and
392 Consumer Services.
393 2. The department shall issue a commodity number for all
394 products of the corporation which meet or exceed department
395 specifications.
396 (d) ~~(g)~~ The department shall include products and services
397 that are offered by a qualified nonprofit agency for the blind
398 or for the other severely handicapped ~~organized pursuant to~~
399 ~~chapter 413~~ and that have been determined to be suitable for
400 purchase pursuant to s. 413.035 on a ~~any~~ department listing of
401 state term contracts. The products and services shall be placed
402 on such list in a category based upon specification criteria
403 developed by the department in consultation with the ~~qualified~~
404 nonprofit agency.
405 (e) ~~(h)~~ The department may collect fees for the use of its
406 electronic information services. The fees may be imposed on an

407 individual transaction basis or as a fixed subscription for a
408 designated period of time. At a minimum, the fees shall be
409 determined in an amount sufficient to cover the department's
410 projected costs for ~~of~~ the services, including overhead, in
411 accordance with the policies of the department ~~of Management~~
412 ~~Services~~ for computing its administrative assessment. All fees
413 collected under this paragraph shall be deposited in the
414 Operating Trust Fund for disbursement as provided by law.
415 (2)~~(a)~~ To establish purchasing agreements and procure state
416 term contracts for commodities and contractual services,
417 pursuant to s. 287.057, under which state agencies shall, and
418 eligible users may, make purchases pursuant to s. 287.056.
419 (a) The department may restrict purchases by ~~from some term~~
420 ~~contracts to~~ state agencies from ~~only for those~~ term contracts
421 if ~~where~~ the inclusion of other governmental entities will have
422 an adverse effect on competition or on ~~to those~~ federal
423 facilities located in this state. In such planning or
424 purchasing, the office ~~of Supplier Diversity~~ may monitor to
425 ensure that opportunities are afforded for contracting with
426 minority business enterprises. The department, for state term
427 contracts, and all agencies, for multiyear contractual services
428 or term contracts, shall explore reasonable and economical means
429 to use ~~utilize~~ certified minority business enterprises.
430 Purchases by any county, municipality, private nonprofit
431 community transportation coordinator designated pursuant to
432 chapter 427~~, while~~ conducting business related solely to the
433 Commission for the Transportation Disadvantaged, or other local
434 public agency under the provisions in the state purchasing
435 contracts, and purchases, from the corporation operating the

436 correctional work programs, of products or services that are
437 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
438 competitive solicitation requirements otherwise applying to
439 their purchases.
440 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),
441 the department may proceed with the competitive solicitation or
442 contract award process of a term contract if ~~when~~ the secretary
443 of the department or his or her designee sets forth in writing
444 particular facts and circumstances that ~~which~~ demonstrate that
445 the delay incident to staying the solicitation or contract award
446 process would be detrimental to the interests of the state. If,
447 after the award of the ~~a~~ contract resulting from a competitive
448 solicitation in which a timely protest was received and in which
449 the state did not prevail, the contract may be canceled and
450 reawarded.
451 (c) Any person who files an action protesting a decision or
452 intended decision pertaining to contracts administered by the
453 department, a water management district, or an agency pursuant
454 to s. 120.57(3)(b) shall post with the department, the water
455 management district, or the agency at the time of filing the
456 formal written protest a bond payable to the department, the
457 water management district, or agency in an amount equal to 1
458 percent of the estimated contract amount. For protests of
459 decisions or intended decisions pertaining to exceptional
460 purchases, the bond must ~~shall be in an amount~~ equal ~~to~~ 1
461 percent of the estimated contract amount for the exceptional
462 purchase.
463 1. The estimated contract amount shall be based upon the
464 contract price submitted by the protestor or, if no contract

465 price was submitted, the department, water management district,
466 or agency shall estimate the contract amount based on factors,
467 including, but not limited to, the price of previous or existing
468 contracts for similar commodities or contractual services, the
469 amount appropriated by the Legislature for the contract, or the
470 fair market value of similar commodities or contractual
471 services. The agency shall provide the estimated contract amount
472 to the vendor within 72 hours, excluding Saturdays, Sundays, and
473 state holidays, after the filing of the notice of protest by the
474 vendor. The estimated contract amount is not subject to protest
475 pursuant to s. 120.57(3).
476 2. The bond shall be conditioned upon the payment of all
477 costs and charges that are adjudged against the protestor in the
478 administrative hearing in which the action is brought and in any
479 subsequent appellate court proceeding.
480 3. In lieu of a bond, the department, ~~the~~ water management
481 district, or agency may~~, in either case,~~ accept a cashier's
482 check, official bank check, or money order in the amount of the
483 bond.
484 4. If, after completion of the administrative hearing
485 process and any appellate court proceedings, the department,
486 water management district, or agency prevails, it shall recover
487 all costs and charges, which must ~~shall~~ be included in the final
488 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~
489 ~~section shall not apply to protests filed by the Office of~~
490 ~~Supplier Diversity.~~ Upon payment of such costs and charges by
491 the protestor, the bond, cashier's check, official bank check,
492 or money order shall be returned to the protestor. If, after the
493 completion of the administrative hearing process and any

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494 appellate court proceedings, the protestor prevails, the
495 protestor may ~~shall~~ recover from the department, water
496 management district, or agency all costs and charges that are
497 ~~which shall be~~ included in the final order or judgment,
498 excluding attorney ~~attorney's~~ fees.
499 5. This paragraph does not apply to protests filed by the
500 office.
501 ~~(3) To establish a system of coordinated, uniform~~
502 ~~procurement policies, procedures, and practices to be used by~~
503 ~~agencies in acquiring commodities and contractual services,~~
504 ~~which shall include, but not be limited to:~~
505 ~~(a) Development of a list of interested vendors to be~~
506 ~~maintained by classes of commodities and contractual services.~~
507 ~~This list shall not be used to prequalify vendors or to exclude~~
508 ~~any interested vendor from bidding.~~
509 ~~(b)1. Development of procedures for advertising~~
510 ~~solicitations. These procedures must provide for electronic~~
511 ~~posting of solicitations for at least 10 days before the date~~
512 ~~set for receipt of bids, proposals, or replies, unless the~~
513 ~~department or other agency determines in writing that a shorter~~
514 ~~period of time is necessary to avoid harming the interests of~~
515 ~~the state. The Office of Supplier Diversity may consult with the~~
516 ~~department regarding the development of solicitation~~
517 ~~distribution procedures to ensure that maximum distribution is~~
518 ~~afforded to certified minority business enterprises as defined~~
519 ~~in s. 288.703.~~
520 ~~2. Development of procedures for electronic posting. The~~
521 ~~department shall designate a centralized website on the Internet~~
522 ~~for the department and other agencies to electronically post~~

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~~solicitations, decisions or intended decisions, and other matters relating to procurement.~~

~~(c) Development of procedures for the receipt and opening of bids, proposals, or replies by an agency. Such procedures shall provide the Office of Supplier Diversity an opportunity to monitor and ensure that the contract award is consistent with the requirements of s. 287.09451.~~

~~(d) Development of procedures to be used by an agency in deciding to contract, including, but not limited to, identifying and assessing in writing project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency workload capabilities, and the ability of any other state agency to perform the services.~~

~~(e) Development of procedures to be used by an agency in maintaining a contract file for each contract which shall include, but not be limited to, all pertinent information relating to the contract during the preparatory stages; a copy of the solicitation; documentation relating to the solicitation process; opening of bids, proposals, or replies; evaluation and tabulation of bids, proposals, or replies; and determination and notice of award of contract.~~

~~(f) Development of procedures to be used by an agency for issuing solicitations that include requirements to describe commodities, services, scope of work, and deliverables in a manner that promotes competition.~~

~~(g) Development of procedures to be used by an agency when issuing requests for information and requests for quotes.~~

~~(h) Development of procedures to be used by state agencies~~

~~when procuring information technology commodities and contractual services that ensure compliance with public records requirements and records retention and archiving requirements.~~

~~(4)(a) To prescribe the methods of securing competitive sealed bids, proposals, and replies. Such methods may include, but are not limited to, procedures for identifying vendors; setting qualifications; conducting conferences or written question and answer periods for purposes of responding to vendor questions; evaluating bids, proposals, and replies; ranking and selecting vendors; and conducting negotiations.~~

~~(b) To prescribe procedures for procuring information technology and information technology consultant services that provide for public announcement and qualification, competitive solicitations, contract award, and prohibition against contingent fees. Such procedures are limited to information technology consultant contracts for which the total project costs, or planning or study activities, are estimated to exceed the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

(3) ~~(5)~~ To prescribe specific commodities and quantities to be purchased locally.

~~(6)(a) To govern the purchase by any agency of any commodity or contractual service and to establish standards and specifications for any commodity.~~

(4) ~~(b)~~ Except for the purchase of insurance, to ~~the department may~~ delegate to agencies the authority for the procurement of and contracting for commodities or contractual services.

~~(7) To establish definitions and classes of commodities and contractual services. Agencies shall follow the definitions and~~

581 ~~classes of commodities and contractual services established by~~
582 ~~the department in acquiring or purchasing commodities or~~
583 ~~contractual services. The authority of the department under this~~
584 ~~section shall not be construed to impair or interfere with the~~
585 ~~determination by state agencies of their need for, or their use~~
586 ~~of, services including particular specifications.~~
587 ~~(8) To provide any commodity and contractual service~~
588 ~~purchasing rules to the Chief Financial Officer and all agencies~~
589 ~~through an electronic medium or other means. Agencies may not~~
590 ~~approve any account or request any payment of any account for~~
591 ~~the purchase of any commodity or the procurement of any~~
592 ~~contractual service covered by a purchasing or contractual~~
593 ~~service rule except as authorized therein. The department shall~~
594 ~~furnish copies of rules adopted by the department to any county,~~
595 ~~municipality, or other local public agency requesting them.~~
596 (5) ~~(9)~~ To require that every agency furnish information
597 relative to its commodity and contractual services purchases and
598 methods of purchasing commodities and contractual services to
599 the department when so requested.
600 (6) ~~(10)~~ To prepare statistical data concerning the method
601 of procurement, terms, usage, and disposition of commodities and
602 contractual services by agencies. All agencies shall furnish
603 such information for this purpose to the office and to the
604 department, as the department or office may call for, but at
605 least ~~no less frequently than~~ annually, on such forms or in such
606 manner as the department may prescribe.
607 ~~(11) To establish and maintain programs for the purpose of~~
608 ~~disseminating information to government, industry, educational~~
609 ~~institutions, and the general public concerning policies,~~

610 ~~procedures, rules, and forms for the procurement of commodities~~
611 ~~and contractual services.~~
612 (7) ~~(12)~~ Except as otherwise provided in this section
613 ~~herein~~, to adopt rules necessary to carry out the purposes of
614 this section, including the authority to delegate to any agency
615 any and all of the responsibility conferred by this section,
616 retaining to the department any and all authority for
617 supervision thereof. Such purchasing of commodities and
618 procurement of contractual services by state agencies must also
619 ~~shall~~ be in strict accordance with the rules and procedures
620 prescribed by the Department of Financial Services.
621 (8) ~~(13)~~ If the department determines in writing that it is
622 in the best interest of the state, to award to multiple
623 suppliers contracts for commodities and contractual services
624 established by the department for use by all agencies. Such
625 awards may be on a statewide or regional basis. If regional
626 contracts are established by the department, multiple supplier
627 awards may be based upon multiple awards for regions. Agencies
628 may award contracts to a responsible and responsive vendor on a
629 statewide or regional basis.
630 (9) ~~(14)~~ To procure and distribute federal surplus tangible
631 personal property allocated to the state by the Federal
632 Government.
633 (10) ~~(15)~~ To enter into joint agreements with governmental
634 agencies, as defined in s. 163.3164, for the purpose of pooling
635 funds for the purchase of commodities or information technology
636 that can be used by multiple agencies.
637 (a) Each agency that has been appropriated or has existing
638 funds for such purchase, shall, upon contract award by the

639 department, transfer their portion of the funds into the
640 department's Operating Trust Fund for payment by the department.
641 The funds shall be transferred by the Executive Office of the
642 Governor pursuant to the agency budget amendment request
643 provisions in chapter 216.
644 (b) Agencies that sign the joint agreements are financially
645 obligated for their portion of the agreed-upon funds. If an
646 agency becomes more than 90 days delinquent in paying the funds,
647 the department shall certify to the Chief Financial Officer the
648 amount due, and the Chief Financial Officer shall transfer the
649 amount due to the Operating Trust Fund of the department from
650 any of the agency's available funds. The Chief Financial Officer
651 shall report these transfers and the reasons for the transfers
652 to the Executive Office of the Governor and the legislative
653 appropriations committees.
654 (11) ~~(16)~~ To evaluate contracts let by the Federal
655 Government, another state, or a political subdivision for the
656 provision of commodities and contract services, and, if it is
657 determined in writing to be cost-effective and in the best
658 interest of the state, to enter into a written agreement
659 authorizing an agency to make purchases under such contract.
660 (12) ~~(17)(a)~~ To enter into contracts pursuant to chapter 957
661 for the designing, financing, acquiring, leasing, constructing,
662 or operating of private correctional facilities. The department
663 shall enter into such ~~a contract or~~ contracts with one
664 contractor per facility ~~for the designing, acquiring, financing,~~
665 ~~leasing, constructing, and operating of that facility~~ or may, if
666 specifically authorized by the Legislature, separately contract
667 for each of ~~any~~ such services.

668 (a) ~~(b)~~ The department shall also ~~To~~ manage and enforce
669 compliance with existing or future contracts entered into
670 pursuant to chapter 957.
671 (b) The department may not delegate the responsibilities
672 conferred by this subsection.
673 Section 7. Effective October 1, 2013, section 287.044,
674 Florida Statutes, is created to read:
675 287.044 Powers, duties, and functions of the Department of
676 Financial Services.—The Department of Financial Services is
677 responsible for establishing and enforcing procurement and
678 contracting policies and procedures for the Department of
679 Management Services and all agencies. The Department of
680 Financial Services has the following powers, duties, and
681 functions:
682 (1) To establish a system of coordinated and uniform
683 procurement policies, procedures, and practices to be used by
684 agencies when acquiring commodities and contractual services,
685 which includes, but is not limited to:
686 (a) The development of procedures to be used by an agency
687 for issuing or advertising solicitations which include
688 requirements for the agency to describe commodities, services,
689 scope of work, and deliverables in a manner that promotes
690 competition.
691 1. Such procedures must provide for electronic posting of
692 solicitations at least 10 days before the date set for receipt
693 of bids, proposals, or replies, unless the agency determines in
694 writing that a shorter period of time is necessary to avoid
695 harming the interests of the state.
696 2. The office may consult with the department regarding the

697 development of solicitation distribution procedures to ensure
698 that maximum distribution is afforded to certified minority
699 business enterprises as defined in s. 288.703.
700 3. The department shall designate a centralized website on
701 the Internet for the department and other agencies to
702 electronically post solicitations, decisions or intended
703 decisions, and other matters relating to procurement.
704 (b) The development of procedures to be used by an agency
705 when issuing requests for information and requests for quotes.
706 (c) The development of procedures to be used by state
707 agencies when procuring information technology commodities and
708 contractual services which ensure compliance with public records
709 requirements and records retention and archiving requirements.
710 (d) The development of procedures for the receipt and
711 opening of bids, proposals, or replies by an agency. Such
712 procedures must provide the office an opportunity to monitor and
713 to ensure that the contract award is consistent with the
714 requirements of s. 287.09451.
715 (e) The development of procedures to be used by an agency
716 in deciding to contract, including, but not limited to,
717 identifying and assessing in writing project needs and
718 requirements, availability of agency employees, budgetary
719 availability or constraints, availability of facility equipment,
720 current and projected agency workload capabilities, and the
721 ability of another state agency to perform the services.
722 (f) The development of procedures for recording and
723 maintaining support documentation for a cost or price analysis
724 to be performed before the award of a contract in excess of the
725 threshold amount provided in s. 287.017 for CATEGORY FOUR. The

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726 cost or price analysis shall be used to validate the
727 reasonableness of bids, proposals, or replies.
728 (g) The development of procedures to be used by state
729 agencies when entering into contracts which ensure standard
730 formats, quantifiable and measurable deliverables, performance
731 measures, and financial consequences for nonperformance.
732 (h) The development of procedures to be used by an agency
733 in maintaining a contract file for each contract which includes,
734 but is not limited to, all pertinent information relating to the
735 contract during the preparatory stages; the solicitation
736 process, including a copy of the solicitation; the opening of
737 bids, proposals, or replies; the evaluation and tabulation of
738 bids, proposals, or replies; and the determination and notice of
739 contract award.
740 (2) To prescribe the methods of securing competitive sealed
741 bids, proposals, and replies. Such methods may include, but are
742 not limited to, procedures for identifying vendors; setting
743 qualifications; conducting conferences or written question and
744 answer periods for purposes of responding to vendor questions;
745 evaluating bids, proposals, and replies; ranking and selecting
746 vendors; and conducting negotiations.
747 (3) To prescribe procedures for procuring information
748 technology and information technology consultant services which
749 provide for public announcement and qualification, competitive
750 solicitations, the contract award, and a prohibition against
751 contingent fees. Such procedures are limited to information
752 technology consultant contracts for which the total project
753 costs, or planning or study activities, are estimated to exceed
754 the threshold amount provided in s. 287.017 for CATEGORY TWO.

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755 (4) To govern the purchase by an agency of any commodity or
756 contractual service and to establish standards and
757 specifications for a commodity. The Chief Financial Officer
758 shall establish definitions and classes of commodities and
759 contractual services which agencies must adhere to in acquiring
760 or purchasing commodities or contractual services. The
761 department's authority under this section may not impair or
762 interfere with an agency's determination of its need for, or use
763 of, services that include particular specifications.
764 (5) To provide to agencies through an electronic medium or
765 other means rules for purchasing commodities and contractual
766 services. Agencies may not approve any account, or request
767 payment of any account, for the purchase of any commodity or the
768 procurement of any contractual service covered by a purchasing
769 or contractual service rule except as authorized by such rule.
770 The department shall furnish copies of rules adopted by the
771 department to any county, municipality, or other local public
772 agency requesting them.
773 (6) To establish and maintain programs that disseminate
774 information to governmental entities, industry vendors,
775 educational institutions, and the general public concerning
776 policies, procedures, rules, and forms for the procurement of
777 commodities and contractual services.
778 (7) To establish and maintain a list of vendors that are
779 not allowed to do business with the state pursuant to ss.
780 287.132(4) and 287.133. The department may add to the list
781 vendors that are not compliant with federal or state laws, or
782 that the department determines have uncollected accounts that
783 are owed to the state.

784 Section 8. Paragraph (f) of subsection (3) and subsections
785 (9), (14), and (16) of section 287.057, Florida Statutes, are
786 amended, and subsection (24) is added to that section, to read:
787 287.057 Procurement of commodities or contractual
788 services.—
789 (3) When the purchase price of commodities or contractual
790 services exceeds the threshold amount provided in s. 287.017 for
791 CATEGORY TWO, no purchase of commodities or contractual services
792 may be made without receiving competitive sealed bids,
793 competitive sealed proposals, or competitive sealed replies
794 unless:
795 (f) The following contractual services and commodities are
796 not subject to the competitive-solicitation requirements of this
797 section:
798 ~~1. Artistic services. For the purposes of this subsection,~~
799 ~~the term "artistic services" does not include advertising or~~
800 ~~typesetting. As used in this subparagraph, the term~~
801 ~~"advertising" means the making of a representation in any form~~
802 ~~in connection with a trade, business, craft, or profession in~~
803 ~~order to promote the supply of commodities or services by the~~
804 ~~person promoting the commodities or contractual services.~~
805 ~~2. Academic program reviews if the fee for such services~~
806 ~~does not exceed $50,000.~~
807 ~~3. Lectures by individuals.~~
808 1.~~4.~~ Legal services, including attorney, paralegal, expert
809 witness, appraisal, or mediator services.
810 2.~~5.a.~~ Health services involving examination, diagnosis,
811 treatment, prevention, medical consultation, or administration,
812 and,~~.~~

813 ~~b.~~ beginning January 1, 2011, health services, including,
814 but not limited to, substance abuse and mental health services~~,~~
815 involving examination, diagnosis, treatment, prevention, or
816 medical consultation, if ~~when~~ such services are offered to
817 eligible individuals participating in a specific program that
818 qualifies multiple providers and uses a standard payment
819 methodology. Reimbursement of administrative costs for providers
820 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.
821 For purposes of this subparagraph ~~sub-subparagraph~~, the term
822 "providers" means health professionals, health facilities, or
823 organizations that deliver or arrange for the delivery of health
824 services.
825 3.~~6.~~ Services provided to persons with mental or physical
826 disabilities by not-for-profit corporations that ~~which~~ have
827 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
828 United States Internal Revenue Code or if ~~when~~ such services are
829 governed by the provisions of Office of Management and Budget
830 Circular A-122. However, in acquiring such services, the agency
831 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
832 performance, willingness to meet time requirements, and price.
833 4.~~7.~~ Medicaid services delivered to an eligible Medicaid
834 recipient, unless the agency is directed otherwise in law.
835 5.~~8.~~ Family placement services.
836 6.~~9.~~ Prevention services related to mental health,
837 including drug abuse prevention programs, child abuse prevention
838 programs, and shelters for runaways, operated by not-for-profit
839 corporations. However, in acquiring such services, the agency
840 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
841 performance, willingness to meet time requirements, and price.

842 ~~10. Training and education services provided to injured~~
843 ~~employees pursuant to s. 440.491(6).~~
844 7.~~11.~~ Contracts entered into pursuant to s. 337.11.
845 8.~~12.~~ Services or commodities provided by governmental
846 agencies.
847 (9) An agency may ~~shall~~ not divide the solicitation of
848 commodities or contractual services so as to avoid the
849 requirements of subsections (1)-(3) and reduce the ability of
850 businesses to openly compete.
851 (14) For each contractual services contract, the agency
852 shall designate an employee to function as contract manager who
853 shall be responsible for enforcing performance of the contract
854 terms and conditions and serve as a liaison with the contractor.
855 Each contract manager who is responsible for one or more
856 contracts in excess of the threshold amount provided under s.
857 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.
858 287.1312 ~~attend training conducted by the Chief Financial~~
859 ~~Officer for accountability in contracts and grant management~~.
860 The Chief Financial Officer shall establish and disseminate
861 uniform procedures pursuant to s. 17.03(3) to ensure that
862 contractual services have been rendered in accordance with the
863 contract terms before the agency processes the invoice for
864 payment. The procedures must ~~shall~~ include, but need not be
865 limited to, procedures for monitoring and documenting contractor
866 performance, reviewing and documenting all deliverables for
867 which payment is requested by vendors, and providing written
868 certification by contract managers of the agency's receipt of
869 goods and services.
870 (16) For a contract in excess of the threshold amount

871 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
872 appoint:
873 (a) At least three persons to evaluate proposals and
874 replies who collectively have experience and knowledge in the
875 program areas and service requirements for which commodities or
876 contractual services are sought.
877 (b) At least three persons to conduct negotiations during a
878 competitive sealed reply procurement who collectively have
879 experience and knowledge in negotiating contracts, contract
880 procurement, and the program areas and service requirements for
881 which commodities or contractual services are sought. When the
882 value of a contract is in excess of $1 million in any fiscal
883 year, at least one of the persons conducting negotiations must
884 be certified as a contract negotiator based upon rules adopted
885 by the Department of Financial Services ~~Management Services~~ in
886 order to ensure that certified contract negotiators are
887 knowledgeable about effective negotiation strategies, capable of
888 successfully implementing those strategies, and involved
889 appropriately in the procurement process. At a minimum, the
890 rules must address the qualifications required for
891 certification, the method of certification, and the procedure
892 for involving the certified negotiator. If the value of a
893 contract is in excess of $10 million in any fiscal year, at
894 least one of the persons conducting negotiations must be a
895 Project Management Professional, as certified by the Project
896 Management Institute.
897 (24) An agency or other eligible user may purchase
898 commodities or services through another agency's existing
899 contract rather than through competitive competition if the use

900 of such contract is in the best interest of the state.
901 Section 9. Paragraph (e) of subsection (1) of section
902 287.058, Florida Statutes, is amended, and subsections (7)
903 through (11) are added to that section, to read:
904 287.058 Contract document.—
905 (1) Every procurement of contractual services in excess of
906 the threshold amount provided in s. 287.017 for CATEGORY TWO,
907 except for the providing of health and mental health services or
908 drugs in the examination, diagnosis, or treatment of sick or
909 injured state employees or the providing of other benefits as
910 required by the provisions of chapter 440, shall be evidenced by
911 a written agreement embodying all provisions and conditions of
912 the procurement of such services, which shall, where applicable,
913 include, but not be limited to, a provision:
914 (e) Dividing the contract into quantifiable, measurable,
915 and verifiable units of deliverables which ~~that~~ must be received
916 and accepted in writing by the contract manager before payment.
917 Each deliverable must be directly related to the scope of work
918 and specify a performance measure. As used in this paragraph,
919 the term "performance measure" means the required minimum level
920 of service to be performed and criteria for evaluating the
921 successful completion of each deliverable.
922
923 In lieu of a written agreement, the department may authorize the
924 use of a purchase order for classes of contractual services, if
925 the provisions of paragraphs (a)-(i) are included in the
926 purchase order or solicitation. The purchase order must include,
927 but need not be limited to, an adequate description of the
928 services, the contract period, and the method of payment. In

929 lieu of printing the provisions of paragraphs (a)-(i) in the
930 contract document or purchase order, agencies may incorporate
931 the requirements of paragraphs (a)-(i) by reference.
932 (7) The Chief Financial Officer may review and approve
933 contracts subject to this chapter before the execution of such
934 contracts in accordance with rules adopted by the department.
935 The review must ensure that all contracting laws have been met;
936 that the contract document contains a clear statement of work,
937 quantifiable and measureable deliverables, performance measures,
938 financial consequences for nonperformance, and clear terms and
939 conditions that protect the interests of the state; that
940 documentation is available to support the contract; and that the
941 associated costs of the contract are not unreasonable or
942 inappropriate. A contract that does not comply with this
943 subsection may be rejected and returned to the submitting agency
944 for revision.
945 (8) The Chief Financial Officer may establish dollar
946 thresholds and other criteria for sampling the agreements that
947 are to be reviewed prior to execution. The Chief Financial
948 Officer may revise such thresholds and other criteria for an
949 agency or the unit of any agency as he or she deems appropriate.
950 (9) The department's review of contract documentation may
951 include, but need not be limited to:
952 (a) Evidence of advertising the procurement opportunity, if
953 applicable;
954 (b) The bid, proposal, or reply itself, whether an
955 invitation to bid, request for proposals, or invitation to
956 negotiate, as applicable;
957 (c) The preprocurement conference questions and answers;

958 (d) Any additional documentation provided to bidders,
959 proposers, or repliers;
960 (e) The list of bidders, proposers, or repliers solicited;
961 (f) The evaluation instrument and process description
962 related to the contract;
963 (g) The bid tabulation or evaluation record;
964 (h) Documentation that supports the agency's determination
965 of vendor responsibility;
966 (i) The successful bid, proposal, or reply in addition to
967 the unsuccessful bids, proposals, or replies;
968 (j) Documentation that supports the selection of the
969 contractor;
970 (k) The reasonableness of the price;
971 (l) Verification that all statutory and regulatory
972 requirements have been met; and
973 (m) The proposed contract.
974 (10) The department shall verify that a competitive process
975 was used, if required by law, and that the contract was
976 appropriately awarded on the basis of lowest price or best value
977 to a responsive and reasonable bidder, proposer, or replier. For
978 contracts not competitively awarded, the procurement record
979 shall be reviewed for restrictive specifications and the
980 agency's justification for the noncompetitive method used in
981 awarding the contract, including justification for the selection
982 of the vendor and the reasonableness of the terms.
983 (11) The department has 30 days to make a final
984 determination regarding approval of a contract. The department
985 and the agency entering into the contract may agree to a longer
986 review period to ensure the thorough consideration of the

987 procurement process and its results.
988 Section 10. Subsection (3) of section 287.095, Florida
989 Statutes, is repealed.
990 Section 11. Section 287.1312, Florida Statutes, is created
991 to read:
992 287.1312 Contract manager certification.—
993 (1) The Department of Financial Services shall establish a
994 training certification program for contract and grant managers
995 and negotiators of contracts and grants. A state employee may
996 not manage a contract or grant agreement in excess of the
997 threshold amount provided in s. 287.017 for CATEGORY FIVE
998 without obtaining a valid certification from the Department of
999 Financial Services under this section. The program must include
1000 training in the following areas:
1001 (a) Procurement and the development of contracts.
1002 (b) Development and administration of grant agreements
1003 involving federal and state financial assistance.
1004 (c) Responsibilities of a contract manager in the
1005 management of state contracts and grant agreements.
1006 (d) Federal and state audit and reporting requirements.
1007 (e) Laws and rules relating to procurement and contract
1008 administration.
1009 (f) Any other subject matter that the Chief Financial
1010 Officer determines will promote accountability in contract and
1011 grant management.
1012 (2) The program shall provide for periodic recertification,
1013 as necessary. The Department of Financial Services shall
1014 determine course requirements, maintain information on
1015 certifications, and monitor the performance of contract and

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1016 grant managers. As part of such monitoring, the department shall
1017 annually publish the results of agency manager audits and error
1018 rates related to contract and grant management on its website.
1019 (3) The Department of Financial Services may revoke a
1020 manager's certification for incompetence or conduct inconsistent
1021 with the responsibilities of contract or grant management.
1022 (4) The Department of Financial Services shall adopt rules
1023 to administer this section.
1024 Section 12. Paragraph (d) of subsection (1) of section
1025 287.133, Florida Statutes, is amended to read:
1026 287.133 Public entity crime; denial or revocation of the
1027 right to transact business with public entities.—
1028 (1) As used in this section:
1029 (d) "Department" means the Department of Financial
1030 ~~Management~~ Services.
1031 Section 13. Paragraph (h) of subsection (3) of section
1032 255.25, Florida Statutes, is amended to read:
1033 255.25 Approval required prior to construction or lease of
1034 buildings.—
1035 (3)
1036 (h) ~~The Department of Management Services may,~~ Pursuant to
1037 s. 287.042(2)~~(a)~~, the department shall procure a term contract
1038 for real estate consulting and brokerage services. A state
1039 agency may not purchase services from the contract unless the
1040 contract has been procured under s. 287.057(1) after March 1,
1041 2007, and contains the following provisions or requirements:
1042 1. Awarded brokers ~~must~~ maintain an office or presence in
1043 the market served. In awarding the contract, preference must be
1044 given to brokers who ~~that~~ are licensed in this state under

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1045 chapter 475 and who ~~that~~ have 3 or more years of experience in
1046 the market served. The contract may be made with up to three
1047 tenant brokers in order to serve the marketplace in the north,
1048 central, and south areas of the state.
1049 2. Each contracted tenant broker works ~~shall work~~ under the
1050 direction, supervision, and authority of the state agency,
1051 subject to the rules governing lease procurements.
1052 3. The department provides ~~shall provide~~ training for the
1053 awarded tenant brokers concerning the rules governing the
1054 procurement of leases.
1055 4. Tenant brokers ~~must~~ comply with all applicable
1056 provisions of s. 475.278.
1057 5. Real estate consultants and tenant brokers are ~~shall be~~
1058 compensated by the state agency, subject to the provisions of
1059 the term contract, and such compensation is subject to
1060 appropriation by the Legislature. A real estate consultant or
1061 tenant broker may not receive compensation directly from a
1062 lessor for services that are rendered under the term contract.
1063 Moneys paid by a lessor to the state agency under a facility
1064 leasing arrangement are not subject to the charges imposed under
1065 s. 215.20. All terms relating to the compensation of the real
1066 estate consultant or tenant broker must ~~shall~~ be specified in
1067 the term contract and may not be supplemented or modified by the
1068 state agency using the contract.
1069 6. The department conducts ~~shall conduct~~ periodic customer-
1070 satisfaction surveys.
1071 7. Each state agency reports ~~shall report~~ the following
1072 information to the department:
1073 a. The number of leases that adhere to the goal of the

1074 workspace-management initiative of 180 square feet per full-time
1075 employee ~~FTE~~.
1076 b. The quality of space leased and the adequacy of tenant-
1077 improvement funds.
1078 c. The timeliness of lease procurement, measured from the
1079 date of the agency's request to the finalization of the lease.
1080 d. Whether cost-benefit analyses were performed before
1081 execution of the lease in order to ensure that the lease is in
1082 the best interest of the state.
1083 e. The lease costs compared to market rates for similar
1084 types and classifications of space according to the official
1085 classifications of the Building Owners and Managers Association.
1086 Section 14. Subsection (12) of section 287.012, Florida
1087 Statutes, is amended to read:
1088 287.012 Definitions.—As used in this part, the term:
1089 (12) "Exceptional purchase" means any purchase of
1090 commodities or contractual services excepted by law or rule from
1091 the requirements for competitive solicitation, including, but
1092 not limited to, purchases from a single source; purchases upon
1093 receipt of fewer ~~less~~ than two responsive bids, proposals, or
1094 replies; purchases made by an agency, after receiving approval
1095 from the department, from a contract procured, pursuant to s.
1096 287.057(1), or by another agency; and purchases made without
1097 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
1098 ~~287.042(3)(b)~~.
1099 Section 15. Paragraph (a) of subsection (2) of section
1100 402.7305, Florida Statutes, is amended to read:
1101 402.7305 Department of Children and Family Services;
1102 procurement of contractual services; contract management.—

1103 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—
1104 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, if
1105 ~~whenever~~ the department intends to contract with a public
1106 postsecondary institution to provide a service, the department
1107 must allow all public postsecondary institutions in this state
1108 which ~~that~~ are accredited by the Southern Association of
1109 Colleges and Schools to bid on the contract. Thereafter,
1110 notwithstanding any other provision of law ~~to the contrary~~, if a
1111 public postsecondary institution intends to subcontract for any
1112 service awarded in the contract, the subcontracted service must
1113 be procured by competitive procedures.
1114 Section 16. Subsection (3) of section 427.0135, Florida
1115 Statutes, is amended to read:
1116 427.0135 Purchasing agencies; duties and responsibilities.—
1117 Each purchasing agency, in carrying out the policies and
1118 procedures of the commission, shall:
1119 (3) Not procure transportation disadvantaged services
1120 without initially negotiating with the commission, as provided
1121 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
1122 authorized by statute. If the purchasing agency, after
1123 consultation with the commission, determines that it cannot
1124 reach mutually acceptable contract terms with the commission,
1125 the purchasing agency may contract for the same transportation
1126 services provided in a more cost-effective manner and of
1127 comparable or higher quality and standards. The Medicaid agency
1128 shall implement this subsection in a manner consistent with s.
1129 409.908(18) and as otherwise limited or directed by the General
1130 Appropriations Act.
1131 Section 17. Subsection (2) of section 946.515, Florida

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1132 Statutes, is amended to read:
1133 946.515 Use of goods and services produced in correctional
1134 work programs.—
1135 (2) A ~~No~~ similar product or service of comparable price and
1136 quality found necessary for use by any state agency may not be
1137 purchased from any source other than the corporation if the
1138 corporation certifies that the product is manufactured by, or
1139 the service is provided by, inmates and the product or service
1140 meets the comparable performance specifications and comparable
1141 price and quality requirements as specified under s.
1142 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
1143 agency as provided in this section. The purchasing authority of
1144 ~~any~~ such state agency may make reasonable determinations of
1145 need, price, and quality with reference to products or services
1146 available from the corporation. In the event of a dispute
1147 between the corporation and a ~~any~~ purchasing authority based
1148 upon price or quality under this section or s. 287.042(1)(c)
1149 ~~287.042(1)(f)~~, either party may request a hearing with the
1150 Department of Management Services and, if not resolved, ~~either~~
1151 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
1152 120.57, which shall be referred to the Division of
1153 Administrative Hearings within 60 days after such request, to
1154 resolve any dispute under this section. A ~~No~~ party is not
1155 entitled to any appeal pursuant to s. 120.68.
1156 Section 18. Procurement review and report.—
1157 (1) The Chief Financial Officer shall review and
1158 investigate:
1159 (a) All current state laws that govern the state
1160 procurement of goods, services, and facilities;

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

1161 (b) The procurement policies, rules, procedures, and
1162 practices followed by the state agencies, boards, commissions,
1163 offices, and other instrumentalities of the executive branch of
1164 state government;
1165 (c) The organization and management processes involved in
1166 the state procurement of goods, services, and facilities before
1167 the award of a state procurement contract, during the
1168 solicitation of bids, the evaluation, and the negotiation of a
1169 contract, and subsequent to the award of the contract to
1170 determine the extent to which these organization and management
1171 processes facilitate the legislative policy set forth in this
1172 act; and
1173 (d) Any other areas that the Chief Financial Officer deems
1174 relevant to the review and investigation.
1175 (2) In order to accomplish the procurement review directed
1176 by this section, the Chief Financial Officer may:
1177 (a) Acquire information directly from the head of any state
1178 department or agency for the purpose of conducting this review.
1179 All departments and agencies shall cooperate with the Chief
1180 Financial Officer and furnish all information requested to the
1181 extent permitted by law.
1182 (b) Procure the services of experts and consultants.
1183 (c) Contract with private organizations and nonprofit
1184 institutions to carry out studies and prepare reports to
1185 facilitate the review.
1186 (3) By December 31, 2012, the Chief Financial Officer shall
1187 submit to the Governor, the President of the Senate, and the
1188 Speaker of the House of Representatives a report of findings and
1189 recommendations for changes in statutes, rules, policies,

1190 procedures, and organization necessary to carry out the policies
1191 set forth in this act.
1192 Section 19. The Legislature recognizes the need to reform
1193 the purchasing cycle, from the development of a purchasing
1194 agreement to the payment for goods or services provided to the
1195 state. Therefore, chapter 287, Florida Statutes, is repealed
1196 effective July 30, 2014.
1197 Section 20. (1) For the 2012-2013 fiscal year, the sum of
1198 $400,000 in nonrecurring funds is appropriated from the
1199 Administrative Trust Fund in the Department of Financial
1200 Services to contract for the Chief Financial Officer's review of
1201 the state's procurement process.
1202 (2) For the 2012-2013 fiscal year, the sum of $375,000 in
1203 recurring funds is appropriated from the Administrative Trust
1204 Fund in the Department of Financial Services to contract for the
1205 Chief Financial Officer's administration of the certified
1206 contract manager and negotiator programs.
1207 (3) For the 2012-2013 fiscal year, the sum of $4,067,000 in
1208 recurring funds from the General Revenue Fund and 36 full-time
1209 equivalent positions and associated salary rate of 1,902,588 are
1210 appropriated to the Chief Financial Officer for the purpose of
1211 implementing the Chief Financial Officer's expanded contract
1212 auditing responsibilities under this act. Funds remaining
1213 unexpended or unencumbered from this appropriation as of June
1214 30, 2013, shall revert and be reappropriated for the same
1215 purpose in the 2013-2014 fiscal year.
1216 Section 21. Except as otherwise expressly provided in this
1217 act, 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)

3/2/2012
Meeting Date

Topic _____

Bill Number 1620 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

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)

3/2/12
Meeting Date

Topic: State Contracting

Bill Number: CS/CS/SB 1626 *(if applicable)*

Name: Lisa M Hurley

Amendment Barcode: 112828 *(if applicable)*

Job Title:

Address: 100 S Monroe St
Street

City *State* *Zip*

Phone: 922 4300

E-mail: lhurley@fl-counties.com

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

Representing: Florida Assoc. of Counties

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 Budget Committee

BILL: SB 1274

INTRODUCER: Senator Latvala

SUBJECT: Tourist Development Tax

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Favorable**
2.	Cote	Diez-Arguelles	BFT	**Favorable**
3.	Cote	Rhodes	BC	**Favorable**
4.				
5.				
6.				

I. Summary:

SB 1274 permits counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

This bill amends s. 125.0104, F.S.

II. Present Situation:

Tourist Development Tax

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax under s. 212.03, F.S., to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy.[1]

1. The tourist development tax may be levied at the rate of 1 or 2 percent.[2] Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.[3] Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

[1] Florida Revenue Estimating Conference, "2012 Florida Tax Handbook."
[2] Section 125.0104(3)(c), F.S.
[3] Information related to the number of counties levying the taxes is from the Office of Economic and Demographic Research, "2012 Local Option Tourist/Food and Beverage/Tax Rates in Florida's Counties," available at http://edr.state.fl.us/Content/local-government/data/data-a-to-z/2012LOTTrates.pdf (last visited 1/12/2012).

2. An additional tourist development tax of 1 percent may be levied.[4] Currently 45 counties levy this tax and only 56 counties are currently eligible to levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used for certain debt service or refinancing unless approved by an extraordinary vote of the governing board. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
3. A professional sports franchise facility tax may be levied up to an additional 1 percent.[5] Currently 35 counties levy this additional tax and all 67 counties are eligible to levy this tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.
4. A high tourism impact tax may be levied at an additional 1 percent.[6] Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, Monroe, Orange, and Osceola levy this additional tax. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.
5. An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[7] Out of 35 counties that levy a professional sports facility tax, 20 levy an additional professional sports franchise facility tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.

"Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion."[8] Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos.

The local taxes on rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.[9]

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[4] Section 125.0104(3)(d), F.S.
[5] Section 125.0104(3)(l), F.S.
[6] Section 125.0104(3)(m), F.S.
[7] Section 125.0104(3)(n), F.S.
[8] Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited 1/12/2012).
[9] Also known as "self-administering."

Florida Aquariums

Visit Florida's website lists over 25 attractions in the category of "aquarium," including the Key West Aquarium, the Miami Seaquarium, the Mote Marine Laboratory and Aquarium in Sarasota, the Florida Aquarium in Tampa, and the Florida's Gulfarium in Fort Walton Beach.

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104, F.S., to permit counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums. This authorization does not apply to the tax levied for sports franchise facilities.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill should not give rise to any mandates restrictions because it is permitting, not mandating, the local governments to expend funds from the tourist development taxes for an additional purpose.

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:

Local businesses and residents may benefit from having an additional tourist attraction.

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 Latvala

16-01410-12 20121274__

A bill to be entitled

An act relating to the tourist development tax; amending s. 125.0104, F.S.; providing for the proceeds of the tourist development tax to be used for the benefit of certain aquariums; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) and subsection (7) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, ~~or~~ auditoriums, <u>aquariums,</u> or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied. Tax revenues received pursuant to this section may also be used for promotion of zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. However, these purposes may be implemented through service contracts and leases

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

16-01410-12 20121274__

with lessees with sufficient expertise or financial capability to operate such facilities;

2. To promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

4. To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties of less than 100,000 population, no more than 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

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

59 (7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.—Anything
60 in this section to the contrary notwithstanding, if the plan for
61 tourist development approved by the governing board of the
62 county, as amended from time to time pursuant to paragraph
63 (4)(d), includes the acquisition, construction, extension,
64 enlargement, remodeling, repair, or improvement of a publicly
65 owned and operated convention center, sports stadium, sports
66 arena, coliseum, ~~or~~ auditorium, aquarium, or ~~a~~ museum that is
67 publicly owned and operated or owned and operated by a not-for-
68 profit organization, the county ordinance levying and imposing
69 the tax shall automatically expire upon the later of:
70 (a) Retirement of all bonds issued by the county for
71 financing the same; or
72 (b) The expiration of any agreement by the county for the
73 operation or maintenance, or both, of a publicly owned and
74 operated convention center, sports stadium, sports arena,
75 coliseum, auditorium, aquarium, or museum. However, nothing
76 herein shall preclude that county from amending the ordinance
77 extending the tax to the extent that the board of the county
78 determines to be necessary to provide funds with which to
79 operate, maintain, repair, or renew and replace a publicly owned
80 and operated convention center, sports stadium, sports arena,
81 coliseum, auditorium, aquarium, or museum or from enacting an
82 ordinance which shall take effect without referendum approval,
83 unless the original referendum required ordinance expiration,
84 pursuant to the provisions of this section reimposing a tourist
85 development tax, upon or following the expiration of the
86 previous ordinance.
87 Section 2. This act shall take effect July 1, 2012.

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SENATOR JACK LATVALA
16th District

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Governmental Oversight and Accountability
Reapportionment

February 3, 2011

The Honorable Senator JD Alexander, Chair
Senate Committee on Budget
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Alexander:

I respectfully request consideration of Senate Bill 1274 regarding the Tourist Development Tax at your earliest convenience.

This bill has been filed in order to allow publicly-owned and operated aquariums to receive a portion of the funds generated from this tax in the same manner as other facilities, such as museums, convention centers, and sports arenas already do. I would greatly appreciate the opportunity to present this legislation to the Senate Committee on Budget as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala

Jack Latvala
State Senator
District 16

JL: JW

cc: Terry Rhodes, Staff Director; Alicia Weiss, Administrative Assistant

REPLY TO:
☐ 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

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/CS/SB 1358

INTRODUCER: Budget Committee, Budget Subcommittee on General Government Appropriations, Governmental Oversight and Accountability Committee, and Senator Hays

SUBJECT: Employee Drug Testing

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantes	Stovall	HR	**Fav/1 amendment**
2.	Seay	Roberts	GO	**Fav/CS**
3.	Betta	DeLoach	BGA	**Fav/CS**
4.	Betta	Rhodes	BC	**Fav/CS**
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 expands the authorization of public employers to drug test employees to allow for random drug testing of all employees every three months. It further requires that the random sample chosen for the testing must be computer-generated by an independent third party. The bill provides that a random sample may not constitute more than ten percent of the total employee population. The bill also allows state agencies to administer drug tests to all job applicants. The bill revises the definition of "job applicant." The bill provides that an employer must determine whether an employee who tested positive is fit to continue in their current job duties while participating in an employee assistance program. The bill replaces references to "safety-sensitive" positions with "mandatory-testing" positions. The bill allows a public employer to terminate the employment of any employee who receives a first-time positive drug test.

This bill substantially amends sections 112.0455, 440.102, and 944.474, Florida Statutes.

II. Present Situation:

Drug-Free Workplace Act

In 1989, the Legislature first enacted the Drug-Free Workplace Act (Act).[1] The Legislature's intent in enacting the Act was to "promote the goal of drug-free workplaces within government through fair and reasonable drug testing methods for the protection of public employees and employers"; "encourage employers to provide employees who have drug use problems an opportunity to participate in an employee assistance program or alcohol and drug rehabilitation program"; and "provide for confidentiality of testing results." The Act sets out the specific guidelines to be followed by state agencies who wish to test employees.

The Act currently provides that no employer may discharge, discipline, or discriminate against an employee on the sole basis of the employee's first positive drug test under certain conditions.[2] The Act does permit state employers to discharge or discipline a "special-risk employee" for the first positive confirmed drug test result.[3] In addition, the Act authorizes, but does not require, employers to "require job applicants to submit a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusal to hire the job applicant."[4] Section 112.0455, F.S., currently defines job applicants as "a person who has applied for a special risk or safety-sensitive position with an employer and has been offered employment conditioned upon successfully passing a drug test."[5]

The Act also authorizes, but does not require, public employers to drug test:

- An employee whom the employer has reasonable suspicion to believe is using or has used drugs.[6]
- An employee as part of a routinely scheduled fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
- An employee who in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, as a follow-up for a specified time frame.[7]

Employers without drug testing programs must give at least 60 days notice to all employees before beginning such a program.[8] Before any testing begins, all employees must be given a written statement which provides:

- The employer's policy on drug abuse;

[1] Ch. 89-173, L.O.F.
[2] Section 112.0455(8)(n)1, F.S.
[3] Section 112.0455(8)(n)3, F.S. Special risk employees are defined as one who is required as a condition of employment to be certified under chapter 633, F.S. (Fire Prevention Control) or chapter 943, F.S. (Department of Law Enforcement). Section 112.0455(5)(n), F.S.
[4] Section 112.0455(7)(a), F.S.
[5] Section 112.0455(5)(f), F.S.
[6] Section 112.0455(5)(j), F.S.
[7] Section 112.0455(7), F.S.
[8] Section 112.0455(6), F.S.

- Drug testing indications and procedures;
- Actions taken against violators of the drug policy;
- A confidentiality statement;
- A list of common medications which may interfere with drug tests;
- A list of local employee assistance and substance abuse rehabilitation programs;
- A statement that the employee has five business days after receiving a positive drug test to explain the results to the employer and may contest the test result; and
- A statement regarding any collective bargaining agreement related to drug testing and the right to appeal to the Public Employees Relations Commission.[9]

Workers' Compensation Law

The Workers' Compensation Law, contained in Chapter 440, F.S., provides legislative intent to promote drug-free workplaces and sets out notice and procedural requirements for employee drug testing.[10] The requirements in Ch. 440, F.S., are applicable to both private and public employers. An employer is not required to request an employee or job applicant to undergo drug testing.[11]

If an employer implements drug testing that conforms to the statutory standards and procedures and to applicable rules, such employer is eligible for workers' compensation and employer's liability insurance discounts.[12]

Current law provides that drug-free workplace program requirements are a mandatory topic of negotiations with any certified collective bargaining agent for nonfederal public sector employers that operate under a collective bargaining agreement.[13] If applicable, random drug testing must be specified in a collective bargaining agreement as negotiated by the appropriate certified bargaining agent before such testing is implemented.[14]

Department of Corrections Employee Drug Testing

Current law authorizes the Department of Corrections to randomly drug test all employees.[15]

Executive Order 11-58

Executive Order Number 11-58, signed by the Governor on March 22, 2011, requires pre-employment and random drug testing for state employees.[16]

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[9] *Id.*
[10] *See* ss. 440.101 and 440.102, F.S.
[11] *See* s. 440.102(2), F.S.
[12] Section 440.102(2), F.S.
[13] Section 440.102(13), F.S.
[14] Section 440.102(7)(g), F.S.
[15] Section 944.474(2), F.S.
[16] Executive Order 11-58, Office of the Governor, *available at* http://www.flgov.com/wp-content/uploads/orders/2011/11-58-testing.pdf (last visited January 30, 2012).

A representative of public employees sued the Governor, alleging that the drug-testing policies required by the order constitute a suspicionless search without a special need in violation of the Fourth Amendment of the United States Constitution.[17] Both parties have requested summary judgment and are awaiting a decision by a federal district judge.[18]

III. Effect of Proposed Changes:

Section 1 amends s. 112.0455, F.S., expanding the definition of "job applicant" to include any person who has applied for a position with an employer and has been offered employment contingent to passing a drug test; creating a definition for "random testing"; removing the definition for "safety-sensitive position"; providing that an employer may conduct random testing once every three months; providing that the random sample chosen for the testing must be computer-generated by an independent third party; providing that a random sample may not constitute more than ten percent of the total employee population of an agency; deleting a provision prohibiting a public employer from discharging, disciplining, or discriminating against an employee (other than a special-risk employee) on the sole basis of the employee's first positive confirmed drug test under certain conditions.

This section also consolidates the provisions relating to continued employment of employees in special risk or safety-sensitive positions. By removing the current definition for "safety-sensitive position", the bill amends the provisions related to employees in such positions to prescribe duties an employee would be automatically deemed unable to safely and effectively perform while participating in an employee assistance program. Such duties are those that require an employee to:

- Carry a firearm;
- Work closely with an employee who carries a firearm;
- Perform life-threatening procedures;
- Work with heavy or dangerous machinery;
- Work as a safety inspector;
- Work with children;
- Work with detainees in the correctional system;
- Work with confidential information or documents pertaining to criminal investigations;
- Work with controlled substances;
- Hold a position subject to s. 110.1127, F.S.;[19] or
- Hold a position in which a momentary lapse in attention could result in injury or death of another person.

If an employer refers the employee to an employee assistance program, the employee will be placed in a job assignment which the employer has determined can be performed during

[17] *See* "Complaint," *American Federation of State, County and Municipal Employees Council 79, and Richard Flamm, v. Rick Scott*, Case No. 1:11-cv-21976-UU (S.D. Fla. 2011).
[18] *See* "Plaintiff's Motion for Summary Judgment" and "Defendant's Motion for Summary Judgment and Incorporated Memorandum of Law," *American Federation of State, County and Municipal Employees Council 79, and Richard Flamm, v. Rick Scott*, Case No. 1:11-cv-21976-UU (S.D. Fla. 2011).
[19] Section 110.1127, F.S. requires security background checks for employees in specified positions of special responsibility or sensitive location.

treatment if the employee cannot safely and effectively perform job duties in their current position. If an alternative job assignment is unavailable, the employee is placed on leave status.

Section 2 amends s. 440.102, F.S., removing the current definition for "safety-sensitive position" and replacing the term with "mandatory-testing position"; defining "mandatory-testing position" to mean "with respect to a public employer, a job assignment that requires the employee to" engage in any of the activities which an employee would be deemed unable to safely and effectively perform while participating in an employee assistance program under the Drug-Free Workplace Act; providing that an employer may receive discounts under s. 627.0915, F.S., if an employer maintains a drug-free workplace program broader in scope than the minimum standards established in this section.

Section 3 amends s. 944.474, F.S., authorizing the Department of Corrections (DOC) to develop a drug testing program for all job applicants; removing a reference to "safety-sensitive."

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:

Fourth Amendment

Mandatory drug testing programs have been challenged in courts numerous times. The U.S. Supreme Court has ruled in four situations that suspicionless drug testing is constitutional and does not violate the Fourth Amendment, which protects an individual's rights against unreasonable search and seizure.[20] These situations include suspicionless drug testing of:

- Students in extracurricular activities;[21]
- Student athletes;[22]

[20] A concurring opinion in *Katz v. United States*, 389 U.S. 347, 36-61 (1967), set out the "reasonable expectation of privacy test" – when a person manifests a subjective expectation of privacy that society accepts as reasonable, that person has a "reasonable expectation of privacy" protected by the Fourth Amendment. Therefore, if there is no reasonable expectation of privacy, no Fourth Amendment violation can occur.

[21] *Board of Education of Pottawatomie County v. Earls*, 536 U.S. 822 (U.S. 2002).

- Certain Customs employees;[23] and
- Railroad employees after major accidents.[24]

In these cases, the court focused on the special need of the government, the unique situation involved (school setting, drug enforcement, and major train accidents), and public safety.

The United States Supreme Court has held one suspicionless drug test unconstitutional. In *Chandler v. Miller*, the state of Georgia required all candidates for designated state offices to certify that they had taken a drug test and that the result was negative in order to run for state office.[25] In ruling the drug testing unconstitutional, the court held that,

> "Where the risk to public safety is substantial and real, blanket suspicionless searches calibrated to the risk may rank as 'reasonable'…But where, as in this case, public safety is not genuinely in jeopardy, the Fourth Amendment precludes the suspicionless search."[26]

Federal district courts in Florida have ruled on the constitutionality of random drug testing of public employees and of blanket drug testing of job applicants with a public employer, holding that:

- A state agency's random drug testing policy was unconstitutional as applied to a strategic planning analyst because the employee did not present a concrete risk of real harm;[27] and
- A city's suspicionless drug testing of all new applicants as a condition of employment was unconstitutional because the city produced no concrete evidence or history of drug use among its employees and failed to specifically identify any governmental interest sufficiently compelling to justify testing all job applicants.[28]

An issue that has not been ruled upon in the context of suspicionless public employee and job applicant drug testing in federal courts with jurisdiction in Florida is that of an employee's or applicant's consent to the drug test. Some appellate courts have considered consent of the employee when holding that a physical search of a public employee or his or her property is not an unconstitutional search.[29] In addition, the Third Circuit has held that a public job applicant's consent to a drug test satisfied the Fourth Amendment's

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[22] *Vernonia School District v. Acton*, 515 U.S. 646 (U.S. 1995).
[23] *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (U.S. 1989).
[24] *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602 (U.S. 1989).
[25] *Chandler v. Miller*, 520 U.S. 305 (1997).
[26] *Id.* at 323.
[27] *Wenzel v. Bankhead*, 351 F.Supp.2d 1316 (N.D. Fla. 2004).
[28] *Baron v. Hollywood*, 93 F.Supp.2d 1337 (S.D. Fla. 2000).
[29] For example, *see United States v. Sihler*, 562 F.2d 349, 350 (5th Cir. 1977) (holding, in part, that a search of a prison guard did not violate the Fourth Amendment because the guard had "voluntarily accepted and continued an employment which subjected him to search on a routine basis") and *United States v. Esser*, 284 Fed. Appx. 757, 758-759 (11th Cir. 2008) (citing *Sihler* and holding that in light of a post office regulation that purses were subject to inspection, a postal employee consented to the search of her purse "by virtue of her voluntary employment and her decision to bring her purse on postal property").

reasonableness requirement.[30] In the same ruling, however, the Third Circuit cited a prior case, saying that it "is the law of [the Third Circuit] that 'silent submission' to a drug test 'on pain of dismissal from employment' does not constitute consent."[31]

Other issues that may be arguable are whether the suspicionless drug testing of public employees or job applicants contravenes reasonable expectations of privacy and whether the government has a special need for such drug testing that outweighs the privacy interests of such employees and applicants.

Contracts Clause

The U.S. Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.[32] "[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear."[33] If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.[34] The factors that a court will consider when balancing the impairment of contracts with the public purpose include: whether the law was enacted to deal with a broad, generalized economic or social problem; whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.[35] An impairment of contracts issue may arise if a current collective bargaining agreement containing drug testing provisions in conflict with those in this bill exists and a public employer who is a party to such agreement chooses to use the expanded drug testing authorization in this bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[30] *Kerns v. Chalfont-New Britain Twp. Joint Sewage Auth.*, 263 F.3d 61, 65-55 (3d Cir. 2001).
[31] *Id.* at 66. The cited case, *Bolden v. SEPTA*, 953 F.2d 807 (3d Cir. 1991), held in part that an employee's silent submission to drug testing required as a prerequisite to his return to work was not a voluntary consent to search (*id.* at 824).
[32] Article I, s. 10, U.S. Const.; Art. I, s. 10, Fla. Const.
[33] *Pomponio v. Claridge of Pompano Condominiums, Inc.*, 378 So.2d 774 (Fla. 1979). *See also General Motors Corp. v. Romein*, 503 U.S. 181 (1992).
[34] *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So.2d 681 (Fla. 1980); *Yellow Cab Co. v. Dade County*, 412 So.2d 395 (Fla. 3rd DCA 1982). *See also Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983) (construing the federal constitutional provision). An important public purpose would be a purpose protecting the public's health, safety, or welfare. *See Khoury v. Carvel Homes South, Inc.*, 403 So.2d 1043 (Fla. 1st DCA 1981).
[35] *Pomponio v. Claridge of Pompano Condominiums, Inc.*, 378 S0.2d 774 (Fla. 1979).

B. Private Sector Impact:

The bill's extension of certain insurance discounts to employers with a broader drug-free workplace program than the minimum standards set out in statute may result in an indeterminate reduction in expenditures of private employers.

C. Government Sector Impact:

State agencies may incur increased costs due to the drug testing of additional job applicants and random testing of employees. However, the bill provides that tests are to be administered at each agency's discretion and within each agency's appropriation, so the fiscal impact is ultimately up to each agency.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 368-372 state that if an employer refers an employee to an employee assistance program, the employer must determine whether the employee is able to safely and effectively perform his or her job duties while in the program. However, the bill makes no reference to when such a determination must be made. Presumably, the decision should be made before the employee begins an employee assistance program, but this provision is introduced in the bill's title (line 23) as occurring anytime before the employee completes the program.

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 on March 2, 2012:
The committee substitute corrects the title of the bill.

CS/CS by Budget Subcommittee on General Government Appropriations on February 28, 2012:
The CS differs from the CS by Governmental Oversight and Accountability in that:

- It clarifies that agencies must use existing appropriations to conduct drug testing.
- It reinstates Drugfree Workplace Programs as a mandatory topic of negotiations of nonfederal public sector employees.

CS by Governmental Oversight and Accountability on February 1, 2012:
The CS differs from the original bill in that:

- It makes several technical changes recommended by the Health Regulation Committee.
- It further amends the Drug-Free Workplace Act by requiring that the random sample chosen for the testing must be computer-generated by an independent third party. It

provides that a random sample may not constitute more than ten percent of the total employee population of an agency.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Negron) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 577 and 578
4 insert:
5 Section 4. A member of the Legislature is subject to drug
6 testing under s. 112.0455(7)(b), (c), and (e), Florida Statutes.
7 For purposes of this section, "employer" in s. 112.0455, Florida
8 Statutes, means the President of the Senate or the Speaker of
9 the House of Representatives, as appropriate. The President of
10 the Senate and the Speaker of the House of Representatives shall
11 develop procedures for addressing positive drug test results
12 from such testing.
13

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14 ========== T I T L E A M E N D M E N T ==========
15 And the title is amended as follows:
16 Delete line 2
17 and insert:
18 An act relating to drug-free workplaces;
19 Delete line 68
20 and insert:
21 act; requiring that members of the Legislature be
22 subject to drug testing under certain conditions;
23 requiring the President of the Senate and the Speaker
24 of the House of Representatives to develop procedures
25 to address certain drug test results; providing an
26 effective date.

155992

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
	.	
	.	
	.	

The Committee on Budget (Hays) recommended the following:

1 **Senate Amendment**
2
3 In title, delete lines 2 - 65
4 and insert:
5
6 An act relating to drug-free workplaces; amending s.
7 112.0455, F.S.; revising the definition of the term
8 “job applicant,” defining the term “random testing,”
9 and removing the definition of the term “safety-
10 sensitive position” for purposes of the Drug-Free
11 Workplace Act; requiring drug testing to be conducted
12 within each state agency’s appropriation; authorizing
13 a state agency to conduct random drug testing every 3

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14 months; providing testing selection requirements;
15 removing provisions prohibiting a state agency from
16 discharging or disciplining an employee under certain
17 circumstances based on the employee's first positive
18 confirmed drug test; removing provisions limiting the
19 circumstances under which an agency may discharge an
20 employee in a special risk or safety-sensitive
21 position; providing that an agency may discharge or
22 discipline an employee following a first-time positive
23 confirmed drug test result; authorizing an agency to
24 refer an employee to an employee assistance program or
25 an alcohol and drug rehabilitation program if the
26 employee is not discharged; requiring participation in
27 an employee assistance program or an alcohol and drug
28 rehabilitation program at the employee's own expense
29 or at the expense of a health insurance plan;
30 requiring the employer to determine if the employee is
31 able to safely and effectively perform the job duties
32 assigned to the employee while the employee is
33 participating in the employee assistance program or
34 alcohol and drug rehabilitation program; deeming that
35 certain specified job activities cannot be performed
36 safely and effectively while the employee is
37 participating in the employee assistance program or
38 alcohol and drug rehabilitation program; requiring the
39 employer to transfer the employee to a job assignment
40 that he or she can perform safely and effectively
41 while the employee participates in the employee
42 assistance program or alcohol and drug rehabilitation

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43 program; requiring the employer to place the employee
44 on leave status while the employee is participating in
45 an employee assistance program or an alcohol and drug
46 rehabilitation program if such a position is
47 unavailable; authorizing the employee to use
48 accumulated leave credits before being placed on leave
49 without pay; amending s. 440.102, F.S.; revising the
50 definition of the term “job applicant” as it pertains
51 to a public employer; removing the definition of the
52 term “safety-sensitive position” and replacing it with
53 the definition for the term “mandatory-testing
54 position;” providing that an employer remains
55 qualified for an insurer rate plan that discounts
56 rates for workers’ compensation and employer’s
57 liability insurance policies if the employer maintains
58 a drug-free workplace program that is broader in scope
59 than that provided for by the standards and procedures
60 established in the act; authorizing a public employer,
61 using an unbiased selection procedure, to conduct
62 random drug tests of employees occupying mandatory-
63 testing or special-risk positions if the testing is
64 performed in accordance with drug-testing rules
65 adopted by the Agency for Health Care Administration;
66 requiring that a public sector employer assign a
67 public sector employee to a position other than a
68 mandatory-testing position if the employee enters an
69 employee assistance program or drug and alcohol
70 rehabilitation program; amending s. 944.474, F.S.;
71 revising

By the Committees on Budget Subcommittee on General Government Appropriations; and Governmental Oversight and Accountability; and Senator Hays

601-04255-12 20121358c2

A bill to be entitled

An act relating to the Drug-Free Workplace Act; amending s. 112.0455, F.S.; revising the definition of the term "job applicant"; defining the term "random testing"; removing the definition of the term "safety-sensitive position"; requiring drug testing to be conducted within each state agency's appropriation; authorizing a state agency to conduct random drug testing every 3 months; providing testing selection requirements; removing provisions prohibiting a state agency from discharging or disciplining an employee under certain circumstances based on the employee's first positive confirmed drug test; removing provisions limiting the circumstances under which an agency may discharge an employee in a special risk or safety-sensitive position; providing that an agency may discharge or discipline an employee following a first-time positive confirmed drug test result; authorizing an agency to refer an employee to an employee assistance program or an alcohol and drug rehabilitation program if the employee is not discharged; requiring participation in an employee assistance program or an alcohol and drug rehabilitation program at the employee's own expense; requiring the employer to determine if the employee is able to safely and effectively perform the job duties assigned to the employee while the employee is participating in the employee assistance program or alcohol and drug rehabilitation program; deeming that

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

601-04255-12 20121358c2

certain specified job activities cannot be performed safely and effectively while the employee is participating in the employee assistance program or alcohol and drug rehabilitation program; requiring the employer to transfer the employee to a job assignment that he or she can perform safely and effectively while the employee participates in the employee assistance program or alcohol and drug rehabilitation program; requiring the employer to place the employee on leave status while the employee is participating in an employee assistance program or an alcohol and drug rehabilitation program if such a position is unavailable; authorizing the employee to use accumulated leave credits before being placed on leave without pay; amending s. 440.102, F.S.; revising the definition of the term "job applicant" as it pertains to a public employer; removing the definition of the term "safety-sensitive position" and replacing it with the definition for the term "mandatory-testing position;" providing that an employer remains qualified for an insurer rate plan that discounts rates for workers' compensation and employer's liability insurance policies if the employer maintains a drug-free workplace program that is broader in scope than that provided for by the standards and procedures established in the act; authorizing a public employer, using an unbiased selection procedure, to conduct random drug tests of employees occupying mandatory-testing or special-risk positions if the testing is

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59 performed in accordance with drug-testing rules
60 adopted by the Agency for Health Care Administration;
61 requiring that a public sector employer assign a
62 public sector employee to a position other than a
63 mandatory-testing position if the employee enters an
64 employee assistance program or drug rehabilitation
65 program; amending s. 944.474, F.S.; revising
66 provisions governing employees of the state
67 correctional system, to conform to changes made by the
68 act; providing an effective date.
69
70 Be It Enacted by the Legislature of the State of Florida:
71
72 Section 1. Subsections (5), (7), and (8) and paragraphs
73 (h), (i), (j), and (k) of subsection (10) of section 112.0455,
74 Florida Statutes, are amended to read:
75 112.0455 Drug-Free Workplace Act.—
76 (5) DEFINITIONS.—Except where the context otherwise
77 requires, as used in this act:
78 (a) "Drug" means alcohol, including distilled spirits,
79 wine, malt beverages, and intoxicating liquors; amphetamines;
80 cannabinoids; cocaine; phencyclidine (PCP); hallucinogens;
81 methaqualone; opiates; barbiturates; benzodiazepines; synthetic
82 narcotics; designer drugs; or a metabolite of any of the
83 substances listed herein.
84 (b) "Drug test" or "test" means any chemical, biological,
85 or physical instrumental analysis administered for the purpose
86 of determining the presence or absence of a drug or its
87 metabolites.

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88 (c) "Initial drug test" means a sensitive, rapid, and
89 reliable procedure to identify negative and presumptive positive
90 specimens. All initial tests must ~~shall~~ use an immunoassay
91 procedure or an equivalent, or must ~~shall~~ use a more accurate
92 scientifically accepted method approved by the Agency for Health
93 Care Administration as ~~such~~ more accurate technology becomes
94 available in a cost-effective form.
95 (d) "Confirmation test," "confirmed test," or "confirmed
96 drug test" means a second analytical procedure used to identify
97 the presence of a specific drug or metabolite in a specimen. The
98 confirmation test must be different in scientific principle from
99 that of the initial test procedure. This confirmation method
100 must be capable of providing requisite specificity, sensitivity,
101 and quantitative accuracy.
102 (e) "Chain of custody" refers to the methodology of
103 tracking specified materials or substances for the purpose of
104 maintaining control and accountability from initial collection
105 to final disposition for all such materials or substances and
106 providing for accountability at each stage in handling, testing,
107 storing specimens, and reporting of test results.
108 (f) "Job applicant" means a person who has applied for a
109 ~~special risk or safety-sensitive~~ position with an employer and
110 has been offered employment conditioned upon successfully
111 passing a drug test.
112 (g) "Employee" means a ~~any~~ person who works for salary,
113 wages, or other remuneration for an employer.
114 (h) "Employer" means an ~~any~~ agency within state government
115 that employs individuals for salary, wages, or other
116 remuneration.

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

117 (i) “Prescription or nonprescription medication” means a
118 drug or medication obtained pursuant to a prescription as
119 defined by s. 893.02 or a medication that is authorized pursuant
120 to federal or state law for general distribution and use without
121 a prescription in the treatment of human diseases, ailments, or
122 injuries.
123 (j) “Random testing” means a drug test conducted on
124 employees who are selected through the use of a computer-
125 generated random sample of an employer’s employees.
126 (k) ~~(j)~~ “Reasonable suspicion drug testing” means drug
127 testing based on a belief that an employee is using or has used
128 drugs in violation of the employer’s policy drawn from specific
129 objective and articulable facts and reasonable inferences drawn
130 from those facts in light of experience. Reasonable suspicion
131 drug testing may ~~shall~~ not be required except upon the
132 recommendation of a supervisor who is at least one level of
133 supervision higher than the immediate supervisor of the employee
134 in question. Among other things, such facts and inferences may
135 be based upon:
136 1. Observable phenomena while at work, such as direct
137 observation of drug use or of the physical symptoms or
138 manifestations of being under the influence of a drug.
139 2. Abnormal conduct or erratic behavior while at work or a
140 significant deterioration in work performance.
141 3. A report of drug use, provided by a reliable and
142 credible source, which has been independently corroborated.
143 4. Evidence that an individual has tampered with a drug
144 test during employment with the current employer.
145 5. Information that an employee has caused, or contributed

146 to, an accident while at work.
147 6. Evidence that an employee has used, possessed, sold,
148 solicited, or transferred drugs while working or while on the
149 employer’s premises or while operating the employer’s vehicle,
150 machinery, or equipment.
151 (l) ~~(k)~~ “Specimen” means a tissue, hair, or product of the
152 human body capable of revealing the presence of drugs or their
153 metabolites.
154 (m) ~~(l)~~ “Employee assistance program” means an established
155 program for employee assessment, counseling, and possible
156 referral to an alcohol and drug rehabilitation program.
157 ~~(m) “Safety-sensitive position” means any position,~~
158 ~~including a supervisory or management position, in which a drug~~
159 ~~impairment would constitute an immediate and direct threat to~~
160 ~~public health or safety.~~
161 (n) “Special risk” means employees who are required as a
162 condition of employment to be certified under chapter 633 or
163 chapter 943.
164 (7) TYPES OF TESTING.—Drug testing must be conducted within
165 each agency’s appropriation. An employer may conduct ~~is~~
166 ~~authorized~~, but is not required~~,~~ to conduct, the following types
167 of drug tests:
168 (a) *Job applicant testing.*—An employer may require job
169 applicants to submit to a drug test and may use a refusal to
170 submit to a drug test or a positive confirmed drug test as a
171 basis for refusal to hire the job applicant.
172 (b) *Reasonable suspicion.*—An employer may require an
173 employee to submit to reasonable suspicion drug testing.
174 (c) *Random testing.*—An employer may conduct random testing

175 once every 3 months. The random sample of employees chosen for
176 testing must be computer-generated by an independent third
177 party. A random sample may not constitute more than 10 percent
178 of the total employee population.
179 (d) ~~(c)~~ *Routine fitness for duty.*—An employer may require an
180 employee to submit to a drug test if the test is conducted as
181 part of a routinely scheduled employee fitness-for-duty medical
182 examination that is part of the employer's established policy or
183 that is scheduled routinely for all members of an employment
184 classification or group.
185 (e) ~~(d)~~ *Followup testing.*—If the employee in the course of
186 employment enters an employee assistance program for drug-
187 related problems, or an alcohol and drug rehabilitation program,
188 the employer may require the ~~said~~ employee to submit to a drug
189 test as a followup to such program, and on a quarterly,
190 semiannual, or annual basis for up to 2 years thereafter.
191 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
192 collection and testing for drugs under this section shall be
193 performed in accordance with the following procedures:
194 (a) A sample shall be collected with due regard to the
195 privacy of the individual providing the sample, and in a manner
196 reasonably calculated to prevent substitution or contamination
197 of the sample.
198 (b) Specimen collection shall be documented, and the
199 documentation procedures shall include:
200 1. Labeling of specimen containers so as to reasonably
201 preclude the likelihood of erroneous identification of test
202 results.
203 2. A form for the employee or job applicant to provide any

204 information he or she considers relevant to the test, including
205 identification of currently or recently used prescription or
206 nonprescription medication, or other relevant medical
207 information. Such form shall provide notice of the most common
208 medications by brand name or common name, as applicable, as well
209 as by chemical name, which may alter or affect a drug test. The
210 providing of information does ~~shall~~ not preclude the
211 administration of the drug test, but shall be taken into account
212 in interpreting any positive confirmed results.
213 (c) Specimen collection, storage, and transportation to the
214 testing site shall be performed in a manner that ~~which~~ will
215 reasonably preclude specimen contamination or adulteration.
216 (d) Each initial and confirmation test conducted under this
217 section, not including the taking or collecting of a specimen to
218 be tested, shall be conducted by a licensed laboratory as
219 described in subsection (12).
220 (e) A specimen for a drug test may be taken or collected by
221 any of the following persons:
222 1. A physician, a physician's assistant, a registered
223 professional nurse, a licensed practical nurse, a nurse
224 practitioner, or a certified paramedic who is present at the
225 scene of an accident for the purpose of rendering emergency
226 medical service or treatment.
227 2. A qualified person employed by a licensed laboratory.
228 (f) A person who collects or takes a specimen for a drug
229 test conducted pursuant to this section shall collect an amount
230 sufficient for two drug tests as determined by the Agency for
231 Health Care Administration.
232 (g) Any drug test conducted or requested by an employer may

occur before, during, or immediately after the regular work period of the employee, and shall be deemed to be performed during work time for the purposes of determining compensation and benefits for the employee.

(h) Every specimen that produces a positive confirmed result shall be preserved by the licensed laboratory that conducts the confirmation test for a period of at least 210 days from the time the results of the positive confirmation test are mailed or otherwise delivered to the employer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that ~~which~~ performed the test for the employer is ~~shall be~~ responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(i) Within 5 working days after receipt of a positive confirmed test result from the testing laboratory, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the

options available to the employee or job applicant.

(j) The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(k) Within 5 working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to an employer explaining or contesting the test results, and why the results do not constitute a violation of the employer's policy.

(l) If an employee or job applicant's explanation or challenge of the positive test results is unsatisfactory to the employer, a written explanation as to why the employee or job applicant's explanation is unsatisfactory, along with the report of positive results, shall be provided by the employer to the employee or job applicant. All such documentation shall be kept confidential and exempt from the provisions of s. 119.07(1) by the employer pursuant to subsection (11) and shall be retained by the employer for at least 1 year.

(m) An ~~No~~ employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test.

~~(n) In addition to the limitation under paragraph (m):~~

~~1. Except as provided in subparagraph 3., no employer may discharge, discipline, or discriminate against an employee on the sole basis of the employee's first positive confirmed drug test, unless the employer has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under a health insurance plan, an employee assistance program or an alcohol and drug rehabilitation~~

291 ~~program, and:~~
292 ~~a. The employee has either refused to participate in the~~
293 ~~employee assistance program or the alcohol and drug~~
294 ~~rehabilitation program or has failed to successfully complete~~
295 ~~such program, as evidenced by withdrawal from the program before~~
296 ~~its completion or a report from the program indicating~~
297 ~~unsatisfactory compliance, or by a positive test result on a~~
298 ~~confirmation test after completion of the program; or~~
299 ~~b. The employee has failed or refused to sign a written~~
300 ~~consent form allowing the employer to obtain information~~
301 ~~regarding the progress and successful completion of an employee~~
302 ~~assistance program or an alcohol and drug rehabilitation~~
303 ~~program.~~
304 ~~2. An employee in a safety-sensitive position shall be~~
305 ~~placed by the employer in a non-safety-sensitive position, or if~~
306 ~~such position is unavailable, on leave status while~~
307 ~~participating in an employee assistance program or an alcohol~~
308 ~~and drug rehabilitation program. If placed on leave status~~
309 ~~without pay, the employee shall be permitted to use any~~
310 ~~accumulated leave credits prior to being placed on leave without~~
311 ~~pay.~~
312 ~~3. A special risk employee may be discharged or disciplined~~
313 ~~for the first positive confirmed drug test result when illicit~~
314 ~~drugs, pursuant to s. 893.13, are confirmed. No special risk~~
315 ~~employee shall be permitted to continue work in a safety-~~
316 ~~sensitive position, but may be placed either in a non-safety-~~
317 ~~sensitive position or on leave status while participating in an~~
318 ~~employee assistance program or an alcohol and drug~~
319 ~~rehabilitation program.~~

320 (n) ~~(o)~~ Upon successful completion of an employee assistance
321 program or an alcohol and drug rehabilitation program, the
322 employee shall be reinstated to the same or equivalent position
323 that was held prior to such rehabilitation.
324 (o) ~~(p)~~ An ~~No~~ employer may not discharge, discipline, or
325 discriminate against an employee, or refuse to hire a job
326 applicant, on the basis of any prior medical history revealed to
327 the employer pursuant to this section.
328 (p) ~~(q)~~ An employer who performs drug testing or specimen
329 collection shall use chain-of-custody procedures as established
330 by the Agency for Health Care Administration to ensure proper
331 recordkeeping, handling, labeling, and identification of all
332 specimens to be tested.
333 (q) ~~(r)~~ An employer shall pay the cost of all drug tests,
334 initial and confirmation, which the employer requires of
335 employees.
336 (r) ~~(s)~~ An employee or job applicant shall pay the costs of
337 any additional drug tests not required by the employer.
338 (s) ~~(t)~~ An ~~No~~ employer may not ~~shall~~ discharge, discipline,
339 or discriminate against an employee solely upon voluntarily
340 seeking treatment, while under the employ of the employer, for a
341 drug-related problem if the employee has not previously tested
342 positive for drug use, entered an employee assistance program
343 for drug-related problems, or entered an alcohol and drug
344 rehabilitation program. However, special risk employees may be
345 subject to discharge or disciplinary action when the presence of
346 illicit drugs, pursuant to s. 893.13, is confirmed.
347 (t) ~~(u)~~ If ~~Where~~ testing is conducted based on reasonable
348 suspicion, each employer shall promptly detail in writing the

349 circumstances which formed the basis of the determination that
350 reasonable suspicion existed to warrant the testing. A copy of
351 this documentation shall be given to the employee upon request
352 and the original documentation shall be kept confidential and
353 exempt from the provisions of s. 119.07(1) by the employer
354 pursuant to subsection (11) and retained by the employer for at
355 least 1 year.
356 (u) ~~(v)~~ If an employee is unable to participate in
357 outpatient rehabilitation, the employee may be placed on leave
358 status while participating in an employee assistance program or
359 an alcohol and drug rehabilitation program. If placed on leave-
360 without-pay status, the employee shall be permitted to use any
361 accumulated leave credits prior to being placed on leave without
362 pay. Upon successful completion of an employee assistance
363 program or an alcohol and drug rehabilitation program, the
364 employee shall be reinstated to the same or equivalent position
365 that was held prior to such rehabilitation.
366 (10) EMPLOYER PROTECTION.—
367 (h) An employer may discharge or discipline ~~shall refer~~ an
368 employee following ~~with~~ a first-time positive confirmed drug
369 test result. If the employer does not discharge the employee,
370 the employer may refer the employee to an employee assistance
371 program or an alcohol and drug rehabilitation program in which
372 the employee may participate at the expense of the employee or
373 pursuant to a health insurance plan~~, unless such employee is~~
374 ~~discharged as provided in subparagraph (8)(n)3. If the results~~
375 ~~of a subsequent confirmed drug test are positive, the employer~~
376 ~~may discharge or discipline the employee~~.
377 1. If an employer refers an employee to an employee

378 assistance program or an alcohol and drug rehabilitation
379 program, the employer must determine whether the employee is
380 able to safely and effectively perform the job duties assigned
381 to the employee while the employee participates in the employee
382 assistance program or the alcohol and drug rehabilitation
383 program.
384 2. An employee whose assigned duties require the employee
385 to carry a firearm, work closely with an employee who carries a
386 firearm, perform life-threatening procedures, work with heavy or
387 dangerous machinery, work as a safety inspector, work with
388 children, work with detainees in the correctional system, work
389 with confidential information or documents pertaining to
390 criminal investigations, work with controlled substances, hold a
391 position subject to s. 110.1127, or hold a position in which a
392 momentary lapse in attention could result in injury or death to
393 another person, is deemed unable to safely and effectively
394 perform the job duties assigned to the employee while the
395 employee participates in the employee assistance program or the
396 alcohol and drug rehabilitation program.
397 3. If an employer refers an employee to an employee
398 assistance program or an alcohol and drug rehabilitation program
399 and the employer determines that the employee is unable, or the
400 employee is deemed unable, to safely and effectively perform the
401 job duties assigned to the employee before he or she completes
402 the employee assistance program or the alcohol and drug
403 rehabilitation program, the employer shall place the employee in
404 a job assignment that the employer determines the employee can
405 safely and effectively perform while participating in the
406 employee assistance program or the alcohol and drug

407 rehabilitation program.
408 4. If a job assignment in which the employee may safely and
409 effectively perform is unavailable, the employer shall place the
410 employee on leave status while the employee is participating in
411 an employee assistance program or an alcohol and drug
412 rehabilitation program. If placed on leave status without pay,
413 the employee may use accumulated leave credits before being
414 placed on leave without pay.
415 (i) ~~Nothing in~~ This section does not ~~shall be construed to~~
416 prohibit an employer from conducting medical screening or other
417 tests required by any statute, rule, or regulation for the
418 purpose of monitoring exposure of employees to toxic or other
419 unhealthy substances in the workplace or in the performance of
420 job responsibilities. Such screening or tests shall be limited
421 to the specific substances expressly identified in the
422 applicable statute, rule, or regulation, unless prior written
423 consent of the employee is obtained for other tests.
424 ~~(j) An employer shall place a safety-sensitive position~~
425 ~~employee whose drug test result is confirmed positive in a non-~~
426 ~~safety-sensitive position, or if such a position is unavailable,~~
427 ~~on leave status while the employee participates in an employee~~
428 ~~assistance program or an alcohol and drug rehabilitation~~
429 ~~program. If placed on leave status without pay, the employee~~
430 ~~shall be permitted to use any accumulated leave credits prior to~~
431 ~~being placed on leave without pay.~~
432 ~~(k) A special risk employee may be discharged or~~
433 ~~disciplined on the first positive confirmed drug test result~~
434 ~~when illicit drugs, pursuant to s. 893.13, are confirmed. No~~
435 ~~special risk employee shall be permitted to continue work in a~~

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

436 ~~safety-sensitive position, but may be placed either in a non-~~
437 ~~safety-sensitive position or on leave status while participating~~
438 ~~in an employee assistance program or an alcohol and drug~~
439 ~~rehabilitation program.~~
440 Section 2. Paragraphs (j) and (o) of subsection (1),
441 subsection (2), paragraph (g) of subsection (7), and subsection
442 (11) of section 440.102, Florida Statutes, are amended to read:
443 440.102 Drug-free workplace program requirements.—The
444 following provisions apply to a drug-free workplace program
445 implemented pursuant to law or to rules adopted by the Agency
446 for Health Care Administration:
447 (1) DEFINITIONS.—Except where the context otherwise
448 requires, as used in this act:
449 (j) "Job applicant" means a person who has applied for a
450 position with an employer and has been offered employment
451 conditioned upon successfully passing a drug test, and may have
452 begun work pending the results of the drug test. For a public
453 employer, "job applicant" means only a person who has applied
454 for a special-risk or mandatory-testing ~~safety-sensitive~~
455 position.
456 (o) "Mandatory-testing position" means, with respect to a
457 public employer, a job assignment that requires the employee to
458 carry a firearm, work closely with an employee who carries a
459 firearm, perform life-threatening procedures, work with heavy or
460 dangerous machinery, work as a safety inspector, work with
461 children, work with detainees in the correctional system, work
462 with confidential information or documents pertaining to
463 criminal investigations, work with controlled substances, or a
464 job assignment that requires an employee security background

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465 check, pursuant to s. 110.1127, or a job assignment in which a
466 momentary lapse in attention could result in injury or death to
467 another person. ~~"Safety-sensitive position" means, with respect~~
468 ~~to a public employer, a position in which a drug impairment~~
469 ~~constitutes an immediate and direct threat to public health or~~
470 ~~safety, such as a position that requires the employee to carry a~~
471 ~~firearm, perform life-threatening procedures, work with~~
472 ~~confidential information or documents pertaining to criminal~~
473 ~~investigations, or work with controlled substances; a position~~
474 ~~subject to s. 110.1127; or a position in which a momentary lapse~~
475 ~~in attention could result in injury or death to another person.~~
476 (2) DRUG TESTING.—An employer may test an employee or job
477 applicant for any drug described in paragraph (1)(c). In order
478 to qualify as having established a drug-free workplace program
479 under this section and to qualify for the discounts provided
480 under s. 627.0915 and deny medical and indemnity benefits under
481 this chapter, an employer must, at a minimum, implement drug
482 testing that conforms to the standards and procedures
483 established in this section and all applicable rules adopted
484 pursuant to this section as required in subsection (4). However,
485 an employer does not have a legal duty under this section to
486 request an employee or job applicant to undergo drug testing. If
487 an employer fails to maintain a drug-free workplace program in
488 accordance with the standards and procedures established in this
489 section and in applicable rules, the employer is ineligible for
490 discounts under s. 627.0915. However, an employer qualifies for
491 discounts under s. 627.0915 if the employer maintains a drug-
492 free workplace program that is broader in scope than that
493 provided for by the standards and procedures established in this

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494 section. An employer who qualifies ~~All employers qualifying~~ for
495 and receives ~~receiving~~ discounts provided under s. 627.0915 must
496 be reported annually by the insurer to the department.
497 (7) EMPLOYER PROTECTION.—
498 (g) This section does not prohibit an employer from
499 conducting medical screening or other tests required, permitted,
500 or not disallowed by any statute, rule, or regulation for the
501 purpose of monitoring exposure of employees to toxic or other
502 unhealthy substances in the workplace or in the performance of
503 job responsibilities. Such screening or testing is limited to
504 the specific substances expressly identified in the applicable
505 statute, rule, or regulation, unless prior written consent of
506 the employee is obtained for other tests. Such screening or
507 testing need not be in compliance with the rules adopted by the
508 Agency for Health Care Administration under this chapter or
509 under s. 112.0455. A public employer may, through the use of an
510 unbiased selection procedure, conduct random drug tests of
511 employees occupying mandatory-testing ~~safety-sensitive~~ or
512 special-risk positions if the testing is performed in accordance
513 with drug-testing rules adopted by the Agency for Health Care
514 Administration and the department. ~~If applicable, random drug~~
515 ~~testing must be specified in a collective bargaining agreement~~
516 ~~as negotiated by the appropriate certified bargaining agent~~
517 ~~before such testing is implemented.~~
518 (11) PUBLIC EMPLOYEES IN MANDATORY-TESTING ~~SAFETY-SENSITIVE~~
519 OR SPECIAL-RISK POSITIONS.—
520 (a) If an employee who is employed by a public employer in
521 a mandatory-testing ~~safety-sensitive~~ position enters an employee
522 assistance program or drug rehabilitation program, the employer

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523 must assign the employee to a position other than a mandatory-
524 testing ~~safety-sensitive~~ position or, if such position is not
525 available, place the employee on leave while the employee is
526 participating in the program. However, the employee shall be
527 permitted to use any accumulated annual leave credits before
528 leave may be ordered without pay.
529 (b) An employee who is employed by a public employer in a
530 special-risk position may be discharged or disciplined by a
531 public employer for the first positive confirmed test result if
532 the drug confirmed is an illicit drug under s. 893.03. A
533 special-risk employee who is participating in an employee
534 assistance program or drug rehabilitation program may not be
535 allowed to continue to work in any special-risk or mandatory-
536 testing ~~safety-sensitive~~ position of the public employer, but
537 may be assigned to a position other than a mandatory-testing
538 ~~safety-sensitive~~ position or placed on leave while the employee
539 is participating in the program. However, the employee shall be
540 permitted to use any accumulated annual leave credits before
541 leave may be ordered without pay.
542 Section 3. Section 944.474, Florida Statutes, is amended to
543 read:
544 944.474 Legislative intent; employee wellness program; drug
545 and alcohol testing.—
546 (1) It is the intent of the Legislature that the state
547 correctional system provide a safe and secure environment for
548 both inmates and staff. A healthy workforce is a productive
549 workforce, and security of the state correctional system can
550 best be provided by strong and healthy employees. The Department
551 of Corrections may develop and implement an employee wellness

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552 program. The program may include, but is not limited to,
553 wellness education, smoking cessation, nutritional education,
554 and overall health-risk reduction, including the effects of
555 using drugs and alcohol.
556 (2) An employee ~~Under no circumstances shall employees~~ of
557 the department may not test positive for illegal use of
558 controlled substances. An employee of the department may not be
559 under the influence of alcohol while on duty. In order to ensure
560 that these prohibitions are adhered to by all employees of the
561 department and notwithstanding s. 112.0455, the department may
562 develop a program for the drug testing of all job applicants and
563 for the random drug testing of all employees. The department may
564 randomly evaluate employees for the contemporaneous use or
565 influence of alcohol through the use of alcohol tests and
566 observation methods. Notwithstanding s. 112.0455, the department
567 may develop a program for the reasonable suspicion drug testing
568 of employees who are in mandatory-testing positions, as defined
569 in s. 440.102(1)(o), ~~safety-sensitive~~ or special risk positions,
570 as defined in s. 112.0455(5), for the controlled substances
571 listed in s. 893.03(3)(d). The reasonable suspicion drug testing
572 authorized by this subsection shall be conducted in accordance
573 with s. 112.0455, but may also include testing upon reasonable
574 suspicion based on violent acts or violent behavior of an
575 employee who is on or off duty. The department shall adopt rules
576 pursuant to ss. 120.536(1) and 120.54 that are necessary to
577 administer this subsection.
578 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)

3 / 2 /2012
Meeting Date

Topic _____ Bill Number 1358 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

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)

3/2/12
Meeting Date

Topic: Employee Drug Testing

Bill Number: SB 1358 *(if applicable)*

Name: RON BILBAO

Amendment Barcode: *(if applicable)*

Job Title: SR. LEGISLATIVE ASSOCIATE

Address: 4500 Biscayne Blvd, #340
Street

Miami, FL 33137
City *State* *Zip*

Phone: 919-923-7288

E-mail: rbilbao@aclufl.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: ACLU of FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

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)

3/2/2012
Meeting Date

Topic: INNOCENTI

Bill Number: 1358 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR

Address: PO BOX 17606
Street

POMPANO BEACH, FLA
City, State, Zip

Phone: 954 850-4055

E-mail: workingjobs@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: COUNCIL of FLORIDA COMMUNICATIONS WORKERS of AMERICA

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

SENATOR D. ALAN HAYS
20th District

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

February 2, 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 1358 Relating to Drug-Free Workplace Act

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,

Senator D. Alan Hays

District 20

CC: **Terry Rhodes**, *Staff Director*
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

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 1314

INTRODUCER: Commerce and Tourism Committee and Senators Gaetz and Gardiner

SUBJECT: Career-themed Courses

DATE: March 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	deMarsh-Mathues	ED	**Favorable**
2.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
3.	Armstrong	Hamon	BEA	**Not considered**
4.	Armstrong	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/SB 1314 streamlines provisions included in the Career and Professional Academy (CAPE) law, as well as provisions established in 2011 for similar academies at the middle school level.[1] The CS allows for greater access to attainment of industry certifications in high demand fields, thus supporting critical workforce needs and providing an economic benefit to the state.

This CS amends ss. 1003.491, 1003.492, 1003.493, 1003.4935, and 1011.62 of the Florida Statutes.

II. Present Situation:

The Career and Professional Education (CAPE) Act was enacted by the 2007 Florida Legislature to attract and retain targeted, high-value industries and to develop a knowledge-based workforce.[2] The legislation has established significant partnerships among workforce and economic development agencies and local education communities, and resulted in meaningful

[1] Chapter 2011-175, L.O.F.
[2] Chapter 2007-216, L.O.F.

career and postsecondary opportunities for Florida's secondary students.[3] Current law requires each district school board to develop, in collaboration with the local workforce board and area postsecondary institutions, a 5-year strategic plan to address and meet local and regional workforce demands.[4] A focus of the plan was the requirement for at least one operational career and professional academy per school district beginning with the 2008-09 school year.[5] As specified in statute, career and professional academies must integrate a rigorous academic curriculum with an industry-specific curriculum that leads to an industry certification[6] in high-skill, high-wage, and high-demand occupations.[7] Additional requirements include opportunities for students to earn nationally recognized industry certifications, postsecondary credit, Bright Futures scholarships, and expanded offerings of integrated courses that combine academic content with technical skills.

For each student enrolled in a career and professional academy who graduates with a standard high school diploma and who earns a certification included on the "Industry Certification Funding List," the district of instruction may earn up to 0.3 full-time equivalent (FTE) student membership for the following year's funding calculation in the Florida Education Finance Program (FEFP).[8] In 2010-11, 9,712 students generated 2,913.6 additional FTE in the K-12 funding formula.[9] Because the funding is awarded in the fiscal year following high school graduation, the data reported for 2009-10 is used for the 2010-11 FEFP calculation.[10]

Profile of Career and Professional Academies[11]
In 2010-11, the fourth year of implementation of the Florida Career and Professional Education Act, school districts registered 1,298 career and professional academies, representing all of Florida's 67 school districts.[12]

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[3] Presentation by the Department of Education, Okaloosa County School District, and St. John's County School District to the Senate Pre-K – 12 Appropriations Committee on March 15, 2011. The superintendent of schools in St. Johns County testified that the CAPE model is the most important and effective legislation of his 24-year career. Presentations available at http://www.flsenate.gov/Committees/Show/BEA/ (last visited 1/30/2012).
[4] Section 1003.491(2), F.S.
[5] Section 1003.492(2), F.S., requires the Department of Education (DOE) to adopt rules for implementing an industry certification process. Rule 6A-6.0573, F.A.C., provides for a collaborative two-staged process by Workforce Florida, Inc. (WFI). The DOE annually establishes the Industry Certification Funding List, a subset of items included on the WFI Comprehensive Industry Certification List. References to years in this bill analysis refer to school years unless otherwise indicated.
[6] Industry certifications are based on assessment of skills by an independent, third-party certifying entity using predetermined standards for knowledge, skills and competencies. Successful completion of the assessment results in the award of a time-limited credential that is nationally recognized and applicable to an occupation included in the workforce system's targeted occupation list or otherwise determined to be an occupation that is critical, emerging or addresses a local need. See the *CAPE Enrollment and Performance Report for 2009-2010*, pg. 3, on file with the Senate Committee on Pre-K – 12 Education.
[7] Section 1003.493(4), F.S.
[8] Section 1011.62(1)(p), F.S. Certifications earned through dual enrollment are not eligible for additional FTE. The additional FTE may not exceed 0.3 per student (i.e., no repeat allocations for additional certifications).
[9] Information provided by staff of the DOE Office of Career and Adult Education, January 20, 2012. On file with the Senate Committee on Pre-K – 12 Education.
[10] *Id.*
[11] *Id.*
[12] *Id.*

History of Secondary Career and Professional Academies

	2008-09	2009-10	2010-11
Academies Registered	490	838	1,298
CAPE Academy Enrollment	53,324	102,430	154,327

The most prevalent career areas represented by academies registered in 2009-10 were information technology, health sciences, and hospitality and tourism.[13]

Performance of Career and Professional Academy Students[14]
Among the 154,327 students enrolled in career and professional academies, 24,910 or 16.1 percent were reported as having earned one or more approved industry certifications in their high school careers beginning with the 2007-08 school year; 20,644 students earned certifications in 2010-11 alone. A total of 31,389 assessments were attempted by academy students in 2010-11, of which 23,088 were passed, resulting in a pass rate of 73.6 percent. Forty-one percent of industry certifications earned by career and professional academy students were awarded to 12th graders. Among ninth-graders, 2,887 certifications were earned, representing 12.5 percent of total certifications reported.[15]

2010-2011 Industry Certifications Earned by Grade Level[16]

Grade Level	Certifications Earned	Percent
9	2,887	12.5%
10	4,193	18.2%
11	6,468	28%
12	9,540	41.3%
Total	23,088	100.0%

[13] *Id.*
[14] Information regarding CAPE Academy performance can be found in DOE's "Career and Professional Academy Enrollment and Performance Report, 2010-11" (December 2011), available at http://www.fldoe.org/workforce/pdf/capepr1011.pdf (last visited 1/30/2012).
[15] The progression in the number of certifications as grade level increases is expected given the time and training required to earn industry certifications.
[16] *See* CAPE Performance Report, Table 6, p. 12. Updated information provided by staff of the DOE Office of Career and Adult Education, on file with the Senate Committee on Pre-K – 12 Education.

Highlights of Performance Comparisons Among Non-Academy, Academy, and Industry Certified Academy Students, 2010-11[17]

Performance Indicator	Non-CAPE	CAPE, No Certification	Non-CAPE + Certification	CAPE and Certification
Average GPA	2.46	2.58	2.79	3.00
Chronically Absent	16.3%	15.7%	11.2%	9.9%
At Least One Disciplinary Action	20.6%	20.5%	12.8%	10.9%
Dropout Rate	2.1%	0.9%	0.6%	0.3%
12th Graders Earning Standard Diploma	73.9%	85.9%	93.3%	96.1%
At Least One Accelerated Course	22.9%	25.4%	38.8%	41.2%
Bright Futures Eligible Seniors (2009-10)*	27.9%	25.9%		43.7%

* Updated information not yet available.

Additionally, academy seniors earning certifications were much more likely to be Bright Futures scholarship eligible than their peers. Among academy seniors who earned at least one industry certification, 43.7 percent were eligible for Bright Futures compared to 25.9 percent among academy seniors who did not earn a certification.[18]

Factors Included in the Calculation of High School Grades
The 2008 Legislature enacted significant changes to the high school grading formula.[19] Beginning with the 2009-10 school year, in addition to the statewide assessment results in grades 9, 10, and 11, the law requires an equal focus be placed on access to and performance in rigorous, accelerated coursework, college readiness,[20] and graduation rates for all students including those who are academically at-risk.[21]

[17] *Id* at Table 12, p. 18.
[18] *Id*.
[19] Chapter 2008-235, L.O.F.
[20] In 2007, 54 percent of high school graduates who enrolled in community college required remediation in at least one subject. The Postsecondary Education Readiness Test (P.E.R.T.) is Florida's customized common placement test. The purpose of the P.E.R.T. is accurate course placement based on the student's skills and abilities. The P.E.R.T. is aligned with the Postsecondary Readiness Competencies identified by Florida faculty as necessary for success in entry-level college credit coursework. The P.E.R.T. assessment system includes Placement and Diagnostic tests in mathematics, reading and writing. *See* DOE's P.E.R.T. website available at http://www.fldoe.org/cc/pert.asp (last visited 1/30/2012).
[21] Section 1008.34(3)(b)3., F.S.

Middle School Model
Beginning in 2011-12, districts were required to register career and professional academies offered in middle school with the Department of Education (DOE).[22] In 2011-12, 56 middle school academies were registered with DOE.[23]

III. Effect of Proposed Changes:

CS/SB 1314 streamlines provisions included in the CAPE law, as well as provisions established in 2011 for similar academies at the middle school level. The CS allows for greater access to attainment of industry certifications in high demand fields, thus supporting critical workforce needs and providing an economic benefit to the state.

Under the CS:

- Secondary schools would no longer be required to have in place a full-scale career academy in order to be eligible for industry certification bonus funding. This provision maintains the integrity of CAPE and the rigorous coursework required for attainment of industry certifications, but removes additional, non-essential steps required of schools to earn the bonus funding.
- Secondary schools would still be required to offer rigorous courses that lead to industry certifications in high wage, high skill, and high demand occupations and to employ instructors who hold industry certifications.
- The strategic 5-year plan developed by the school district in collaboration with regional workforce boards and postsecondary institutions determines areas of academic emphasis to meet workforce needs. Under the CS, there would now be a 3-year plan. This provision allows for a more timely response to meet critical workforce needs.
- The 3-year plan would also encompass additional strategies, including strategies for providing personalized student advisement, plans to sustain and improve career-themed courses and career and professional academies, strategies to recruit students into the career-themed courses, and strategies to redirect appropriate funding to support such programs.
- The curriculum review committee, responsible to review and approve newly developed workforce-related courses, must now approve or deny proposals within 30 days instead of 60.
- The appropriation cap to fund the bonus awarded for the attainment of certifications is increased from $15 million to $30 million.

Based on the requirements in s. 1011.62(1)(o), F.S., and Rule 6A-6.0573(6), F.A.C., a student must meet all of the following conditions for the additional FTE membership funding for an earned industry certification:

- Be enrolled in career-themed courses or a career and professional academy that leads to industry certification;

[22] Chapter 2011-175, L.O.F., established criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification, and partnerships with the business community.
[23] DOE 2012 Agency Legislative Bill Analysis for SB 1314 (1/1/2012), on file with the Senate Committee on Pre-K – 12 Education.

- Attain the highest level of certification on the Industry Certification Funding List; and
- Receive a standard high school diploma.

This CS 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:

The CS provides for greater access to attainment of industry certifications in high demand fields, thus supporting critical workforce needs and providing an economic benefit to the state.

C. Government Sector Impact:

The bill increases the cap on the amount of bonus funding provided to districts in the Florida Education Finance Program (FEFP) from $15 million to $30 million for students who attain industry certification and graduate. The current year bonus amount earned in the FEFP is $10.1 million which represents the greatest level of funding for the program since inception in 2008-2009. Changes in the bill will increase access for students to achieve industry certification which will increase the level of the bonus funding in an already growing program. However, in 2012-13, the tiered bonus will begin to take place which will somewhat temper the level of the bonus funding. If the funding cap is not increased, the level of funding per student who earns a certification and graduates will be reduced.

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 February 2, 2012:
This committee substitute provided clarification throughout, made changes recommended by DOE, and moved portions of planning and strategies from the career academies partnerships to be included in the 3-year strategic plan.

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; and Senators Gaetz and Gardiner

577-02853-12 20121314c1

A bill to be entitled

An act relating to career-themed courses; amending s. 1003.491, F.S.; revising provisions relating to the Florida Career and Professional Education Act; requiring that each district school board, in collaboration with regional workforce boards, economic development agencies, and postsecondary institutions, develop a strategic 3-year plan addressing and meeting local and regional workforce demands; authorizing school districts to offer career-themed courses; revising the requirements of the strategic 3-year plan to include career-themed courses and specified strategies; revising the period within which newly proposed core courses are to be approved or denied by the curriculum review committee; amending s. 1003.492, F.S.; revising provisions relating to industry-certified career education programs to conform to changes made by the act; amending s. 1003.493, F.S.; providing a definition for the term "career-themed course"; requiring that a student who enrolls in and completes a career-themed course or a sequence of career-themed courses receive opportunities to earn postsecondary credit if the career-themed course credits can be articulated to a postsecondary institution; providing goals of career-themed courses; providing for career-themed courses to be offered in a school-within-a-school career academy or a school providing multiple career-themed courses structured around an occupational cluster; providing requirements

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for career-themed courses; requiring that strategies to improve the passage rate on an industry certification examination be included in the strategic 3-year plan under certain circumstances; requiring that Workforce Florida, Inc., serve in an advisory role in the development and deployment of newly established career-themed courses; amending s. 1003.4935, F.S.; revising provisions relating to middle school career and professional academy courses to conform to changes made by the act; requiring that the Department of Education collect and report student achievement data for students who are enrolled in career-themed courses and who attain a specified industry certification; amending s. 1011.62, F.S.; revising provisions relating to the computation of the annual allocation of funds to each school district for operation; providing an effective date.

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

Section 1. Section 1003.491, Florida Statutes, is amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(1) The primary purpose of the Florida Career and

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59 Professional Education Act is to:
60 (a) Improve middle and high school academic performance by
61 providing rigorous and relevant curriculum opportunities;
62 (b) Provide rigorous and relevant career-themed courses
63 that articulate to postsecondary-level coursework and lead to
64 industry certification;
65 (c) Support local and regional economic development;
66 (d) Respond to Florida's critical workforce needs; and
67 (e) Provide state residents with access to high-wage and
68 high-demand careers.
69 (2) Each district school board shall develop, in
70 collaboration with regional workforce boards, economic
71 development agencies, and postsecondary institutions approved to
72 operate in the state, a strategic 3-year ~~5-year~~ plan to address
73 and meet local and regional workforce demands. If involvement of
74 a regional workforce board or an economic development agency in
75 the strategic plan development is not feasible, the local school
76 board, with the approval of the Department of Economic
77 Opportunity, shall collaborate with the most appropriate
78 regional business leadership board. Two or more school districts
79 may collaborate in the development of the strategic plan and
80 offer career-themed courses or a career and professional academy
81 as a joint venture. The strategic plan must describe in detail
82 provisions for the efficient transportation of students, the
83 maximum use of shared resources, access to courses aligned to
84 state curriculum standards through virtual education providers
85 legislatively authorized to provide part-time instruction to
86 middle school students, and an objective review of proposed
87 career-themed ~~career and professional academy~~ courses to

88 determine if the courses will lead to the attainment of industry
89 certifications included on the Industry Certified Funding List
90 pursuant to rules adopted by the State Board of Education. Each
91 strategic plan shall be reviewed, updated, and jointly approved
92 every 3 ~~5~~ years by the local school district, regional workforce
93 boards, economic development agencies, and state-approved
94 postsecondary institutions.
95 (3) The strategic 3-year ~~5-year~~ plan developed jointly by
96 the local school district, regional workforce boards, economic
97 development agencies, and state-approved postsecondary
98 institutions shall be constructed and based on:
99 (a) Research conducted to objectively determine local and
100 regional workforce needs for the ensuing 3 ~~5~~ years, using labor
101 projections of the United States Department of Labor and the
102 Department of Economic Opportunity;
103 (b) Strategies to develop and implement career-themed
104 courses ~~career academies~~ based on those careers determined to be
105 in high demand;
106 (c) Strategies to provide shared, maximum use of private
107 sector facilities and personnel;
108 (d) Strategies that ensure instruction by industry-
109 certified faculty and standards and strategies to maintain
110 current industry credentials and for recruiting and retaining
111 faculty to meet those standards;
112 (e) Strategies to provide personalized student advisement,
113 including a parent-participation component, and coordination
114 with middle schools to promote and support career-themed courses
115 and education planning as required under s. 1003.4156. As part
116 of the coordination with middle schools, career-themed courses

must provide information to middle school students about secondary and postsecondary career education courses that lead to industry certification;

(f) ~~(e)~~ Alignment of requirements for middle school and high school career-themed courses ~~career exploration, middle and high school career and professional academies~~ leading to industry certification, postsecondary credit, and high school graduation requirements;

(g) ~~(f)~~ Provisions to ensure that career-themed courses ~~offered through career and professional academies~~ are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

(h) Plans to sustain and improve career-themed courses and career and professional academies;

(i) ~~(g)~~ Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(j) ~~(h)~~ Strategies to recruit students into career-themed courses, ~~Establishment of student eligibility criteria in career and professional academies~~ which include opportunities for students who have been unsuccessful in traditional classrooms but who are interested in enrolling in career-themed courses ~~show aptitude to participate in academies~~. School boards shall address the analysis of middle school ~~eighth grade~~ student achievement data to provide opportunities for students who may be deemed ~~as~~ potential dropouts to enroll ~~participate~~ in career-themed courses ~~career and professional academies~~;

(k) ~~(i)~~ Strategies to provide sufficient space within

career-themed courses ~~academies~~ to meet workforce needs and to provide access to all interested and qualified students;

(l) ~~(j)~~ Strategies to implement career-themed courses ~~career and professional academy training~~ that lead ~~leads~~ to industry certification in juvenile justice education programs ~~at Department of Juvenile Justice facilities~~;

(m) ~~(k)~~ Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career-themed ~~career and technical~~ courses;

(n) ~~(l)~~ Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

(o) ~~(m)~~ Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career-themed ~~career and professional~~ courses, and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses; ~~and~~

(p) ~~(n)~~ Strategies to provide professional development for secondary guidance counselors on the benefits of career-themed courses that lead to industry certification; and ~~career and professional academies.~~

(q) Strategies to redirect appropriated career funding to career-themed courses and career and professional academies.

(4) The State Board of Education shall establish a process for the continual and uninterrupted review of newly proposed core secondary courses and existing courses requested to be considered as core courses to ensure that sufficient rigor and relevance is provided for workforce skills and postsecondary education and aligned to state curriculum standards. The review

175 of newly proposed core secondary courses shall be the
176 responsibility of a curriculum review committee whose membership
177 is approved by Workforce Florida, Inc., ~~the Workforce Florida~~
178 ~~Board~~ as described in s. 445.004, and shall include:
179 (a) Three certified high school guidance counselors
180 recommended by the Florida Association of Student Services
181 Administrators.
182 (b) Three assistant superintendents for curriculum and
183 instruction, recommended by the Florida Association of District
184 School Superintendents and who serve in districts that offer
185 career-themed courses ~~operate successful career and professional~~
186 ~~academies~~ pursuant to s. 1003.492. Committee members in this
187 category shall employ the expertise of appropriate subject area
188 specialists in the review of proposed courses.
189 (c) Three workforce representatives recommended by the
190 Department of Economic Opportunity.
191 (d) Three admissions directors of postsecondary
192 institutions accredited by the Southern Association of Colleges
193 and Schools, representing both public and private institutions.
194 (e) The ~~Deputy~~ Commissioner of Education, or his or her
195 designee, responsible for K-12 curriculum and instruction. The
196 Deputy Commissioner shall employ the expertise of appropriate
197 subject area specialists in the review of proposed courses.
198 (5) The curriculum review committee shall review ~~submission~~
199 ~~and review of~~ newly proposed core courses ~~shall be conducted~~
200 electronically~~,~~ and approve or deny each proposed core course
201 ~~shall be approved or denied~~ within 30 ~~60~~ days. All courses
202 approved as core courses for purposes of middle school promotion
203 and high school graduation shall be immediately added to the

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204 Course Code Directory. Approved core courses shall also be
205 reviewed and considered for approval for dual enrollment credit.
206 The Board of Governors and the Commissioner of Education shall
207 jointly recommend an annual deadline for approval of new core
208 courses to be included for purposes of postsecondary admissions
209 and dual enrollment credit the following academic year. The
210 State Board of Education shall establish an appeals process in
211 the event that a proposed course is denied which shall require a
212 consensus ruling by the Department of Economic Opportunity and
213 the Commissioner of Education within 15 days.
214 Section 2. Section 1003.492, Florida Statutes, is amended
215 to read:
216 1003.492 Industry-certified career-themed courses ~~career~~
217 ~~education programs~~.~~—~~
218 (1) Career-themed courses must ~~Career and professional~~
219 ~~academies shall~~ be coordinated with the relevant and appropriate
220 industry ~~indicating that all components of the program are~~
221 ~~relevant and appropriate~~ to prepare a ~~the~~ student for further
222 education or for employment in that industry.
223 (2) The State Board of Education shall use the expertise of
224 Workforce Florida, Inc., to develop and adopt rules pursuant to
225 ss. 120.536(1) and 120.54 for implementing an industry
226 certification process. Industry certification shall be defined
227 by the Department of Economic Opportunity, based upon the
228 highest available national standards for specific industry
229 certification, to ensure student skill proficiency and to
230 address emerging labor market and industry trends. A regional
231 workforce board or a school principal ~~career and professional~~
232 ~~academy~~ may apply to Workforce Florida, Inc., to request

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233 additions to the approved list of industry certifications based
234 on high-demand job requirements in the regional economy. The
235 list of industry certifications approved by Workforce Florida,
236 Inc., and the Department of Education shall be published and
237 updated annually by a date certain, to be included in the
238 adopted rule.
239 (3) The Department of Education shall collect student
240 achievement and performance data in industry-certified career-
241 themed courses ~~career education programs~~ and shall work with
242 Workforce Florida, Inc., in the analysis of collected data. The
243 data collection and analyses shall examine the performance of
244 participating students over time. Performance factors shall
245 include, but not be limited to, graduation rates, retention
246 rates, Florida Bright Futures Scholarship awards, additional
247 educational attainment, employment records, earnings, and
248 industry certification~~, and employer satisfaction~~. The results
249 of this study shall be submitted to the President of the Senate
250 and the Speaker of the House of Representatives annually by
251 December 31.
252 Section 3. Section 1003.493, Florida Statutes, is amended
253 to read:
254 1003.493 Career-themed courses ~~Career and professional~~
255 ~~academies~~.—
256 (1) A "career-themed course" ~~"career and professional~~
257 ~~academy"~~ is a course in an ~~research based program that~~
258 ~~integrates a rigorous academic curriculum with an~~ industry-
259 specific curriculum aligned directly to priority workforce needs
260 established by the regional workforce board or the Department of
261 Economic Opportunity. ~~Career and professional academies shall be~~

262 ~~offered by~~ Public schools and school districts shall offer
263 career-themed courses. The Florida Virtual School is encouraged
264 to develop and offer rigorous career-themed ~~career and~~
265 ~~professional~~ courses as appropriate. A student who enrolls in
266 and completes a career-themed course or a sequence of career-
267 themed courses ~~Students completing career and professional~~
268 ~~academy programs~~ must receive ~~a standard high school diploma,~~
269 ~~the highest available industry certification, and~~ opportunities
270 to earn postsecondary credit if the credits for career-themed
271 courses can be articulated to ~~academy partners with~~ a
272 postsecondary institution approved to operate in the state.
273 (2) The goals of career-themed courses ~~a career and~~
274 ~~professional academy~~ are to:
275 (a) Increase student academic achievement and graduation
276 rates through integrated academic and career curricula.
277 (b) Prepare graduating high school students to make
278 appropriate choices relative to employment and future
279 educational experiences.
280 (c) Focus on career preparation through rigorous academics
281 and industry certification.
282 (d) Raise student aspiration and commitment to academic
283 achievement and work ethics through relevant coursework.
284 (e) Promote acceleration mechanisms, such as dual
285 enrollment and~~,~~ articulated credits ~~credit, or occupational~~
286 ~~completion points~~, so that students may earn postsecondary
287 credit while in high school.
288 (f) Support the state's economy by meeting industry needs
289 for skilled employees in high-skill, high-wage, and high-demand
290 occupations.

(3) A career-themed course may be offered in one of the following ~~Existing career education courses may serve as a foundation for the creation of a career and professional academy. A career and professional academy may be offered as one of the following small learning communities~~:

(a) A school-within-a-school career academy, as part of an existing high school, which ~~that~~ provides courses in one occupational cluster. Students who attend ~~in~~ the high school are not required to attend ~~be students in~~ the academy.

(b) A total school configuration providing multiple career-themed courses that are ~~academies, each~~ structured around an occupational cluster. The majority of students attending ~~Every student in~~ the school also attend the ~~is in an~~ academy.

(4) A career-themed course ~~Each career and professional academy~~ must:

(a) Consider ~~Provide a rigorous standards-based academic curriculum integrated with a career curriculum. The curriculum must take into consideration~~ multiple styles of student learning; promote learning by doing through application and adaptation; maximize relevance of the subject matter; enhance each student's capacity to excel; and include an emphasis on work habits and work ethics.

(b) Include one or more partnerships with postsecondary institutions, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community. These ~~Such~~ partnerships shall be delineated in articulation agreements to provide for career-themed ~~career-based~~ courses that earn postsecondary credit. The ~~Such~~ agreements may include articulation between the career-themed

courses ~~academy~~ and public or private 2-year and 4-year postsecondary institutions and technical centers. The Department of Education, in consultation with the Board of Governors, shall establish a mechanism to ensure articulation and transfer of credits to postsecondary institutions in this state. The ~~Such~~ partnerships must provide opportunities for:

1. Instruction from highly skilled professionals who possess industry-certification credentials for courses they are teaching.

2. Internships, externships, and on-the-job training.

3. A postsecondary degree, diploma, or certificate.

4. The highest available level of industry certification.

5. Maximum articulation of credits pursuant to s. 1007.23 upon program completion.

~~(c) Provide shared, maximum use of private sector facilities and personnel.~~

~~(d) Provide personalized student advisement, including a parent-participation component, and coordination with middle schools to promote and support career exploration and education planning as required under s. 1003.4156. Coordination with middle schools must provide information to middle school students about secondary and postsecondary career education programs and academies.~~

(c) ~~(e)~~ Promote and provide opportunities for students enrolled in career-themed courses ~~career and professional academy students~~ to attain, at minimum, the Florida Gold Seal Vocational Scholars award pursuant to s. 1009.536.

(d) ~~(f)~~ Provide instruction in careers designated as high growth, high demand, and high pay by the regional workforce

349 development board, the chamber of commerce, economic development
350 agencies, or the Department of Economic Opportunity.
351 (e) ~~(g)~~ Deliver academic content through instruction
352 relevant to the career, including intensive reading and
353 mathematics intervention required by s. 1003.428, with an
354 emphasis on strengthening reading for information skills.
355 (f) ~~(h)~~ Offer applied courses that combine academic content
356 with technical skills.
357 (g) ~~(i)~~ Provide instruction resulting in competency,
358 certification, or credentials in workplace skills, including,
359 but not limited to, communication skills, interpersonal skills,
360 decisionmaking skills, the importance of attendance and
361 timeliness in the work environment, and work ethics.
362 ~~(j) Include a plan to sustain career and professional~~
363 ~~academics.~~
364 ~~(k) Redirect appropriated career funding to career and~~
365 ~~professional academics.~~
366 (5) All career-themed ~~career~~ courses ~~offered in a career~~
367 ~~and professional academy~~ must lead to industry certification or
368 college credit ~~linked directly to the career theme of the~~
369 ~~course~~. If the passage rate on an industry certification
370 examination that is associated with a career-themed course ~~the~~
371 ~~career and professional academy~~ falls below 50 percent,
372 strategies to improve the passage rate must be included in the
373 strategic 3-year plan ~~the academy must discontinue enrollment of~~
374 ~~new students the following school year and each year thereafter~~
375 ~~until such time as the passage rate is above 50 percent or the~~
376 ~~academy is discontinued~~.
377 (6) Workforce Florida, Inc., ~~through the secondary career~~

378 ~~academics initiatives,~~ shall serve in an advisory role ~~and offer~~
379 ~~technical assistance~~ in the development and deployment of newly
380 established career-themed courses ~~career and professional~~
381 ~~academics~~.
382 Section 4. Section 1003.4935, Florida Statutes, is amended
383 to read:
384 1003.4935 Middle school career-themed ~~career and~~
385 ~~professional academy~~ courses.—
386 (1) Beginning with the 2012-2013 ~~2011-2012~~ school year,
387 each district school board, in collaboration with regional
388 workforce boards, economic development agencies, and state-
389 approved postsecondary institutions, shall include plans to
390 implement career-themed courses ~~a career and professional~~
391 ~~academy~~ in at least one middle school in the district as part of
392 the strategic 3-year ~~5-year~~ plan pursuant to s. 1003.491(2). The
393 ~~middle school career and professional academy component of the~~
394 strategic plan must ensure the transition of middle school
395 ~~career and professional academy~~ students enrolled in career-
396 themed courses to ~~a~~ high school career-themed courses ~~career and~~
397 ~~professional academy~~ currently operating within the school
398 district. Students who complete ~~a~~ middle school career-themed
399 courses ~~career and professional academy~~ must have the
400 opportunity to earn an industry certificate and high school
401 credit and participate in career planning, job shadowing, and
402 business leadership development activities.
403 (2) Each middle school career-themed course ~~career and~~
404 ~~professional academy~~ must be aligned with at least one high
405 school career-themed course ~~career and professional academy~~
406 offered in the district and maintain partnerships with local

407 business and industry and economic development boards. Middle
408 school career-themed courses ~~career and professional academies~~
409 must:
410 (a) Lead ~~Provide instruction in courses leading~~ to careers
411 in occupations designated as high growth, high demand, and high
412 wage ~~pay~~ in the Industry Certification Funding List approved
413 under rules adopted by the State Board of Education;
414 (b) ~~Offer career and professional academy courses that~~
415 Integrate content from core subject areas;
416 (c) ~~Offer courses that~~ Integrate career-themed course
417 ~~career and professional academy~~ content with intensive reading
418 and mathematics pursuant to s. 1003.428;
419 (d) ~~Coordinate with high schools to~~ Maximize opportunities
420 for middle school ~~career and professional academy~~ students
421 enrolled in career-themed courses to earn high school credit;
422 (e) Be offered ~~Provide access to virtual instruction~~
423 ~~courses provided~~ by virtual education providers legislatively
424 authorized to provide part-time instruction to middle school
425 students. The virtual instruction courses must be aligned to
426 state curriculum standards for middle school ~~career and~~
427 ~~professional academy~~ students, with priority given to students
428 who have required course deficits;
429 (f) Be taught by ~~Provide instruction from~~ highly skilled
430 professionals who hold industry certificates in the career area
431 in which they teach;
432 (g) Offer externships; and
433 (h) Provide personalized student advisement that includes a
434 parent-participation component.
435 (3) Beginning with the 2012-2013 school year, if a school

436 district implements ~~a~~ middle school career-themed courses ~~career~~
437 ~~and professional academy~~, the Department of Education shall
438 collect and report student achievement data pursuant to
439 performance factors identified under s. 1003.492(3) for ~~academy~~
440 students who are enrolled in career-themed courses and who
441 attain an industry certification identified in the Industry
442 Certified Funding List pursuant to rules adopted by the State
443 Board of Education.
444 Section 5. Paragraph (o) of subsection (1) of section
445 1011.62, Florida Statutes, is amended to read:
446 1011.62 Funds for operation of schools.—If the annual
447 allocation from the Florida Education Finance Program to each
448 district for operation of schools is not determined in the
449 annual appropriations act or the substantive bill implementing
450 the annual appropriations act, it shall be determined as
451 follows:
452 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
453 OPERATION.—The following procedure shall be followed in
454 determining the annual allocation to each district for
455 operation:
456 (o) *Calculation of additional full-time equivalent*
457 *membership based on certification of successful completion of*
458 *career-themed courses* ~~*industry-certified career and professional*~~
459 ~~*academy programs*~~ *pursuant to ss. 1003.491, 1003.492, 1003.493,*
460 *and 1003.4935 and attainment of the highest level of industry*
461 *certification identified in the Industry Certified Funding List*
462 *pursuant to rules adopted by the State Board of Education.*—A
463 value of 0.1, 0.2, or 0.3 full-time equivalent student
464 membership shall be calculated for each student who completes

465 career-themed courses ~~an industry-certified career and~~
466 ~~professional academy program~~ under ss. 1003.491, 1003.492,
467 1003.493, and 1003.4935 and who is issued the highest level of
468 industry certification identified annually in the Industry
469 Certification Funding List approved under rules adopted by the
470 State Board of Education and a high school diploma. The maximum
471 full-time equivalent student membership value for any student is
472 0.3. The Department of Education shall assign the appropriate
473 full-time equivalent value for each certification, 50 percent of
474 which is based on rigor and the remaining 50 percent on
475 employment value. The State Board of Education shall include the
476 assigned values in the Industry Certification Funding List under
477 rules adopted by the state board. Rigor shall be based on the
478 number of instructional hours, including work experience hours,
479 required to earn the certification, with a bonus for industry
480 certifications that have a statewide articulation agreement for
481 college credit approved by the State Board of Education.
482 Employment value shall be based on the entry wage, growth rate
483 in employment for each occupational category, and average annual
484 openings for the primary occupation linked to the industry
485 certification. The ~~Such~~ value shall be added to the total full-
486 time equivalent student membership in secondary career education
487 programs for grades 9 through 12 in the subsequent year for
488 courses that were not funded through dual enrollment. The
489 additional full-time equivalent membership authorized under this
490 paragraph may not exceed 0.3 per student. Each district must
491 allocate at least 80 percent of the funds provided for industry
492 certification, in accordance with this paragraph, to the program
493 that generated the funds. Unless a different amount is specified

494 in the General Appropriations Act, the appropriation for this
495 calculation is limited to $30 ~~$15~~ million annually. If the
496 appropriation is insufficient to fully fund the total
497 calculation, the appropriation shall be prorated.
498 Section 6. 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)

3/3/12
Meeting Date

Topic: Career Themed Courses

Bill Number: SB 1314 (if applicable)

Name: NANCY STEPHENS

Amendment Barcode: (if applicable)

Job Title: EXECUTIVE DIRECTOR

Address: Street

Tallahassee FL 32317
City State Zip

Phone: 850 402 2954

E-mail: nancy@mafmfg.com

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

Representing: MANUFACTURERS ASSOCIATION 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)

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Budget Committee **Judge:**

Started: 3/2/2012 2:34:29 PM
Ends: 3/2/2012 4:00:23 PM Length: 01:25:55

2:34:33 PM Sen. Alexander (Chair)
2:34:40 PM
2:35:36 PM Sen. Alexander
2:35:42 PM S 1782
2:35:50 PM Sen. Latvala
2:36:54 PM Sen. Alexander
2:37:10 PM Grace Lovett, Director of Legislative Affairs, Department of Agriculture and Consumer Services (waives in support)
2:37:15 PM Sen. Alexander
2:37:17 PM Col. Jim Brown, Law Enforcement Director, Fish and Wildlife Conservation Commission
2:37:23 PM Sen. Alexander
2:37:31 PM Katie Kelly, Director, Legislative Affairs, Department of Environmental Protection (waives in support)
2:37:35 PM Sen. Alexander
2:37:45 PM Sen. Latvala
2:37:54 PM Sen. Alexander
2:38:06 PM
2:38:47 PM Sen. Alexander
2:38:57 PM S 256
2:39:01 PM Sen. Flores
2:39:25 PM Sen. Alexander
2:39:29 PM Am. 535120
2:39:33 PM Sen. Flores
2:40:24 PM Sen. Alexander
2:40:38 PM S 256, cont.
2:40:39 PM Sen. Bennett
2:41:18 PM Sen. Alexander
2:41:25 PM Sen. Bennett
2:41:28 PM Sen. Alexander
2:41:49 PM Brian Pitts, Trustee, Jesus-2-Jesus
2:43:32 PM Sen. Alexander
2:44:39 PM Layne Smith, Government Relations Director, Mayo Clinic (waives in support)
2:44:40 PM Sen. Alexander
2:44:42 PM Stephen R. Winn, Executive Direction, Florida Osteopathic Medical Association (waives in support)
2:44:49 PM Sen. Alexander
2:44:54 PM Chris Nuland, Florida Chapter, American college of Physicians (waives in support)
2:44:58 PM Sen. Alexander
2:45:02 PM Lindy Kennedy, National Football League (waives in support)
2:45:08 PM Sen. Alexander
2:45:13 PM John Mixon, Consultant, Florida High School Athletic Association (waives in support)
2:45:16 PM Sen. Alexander
2:45:30 PM Sen. Sobel
2:46:37 PM Sen. Alexander
2:46:39 PM Sen. Montford
2:47:06 PM Sen. Alexander
2:47:12 PM Sen. Flores
2:47:41 PM Sen. Alexander
2:47:48 PM
2:48:29 PM Sen. Alexander
2:48:43 PM Sen. Rich
2:48:52 PM Sen. Alexander
2:48:57 PM Sen. Siplin
2:49:02 PM Sen. Alexander

2:49:17 PM	S 1382
2:49:18 PM	Sen. Bennett
2:49:50 PM	Sen. Alexander
2:49:57 PM	Am. 610732
2:50:00 PM	Sen. Bennett
2:50:19 PM	Sen. Alexander
2:50:33 PM	Am. 757156
2:50:37 PM	Sen. Bennett
2:50:47 PM	Sen. Alexander
2:50:56 PM	S 1382, cont.
2:50:57 PM	Sen. Alexander
2:51:09 PM	B. Pitts (waives in support)
2:51:12 PM	Sen. Alexander
2:51:13 PM	Dana Farmer, Director Legislative & Public affairs, Disability Rights Florida (waives in support)
2:51:17 PM	Sen. Alexander
2:51:24 PM	Sen. Bennett
2:51:30 PM	Sen. Alexander
2:51:38 PM	
2:52:18 PM	Sen. Alexander
2:52:25 PM	S 1626
2:52:31 PM	Sen. Gaetz
2:52:38 PM	Sen. Alexander
2:52:40 PM	Am. 112828
2:52:45 PM	Sen. Gaetz
2:55:09 PM	Sen. Alexander
2:55:19 PM	Sen. Bogdanoff
2:55:34 PM	Sen. Gaetz
2:55:43 PM	Sen. Alexander
2:56:28 PM	Sen. Bogdanoff
2:56:47 PM	Sen. Gaetz
2:57:41 PM	Sen. Alexander
2:57:43 PM	Sen. Rich
2:58:08 PM	Sen. Alexander
2:58:09 PM	Sen. Gaetz
2:58:46 PM	Sen. Alexander
2:58:54 PM	Am. - late-filed handwritten
2:58:58 PM	Sen. Alexander
2:59:02 PM	Sen. Bennett
3:00:18 PM	Sen. Gaetz
3:00:29 PM	Sen. Alexander
3:01:06 PM	Lisa Hurley, Florida Association of Counties (waives in support)
3:01:08 PM	Sen. Alexander
3:01:16 PM	B. Pitts
3:03:43 PM	Sen. Negron
3:03:58 PM	Sen. Negron
3:04:02 PM	
3:04:45 PM	Sen. Negron
3:04:50 PM	S 1274
3:04:52 PM	Sen. Negron
3:04:54 PM	Sen. Latvala
3:05:30 PM	Sen. Negron
3:05:44 PM	Sen. Latvala
3:05:47 PM	Sen. Negron
3:05:51 PM	
3:06:46 PM	Sen. Negron
3:06:57 PM	S 1358
3:07:00 PM	Sen. Hays
3:08:01 PM	Sen. Negron
3:08:09 PM	Sen. Joyner
3:08:10 PM	Sen. Negron
3:08:12 PM	Sen. Joyner
3:08:20 PM	Sen. Negron

3:08:21 PM	Sen. Hays
3:08:23 PM	Sen. Negron
3:08:28 PM	Sen. Hays
3:08:29 PM	Sen. Negron
3:08:30 PM	Sen. Hays
3:08:46 PM	Sen. Joyner
3:08:47 PM	Sen. Negron
3:08:48 PM	Sen. Joyner
3:09:10 PM	Sen. Negron
3:09:11 PM	Sen. Hays
3:09:14 PM	Sen. Negron
3:09:19 PM	Sen. Joyner
3:09:25 PM	Sen. Negron
3:09:26 PM	Sen. Hays
3:09:53 PM	Sen. Negron
3:09:54 PM	Sen. Joyner
3:10:05 PM	Sen. Hays
3:10:07 PM	Sen. Negron
3:10:15 PM	Sen. Joyner
3:10:32 PM	Sen. Negron
3:10:33 PM	Sen. Hays
3:10:57 PM	Sen. Joyner
3:11:40 PM	Sen. Negron
3:11:41 PM	Sen. Hays
3:12:19 PM	Sen. Joyner
3:12:52 PM	Sen. Negron
3:12:53 PM	Sen. Hays
3:13:33 PM	Sen. Negron
3:13:37 PM	Sen. Lynn
3:13:46 PM	Sen. Negron
3:13:47 PM	Sen. Hays
3:14:09 PM	Sen. Negron
3:14:13 PM	Sen. Rich
3:14:26 PM	Sen. Negron
3:14:27 PM	Sen. Rich
3:14:28 PM	Sen. Hays
3:14:32 PM	Sen. Rich
3:14:39 PM	Sen. Hays
3:14:57 PM	Sen. Rich
3:15:06 PM	Sen. Negron
3:15:17 PM	Sen. Hays
3:15:21 PM	Sen. Rich
3:15:34 PM	Sen. Negron
3:15:35 PM	Sen. Hays
3:15:50 PM	Sen. Rich
3:16:01 PM	Sen. Hays
3:16:15 PM	Sen. Negron
3:16:18 PM	Sen. Margolis
3:16:31 PM	Sen. Hays
3:16:45 PM	Sen. Margolis
3:16:55 PM	Sen. Negron
3:16:55 PM	Sen. Hays
3:17:04 PM	Sen. Negron
3:17:07 PM	Sen. Sobel
3:17:30 PM	Sen. Hays
3:17:39 PM	Sen. Sobel
3:17:42 PM	Sen. Hays
3:17:47 PM	Sen. Sobel
3:17:51 PM	Sen. Hays
3:17:54 PM	Sen. Negron
3:17:56 PM	Sen. Norman
3:18:46 PM	Sen. Negron

3:18:48 PM	Sen. Hays
3:18:54 PM	Sen. Norman
3:19:17 PM	Sen. Negron
3:19:20 PM	Sen. Hays
3:19:23 PM	Sen. Negron
3:19:27 PM	Sen. Bennett
3:20:10 PM	Sen. Hays
3:20:27 PM	Sen. Negron
3:20:31 PM	Sen. Bennett
3:20:34 PM	Sen. Negron
3:20:37 PM	Sen. Joyner
3:21:05 PM	Sen. Negron
3:21:06 PM	Sen. Hays
3:21:31 PM	Sen. Joyner
3:21:52 PM	Sen. Negron
3:21:54 PM	Sen. Hays
3:22:03 PM	Sen. Negron
3:22:24 PM	Brian Pitts, Trustee, Justice-2-Jesus
3:27:49 PM	Sen. Negron
3:27:58 PM	Ron Bilbao, Senior Legislative Associate, ACLU of Florida
3:28:04 PM	Sen. Negron
3:28:08 PM	Ron Bilbao
3:30:34 PM	Sen. Negron
3:30:54 PM	Gail Marie Perry, Chair, Communications Workers of America
3:32:56 PM	Sen. Negron
3:32:59 PM	Sen. Bennett
3:33:18 PM	Gail Marie Perry
3:33:22 PM	Sen. Negron
3:33:29 PM	Gail Marie Perry
3:34:53 PM	Sen. Negron
3:35:00 PM	Sen. Benacquisto
3:35:04 PM	Am. 194550
3:35:06 PM	Sen. Negron
3:36:07 PM	Am. 194550
3:36:11 PM	Sen. Benacquisto
3:36:14 PM	Sen. Negron
3:36:16 PM	Am. 155992
3:36:19 PM	Sen. Hays
3:36:26 PM	Sen. Negron
3:36:32 PM	Sen. Margolis
3:36:37 PM	Sen. Negron
3:36:39 PM	Sen. Margolis
3:36:58 PM	Sen. Negron
3:37:02 PM	Sen. Hays
3:37:05 PM	Sen. Negron
3:37:06 PM	Sen. Margolis
3:37:08 PM	Sen. Negron
3:37:11 PM	Sen. Hays
3:37:14 PM	Sen. Negron
3:37:25 PM	S 1358, cont.
3:37:27 PM	Sen. Negron
3:37:35 PM	Sen. Sobel
3:37:46 PM	Sen. Negron
3:38:36 PM	Sen. Sobel
3:38:46 PM	Sen. Negron
3:38:47 PM	Sen. Hays
3:39:26 PM	Sen. Negron
3:39:36 PM	Sen. Montford
3:39:53 PM	Sen. Negron
3:39:55 PM	Sen. Hays
3:39:58 PM	Sen. Negron
3:40:00 PM	Sen. Margolis

3:40:06 PM	Sen. Hays
3:40:09 PM	Sen. Margolis
3:40:12 PM	Sen. Hays
3:40:18 PM	Sen. Negron
3:40:33 PM	Sen. Lynn
3:41:06 PM	Sen. Negron
3:41:25 PM	Sen. Rich
3:42:40 PM	Sen. Negron
3:42:50 PM	Sen. Montford
3:45:18 PM	Sen. Negron
3:45:24 PM	Sen. Joyner
3:50:32 PM	Sen. Negron
3:50:35 PM	Sen. Richter
3:51:15 PM	Sen. Negron
3:51:17 PM	Sen. Sobel
3:51:40 PM	Sen. Negron
3:51:44 PM	Sen. Hays
3:55:46 PM	Sen. Negron
3:55:58 PM	
3:56:49 PM	Sen. Negron
3:57:00 PM	S 1314
3:57:03 PM	Sen. Bennett
3:57:37 PM	Sen. Negron
3:58:04 PM	Nancy Stephens, Executive Director, Manufacturers Association of Florida (waives in support)
3:58:08 PM	Sen. Negron
3:58:18 PM	
3:59:02 PM	Sen. Negron
3:59:08 PM	Sen. Joyner
3:59:12 PM	Sen. Negron
3:59:15 PM	Sen. Wise
3:59:21 PM	Sen. Negron
3:59:27 PM	Sen. Bogdanoff
3:59:32 PM	Sen. Negron
4:00:05 PM	S 1346
4:00:08 PM	Sen. Negron
4:00:19 PM	

WELLS.ELIZABETH

From: CORTESE.TONY
Sent: Friday, March 02, 2012 2:35 PM
To: WELLS.ELIZABETH
Subject: Fwd: Senator Altman

Begin forwarded message:

> **From:** Office of the Senate President <OfficeoftheSenatePresident@flsenate.gov>
> **Date:** March 2, 2012 1:46:52 PM EST
> **To:** ALEXANDER.JD.S17 <ALEXANDER.JD.S17@flsenate.gov>
> **Cc:** BROWN.DEBBIE <BROWN.DEBBIE@flsenate.gov>, ALTMAN.THAD.S24 <ALTMAN.THAD.S24@flsenate.gov>, "Rhodes, Terry" <Terry.Rhodes@LASPBS.STATE.FL.US>, !SENATE MAJORITY OFFICE <!SENATE_MAJORITY_OFFICE@leg.state.fl.us>
> **Subject: Senator Altman**

THE FLORIDA SENATE

SENATOR MIKE HARIDOPOLOS

President

March 2, 2012

The Honorable J. D. Alexander

State Senator, District 17

408 Senate Office Building

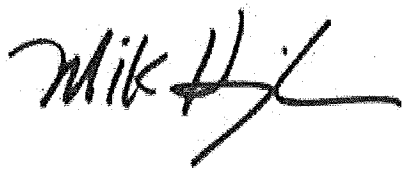
412 S. Monroe Street

Tallahassee, FL 32399-1100

Dear Senator Alexander:

Senator Thad Altman is excused from the Senate Budget Committee meetings on March 2, 2012, and March 3, 2012.

Sincerely,



Mike Haridopolos

President

MH/avh

cc: Secretary Debbie Brown

Senator Thad Altman

CORTESE.TONY

From:	Office of the Senate President
Sent:	Friday, March 02, 2012 1:48 PM
To:	ALEXANDER.JD.S17
Cc:	BROWN.DEBBIE; GARDINER.ANDY.S09; Rhodes, Terry; !SENATE MAJORITY OFFICE
Subject:	Senator Gardiner

THE FLORIDA SENATE
SENATOR MIKE HARIDOPOLOS
President

March 2, 2012

The Honorable J. D. Alexander
State Senator, District 17
408 Senate Office Building
412 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Alexander:

Pursuant to rule 2.27(5), I am hereby appointing Senator Andy Gardiner to serve on the Senate Budget Committee for March 2, 2012, and March 3, 2012.

Sincerely,

Mike Haridopolos
President
MH/avh

cc: Secretary Debbie Brown
Senator Andy Gardiner
Terry Rhodes, Staff Director
Senate Majority Office