SB 760 by **Hays**; (Identical to H 4025) Local Business Taxes

271688	D	S		CA, Richter	Delete everything after	01/23 10:16 AM
314286	A	S	WD	CA, Richter	btw L.463 - 464:	01/30 03:05 PM

SB 794 by **Hays**; (Identical to H 0719) Public Contracting

CS/SB 758 by **EP, Jones**; (Identical to CS/H 0691) Beach Management

SB 724 by **Diaz de la Portilla (CO-INTRODUCERS) Sobel**; (Identical to H 0989) Domestic Wastewater Discharged Through Ocean Outfalls

CS/SB 540 by **CM, Smith (CO-INTRODUCERS) Montford, Evers, Lynn**; (Similar to H 0885) Secondhand Dealers and Secondary Metals Recyclers

738224	A	S	RCS	CA, Thrasher	Delete L.321 - 322:	01/23 02:46 PM
520632	A	S	RCS	CA, Thrasher	Delete L.358:	01/23 02:46 PM
654148	A	S	RCS	CA, Norman	Delete L.603 - 614:	01/23 02:46 PM

CS/SB 738 by **EP, Altman**; (Similar to CS/H 0663) Solid Waste Management Facilities

SB 928 by **Altman**; (Identical to H 0251) Property Assessments

SB 862 by **Simmons**; (Identical to H 0609) Wage Protection for Employees

CS/SB 354 by **TR, Simmons**; (Similar to H 0219) Seminole County Expressway Authority

821942	A	S	RCS	CA, Bennett	btw L.144 - 145:	01/30 03:05 PM

SB 992 by **Dean**; (Compare to CS/H 0521) Regulation of Hoisting Equipment Used in Construction, Demolition, or Excavation Work

317422	A	S	RCS	CA, Thrasher	Delete L.126:	01/23 02:46 PM

SB 442 by **Braynon**; (Identical to H 0283) Fair Housing

CS/SB 780 by **TR, Ring**; Airport Parking Fees

SB 1042 by **Bennett**; (Identical to H 0801) Emergency 911 Service

158586	D	S	RCS	CA, Bennett	Delete everything after	01/23 02:46 PM
402640	AA	S	RCS	CA, Bennett	Delete L.67 - 68:	01/23 02:46 PM

SB 842 by **Bennett**; (Compare to CS/H 1037) Growth Management

218604	D	S	WD	CA, Bennett	Delete everything after	01/23 02:46 PM
805156	D	S	RCS	CA, Bennett	Delete everything after	01/23 02:46 PM

SB 816 by **Bennett (CO-INTRODUCERS) Fasano**; (Identical to H 1365) Professional Sports Facilities

362006	A	S	FAV	CA, Bennett	btw L.79 - 80:	01/23 02:46 PM

SB 1196 by **Bennett**; (Identical to H 1013) Residential Construction Warranties

672482	D	S	RCS	CA, Bennett	Delete everything after	01/23 02:46 PM

SB 818 by **Bennett (CO-INTRODUCERS) Gaetz**; (Identical to H 0597) Animal Shelters and Animal Control Agencies

902884	D	S	RCS	CA, Bennett	Delete everything after	01/23 02:46 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bennett, Chair
Senator Norman, Vice Chair

MEETING DATE: Monday, January 23, 2012
TIME: 10:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bennett, Chair; Senator Norman, Vice Chair; Senators Gibson, Richter, Ring, Storms, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 760** Hays (Similar H 1063, Identical H 4025)	Local Business Taxes; Repealing ch. 205, F.S., which established the Local Business Tax Act, etc. CA 01/23/2012 Temporarily Postponed CU BC	Temporarily Postponed
2	**SB 794** Hays (Identical H 719)	Public Contracting; Prohibiting a governmental unit that contracts for the construction, repair, remodeling, or improving of a facility from imposing conditions that requires, prohibits, encourages, or discourages certain bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization; prohibiting a governmental unit from granting certain awards as a condition of certain contracts; prohibiting certain terms from being placed in bid specifications, project agreements, or other controlling documents; revising the period during which an agency must file a protest following certain contract solicitations or awards, etc. CA 01/23/2012 Favorable GO BC	Favorable Yeas 7 Nays 1
3	**CS/SB 758** Environmental Preservation and Conservation / Jones (Identical CS/H 691, Compare CS/CS/H 503)	Beach Management; Specifying that demonstration to the Department of Environmental Protection of the adequacy of a project's design and construction is supported by certain evidence; authorizing the department to issue permits for an incidental take authorization under certain circumstances; providing a permit exemption for certain specified exploratory activities relating to beach restoration and nourishment projects and inlet management activities, etc. EP 01/09/2012 Fav/CS CA 01/23/2012 Favorable BC	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 724** Diaz de la Portilla (Identical H 989)	Domestic Wastewater Discharged Through Ocean Outfalls; Postponing the dates by which domestic wastewater facilities must meet more stringent treatment and management requirements; providing exceptions; providing that certain utilities that shared a common ocean outfall on a specified date are individually responsible for meeting the reuse requirement; authorizing those utilities to enter into binding agreements to share or transfer responsibility for meeting reuse requirements; revising provisions authorizing the backup discharge of domestic wastewater through ocean outfalls; requiring the Department of Environmental Protection, the South Florida Water Management District, and affected utilities to consider certain information for the purpose of adjusting reuse requirements, etc. EP 01/09/2012 Favorable CA 01/23/2012 Favorable BC	Favorable Yeas 8 Nays 0
5	**CS/SB 540** Commerce and Tourism / Smith (Similar H 885)	Secondhand Dealers and Secondary Metals Recyclers; Requiring that a secondary metals recycler conform to the requirements for a secondhand dealer; revising requirements for payments made by secondary metals recyclers to sellers of regulated metals property to prohibit certain cash transactions; preempting to the state the regulation of secondary metals recyclers and purchase transactions involving regulated metals property; limiting the liability of a public or private owner of metal property for injuries occurring during the theft or attempted theft of metal property and for injuries occurring as the result of the theft or attempted theft, etc. CM 01/09/2012 Fav/CS CA 01/23/2012 Fav/CS CJ BC	Fav/CS Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/SB 738** Environmental Preservation and Conservation / Altman (Similar CS/H 663, Compare CS/CS/H 503, CS/S 716)	Solid Waste Management Facilities; Specifying a permit term for a solid waste management facility that is designed with a leachate control system meeting the requirements of the Department of Environmental Protection; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring that the department require by rule that the owner or operator of a solid waste management facility receiving waste after a specified date provide financial assurance for the cost of completing corrective action for violations of water quality standards, etc. EP 01/09/2012 Fav/CS CA 01/23/2012 Favorable BC	Favorable Yeas 8 Nays 0
7	**SB 928** Altman (Identical H 251)	Property Assessments; Revising the factors that a property appraiser must consider when deriving the just valuation of property; providing conditions and limitations relating to a property appraiser's use of certain property transactions to arrive at just valuation of property; providing for retroactive application, etc. CA 01/23/2012 Favorable BC	Favorable Yeas 8 Nays 0
8	**SB 862** Simmons (Identical H 609)	Wage Protection for Employees; Prohibiting a county, municipality, or political subdivision from adopting or maintaining in effect a law, ordinance, or rule that creates requirements, regulations, or processes for the purpose of addressing wage theft; preempting such activities to the state; defining the term "wage theft", etc. CA 01/23/2012 Favorable JU GO	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**CS/SB 354** Transportation / Simmons (Similar H 219)	Seminole County Expressway Authority; Citing this act as the Seminole County Expressway Authority Law; creating the Seminole County Expressway Authority; prohibiting an entity or body or another authority from exercising jurisdiction, control, authority, or power over an expressway system in Seminole County without the consent of the Seminole County Expressway Authority; requiring notice of public hearing and an opportunity for municipal officials and residents to discuss and advise the authority; providing for the issuance of bonds; providing for lease-purchase agreements between the Department of Transportation and the authority; authorizing the Department of Transportation to use funds for the operation of the authority and to generate preparatory information necessary for an expressway system; authorizing the authority to acquire land and properties, etc. TR 01/09/2012 Fav/CS CA 01/23/2012 Temporarily Postponed BC	Temporarily Postponed
10	**SB 992** Dean (Compare CS/H 521)	Regulation of Hoisting Equipment Used in Construction, Demolition, or Excavation Work; Defining the terms “hoisting equipment,” “mobile crane,” and “tower crane”; requiring an applicant for a building permit to submit certain information to a local building official; requiring radio communications between certain crane operators; requiring certain preparations for a hurricane or high-wind event; requiring a preparedness plan for certain cranes; requiring that hoisting equipment be secured in a specified manner under certain circumstances; providing penalties for violation of the act by certain licensed contractors; preempting regulation of hoisting equipment and persons operating the equipment to the state; providing that the act does not apply to the regulation of elevators, etc. CA 01/23/2012 Fav/CS RI BC	Fav/CS Yeas 8 Nays 0
11	**SB 442** Braynon (Identical H 283)	Fair Housing; Providing that an aggrieved person may file a civil action without first filing an administrative complaint for a discriminatory housing practice; providing that, if the Florida Commission on Human Relations or local agency has obtained a conciliation agreement with the consent of the aggrieved person, the filing of a civil action is prohibited, except to enforce the terms of the agreement, etc. CA 01/23/2012 Favorable JU BC	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**CS/SB 780** Transportation / Ring	Airport Parking Fees; Exempting vehicles transporting power mobility devices for use by persons who have a disability from payment of parking fees at a publicly owned or operated airport, etc. TR 01/09/2012 Fav/CS CA 01/23/2012 Favorable	Favorable Yeas 8 Nays 0
13	**SB 1042** Bennett (Identical H 801)	Emergency 911 Service; Revising the qualifications required for the members of the E911 Board; requiring that a voice communications service provider, other than a wireless service provider, impose a fee based on the number of access lines to the E911 system and on the basis of certain access lines for each digital transmission link, up to a specified number of access lines per account bill rendered; revising the criteria that a local government may use in order to indemnify a local carrier; expanding the types of providers that may be indemnified and that are not liable for certain damages; defining the term "provide 911 or E911 service"; removing the requirement that the Florida Telephone Association recommend certain representatives to an advisory committee to the Public Service Commission, etc. CA 01/23/2012 Fav/CS CU BC	Fav/CS Yeas 8 Nays 0
14	**SB 842** Bennett (Compare CS/H 1037, H 1489, H 4003, H 7041, S 188, CS/S 440, CS/S 1204, S 1348)	Growth Management; Repealing provisions relating to the powers and duties of the Secretary of Community Affairs and functions of the Department of Community Affairs with respect to federal grant-in-aid programs; replacing references to the Department of Community Affairs with state land planning agency; repealing provisions relating to the Urban Infill and Redevelopment Assistance Grant Program; deleting provisions relating to the Coastal Resources Interagency Management Committee; deleting provisions excluding a municipality that is not a signatory to a certain interlocal agreement from participating in a school concurrency system; replacing references to the Department of Community Affairs with the Department of Economic Opportunity; deleting requirements for interlocal agreements relating to public education facilities, etc. CA 01/23/2012 Fav/CS CM BC	Fav/CS Yeas 7 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**SB 816** Bennett (Identical H 1365)	Professional Sports Facilities; Requiring the county commission in a county in which a professional sports facility is located to establish a local homeless coalition if a local homeless program does not exist in that county; requiring that, by a specified date, the professional sports franchise that plays in a facility that benefited from financial assistance from the state, and the county in which the facility is located, provide the Auditor General with documentation that a homeless shelter has been operating at the facility from the effective date of the contract between the county and the professional sports franchise; requiring the Auditor General to levy a specified fine against the professional sports franchise and the county if, after a specified date, the Auditor General determines that a homeless shelter is not operating at the facility until such time that the professional sports franchise and county are operating a homeless shelter, etc. CA 01/23/2012 Fav/1 Amendment CM CF BC	Fav/1 Amendment (362006) Yeas 8 Nays 0
16	**SB 1196** Bennett (Identical H 1013)	Residential Construction Warranties; Providing legislative intent to affirm the limitations to the doctrine of implied warranty of fitness and merchantability or habitability associated with the construction and sale of a new home; providing definitions; prohibiting a cause of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for off-site improvements, except as otherwise provided by law; providing for applicability of the act; providing for severability, etc. CA 01/23/2012 Fav/CS JU BC	Fav/CS Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	**SB 818** Bennett (Identical H 597)	Animal Shelters and Animal Control Agencies; Creating the "Animal Rescue Act"; requiring any animal control agency or animal shelter that euthanizes animals to maintain a registry of animal rescue groups that are willing to accept animals that would otherwise be subject to euthanization; providing eligibility criteria for rescue groups and persons desiring to be on the euthanization registry; providing criteria under which an animal control agency or animal shelter may reject an applicant for the euthanization registry or remove a participant from the registry; requiring that certain specified information concerning an animal rescue group be included in the group's application for inclusion on the euthanasia registry, etc. CA 01/12/2012 Temporarily Postponed CA 01/23/2012 Fav/CS AG	Fav/CS Yeas 8 Nays 0
	Florida Association of Counties 2012 Legislative Priorities		Not Considered
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 760

INTRODUCER: Senator Hays

SUBJECT: Local Business Taxes

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Pre-meeting**
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The local business tax authorized under Chapter 205, F.S., represents the taxes charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government. This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.

The bill repeals Chapter 205, F.S., and makes conforming changes to Florida Statutes.

II. Present Situation:

Local Business Tax

The local business tax, authorized in Chapter 205, F.S., represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government.[1] This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.[2]

Prior to 1972, the state imposed an occupational license tax and shared the revenues with the counties. Municipalities levied their own occupational license taxes pursuant to local ordinance

[1] Sections 205.033 and 205.042, F.S.
[2] Section 205.022(5), F.S.

or resolution. Counties had no authority to levy an occupational license tax until October 1, 1972, when Chapter 72-306, Laws of Florida, repealed the state tax and authorized both counties and cities to impose an occupational tax at the state or city rate then in effect. In 1980, the Legislature authorized counties and municipalities to increase rates by a specified percentage based upon the rates then in effect.[3] In 1986, the legislature authorized Miami-Dade, Broward, Monroe and Collier counties to increase their rates by an additional 50 percent, with the proceeds being dedicated to specified economic development activities.[4]

Effective January 1, 2007, the legislature changed the name of the Local Occupational License Tax to the Local Business Tax.[5] This was done in response to some individuals representing that the fact that they had obtained an "occupational license" under Chapter 205, F.S., conferred upon them some type of official proof of their competency to perform various repairs and services. The name change was intended to clarify that the payments made under Chapter 205, F.S., were taxes and not some type of regulatory fee.

Administrative Procedures

In order to levy a business tax, the governing body must first give at least 14 days of public notice between the first and last reading of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction as defined by law.[6] The public notice must contain the proposed classifications and rates applicable to the business tax.[7] A number of other conditions for levy are imposed on counties and municipalities.[8]

For purposes of Chapter 205, F.S., the terms "business," "profession," and "occupation" do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in the state.[9] These institutions are more particularly defined and limited in statute.[10] The term "receipt" means the document that is issued by the local governing authority which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of Chapter 205, F.S., relating to the business tax.[11]

The governing body of a municipality that levies the tax may request that the county in which the municipality is located issue the municipal receipt and collect the tax.[12] The governing body of a county that levies the tax may request that municipalities within the county issue the county receipt and collect the tax.[13] However, before any local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments.[14] All business tax receipts are sold by the appropriate tax collector

[3] Chapter 80-274, L.O.F.
[4] Chapter 86-298, L.O.F.
[5] Chapter 2006-152, L.O.F.
[6] Sections 205.033 and 205.042, F.S.
[7] Id.
[8] Sections 205.033 and 205.043, F.S.
[9] Section 205.022(1), F.S.
[10] Id.
[11] Section 205.022(2), F.S.
[12] Section 205.045, F.S.
[13] Id.
[14] Id.

beginning July 1 of each year.[15] The taxes are due and payable on or before September 30 of each year, and the receipts expire on September 30 of the succeeding year.[16] In several situations, administrative penalties are also imposed.[17]

New Tax Levies

A county or municipality that has not yet adopted a business tax ordinance or resolution may adopt a business tax ordinance pursuant to s. 205.0315, F.S. The tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that have implemented a local business tax.[18] If no adjacent local government has implemented a local business tax, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, then an alternative method is authorized. In such a case, the rate structure or classifications prescribed in the ordinance of the local government seeking to impose the tax may be based upon those prescribed in ordinances adopted by local governments that have implemented a local business tax, in counties or municipalities that have a comparable population.[19]

Tax Base/Rate Restructuring

Currently, counties and municipalities with an existing local business tax may not reclassify businesses, professions, and occupations.[20] However, those counties and municipalities that underwent a reclassification and rate structure revision pursuant to s. 205.0535, F.S., prior to October 1, 1995, or during a window of time available from July 1, 2007, through October 1, 2008, for certain municipalities may, every other year, increase or decrease by ordinance the rates of business taxes by up to 5 percent.[21] However, an increase may not be enacted by less than a majority plus one vote of the governing body.[22] A county or municipality is not prohibited from decreasing or repealing any authorized local business tax.[23]

Exemptions

Chapter 205, F.S., provides several exemptions and exclusions from local business taxes. Customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions are excluded from the definition of "business," "profession," and "occupation" and are thereby excluded from paying local business taxes.[24] There is an optional partial exemption for businesses located in enterprise zones.[25] The delivery and transportation of tangible personal property by a business that is otherwise required to pay a local business tax may not be charged a separate local business tax for such delivery or transportation service.[26] There are also exemptions for persons engaged in specified farming

[15] Section 205.053, F.S.
[16] Id.
[17] Id.
[18] Section 205.0315, F.S.
[19] Id.
[20] Section 205.0535, F.S.
[21] Section 205.0535(4), F.S.
[22] Id.
[23] Id.
[24] Section 205.022(1), F.S.
[25] Section 205.054, F.S.
[26] Section 205.063, F.S.

activities,[27] certain nonresident persons regulated by the Department of Professional Regulation,[28] certain employees of businesses that are required to pay a local business tax,[29] certain disabled persons, the aged, and widows with minor dependents,[30] disabled veterans of any war or their unremarried spouses,[31] and certain mobile home setup operations.[32] Charitable, religious, fraternal, youth, civic, service, or other similar organization that make occasional sales or engage in fundraising projects that are performed exclusively by the members where the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization are also exempt.[33]

Regulatory Provisions

Section 205.194, F.S., provides that any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local receipt may be issued.

Sections 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973 and 205.1975, F.S., provide similar requirements for production of evidence of appropriate licensure prior to issuance of a business tax receipt for pharmacies and pharmacists, assisted living facilities, pest control, health studios, sellers of travel and telemarketing businesses, respectively.

Distribution of Revenues

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and any credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.[34] Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority; however, this provision does not apply to counties that have established a new rate structure pursuant to s. 205.0535, F.S.[35]

Authorized Uses of Revenues

The tax proceeds are considered general revenue for the county or municipality. Additionally, the county business tax proceeds may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities and other sales and marketing techniques.[36] The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., shall be distributed by the county's governing body to a designated

[27] Section 205.064, F.S.
[28] Section 205.065, F.S.
[29] Section 205.066, F.S.
[30] Section 205.162, F.S.
[31] Section 205.171, F.S.
[32] Section 205.193, F.S.
[33] Section 205.192, F.S.
[34] Section 205.033(4), F.S.
[35] Section 205.033(5), F.S.
[36] Section 205.033(7), F.S.

organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.[37]

Total Revenues Collected
According to a report published by the Office of Economic and Demographic Research (EDR), in fiscal year 2008-09 counties collected a total of $32 million of local business tax revenue. In that same fiscal year, municipalities collected a total of $120 million of local business tax revenue.[38]

III. Effect of Proposed Changes:

Section 1 repeals Chapter 205, F.S.

Section 2 amends s. 202.24(2)(c), F.S., to delete a reference to local business taxes.

Section 3 amends s. 213.0535(4)(a), F.S., to delete a reference to local business taxes.

Section 4 amends s. 213.756(2)(b), F.S., to delete a reference to local business taxes.

Section 5 amends s. 290.0057(1)(e), F.S., to delete a reference to local business taxes.

Section 6 amends s. 337.401(3)(f), F.S., conforming provisions to changes made by the bill.

Section 7 redesignates specified paragraphs in s. 376.84(1), F.S., and amends s. 376.84(1)(d), F.S., to delete a reference to local business taxes.

Section 8 renumbers specified subsections of s. 379.3761, F.S., and amends the same to delete a reference to local business taxes.

Section 9 amends s. 482.071, F.S., to delete a reference to local business taxes.

Section 10 redesignates specified paragraphs in s. 482.242, F.S., and amends s. 482.242(1)(a), F.S., to delete a reference to local business taxes.

Section 11 renumbers specified subsections of s. 489.119, F.S., and amends s. 489.119(4), F.S., to delete a reference to local business taxes and deletes an application requirement related to local business taxes.

Section 12 amends s. 489.127(1), F.S., to delete a reference to local business taxes.

Section 13 redesignates specified paragraphs in s. 489.128(1), F.S., and amends s. 489.128(1)(b), F.S., to delete a reference to local business taxes.

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[37] Section 205.033(6)(b), F.S.
[38] Office of Economic and Demographic Research, 2012 Economic Development Financial Reference Manual (January 11, 2012) available at:
http://edr.state.fl.us/Content/presentations/local-government/2012economicdevelopmentfinancialreferencemanual.pdf

Section 14 amends s. 489.131, F.S., to delete a reference to local business taxes.

Section 15 amends s. 489.516(3), F.S., to delete a reference to local business taxes.

Section 16 renumbers specified subsections of s. 489.521, F.S., and amends the same to delete a reference to local business taxes.

Section 17 amends s. 489.5315, F.S., to delete a reference to local business taxes.

Section 18 redesignates specified paragraphs in s. 489.532(1), F.S., and amends s. 489.532(1)(b), F.S., to delete a reference to local business taxes.

Section 19 amends s. 489.533(1)(q), F.S., conforming provisions to changes made by the bill.

Section 20 renumbers s. 489.537(9), F.S., and amends the same to delete a reference to local business taxes.

Section 21 amends s. 500.511(3), to delete a reference to local business taxes.

Section 22 amends s. 501.016, F.S., to delete a reference to local business taxes.

Section 23 redesignates specified paragraphs in s. 501.143(3), F.S., and amends s. 501.143(3)(b), F.S., to delete a reference to local business taxes.

Section 24 amends s. 501.160, F.S., to delete a reference to local business taxes.

Section 25 amends s. 507.13, F.S., to delete a reference to local business taxes.

Section 26 amends s. 539.001, F.S., to delete a reference to local business taxes.

Section 27 amends s. 559.939, F.S., to delete a reference to local business taxes.

Section 28 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill eliminates the local businesses taxes authorized under Chapter 205, F.S. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons currently paying a local business tax would no longer be required to do so.

C. Government Sector Impact:

The Revenue Estimating Conference estimates the bill would have no impact on state government revenues and would have a negative recurring impact on local government revenues of $164 million dollars beginning in FY 2012-13.

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.

271688

LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 205.0315, Florida Statutes, is repealed.
6 Section 2. Section 205.0316, Florida Statutes, is created
7 to read:
8 205.0316 Local business tax phase out.—
9 (1) Notwithstanding any other provision of this chapter,
10 beginning October 1, 2012, local business tax rates levied
11 pursuant to this chapter may not be increased. Each county and
12 municipality levying a local business tax must reduce the local

271688

13 business tax rate applicable to each business and occupational
14 classification as follows:
15 (a) For business tax receipts due after October 1, 2013,
16 and on or before September 30, 2014, to an amount no greater
17 than five-sixths of the rate in effect on September 30, 2012.
18 (b) For business tax receipts due on or before September
19 30, 2015, to an amount no greater than four-sixths of the rate
20 in effect on September 30, 2012.
21 (c) For business tax receipts due on or before September
22 30, 2016, to an amount no greater than three-sixths of the rate
23 in effect on September 30, 2012.
24 (d) For business tax receipts due on or before September
25 30, 2017, to an amount no greater than two-sixths of the rate in
26 effect on September 30, 2012.
27 (e) For business tax receipts due on or before September
28 30, 2018, to an amount no greater than one-sixth of the rate in
29 effect on September 30, 2012.
30 (f) For business tax receipts due on or before September
31 30, 2019, to zero.
32 (2) A county or municipality whose business tax receipts
33 during its 2012-2013 fiscal year comprise at least 25 percent of
34 the county or municipality's total revenue derived from local
35 taxes levied by the county or municipality in that fiscal year
36 may opt out of subsection (1). However, a qualifying county or
37 municipality choosing this option may not increase its general
38 county millage, general municipal millage, or any dependent
39 special district millage in any fiscal year above the level in
40 effect for the 2012-2013 fiscal year, unless it ceases levying
41 all local business taxes authorized under this chapter in the

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42 same fiscal year. Any qualifying county or municipality that
43 does not reduce its local business tax rates pursuant to
44 subsection (1), beginning with business tax receipts due on or
45 before September 30, 2014, will be deemed to have opted out of
46 subsection (1) and will instead be subject to this subsection.
47 The terms "general county millage," "general municipal millage,"
48 and "dependent special district millage" have the same meanings
49 as described in s. 200.001(1).
50 Section 3. Notwithstanding revisions made to chapter 205,
51 Florida Statutes, by this act, counties or municipalities
52 imposing a local business tax as of March 9, 2012, pursuant to
53 chapter 205, Florida Statutes, may continue to levy such tax in
54 the same manner and with the same rates and classifications as
55 are in effect on March 9, 2012, to the extent necessary to meet
56 all obligations to, or for the benefit of, holders of bonds or
57 certificates that were issued before March 9, 2012, and for
58 which taxes levied pursuant to chapter 205, Florida Statutes,
59 are expressly identified and pledged as security, separate from
60 any other pledge of non-ad valorem revenues. Expenditures of
61 revenues from tax levies continued pursuant to this section are
62 limited to meeting obligations required by bonds or certificates
63 that were issued before March 9, 2012. Revenues collected in
64 excess of amounts necessary to meet obligations of bonds or
65 certificates must be refunded to taxpayers in proportion to the
66 amount of taxes paid by each taxpayer. A county or municipality
67 may not pledge revenues derived from local business taxes
68 imposed under chapter 205, Florida Statutes, as security for
69 bonds or certificates issued on or after March 9, 2012.
70 Section 4. This act shall take effect upon becoming a law.

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71
72 ========== T I T L E A M E N D M E N T ==========
73 And the title is amended as follows:
74 Delete everything before the enacting clause
75 and insert:
76 A bill to be entitled
77 An act relating to local business taxes; repealing s.
78 205.0315, F.S., relating to provisions authorizing
79 certain county or municipalities to adopt a business
80 tax ordinance; creating s. 205.0316, F.S.; requiring
81 the reduction of local business tax rates over time;
82 providing an optional exception; providing that
83 municipalities may continue to levy taxes repealed
84 under the act in order to meet all obligations to
85 holders of bonds or certificates; providing an
86 effective date.

314286

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 463 and 464
4 insert:
5 Section 28. Notwithstanding the repeal of chapter 205,
6 Florida Statutes, by this act, counties or municipalities
7 imposing a local business tax as of March 9, 2012, pursuant to
8 chapter 205, Florida Statutes, may continue to levy such tax to
9 the extent necessary to meet all obligations to, or for the
10 benefit of, holders of bonds or certificates that were issued
11 before March 9, 2012, and for which taxes levied pursuant to
12 chapter 205, Florida Statute, are explicitly pledged as

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13 security. Expenditures of revenues from tax levies continued
14 pursuant to this section are limited to meeting obligations
15 required by bonds or certificates that were issued before March
16 9, 2012. Revenues collected in excess of the amounts necessary
17 to meet obligations of bonds or certificates must be refunded to
18 taxpayers in proportion to the amount of taxes paid by each
19 taxpayer.
20
21 ========== T I T L E A M E N D M E N T ==========
22 And the title is amended as follows:
23 Delete line 9
24 and insert:
25 conforming references and cross-references; providing
26 that counties and municipalities may continue to levy
27 taxes repealed under the act in order to meet all
28 obligations to holders of bonds or certificates issued
29 before a specified date; providing

By Senator Hays

20-00320-12 2012760__

A bill to be entitled

An act relating to local business taxes; repealing ch. 205, F.S., which established the Local Business Tax Act; amending ss. 202.24, 213.0535, 213.756, 290.0057, 337.401, 376.84, 379.3761, 482.071, 482.242, 489.119, 489.127, 489.128, 489.131, 489.516, 489.521, 489.5315, 489.532, 489.533, 489.537, 500.511, 501.016, 501.143, 501.160, 507.13, 539.001, and 559.939, F.S.; conforming references and cross-references; providing an effective date.

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

Section 1. Chapter 205, Florida Statutes, consisting of sections 205.013, 205.022, 205.023, 205.0315, 205.032, 205.033, 205.042, 205.043, 205.045, 205.053, 205.0532, 205.0535, 205.0536, 205.0537, 205.054, 205.063, 205.064, 205.065, 205.066, 205.162, 205.171, 205.191, 205.192, 205.193, 205.194, 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973, and 205.1975, is repealed.

Section 2. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.—

(2)

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

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~~3. Business taxes levied under chapter 205.~~

3.~~4.~~ "911" service charges levied under chapter 365.

4.~~5.~~ Amounts charged for the rental or other use of property owned by a public body which is not in the public rights-of-way to a dealer of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services.

5.~~6.~~ Permit fees of general applicability which are not related to placing or maintaining facilities in or on public roads or rights-of-way.

6.~~7.~~ Permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401.

7.~~8.~~ Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers of cable or video service pursuant to any existing ordinance or an existing franchise agreement granted by each municipality or county, under which ordinance or franchise agreement service is provided prior to July 1, 2007, or as permitted under chapter 610. Nothing in this subparagraph shall prohibit the ability of providers of cable or video service to recover such expenses as allowed under federal law.

8.~~9.~~ Special assessments and impact fees.

9.~~10.~~ Pole attachment fees that are charged by a local government for attachments to utility poles owned by the local government.

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59 10.~~11.~~ Utility service fees or other similar user fees for
60 utility services.
61 11.~~12.~~ Any other generally applicable tax, fee, charge, or
62 imposition authorized by general law on July 1, 2000, which is
63 not specifically prohibited by this subsection or included as a
64 replaced revenue source in s. 202.20.
65 Section 3. Paragraph (a) of subsection (4) of section
66 213.0535, Florida Statutes, is amended to read:
67 213.0535 Registration Information Sharing and Exchange
68 Program.—
69 (4) There are two levels of participation:
70 (a) Each unit of state or local government responsible for
71 administering one or more of the provisions specified in
72 subparagraphs 1.-7. ~~1.-8.~~ is a level-one participant. Level-one
73 participants shall exchange, monthly or quarterly, as determined
74 jointly by each participant and the department, the data
75 enumerated in subsection (2) for each new registrant, new filer,
76 or initial reporter, permittee, or licensee, with respect to the
77 following taxes, licenses, or permits:
78 1. The sales and use tax imposed under chapter 212.
79 2. The tourist development tax imposed under s. 125.0104.
80 3. The tourist impact tax imposed under s. 125.0108.
81 ~~4. Local business taxes imposed under chapter 205.~~
82 4.~~5.~~ Convention development taxes imposed under s.
83 212.0305.
84 5.~~6.~~ Public lodging and food service establishment licenses
85 issued pursuant to chapter 509.
86 6.~~7.~~ Beverage law licenses issued pursuant to chapter 561.
87 7.~~8.~~ A municipal resort tax as authorized under chapter 67-

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88 930, Laws of Florida.
89 Section 4. Paragraph (b) of subsection (2) of section
90 213.756, Florida Statutes, is amended to read:
91 213.756 Funds collected are state tax funds.—
92 (2)
93 (b) This subsection applies to those taxes enumerated in s.
94 72.011, excluding chapter 202 and that portion of chapter 203
95 collected thereunder~~, and also applies to taxes imposed under~~
96 ~~chapter 205~~.
97 Section 5. Paragraph (e) of subsection (1) of section
98 290.0057, Florida Statutes, is amended to read:
99 290.0057 Enterprise zone development plan.—
100 (1) Any application for designation as a new enterprise
101 zone must be accompanied by a strategic plan adopted by the
102 governing body of the municipality or county, or the governing
103 bodies of the county and one or more municipalities together. At
104 a minimum, the plan must:
105 (e) Commit the governing body or bodies to enact and
106 maintain local fiscal and regulatory incentives, if approval for
107 the area is received under s. 290.0065. These incentives may
108 include the municipal public service tax exemption provided by
109 s. 166.231, the economic development ad valorem tax exemption
110 provided by s. 196.1995, ~~the business tax exemption provided by~~
111 ~~s. 205.054,~~ local impact fee abatement or reduction, or low-
112 interest or interest-free loans or grants to businesses to
113 encourage the revitalization of the nominated area.
114 Section 6. Paragraph (f) of subsection (3) of section
115 337.401, Florida Statutes, is amended to read:
116 337.401 Use of right-of-way for utilities subject to

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117 regulation; permit; fees.—
118 (3)
119 (f) Except as expressly allowed or authorized by general
120 law and except for the rights-of-way permit fees subject to
121 paragraph (c), a municipality or county may not levy on a
122 provider of communications services a tax, fee, or other charge
123 or imposition for operating as a provider of communications
124 services within the jurisdiction of the municipality or county
125 which is in any way related to using its roads or rights-of-way.
126 A municipality or county may not require or solicit in-kind
127 compensation, except as otherwise provided in s. 202.24(2)(c)7.
128 ~~s. 202.24(2)(c)8.~~ or s. 610.109. Nothing in this paragraph shall
129 impair any ordinance or agreement in effect on May 22, 1998, or
130 any voluntary agreement entered into subsequent to that date,
131 which provides for or allows in-kind compensation by a
132 telecommunications company.
133 Section 7. Paragraphs (e) through (o) of subsection (1) of
134 section 376.84, Florida Statutes, are redesignated as paragraphs
135 (d) through (n), respectively, and present paragraph (d) of that
136 subsection is amended to read:
137 376.84 Brownfield redevelopment economic incentives.—It is
138 the intent of the Legislature that brownfield redevelopment
139 activities be viewed as opportunities to significantly improve
140 the utilization, general condition, and appearance of these
141 sites. Different standards than those in place for new
142 development, as allowed under current state and local laws,
143 should be used to the fullest extent to encourage the
144 redevelopment of a brownfield. State and local governments are
145 encouraged to offer redevelopment incentives for this purpose,

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146 as an ongoing public investment in infrastructure and services,
147 to help eliminate the public health and environmental hazards,
148 and to promote the creation of jobs in these areas. Such
149 incentives may include financial, regulatory, and technical
150 assistance to persons and businesses involved in the
151 redevelopment of the brownfield pursuant to this act.
152 (1) Financial incentives and local incentives for
153 redevelopment may include, but not be limited to:
154 ~~(d) Waiver, reduction, or limitation by line of business~~
155 ~~with respect to business taxes pursuant to chapter 205.~~
156 Section 8. Subsections (5) and (6) of section 379.3761,
157 Florida Statutes, are renumbered as subsections (4) and (5),
158 respectively, and present subsection (4) of that section is
159 amended to read:
160 379.3761 Exhibition or sale of wildlife; fees;
161 classifications.—
162 ~~(4) The provisions of this section relative to licensing~~
163 ~~for exhibition do not apply to any municipal, county, state, or~~
164 ~~other publicly owned wildlife exhibit or any traveling zoo,~~
165 ~~circus, or exhibit licensed under chapter 205.~~
166 Section 9. Subsection (5) of section 482.071, Florida
167 Statutes, is amended to read:
168 482.071 Licenses.—
169 ~~(5) A license under this section is a prerequisite for the~~
170 ~~issuance of a local occupational license to engage in pest~~
171 ~~control, as provided in s. 205.1967.~~
172 Section 10. Paragraphs (b) through (g) of subsection (1) of
173 section 482.242, Florida Statutes, are redesignated as
174 paragraphs (a) through (f), respectively, and present paragraph

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175 (a) of that subsection is amended to read:
176 482.242 Preemption.—
177 (1) This chapter is intended as comprehensive and exclusive
178 regulation of pest control in this state. The provisions of this
179 chapter preempt to the state all regulation of the activities
180 and operations of pest control services, including the
181 pesticides used pursuant to labeling and registration approved
182 under part I of chapter 487. No local government or political
183 subdivision of the state may enact or enforce an ordinance that
184 regulates pest control, except that the preemption in this
185 section does not prohibit a local government or political
186 subdivision from enacting an ordinance regarding any of the
187 following:
188 ~~(a) Local business taxes adopted pursuant to chapter 205.~~
189 Section 11. Subsections (5), (6), and (7) of section
190 489.119, Florida Statutes, are renumbered as subsections (4),
191 (5), and (6), respectively, and present subsection (4) of that
192 section is amended to read:
193 489.119 Business organizations; qualifying agents.—
194 ~~(4) When a certified qualifying agent, on behalf of a~~
195 ~~business organization, makes application for a business tax~~
196 ~~receipt in any municipality or county of this state, the~~
197 ~~application shall be made with the tax collector in the name of~~
198 ~~the business organization and the qualifying agent; and the~~
199 ~~license, when issued, shall be issued to the business~~
200 ~~organization, upon payment of the appropriate licensing fee and~~
201 ~~exhibition to the tax collector of a valid certificate for the~~
202 ~~qualifying agent issued by the department, and the state license~~
203 ~~numbers shall be noted thereon.~~

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204 Section 12. Subsection (1) of section 489.127, Florida
205 Statutes, is amended to read:
206 489.127 Prohibitions; penalties.—
207 (1) No person shall:
208 (a) Falsely hold himself or herself or a business
209 organization out as a licensee, certificateholder, or
210 registrant;
211 (b) Falsely impersonate a certificateholder or registrant;
212 (c) Present as his or her own the certificate or
213 registration of another;
214 (d) Knowingly give false or forged evidence to the board or
215 a member thereof;
216 (e) Use or attempt to use a certificate or registration
217 that has been suspended or revoked;
218 (f) Engage in the business or act in the capacity of a
219 contractor or advertise himself or herself or a business
220 organization as available to engage in the business or act in
221 the capacity of a contractor without being duly registered or
222 certified;
223 (g) Operate a business organization engaged in contracting
224 after 60 days following the termination of its only qualifying
225 agent without designating another primary qualifying agent,
226 except as provided in ss. 489.119 and 489.1195;
227 (h) Commence or perform work for which a building permit is
228 required pursuant to part IV of chapter 553 without such
229 building permit being in effect; or
230 (i) Willfully or deliberately disregard or violate any
231 municipal or county ordinance relating to uncertified or
232 unregistered contractors.

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233

234 For purposes of this subsection, a person or business
235 organization operating on an inactive or suspended certificate
236 or registration is not duly certified or registered and is
237 considered unlicensed. ~~A business tax receipt issued under the~~
238 ~~authority of chapter 205 is not a license for purposes of this~~
239 ~~part.~~
240 Section 13. Paragraph (c) of subsection (1) of section
241 489.128, Florida Statutes, is redesignated as paragraph (b), and
242 present paragraph (b) of that subsection is amended to read:
243 489.128 Contracts entered into by unlicensed contractors
244 unenforceable.—
245 (1) As a matter of public policy, contracts entered into on
246 or after October 1, 1990, by an unlicensed contractor shall be
247 unenforceable in law or in equity by the unlicensed contractor.
248 ~~(b) For purposes of this section, an individual or business~~
249 ~~organization may not be considered unlicensed for failing to~~
250 ~~have a business tax receipt issued under the authority of~~
251 ~~chapter 205.~~
252 Section 14. Paragraph (c) of subsection (3) of section
253 489.131, Florida Statutes, is amended to read:
254 489.131 Applicability.—
255 (3) Nothing in this part limits the power of a municipality
256 or county:
257 (c) To collect ~~business taxes, subject to s. 205.065, and~~
258 inspection fees for engaging in contracting or examination fees
259 from persons who are registered with the board pursuant to local
260 examination requirements ~~and issue business tax receipts~~.
261 ~~However, nothing in this part shall be construed to require~~

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262 ~~general contractors, building contractors, or residential~~
263 ~~contractors to obtain additional business tax receipts for~~
264 ~~specialty work when such specialty work is performed by~~
265 ~~employees of such contractors on projects for which they have~~
266 ~~substantially full responsibility and such contractors do not~~
267 ~~hold themselves out to the public as being specialty~~
268 ~~contractors.~~
269 Section 15. Subsection (3) of section 489.516, Florida
270 Statutes, is amended to read:
271 489.516 Qualifications to practice; restrictions;
272 prerequisites.—
273 (3) When a certificateholder desires to engage in
274 contracting in any area of the state, as a prerequisite
275 therefor, he or she shall only be required to exhibit to the
276 local building official, tax collector, or other authorized
277 person in charge of the issuance of licenses and building or
278 electrical permits in the area evidence of holding a current
279 certificate ~~and a current business tax receipt issued by the~~
280 ~~jurisdiction in which the certificateholder's principal place of~~
281 ~~business is located~~ and having paid the fee for the permit
282 required of other persons. However, a local construction
283 regulation board may deny the issuance of an electrical permit
284 to a certified contractor, or issue a permit with specific
285 conditions, if the local construction regulation board has found
286 such contractor, through the public hearing process, to be
287 guilty of fraud or a willful building code violation within the
288 county or municipality that the local construction regulation
289 board represents, or if the local construction regulation board
290 has proof that such contractor, through the public hearing

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291 process, has been found guilty, in another county or
292 municipality within the past 12 months, of fraud or a willful
293 building code violation and finds, after providing notice to the
294 contractor, that such fraud or violation would have been fraud
295 or a violation if committed in the county or municipality that
296 the local construction board represents. Notification of and
297 information concerning such permit denial shall be submitted to
298 the Department of Business and Professional Regulation within 15
299 days after the local construction regulation board decides to
300 deny the permit.
301 Section 16. Subsections (7) through (10) of section
302 489.521, Florida Statutes, are renumbered as subsections (6)
303 through (9), respectively, and present subsection (6) of that
304 section is amended to read:
305 489.521 Business organizations; qualifying agents.—
306 ~~(6) When a business organization qualified to engage in~~
307 ~~contracting makes application for a business tax receipt in any~~
308 ~~municipality or county of this state, the application shall be~~
309 ~~made with the tax collector in the name of the business~~
310 ~~organization, and the business tax receipt, when issued, shall~~
311 ~~be issued to the business organization upon payment of the~~
312 ~~appropriate licensing fee and exhibition to the tax collector of~~
313 ~~a valid certificate issued by the department.~~
314 Section 17. Section 489.5315, Florida Statutes, is amended
315 to read:
316 489.5315 Proprietary electrical or alarm contractors.—
317 Businesses that obtain an electrical or burglar alarm system
318 license to work only on their own equipment, and that do not
319 offer electrical or alarm contracting services to the public,

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320 are not electrical or burglar alarm system contracting
321 businesses ~~and do not have to obtain a business tax receipt in~~
322 ~~addition to any they are otherwise required to have~~.
323 Section 18. Paragraph (c) of subsection (1) of section
324 489.532, Florida Statutes, is redesignated as paragraph (b), and
325 present paragraph (b) of that subsection is amended to read:
326 489.532 Contracts entered into by unlicensed contractors
327 unenforceable.—
328 (1) As a matter of public policy, contracts entered into on
329 or after October 1, 1990, by an unlicensed contractor shall be
330 unenforceable in law or in equity by the unlicensed contractor.
331 ~~(b) For purposes of this section, an individual or business~~
332 ~~organization shall not be considered unlicensed for failing to~~
333 ~~have a business tax receipt issued under the authority of~~
334 ~~chapter 205.~~
335 Section 19. Paragraph (q) of subsection (1) of section
336 489.533, Florida Statutes, is amended to read:
337 489.533 Disciplinary proceedings.—
338 (1) The following acts shall constitute grounds for
339 disciplinary actions as provided in subsection (2):
340 (q) Failing to affix a registration or certification number
341 as required by s. 489.521(6) ~~s. 489.521(7)~~.
342
343 For the purposes of this subsection, construction is considered
344 to be commenced when the contract is executed and the contractor
345 has accepted funds from the customer or lender.
346 Section 20. Subsection (9) of section 489.537, Florida
347 Statutes, is renumbered as subsection (8), and paragraph (b) of
348 subsection (3) and present subsection (8) of that section are

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349 amended to read:
350 489.537 Application of this part.—
351 (3) Nothing in this act limits the power of a municipality
352 or county:
353 (b) To collect fees for ~~business tax receipts and~~
354 inspections for engaging in contracting or examination fees from
355 persons who are registered with the local boards pursuant to
356 local examination requirements.
357 ~~(8) Persons licensed under this part are subject to ss.~~
358 ~~205.0535(1) and 205.065, as applicable.~~
359 Section 21. Subsection (3) of section 500.511, Florida
360 Statutes, is amended to read:
361 500.511 Fees; enforcement; preemption.—
362 (3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of
363 bottled water plants, water vending machines, water vending
364 machine operators, and packaged ice plants is preempted by the
365 state. No county or municipality may adopt or enforce any
366 ordinance that regulates the licensure or operation of bottled
367 water plants, water vending machines, or packaged ice plants,
368 unless it is determined that unique conditions exist within the
369 county which require the county to regulate such entities in
370 order to protect the public health. ~~This subsection does not~~
371 ~~prohibit a county or municipality from requiring a business tax~~
372 ~~pursuant to chapter 205.~~
373 Section 22. Subsection (1) of section 501.016, Florida
374 Statutes, is amended to read:
375 501.016 Health studios; security requirements.—Each health
376 studio that sells contracts for health studio services shall
377 meet the following requirements:

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378 (1) Each health studio shall maintain for each separate
379 business location a bond issued by a surety company admitted to
380 do business in this state. The principal sum of the bond shall
381 be $50,000~~, and the bond, when required, shall be obtained~~
382 ~~before a business tax receipt may be issued under chapter 205~~.
383 ~~Upon issuance of a business tax receipt, the licensing authority~~
384 ~~shall immediately notify the department of such issuance in a~~
385 ~~manner established by the department by rule.~~ The bond shall be
386 in favor of the state for the benefit of any person injured as a
387 result of a violation of ss. 501.012-501.019. The aggregate
388 liability of the surety to all persons for all breaches of the
389 conditions of the bonds provided herein shall in no event exceed
390 the amount of the bond. The original surety bond required by
391 this section shall be filed with the department.
392 Section 23. Paragraphs (c) through (f) of subsection (3) of
393 section 501.143, Florida Statutes, are redesignated as
394 paragraphs (b) through (e), respectively, and present paragraph
395 (b) of that subsection is amended to read:
396 501.143 Dance Studio Act.—
397 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.—
398 ~~(b) Any person applying for or renewing a local business~~
399 ~~tax receipt to engage in business as a ballroom dance studio~~
400 ~~must exhibit an active registration certificate from the~~
401 ~~department before the local business tax receipt may be issued~~
402 ~~or reissued under chapter 205.~~
403 Section 24. Subsection (9) of section 501.160, Florida
404 Statutes, is amended to read:
405 501.160 Rental or sale of essential commodities during a
406 declared state of emergency; prohibition against unconscionable

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407 prices.—
408 (9) Upon a declaration of a state of emergency by the
409 Governor, ~~in order to protect the health, safety, and welfare of~~
410 ~~residents, any person who offers goods and services for sale to~~
411 ~~the public during the duration of the emergency and who does not~~
412 ~~possess a business tax receipt under s. 205.032 or s. 205.042~~
413 ~~commits a misdemeanor of the second degree, punishable as~~
414 ~~provided in s. 775.082 or s. 775.083. During a declared~~
415 ~~emergency, this subsection does not apply to religious,~~
416 ~~charitable, fraternal, civic, educational, or social~~
417 ~~organizations. During a declared emergency and~~ when there is an
418 allegation of price gouging against the person, failure to
419 possess a license constitutes reasonable cause to detain the
420 person, provided that the detention shall only be made in a
421 reasonable manner and only for a reasonable period of time
422 sufficient for an inquiry into the circumstances surrounding the
423 failure to possess a license.
424 Section 25. Subsection (1) of section 507.13, Florida
425 Statutes, is amended to read:
426 507.13 Local regulation.—
427 (1)(a) Except as provided in paragraph ~~paragraphs~~ (b) ~~and~~
428 ~~(c)~~, this chapter preempts a local ordinance or regulation of a
429 county or municipality which regulates transactions relating to
430 movers of household goods or moving brokers.
431 (b) This chapter does not preempt an ordinance or
432 regulation originally enacted by a county before January 1,
433 2011, or a subsequent amendment to such an ordinance or
434 regulation. However, registration fees required by such an
435 ordinance or regulation must be reasonable and may not exceed

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436 the cost of administering the ordinance or regulation. In
437 addition, registration and bonding may be required only of a
438 mover or moving broker whose principal place of business is
439 located within that county's jurisdiction.
440 ~~(c) This section does not preempt a local government's~~
441 ~~authority to levy a local business tax pursuant to chapter 205.~~
442 Section 26. Paragraph (f) of subsection (3) of section
443 539.001, Florida Statutes, is amended to read:
444 539.001 The Florida Pawnbroking Act.—
445 (3) LICENSE REQUIRED.—
446 ~~(f) Any person applying for or renewing a local~~
447 ~~occupational license to engage in business as a pawnbroker must~~
448 ~~exhibit a current license from the agency before the local~~
449 ~~business tax receipt may be issued or reissued.~~
450 Section 27. Section 559.939, Florida Statutes, is amended
451 to read:
452 559.939 State preemption.—No municipality ~~or county~~ or
453 other political subdivision of this state shall have authority
454 to levy or collect any registration fee or tax, as a regulatory
455 measure, or to require the registration or bonding in any manner
456 of any seller of travel who is registered or complies with all
457 applicable provisions of this part, unless that authority is
458 provided for by special or general act of the Legislature. Any
459 ordinance, resolution, or regulation of any municipality ~~or~~
460 ~~county~~ or other political subdivision of this state which is in
461 conflict with any provision of this part is preempted by this
462 part. ~~The provisions of this section do not apply to any local~~
463 ~~business tax levied pursuant to chapter 205.~~
464 Section 28. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

November 18, 2011

Senator Michael S. Bennett., Chair
Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 760 – Local Business Taxes and SB 770 – Exemption from Local Business Taxes

Dear Chairman Bennett:

I respectfully request my above referenced bills be heard before your committee.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD
State Senator, District 20

CC: Tom Yeatman, Staff Director

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

APPEARANCE RECORD

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

Meeting Date

Topic: Local Business Tax

Bill Number: 760 (if applicable)

Name: Manny Reyes

Amendment Barcode: (if applicable)

Job Title: Lobbyist

Address: 200 West College Ave #204
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-222-9911

E-mail: MReyes@GomezBarker.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Town of Cutler Bay, Village of Key Biscayne

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)

1/23
Meeting Date

Topic: Repeal of Local Business Tax

Bill Number: 760 (if applicable)

Name: Evan Power

Amendment Barcode: (if applicable)

Job Title:

Address: 200 W. College Ave #204
Street

Tallahassee, FL 32301
City, State, Zip

Phone: (850) 519-1002

E-mail: epower@gomezbecker.com

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

Representing: Lake Park, Coral Gables, and West Miami

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)

1-23-12
Meeting Date

Topic: LOCAL BUSINESS TAXES

Bill Number: SB-760 *(if applicable)*

Name: J. B. CLARK

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: 2071 CYNTHIA DRIVE
Street

TALLAHASSEE, FL 32303
City *State* *Zip*

Phone:

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL. ELECTRICAL WORKERS ASSN.

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)

1-23-12
Meeting Date

Topic

Name Carole Green

Bill Number 760 (if applicable)

Job Title

Amendment Barcode (if applicable)

Address PO Box 07463
Street

Fort Myers FL 33919
City State Zip

Phone 850-590-2206

E-mail carole@capitolstrategiesinc.com

Speaking: ☐ For ☐ Against ☐ Information

Representing City of Bonita Springs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Local Business Taxes

Bill Number: 760 *(if applicable)*

Name: Ron Pierce

Amendment Barcode: _____ *(if applicable)*

Job Title: President

Address: 235 W. Brandon Blvd., Suite 640
Street

Brandon, FL 33511
City, State, Zip

Phone: 813-777-5578

E-mail: ron@rsaconsultingllc.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Tampa Bay Partnership

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)

1/23/2012
Meeting Date

Topic: Local Business Tax

Bill Number: 760 *(if applicable)*

Name: Amber Hughes

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Advocate

Address: P.O. Box 1757
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850-701-3621

E-mail: ahughes@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida League of Cities

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)

1/23/2012
Meeting Date

Topic: Local Business Taxes

Bill Number: SB 760 *(if applicable)*

Name: Davin Suggs

Amendment Barcode: *(if applicable)*

Job Title: Sr. Legislative Advocate

Address: 100 S. Monroe Street
Street

Tallahassee, FL 32308
City, State, Zip

Phone: 850. 320. 2635

E-mail: dsuggs@fl-counties.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida Association of Counties

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)

1-23-12
Meeting Date

Topic: Local Business Taxes

Bill Number: SB 760 *(if applicable)*

Name: Jim Brainerd

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 2814 Rabbit Hill Rd
Street

Tallahassee Fl 32308
City *State* *Zip*

Phone: (850) 508-6716

E-mail: brainerdlaw@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing: Polk County

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)

1/23/12
Meeting Date

Topic: Local Business Taxes

Bill Number: 760 *(if applicable)*

Name: Brandon Wagner

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 601 E. Kennedy Blvd.
Street

Tampa, FL 33601
City, State, Zip

Phone: (813) 276-2640

E-mail: wagnerb@hillsboroughcounty.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: Hillsborough County Government

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)

1/23/2012
Meeting Date

Topic _____ Bill Number 760 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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)

1/23
Meeting Date

Topic _____

Bill Number SB 760 *(if applicable)*

Name Kathy Russell

Amendment Barcode _____ *(if applicable)*

Job Title Dir of Gov Relations

Address 400 S Orange Ave
Street

Orlando Fl 32801
City *State* *Zip*

Phone (407) 383-2075

E-mail _____

Speaking: ☐ For ☑ Against ☐ Information

Representing City of Orlando

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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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)

Meeting Date: _____

Topic: Business Tax

Bill Number: SB 760 (if applicable)

Name: Doug Bell

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 215 S. Monroe (Street)

Tall. (City) (State) (Zip)

Phone: 222-3533

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: Volusia County; Palm Coast, etc

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)

1-23-12
Meeting Date

Topic: LOCAL BUSINESS TAXES

Bill Number: SB 760 *(if applicable)*

Name: CAM FENTRISS

Amendment Barcode: *(if applicable)*

Job Title: LEG. COUNSEL

Address: 1400 VILLAGE SQUARE # 3-243
Street

TALL FL 32312
City *State* *Zip*

Phone: 850-222-2772

E-mail: AFENTRISS@AOL.COM

Speaking: ☐ For ☐ Against ☐ Information

Representing: FRSA, FAPHCC, FRACCA

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)

1/23/2012
Meeting Date

Topic: Local Business Taxes

Bill Number: SB 760 *(if applicable)*

Name: Cari Roth

Amendment Barcode: *(if applicable)*

Job Title:

Address: 161 N. Monroe St Suite 900
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850/222-8611

E-mail: croth@bmolaw.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Sarasota County

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)

1/23/2012
Meeting Date

Topic: LOCAL BUSINESS TAX

Bill Number: SB 760 (if applicable)

Name: DAVID SIGERSON

Amendment Barcode: (if applicable)

Job Title:

Address: 2410 VAN BUREN ST
Street

City / State / Zip:

Phone: 954 336 3544

E-mail: dksigerson2@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: City of MARGATE

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)

1-23-2010
Meeting Date

Topic: Local Business Taxes

Bill Number: 760 (if applicable)

Name: Eddy Labrador

Amendment Barcode: (if applicable)

Job Title: Legislative Counsel

Address: 115 S. Andrews Avenue, Rm. 427
Street

Fort Lauderdale, FL 33301
City, State, Zip

Phone: (954) 357-7575

E-mail: elabrador@broward.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic

Bill Number 760 *(if applicable)*

Name Frank Meiners

Amendment Barcode *(if applicable)*

Job Title

Address PO Box 1633
Street

City *State* *Zip*

Phone 591-0177

E-mail frank@chgmail.com

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

Representing AIF

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)

1/23/12
Meeting Date

Topic: Local Bills Taxes

Bill Number: 760 *(if applicable)*

Name: Richard Watson

Amendment Barcode: *(if applicable)*

Job Title: Legis Counsel

Address: P.O. Box 10038
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850 2220000

E-mail: rick@rwatson arkanoscates.com

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

Representing: Assoc Builders & Contractors of FL

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

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 Community Affairs Committee

BILL: SB 794

INTRODUCER: Senator Hays

SUBJECT: Public Contracting

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Favorable**
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill defines "facility" and "governmental unit" as they relate to public contracting. The bill prohibits a governmental unit that contracts for the construction, repair, remodeling, or improving of a facility from imposing certain conditions regarding collective bargaining organizations. The bill also prohibits a governmental unit from granting awards as a condition of specified contracts. The bill prohibits certain terms from being placed in bid specifications, project agreements, or other controlling documents.

The bill extends the length of time for an entity to submit a notice to protest a bid specification from 72 hours to 7 days.

The bill creates an undesignated section of law, and substantially amends s. 120.57 of the Florida Statutes.

II. Present Situation:

State and Federal Constitutional Issues

Florida is a "right to work" state. Article I, section 6 of the Florida Constitution reads:

> The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

Employees have a fundamental right to organize for the purposes of collective bargaining, but have no federal constitutional right to mandatory collective bargaining.[1] Under the Florida Constitution, however, courts have held that the right to collectively bargain is a fundamental right which may be abridged only for a compelling state interest, and therefore a statute under review must serve that compelling state interest in the least intrusive means possible.[2]

Certain restrictions may be placed on a union's ability to collect dues or fees. In Florida, nonunion employees cannot be forced to pay union fees and dues as a condition of employment.[3] In states where employees can be required to pay dues, the exaction of fees beyond those necessary to finance collective bargaining activities has been found to violate the unions' judicially created duty of fair representation and nonunion members' First Amendment rights.[4] The Supreme Court has held that a local government's restrictions on union wage deductions would be upheld against an equal protection challenge if it was reasonably related to a legitimate government purpose.[5] In a more recent case, the Supreme Court has upheld a state statute banning public-employee payroll deductions for political activities against a First Amendment challenge.[6] The Court held that the state was under no obligation to aid unions in their political activities, and the state's decision not to do so was not abridgement of unions' free speech rights, since unions remained free to engage in such speech as they saw fit, but without enlisting the state's support.[7]

Federal Labor Law

The Federal National Labor Relations Act (NLRA) of 1935[8] and the Federal Labor Management Relations Act of 1947[9] constitute a comprehensive scheme of regulations guaranteeing to employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce. Other federal labor-relations statutes include the Labor-Management Reporting and Disclosure Act[10] and the Railway Labor Act. A number of states have statutes requiring nongovernmental employers to pay prevailing wages to workers on public works projects.[11]

---

[1] *See Sikes v. Boone*, 562 F. Supp. 74 (N.D. Fla. 1983) *aff'd* 723 F.2d 918 (11th Cir. 1983).
[2] *Chiles v. State Employees Attorneys Guild*, 734 So. 2d 1030 (Fla. 1999); *Dade County School Admins Assn, Local 77, AFSA, AFL-CIO v. School Bd*., 840 So. 2d 1103 (Fla. 1st DCA 2003).
[3] *Schermerhorn v. Local 1625 of Retail Clerks Intern. Ass'n, AFL-CIO*, 141 So. 2d 269 (Fla. 1962), *judgment aff'd on other grounds*, 375 U.S. 96 (1963); AFSCME Local 3032 v. Delaney, 458 So. 2d 372 (Fla. 1st DCA 1984).
[4] *Commc'ns Workers of Am. v. Beck*, 487 U.S. 735 (1988).
[5] *Charlotte v. Local 660, Int'l Assoc. of Firefighters*, 426 U.S. 283 (1976).
[6] *Ysursa v. Pocatello Education Assoc*, 129 S. Ct. 1093 (2009).
[7] *Id.*
[8] 29 U.S.C. §§ 151 to 169 (encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection).
[9] 29 U.S.C. §§ 141 to 187 (prescribing the rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce).
[10] 29 U.S.C. §§ 401 to 531.
[11] *See generally*, 7 A.L.R. 5th 444.

Project Labor Agreements

There appears to be no unified definition of project labor agreement (PLA). A case[12] sometimes cited for a definition specifies a project legal agreement as:

> an agreement between a construction project owner and a labor union that a contractor must sign in order to perform work on the project. The union is designated the collective bargaining representative for all employees on the project and agrees that no labor strikes or disputes will disrupt the project. The contractor must abide by certain union conditions, such as hiring through union hiring halls and complying with union wage rules.

New York law[13] defines a PLA as a "pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on a public work project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work."

In 2009, President Obama signed Executive Order 13502 allowing federal executive agencies to require contractors on large-scale government construction projects to enter into PLAs as a condition of being awarded a contract.

Federal Wage Regulation

Both federal[14] and state laws provide protection to workers who are employed by private and governmental entities. These protections include workplace safety, anti-discrimination, anti-child labor, workers' compensation, and wage protection laws.[15] Examples of federal laws include:

- **The Davis-Bacon and Related Acts**[16] - Applies to federal or District of Columbia construction contracts or federally assisted contracts in excess of $2,000; requires all contractors and subcontractors performing work on covered contracts to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area.
- The **McNamara-O'Hara Service Contract Act**[17] - Applies to federal or District of Columbia contracts in excess of $2,500; requires contractors and subcontractors performing work on these contracts to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the

[12] *Associated Builders and Contractors, Inc. v. Southern Nevada Water Authority*, 115 Nev. 151, 979 P. 2d 224 (Nev., 1999).
[13] N.Y. LAB. LAW § 222: NY Code - Section 222.
[14] A list of examples of federal laws that protect employees is located at: United States Department of Labor, Employment Laws Assistance, http://www.dol.gov/compliance/laws/main.htm (last visited Jan. 18, 2012).
[15] *See* United States Department of Labor, A Summary of Major DOL Laws, http://www.dol.gov/opa/aboutdol/lawsprog.htm (last visited Jan. 18, 2012).
[16] Pub. L. No. 107-217, 120 Stat. 1213 (codified as amended at 40 U.S.C. §§ 3141-48; the Davis-Bacon Act has also been extended to approximately 60 other acts).
[17] Pub. L. No. 89-286, 79 Stat. 1034 (codified as amended at 41 U.S.C. §§ 351-58).

rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.

- **The Migrant and Seasonal Agricultural Workers Protection Act**[18] - Covers migrant and seasonal agricultural workers who are not independent contractors; requires, among other things, disclosure of employment terms and timely payment of wages owed.
- **The Contract Work Hours and Safety Standards Act**[19] - Applies to federal service contracts and federal and federally assisted construction contracts over $100,000; requires contractors and subcontractors performing work on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek.
- **The Copeland "Anti-Kickback" Act**[20] - Applies to federally funded or assisted contracts for construction or repair of public buildings; prohibits contractors or subcontractors performing work on covered contracts from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract.

The Fair Labor Standards Act (FLSA)[21] establishes a federal minimum wage and requires employers to pay time and half to its employees for overtime hours worked. The FLSA establishes standards for minimum wages,[22] overtime pay,[23] recordkeeping,[24] and child labor.[25] Over 130 million workers are covered under the act, as the FLSA applies to most classes of workers.[26] The Act entails two types of coverage:

- Enterprises engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or working on goods or materials that have been moved in or produced in interstate commerce and have an annual volume of sales or business of $500,000, as well as hospitals, schools, and public agencies;
- Individuals engaged in interstate commerce, the production of goods for interstate commerce, or in any closely-related process or occupation directly essential to such production.[27]

The FLSA provides that:

> Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.[28]

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[18] Pub. L. No. 97-470, 96 Stat. 2583 (codified as amended at 29 U.S.C. §§1801-72).
[19] Pub. L. No. 87-581, 76 Stat. 357 (codified as amended at 40 U.S.C. §§ 3701-08).
[20] 18 U.S.C. § 874.
[21] 29 U.S.C. Ch. 8.
[22] 29 U.S.C. § 206.
[23] 29 U.S.C. § 207.
[24] 29 U.S.C. § 211.
[25] 29 U.S.C. § 212.
[26] United States Department of Labor, Employment Law Guide – Minimum Wage and Overtime Pay, http://www.dol.gov/compliance/guide/minwage.htm (last visited Jan. 18, 2012).
[27] 29 U.S.C. § 203(r), (s); U.S. DEPT. OF LABOR, WH PUBLICATION 1282, HANDY REFERENCE GUIDE TO THE FAIR LABOR STANDARDS ACT 2-3 (2010); United States Department of Labor, *supra* note 26.
[28] 29 U.S.C. § 207(a)(1).

Thus, if a covered employee works more than forty hours in a week, then the employer must pay at least time and half for those hours over forty. A failure to pay is a violation of the FLSA.[29] The FLSA also establishes a federal minimum wage in the United States.[30] The federal minimum wage is the lowest hourly wage that can be paid in the United States. A state may set the rate higher than the federal minimum, but not lower.[31]

The FLSA also provides for enforcement in three separate ways:

- Civil actions or lawsuits by the federal government;[32]
- Criminal prosecutions by the United States Department of Justice;[33] or
- Private lawsuits by employees, or workers, which includes individual lawsuits and collective actions.[34]

The FLSA provides that an employer who violates section 206 (minimum wage) or section 207 (maximum hours) is liable to the employee in the amount of the unpaid wages and liquidated damages equal to the amount of the unpaid wages.[35] The employer who fails to pay according to law is also responsible for the employee's attorney's fees and costs.[36]

State Wage Regulation

Under the Florida Constitution, all working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.[37] Article X, s. 24(c) of the Florida Constitution provides that, "Employers shall pay Employees Wages no less than the minimum wage for all hours worked in Florida." The current state minimum wage is $7.67 per hour, which is the federal rate, as of January 1, 2012.[38] Federal law requires the payment of the higher of the federal or state minimum wage.[39]

Local Bids and Contracts for Public Construction Works

Section 255.20, F.S., describes the process for bids and contracts for public construction works undertaken by counties, municipalities, special districts and other political subdivisions of the state to award contracts for construction projects. Typically, any construction project with a cost in excess of $300,000, and any electrical project costing more than $75,000, must be

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[29] There are several classes of exempt employees from the overtime requirement of the FLSA. For examples of exempt employees see http://www.dol.gov/compliance/guide/minwage.htm (last visited Jan. 18, 2012).
[30] 29 U.S.C. § 206.
[31] 29 U.S.C. § 218(a).
[32] 29 U.S.C. § 216(c).
[33] 29 U.S.C. § 216(a).
[34] 29 U.S.C. § 216(b).
[35] 29 U.S.C. § 216(b).
[36] 29 U.S.C. § 216(b).
[37] *See* FLA. CONST. art. X, s. 24 (adopted in 2004); s. 448.110, F.S.
[38] *See* Agency for Workforce Innovation Website for information regarding the current minimum wage in the State of Florida. http://www.floridajobs.org/minimumwage/index.htm (Last visited Jan. 18, 2012).
[39] 29 U.S.C. § 218(a).

competitively awarded. However, s. 255.20, F.S., lists 11 types of projects where a competitive award is not required, such as emergency repair of facilities damaged by hurricanes, riots, or other "sudden unexpected turn of events."

Preference to State Residents

Section 255.099, F.S., requires that all contracts for construction funded by the state contain a provision requiring the contractor to give preference to the employment of Florida residents in the performance of the work on the project if the residents have substantially equal qualifications to those of non-residents. Local construction contracts funded with local funds have the option to require such provisions. Contractors required to hire Floridians must contact the Agency for Workforce Innovation to post the jobs on the state's job bank system (www.employflorida.com). However, for work involving federal aid funds, the contract provision may not be enforceable to the extent it conflicts with federal law.

Administrative Protests of Contract Solicitations or Awards

Section 120.57(3), F.S., specifies the procedures to be followed in administrative protests of agency bid actions.[40] If an entity wishes to protest the specifications contained in a bid solicitation, or if an entity wishes to protest a bid decision by an agency, the entity must provide notice to the agency within 72 hours after the posting of the solicitation or decision.[41] The entity then has 10 days after the date of the notice of protest to file a formal written protest.[42]

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law which defines the term "facility" and "governmental unit" for the purpose of public contracting. This section prohibits a governmental unit from entering into or expending funds under a contract for the construction, repair, remodeling, or demolition of a facility if the contract or a subcontract under the contract contains a term that:

> (a) Requires, prohibits, encourages, or discourages bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization relating to the construction project or other related construction projects.
> (b) Discriminates against bidders, contractors, or subcontractors based on the status as a party or nonparty to, or the willingness or refusal to enter into, an agreement with a collective bargaining organization relating to the construction project or other related construction projects.

A governmental unit may not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the awardee include a term described in the above paragraphs (a) or (b) in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax credit.

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[40] Rule 28-110.001, F.A.C., lists those provisions governed by these bid protest regulations: Chapters 24, 255, 287, 334 through 349, and Sections 282.303 through 282.313, F.S.
[41] Section 120.57(3)(b), F.S.; Rule 28-110.003, F.A.C.
[42] Section 120.57(3)(b), F.S.; Rule 28-110.004, F.A.C.

The bill prohibits the terms included in the above paragraphs (a) and (b) from being placed in bid specifications, project agreements, or other controlling documents relating to the construction, repair, remodeling, or demolition of a facility. Any such included term is void and of no effect.

This section does not:

- Apply to construction contracts executed before the effective date of this act.
- Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. ss. 151-169.
- Interfere with labor relations of parties that are protected under the National Labor Relations Act, 29 U.S.C. ss. 151-169.

Section 2 amends s. 120.57(3)(b), F.S., to increase the period for the notice of protest for bid specifications from 72 hours to 7 days. The bill also provides that Saturdays, Sundays, and state holidays are excluded from the computation of all time periods in the paragraph, not just 72 hour time periods.

The effect of these provisions together means that agencies may not know a competitive solicitation is being protested for up to ten days, and formal written protests could potentially be filed 14 days after the initial notice, instead of 10. Extending these deadlines may make it easier for affected vendors to assert their claims; it will also increase the uncertainty and time required to complete an agency competitive solicitation process.

Section 3 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The changes to s. 120.57(3), F.S., would necessitate the Administration Commission to adopt rules.

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 Hays

20-00466A-12 2012794__

A bill to be entitled

An act relating to public contracting; providing definitions for the terms "governmental unit" and "facility"; prohibiting a governmental unit that contracts for the construction, repair, remodeling, or improving of a facility from imposing conditions that requires, prohibits, encourages, or discourages certain bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization; prohibiting a governmental unit from granting certain awards as a condition of certain contracts; prohibiting certain terms from being placed in bid specifications, project agreements, or other controlling documents; providing exceptions; amending s. 120.57, F.S.; revising the period during which an agency must file a protest following certain contract solicitations or awards; providing an effective date.

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

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

(a) "Facility" means an actual physical improvement to real property that is owned or leased, directly or through a building authority, by a governmental unit, including, but not limited to, roads, bridges, runways, rails, or a building or structure, along with the building's or structure's grounds, approaches, services, and appurtenances.

(b) "Governmental unit" means this state; a county,

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

20-00466A-12 2012794__

municipality, school district, Florida college system institution, or public university that receives appropriations from this state; or any agency, board, commission, authority, or instrumentality of the state.

(2) A governmental unit may not enter into or expend funds under a contract for the construction, repair, remodeling, or demolition of a facility if the contract or a subcontract under the contract contains a term that:

(a) Requires, prohibits, encourages, or discourages bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization relating to the construction project or other related construction projects.

(b) Discriminates against bidders, contractors, or subcontractors based on the status as a party or nonparty to, or the willingness or refusal to enter into, an agreement with a collective bargaining organization relating to the construction project or other related construction projects.

(3) A governmental unit may not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the awardee include a term described in paragraph (2)(a) or paragraph (2)(b) in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax credit. This section does not prohibit a governmental unit from awarding a grant, tax abatement, or tax credit to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a collective bargaining organization, if being or becoming a party or adhering to an

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

59 agreement with a collective bargaining organization is not a
60 condition for award of the grant, tax abatement, or tax credit,
61 and if the governmental unit does not discriminate against a
62 private owner, bidder, contractor, or subcontractor in the
63 awarding of that grant, tax abatement, or tax credit based upon
64 the status as being or becoming, or the willingness or refusal
65 to become, a party to an agreement with a collective bargaining
66 organization.
67 (4) A governmental unit or a construction manager or other
68 contracting entity acting on behalf of a governmental unit may
69 not place any of the terms described in subsection (2) in bid
70 specifications, project agreements, or other controlling
71 documents relating to the construction, repair, remodeling, or
72 demolition of a facility. Any such included term is void and of
73 no effect.
74 (5) This section does not:
75 (a) Apply to construction contracts executed before the
76 effective date of this act.
77 (b) Prohibit employers or other parties from entering into
78 agreements or engaging in any other activity protected by the
79 National Labor Relations Act, 29 U.S.C. ss. 151-169.
80 (c) Interfere with labor relations of parties that are
81 protected under the National Labor Relations Act, 29 U.S.C. ss.
82 151-169.
83 Section 2. Paragraph (b) of subsection (3) of section
84 120.57, Florida Statutes, is amended to read:
85 120.57 Additional procedures for particular cases.—
86 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
87 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter

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

88 shall use the uniform rules of procedure, which provide
89 procedures for the resolution of protests arising from the
90 contract solicitation or award process. Such rules shall at
91 least provide that:
92 (b) Any person who is adversely affected by the agency
93 decision or intended decision shall file with the agency a
94 notice of protest in writing within 72 hours after the posting
95 of the notice of decision or intended decision. With respect to
96 a protest of the terms, conditions, and specifications contained
97 in a solicitation, including any provisions governing the
98 methods for ranking bids, proposals, or replies, awarding
99 contracts, reserving rights of further negotiation, or modifying
100 or amending any contract, the notice of protest shall be filed
101 in writing within 7 days ~~72 hours~~ after the posting of the
102 solicitation. The formal written protest shall be filed within
103 10 days after the date the notice of protest is filed. Failure
104 to file a notice of protest or failure to file a formal written
105 protest shall constitute a waiver of proceedings under this
106 chapter. The formal written protest shall state with
107 particularity the facts and law upon which the protest is based.
108 Saturdays, Sundays, and state holidays shall be excluded in the
109 computation of the ~~72-hour~~ time periods provided by this
110 paragraph.
111 Section 3. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

November 18, 2011

Senator Mike Bennett, Chairman
Community Affairs Committee
404 Senate Office Building
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 794 Public Contracting

Dear Chair Bennett:

I respectfully request my above bill be heard before your committee. I feel it will be a great benefit to the citizens of this state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD
Senate District 20

CC: **Tom Yeatman,** *Staff Director*
Ann Whittaker, *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

APPEARANCE RECORD

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

12-5-12
Meeting Date

Topic: Public Contracting

Bill Number: 794 *(if applicable)*

Name: Stacey Webb

Amendment Barcode: _____ *(if applicable)*

Job Title: Lobbyist

Address: 123 S. Monroe Adams
Street

TLH, FL 32301
City, State, Zip

Phone: 671-4401

E-mail: Webb@sostrategy.com

Speaking: ☐ For ☐ Against ☑ Information

Representing: Fl. College System

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)

1/23/12
Meeting Date

Topic: Public Contracting

Bill Number: 794 *(if applicable)*

Name: Carol Bowen

Amendment Barcode: *(if applicable)*

Job Title: VP Govt Affairs

Address: 3730 Cocoanut Creek
Street

Coral Springs FL
City *State* *Zip*

Phone: 954 984 0075

E-mail: cbowen@cbgroup.com

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

Representing: Assoc Builders & Contractors East Coast

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)

1-23-12
Meeting Date

Topic: PUBLIC CONTRACTING

Bill Number: SB 794 *(if applicable)*

Name: J. B. CLARK

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: 2071 CYNTHIA DRIVE
Street

TALLAHASSEE, FL 32303
City *State* *Zip*

Phone: 850-556-8143

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL. ELECTRICAL WORKERS, FL AFL-CIO, FL BUILDING TRADES

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)

1/23/12
Meeting Date

Topic: PRUNITRATION

Bill Number: SB 794 *(if applicable)*

Name: ROBERT SUAREZ

Amendment Barcode: _____ *(if applicable)*

Job Title: VICE PRESIDENT, FLORIDA FIREFIGHTERS

Address: 345 MADISON STREET
Street

TALLAHASSEE FL
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: FLORIDA FIRE FIGHTERS

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)

1/23/12
Meeting Date

Topic: Public Contracting

Bill Number: 794 *(if applicable)*

Name: Warren Husband

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: PO Box 10909
Street

Tallahassee, Fl 32302
City *State* *Zip*

Phone: 850 205 9000

E-mail: _____

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

Representing: Associated General Contractors

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 758

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Jones

SUBJECT: Beach Management

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	**Fav/CS**
2.	Uchino	Yeatman	CA	**Favorable**
3.			BC	
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 Committee Substitute (CS):

- Streamlines the permitting processes for coastal construction permits and joint coastal permits, including beach restoration and nourishment projects;
- Clarifies what constitutes "reasonable assurance";
- Allows the Department of Environmental Protection (DEP) to issue coastal construction permits or joint coastal permits before an incidental take authorization is issued pursuant to the federal Endangered Species Act;
- Directs the DEP to adopt rules related to turbidity mixing zones to reduce or eliminate the need for variances;
- Requires the DEP to justify Requests for Additional Information (RAIs) by statute or rule;
- Clarifies that the DEP may not enforce guidelines as rules;
- Alleviates the need for a detailed review of a new application for a previously constructed project that met design expectations;
- Requires the DEP to amend rules related to beach maintenance projects and inlet sand bypassing activities;

- Establishes new reporting requirements of active, state-funded beach erosion control projects to increase the transparency of the beach management funding program; and
- Exempts from permitting certain exploratory activities related to beach restoration and nourishment.

This CS substantially amends ss. 161.041, 161.101 and 403.813 of the Florida Statutes.

II. Present Situation:

Importance of Florida Beaches

Florida beaches draw many tourists to the state each year. The Florida Shore & Beach Preservation Association (FSBPA) reports that 16.5 million out-of-state visitors visited Florida beaches in 2010. The top 5 visited state parks were all beach parks.[1] It is estimated that the adjusted economic impact to the state's economy from its beaches was $22.7 billion in 2010. Direct spending and sales taxes amounted to $11.7 billion and $352.8 million, respectively, in 2010. The FSBPA reports that 399 miles, or nearly half, of Florida's sandy beaches are critically eroded.[2] The DEP estimates it manages erosion control projects for 221 miles of beaches. In addition to attracting tourists, healthy beaches also serve as a first defense against storm surge from hurricanes and tropical storms.

DEP Administration of Coastal Permitting

The DEP administers a permitting program under ch. 161, F.S., for beach restoration, beach nourishment, erosion control structures (groins and breakwaters), public fishing piers, maintenance of inlets, inlet related structures (jetties and sand traps), and navigation channel dredging, where material disposal occurs on the beach or nearshore. These activities may also require an environmental resource permit or wetland resource permit, or sovereign submerged lands authorization under chs. 373, 253, and 258, F.S. When multiple permits are required for these types of activities, the DEP issues a single permit, called a joint coastal permit, providing for a single permit covering the required statutory chapters.

The DEP must review permit applications within 30 days and issue an RAI if additional information is needed to satisfy the application requirements. The DEP also distributes the application to external reviewers (e.g., Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) for comment. Once the permit application is complete, the DEP must issue or deny it within 90 days.

Many coastal construction activities generate turbidity (solids suspended in the water column) in excess of Florida's water quality standards. If turbidity cannot be controlled using best management practices alone, the DEP's water quality regulations allow turbidity standards to be achieved at the edge of a temporary mixing zone adjacent to the point of discharge. Variances can be issued if significant turbidity results from the project. The DEP issues variances for the vast majority of beach erosion control projects. The DEP is authorized to exempt activities that

[1] Florida Shore & Beach Preservation Association, *Healthy Beaches Are Vital to Florida's Economic Recovery* (2011) (on file with the Senate Committee on Environmental Preservation and Conservation).
[2] *Id*.

will have only minimal or insignificant individual or cumulative adverse impacts on water resources.

Permits for first-time construction activities are issued for up to five years. Maintenance permits for inlet sand management or beach nourishment projects are issued for up to 10 years. When multiple nourishment or maintenance dredging events are collectively authorized, the permittee must submit certain information before the DEP issues a Notice to Proceed (NTP) for the next nourishment. Before issuing the NTP, the DEP also reviews the results of post-construction project monitoring to determine if performance expectations have been achieved and whether any unanticipated impacts have occurred. The project design may be adjusted or mitigation may be required.

The DEP maintains a statewide beach management plan for the restoration and maintenance of critically eroded beaches. Approximately 221 miles of critically eroded beach have been restored and are currently maintained. Each improved, altered, or modified inlet is also evaluated and recommendations are made to mitigate erosive impacts.

The DEP also develops a long-range budget plan and a funding list of beach restoration, nourishment and inlet management projects. The DEP is directed to cost-share with local governments up to 50 percent of beach project costs and up to 75 percent for inlet management. The funding list is submitted to the Legislature annually, with appropriated funds being contracted with local sponsors in priority order until funds are exhausted. In the event a local government cannot timely use the money, the DEP may reallocate it to inlet management projects.

The Beach Management Working Group

The Legislature created the Beach Management Working Group (working group) in 2008. The working group was tasked with reviewing the current effectiveness of the Florida's beach management regulatory program and providing recommendations to improve the program.[3] The working group was composed of stakeholders from both the private and public sectors. It focused on the process associated with Florida's beach management program, especially effectiveness and responsiveness, and how to improve both. The working group held eight meetings and submitted its final report to the Legislature in 2009 containing recommendations for legislative consideration, agency rule making consideration and agency consideration.

III. Effect of Proposed Changes:

Section 1 amends s. 161.041, F.S., specifying that reasonable assurance is demonstrated if the applicant provides competent substantial evidence based on plans, studies and credible expertise that accounts for naturally occurring variables that might reasonably be expected. This clarifies that remote possibilities do not have to be included in the permit application if they are not reasonably expected to occur.

[3] Beach Management Working Group, *Recommendations of the Beach Management Working Group* (2009) (on file with the Senate Committee on Environmental Preservation and Conservation).

The CS authorizes the DEP to issue permits before the federal government issues an incidental take authorization under the Endangered Species Act provided the permit contains conditions that authorized activities not begin until the incidental take authorization is issued.

The CS directs the DEP to adopt rules addressing antidegradation and mixing zone criteria for turbidity for permits involving excavation and placement of sediment for beach management and inlet bypassing. This will reduce or eliminate the need to grant variances for projects that violate water quality standards for turbidity. When processing variances, the CS directs the DEP to take into consideration the Legislature's declaration in s. 1612.088, F.S., that beach nourishment projects are in the public interest.

The CS specifies applications for permits shall be made to the DEP pursuant to the terms and conditions set forth in rule. If the DEP issues an RAI, it must include the statutory and rule provisions that justify any item listed in the RAI. The CS also clarifies that the DEP cannot enforce guidelines as standards unless it adopts the guidelines by rule.

The CS provides the Legislature intends to simplify and streamline the permitting process for the periodic maintenance of previously permitted projects. To this end, the CS prohibits a detailed review of a previously permitted project if there are no substantial changes in project scope and if past performance indicates it has performed according to design expectations. The CS requires the DEP to amend chs. 62B-41 and 62B-49 of the Florida Administrative Code (F.A.C.) for beach maintenance and inlet bypassing activities to comply with legislative intent. In addition, the CS directs the DEP to issue joint coastal permits pursuant to ch. 161, F.S, and part IV, ch. 373, F.S., for the greater of two maintenance or dredging events or a 15-year permit duration.

Section 2 amends s. 161.101, F.S., requiring the DEP to maintain an active project list sorted by project year to increase transparency. The listing must include those projects receiving funding and the amounts. The DEP is directed to notify the Executive Office of the Governor and the Legislature of any "significant change" in project funding requirements. The CS defines "significant changes" as funding requirements that exceed 25 percent of the initially requested budget submission. If there is surplus funding, the DEP must notify the Executive Office of the Governor and the Legislature where the funds will be used or if the funds will revert to the next appropriations process. The CS also directs the DEP to notify the Executive Office of the Governor and the Legislature when a local project sponsor releases funding. The notification must indicate how the project dollars will be used.

Section 3 amends s. 403.813, F.S., exempting certain activities related to beach restoration and nourishment and inlet bypassing from the permitting requirements of ch. 161, part IV of ch. 373, or ch. 403, F.S. Exempt exploratory activities include:

- the collection of geotechnical and cultural resource data, including mapping, seismic and acoustic soundings, and benthic and other biological sampling and coring;
- deploying and temporarily attaching instruments on the seabed, and
- incidental excavation that occurs associated with any of the activities listed above.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP will incur costs associated with rulemaking. Staff has indicated those costs can be absorbed by existing staff and resources. In addition, the DEP may realize some cost savings with issuing longer permits, not having to do as many detailed reviews and other streamlining provisions in this CS. The savings cannot be determined at this time.

Local governments may also see cost savings due to the streamlining provisions in this CS; however, those savings cannot be determined at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The CS requires DEP to adopt a rule for antidegradation requirements. The DEP has indicated this rule must comply with federal requirements.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on January 9, 2012:

- Deletes the provision requiring good faith negotiations between the DEP and an applicant before issuance of a notice of intent and transmittal of the permit;
- Deletes the provision prohibiting the DEP from using the time frame between notice of intent and final notice to proceed to circumvent the time limits in ch. 120, F.S.;
- Clarifies the rules DEP must adopt to address mixing zones and antidegradation for only those permits involving excavation and placement of sediment for beach management and inlet bypassing permits;
- Removes the exemption for Outstanding Florida Waters and aquatic preserves for rules addressing mixing zone criteria and antidegradation requirements for turbidity generation;
- Deletes the creation of new s. 161.0413, F.S., and incorporates the substantive elements into section 1 of the CS;
- Directs DEP to amend chs. 62B-41 and 62B-49, F.A.C., for streamlining the permitting process for periodic beach maintenance projects and inlet sand bypassing activities;
- Clarifies only permits issued pursuant to ch. 161 or part IV, ch. 373, F.S., may receive extended permit durations;
- Clarifies the term “significant change”;
- Amends s. 403.813, F.S., instead of s. 373.406, F.S., exempting certain activities related to beach restoration and nourishment projects and inlet management activities from requiring permits. These activities are not longer considered de minimis; and
- Deletes the provision requiring the DEP to make a de minimis determination for other activities that are not included in this CS.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senator Jones

592-01734A-12 2012758c1

A bill to be entitled

An act relating to beach management; amending s. 161.041, F.S.; specifying that demonstration to the Department of Environmental Protection of the adequacy of a project's design and construction is supported by certain evidence; authorizing the department to issue permits for an incidental take authorization under certain circumstances; requiring the department to adopt certain rules involving the excavation and placement of sediment; requiring the Department of Environmental Protection to justify items listed in a request for additional information; providing legislative intent; exempting certain previously permitted projects from detailed review; requiring that the department amend certain rules to streamline the permitting process for certain projects and activities; providing for the permit life of joint coastal permits; amending s. 161.101, F.S.; requiring the department to maintain certain beach management project information on its website; defining the term "significant change"; requiring the department to notify the Governor's Office and the Legislature concerning any significant changes in project funding levels; amending s. 403.813, F.S.; providing a permit exemption for certain specified exploratory activities relating to beach restoration and nourishment projects and inlet management activities; providing an effective date.

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

592-01734A-12 2012758c1

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

Section 1. Section 161.041, Florida Statutes, is amended to read:

161.041 Permits required.—

(1) If a ~~any~~ person, firm, corporation, county, municipality, township, special district, or ~~any~~ public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures ~~if~~ of a solid or highly impermeable design~~,~~ upon state sovereignty lands ~~of Florida,~~ below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the department before ~~prior to~~ the commencement of such work. The department may exempt interior tidal waters of the state from the permit requirements of this section. ~~No such development shall interfere,~~

(a) Except during construction, such development may not interfere with the public use ~~by the public~~ of any area of a beach seaward of the mean high-water line unless the department determines that the ~~such~~ interference is unavoidable for purposes of protecting the beach or an ~~any~~ endangered upland structure. ~~The department may require,~~ As a condition of ~~to~~ granting permits under this section, the department may require

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59 the provision of alternative access if ~~when~~ interference with
60 public access along the beach is unavoidable. The width of such
61 alternate access may not be required to exceed the width of the
62 access that will be obstructed as a result of the permit being
63 granted. ~~Application for coastal construction permits as defined~~
64 ~~above shall be made to the department upon such terms and~~
65 ~~conditions as set forth by rule of the department.~~
66 (b) Except for the deepwater ports identified in s.
67 403.021(9)(b), the department shall not issue a ~~any~~ permit for
68 the construction of a coastal inlet jetty or the excavation or
69 maintenance of such an inlet if the activity authorized by the
70 permit will have a significant adverse impact on the sandy
71 beaches of this state without a mitigation program approved by
72 the department. In evaluating the mitigation program, the
73 department shall consider ~~take into consideration~~ the benefits
74 of the long-term sand management plan of the permittee and the
75 overall public benefits of the inlet activity.
76 (2) The department may authorize an excavation or erection
77 of a structure at any coastal location upon receipt of an
78 application from a property or riparian owner and upon
79 consideration of facts and circumstances, including:
80 (a) Adequate engineering data concerning inlet and
81 shoreline stability and storm tides related to shoreline
82 topography;
83 (b) Design features of the proposed structures or
84 activities; and
85 (c) Potential effects ~~impacts~~ of the location of such
86 structures or activities, including potential cumulative effects
87 of any proposed structures or activities upon such beach-dune

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

88 system or coastal inlet, which, in the opinion of the
89 department, clearly justify such ~~a~~ permit.
90 (3) The department may require ~~such~~ engineer certifications
91 as necessary to assure the adequacy of the design and
92 construction of permitted projects. Reasonable assurance is
93 demonstrated if the permit applicant provides competent
94 substantial evidence based on plans, studies, and credible
95 expertise that accounts for naturally occurring variables that
96 might reasonably be expected.
97 (4) The department may, as a condition to ~~the~~ granting ~~of~~ a
98 permit under this section, require mitigation, financial, or
99 other assurances acceptable to the department as ~~may be~~
100 necessary to assure performance of the conditions of a permit or
101 enter into contractual agreements to best assure compliance with
102 any permit conditions. Biological and environmental monitoring
103 conditions included in the permit must ~~shall~~ be based upon
104 clearly defined scientific principles. The department may also
105 require notice of the required permit conditions ~~required~~ and
106 the contractual agreements entered into pursuant to ~~the~~
107 ~~provisions of~~ this subsection to be filed in the public records
108 of the county in which the permitted activity is located.
109 (5) Notwithstanding any other provision of law, the
110 department may issue permits pursuant to this part in advance of
111 the issuance of an incidental take authorization provided under
112 the Endangered Species Act and its implementing regulations if
113 the permits and authorizations include a condition that requires
114 that such authorized activities not begin until the incidental
115 take authorization is issued.
116 (6) The department shall adopt rules to address standard

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

117 mixing zone criteria and antidegradation requirements for
118 turbidity generation for beach management and inlet bypassing
119 permits that involve the excavation and placement of sediment in
120 order to reduce or eliminate the need for variances. In
121 processing variance requests, the department must consider the
122 legislative declaration that, pursuant to s. 161.088, beach
123 nourishment projects are in the public interest.
124 (7) Application for permits shall be made to the department
125 upon such terms and conditions as set forth by rule.
126 (a) If, as part of the permit process, the department
127 requests additional information, it must cite applicable
128 statutory and rule provisions that justify any item listed in a
129 request for additional information.
130 (b) The department may not issue guidelines that are
131 enforceable as standards for beach management, inlet management,
132 and other erosion control projects without adopting such
133 guidelines by rule.
134 (8) The Legislature intends to simplify and expedite the
135 permitting process for the periodic maintenance of previously
136 permitted and constructed beach nourishment and inlet management
137 projects under the joint coastal permit process. A detailed
138 review of a previously permitted project is not required if
139 there have been no substantial changes in project scope and past
140 performance of the project indicates that the project has
141 performed according to design expectations. The department shall
142 amend chapters 62B-41 and 62B-49, Florida Administrative Code,
143 to streamline the permitting process for periodic beach
144 maintenance projects and inlet sand bypassing activities.
145 (9) Joint coastal permits issued for activities falling

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

146 under this section and part IV of chapter 373 must allow for two
147 maintenance or dredging disposal events or a permit life of 15
148 years, whichever is greater.
149 Section 2. Subsection (20) of section 161.101, Florida
150 Statutes, is amended to read:
151 161.101 State and local participation in authorized
152 projects and studies relating to beach management and erosion
153 control.—
154 (20) The department shall maintain active ~~a current~~ project
155 listings on its website by fiscal year in order to provide
156 transparency regarding those projects receiving funding and the
157 funding amounts, and to facilitate legislative reporting and
158 oversight. In consideration of this intent: ~~listing and may, in~~
159 ~~its discretion and dependent upon the availability of local~~
160 ~~resources and changes in the criteria listed in subsection (14),~~
161 ~~revise the project listing.~~
162 (a) The department shall notify the Executive Office of the
163 Governor and the Legislature regarding any significant changes
164 in the funding levels of a given project as initially requested
165 in the department's budget submission and subsequently included
166 in approved annual funding allocations. The term "significant
167 change" means those changes exceeding 25 percent of a project's
168 original allocation. If there is surplus funding, notification
169 shall be provided to the Executive Office of the Governor and
170 the Legislature to indicate whether additional dollars are
171 intended to be used for inlet management pursuant to s. 161.143,
172 offered for reversion as part of the next appropriations
173 process, or used for other specified priority projects on active
174 project lists.

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

175 (b) A summary of specific project activities for the
176 current fiscal year, funding status, and changes to annual
177 project lists shall be prepared by the department and included
178 with the department's submission of its annual legislative
179 budget request.
180 (c) A local project sponsor may at any time release, in
181 whole or in part, appropriated project dollars by formal
182 notification to the department, which shall notify the Executive
183 Office of the Governor and the Legislature. Notification must
184 indicate how the project dollars are intended to be used.
185 Section 3. Paragraph (v) is added to subsection (1) of
186 section 403.813, Florida Statutes, to read:
187 403.813 Permits issued at district centers; exceptions.—
188 (1) A permit is not required under this chapter, chapter
189 373, chapter 61-691, Laws of Florida, or chapter 25214 or
190 chapter 25270, 1949, Laws of Florida, for activities associated
191 with the following types of projects; however, except as
192 otherwise provided in this subsection, nothing in this
193 subsection relieves an applicant from any requirement to obtain
194 permission to use or occupy lands owned by the Board of Trustees
195 of the Internal Improvement Trust Fund or any water management
196 district in its governmental or proprietary capacity or from
197 complying with applicable local pollution control programs
198 authorized under this chapter or other requirements of county
199 and municipal governments:
200 (v) Notwithstanding any other provision in this chapter,
201 chapter 373, or chapter 161, a permit or other authorization is
202 not required for the following exploratory activities associated
203 with beach restoration and nourishment projects and inlet

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

204 management activities:
205 1. The collection of geotechnical, geophysical, and
206 cultural resource data, including surveys, mapping, acoustic
207 soundings, benthic and other biologic sampling, and coring.
208 2. Oceanographic instrument deployment, including temporary
209 installation on the seabed of coastal and oceanographic data
210 collection equipment.
211 3. Incidental excavation associated with any of the
212 activities listed under subparagraph 1. or subparagraph 2.
213 Section 4. This act shall take effect July 1, 2012.

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

The Florida Senate

Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 11, 2012

I respectfully request that **Senate Bill #758**, relating to beach management, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Dennis L. Jones, D.C.
Florida Senate, District 13

rec'd 1/11/12 apw

File signed original with committee office

S-020 (03/2004)

3

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23
Meeting Date

Topic: Beach Management

Bill Number: CS/SB 758 *(if applicable)*

Name: Debbie Flack

Amendment Barcode: *(if applicable)*

Job Title: Pres

Address: 1961 Chatsworth Way
Street

Tallahassee, FL 32309
City, State, Zip

Phone: 510-5409

E-mail: floridabeaches@aol.com

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

Representing: Florida Shore & Beach Preservation Assoc.

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

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

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

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

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)

1/23/2012
Meeting Date

Topic _____ Bill Number 758 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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)

1/23/10
Meeting Date

Topic: Beach Management

Name: Lisa Hurley

Bill Number: 758 (if applicable)

Job Title:

Amendment Barcode: (if applicable)

Address: S. Monroe St.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 922-4300

E-mail: lhurley@flcounties.com

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

Representing: Florida Assoc. of Counties

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: SB 758

Bill Number: SB 758 *(if applicable)*

Name: Casey Cook

Amendment Barcode: *(if applicable)*

Job Title: Legislative Advocate

Address: PO Box 1757
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 850 701 3701

E-mail: ccook@flcities.com

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

Representing: Florida League of Cities

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 Community Affairs Committee

BILL: SB 724

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Domestic Wastewater Discharged Through Ocean Outfalls

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	**Favorable**
2.	Uchino	Yeatman	CA	**Favorable**
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill allows utilities to meet the 60-percent reuse requirement from their entire service areas and extends certain deadlines. It allows utilities to continue to discharge peak flows up to 5 percent of utilities' baseline flows through ocean outfalls. Additionally, the bill requires utilities to include supplemental information on costs and options in their detailed plans necessary to achieve the requirements of subsection 403.086(9), F.S. Finally, the bill requires the utilities, the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) to evaluate the detailed plans and recommend to the Legislature adjustments, if necessary, to the reuse requirements in this subsection.

The bill substantially amends s. 403.086 of the Florida Statutes.

II. Present Situation:

Eliminating Ocean Outfalls and Reuse Requirements

There are six domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade Counties discharging approximately 300 million gallons per day of treated domestic wastewater directly into the Atlantic Ocean through ocean outfalls.[1] The ocean outfall providing service to the cities

[1] Florida Dep't of Environmental Protection, *Implementation of Chapter 2008-232, Laws of Florida Domestic Wastewater Ocean Outfalls* (June 2010), available at http://www.dep.state.fl.us/water/wastewater/dobill/ocean-outfall-2010.pdf (last visited 12/16/2011).

of Boynton Beach and Delray Beach largely ceased discharges in early 2009.[2] Exceptions for this facility are allowed to handle peak wet weather flows, during integrity testing of deep well injection and for emergencies.

Chapter 2008-232, Laws of Florida, prohibits construction of new ocean outfalls and requires that all six ocean outfalls in Florida cease discharging wastewater by December 31, 2025. In addition, wastewater facilities that discharged wastewater through an ocean outfall on July 1, 2008, are required to install a reuse system no later than December 31, 2025. The reuse systems must be capable of providing a minimum of 60 percent of the wastewater facilities actual annual flow for beneficial reuse. The actual annual flow is calculated using the annual average flow through a wastewater facility's ocean outfall from 2003 through 2007.[3]

Wastewater facilities operating ocean outfalls may receive a significant portion of their annual average flow from other wastewater facilities located outside their direct service areas. SB 550, passed during the 2010 Regular Session,[4] addressed the possibility of certain facilities not being able to comply with the 60 percent reuse requirement of s. 403.086(9)(c), F.S. The potential existed that flow received from outside their service areas could be diverted to other wastewater facilities that do not discharge through ocean outfalls, and therefore, diverting facilities would not have to comply with the 60-percent beneficial reuse requirement for ocean outfalls. In addition, current law requires discharges of wastewater through ocean outfalls after December 31, 2018, must meet advanced wastewater treatment (AWT) standards or equivalent processes.[5]

Implementation Issues

The first progress report from the DEP was presented to the Governor, President of the Florida Senate and Speaker of the Florida House of Representatives in June 2010.[6] Although there is general understanding of the existing requirements, some confusion remains about what current and future reuse projects count towards the 60-percent reuse threshold. The DEP reports:

> The City of Hollywood and Broward County Office of Environmental Services assumed that reuse projects that were in use during 2003 through 2007 can be applied to the 60 percent reuse requirement. The Department has informed all ocean outfall permit holders that such existing reuse projects do not count toward meeting the reuse requirement.[7]

In addition, the Miami-Dade Water and Sewer Department is planning to divert flows from its two ocean outfalls to other facilities to support reuse projects located near those sites.[8] The DEP has had discussions with utilities personnel that s. 403.086(9)(c), F.S., does not allow existing reuse projects to count towards meeting the 60-percent reuse requirement, "since one of the

[2] Christine Stapleton, *Delray Beach to stop dumping wastewater in ocean*, The Palm Beach Post, Mar. 31, 2009, available at http://www.palmbeachpost.com/localnews/content/local_news/epaper/2009/03/31/0331_delrayoutfall.html (last visited 12/16/2011).
[3] Section 403.086(9)(c), F.S.
[4] Ch. 2010-205, s. 38, Laws of Fla.
[5] Section 403.086(9)(b), F.S.
[6] *Supra* note 2.
[7] *See supra* note 2, at 17.
[8] *See supra* note 2, at 18.

primary goals of the Act is to beneficially reuse wastewater flows that are discharged through the outfalls and therefore increase the amount of new reuse in Southeast Florida."[9]

III. Effect of Proposed Changes:

Section 1 amends s. 403.086, F.S., to extend compliance deadlines by which ocean outfalls must meet AWT standards from 2018 to 2020. It also extends the date for submission of a plan by the discharging permit holder from 2013 to 2014.

The bill allows utilities to comply with the 60-percent reuse requirement from their entire service areas rather than just from ocean outfalls by 2025. This provision will allow utilities the flexibility to find the most cost-effective method to achieve a 60-percent reuse for their service areas. However, it may also reduce the percentage of reuse derived from ocean outfalls. The bill specifies that only facilities which shared a common ocean outfall as of July 1, 2008, are required to meet the 60-percent reuse requirement individually but may contract to share or transfer this responsibility with other utilities.

The bill allows utilities to continue backup discharges through ocean outfalls that are part of a functioning reuse system or other wastewater management system authorized by the DEP. Utilities may make backup discharges that:

- Do not cumulatively exceed 5 percent of total baseline flows measured as a five-year rolling average;
- Are subject to applicable secondary waste treatment and water-quality-based effluent limitations specified in department rules; and
- Are deemed to meet AWT when in compliance with the effluent limitations.

The bill defines "baseline flow" as "the annual average flow of domestic wastewater discharging through the facility's ocean outfall, as determined by the department, using monitoring data available for calendar years 2003 through 2007."

The bill updates the requirements for the detailed plans that utilities must develop by October 2014 instead of July 2013. The new information included in the plan must identify:

- The technical, environmental and economic feasibility of various reuse options;
- An analysis of costs necessary for utilities to meet state and local water quality criteria; and
- A comparative cost estimate of achieving reuse requirements from ocean outfalls and other sources.

The plan must evaluate the demand for reuse in the context of future regional water supply demands, the availability of traditional sources of water, the need for alternative water supplies, the offset reuse will have on potable supplies and other factors contained in the SFWMD's Lower East Coast Regional Water Supply Plan. The plan is due to the Legislature by October 2014 with an update due by July 2018.

[9] *See supra* note 2, at 3.

Finally, the bill requires the DEP, the SFWMD and affected utilities to evaluate the detailed plans and recommend to the Legislature adjustments, if necessary, to the reuse requirements in this bill. The report is due to the Legislature by February 2015.

Section 2 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:

Water utility customers will benefit from the cost saving provisions in this bill for wastewater utilities. While the savings are indeterminate, they will likely be insignificant on an individual basis when spread over time for customers served by their utilities.

C. Government Sector Impact:

Wastewater utilities may see significant cost reductions in implementing the 60-percent reuse requirements for ocean outfalls by utilizing their entire service areas rather than only flows discharged through ocean outfalls. Allowing utilities to continue backup discharges up to 5 percent of their peak flows will also save costs. Finally, exempting 5 percent of utilities' peak flows from AWT standards if those discharges meet statutory requirements and DEP rules on effluent limitations may also result in significant savings. The City of Hollywood, Broward County and Miami-Dade County have estimated that allowing peak flow discharges of 5 percent will save on capital costs of $142 million, $600 million and $867 million, respectively.

In addition, the two-year extension may allow for more favorable economic conditions and bond markets to develop. However, any benefits and risks of this potential are too remote to calculate.

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 Diaz de la Portilla

36-00007A-12 2012724__

A bill to be entitled

An act relating to domestic wastewater discharged through ocean outfalls; amending s. 403.086, F.S.; postponing the dates by which domestic wastewater facilities must meet more stringent treatment and management requirements; providing exceptions; revising the definition of the term "functioning reuse system"; changing the term "facility's actual flow on an annual basis" to "baseline flow"; revising plan requirements for the elimination of ocean outfalls; providing that certain utilities that shared a common ocean outfall on a specified date are individually responsible for meeting the reuse requirement; authorizing those utilities to enter into binding agreements to share or transfer responsibility for meeting reuse requirements; revising provisions authorizing the backup discharge of domestic wastewater through ocean outfalls; requiring a holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall to submit certain information; requiring the Department of Environmental Protection, the South Florida Water Management District, and affected utilities to consider certain information for the purpose of adjusting reuse requirements; requiring the department to submit a report to the Legislature; providing an effective date.

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

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

36-00007A-12 2012724__

Section 1. Subsection (9) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(9) The Legislature finds that the discharge of domestic wastewater through ocean outfalls wastes valuable water supplies that should be reclaimed for beneficial purposes to meet public and natural systems demands. The Legislature also finds that discharge of domestic wastewater through ocean outfalls compromises the coastal environment, quality of life, and local economies that depend on those resources. The Legislature declares that more stringent treatment and management requirements for such domestic wastewater and the subsequent, timely elimination of ocean outfalls as a primary means of domestic wastewater discharge are in the public interest.

(a) The construction of new ocean outfalls for domestic wastewater discharge and the expansion of existing ocean outfalls for this purpose, along with associated pumping and piping systems, are prohibited. Each domestic wastewater ocean outfall shall be limited to the discharge capacity specified in the department permit authorizing the outfall in effect on July 1, 2008, which discharge capacity shall not be increased. Maintenance of existing, department-authorized domestic wastewater ocean outfalls and associated pumping and piping systems is allowed, subject to the requirements of this section. The department is directed to work with the United States Environmental Protection Agency to ensure that the requirements of this subsection are implemented consistently for all domestic

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wastewater facilities in Florida which discharge through ocean outfalls.

(b) The discharge of domestic wastewater through ocean outfalls must ~~shall~~ meet advanced wastewater treatment and management requirements by December 31, 2020 ~~no later than December 31, 2018~~. For purposes of this subsection, the term "advanced wastewater treatment and management requirements" means the advanced waste treatment requirements set forth in subsection (4), a reduction in outfall baseline loadings of total nitrogen and total phosphorus which is equivalent to that which would be achieved by the advanced waste treatment requirements in subsection (4), or a reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008, and December 31, 2025, which is equivalent to that which would be achieved if the advanced waste treatment requirements in subsection (4) were fully implemented beginning December 31, 2020 ~~2018~~, and continued through December 31, 2025. The department shall establish the average baseline loadings of total nitrogen and total phosphorus for each outfall using monitoring data available for calendar years 2003 through 2007 and ~~shall~~ establish required loading reductions based on this baseline. The baseline loadings and required loading reductions of total nitrogen and total phosphorus shall be expressed as an average annual daily loading value. The advanced wastewater treatment and management requirements of this paragraph are ~~shall be~~ deemed ~~to be~~ met for any domestic wastewater facility discharging through an ocean outfall on July 1, 2008, which has installed by ~~no later than~~ December 31, 2018, a fully

operational reuse system comprising 100 percent of the facility's annual average daily flow for reuse activities authorized by the department.

(c)1. Each utility that had a permit for a domestic wastewater facility that discharged ~~discharges~~ through an ocean outfall on July 1, 2008, must ~~shall~~ install a functioning reuse system by ~~no later than~~ December 31, 2025. For purposes of this subsection, a "functioning reuse system" means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of a ~~the~~ facility's baseline ~~actual~~ flow or, for utilities operating more than one facility, 60 percent of the utility's entire wastewater system flow on an annual basis on December 31, 2025. Reuse may be ~~on an annual basis~~ for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the department. For purposes of this subsection, the term "baseline flow" ~~"facility's actual flow on an annual basis"~~ means the annual average flow of domestic wastewater discharging through the facility's ocean outfall, as determined by the department, using monitoring data available for calendar years 2003 through 2007.

2. Flows diverted from facilities to other facilities that provide 100 percent reuse of the diverted flows before ~~prior to~~ December 31, 2025, are ~~shall be~~ considered to contribute to meeting the ~~60 percent~~ reuse requirement. For utilities operating more than one outfall, the reuse requirement may ~~can~~ be apportioned between the ~~met if the combined actual reuse flows from~~ facilities served by the outfalls ~~is at least 60~~

117 ~~percent of the sum of the total actual flows from the~~
118 ~~facilities~~, including flows diverted to other facilities for 100
119 percent reuse before ~~prior to~~ December 31, 2025. Utilities that
120 shared a common ocean outfall for the discharge of domestic
121 wastewater on July 1, 2008, regardless of which utility operates
122 the ocean outfall, are individually responsible for meeting the
123 reuse requirement and may enter into binding agreements to share
124 or transfer such responsibility among the utilities. If ~~In the~~
125 ~~event~~ treatment in addition to the advanced wastewater treatment
126 and management requirements described in paragraph (b) is needed
127 ~~in order~~ to support a functioning reuse system, the ~~such~~
128 treatment must ~~shall~~ be fully operational by ~~no later than~~
129 December 31, 2025.
130 (d) The discharge of domestic wastewater through ocean
131 outfalls is prohibited after December 31, 2025, except as a
132 backup discharge that is part of a functioning reuse system or
133 other wastewater management system authorized by the department
134 ~~as provided for in paragraph (c)~~. Except as otherwise provided
135 in this subsection, a backup discharge may occur only during
136 periods of reduced demand for reclaimed water in the reuse
137 system, such as periods of wet weather, or as the result of peak
138 flows from other wastewater management systems, and must ~~shall~~
139 comply with the advanced wastewater treatment and management
140 requirements of paragraph (b). Peak flow backup discharges from
141 other wastewater management systems may not cumulatively exceed
142 5 percent of a facility's baseline flow, measured as a 5-year
143 rolling average, and are subject to applicable secondary waste
144 treatment and water-quality-based effluent limitations specified
145 in department rules. When in compliance with the effluent

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146 limitations, the peak flow backup discharges shall be deemed to
147 meet the advanced wastewater treatment and management
148 requirements of this subsection.
149 (e) The holder of a department permit authorizing the
150 discharge of domestic wastewater through an ocean outfall as of
151 July 1, 2008, shall submit the following to the secretary of the
152 department ~~the following~~:
153 1. A detailed plan to meet the requirements of this
154 subsection, including the identification of the technical,
155 environmental, and economic feasibility of various reuse
156 options; the ~~an~~ identification of all land acquisition and
157 facilities necessary to provide for reuse of the domestic
158 wastewater; an analysis of the costs to meet the requirements,
159 including the level of treatment necessary to satisfy state
160 water quality requirements and local water quality
161 considerations and a cost comparison of reuse using flows from
162 ocean outfalls and flows from other domestic wastewater sources;
163 and a financing plan for meeting the requirements, including
164 identifying any actions necessary to implement the financing
165 plan, such as bond issuance or other borrowing, assessments,
166 rate increases, fees, other charges, or other financing
167 mechanisms. The plan must evaluate reuse demand in the context
168 of future regional water supply demands, the availability of
169 traditional water supplies, the need for development of
170 alternative water supplies, the degree to which various reuse
171 options offset potable water supplies, and other factors
172 considered in the South Florida Water Management District's
173 Lower East Coast Regional Water Supply Plan. The plan must ~~shall~~
174 include a detailed schedule for the completion of all necessary

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175 actions and ~~shall~~ be accompanied by supporting data and other
176 documentation. The plan must ~~shall~~ be submitted by October 1,
177 2014 ~~no later than July 1, 2013~~.
178 2. By July 1, 2018 ~~No later than July 1, 2016~~, an update of
179 the plan required in subparagraph 1. documenting any refinements
180 or changes in the costs, actions, or financing necessary to
181 eliminate the ocean outfall discharge in accordance with this
182 subsection or a written statement that the plan is current and
183 accurate.
184 (f) By December 31, 2009, and by December 31 every 5 years
185 thereafter, the holder of a department permit authorizing the
186 discharge of domestic wastewater through an ocean outfall shall
187 submit to the secretary of the department a report summarizing
188 the actions accomplished to date and the actions remaining and
189 proposed to meet the requirements of this subsection, including
190 progress toward meeting the specific deadlines set forth in
191 paragraphs (b) through (e). The report shall include the
192 detailed schedule for and status of the evaluation of reuse and
193 disposal options, preparation of preliminary design reports,
194 preparation and submittal of permit applications, construction
195 initiation, construction progress milestones, construction
196 completion, initiation of operation, and continuing operation
197 and maintenance.
198 (g) No later than July 1, 2010, and by July 1 every 5 years
199 thereafter, the department shall submit a report to the
200 Governor, the President of the Senate, and the Speaker of the
201 House of Representatives on the implementation of this
202 subsection. The report shall summarize progress to date,
203 including the increased amount of reclaimed water provided and

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204 potable water offsets achieved, and identify any obstacles to
205 continued progress, including all instances of substantial
206 noncompliance.
207 (h) By February 1, 2012, the department shall submit a
208 report to the Governor and Legislature detailing the results and
209 recommendations from phases 1 through 3 of its ongoing study on
210 reclaimed water use.
211 (i) The renewal of each permit that authorizes the
212 discharge of domestic wastewater through an ocean outfall as of
213 July 1, 2008, shall be accompanied by an order in accordance
214 with s. 403.088(2)(e) and (f) which establishes an enforceable
215 compliance schedule consistent with the requirements of this
216 subsection.
217 (j) An entity that diverts wastewater flow from a receiving
218 facility that discharges domestic wastewater through an ocean
219 outfall must meet the ~~60 percent~~ reuse requirement of paragraph
220 (c). Reuse by the diverting entity of the diverted flows shall
221 be credited to the diverting entity. The diverted flow shall
222 also be correspondingly deducted from the receiving facility's
223 baseline ~~actual~~ flow ~~on an annual basis~~ from which the required
224 reuse is calculated pursuant to paragraph (c), and the receiving
225 facility's reuse requirement shall be recalculated accordingly.
226
227 The department, the South Florida Water Management District, and
228 the affected utilities must consider the information in the
229 detailed plan under paragraph (e) for the purpose of adjusting,
230 as necessary, the reuse requirements of this subsection. The
231 department shall submit a report to the Legislature by February
232 15, 2015, containing recommendations for any changes necessary

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233 to the requirements of this subsection.

234 Section 2. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules - Subcommittee on Ethics and Elections, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Reapportionment
Regulated Industries

SENATOR MIGUEL DIAZ de la PORTILLA
36th District

January 9, 2012

The Honorable Mike Bennett
Chairman
Committee on Community Affairs

Via Email

Dear Chairman Bennett:

My Senate Bill 724 passed unanimously out of the Environmental Preservation and Conservation Committee today, with no amendments.

The next committee reference is Community Affairs. I would appreciate it if you would agenda the bill at your next opportunity.

Thank you for your consideration.

Sincerely,

rec'd 11:55 a
1/9/12 apw

Miguel Diaz de la Portilla
Senator, District 36

Cc: Mr. Tom Yeatman, Staff Director
Ms. Ann Whittaker, committee Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5109

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Domestic Wastewater Discharge

Bill Number: 724 *(if applicable)*

Name: Lisa Hurley

Amendment Barcode: *(if applicable)*

Job Title:

Address: S. Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 922 4320

E-mail: lhurley@flcounties.com

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

Representing: Florida Assoc. Counties

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Ocean Outfalls

Bill Number: 724 (if applicable)

Name: Bob Harris

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 2618 Centennial Plaz
Street

Tallahassee FL 32308
City State Zip

Phone: 222-0720

E-mail: bharris@lawfla.com

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

Representing: Diving Equipment & Marketing Ass'n.

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)

1/23/12
Meeting Date

Topic: SB 724

Bill Number: 724 *(if applicable)*

Name: Casey Cook

Amendment Barcode: *(if applicable)*

Job Title: Fl League of Cities

Address: PO Box 1757
Street

City *State* *Zip*

Phone: 850 701 3701

E-mail: ccook@flcities.com

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

Representing: Fl League of Cities

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)

Jan 23 2012
Meeting Date

Topic: Domestic Wastewater Discharge thru Ocean Outfalls

Bill Number: 724 *(if applicable)*

Name: Edgar G. Fernandez

Amendment Barcode: _____ *(if applicable)*

Job Title: Governmental Affairs / Policy Development

Address: 3071 SW 38th Ave Rm 535
Street

MIAMI, FL 33146
City, State, Zip

Phone: 786 552-8983

E-mail: egf@miamidade.gov

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

Representing: MIAMI DADE WATER + SEWER DEPARTMENT

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

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

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

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S-001 (10/20/11)

4

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Ocean Outfall

Bill Number: SB 724 *(if applicable)*

Name: Frank Bernardino

Amendment Barcode: *(if applicable)*

Job Title:

Address: 324 East Virginia St.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 561/718-2345

E-mail: frankcarfieldflorida.com

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

Representing: Fla. Section American Water Works Assoc.

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)

Jan 23, 2012
Meeting Date

Topic: Ocean Outfalls

Bill Number: 724 *(if applicable)*

Name: David Childs

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 119 S. Monroe Street
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850 222-7500

E-mail: DAVID@HGSLAW.com

Speaking: [✓] For [ ] Against [ ] Information WAIVE IN SUPPORT

Representing: FWEA Utility Council

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 540

INTRODUCER: Community Affairs; Commerce and Tourism; and Senator Smith and others

SUBJECT: Secondhand Dealers and Secondary Metals Recyclers

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Fav/CS**
2.	Toman	Yeatman	CA	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 540 regulates both secondhand dealers and secondary metals recyclers; defines the terms appropriate law enforcement official and personal identification card; requires that secondary metals recyclers maintain and daily transmit an electronic record of all the previous day's purchase transactions to the appropriate law enforcement official; revises the timeframe that secondary metals recyclers are required to maintain purchase transaction records; creates the definition of restricted regulated metals property; limits the liability of secondary metals recyclers for the conversion of motor vehicles to scrap metal, as well as in premise liability cases; modifies the acceptable forms of payment and outlines time restrictions relating to purchase transactions of regulated metals property; expands the application of s. 812.145, F.S., to those who assist with the taking of copper and other nonferrous metals; assigns liability for these offenses; and provides that the regulation of regulated metals property is preempted to the state except with respect to ordinances enacted prior to March 1, 2012.

This CS/CS amends ss. 538.03, 538.04, 538.18, 319.30, 538.19, 538.235, 538.25, 538.26, 538.23, and 812.145 F.S.

This CS creates s. 538.28, F.S.

II. Present Situation

Secondhand Dealers and Secondary Metals Recyclers

Chapter 538, F.S., addresses in part I the regulation of secondhand dealers[1] and in part II purchase transactions[2] by secondary metals recyclers[3] that involve "regulated metals property."[4] With respect to the latter group, the economic recession has seen the value of metals rise significantly, prompting an increase in metal theft crimes statewide. Law enforcement agencies have testified before county commission boards as to the negative consequences that increased criminal activity relating to the theft of secondary metals and secondary metal products has had on their respective jurisdictions.[5]

Additionally, the unlawful removing of metal from private property and government structures has caused economic loss for both the private and public sectors.[6] In an issue paper published by the National Conference of State Legislatures it was noted that "stealing copper and other metals from utilities can cause electric outages and [that] expensive repairs impact ratepayers." "The Department of Energy estimates that a theft of just $100 in copper wire can cost the utility more than $5,000 to repair."[7] In Miami Dade County alone, "since 2009, the County's Public Works Department has spent thousands of dollars to repair or replace vandalized light poles."[8] Furthermore, with the influx of the number of foreclosures, metal theft has become common in unoccupied properties, which has impeded the ability of property owners, banks, and mortgage holders to sell both residential and commercial properties.[9]

In 2008, the Legislature revised part II of ch. 538, F.S., considerably. The new statutory provisions included increasing the record keeping requirements for purchase transactions by requiring additional seller information to be obtained; providing for enhanced penalties for third or subsequent violations of the statute and for providing false verification of ownership or false or altered identification to a secondary metals recycler; prohibiting secondary metals recyclers from entering into cash transactions for over the amount of $1,000; as well as requiring that all secondary metals recyclers register with the Department of Revenue prior to engaging in business.[10, 11] In 2009, part II of ch. 538, F.S., was once again amended when s. 538.21, F.S.,

---

[1] The definition for "secondhand dealer" is defined in s. 538.03(1)(a), F.S.
[2] Section 538.18(6), F.S. ("Any transaction in which a secondary metals recycler gives consideration for regulated metals property.").
[3] The definition for "secondary metals recyclers" is defined in s. 538.18(8)(a), F.S.
[4] Section 538.18(7) F.S. ("Any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers . . .").
[5] *See* Orange County, Fla. Ordinance 2010-16, pmbl (Dec. 7, 2010); *See also* Miami-Dade County, Fla. Ordinance 11-17, pmbl (April 4, 2011).
[6] Jacquelyn Pless, *Copper Theft Can Cause Major Outages and Impact Ratepayers: A Hot Issue in 2011* (October 2011), NCSL.org, *available at* http://www.ncsl.org/default.aspx?tabid=23720 (last visited December 16, 2011).
[7] *Id.* (citing U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, *An Assessment of Copper Wire Thefts from Electric Utilities*, DOE.org, *available at* http://www.oe.netl.doe.gov/docs/copper042707.pdf. (April 2007).
[8] Miami-Dade County, Fla. Ordinance 11-17, pmbl (April 4, 2011).
[9] *Id.*
[10] Chapter 2008-69, L.O.F.
[11] In 2008, the number of secondary metals recyclers registered with the Florida Department of Revenue was 278. As of August 2011, that number increased to 769. *See*, Fla. Dept. of Revenue, *Secondary Dealers and Secondary Metals Recyclers*

added a clause whereby all municipal and county ordinances relating to the issuance of hold notices by law enforcement were preempted.[12]

In light of these changes, county boards of commission have elected to enact more stringent ordinances.[13] Common trends among these ordinances include the following: the creation of a new classification of selected items that are more strictly regulated entitled "restricted regulated metals property"; prohibition of cash payment for any purchase transaction involving a "restricted regulated metals property"; imposition of heightened ownership verification requirements from sellers of "restricted regulated metals property"; as well as requirement that records be maintained for a period of not less than 5 years.[14]

Theft of Copper or Other Nonferrous Metals

Section 812.145, F.S., provides that a person who knowingly and intentionally takes copper or other nonferrous metals from a utility or communications services provider commits a felony of the first degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S. The statute does not address liability related to such theft.

III. Effect of Proposed Changes:

Section 1 amends s. 538.03, F.S., by requiring that a secondary metals recycler acting as a secondhand dealer must also conform to the requirements for a secondhand dealer pursuant to part I of ch. 538, F.S. Any person purchasing, consigning, or trading secondhand goods at a flea market or at an auction business must also now conform to the requirements found in this chapter.

In addition, "appropriate law enforcement official" is defined as follows: "the sheriff of the county in which a secondhand dealer is located or, if the secondhand dealer is located within a municipality, both the police chief of the municipality and the sheriff; however, the sheriff or police chief may designate as the appropriate law enforcement official for that county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This paragraph does not limit the authority or duties of the sheriff."

Section 2 amends s. 538.04, F.S., by revising existing language to conform to modern standards, as well as to the definition of "appropriate law enforcement official" as defined in section 1.

Section 3 amends s. 538.18, F.S., to define the terms "appropriate law enforcement official," "personal identification card," "restricted regulated metals," and "utility."

---

by County (August 2011), *available at* http://dor.myflorida.com/dor/taxes/pdf/secondhand_dealers_recyclers.pdf (last visited January 3, 2012).

[12] Chapter 2009-162, L.O.F. (creating s. 538.21(4), F.S., effective October 1, 2009).

[13] According to the Senate Committee on Commerce and Tourism's best knowledge, 10 counties have enacted ordinances regulating secondary metals recyclers. They are as follows: Broward, Hillsborough, Lake, Miami-Dade, Orange, Osceola, Sarasota Seminole, Volusia and Washington. On December 13, 2011, Duval County filed Ordinance 2011-766, which would add a new section regulating secondary metals recyclers if approved by the Board of County Commissioners.

[14] Miami-Dade County, Fla. Ordinance 11-17 (April 4, 2011); Orange County, Fla. Ordinance 2010-16 (Dec. 7, 2010).

"Appropriate law enforcement official" is defined as follows: "the sheriff of the county in which a secondary metals recycler is located or, if the secondary metals recycler is located within a municipality, the police chief of the municipality in which the secondary metals recycler is located; however, the sheriff or police chief may designate as the appropriate law enforcement official for the county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This subsection does not limit the authority or duties of the sheriff."

The definition of "personal identification card" is more specifically defined as "a valid Florida driver license, a Florida identification card issued by the Department of Highway Safety and Motor Vehicles, an equivalent form of identification issued by another state, a passport, or an employment authorization issued by the United States Bureau of Citizenship and Immigration Services that contains an individual's photograph and current address."

The CS also defines "restricted regulated metals property." Specifically, section 7 of the CS amends s. 538.26, F.S., to set forth a list of items that are classified as "restricted regulated metals property."[15]

The term "utility" is defined to mean "a public utility or electric utility as defined in s. 366.02 or a person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, or telephone, telegraph, radio, or telecommunications services."

Finally, the definition of "regulated metals property" is to include stainless steel beer kegs "and items made of ferrous metal obtained from any restricted regulated metals property."

Section 4 amends s. 319.30, F.S., to correct a cross-reference to the definition of secondary metals recycler.

Section 5 amends s. 538.19, F.S., by requiring that secondary metals recyclers maintain both a paper and electronic record of all purchase transactions. The format for the electronic record must be approved by the Department of Law Enforcement.

[15] Restricted regulated metals property includes the following items: manhole cover; electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure; guard rail; street sign, traffic sign, or traffic sign and its fixtures and hardware; communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire; funeral marker or funeral vase; historical marker, railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E-clip, or rail tie junction; any metal item that is observably marked upon reasonable inspection with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad; copper aluminum or aluminum-copper condensing or evaporator coil, including its tubing or rods, from an air conditioning or heating unit, excluding coils from window air conditioning or heating units and motor vehicle air conditioning or heating units; aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts; stainless steel beer keg; catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle; metallic wire that has been burned in whole or in part to remove insulation; a brass or bronze commercial valve or fitting, referred to as a "fire department connection and control valve" or an "FDC valve," which is commonly used on structures for access to water for the purpose of extinguishing fires; brass or bronze commercial portable water backflow preventer valve that is commonly used to prevent backflow of potable water from commercial structures into municipal domestic water service system; shopping cart; brass water meter; storm grate; and brass sprinkler head used in commercial agriculture.

The record for all purchase transactions shall be electronically transmitted to the appropriate law enforcement official no later than 10 a.m. of the business day following the date of the purchase transaction. A person who submits an electronic file to law enforcement is not required to deliver the manuscript documents unless there is an ongoing criminal investigation. In such a case, the secondary metals recycler must make the manuscript documents available within 24 hours from the request. The time period that a secondary metals recycler is required to maintain information concerning purchase transactions is three years.

Additionally, a provision is also added whereby a secondary metals recycler will not be found liable for a seller's failure to comply with the titling requirements for conversion of a motor vehicle to scrap metal if the secondary metals recycler obtains and maintains a signed statement from the seller stating that the seller has surrendered the vehicle's certificate of title to the Department of Highway or otherwise complied with the titling requirements provided by law.

Section 6 amends s. 538.235, F.S., by requiring a secondary metals recycler to mail a check for payment to the seller or the seller's employer within three days following a purchase transaction. A check may not be mailed to a post office box. Only in a limited number of cases will the seller be allowed to issue a check to the seller at the time of the purchase transaction.[16]

Furthermore, cash transactions for the purchase of "regulated metals property" in excess of $1,000 and for the purchase of any "restricted regulated metals property" are prohibited. Accordingly, the acceptable forms of payments are as follows: a check issued and payable to the seller or by electronic payment to the seller's bank account or to the bank account of the seller's employer.

Section 7 amends s. 538.25, F.S., to state that the Department of Revenue shall only accept secondary metals recycler registration applications from a fixed address. A hotel or motel room, a vehicle, or a post office box are explicitly designated as unacceptable addresses.

Section 8 amends s. 538.26, F.S., by prohibiting the sale of regulated metals property on weekdays before 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1 p.m., or on Sundays at any place other than the fixed place of business.

This section also prohibits a secondary metals recycler from purchasing regulated metals from a seller who is not using his or her real name; a person younger than 18; or someone under the influence of drugs or alcohol.

[16] The issuance of a check at the time of the purchase transaction is permitted when the seller is one of the following: an organization, corporation, or association registered with the state as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization or association, or is a nonprofit corporation or association; a law enforcement officer acting in an official capacity; a trustee in bankruptcy or an executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler; a public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler; a sheriff acting under the authority of a court's writ of execution, or by virtue of any process issued by a court, if proof thereof has been presented to the secondary metals recycler; or a manufacturing, industrial, or other commercial vendor that generates regulated materials in the ordinary course of business.

Additionally, this section lists the items considered to be "restricted regulated metals property," which are subject to heightened ownership verification requirements. Specifically, a secondary metals recycler is prohibited from purchasing any "restricted regulated metals property" unless the seller is the owner. If the seller is the owner of the property, reasonable proof of ownership is satisfied by presenting a secondary metals recycler with a receipt or bill of sale showing that the seller is the owner. When the seller is an employee, agent, or contractor of the property's owner who is authorized to sell the property, reasonable proof is satisfied with a signed letter on the owner's letterhead, dated no later than 90 days before the sale, authorizing the seller to sell the property.

Lastly, the removal of language concerning the failure to pay sales tax owed to the Department of Revenue or have a sales tax registration number streamlines statutory language given that existing provisions under ch. 212, F.S., require secondary metals recyclers to register as dealers and remit such taxes.

Section 9 creates s. 538.28, F.S., and provides that the regulation of purchase transactions involving "regulated metals property" is preempted to the state with the exception of those ordinances enacted prior to March 1, 2012. However, such ordinances or regulations may only be subsequently amended to meet or exceed the requirements found in part II of ch. 538, F.S.

Section 10 amends s. 538.23, F.S., to correct a cross-reference.

Section 11 amends s. 812.145, F.S., by expanding the definition of utility to mean "a public utility or electric utility as defined in s. 366.02, or a person, firm, cooperative, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of heat, water, oil, sewer service, telephone or telegraph service, radio, telecommunications, communications, gas, or electricity services."

A person who knowingly and intentionally "assists with the taking of copper or other nonferrous metals from a utility or communications service provider," which results in damage to its facilities, commits a felony of the 1st degree.[17]

In addition, the section provides that a person who is found in a civil action to have illegally taken copper or other nonferrous metals from a utility or communications services provider is liable to the utility or communications services provider for damages in an amount equal to three times the actual damages sustained by the utility or communications services provider due to any personal injury, wrongful death, or property damage caused by the illegal taking of the nonferrous metals or an amount equal to three times any claim made against the utility or communications services provider for any personal injury, wrongful death, or property damage caused by the malfunction of the facilities of the utility or communications services provider resulting from the violation, whichever is greater.

[17] A felony of the 1st degree is punishable by up to 30 years of imprisonment and a fine of up to $10,000. *See* ss. 775.082(3)(b) and 775.083(1)(b), F.S.

Section 12 creates an undesignated section of law and provides that a secondary metals recycler is not liable to a person who is injured during theft or attempted theft of metal from their property. Furthermore, a secondary metals recycler is not liable for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's property if the owner did not know, or have reason to know, of the dangerous condition.

Section 13 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Preemption

Section 538.28, F.S., created by this CS/CS provides that the regulation of purchase transactions involving "regulated metals property" is preempted to the state. Preemption takes a topic or a field in which local government might otherwise establish appropriate local laws and reserves that topic for regulation exclusively by the Legislature.[18] As such, express preemption of a field by the Legislature must be accomplished by clear language stating that intent.[19] As created by this CS/CS, s. 538.28, F.S., would likely accomplish that effect.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons purchasing, consigning, or trading secondhand goods at a flea market or at an auction business will now be subject to the statutory provisions required of secondhand dealers as well as any costs to comply with these provisions.

[18] *Phantom of Brevard, Inc. v. Brevard*, 3 So. 3d 309, 314 (Fla. 2008).
[19] *Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 1996).

The CS/CS requires that an electronic record of all the previous day's purchase transactions made by a secondary metals recycler be submitted to the appropriate law enforcement official. As such, secondary metals recyclers may be required to devote financial resources towards obtaining proper electronic devices and additional staffing to comply with the record-keeping requirements.

C. Government Sector Impact:

Law enforcement officials will now be required to implement the statutory provisions related to secondhand dealers for persons purchasing, consigning, or trading secondhand goods at a flea market or at an auction business. Agencies enforcing these provisions will incur additional costs.

The CS/CS requires that an electronic record of all the previous day's purchase transactions made by a secondary metals recycler be submitted to the appropriate law enforcement official. As such, law enforcement agencies may be required to devote financial resources towards obtaining proper electronic devices and additional staffing to comply with the record-keeping requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

An exception to preemption is provided for in section 8 of the CS/CS which creates s. 538.28(2), F.S., stating:

> [T]his part does not preempt an ordinance or regulation originally enacted by a county or municipality before March 1, 2012. Such an ordinance or regulation may subsequently be amended to meet or exceed the requirements of this part.

As currently written, the effect of this language would be to immune pre-March 1, 2012, ordinances from preemption. Accordingly, it should be noted that this language will result in the existence of pre-March 1, 2012, ordinances that fall below the requirements found in part II of ch. 538, F.S., as amended by this CS/CS.[20]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on January 23, 2012:

[20] According to Senate Committee on Commerce and Tourism's the best knowledge, three counties have ordinances that would fall below the requirements of part II of ch. 538, F.S., as amended by this CS. They are as follows: Osceola, Washington, and Volusia.

- Specifies that the Department of Revenue shall only accept secondary metals recyclers registration applications from a fixed address.
- Prohibits a secondary metals recycler from purchasing regulated metals from a seller: not using his or her real name, a person younger than 18, or someone under the influence of drugs or alcohol.
- Provides that a secondary metals recycler shall make an original transaction form available within 24 hours of a request by law enforcement.
- Expands the definition of "utility" as it relates to the theft of copper and other nonferrous materials.
- Provides that a person who steals copper or other nonferrous materials from a utility or communications services provider is liable for damages equal to three times actual damages or claims sustained by or made against the utility or communications services provider.
- Makes conforming cross references.

CS by Commerce and Tourism on January 9, 2012:

- Regulates both secondary metals recyclers and secondhand dealers.
- Inserts an information-sharing provision that requires all secondary metals recyclers to submit data relating to the previous day's purchase transactions of regulated metals to law enforcement officials in a format to be determined by the Department of Law Enforcement.
- Requires that records concerning purchase transactions must be maintained for 3 years. In the original bill, the period was reduced from 5 to 2 years.
- Prohibits a secondary metals recycler from issuing a payment at the time of the purchase transaction, but rather requires that payment be performed either by check through mail or electronically. A mailing address to a post office box is not accepted.
- Prohibits the selling of regulated metals property on weekdays before 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1 p.m., or on Sundays. Moreover, purchases can only take place at a fixed location.
- Inserts the following items into the definition of a restricted regulated metals property: brass water meter, storm grate, and brass sprinkler head used in commercial agriculture.
- Allows for ordinances passed prior to May 1, 2012, to be exempted from preemption, but requires that subsequent amendments to such ordinances meet or exceed the requirements of part II of ch. 538, F.S.
- Provides that a person who knowingly and intentionally "assists with the taking of copper or other nonferrous metals from a utility or communications service provider," which results in damage to its facilities, commits a felony of the 1st degree.
- Provides that a secondary metals recycler is not liable to a person who is injured during theft or attempted theft of metal property. Furthermore, a secondary metals recycler is not liable for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's property if the owner did not know, or have reason to know, of the dangerous condition.
- Removes the creation of a statutory inference.

B. Amendments:

None.

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

738224

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
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	.	

The Committee on Community Affairs (Thrasher) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 321 - 322
4 and insert:
5 regulated metals property listed in s. 538.26(5)(b) the sale of
6 which is restricted as provided in s. 538.26(5)(a).
7
8 Between lines 490 and 491
9 insert:
10 Section 7. Subsection (1) of section 538.25, Florida
11 Statutes, is amended to read:
12 538.25 Registration.—

738224

13 (1) A ~~No~~ person may not ~~shall~~ engage in business as a
14 secondary metals recycler at any location without registering
15 with the department. The department shall accept applications
16 only from a fixed business address. The department may not
17 accept an application that provides an address of a hotel or
18 motel room, a vehicle, or a post office box.
19 (a) A fee equal to the federal and state costs for
20 processing required fingerprints must be submitted to the
21 department with each application for registration. One
22 application is required for each secondary metals recycler. If a
23 secondary metals recycler is the owner of more than one
24 secondary metals recycling location, the application must list
25 each location, and the department shall issue a duplicate
26 registration for each location. For purposes of subsections (3),
27 (4), and (5), these duplicate registrations shall be deemed
28 individual registrations. A secondary metals recycler shall pay
29 a fee of $6 per location at the time of registration and an
30 annual renewal fee of $6 per location on October 1 of each year.
31 All fees collected, less costs of administration, shall be
32 transferred into the Operating Trust Fund.
33 (b) The department shall forward the full set of
34 fingerprints to the Department of Law Enforcement for state and
35 federal processing, provided the federal service is available,
36 to be processed for any criminal justice information as defined
37 in s. 943.045. The cost of processing such fingerprints shall be
38 payable to the Department of Law Enforcement by the department.
39 The department may issue a temporary registration to each
40 location pending completion of the background check by state and
41 federal law enforcement agencies, but shall revoke such

738224

42 temporary registration if the completed background check reveals
43 a prohibited criminal background. The Department of Law
44 Enforcement shall report its findings to the Department of
45 Revenue within 30 days after the date fingerprint cards are
46 submitted for criminal justice information.
47 (c) An applicant for a secondary metals recycler
48 registration must be a natural person who has reached the age of
49 18 years or a corporation organized or qualified to do business
50 in the state.
51 1. If the applicant is a natural person, the registration
52 must include a complete set of her or his fingerprints,
53 certified by an authorized law enforcement officer, and a recent
54 fullface photographic identification card of herself or himself.
55 2. If the applicant is a partnership, all the partners must
56 make application for registration.
57 3. If the applicant is a corporation, the registration must
58 include the name and address of such corporation's registered
59 agent for service of process in the state and a certified copy
60 of statement from the Secretary of State that the corporation is
61 duly organized in the state or, if the corporation is organized
62 in a state other than Florida, a certified copy of the statement
63 that the corporation is duly qualified to do business in this
64 state.
65
66 Delete line 518
67 and insert:
68 (4) Purchase regulated metals property from a seller who:
69 (a) Uses a name other than his or her own name or the
70 registered name of the seller's business;

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71 (b) Is younger than 18 years of age; or
72 (c) Is under the influence of drugs or alcohol, if such
73 condition is visible or apparent.
74 (5)(a) Purchase any restricted regulated metals property
75
76 ========== T I T L E A M E N D M E N T ==========
77 And the title is amended as follows:
78 Between lines 32 and 33
79 insert:
80 538.25, F.S.; requiring the Department of Revenue to
81 accept applications from a fixed business address;
82 prohibiting the department from accepting an
83 application that provides an address from a hotel or
84 motel room, a vehicle, or a post office box; amending
85 s.
86 Delete line 36
87 and insert:
88 specified times or from certain locations; prohibiting
89 the purchase of regulated metal property from a seller
90 who uses a name other than his or her own name or the
91 registered name of the business, is younger than 18
92 years of age, or is under the influence of drugs or
93 alcohol, if such a condition is visible or apparent;
94 prohibiting

520632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
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The Committee on Community Affairs (Thrasher) recommended the following:

1 **Senate Amendment**
2
3 Delete line 358
4 and insert:
5 secondary metals recycler shall make available the form to the

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+LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
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	.	

The Committee on Community Affairs (Norman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 603 - 614
and insert:
Section 10. Paragraph (d) of subsection (1) and subsection (2) of section 812.145, Florida Statutes, are amended, and subsection (3) is added to that section, to read:
812.145 Theft of copper or other nonferrous metals.—
(1) As used in this section, the terms:
(d) "Utility" means a public utility or electric utility as defined in s. 366.02, or a ~~includes any~~ person, firm, cooperative, corporation, association, or political subdivision,

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13 whether private, municipal, county, or cooperative, which is
14 engaged in the sale, generation, provision, or delivery of heat,
15 water, oil, sewer service, telephone or telegraph service,
16 radio, telecommunications, communications, gas, or electricity
17 services.
18 (2) A person who knowingly and intentionally takes or
19 assists with the taking of copper or other nonferrous metals
20 from a utility or communications services provider, thereby
21 causing damage to the facilities of a utility or communications
22 services provider, interrupting or interfering with utility
23 service or communications services, or interfering with the
24 ability of a utility or communications services provider to
25 provide service, commits a felony of the first degree,
26 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
27 (3) A person who is found in a civil action to have
28 illegally taken copper or other nonferrous metals from a utility
29 or communications services provider in violation of subsection
30 (2) is liable to the utility or communications services provider
31 for damages in an amount equal to three times the actual damages
32 sustained by the utility or communications services provider due
33 to any personal injury, wrongful death, or property damage
34 caused by the illegal taking of the nonferrous metals or an
35 amount equal to three times any claim made against the utility
36 or communications services provider for any personal injury,
37 wrongful death, or property damage caused by the malfunction of
38 the facilities of the utility or communications services
39 provider resulting from the violation of subsection (2),
40 whichever is greater.
41

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42 ========== T I T L E A M E N D M E N T ==========
43 And the title is amended as follows:
44 Delete lines 50 - 52
45 and insert:
46
47 amending s. 812.145, F.S.; redefining the term
48 “utility”; providing that a person who assists in the
49 taking of certain metals commits a felony of the first
50 degree; providing that a person who illegally takes
51 copper or other nonferrous metals from a utility or
52 communications services provider is liable to the
53 utility or communications provider for damages equal
54 to three times the amount of any claim against the
55 utility or communication services provider resulting
56 from the illegal taking of copper or other nonferrous
57 metals; limiting the liability of

By the Committee on Commerce and Tourism; and Senators Smith, Montford, and Evers

577-01758-12 2012540c1

A bill to be entitled

An act relating to secondhand dealers and secondary metals recyclers; amending s. 538.03, F.S.; requiring that a secondary metals recycler conform to the requirements for a secondhand dealer; defining the term “appropriate law enforcement official”; deleting exemptions from regulation as a secondhand dealer which relate to flea market transactions and auction businesses; conforming terminology; amending s. 538.04, F.S., relating to recordkeeping requirements; conforming terminology and clarifying provisions; amending s. 538.18, F.S.; revising and providing definitions; amending s. 319.30, F.S.; conforming a cross-reference; amending s. 538.19, F.S.; revising requirements for the types of information that secondary metals recyclers must obtain and maintain regarding purchase transactions, including requirements for the maintenance and transmission of electronic records of such transactions; revising the period required for secondary metals recyclers to maintain certain information regarding purchase transactions involving regulated metals property; limiting the liability of secondary metals recyclers for the conversion of motor vehicles to scrap metal under certain circumstances; amending s. 538.235, F.S.; revising requirements for payments made by secondary metals recyclers to sellers of regulated metals property to prohibit certain cash transactions; providing penalties; providing methods of payment for

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577-01758-12 2012540c1

restricted regulated metals property; requiring that purchases of certain property be made by check or by electronic payment; providing procedures; amending s. 538.26, F.S.; prohibiting secondary metals recyclers from purchasing regulated metals property, restricted regulated metals property, or ferrous metals during specified times or from certain locations; prohibiting the purchase of specified restricted regulated metals property without obtaining certain proof of the seller’s ownership and authorization to sell the property; providing penalties; creating s. 538.28, F.S.; preempting to the state the regulation of secondary metals recyclers and purchase transactions involving regulated metals property; exempting county and municipal ordinances and regulations enacted before March 1, 2012, from preemption; reenacting and amending s. 538.23(1)(a), F.S., relating to violations and penalties, to incorporate the amendments made by this act to ss. 538.19 and 538.235, F.S., in references thereto; correcting a cross-reference; amending s. 812.145, F.S.; providing that a person who assists in the taking of certain metals commits a felony of the first degree; limiting the liability of a public or private owner of metal property for injuries occurring during the theft or attempted theft of metal property and for injuries occurring as the result of the theft or attempted theft; providing that no additional duty of care is imposed on the owner of metal property; providing an effective date.

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

Section 1. Subsection (1) of section 538.03, Florida Statutes, is reordered and amended, paragraphs (m) through (q) of subsection (2) of that section are redesignated as paragraphs (k) through (o), respectively, and present paragraphs (k), (l), and (n) of that subsection are amended, to read:

538.03 Definitions; applicability.—

(1) As used in this part, the term:

(g) ~~(a)~~ "Secondhand dealer" means any person, corporation, or other business organization or entity that ~~which~~ is not a secondary metals recycler subject to part II and that ~~which~~ is engaged in the business of purchasing, consigning, or trading secondhand goods. A secondary metals recycler may not act as a secondhand dealer without also conforming to the requirements for a secondhand dealer pursuant to this part.

(f) ~~(b)~~ "Precious metals dealer" means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

(i) ~~(c)~~ "Secondhand store" means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business.

(c) ~~(d)~~ "Consignment shop" means a shop engaging in the business of accepting for sale, on consignment, secondhand goods that ~~which~~, having once been used or transferred from the manufacturer to the dealer, are then received into the

possession of a third party.

(a) ~~(e)~~ "Acquire" means to obtain by purchase, consignment, or trade.

(h) ~~(f)~~ "Secondhand goods" means personal property previously owned or used, which is not regulated metals property regulated under part II and which is purchased, consigned, or traded as used property. Such secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

(j) ~~(g)~~ "Transaction" means any purchase, consignment, or trade of secondhand goods by a secondhand dealer.

(e) ~~(h)~~ "Precious metals" means any item containing any gold, silver, or platinum, or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

(d) ~~(i)~~ "Department" means the Department of Revenue.

(b) "Appropriate law enforcement official" means the sheriff of the county in which a secondhand dealer is located or, if the secondhand dealer is located within a municipality, both the police chief of the municipality and the sheriff; however, the sheriff or police chief may designate as the appropriate law enforcement official for that county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This paragraph does not limit the authority or duties of the sheriff.

(2) This chapter does not apply to:

~~(k) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market.~~

~~(l) Any auction business as defined in s. 468.382(1).~~

(l) ~~(n)~~ A business that contracts with other persons or entities to offer its secondhand goods for sale, purchase, consignment, or trade via an Internet website, and that maintains a shop, store, or other business premises for this purpose, if all of the following apply:

1. The secondhand goods must be available on the website for viewing by the public at no charge;

2. The records of the sale, purchase, consignment, or trade must be maintained for at least 2 years;

3. The records of the sale, purchase, consignment, or trade, and the description of the secondhand goods as listed on the website, must contain the serial number of each item, if any;

4. The secondhand goods listed on the website must be searchable based upon the state or zip code;

5. The business must provide the appropriate law enforcement official ~~agency~~ with the name or names under which it conducts business on the website;

6. The business must allow the appropriate law enforcement official ~~agency~~ to inspect its business premises at any time during normal business hours;

7. Any payment by the business resulting from such a sale, purchase, consignment, or trade must be made to the person or entity with whom the business contracted to offer the goods and

must be made by check or via a money services business licensed under part II of chapter 560; and

8.a. At least 48 hours after the estimated time of contracting to offer the secondhand goods, the business must verify that any item having a serial number is not stolen property by entering the serial number of the item into the Department of Law Enforcement's stolen article database located at the Florida Crime Information Center's public access system website. The business shall record the date and time of such verification on the contract covering the goods. If such verification reveals that an item is stolen property, the business shall immediately remove the item from any website on which it is being offered and notify the appropriate law enforcement official ~~agency~~; or

b. The business must provide the appropriate law enforcement official ~~agency~~ with an electronic copy of the name, address, phone number, driver ~~driver's~~ license number, and issuing state of the person with whom the business contracted to offer the goods, as well as an accurate description of the goods, including make, model, serial number, and any other unique identifying marks, numbers, names, or letters that may be on an item, in a format agreed upon by the business and the appropriate law enforcement official ~~agency~~. This information must be provided to the appropriate law enforcement official ~~agency~~ within 24 hours after entering into the contract unless other arrangements are made between the business and the law enforcement official ~~agency~~.

Section 2. Subsections (1), (6), and (7) of section 538.04, Florida Statutes, are amended to read:

175 538.04 Recordkeeping requirements; penalties.—
176 (1) A secondhand dealer ~~dealers~~ shall complete a secondhand
177 dealers transaction form at the time of the actual transaction.
178 A secondhand dealer shall maintain a copy of a completed
179 transaction form on the registered premises for at least 1 year
180 after the date of the transaction. However, the secondhand
181 dealer shall maintain a copy of the transaction form for not
182 less than 3 years. Unless other arrangements are ~~have been~~
183 agreed upon by the secondhand dealer and the appropriate law
184 enforcement official ~~agency~~, the secondhand dealer shall, within
185 24 hours after acquiring ~~the acquisition of~~ any secondhand
186 goods, deliver to such official ~~the police department of the~~
187 ~~municipality where the goods were acquired or, if the goods were~~
188 ~~acquired outside of a municipality, to the sheriff's department~~
189 ~~of the county where the goods were acquired,~~ a record of the
190 transaction on a form approved by the Department of Law
191 Enforcement. Such record shall contain:
192 (a) The time, date, and place of the transaction.
193 (b) A complete and accurate description of the goods
194 acquired, including the following information, if applicable:
195 1. Brand name.
196 2. Model number.
197 3. Manufacturer's serial number.
198 4. Size.
199 5. Color, as apparent to the untrained eye.
200 6. Precious metal type, weight, and content if known.
201 7. Gemstone description, including the number of stones, if
202 applicable.
203 8. In the case of firearms, the type of action, caliber or

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204 gauge, number of barrels, barrel length, and finish.
205 9. Any other unique identifying marks, numbers, or letters.
206 (c) A description of the person from whom the goods were
207 acquired, including:
208 1. Full name, current residential address, workplace, and
209 home and work phone numbers.
210 2. Height, weight, date of birth, race, gender, hair color,
211 eye color, and any other identifying marks.
212 3. The right thumbprint, free of smudges and smears, of the
213 person from whom the goods were acquired.
214 (d) Any other information required by the form approved by
215 the Department of Law Enforcement.
216 (6) If the appropriate law enforcement official ~~agency~~
217 supplies a secondhand dealer with appropriate software and the
218 secondhand dealer has computer capability, the secondhand dealer
219 must ~~transactions shall be~~ electronically transmit secondhand
220 dealer transactions required by this section to such official
221 ~~transferred~~. If a secondhand dealer does not have computer
222 capability, the appropriate law enforcement official ~~agency~~ may
223 provide the secondhand dealer with a computer and all equipment
224 necessary to ~~equipment for the purpose of~~ electronically
225 transmit ~~transferring~~ secondhand dealer transactions. The
226 appropriate law enforcement official ~~agency~~ shall retain
227 ownership of the computer, unless otherwise agreed upon, and~~.~~
228 the secondhand dealer shall maintain the computer in good
229 working order, except for ordinary wear ~~and tear excepted~~. A ~~If~~
230 ~~the~~ secondhand dealer who transmits ~~transfers~~ secondhand dealer
231 transactions electronically~~, the secondhand dealer~~ is not
232 required to also deliver ~~to the appropriate law enforcement~~

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

233 ~~agency~~ the original or paper copies of the secondhand
234 transaction forms to the appropriate law enforcement official.
235 However, such official may, for purposes ~~the purpose~~ of a
236 criminal investigation, ~~the appropriate law enforcement agency~~
237 ~~may~~ request ~~that~~ the secondhand dealer to deliver the ~~produce an~~
238 original ~~of a~~ transaction form that was ~~has been~~ electronically
239 transmitted ~~transferred~~. The secondhand dealer shall deliver the
240 ~~this~~ form to the appropriate law enforcement official ~~agency~~
241 within 24 hours after receipt of the request.
242 (7) If the original transaction form is lost or destroyed
243 by the appropriate law enforcement official ~~agency~~, a copy may
244 be used by the secondhand dealer as evidence in court. When an
245 electronic image of a customer's identification is accepted for
246 a transaction, the secondhand dealer must maintain the
247 electronic image in order to meet the recordkeeping requirements
248 applicable to the original transaction form. If a criminal
249 investigation occurs, the secondhand dealer shall, upon request,
250 provide a clear and legible copy of the image to the appropriate
251 law enforcement official ~~agency~~.
252 Section 3. Section 538.18, Florida Statutes, is reordered
253 and amended to read:
254 538.18 Definitions.—As used in this part, the term:
255 (1) "Appropriate law enforcement official" means the
256 sheriff of the county in which a secondary metals recycler is
257 located or, if the secondary metals recycler is located within a
258 municipality, the police chief of the municipality in which the
259 secondary metals recycler is located; however, the sheriff or
260 police chief may designate as the appropriate law enforcement
261 official for the county or municipality, as applicable, any law

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262 enforcement officer working within that respective county or
263 municipality. This subsection does not limit the authority or
264 duties of the sheriff.
265 (3) ~~(1)~~ "Ferrous metals" means any metals containing
266 significant quantities of iron or steel.
267 (4) ~~(2)~~ "Fixed location" means any site occupied by a
268 secondary metals recycler as owner of the site or as lessee of
269 the site under a lease or other rental agreement providing for
270 occupation of the site by the secondary metals recycler for a
271 total duration of not less than 364 days.
272 (5) ~~(3)~~ "Money" means a medium of exchange authorized or
273 adopted by a domestic or foreign government as part of its
274 currency.
275 (6) ~~(4)~~ "Nonferrous metals" means metals not containing
276 significant quantities of iron or steel, including, without
277 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
278 and alloys thereof, excluding precious metals subject to
279 regulation under part I.
280 (7) ~~(5)~~ "Personal identification card" means a valid Florida
281 driver license, a Florida identification card issued by the
282 Department of Highway Safety and Motor Vehicles, an equivalent
283 form of identification issued by another state, a passport, or
284 an employment authorization issued by the United States Bureau
285 of Citizenship and Immigration Services that contains an
286 individual's photograph and current address ~~any government-~~
287 ~~issued photographic identification card~~.
288 (8) ~~(6)~~ "Purchase transaction" means a transaction in which
289 a secondary metals recycler gives consideration for regulated
290 metals property.

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291 (9) ~~(7)~~ "Regulated metals property" means any item composed
292 primarily of any nonferrous metals. The term does~~, but shall~~ not
293 include aluminum beverage containers, used beverage containers,
294 or similar beverage containers; however, ~~.~~ the term includes
295 ~~shall include~~ stainless steel beer kegs and items made of
296 ferrous metal obtained from any restricted regulated metals
297 property.
298 (11) ~~(8)~~ "Secondary metals recycler" means any person who:
299 (a) Is engaged, from a fixed location or otherwise, in the
300 business of purchase transactions, gathering or obtaining
301 ferrous or nonferrous metals that have served their original
302 economic purpose, or ~~is in the business of~~ performing the
303 manufacturing process by which ferrous metals or nonferrous
304 metals are converted into raw material products consisting of
305 prepared grades and having an existing or potential economic
306 value; or
307 (b) Has facilities for performing the manufacturing process
308 by which ferrous metals or nonferrous metals are converted into
309 raw material products consisting of prepared grades and having
310 an existing or potential economic value, other than by the
311 exclusive use of hand tools, by methods including, without
312 limitation, processing, sorting, cutting, classifying, cleaning,
313 baling, wrapping, shredding, shearing, or changing the physical
314 form or chemical content thereof.
315
316 A secondary metals recycler may not act as a secondhand dealer
317 without also conforming to the requirements of a secondhand
318 dealer pursuant to this part.
319 (2) ~~(9)~~ "Department" means the Department of Revenue.

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320 (10) "Restricted regulated metals property" means any
321 regulated metals property listed in s. 538.26(4)(b) the sale of
322 which is restricted as provided in s. 538.26(4)(a).
323 (12) "Utility" means a public utility or electric utility
324 as defined in s. 366.02 or a person, firm, cooperative,
325 association, or political subdivision, whether private,
326 municipal, county, or cooperative, which is engaged in the sale,
327 generation, provision, or delivery of heat, water, oil, sewer
328 service, or telephone, telegraph, radio, telecommunications, or
329 communications service.
330 Section 4. Paragraph (u) of subsection (1) of section
331 319.30, Florida Statutes, is amended to read:
332 319.30 Definitions; dismantling, destruction, change of
333 identity of motor vehicle or mobile home; salvage.—
334 (1) As used in this section, the term:
335 (u) "Secondary metals recycler" means secondary metals
336 recycler as defined in s. 538.18 ~~538.18(8)~~.
337 Section 5. Section 538.19, Florida Statutes, is amended to
338 read:
339 538.19 Records required; limitation of liability.—
340 (1) A secondary metals recycler shall maintain a legible
341 paper record of all purchase transactions to which such
342 secondary metals recycler is a party. A secondary metals
343 recycler shall also maintain a legible electronic record, in the
344 English language, of all such purchase transactions. The
345 appropriate law enforcement official may provide data
346 specifications regarding the electronic record format, but such
347 format must be approved by the Department of Law Enforcement. An
348 electronic record of a purchase transaction shall be

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349 electronically transmitted to the appropriate law enforcement
350 official no later than 10 a.m. of the business day following the
351 date of the purchase transaction. A secondary metals recycler
352 who transmits such records electronically is not required to
353 also deliver the original or paper copies of the transaction
354 forms to the appropriate law enforcement official. However, such
355 official may, for purposes of a criminal investigation, request
356 the secondary metals recycler to deliver the original
357 transaction form that was electronically transmitted. The
358 secondary metals recycler shall deliver the form to the
359 appropriate law enforcement official within 24 hours after
360 receipt of the request.
361 (2) The following information must be maintained on the ~~a~~
362 form approved by the Department of Law Enforcement for each
363 purchase transaction:
364 (a) The name and address of the secondary metals recycler.
365 (b) The name, initials, or other identification of the
366 individual entering the information on the ticket.
367 (c) The date and time of the transaction.
368 (d) The weight, quantity, or volume, and a description of
369 the type of regulated metals property purchased in a purchase
370 transaction.
371 (e) The amount of consideration given in a purchase
372 transaction for the regulated metals property.
373 (f) A signed statement from the person delivering the
374 regulated metals property stating that she or he is the rightful
375 owner of, or is entitled to sell, the regulated metals property
376 being sold. If the purchase involves a stainless steel beer keg,
377 the seller must provide written documentation from the

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378 manufacturer that the seller is the owner of the stainless steel
379 beer keg or is an employee or agent of the manufacturer.
380 (g) The distinctive number from the personal identification
381 card of the person delivering the regulated metals property to
382 the secondary metals recycler.
383 (h) A description of the person from whom the regulated
384 metals property was ~~goods were~~ acquired, including:
385 1. Full name, current residential address, workplace, and
386 home and work phone numbers.
387 2. Height, weight, date of birth, race, gender, hair color,
388 eye color, and any other identifying marks.
389 3. The right thumbprint, free of smudges and smears.
390 4. Vehicle description to include the make, model, and tag
391 number of the vehicle and trailer of the person selling the
392 regulated metals property.
393 5. Any other information required by the form approved by
394 the Department of Law Enforcement.
395 (i) A photograph, videotape, or digital image of the
396 regulated metals being sold.
397 (j) A photograph, videotape, or similar likeness of the
398 person receiving consideration in which such person's facial
399 features are clearly visible.
400 (3) ~~Any secondary metals recycler that maintains an~~
401 ~~electronic database containing the information required in~~
402 ~~paragraph (2)(h), along with an oath of ownership with a~~
403 ~~signature of the seller of the secondary metals being purchased~~
404 ~~by the secondary metals recycler and a right thumbprint that has~~
405 ~~no smudges and smears on the oath of ownership for each purchase~~
406 ~~transaction, shall be exempt from the records requirement of~~

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407 ~~paragraph (2)(h).~~ A secondary metals recycler complies with the
408 requirements of this section if it maintains an electronic
409 database containing the information required by subsection (2)
410 ~~paragraph (2)(h)~~ as long as the electronic information required
411 by subsection (2) ~~paragraph (2)(h)~~, along with an electronic
412 oath of ownership with an electronic signature of the seller of
413 the secondary metals being purchased by the secondary metals
414 recyclers and an electronic image of the seller's right
415 thumbprint that has no smudges and smears, can be downloaded
416 onto a paper form in the image of the form approved by the
417 Department of Law Enforcement as provided in subsection (2).
418 (4) A secondary metals recycler shall maintain or cause to
419 be maintained the information required by this section for not
420 less than 3 ~~5~~ years from the date of the purchase transaction.
421 (5) ~~If a purchase transaction involves the transfer of~~
422 ~~regulated metals property from~~ A secondary metals recycler
423 registered with the department who purchases a motor vehicle
424 from a licensed salvage motor vehicle dealer as defined in s.
425 320.27 or ~~to~~ another secondary metals recycler registered with
426 the department and uses a mechanical crusher to convert the
427 vehicle to scrap metal must obtain a signed statement from the
428 seller stating that the seller has surrendered the vehicle's
429 certificate of title to the Department of Highway Safety and
430 Motor Vehicles as provided in s. 319.30 or has otherwise
431 complied with the titling requirements provided by law for
432 conversion of the vehicle to scrap metal. A~~, the~~ secondary
433 metals recycler is not liable for the seller's failure to comply
434 with the titling requirements provided by law for conversion of
435 a motor vehicle to scrap metal if the secondary metals recycler

436 obtains and maintains the seller's signed statement ~~receiving~~
437 ~~the regulated metals property shall record the name and address~~
438 ~~of the secondary metals recycler from which it received the~~
439 ~~regulated metals property in lieu of the requirements of~~
440 ~~paragraph (2)(h)~~.
441 Section 6. Section 538.235, Florida Statutes, is amended to
442 read:
443 538.235 Method of payment.—
444 (1) A secondary metals recycler may ~~shall~~ not enter into
445 any cash transaction:
446 (a) In excess of $1,000 ~~in payment~~ for the purchase of
447 regulated metals property; or
448 (b) In any amount for the purchase of restricted regulated
449 metals property.
450 (2) Payment in excess of $1,000 for the purchase of
451 regulated metals property shall be made by check issued to the
452 seller of the metal and payable to the seller.
453 (3) Payment for the purchase of restricted regulated metals
454 property shall be made by check issued to the seller of the
455 metal and payable to the seller or by electronic payment to the
456 seller's bank account or the seller's employer's bank account.
457 (a) Each check shall be mailed by the secondary metals
458 recycler directly to the street address of the seller which is
459 on file with the secondary metals recycler, unless otherwise
460 provided in this part. A check may not be mailed to a post
461 office box. Electronic payments shall be transmitted to an
462 account for which the seller is listed as an account holder or
463 an employee or agent of the seller.
464 (b) Each check or electronic payment shall be mailed or

465 transmitted by the secondary metals recycler to the seller
466 within 3 days after the purchase transaction, unless otherwise
467 provided in this section.
468 (c) The secondary metals recycler may provide a check at
469 the time of the purchase transaction rather than mailing the
470 check as required in paragraph (a), if the seller is:
471 1. An organization, corporation, or association registered
472 with the state as a charitable, philanthropic, religious,
473 fraternal, civic, patriotic, social, or school-sponsored
474 organization or association, or is a nonprofit corporation or
475 association;
476 2. A law enforcement officer acting in an official
477 capacity;
478 3. A trustee in bankruptcy or an executor, administrator,
479 or receiver who has presented proof of such status to the
480 secondary metals recycler;
481 4. A public official acting under judicial process or
482 authority who has presented proof of such status to the
483 secondary metals recycler;
484 5. A sheriff acting under the authority of a court's writ
485 of execution, or by virtue of any process issued by a court, if
486 proof thereof has been presented to the secondary metals
487 recycler; or
488 6. A manufacturing, industrial, or other commercial vendor
489 that generates regulated materials in the ordinary course of
490 business.
491 Section 7. Section 538.26, Florida Statutes, is amended to
492 read:
493 538.26 Certain acts and practices prohibited.—It is

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494 unlawful for a secondary metals recycler to do or allow any of
495 the following acts:
496 (1) Purchase regulated metals property, restricted
497 regulated metals property, or ferrous metals on weekdays before
498 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1
499 p.m., or on Sundays. ~~between the hours of 9 p.m. and 6 a.m.~~
500 ~~(2) Fail to pay any sales tax owed to the department or~~
501 ~~fail to have a sales tax registration number.~~
502 ~~(3) Purchase regulated metals property at a location other~~
503 ~~than the place of business set forth on the registration.~~
504 (2) ~~(4)~~ Purchase regulated metals property, restricted
505 regulated metals property, or ferrous metals from any seller who
506 presents such property for sale at the registered location of
507 the secondary metals recycler when such property was not
508 transported in a motor vehicle.
509 (3) ~~(5)~~ Purchase regulated metals property, restricted
510 regulated metals property, or ferrous metals ~~in return for money~~
511 from ~~a trailer, a vehicle, or~~ any location other than a fixed
512 location ~~or from any person who is required to prove ownership~~
513 ~~pursuant to subsection (4)~~. ~~However, regulated metals may be~~
514 ~~purchased from a nonfixed location, or from such person, with~~
515 ~~any negotiable or nonnegotiable instrument, including a check or~~
516 ~~draft or any other type of instrument purchased with money and~~
517 ~~sold for the purpose of making payments or transfers to others.~~
518 (4)(a) Purchase any restricted regulated metals property
519 listed in paragraph (b), unless the secondary metals recycler
520 obtains reasonable proof that the seller:
521 1. Owns such property. Reasonable proof of ownership may
522 include, but is not limited to, a receipt or bill of sale; or

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523 2. Is an employee, agent, or contractor of the property's
524 owner who is authorized to sell the property on behalf of the
525 owner. Reasonable proof of authorization to sell the property
526 includes, but is not limited to, a signed letter on the owner's
527 letterhead, dated no later than 90 days before the sale,
528 authorizing the seller to sell the property.
529 (b) The purchase of any of the following regulated metals
530 property is subject to the restrictions provided in paragraph
531 (a):
532 1. A manhole cover.
533 2. An electric light pole or other utility structure and
534 its fixtures, wires, and hardware that are readily identifiable
535 as connected to the utility structure.
536 3. A guard rail.
537 4. A street sign, traffic sign, or traffic signal and its
538 fixtures and hardware.
539 5. Communication, transmission, distribution, and service
540 wire from a utility, including copper or aluminum bus bars,
541 connectors, grounding plates, or grounding wire.
542 6. A funeral marker or funeral vase.
543 7. A historical marker.
544 8. Railroad equipment, including, but not limited to, a tie
545 plate, signal house, control box, switch plate, E clip, or rail
546 tie junction.
547 9. Any metal item that is observably marked upon reasonable
548 inspection with any form of the name, initials, or logo of a
549 governmental entity, utility company, cemetery, or railroad.
550 10. A copper, aluminum, or aluminum-copper condensing or
551 evaporator coil, including its tubing or rods, from an air-

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552 conditioning or heating unit, excluding coils from window air-
553 conditioning or heating units and motor vehicle air-conditioning
554 or heating units.
555 11. An aluminum or stainless steel container or bottle
556 designed to hold propane for fueling forklifts.
557 12. A stainless steel beer keg.
558 13. A catalytic converter or any nonferrous part of a
559 catalytic converter unless purchased as part of a motor vehicle.
560 14. Metallic wire that has been burned in whole or in part
561 to remove insulation.
562 15. A brass or bronze commercial valve or fitting, referred
563 to as a "fire department connection and control valve" or an
564 "FDC valve," that is commonly used on structures for access to
565 water for the purpose of extinguishing fires.
566 16. A brass or bronze commercial potable water backflow
567 preventer valve that is commonly used to prevent backflow of
568 potable water from commercial structures into municipal domestic
569 water service systems.
570 17. A shopping cart.
571 18. A brass water meter.
572 19. A storm grate.
573 20. A brass sprinkler head used in commercial agriculture.
574 Section 8. Section 538.28, Florida Statutes, is created to
575 read:
576 538.28 Local government regulation; preemption.—
577 (1) The regulation of purchase transactions involving
578 regulated metals property is preempted to the state. Except as
579 provided in subsection (2), an ordinance or regulation adopted
580 by a county or municipality relating to the purchase or sale of

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581 regulated metals property or the registration or licensure of
582 secondary metals recyclers is void.
583 (2) This part does not preempt an ordinance or regulation
584 originally enacted by a county or municipality before March 1,
585 2012. Such an ordinance or regulation may subsequently be
586 amended to meet or exceed the requirements of this part.
587 Section 9. For the purpose of incorporating the amendments
588 made by this act to sections 538.19 and 538.235, Florida
589 Statutes, in references thereto, paragraph (a) of subsection (1)
590 of section 538.23, Florida Statutes, is reenacted and amended to
591 read:
592 538.23 Violations and penalties.—
593 (1)(a) Except as provided in paragraph (b), a secondary
594 metals recycler who knowingly and intentionally:
595 1. Violates s. 538.20 or s. 538.21;
596 2. Engages in a pattern of failing to keep records required
597 by s. 538.19;
598 3. Violates s. 538.26(2) ~~538.26(4)~~; or
599 4. Violates s. 538.235,
600
601 commits a misdemeanor of the first degree, punishable as
602 provided in s. 775.082.
603 Section 10. Subsection (2) of s. 812.145, Florida Statutes,
604 is amended to read:
605 812.145 Theft of copper or other nonferrous metals.—
606 (2) A person who knowingly and intentionally takes or
607 assists with the taking of copper or other nonferrous metals
608 from a utility or communications services provider, thereby
609 causing damage to the facilities of a utility or communications

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610 services provider, interrupting or interfering with utility
611 service or communications services, or interfering with the
612 ability of a utility or communications services provider to
613 provide service, commits a felony of the first degree,
614 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
615 Section 11. (1) A public or private owner of metal property
616 is not civilly liable to a person who is injured during the
617 theft or attempted theft of metal property.
618 (2) A public or private owner of metal property is not
619 civilly liable to a person for injuries caused by a dangerous
620 condition created as a result of the theft or attempted theft of
621 the owner's metal property when the owner did not know, and
622 could not have reasonably known, of the dangerous condition.
623 (3) This section does not create or impose a duty of care
624 upon an owner of metal property which would not otherwise exist
625 under common law.
626 Section 12. This act shall take effect July 1, 2012.

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The Florida Senate

Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 18, 2012

I respectfully request that **Senate Bill #540**, relating to Secondhand Dealers and Secondary Metals Recyclers, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Christopher L. "Chris" Smith
Florida Senate, District 29

rec'd 1/18/12 apw

File signed original with committee office

S-020 (03/2004)

Scrap Aluminum Processor

(904) 997-7086 / 10931 Beach Boulevard / Jacksonville, Florida 32246

January 20, 2012

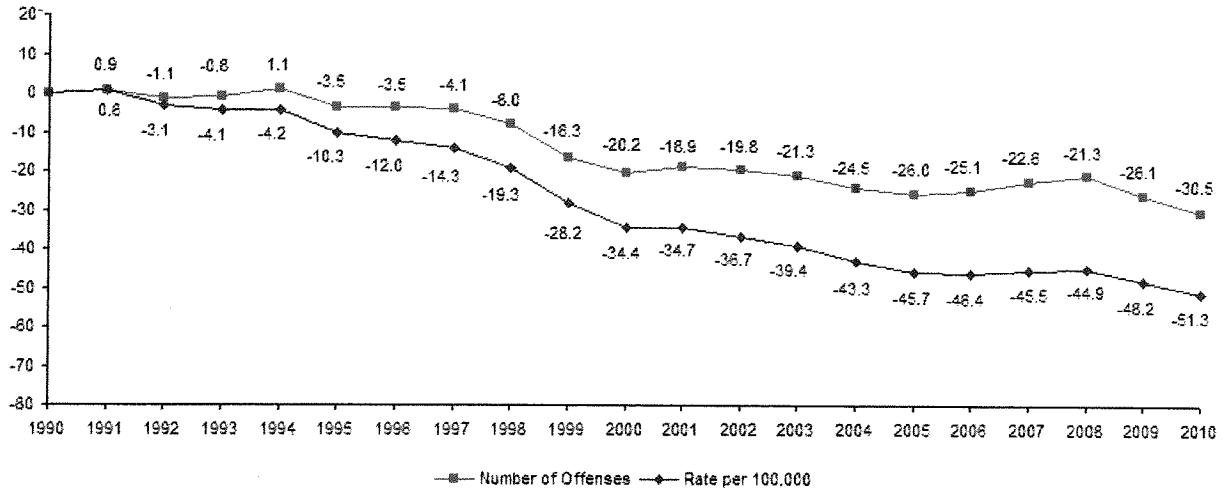
TO: **Florida Senate Members**
RE: **Proposed Senate Bill 540**

The proposed legislation is designed to increase regulations of secondary recyclers in an effort to reduce theft of copper wiring and other regulated metals. I respectfully request that the Senate defer this proposed legislation and establish a sub-committee to allow for more dialogue regarding this issue and possible solutions.

Specifically, I am concerned that all of the facts have not been presented and the expectation that legislation be passed without all of the facts is unfair to you and to your constituents who will be adversely affected by the legislation as written.

First, the legislative analysis suggests that this is needed to address an increase in crime, yet according to the chart below from the Florida Department of Law Enforcement, property crimes are down.

Property Crime in Florida
Percent Change in Number and Rate since 1990



Property crime includes Burglary, Larceny, and Motor Vehicle Theft. From 1990 to 2010, Florida has had a significant decrease in both the number (30.5%, from 962,381 offenses in 1990 to 668,612 in 2010) and rate (51.3%, from 7,318.5 in 1990 to 3,561.8 in 2010) of reported Property offenses. Rate is calculated per 100,000 population. Florida's population increased 42.7% during the twenty-year period.

Having been in the scrap metal business for the last 30 years, I am aware of concerns related to theft and support efforts to curb theft, but I do not agree that the legislation as proposed is the correct approach. I feel it unfairly burdens the small secondary recycling businesses and our non-commercial customers. The following outlines our current process for documenting customer transactions.

Current Transaction Process

- **Video Tape** - Customer arrives and they are captured on video tape.
- **Digital Pictures** - are taken of the scrap material
- **Tag Number** - We write down the vehicle tag number, then have them complete the rest of the form. The paperwork is taken to the cashier.
- **Digital picture** - of them looking into the camera is taken at the cashier window conducting the transaction.
- **Driver's license** - is required and copied for file.
- **Signature certifying ownership** or entitlement to sell materials is required.
- **Thumb print** is required.
- **Itemized receipt** is provided with metal type, weight and value.
- **Files maintained** - The packet of paperwork and digital pictures are maintained for five years.

Note: Jacksonville Sheriff's Office(JSO) currently sends an email when they are looking for specific individuals, vehicles or materials related to a scrap metal theft. We review our files and respond typically the same day with any relevant information. Only once in the last four years have we had the missing items - rims scrapped after a dispute between brothers.

The proposed legislation.

- **Same Process as above plus:**
- **Check payment** - All transactions would be required to be paid by check and mailed to the physical address (no P.O. Boxes) of the seller. (Current regulations require checks for total transactions over $1,000.)
- **Daily Submission of Electronic File** - The file would then be submitted electronically to JSO daily and maintained for two years.

The proposed process increases the burden on JSO, the small recycling business owners and the average citizen trying to make some extra money to support their family. I am particularly concerned about the check payment requirement and the electronic filing.

The requirement for payment by check will not only adversely affect my business because of the associated banking and postage costs, but also the increased labor needed to perform these tasks. Additionally, the majority of my customers are low-income individuals just trying to make ends meet in a tough economy. Some are transient without a consistent home address to mail a check to; many of them do not have bank accounts. According to the U.S. Department of Treasury, 7% (7,076,539) of Floridians are unbanked. In Jacksonville, that figure is 8.1% (316,946), which is higher than the national average of 7%. Individuals at higher risk for being

unbanked are low income, minority populations - the same folks who bring scrap to me to sell. If they don't have a bank account, they are at the mercy of the check cashing industry which already preys on them; charging as much as 10% to cash a check.

As a small business, I have 50 - 80 customers a day now, during the slow season and up to 150 in the Summer peak season. The proposed legislation will slow down the process for recyclers because it will take longer with each customer to complete the paperwork, input the electronic record and write the check. It will also take more time each day to submit the transactions electronically to JSO. I understand that there is some software that can speed up the process, but it can cost up to $50,000. Small businesses, can't afford that or additional staff to handle the extra paperwork. Not to mention that some of the small businesses employ folks who are not computer literate, who would be at risk of losing their jobs.

Another concern with submitting these electronic records to law enforcement is they are then subject to Florida's Government-in-the-Sunshine provisions in Chapter 286. "The Florida Supreme Court has determined that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge." Does the public really need access to this information? The files are currently maintained by our business up to five years and available for inspection at anytime by law enforcement.

I understand that some of the larger recyclers may have been consulted regarding this proposal, but there are over 700 secondary recycling businesses in Florida. The majority of us are small businesses that cannot afford to implement the provisions in this legislation. I only found out about this legislation two weeks ago. I doubt many of my fellow colleagues around the state are even aware of the legislation or its potential impact on their livelihood.

The proposed ordinance is intended to reduce theft from construction sites, underground telecommunication wires, utility wires, air conditioning units and beer kegs. Given that thefts are targeted, it would seem appropriate to also consider solutions that are targeted to those industries.

One possible idea might be to generate a fact sheet of theft prevention tips that could be distributed to those most affected. For example, security cameras at construction sites are known to deter theft.

I'm sure a sub-committee could come up with more ideas on how best to address this issue. I would welcome the opportunity to meet with any of you or have you come out to my business and see for yourself how we do business. Scrap metal theft is a community issue. Please defer this legislation so the community can be included in the solution.

Sincerely,

Arlen Vernimo, Owner

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12

Meeting Date

Topic: Secondary Metal Sales

Bill Number: 540 (if applicable)

Name: Mark Jeffries

Amendment Barcode: (if applicable)

Job Title: Public Affairs Director

Address: 201 S. Rosalind (Street)

Orlando FL 32801 (City, State, Zip)

Phone: 407-836-5909

E-mail: mark.jeffries@ocfl.net

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

Representing: Orange County

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

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

While it is a Se...

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2012
Meeting Date

Topic: Metal Recycling

Bill Number: SB 540 *(if applicable)*

Name: Cari Roth

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 101 N. Monroe
Street

Tlh, Fl 32301
City *State* *Zip*

Phone: 222-8611

E-mail: croth@bmolaw.com

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

Representing: _____

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-23-12
Meeting Date

Topic: Secondary Metals Recyclers

Bill Number: CS/SB 540 *(if applicable)*

Name: KARI HEBRANK

Amendment Barcode: *(if applicable)*

Job Title:

Address: 201 S. MONROE ST.
Street

TALLAHASSEE FL 32317
City *State* *Zip*

Phone: 850-566-1824

E-mail: ~~Khebr~~ Kari@rambaconsulting.com

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

Representing: Simpson Strong-Tie

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)

1-23-12
Meeting Date

Topic: SECONDARY METALS

Bill Number: CS/SB 540 *(if applicable)*

Name: CAM FENTRISS

Amendment Barcode: *(if applicable)*

Job Title: LEG. COUNSEL

Address: 1400 VILLAGE SQUARE # 3-243
Street

TALL FL 32312
City *State* *Zip*

Phone: 850-222-2772

E-mail: AFENTRISS@AOL.COM

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

Representing: FLA ROOFING, SHEET METAL + AC CONTRACTORS ASSN

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)

1/23/11
Meeting Date

Topic: Metal Recycle S

Bill Number: SB 540 (if applicable)

Name: Audrey Edmondson

Amendment Barcode: (if applicable)

Job Title: Miami-Dade Commission Vice-Chair

Address: 5400 NW 22 Ave Suite 701
Street

Miami, FL 33142
City, State, Zip

Phone: 305-375-5395

E-mail:

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

Representing:

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)

Meeting Date: _____

Topic: RECYCLING ~~BILL 540~~

Bill Number: 540 (if applicable)

Name: ARLEN VERNIMO

Amendment Barcode: _____ (if applicable)

Job Title: OWNER ~~Sc~~

Address: 10931 BEACH BLVD (Street)

JAX (City) FLA (State) 32246 (Zip)

Phone: 904 997 7096

E-mail: VERNIMO@GMAIL.COM

Speaking: ☐ For ☒ Against ☐ Information

Representing: SCRAP ALUMINUM PROCESSORS + 37 SECENDARY RECYCLERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Theft - Metals

Bill Number: 540 (if applicable)

Name: Lee Ann Fisch

Amendment Barcode: (if applicable)

Job Title: Assoc Dir State Legis Affairs

Address: 315 S. Calhoun St #850
Street

Tallahassee FL 32301
City State Zip

Phone: 850 222 2557

E-mail:

Speaking: [X] For [ ] Against [ ] Information (waive time)

Representing: Florida Farm Bureau

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23
Meeting Date

Topic _____

Bill Number SB 540 *(if applicable)*

Name Kathy Russell

Amendment Barcode _____ *(if applicable)*

Job Title Dir of Gov Relations

Address 400 S. Orange Ave
Street

Orlando Fl 32801
City *State* *Zip*

Phone _____

E-mail _____

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

Representing City of Orlando

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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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)

1/23/12
Meeting Date

Topic: SECONDARY METAL RECYCLING

Bill Number: SB 540 *(if applicable)*

Name: KEYNA CORY

Amendment Barcode: *(if applicable)*

Job Title: SENIOR LOBBYIST

Address: PO BOX 1347
Street

TALLAHASSEE, FL 32302
City, State, Zip

Phone: 850 681-1065

E-mail: Keynacory@paconsultants.com

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

Representing: ASSOCIATED INDUSTRIES OF FL

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)

1/23/12
Meeting Date

Topic: Secondary Dealers & Secondary Metals Recyclers

Bill Number: 540 *(if applicable)*

Name: Brandon Wagner

Amendment Barcode: *(if applicable)*

Job Title:

Address: 601 E. Kennedy Blvd.
Street

Tampa, FL 33601
City, State, Zip

Phone: (813) 276-2640

E-mail: wagnerb@hillsborough county.org

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

Representing: Hillsborough County Government

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)

23 JAN 12
Meeting Date

Topic: COPPER THEFT

Bill Number: 540 (if applicable)

Name: MIKE BJORKLUND

Amendment Barcode: (if applicable)

Job Title: DIR. OF LEG. AFFAIRS

Address: 2916 APALACHEE PKWY
Street

TALL. FL 32301
City State Zip

Phone: 877-6166

E-mail:

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

Representing: FLORIDA ELECTRIC COOPERATIVES ASSOC. (FECA)

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Copper Theft

Bill Number: SB540 *(if applicable)*

Name: Paula Mateo

Amendment Barcode: *(if applicable)*

Job Title: Area Manager

Address: 150 S. Monroe Street
Street

Tallahassee FL 32304
City *State* *Zip*

Phone: 850-591-6002

E-mail: paula.mateo@att.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: ATT

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)

1-23-12
Meeting Date

Topic: SECOND HAND DEALERS / SECONDARY METALS

Bill Number: SB 540 *(if applicable)*

Name: GEOFF HARRIS

Amendment Barcode: *(if applicable)*

Job Title: DETECTIVE

Address: 2008 E 8th Ave
Street

Tampa, FL 33605
City, State, Zip

Phone:

E-mail:

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

Representing: SHERIFF DAVID GEE / HILLSBOROUGH COUNTY SHERIFF'S OFFICE

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)

1-23-12
Meeting Date

Topic: Secondary Metals

Bill Number: 540 *(if applicable)*

Name: Frank Nemesmith

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2901 SR Bradford
Street

Tall, Fl
City *State* *Zip*

Phone: 508-5858

E-mail:

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

Representing: Florida Sheriffs Assoc.

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)

1/23/12
Meeting Date

Topic: Secondary Metal Thefts

Bill Number: 540 *(if applicable)*

Name: Stephen Shiver

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 215 S Monroe
Street

Tallahassee
City *State* *Zip*

Phone: 222-8900

E-mail: _____

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

Representing: City of Ocala

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)

1/23/12
Meeting Date

Topic: Secondary Metals Recyclers

Bill Number: 540 *(if applicable)*

Name: Sarah Busk

Amendment Barcode: _____ *(if applicable)*

Job Title: Dir of Gov. Affairs

Address: 215 S. Monroe St. #602
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850.222.8900

E-mail: sjb@cardenaspartners.com

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

Representing: Florida Carpenters Regional Council

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Secondary Metals Recycling

Bill Number: 540 *(if applicable)*

Name: JIM MAGILL

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: 101 N. MONROE ST. SUITE 1090
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 850-681-0411

E-mail: JMAGILL@FOWLERWHITE.COM

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

Representing: FLORIDA RECYCLERS ASSOC. / TRADEMARK METALS RECYCLING

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)

1/23/12
Meeting Date

Topic: SECONDARY METALS RECYCLING

Bill Number: 540 *(if applicable)*

Name: JIM MAGILL

Amendment Barcode: 738224 *(if applicable)*

Job Title: LOBBYIST

Address: 101 N. MONROE ST. SUITE 1090
Street

TALLAHASSEE, FL 32301
City / *State* *Zip*

Phone: 850-681-0411

E-mail: JMAGILL@FOWLERWHITE.COM

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

Representing: FLORIDA RECYCLERS / TRADEMARK METALS

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)

1/23/12
Meeting Date

Topic: SECONDARY METALS RECYCLING

Bill Number: 540 *(if applicable)*

Name: JIM MAGILL

Amendment Barcode: 520632 *(if applicable)*

Job Title: LOBBYIST

Address: 101 N. MONROE ST. SUITE 1090
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 850-681-0411

E-mail: JMAGILL@FOWLERWHITE.COM

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

Representing: FLORIDA RECYCLERS ASSOC / TRADEMARK METALS

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

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

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S-001 (10/20/11)

5

THE FLORIDA SENATE

APPEARANCE RECORD

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

01-23-12
Meeting Date

Topic: SECONDARY METALS RECYCLERS

Bill Number: SB 540 *(if applicable)*

Name: BRIAN NARDIELLO

Amendment Barcode: _____ *(if applicable)*

Job Title: LIEUTENANT

Address: 123 WEST INDIANA AVENUE
Street

DELAND, FL 32720
City, State, Zip

Phone: (386) 822-5050

E-mail: BNARDIELLO@VCSO.US

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

Representing: VOLUSIA COUNTY SHERIFF BEN F. JOHNSON AND FSA

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

1/23/12
Meeting Date

Topic: Secondhand dealers

Bill Number: SB 540 *(if applicable)*

Name: Rick Watson

Amendment Barcode: *(if applicable)*

Job Title: Legis Counsel

Address: P.O. Box 10038
Street

Tallahassee FL 32362
City *State* *Zip*

Phone: 850 222 0000

E-mail: rick@rwatsonassociates.com

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

Representing: Assoc Builders & Contractors

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

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 Community Affairs Committee

BILL: CS/SB 738

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Altman

SUBJECT: Solid Waste Management Facilities

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	**Fav/CS**
2.	Wiggins	Yeatman	CA	**Favorable**
3.			BC	
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 CS/SB 738 extends the duration of solid waste management facility permits that meet specified criteria from 5 years to 20 years. The extension will apply to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012. The CS/SB 738 also provides renewal options for solid waste management facilities that do not have leachate control systems to renew their permits for a term of 10 years if certain conditions are met.

CS/SB 738 clarifies that Florida Department of Environmental Protection (DEP) has the authority to adopt rules for permitting solid waste management facilities and does not have to submit the rules for approval to the Environmental Regulation Commission (ERC).

The CS/SB 738 allows DEP to utilize funds within the Solid Waste Management Trust Fund to facilitate the closing of a solid waste management facility, if DEP expects the funds to be replenished upon receipt of payment from the designated insurance company.

The CS/SB 738 amends ss. 403.709 and 403.7125 of the Florida Statutes.

II. Present Situation:

The Department of Environmental Protection (DEP) provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state. Section 403.707, F.S., requires that a solid waste management facility must obtain a permit from DEP in order to operate.

Section 403.707(3), F.S., limits permit duration to 10 years for a potential source of water pollution, which includes most solid waste management facilities. DEP rules currently limit permit duration to 5 years, except for certain long-term care permits for closed facilities which may last up to 10 years. The fees for most solid waste permits are limited to $10,000.

Leachate from a landfill varies widely in composition depending on the age of the landfill and the type of waste it contains. It can usually contain both dissolved and suspended material. The generation of leachate is caused principally by precipitation percolating through waste deposited in a landfill. Once in contact with decomposing solid waste, the percolating water becomes contaminated and if it then flows out of the waste material it is termed leachate.

The risks of leachate generation can be mitigated by properly designed and engineered landfill sites, such as sites that are constructed on geologically impermeable materials or sites that use impermeable liners made of geomembranes or engineered clay.

To minimize the threat to public health and the environment, Solid Waste Financial Assurance requirements were adopted in 1984 to secure the proper closing of solid waste management facilities operating in the state of Florida. Owners or operators when demonstrating proof of financial assurance, can choose from a list of approved financial mechanisms that best meet their individual needs. The dollar amount of financial assurance required is directly tied to DEP's approved closure cost estimate. DEP's primary responsibility is to insure that the facility is in full compliance with all solid waste financial assurance requirements. This is accomplished by providing any assistance necessary to facility owners and operators as well as provider companies attempting to meet rule requirements.[1]

DEP allows the use of insurance policies to provide financial assurance for closure of solid waste management facilities. According to DEP, some procedural difficulties arise when DEP has to contract with a third party to close an abandoned facility. In order to enter into a contract, DEP must encumber funds to pay for the third party. There is no fund available for DEP to encumber the expenses even if the insurance company is expected to reimburse the expenses.

The Environmental Protection Agency (EPA) adopted rules for solid waste management facilities in 1991. According to DEP, if a state's program was determined to be at least equivalent to the federal program, the state program would be approved and the federal regulation would not apply in that state. Florida's program was approved in 1993, but one of the conditions for approval was that DEP amend existing rules to require financial assurance for

[1] Florida Department of Environmental Protection, Bureau of Solid and Hazardous Waste, Solid Waste Financial Assurance, http://www.dep.state.fl.us/waste/categories/swfr/default.htm.

corrective actions at landfills. DEP created Rules 62-701.630 and 62-701.730, to include provisions requiring permitees that have an approved corrective action plan to put up financial assurance for the costs of the corrective actions. The Joint Administrative Procedures Committee has stated that DEP does not have the statutory authority for these rules. If DEP had to repeal the existing rules, there is a risk that EPA could determine that Florida's program is no longer equivalent and disapprove it, in which case owners of solid waste management facilities would be required to comply with all of EPA's regulations in addition to all of Florida's rules. This would create a burden on the regulated community and could create a conflict since Florida's rules are not identical to EPA's.[2]

III. Effect of Proposed Changes:

Section 1 amends s. 403.707 (3), F.S., to provide that a permit issued after October 1, 2012, to a solid waste management facility with a leachete control system that is in compliance will be valid for up to 20 years. This change will allow DEP to prorate existing fees for these longer permits. For example, a Class I landfill operation permit fee is currently $10,000 for a 5-year permit. If the CS/SB 738 becomes law, the permit fee will increase to a maximum of $40,000 for a 20-year permit.

The CS/SB 738 also allows a permit to be issued to a solid waste management facility that does not have a leachate control system for 10 years if the applicant meets certain criteria. The applicant seeking renewal must:

- have regularly utilized the site for at least 4 and a half months before the application;
- not be subject to a notice, at the time of applying for the renewal permit, by DEP, or be in violation of an applicable rule;
- not have been notified to implement assessment or evaluation monitoring as a result of exceedances of applicable groundwater standards, or completing corrective actions in accordance with applicable DEP rules;
- be in compliance with the applicable financial assurance requirements.

This section also authorizes DEP to adopt rules. The provisions of Chapter 120, which require a statement of estimated regulatory cost and legislative ratification, do not apply to this rulemaking, and DEP is not required to submit such rules to the Environmental Regulation Commission for approval.

Section 2 amends s. 403.709, F.S., to create a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. CS/SB 738 enables DEP to activate a closure of a facility in compliance with the closure plan approved by DEP. This can only happen if the facility has been issued a permit by DEP to operate the facility, the permittee has provided proof of financial assurance for closure in the form of an insurance certificate, and the facility has been deemed abandoned or has been ordered closed by DEP.

[2] Conversation with Florida Department of Environmental Protection representative (DEP) (Jan. 6, 2012).

Section 3 amends s. 403.7125, F.S., to clarify that DEP may enforce already established rules which require an owner or operator of a solid waste management facility that receives waste to undertake corrective actions for violations of water quality standards and provide financial assurance for the cost of completing such corrective actions. The financial assurances requirements for closure costs will also be available for costs associated with undertaking corrective actions.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners and operators of lined solid waste management facilities that opt for longer-term permits may benefit from the increased predictability such longer permits provide. For example, it may be easier to obtain financing for these projects and operational and design criteria are less likely to need updating and amending as frequently. After five years, the cost savings from not having to apply for and receive permit renewals will be significant.

Solid waste management facilities will have more flexibility when preparing to apply for permits as the life of the permit will be increased by 15 years. Further, the costs associated with filing renewal applications will decrease.

Owners and operators of unlined solid waste management facilities that meet DEP's requirements may opt for longer-term permits and may benefit from the increased predictability such longer permits provide.

C. Government Sector Impact:

DEP anticipates an increase in the amount of fees collected due to the extended length of the permit. This increase will level out, as the new permits will not need to be renewed as often.

There may be some cases when the costs associated with closing a facility would exceed the face value of the insurance policy. In this instance, Solid Waste Trust Fund dollars would need to be spent and would not be reimbursed by the insurance company.

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 on January 9, 2012:
The CS/SB 738 allows a permit to be issued to a solid waste management facility that does not have a leachate control system for 10 years if the applicant meets certain criteria. The CS/SB 738 specifies that the provisions of Chapter 120, which require a statement of estimated regulatory cost and legislative ratification do not apply to this rulemaking. The CS/SB 738 creates a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. CS/SB 738 enables DEP to activate a closure of a facility in compliance with the approved closure plan. CS/SB 738 amends s. 403.7125, F.S., to clarify that DEP may enforce already established rules which require an owner or operator of a solid waste management facility that receives waste to undertake corrective actions for violations of water quality standards and provide financial assurance for the cost of completing such corrective actions.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senator Altman

592-01733-12 2012738c1

A bill to be entitled

An act relating to solid waste management facilities; amending s. 403.707, F.S.; specifying a permit term for a solid waste management facility that is designed with a leachate control system meeting the requirements of the Department of Environmental Protection; requiring that existing permit fees be adjusted to the permit term; providing applicability; specifying a permit term for a solid waste management facility that does not have a leachate control system meeting the requirements of the department under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the rules to the Environmental Regulation Commission for approval; requiring that permit fee caps for solid waste management facilities be prorated to reflect the extended permit term; amending s. 403.709, F.S.; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring that the department deposit funds that are reimbursed into the solid waste landfill closure account; amending s. 403.7125, F.S.; requiring that the department require by rule that the owner or operator of a solid waste management facility receiving waste after a specified date provide financial assurance for the cost of completing corrective action for violations of water quality

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592-01733-12 2012738c1

standards; providing an effective date.

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

Section 1. Subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s. 403.087(6)(a), existing permit fees for a qualifying solid waste management facility shall be adjusted to the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4

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59 years and 6 months before the date that the permit application
60 is received by the department; and
61 2. At the time of applying for the renewal permit:
62 a. The applicant is not subject to a notice of violation,
63 consent order, or administrative order issued by the department
64 for violation of an applicable law or rule;
65 b. The department has not notified the applicant that it is
66 required to implement assessment or evaluation monitoring as a
67 result of exceedances of applicable groundwater standards or
68 criteria or, if applicable, the applicant is completing
69 corrective actions in accordance with applicable department
70 rules; and
71 c. The applicant is in compliance with the applicable
72 financial assurance requirements.
73 (d) The department may adopt rules to administer this
74 subsection; however, the provisions of chapter 120 which require
75 a statement of estimated regulatory cost and legislative
76 ratification do not apply to such rulemaking and the department
77 is not required to submit such rules to the Environmental
78 Regulation Commission for approval. Notwithstanding the
79 limitations of s. 403.087(6)(a), permit fee caps for solid waste
80 management facilities shall be prorated to reflect the extended
81 permit term authorized by this subsection.
82 Section 2. Subsection (5) is added to section 403.709,
83 Florida Statutes, to read:
84 403.709 Solid Waste Management Trust Fund; use of waste
85 tire fees.—There is created the Solid Waste Management Trust
86 Fund, to be administered by the department.
87 (5) A solid waste landfill closure account is created

88 within the Solid Waste Management Trust Fund to provide funding
89 for the closing and long-term care of solid waste management
90 facilities, if:
91 (a) The facility had or has a department permit to operate
92 the facility;
93 (b) The permittee provided proof of financial assurance for
94 closure in the form of an insurance certificate;
95 (c) The facility has been deemed to be abandoned or has
96 been ordered to close by the department; and
97 (d) Closure will be accomplished in substantial accordance
98 with a closure plan approved by the department.
99
100 The department has a reasonable expectation that the insurance
101 company issuing the closure insurance policy will provide or
102 reimburse most or all of the funds required to complete closing
103 and long-term care of the facility. If the insurance company
104 reimburses the department for the costs of closing or long-term
105 care of the facility, the department shall deposit the funds
106 into the solid waste landfill closure account.
107 Section 3. Section 403.7125, Florida Statutes, is amended
108 to read:
109 403.7125 Financial assurance ~~for closure~~.—
110 (1) Every owner or operator of a landfill is jointly and
111 severally liable for the improper operation and closure of the
112 landfill, as provided by law. As used in this section, the term
113 "owner or operator" means any owner of record of any interest in
114 land wherein a landfill is or has been located and any person or
115 corporation that owns a majority interest in any other
116 corporation that is the owner or operator of a landfill.

117 (2) The owner or operator of a landfill owned or operated
118 by a local or state government or the Federal Government shall
119 establish a fee, or a surcharge on existing fees or other
120 appropriate revenue-producing mechanism, to ensure the
121 availability of financial resources for the proper closure of
122 the landfill. However, the disposal of solid waste by persons on
123 their own property, as described in s. 403.707(2), is exempt
124 from this section.
125 (a) The revenue-producing mechanism must produce revenue at
126 a rate sufficient to generate funds to meet state and federal
127 landfill closure requirements.
128 (b) The revenue shall be deposited in an interest-bearing
129 escrow account to be held and administered by the owner or
130 operator. The owner or operator shall file with the department
131 an annual audit of the account. The audit shall be conducted by
132 an independent certified public accountant. Failure to collect
133 or report such revenue, except as allowed in subsection (3), is
134 a noncriminal violation punishable by a fine of not more than
135 $5,000 for each offense. The owner or operator may make
136 expenditures from the account and its accumulated interest only
137 for the purpose of landfill closure and, if such expenditures do
138 not deplete the fund to the detriment of eventual closure, for
139 planning and construction of resource recovery or landfill
140 facilities. Any moneys remaining in the account after paying for
141 proper and complete closure, as determined by the department,
142 shall, if the owner or operator does not operate a landfill, be
143 deposited by the owner or operator into the general fund or the
144 appropriate solid waste fund of the local government of
145 jurisdiction.

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

146 (c) The revenue generated under this subsection and any
147 accumulated interest thereon may be applied to the payment of,
148 or pledged as security for, the payment of revenue bonds issued
149 in whole or in part for the purpose of complying with state and
150 federal landfill closure requirements. Such application or
151 pledge may be made directly in the proceedings authorizing such
152 bonds or in an agreement with an insurer of bonds to assure such
153 insurer of additional security therefor.
154 (d) The provisions of s. 212.055 which relate to raising of
155 revenues for landfill closure or long-term maintenance do not
156 relieve a landfill owner or operator from the obligations of
157 this section.
158 (e) The owner or operator of any landfill that had
159 established an escrow account in accordance with this section
160 and the conditions of its permit prior to January 1, 2007, may
161 continue to use that escrow account to provide financial
162 assurance for closure of that landfill, even if that landfill is
163 not owned or operated by a local or state government or the
164 Federal Government.
165 (3) An owner or operator of a landfill owned or operated by
166 a local or state government or by the Federal Government may
167 provide financial assurance to the department in lieu of the
168 requirements of subsection (2). An owner or operator of any
169 other landfill, or any other solid waste management facility
170 designated by department rule, shall provide financial assurance
171 to the department for the closure of the facility. Such
172 financial assurance may include surety bonds, certificates of
173 deposit, securities, letters of credit, or other documents
174 showing that the owner or operator has sufficient financial

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175 resources to cover, at a minimum, the costs of complying with
176 applicable closure requirements. The owner or operator shall
177 estimate such costs to the satisfaction of the department.
178 (4) This section does not repeal, limit, or abrogate any
179 other law authorizing local governments to fix, levy, or charge
180 rates, fees, or charges for the purpose of complying with state
181 and federal landfill closure requirements.
182 (5) The department shall by rule require that the owner or
183 operator of a solid waste management facility that receives
184 waste after October 9, 1993, and that is required by department
185 rule to undertake corrective actions for violations of water
186 quality standards provide financial assurance for the cost of
187 completing such corrective actions. The same financial assurance
188 mechanisms that are available for closure costs shall be
189 available for costs associated with undertaking corrective
190 actions.
191 (6) ~~(5)~~ The department shall adopt rules to implement this
192 section.
193 Section 4. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Regulated Industries

SENATOR THAD ALTMAN
24th District

January 11, 2011

The Honorable Michael Bennett, Chairman
Committee on Community Affairs
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

Senate Bill 738, relating to Solid Waste Management Facilities, has been referred to your committee for the next committee of reference.

I respectfully request SB 738 be placed on the Community Affairs committee agenda at your earliest convenience. Thank you for your consideration and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Thad Altman

Thad Altman

TA/kj

cc: Tom Yeatman, Staff Director
315 Knott Building

rec'd 1/11/12 afw

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

6

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: SOLID WASTE MANAGEMENT FACILITIES

Bill Number: SB 738 *(if applicable)*

Name: KEYNA CORY

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: PO BOX 1347
Street

TALLAHASSEE, FL 32302
City, State, Zip

Phone: 850 681-1065

E-mail: keynacory@paconsultants.com

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

Representing: NATIONAL SOLID WASTES MANAGEMENT ASSN (NSWMA) - FL CHAPTER

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2012
Meeting Date

Topic _____

Bill Number 738 *(if applicable)*

Name Leticia M. Adams

Amendment Barcode _____ *(if applicable)*

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-521-1279

E-mail ladams@flchamber.com

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

Representing Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 928

INTRODUCER: Senator Altman

SUBJECT: Property Assessments

DATE: January 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill amends the first of eight factors property appraisers are required to take into account in arriving at just value. The bill specifies that the present cash value of the property would now include, but not be limited to, a distress sale, short sale, bank sale, or sale at public auction. The property appraiser shall exercise discretion in using all open market transactions and shall use such transactions only if the transactions, in the opinion of the property appraiser, constitute a sufficient number as to affect market value within any specific geographical area. The act would apply retroactively to January 1, 2012.

This bill substantially amends section 193.011 of the Florida Statutes.

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1]

[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.[2]
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.[3]
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.[4]
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.[5]
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.[6]
- Certain working waterfront property is assessed based upon the property's current use.[7]

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.[8]

Factors Considered in Deriving Just Valuation

Section 193.011, F.S., implements the just valuation requirement of the Constitution. It requires property appraisers to take into consideration the following factors in arriving at just valuation:

- Present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- Highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any executive order, ordinance, regulation, resolution or proclamation or judicial limitation when it prohibits or restricts the development or improvement of property;
- Location of the property;
- Quantity or size of the property;

[2] Fla. Const. art. VII, s. 4(a).
[3] Fla. Const. art. VII, s. 4(c).
[4] Fla. Const. art. VII, s. 4(e).
[5] Fla. Const. art. VII, s. 4(f).
[6] Fla. Const. art. VII, s. 4(i).
[7] Fla. Const. art. VII, s. 4(j).
[8] Fla. Const. art. VII, ss. 3 and 6.

- Cost of the property and the present replacement value of any improvements thereon;
- Condition of the property;
- Income from the property; and
- Net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of sale.

The Florida Supreme Court has held that "the appraisal of real estate is an art, not a science,"[9] and "the tax assessor is, of necessity, provided with great discretion due to the difficulty in fixing property values with certainty."[10] In *Lanier v. Walt Disney World Company*, the court held that property appraisers are not obliged, under the law, to give each factor equal weight, provided each factor is first carefully considered and such weight is given to a factor as the facts justify.[11]

Florida Real Property Guidelines

The functions of property appraisers and the Department of Revenue in Florida are distinct and separate. Sections 195.062(1), 195.002(1), and 195.032, F.S., contain a requirement for the Department of Revenue to develop and promulgate real property appraisal guidelines to aid and assist Florida Property Appraisers in the performance of their valuation responsibilities. These are known as The Florida Real Property Appraisal Guidelines.[12] The guidelines cover issues ranging from the foundations of mass appraisal to land valuation and land valuation methods.

Section 195.062(1), F. S., states that these real property appraisal guidelines shall not have the force or effect of administrative rules. Therefore, these guidelines are not rules as defined by the Florida Administrative Code. Other than the applicable provisions of Florida law, manual of instructions, and regulatory requirements, the use of the guidelines is left to the discretion of property appraisers.

Value Adjustment Board Hearings

Section 194.015, F.S., states that a value adjustment board (VAB) shall be created for each county. The value adjustment board shall meet for the following purposes:

- To hear petitions relating to assessments, pursuant to s. 194.011(3), F.S.;
- To hear complaints relating to homestead exemptions, pursuant to s. 196.151, F.S.;
- To hear appeals from tax exemptions that have been denied, or disputes pertaining to granted exemptions, filed pursuant to s. 196.011, F.S.; and
- To hear appeals concerning ad valorem tax deferrals and classifications.[13]

Chapter 194, F.S., provides taxpayers with the right to appeal a property appraiser's assessment, the denial of a classification, a tax exemption, or a tax deferral by filing a petition to the value adjustment board. Following the hearing decision by the VAB, the property appraiser submits a

[9] *Powell v. Kelley*, 223 So. 2d 305, 309 (Fla. 1969).
[10] *District School Board of Lee County v. Askew*, 278 So. 2d 272, 276 (Fla. 1973).
[11] *Lanier v. Walt Disney World Company*, 316 So. 2d 59, 62 (Fla. 4 DCA 1975); *certiorari denied* 330 So. 2d 19 (Fla. Feb 03, 1976) (TABLE, NO. 47876).
[12] Florida Department of Revenue Property Tax Administration, *The Florida Real Property Appraisal Guidelines* adopted Nov. 26, 2002.
[13] Section 194.032(1)(a)1.-4., F.S.

revised certified tax roll to each taxing authority. If the taxpayer does not agree with the VAB's final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 193.011(1), F.S., the first of eight factors property appraisers are required to take into account in arriving at just value. The bill specifies that the present cash value of the property, which is the amount a willing purchaser would pay a willing seller at arm's length, would include but not be limited to a distress sale, short sale, bank sale, or sale at public auction. The property appraiser shall exercise discretion in using all open market transactions and shall use such transactions only if the transactions, in the opinion of the property appraiser, constitute a sufficient number as to affect market value within any specific geographical area.

Section 2 provides that the act shall take effect upon becoming a law and shall apply retroactively to January 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons owning or purchasing property in Florida may have their just valuations altered as a result of the bill.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) has reviewed HB 251 which is substantially the same as the bill.[14] As part of their analysis, the REC used Department of Revenue qualification codes to identify applicable sales that had been previously disqualified. The codes used were:

- 12 - Deeds to or from financial institutions. Deeds stating "in lieu of Foreclosure."
- 37 - Sale not exposed to the open market, sale involving atypical participant motivation.
- 38 - Forced sale or sale under duress. Sale to prevent foreclosure.

The REC inquired of property appraisers about how they thought the bill language would impact current practices. The REC received responses from appraisers whose tax rolls comprise 61 percent of the taxable value of the state. Answers regarding the potential impact varied, depending on the predominance of distressed sales in a given county.

Certain counties indicated that they were using these types of sales after applying certain standards in areas of their county where there were a predominance of distressed sales.[15] Other counties indicated there were sufficient arms length sales that did not have elements of distress and as such felt this change would result in reductions to their values of 3 percent to 15 percent. Those counties that the REC had conversations with all felt there would be an impact both at the VAB and in the future when distressed sales return to a normal percentage of transactions.

The conference adopted negative indeterminate impacts of at least the following amounts, assuming current statewide millage rates:[16]

- For non-school levies, the minimum impacts are -$14.3 million cash/-$29.0 million annualized for FY 2012-13, and -$29.0 million for fiscal years 2013-14 through 2015-16.
- For school levies the minimum impacts are -$10.2 million cash/-$20.8 million annualized for FY 2012-13, and -$20.8 million for fiscal years 2013-14 through 2015-16.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the DOR, the bill language creates an internal conflict in s. 193.011, F.S., by including distress-type transfers as a component of open market, arm's length sales involving a

[14] Office of Economic and Demographic Research, The Florida Legislature, *Property Assessments – Distressed Sales, HB 251* (Oct. 24, 2011, Nov. 28, 2011) *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page90-95.pdf (last visited January 18, 2012).
[15] Counties indicating they were already accounting for distressed sales included Broward, Collier, Hillsborough, Lee, Orange, and Volusia.
[16] Statewide millage rates of 10.9 for non-school purposes, and 7.8 for school purposes.

willing seller.[17] By definition, such distress-type transfers are not open market or arm's length sales involving a willing seller (market sales).

The DOR also posits that the bill language would change the meaning of market sales as provided in subsections 193.011(1) and 195.096(2)(c), F.S., leading to increased assessment variation and decreased assessment uniformity. This would create a different standard for "market sales" and would present substantial difficulty for the Department in performing its oversight duties under sections 193.1142, 195.0012, 195.096, 195.0995, and 195.097, F.S.

Subsection 195.096(2)(d), F.S., states: "In the conduct of these reviews, the department shall adhere to all standards to which the property appraisers are required to adhere." Section 195.0012, F.S., states the following: "It is declared to be the legislative purpose and intent in this entire chapter to recognize and fulfill the state's responsibility to secure a just valuation for ad valorem tax purposes of all property and to provide for a uniform assessment as between property within each county and property in every other county or taxing district." According to the DOR, using distress-type transfers as "market sales" would increase assessment variation and impede the legislative intent for the Department to secure just valuations and assessment uniformity.

Section 195.096(5), F.S., states the following: "It is the legislative intent that the department utilize to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section." The DOR postulates that the distress-type sales contemplated in this bill would not give objective measures of value as provided by statute. The Department's sale qualification reviews under s. 195.0995, F.S., rely upon arm's length, market sales as objective measures of whether particular sales should be qualified or disqualified consistent with the statutory scheme for just valuation. According to the Department, including non-market, distress-type sales in the pool of market sales would impede the DOR's ability to objectively and reliably evaluate the decisions of the property appraiser in qualifying or disqualifying sales. This would lead to difficulty in the Department's ability to perform its duties under s. 195.097, F.S.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

[17] Florida Department of Revenue, *Senate Bill 928 Analysis* (Nov. 29, 2012) (on file with the Senate Committee on Community Affairs). The entirety of the Related Issues section represents analysis by the DOR.

By Senator Altman

24-00533-12 2012928__

A bill to be entitled

An act relating to property assessments; amending s. 193.011, F.S.; revising the factors that a property appraiser must consider when deriving the just valuation of property; providing conditions and limitations relating to a property appraiser's use of certain property transactions to arrive at just valuation of property; providing for retroactive application; providing an effective date.

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

Section 1. Section 193.011, Florida Statutes, is amended to read:

193.011 Factors to consider in deriving just valuation.—In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in open market transactions or transactions ~~a transaction~~ at arm's length which have occurred in good faith between unrelated or unaffiliated parties, including, but not limited to, a distress sale, short sale, bank sale, or sale at public auction. The property appraiser shall exercise discretion in using all open market transactions and shall use such transactions only if the transactions, in the opinion of the property appraiser, constitute a sufficient

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24-00533-12 2012928__

number as to affect market value within any specific geographical area;

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

(5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or

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59 atypical terms of financing arrangements. When the net proceeds
60 of the sale of any property are utilized, directly or
61 indirectly, in the determination of just valuation of realty of
62 the sold parcel or any other parcel under the provisions of this
63 section, the property appraiser, for the purposes of such
64 determination, shall exclude any portion of such net proceeds
65 attributable to payments for household furnishings or other
66 items of personal property.
67 Section 2. This act shall take effect upon becoming a law
68 and shall apply retroactively to January 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN
24th District

January 11, 2012

The Honorable Michael Bennett, Chairman
Committee on Community Affairs
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

Senate Bill 928, relating to Property Assessments, has been referred to your committee for the first committee of reference.

I respectfully request SB 928 be placed on the Community Affairs committee agenda at your earliest convenience. Thank you for your consideration and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Thad Altman

Thad Altman

rec'd 1/11/12
afw

TA/kj

cc: Tom Yeatman, Staff Director
315 Knott Building

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 862

INTRODUCER: Senator Simmons

SUBJECT: Wage Protection for Employees

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Favorable**
2.			JU	
3.			GO	
4.				
5.				
6.				

I. Summary:

The bill provides that the regulation of wage theft is expressly preempted to the state. Therefore, local governments may not regulate over and above the existing state and federal laws. The bill also defines "wage theft" as an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

This bill creates an undesignated section of law.

II. Present Situation:

Wage Theft

"Wage theft" is a general term sometimes used to describe the failure of an employer to pay any portion of wages due to an employee. Wage theft encompasses a variety of employer violations of federal and state law resulting in lost income to an employee. Some examples of wage theft include:

- employee is paid below the state or federal minimum wage;
- employee is paid partial wages or not paid at all;
- non-exempt employee is not paid time and half for overtime hours;
- employee is required to work off the clock;
- employee has their time card altered;
- employee is misclassified as an independent contractor;
- employee does not receive final paycheck after employment is terminated.

There are a variety of federal and state laws that protect employees from wage theft including, but not limited to, the Fair Labor Standards Act (FLSA) and Florida's minimum wage laws. An aggrieved employee may also file a common law breach of contract claim in circuit court.

Employee Protection: Federal and State

Both federal[1] and state laws provide protection to employees who are employed by private and governmental entities. These protections include workplace safety, anti-discrimination, anti-child labor, workers' compensation, and wage protection laws.

Federal Protection of Employees

Examples of federal laws, which the U.S. Department of Labor administers and enforces, include:

- **The Davis-Bacon and Related Acts**[2] **-** Applies to federal or District of Columbia construction contracts or federally assisted contracts in excess of $2,000; requires all contractors and subcontractors performing work on covered contracts to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area.
- **The McNamara-O'Hara Service Contract Act**[3] **-** Applies to federal or District of Columbia contracts in excess of $2,500; requires contractors and subcontractors performing work on these contracts to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.
- **The Migrant and Seasonal Agricultural Workers Protection Act**[4] **-** Covers migrant and seasonal agricultural workers who are not independent contractors; requires, among other things, disclosure of employment terms and payment of wages owed when due.
- **The Contract Work Hours and Safety Standards Act**[5] **-** Applies to federal service contracts and federal and federally assisted construction contracts over $100,000; requires contractors and subcontractors performing work on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek.
- **The Copeland "Anti-Kickback" Act**[6] **-** Applies to federally funded or assisted contracts for construction or repair of public buildings; prohibits contractors or subcontractors performing work on covered contracts from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract.

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[1] A list of examples of federal laws that protect employees is located at: http://www.dol.gov/compliance/laws/main.htm (last visited January 4, 2012).
[2] Pub. L. No. 107-217, 120 Stat. 1213 (codified as amended at 40 U.S.C. §§ 3141-48; the Davis-Bacon Act has also been extended to approximately 60 other acts).
[3] Pub. L. No. 89-286, 79 Stat. 1034 (codified as amended at 41 U.S.C. §§ 351-58).
[4] Pub. L. No. 97-470, 96 Stat. 2583 (codified as amended at 29 U.S.C. §§ 1801-72).
[5] Pub. L. No. 87-581, 76 Stat. 357 (codified as amended at 40 U.S.C. §§ 3701-08).
[6] 40 U.S.C. §276c 18 U.S.C. §874.

Fair Labor Standards Act of 1938
The FLSA[7] establishes a federal minimum wage and requires employers to pay time and half to its employees for overtime hours worked. The FLSA establishes standards for minimum wages,[8] overtime pay,[9] recordkeeping,[10] and child labor.[11] The FLSA applies to most classes of workers.[12]

The FLSA provides that:

> Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.[13]

Thus, if a nonexempt employee works more than forty hours in a week, then the employer must pay at least time and half for those hours over forty. A failure to pay a nonexempt employee is a violation of the FLSA.[14] The FLSA also establishes a federal minimum wage in the United States.[15] The federal minimum wage is the lowest hourly wage that can be paid in the United States. A state may set the rate higher than the federal minimum but not lower.[16]

The FLSA provides for enforcement in three separate ways:
- civil actions or lawsuits by the federal government;[17]
- criminal prosecutions by the United States Department of Justice;[18] or
- private lawsuits by employees or workers, which includes individual lawsuits and collective actions.[19]

The FLSA provides that an employer who violates section 206 (minimum wage) or section 207 (maximum hours) is liable to the employee for the amount of the unpaid wages and liquidated damages equal to the amount of the unpaid wages.[20] An employer who fails to pay according to law is also responsible for the employee's attorney's fees and costs.[21]

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[7] 29 U.S.C. ch. 8.
[8] 29 U.S.C. §206.
[9] 29 U.S.C. §207.
[10] 29 U.S.C. §211.
[11] 29 U.S.C. §212.
[12] The U.S. Department of Labor provides an extensive list of types of employees covered under the FLSA at http://www.dol.gov/compliance/guide/minwage.htm (last visited January 4, 2012).
[13] 29 U.S.C. §207(a)(1).
[14] There are several classes of exempt employees from the overtime requirement of the FLSA. For examples of exempt employees see http://www.dol.gov/compliance/guide/minwage.htm (last visited January 4, 2012).
[15] 29 U.S.C. §206.
[16] 29 U.S.C. §218(a).
[17] 29 U.S.C. §216(c).
[18] 29 U.S.C. §216(a).
[19] 29 U.S.C. §216(b).
[20] 29 U.S.C. §216(b).
[21] *Id*.

State Protection of Employees
State law provides for protection of employees, including anti-discrimination,[22] work safety,[23] and a state minimum wage. Since 2004, the state minimum wage has been established by the Florida Constitution.[24] Article X, s. 24(c) of the state constitution provides that, "Employers shall pay Employees Wages no less than the Minimum Wage for all hours worked in Florida."

If an employer does not pay the state minimum wage, the constitution provides that an employee may bring a civil action in a court of competent jurisdiction for the amount of the wages withheld.[25] If the employee prevails, in addition to the unpaid wages, a court may also award the employee liquidated damages in the amount of the wages withheld and reasonable attorney's fees and costs.[26] Further, any employer that willfully violates the minimum wage law is fined $1,000 for each violation.[27] The Attorney General is also empowered to bring a civil action to enforce the state's minimum wage laws.[28]

The current state minimum wage is $7.67 per hour, which is the federal rate.[29] Federal law requires the payment of the higher of the federal or state minimum wage.[30]

Chapter 448, F.S., includes the State Minimum Wage Act, which implements the constitutional provision in Article X, s. 24. It also prohibits an employer from retaliating against the employee for enforcing his or her rights, and it preserves the rights that an employee has under any collective bargaining agreement or employee contract.[31]

An employee may bring a common law breach of contract claim for unpaid wages too, and s. 448.08, F.S., allows the court to award attorney's fees and costs if the employee prevails.

Home Rule and Preemption
Article VIII, ss. 1 and 2, of the state constitution establishes two types of local governments - counties[32] and municipalities. Local governments have wide authority to enact various ordinances to accomplish their local needs.[33] Under home rule powers, a municipality or county may legislate concurrently with the Legislature on any subject that has not been preempted to the state.

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[22] Section 760.10, F.S.
[23] Sections 448.20-26 and 487.2011-2071, F.S.
[24] Art. X, s. 24, Fla. Const.
[25] Art. X, s. 24(e), Fla. Const.
[26] *Id*.
[27] *Id*.
[28] *Id*.
[29] *See* Agency for Workforce Innovation Website for information regarding the current minimum wage in the State of Florida http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notices (last visited January 4, 2012).
[30] 29 U.S.C. §218(a).
[31] Section 448.105, F.S.
[32] Florida has both charter and non-charter counties.
[33] Article VIII of the state constitution establishes the powers of charter counties, non-charter counties, and municipalities. Chapters 125 and 166, F.S., provide the additional powers and constraints of counties and municipalities.

Preemption essentially takes a topic or field in which local government might otherwise establish appropriate local laws and reserves that topic for regulation exclusively by the state.[34] Florida law recognizes two types of preemption: express and implied.[35] Express preemption requires a specific legislative statement and cannot be implied or inferred.[36] Express preemption requires that a statute contain specific language of preemption directed to the particular subject at issue.

The absence of express preemption does not bar a court from a finding of preemption by implication, though courts are careful when imputing intent on behalf of the legislature to preclude a local government from using its home rule powers.[37] Before finding that implied preemption exists, a court will first consider whether the legislative scheme is so pervasive as to evidence intent to preempt the particular area.[38] Factors that point to a pervasive legislative scheme include the nature of the subject matter, the need for state uniformity, and the scope and purpose of the state legislation.[39] Second, a court will consider whether there are strong public policy reasons for finding an area to be preempted by the Legislature.[40] An example of an area where the courts have found implied preemption is the regulation of public records.[41]

There is no apparent express preemption of wage laws to the federal and state governments. It is unclear whether a court would find that the existing laws regarding employee wages are an implied preemption of the subject.

Miami-Dade County Wage Theft Ordinance

In February of 2010, Miami-Dade County enacted an ordinance regulating wage theft.[42] The ordinance is enforced by the county's Department of Small Business Development (SBD)[43] and provides a local process for employees to file claims for unpaid wages outside of the processes available under state and federal law.

Section 22-3 of the Miami Dade County Code states:

> For any employer to fail to pay any portion of wages due to an employee, according to the wage rate applicable to that employee, within a reasonable time from the date on which that employee performed the work for which those wages were compensation, shall be wage theft; and such a violation shall entitle an employee, upon a finding by a hearing examiner appointed by Miami-Dade County or by a court of competent jurisdiction that an employer is found to have unlawfully failed to pay wages, to receive back wages in addition to liquidated damages from that employer.

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[34] *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006).
[35] *Id*.
[36] *Id*.
[37] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d. 880, 886 (Fla. 2010).
[38] *See Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).
[39] *See Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).
[40] *Tallahassee Mem'l Reg'l Med. Ctr, Inc. v. Tallahassee Med. Ctr, Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).
[41] *See Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).
[42] Miami Dade County, Fla., Code ch. 22.
[43] CYNTHIA S. HERNANDEZ, RESEARCH INSTITUTE ON SOCIAL AND ECONOMIC POLICY, WAGE THEFT IN FLORIDA: A REAL PROBLEM WITH REAL SOLUTIONS 3 (2010).

Upon the filing of a complaint, the County determines if the complaint 1) alleges wage theft, 2) names at least one respondent, and 3) meets the threshold requirement of at least $60 in unpaid wages.[44] If the complaint meets the initial criteria, the County serves the complaint and a written notice on the accused employer in an attempt to recover the funds.[45] The County tries to work with the parties to resolve the case either through the payment of the wages or a conciliation agreement, however, if the dispute cannot be settled, the case is referred to a Hearing Examiner.[46] The Hearing Examiner has the authority to administer oaths, issue subpoenas, compel the production of and receive evidence.[47] At the hearing, parties may proceed with discovery, submit evidence, cross-examine witnesses, and obtain the issuance of subpoenas.[48] The Hearing Examiners final order is appealable to a court of competent jurisdiction.[49] In January of 2012, Miami-Dade County reported that there have been a total of 901 cases and $393,213.98 awarded to claimants.

Proponents of the Miami-Dade County wage theft ordinance argue that the ordinance:

- allows employees to avoid circuit court, a process which is often lengthy and expensive for employees;[50]
- provides a simpler process for employees who are often unaware of the federal and state remedies available, including undocumented workers, who often fear deportation, and thus are reluctant to file a complaint with the U.S. Department of Labor;[51]
- covers all employees in Miami-Dade County, including the many employees not covered by the Fair Labor Standards Act.[52]

Opponents of the Miami-Dade County wage theft ordinance argue that the ordinance:

- is unnecessary given the extensive amount of remedies for employees already in state and federal law, and simply creates a patchwork of various additional regulations that businesses are forced to learn and comply with;[53]

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[44] Miami-Dade County, Fla., Code s. 22-4(2)(a).

[45] Miami-Dade County, Fla., Code s. 22-4(2)(b). The county might also first make a phone call to the employer in an attempt to resolve the issue before serving a complaint.

[46] Miami-Dade County, Fla., Code s. 22-4(6)(a). The wage theft ordinance and implementing order (IO) do not expressly provide qualifications for hearing examiners, however, Miami-Dade's SBD has relied on the hearing examiner qualifications from another implementing order (IO 3-24, relating to responsible wages and benefits for county construction contracts) in selecting hearing examiners for the wage theft ordinance. IO 3-24 can be found at http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-24.pdf (last accessed January 5, 2012). The hearing examiner qualifications are found on p. 14.

[47] Miami-Dade County Code of Ordinances, s. 22-4(7).

[48] *Id*.

[49] *Id*.

[50] *See* JON BOOHER, M.S., AND JOHN DMELLO, PH.D., A COMPARATIVE STUDY OF THE WAGE THEFT PROJECT OF THE LEGAL AID SOCIETY OF PALM BEACH COUNTY WITH THE WAGE THEFT PROGRAM OF THE DEP'T OF SMALL BUSINESS DEV. OF MIAMI-DADE COUNTY AS ESTABLISHED BY THE WAGE THEFT ORDINANCE (2011).

[51] *See* Dave Jamieson, "Wage Theft: Business Interests Try To Scuttle New Worker Laws," The Huffington Post, Sep. 5, 2011, http://www.huffingtonpost.com/2011/07/06/wage-theft-business-workers-laws_n_891578.html (last visited January 4, 2012).

[52] CYNTHIA S. HERNANDEZ, RESEARCH INSTITUTE ON SOCIAL AND ECONOMIC POLICY, WAGE THEFT IN FLORIDA: A REAL PROBLEM WITH REAL SOLUTIONS 3 (2010) provides ". . . a large percentage of the region's [South Florida] workers are not covered under the Fair Labor Standards Act because they work for an employer who employs less than five employees or whose business does not generate more than $500,000 annually, leaving the U.S. Department of Labor Wage and Hour Division with no jurisdiction to protect these workers."

- is unconstitutional, void of many of the due process protections present in state and federal laws, and provides no finality by doing nothing to prevent an employee who prevails or does not prevail under the ordinance from filing the same claim in state or federal court.[54]
- does not discourage frivolous or unfounded claims.[55]

Legal Challenge
In August of 2010, the Florida Retail Federation filed suit to challenge the constitutionality of the Miami-Dade County ordinance.[56] The Florida Retail Federation alleged in its complaint that the ordinance violates due process, separation of powers, right to jury trial, prohibition on local governments creating courts, and that the ordinance is preempted by federal and state law.[57] The litigation is still ongoing with a ruling on a motion to dismiss and motion for summary judgment expected soon.

Palm Beach County
Palm Beach County has also addressed the issue of wage theft locally through a pilot program of sorts involving the Palm Beach County Legal Aid Society.[58] The process established by Palm Beach County Legal Aid is similar to the process established by the Miami-Dade County ordinance, but instead of a hearing examiner reviewing the claims, Legal Aid refers cases to attorneys who represent employees pro bono in filing a claim in civil court or with the U.S. Department of Labor.[59] A study comparing Palm Beach's Legal Aid process with Miami-Dade's Ordinance process found that the ordinance proved much more effective in resolving wage theft.[60] However, it should be noted that Palm Beach County's process relies on volunteers and does not require county resources.[61]

The Palm Beach County Commission has considered enacting a similar ordinance to Miami-Dade, but has reportedly postponed a final vote until March of 2012.[62]

III. Effect of Proposed Changes:

Section 1 preempts to the state any wage theft ordinances or regulations. A county, municipality, or political subdivision of the state may not adopt or maintain in effect any law, ordinance, or

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[53] SNIFFEN & SPELLMAN P.A., WAGE THEFT ORDINANCES: AN UNNECESSARY AND REDUNDANT REMEDY FOR FLORIDA EMPLOYEES (2011).
[54] Florida Retail Federation, *Q&A on Wage Theft Ordinances*.
[55] *Id.* Under the ordinance, if an employer is found liable, it is forced to pay attorney's fees and the cost of administering the complaint. However, if an employer is not found liable, the same standard does not apply to the employee who is not held responsible for attorney's fees or costs.
[56] *Fla. Retail Federation, Inc. v. Miami-Dade County, Fla.*, Case No. 10-42326CA30 (11th Jud. Cir.).
[57] *See* Complaint for Declaratory and Injunctive Relief, *Fla. Retail Federation, Inc. v. Miami-Dade County, Fla.*, Case No. 10-42326CA30 (11th Jud. Cir. Aug. 4, 2010).
[58] *See* JON BOOHER, M.S., AND JOHN DMELLO, PH.D., A COMPARATIVE STUDY OF THE WAGE THEFT PROJECT OF THE LEGAL AID SOCIETY OF PALM BEACH COUNTY WITH THE WAGE THEFT PROGRAM OF THE DEP'T OF SMALL BUSINESS DEV. OF MIAMI-DADE COUNTY AS ESTABLISHED BY THE WAGE THEFT ORDINANCE (2011).
[59] *Id.*
[60] *Id.* One possible reason for the increased effectiveness the study stated is that Miami-Dade County has the weight of an ordinance behind it, whereas Palm Beach County Legal Aid can only threaten a civil court action.
[61] SNIFFEN & SPELLMAN P.A., WAGE THEFT ORDINANCES: AN UNNECESSARY AND REDUNDANT REMEDY FOR FLORIDA EMPLOYEES (2011).
[62] *Supra* FN 58.

rule that creates requirements, regulations, or processes for the purpose of addressing wage theft. This section defines "wage theft" as an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

Section 2 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 bill may prevent additional burdens on businesses by eliminating the possibility of a patchwork of wage theft regulations throughout Florida's 67 counties and over 400 municipalities.

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 Simmons

22-00451C-12 2012862__

A bill to be entitled

An act relating to wage protection for employees; prohibiting a county, municipality, or political subdivision from adopting or maintaining in effect a law, ordinance, or rule that creates requirements, regulations, or processes for the purpose of addressing wage theft; preempting such activities to the state; defining the term "wage theft"; providing an effective date.

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

Section 1. (1) A county, municipality, or political subdivision of the state may not adopt or maintain in effect any law, ordinance, or rule that creates requirements, regulations, or processes for the purpose of addressing wage theft. The regulation of wage theft by counties, municipalities, or political subdivisions is expressly preempted to the state.

(2) As used in this section, the term "wage theft" means an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR DAVID SIMMONS
Majority Whip
22nd District

December 9, 2011

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Bill 862, Wage Protection for Employees, on the next agenda for the Community Affairs Committee.

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

Sincerely yours,

David Simmons

rec'd 12/9/11
afw

cc: Tom Yeatman, staff director for Community Affairs Committee

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

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

23 Jan 12
Meeting Date

Topic: Wage Theft

Bill Number: 862 *(if applicable)*

Name: JOHN ROGERS

Amendment Barcode: *(if applicable)*

Job Title: Sr. V.P. + Gen. Counsel

Address: ~~Florida Fed~~ 227 S. Adams
Street

TLH, FL 32301
City *State* *Zip*

Phone: 850/222-4082

E-mail: John@FRF.org

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

Representing: Fl. Retail Federation

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)

1/23/12
Meeting Date

Topic: Wage Theft

Bill Number: 862 (if applicable)

Name: Karen Woodall

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 545 E. Tennessee St.
Street

Tallahassee FL 32301
City State Zip

Phone: 850-321-9386

E-mail: fcfep@yahoo.com

Speaking: ☐ For ☑ Against ☑ Information

Representing: Farmworker Association of Florida, Farmworker Self-Help

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)

1/23/12
Meeting Date

Topic: Wage Protection

Bill Number: 562 *(if applicable)*

Name: Warren Husband

Amendment Barcode: *(if applicable)*

Job Title:

Address: PO Box 10909
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 850 205 9000

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: Associated General ~~Contractors~~ Contractors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

1-23-12 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: WAGE THEFT

Bill Number: 862 *(if applicable)*

Name: JESS MCCARTY

Amendment Barcode: *(if applicable)*

Job Title: ASS'T COUNTY ATTY

Address: 111 NW 1ST ST
Street

MIAMI 33128
City *State* *Zip*

Phone:

E-mail:

Speaking: ☐ For ☐ Against ☑ Information

Representing: MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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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)

1/23/2012
Meeting Date

Topic _____

Bill Number 862 *(if applicable)*

Name Leticia M. Adams

Amendment Barcode _____ *(if applicable)*

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-521-1279

E-mail ladams@flchamber.com

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

Representing Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Wage Protection

Bill Number: SB 862 *(if applicable)*

Name: Doug Buck

Amendment Barcode: *(if applicable)*

Job Title:

Address: 201 E Park Ave
Street

City *State* *Zip*: 32301

Phone: 850-224-4316

E-mail: dbuck@fhba.com

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

Representing: Florida Home Builders Assn

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/22/12
Meeting Date

Topic: Wage Theft/Protection

Bill Number: 862 (if applicable)

Name: Lee Ann Fisch

Amendment Barcode: (if applicable)

Job Title: Assoc Dir State Legis Aff

Address: 315 S Calhoun St #850
Street

Tallahassee FL 32301
City State Zip

Phone: 850/222 2557

E-mail:

Speaking: [X] For [ ] Against [ ] Information (waive time)

Representing: Fl Farm Bureau

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.

8

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/11
Meeting Date

Topic: Wage theft Protection

Bill Number: SB 862 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: VP - External Affairs

Address: 516 N. Adams St.
Street

Tallahassee FL 32312
City *State* *Zip*

Phone: 224-7173

E-mail: bbevis@aif.com

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

Representing: Associated Industries of Florida

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

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

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

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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)

1/23/12
Meeting Date

Topic: Wage Protection

Bill Number: 862 *(if applicable)*

Name: Richard Watson

Amendment Barcode: *(if applicable)*

Job Title: Legis Counsel

Address: P.O. Box 10038
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 850-222-0000

E-mail: rick@rwatsonandassociates.com

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

Representing: Assoc Builders & Contractors of FL

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

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

Waived Support

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)

1/23/2012
Meeting Date

Topic _____

Bill Number 862 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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)

1-23-12
Meeting Date

Topic: WAGE THEFT PROT.

Bill Number: SB 862 *(if applicable)*

Name: KARI HEBRANK

Amendment Barcode: *(if applicable)*

Job Title:

Address: 201 S. Monroe St.
Street

Tallahassee FL 32317
City *State* *Zip*

Phone: 850-556-7824

E-mail: kari@rambaconsulting.com

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

Representing: Simpson Strong-Tie

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-23-12
Meeting Date

Topic: WAGE THEFT

Bill Number: SB-862 *(if applicable)*

Name: J. B. CLARK

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: 2041 CYNTHIA DRIVE
Street

TALL. FL 32303
City *State* *Zip*

Phone:

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL. ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/CS/SB 354

INTRODUCER: Community Affairs Committee; Transportation Committee; and Senator Simmons

SUBJECT: Seminole County Expressway Authority

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 354 recreates the Seminole County Expressway Authority (the Authority or SCEA), which was dissolved through the enactment of legislation during the 2011 Session. The Authority may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

This bill creates numerous undesignated sections of law.

II. Present Situation:

Florida expressway authorities are formed either under the Florida Expressway Authority Act (ch. 348, F.S., Part I of the F.S.) or by special act of the Legislature. The purpose of Florida's expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

Chapter 2011-64, L.O.F., enacted during the 2011 Legislative Session, contains various provisions related to transportation, including the repeal of statutes creating six expressway authorities, which do not currently operate or maintain a toll facility.[1] Specifically, ch. 2011-64, L.O.F., repealed Part VIII of ch. 348, F.S., which provided for the creation and operation of the Seminole County Expressway Authority. The law also removed provisions authorizing the remaining authorities to enter into lease purchase agreements.

The Authority was an agency of the state, created in 1974 under ch. 348, Part VIII, F.S., (consisting of ss. 348.95 through 348.963, F.S.) for the purposes and having the right to acquire, hold, construct, improve, maintain, operate, own and lease the expressway system within Seminole County.

The Florida Transportation Commission (FTC), as part of its primary functions, serves as an oversight body for transportation authorities and monitors and reports on the efficiency, productivity and management of those authorities created under chs. 343 and 348, F.S. According to FTC's Transportation Authority Monitoring and Oversight Fiscal Year 2010 Report, "the SCEA does not operate any facilities, but does have a Board that generally meets semi-annually. The Board is made up of five County Commissioners and two City Commissioners, who meet to track planning for future toll roads in the county. SCEA, working with the [Florida] Department [of Transportation] and the Orlando-Orange County Expressway Authority, recently approved the final road alignment for the Wekiva Parkway in Seminole County."[2] For purposes of FTC's report, SCEA was considered an inactive authority.[3]

III. Effect of Proposed Changes:

This bill recreates the Authority and reinstates previously repealed provisions that were found in ss. 348.95 through 348.963, F.S. (2011). In addition, the Authority may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

The governing body of the authority will have seven members consisting of:

- five members of the Board of County Commissioners of Seminole County; and
- two members that are duly elected municipal officers of Seminole County appointed by the Board of County Commissioners.

Municipal members of the governing board shall be eligible for reappointment. The members shall elect from their number a chairperson; they also may select a treasurer and a secretary who are not required to be authority members. Four members constitute a quorum, and the affirmative vote of three members is necessary for the authority to take action. Authority members are entitled to receive per diem and other expenses incurred in connection with Authority business, pursuant to s. 112.061, F.S.

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[1] Expressway authorities deleted from the Florida Statutes include: Brevard County Expressway Authority, Broward County Expressway Authority, Pasco County Expressway Authority, St. Lucie County Expressway Authority, Seminole County Expressway Authority, and Southwest Florida Expressway Authority.

[2] http://www.ftc.state.fl.us/PDF/Reports/TAMO/Final_FY2010_Oversight_Report_052511.pdf (last visited 1/5/12).

[3] The status of "inactive" was assigned to those organizations that had never met, operated no facilities, disbanded, or were active at one time and transferred their facilities.

The SCEA may acquire, hold, construct, improve, maintain, operate, own and lease an expressway system. Powers are granted to:

- enter lease or lease-purchase agreements;
- set and collect tolls, fees, or charges and to delegate toll collection responsibility to the FDOT;
- borrow money, and make and issue negotiable notes;
- enter contracts;
- have the power of eminent domain;
- encumber all or any part of the revenues, rates, fees, rentals, or other receipts of the authority, including gasoline tax revenues received from county under a lease-purchase agreement; and
- do all things necessary or convenient for the conduct of its business.

Bonds may be issued through the state Division of Bond Finance. No obligation of the Authority may be deemed an obligation of the state. The FDOT may be appointed by the authority as an agent for construction of the expressway system.

Section 1: Provides a popular title: "Seminole County Expressway Authority Law."

Section 2: Defines terms used in this part.

Section 3: Creates the Authority and specifies membership on the expressway authority board of directors, their terms and duties, allows hiring of staff, with a limitation on their salary.

Section 4: Specifies powers of the governing board, including authorizing SCEA to assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

Section 5: Specifies bonds may be issued by the State Division of Bond Finance on behalf of the expressway authority.

Section 6: Allows the Authority to enter into a lease-purchase agreement with the FDOT for any transportation facilities built by the Authority.

Section 7: Allows the Authority to appoint FDOT as its agent for purposes of constructing aforementioned facilities.

Section 8: Allows the Authority to acquire land and property and provides the right of eminent domain.

Section 9: Provides the Authority the ability to enter into contracts with other governmental bodies.

Section 10: Specifies the covenant of the state against altering the right vested in the Authority until all bonds are paid and discharged.

Section 11: Exempts the Authority from certain taxation.

Section 12: Provides eligibility for investments and securities.

Section 13: Expresses the intent of pledges made by the FDOT is enforceable in court.

Section 14: Specifies no approval from voters shall be necessary before bonds can be issued.

Section 15: Provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on January 30, 2012
The CS provides that the total compensation package for any authority employee may not exceed the total compensation package of the Secretary of the Florida Department of Transportation.

CS by Transportation on January 9, 2012:

The CS includes as powers and duties of the Authority that the SCEA may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

B. Amendments:

None.

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

821942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment**
2
3 Between lines 144 and 145
4 insert:
5 (7) The total compensation package for any authority
6 employee may not exceed the total compensation package of the
7 Secretary of the Florida Department of Transportation.

By the Committee on Transportation; and Senator Simmons

596-01759-12 2012354c1

A bill to be entitled

An act relating to the Seminole County Expressway Authority; creating the Seminole County Expressway Authority Law; providing definitions; creating the Seminole County Expressway Authority; prohibiting an entity or body or another authority from exercising jurisdiction, control, authority, or power over an expressway system in Seminole County without the consent of the Seminole County Expressway Authority; providing for membership and terms of the authority; authorizing staffing; providing for certain reimbursement for authority members; providing for the powers and duties of the authority; providing for the assumption of duties and responsibilities of the prior Seminole County Expressway Authority for certain contracts and agreements; requiring notice of public hearing and an opportunity for municipal officials and residents to discuss and advise the authority; providing for the issuance of bonds; providing for lease-purchase agreements between the Department of Transportation and the authority; providing criteria for the lease-purchase agreements; providing for use of certain revenues as payments for the lease-purchase agreements; authorizing the Department of Transportation to use funds for the operation of the authority and to generate preparatory information necessary for an expressway system; providing for an agent for construction; authorizing the authority to appoint the department as its agent under certain

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596-01759-12 2012354c1

circumstances; authorizing the authority to acquire land and properties; providing for the cooperation of other entities to further the purposes of the act; prohibiting the state from changing the terms of the bonds; exempting the authority from certain taxes; providing for the bond's eligibility for investments and security; providing for the enforcement by bondholders of any pledge relating to the bonds issued by the department; providing for the extent of the powers authorized by the act; providing an effective date.

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

Section 1. Short title.—Sections 1-14 of this act may be cited as the "Seminole County Expressway Authority Law."

Section 2. Definitions.—As used in sections 1-14 of this act, the term:

(1) "Agency of the state" means the state and any department of, or corporation, agency, or instrumentality created, designated, or established by, the state.

(2) "Authority" means the Seminole County Expressway Authority.

(3) "Bond" means a note, bond, refunding bond, or other evidence of indebtedness or obligation, in temporary or definitive form, which the authority issues pursuant to this part.

(4) "County" means Seminole County.

(5) "Department" means the Department of Transportation

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59 existing under chapters 334-339, Florida Statutes.
60 (6) "Expressway" means the same as limited access
61 expressway.
62 (7) "Federal agency" means the United States, the President
63 of the United States, and any department of, or corporation,
64 agency, or instrumentality created, designated, or established
65 by, the United States.
66 (8) "Gasoline tax funds of Seminole County" mean all of the
67 80 percent surplus gasoline tax funds accruing in each year to
68 the Department of Transportation for use in Seminole County
69 under the provisions of s. 9, Article XII of the State
70 Constitution, or all constitutional gas funds as may otherwise
71 be provided by the State Constitution or by statute for use in
72 Seminole County, after deduction of any amount of such gasoline
73 tax funds pledged by the Department of Transportation or the
74 county for outstanding obligations.
75 (9) "Lease-purchase agreement" means an agreement that the
76 authority may enter into with the Department of Transportation
77 pursuant to this part.
78 (10) "Limited access expressway" means a street or highway
79 especially designed for through traffic and over, from, or to
80 which no person has the right of easement, use, or access except
81 in accordance with the rules and regulations adopted by the
82 authority for the use of such facility. The street or highway
83 may be a parkway from which trucks, buses, and other commercial
84 vehicles are excluded, or it may be a freeway open to use by all
85 customary forms of street and highway traffic.
86 (11) "Members" mean the governing body of the authority,
87 and the term "member" means one of the individuals constituting

88 the governing body.
89 (12) "Seminole County Expressway System" or "system" means
90 any expressway and appurtenant facilities thereto in Seminole
91 County, including, but not limited to, all approaches, roads,
92 bridges, and avenues of access for the expressway.
93 (13) "State Board of Administration" means the body
94 corporate existing under s. 9, Article XII of the State
95 Constitution or any successor thereto.
96 Section 3. Seminole County Expressway Authority.—
97 (1) There is created a body politic and corporate, an
98 agency of the state, to be known as the "Seminole County
99 Expressway Authority" and referred to as "authority."
100 (2) The authority has exclusive right to exercise all the
101 powers under sections 1-14 of this act, and no other entity,
102 body, or authority within or without Seminole County may
103 directly or indirectly exercise jurisdiction, control,
104 authority, or power in any manner relating to any expressway
105 system within Seminole County without the express consent of the
106 authority or as otherwise provided in sections 1-14 of this act.
107 (3) The governing body of the authority consists of seven
108 members. Five members must be members of the Board of County
109 Commissioners of Seminole County, and the term of each member is
110 concomitant with his or her term as a county commissioner. Two
111 members shall be appointed by the board of county commissioners
112 from among the duly elected municipal officers within the
113 county, and the municipal members serve 2-year terms unless
114 reappointed. Each 2-year term runs from the date of appointment
115 and automatically terminates if the member ceases to be a duly
116 elected municipal officer. The board of county commissioners

117 shall fill a municipal membership vacancy within 45 days after
118 the occurrence of the vacancy, and the board must appoint an
119 individual who is jointly recommended to the board of county
120 commissioners by two-thirds of the municipalities in the county
121 within 30 days after the vacancy.
122 (4) The authority shall elect one of its members as chair
123 of the authority. The authority shall elect a secretary and a
124 treasurer, who need not be members of the authority. The chair,
125 secretary, and treasurer hold the office at the will of the
126 authority. Four members of the authority constitute a quorum,
127 and the affirmative vote of three members is necessary for any
128 action taken by the authority. A vacancy in the authority does
129 not impair the right of the quorum to exercise the rights and
130 perform the duties of the authority.
131 (5) Each appointed member of the authority shall enter upon
132 his or her duties upon the effective date of his or her
133 appointment, or as soon thereafter as practicable.
134 (6) The authority may employ an executive secretary, an
135 executive director, and its own counsel and legal staff,
136 technical experts, engineers, and other employees, permanent or
137 temporary, as it may require; determine the qualifications and
138 fix the compensation of the persons, firms, or corporations; and
139 employ a fiscal agent. However, the authority shall solicit at
140 least three sealed proposals for the performance of any services
141 as the fiscal agent. The authority may delegate to one or more
142 of its agents or employees any of its powers as it deems
143 necessary to carry out the purposes of sections 1-14 of this
144 act, subject to the supervision and control of the authority.
145 (7) The authority shall reimburse its members for travel

146 and other necessary expenses incurred in connection with the
147 business of the authority as provided in s. 112.061, Florida
148 Statutes, but the members may not draw salaries or other
149 compensation.
150 Section 4. Powers and duties.—
151 (1)(a) The authority may acquire, hold, construct, improve,
152 maintain, operate, own, and lease, in the capacity of lessor,
153 the Seminole County Expressway System.
154 (b) The authority, in the construction of the Seminole
155 County Expressway System, may construct any extension, addition,
156 or improvement to the system or appurtenant facilities,
157 including all necessary approaches, roads, bridges, and avenues
158 of access, with any change, modification, or revision of the
159 project as deemed necessary.
160 (2) The authority may exercise all powers necessary,
161 appurtenant, convenient, or incidental to the implementation of
162 sections 1-14 of this act, including, but not limited to, the
163 following:
164 (a) To sue and be sued, implead and be impleaded, and
165 complain and defend in all courts;
166 (b) To adopt, use, and alter at will a corporate seal;
167 (c) To acquire, purchase, hold, lease as lessee, and use
168 any franchise or property, real, personal, or mixed, tangible or
169 intangible, or any interest necessary to implement the purposes
170 of sections 1-14 of this act; and to sell, lease as lessor,
171 transfer, and dispose of, at any time, any property or interest
172 acquired by the authority;
173 (d) To enter into and make leases for terms not exceeding
174 40 years, as lessee or lessor, and to implement the right to

175 lease as provided in sections 1-14 of this act;
176 (e) To enter into and make lease-purchase agreements with
177 the department for terms not exceeding 40 years or until any
178 bond secured by a pledge of rental, and any refund, are fully
179 paid, whichever is longer;
180 (f) To fix, alter, charge, establish, and collect rates,
181 fees, rentals, and other charges for the services and facilities
182 of the Seminole County Expressway System, which rates, fees,
183 rentals, and other charges are sufficient to comply with any
184 covenant made with the holders of any bonds issued pursuant to
185 sections 1-14 of this act; however, the authority may assign or
186 delegate to the department any of its rights and powers;
187 (g)1. To borrow money as provided by the State Bond Act.
188 2. To reimburse Seminole County for any sums expended from
189 the gasoline tax funds of Seminole County and any other revenues
190 provided to the authority by Seminole County and used for the
191 payment of the obligations. If the authority deems it
192 practicable, the authority may repay disbursed revenues from
193 Seminole County or gasoline tax funds, together with interest at
194 the highest rate applicable, to any obligations of the authority
195 for which funds or revenues were used to pay debt service.
196 3. To hire and retain independent certified public
197 accountants and auditors to audit the books and records of the
198 authority and the department with respect to the Seminole County
199 Expressway System or any part thereof, so long as any bonds of
200 the authority are outstanding;
201 (h) To make contracts and to execute all instruments
202 necessary to conduct its business;
203 (i) Without limitation of the foregoing, to borrow money

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204 and accept grants from, and to enter into contracts, leases, or
205 other transactions with, any federal agency, the state, any
206 agency of the state, Seminole County, or any other public body
207 of the state;
208 (j) To have the power of eminent domain, including the
209 procedural powers granted under chapters 73 and 74, Florida
210 Statutes;
211 (k) To pledge, hypothecate, or otherwise encumber all parts
212 of the revenues, rates, fees, rentals, or other charges or
213 receipts of the authority, including all or any portion of the
214 gasoline tax funds of Seminole County or other revenues received
215 by the authority pursuant to the terms of any lease-purchase
216 agreement between the authority and the department or any other
217 agreement between the authority and Seminole County, as security
218 for any of the obligations of the authority;
219 (l) To do all acts necessary for the conduct of its
220 business and the general welfare of the authority in order to
221 implement the powers granted to it by sections 1-14 of this act
222 or any other law;
223 (m) To employ fiscal agents as provided by section 3 of
224 this act. The State Board of Administration may, upon request of
225 the authority, act as fiscal agent for the authority in the
226 issuance of any bonds that may be issued pursuant to section 5
227 of this act. The State Board of Administration may, upon request
228 of the authority, take over the management, control,
229 administration, custody, and payment of any debt service or fund
230 or asset available for any bond issued pursuant to section 5 of
231 this act. The authority may enter into a deed of trust, an
232 indenture, a resolution, or another agreement with its fiscal

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233 agent, a financial institution, an insurance company, or a bank
234 or trust company within or without the state, as security for
235 the bonds, and may, under the agreement, sign and pledge any of
236 the revenues, rates, fees, rentals, or other charges or receipts
237 of the authority, including any portion of the gasoline tax
238 funds of Seminole County or other revenues received by the
239 authority pursuant to the terms of a lease-purchase agreement
240 between the authority and the department or any other agreement
241 between the authority and Seminole County. The deed of trust,
242 indenture, resolution, or other agreement may contain provisions
243 as are customary in such instruments, or, if the authority
244 authorizes, may include, without limitation, provisions as to:
245 1. The completion, improvement, operation, extension,
246 maintenance, and repair of the Seminole County Expressway
247 System; the lease of, or lease-purchase agreement for, the
248 system; and the duties of the authority and others, including
249 the department.
250 2. The availability and application of funds and the
251 safeguarding of funds on hand or on deposit.
252 3. The rights and remedies of the trustee and the holders
253 of the bonds and any institution providing liquidity or credit
254 support for the bonds.
255 4. The terms and provisions of the bonds or the resolutions
256 authorizing the issuance of the bonds.
257 5. The terms and conditions pursuant to which the authority or
258 any trustee for the bonds is entitled to receive any revenues
259 from Seminole County to pay the principal of or interest on the
260 bonds; and
261 (n) To assume and resume all duties and responsibilities of

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262 the prior Seminole County Expressway Authority for any contract
263 or agreement that existed on June 30, 2011, and to which the
264 prior Seminole County Expressway Authority was a party.
265 (3) The authority may not pledge the credit or taxing power
266 of the state or any political subdivision or agency of the
267 state, including Seminole County. The obligations of the
268 authority are not deemed obligations of the state, or any
269 political subdivision or agency of the state. The state, or any
270 political subdivision or agency of the state, except the
271 authority, is not liable for the payment of the principal of or
272 interest on the obligations. However, the gasoline tax funds of
273 Seminole County or other revenues may be pledged for the payment
274 of the principal of or interest on the obligations pursuant to
275 the terms of a lease-purchase agreement between the authority
276 and the department or any other agreement between the authority
277 and Seminole County.
278 (4) The consent of a municipality is not necessary for any
279 project of the authority, notwithstanding any provision in
280 sections 1-14 of this act or any other law to the contrary or
281 whether the project lies within the boundaries of any
282 municipality, in whole or in part. However, an official or a
283 resident of a municipality in which a project of the authority
284 is located, in whole or in part, must have reasonable
285 opportunity to discuss the project and advise the authority of
286 his or her position at a duly advertised public hearing. Notice
287 of the public hearing must be advertised in a newspaper
288 published in Seminole County and circulated in the affected
289 municipalities. The notice must be published once at least 2
290 weeks before the public hearing and must contain the time and

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291 place of the public hearing and a short description of the
292 subject to be discussed. The public hearing may be adjourned
293 from time to time and set for a time and place certain without
294 necessity of further advertisement. In routing and locating an
295 expressway or its interchange in or through a municipality, the
296 authority must consider the effect of such location on the
297 municipality as a whole and must not unreasonably split or
298 divide an area of the municipality or separate one area of the
299 municipality from another.
300 Section 5. Bonds.—Bonds may be issued on behalf of the
301 authority as provided by the State Bond Act.
302 Section 6. Lease-purchase agreement.—
303 (1) The authority may enter into a lease-purchase agreement
304 with the department relating to and covering the Seminole County
305 Expressway System.
306 (2) The lease-purchase agreement shall provide for the
307 leasing of the Seminole County Expressway System by the
308 authority, as lessor, to the department, as lessee; shall
309 prescribe the terms of the agreement and the rentals to be paid;
310 and shall provide that, upon the completion of the faithful
311 performance of the agreement and the termination of such lease-
312 purchase agreement, the authority shall transfer to the state
313 title in fee simple absolute to the Seminole County Expressway
314 System and the authority shall deliver to the department deeds
315 and conveyances necessary to vest title in fee simple absolute
316 in the state.
317 (3) The lease-purchase agreement may include other
318 provisions, agreements, and covenants as the authority and the
319 department deem necessary, including, but not limited to,

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320 provisions as to the bonds to be issued pursuant to this part;
321 the completion, extension, improvement, operation, and
322 maintenance of the Seminole County Expressway System and the
323 expenses and the cost of operation of the authority and the
324 system; the charging and collection of tolls, rates, fees, and
325 other charges for the use of the services and facilities; the
326 application of federal or state grants or aid made or given to
327 assist the authority in the completion, extension, improvement,
328 operation, and maintenance of the Seminole County Expressway
329 System, which the authority may accept and apply to these
330 purposes; the enforcement of payment and collection of rentals;
331 and any other terms, provisions, or covenants necessary,
332 incidental, or appurtenant to the making of, and full
333 performance under, the lease-purchase agreement.
334 (4) The department, as lessee under such lease-purchase
335 agreement, may pay, as rentals under the agreement, any rates,
336 fees, charges, funds, moneys, receipts, or income accruing to
337 the department from the operation of the Seminole County
338 Expressway System and the gasoline tax funds or other revenues
339 of Seminole County used to pay the principal of or interest on
340 any obligations issued to finance any portion of the system and
341 may also pay, as rentals, any appropriations received by the
342 department pursuant to state law. The lease-purchase agreement
343 or any holder of bonds issued pursuant to section 5 of this act
344 may not require the making or continuance of any appropriations.
345 (5) Gasoline tax funds or other revenues of Seminole County
346 may not be pledged as rentals under a lease-purchase agreement
347 or another agreement without the consent of Seminole County,
348 evidenced by a resolution adopted by the board of county

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349 commissioners of the county at a public hearing held pursuant to
350 due notice thereof published at least once a week for 3
351 consecutive weeks before the hearing in a newspaper of general
352 circulation in the county. The resolution must provide that, for
353 bonds issued on behalf of the authority, any excess of the
354 pledged gasoline tax funds and other revenues of Seminole County
355 which is not required for debt service or for reserves for debt
356 service shall be distributed to Seminole County as provided by
357 law. Before making any application for the pledge of gasoline
358 tax funds, the authority shall present the plan of its proposed
359 project to the Seminole County Planning and Zoning Commission
360 for comments and recommendations. The department may covenant in
361 a lease-purchase agreement that it will pay all or part of the
362 cost of the system, and any part of the cost of completing the
363 system to the extent that the proceeds of bonds issued for the
364 project are insufficient, from sources other than the revenues
365 derived from the operation of the system and the gasoline tax
366 funds or any other revenue of Seminole County pledged for such
367 purpose. The department may agree to make payments from any
368 moneys available to Seminole County, in connection with the
369 construction or completion of the system, as deemed by the
370 department to be fair and proper under any covenant that is
371 entered into.
372 (6) The system is a part of the state road system, and the
373 department may, upon the request of the authority, expend money
374 out of any funds available for the purpose and use its
375 engineering and other powers deemed necessary by the department
376 for the operation of the authority and for traffic surveys,
377 borings, surveys, preparation of plans and specifications,

378 estimates of cost, and other preliminary engineering and other
379 studies. However, the aggregate amount of moneys expended for
380 this purpose by the department may not exceed the sum of
381 $500,000.
382 Section 7. Agent for construction.—The authority may
383 appoint the department as its agent for the construction of and
384 improvements and extensions to the Seminole County Expressway
385 System and for the completion of the system. If the department
386 is appointed, the authority shall provide the department with
387 complete copies of all documents, agreements, resolutions,
388 contracts, and instruments relating to the system; shall request
389 the department to do the construction work, including the
390 planning, surveying, and actual construction of the completion,
391 extension, and improvement to the Seminole County Expressway
392 System; and shall transfer the necessary funds for the
393 construction to the credit of an account of the department in
394 the State Treasury. The department shall proceed with the
395 construction and shall use the funds that are authorized for the
396 construction of roads and bridges.
397 Section 8. Acquisition of lands and property.—
398 (1) The Seminole County Expressway Authority may acquire
399 private or public property and property rights, including rights
400 of access, air, view, and light, by gift, devise, purchase, or
401 condemnation by an eminent domain proceeding, as the authority
402 deems necessary to implement sections 1-14 of this act. The
403 property that the authority may acquire includes, but is not
404 limited to, any land:
405 (a) Reasonably necessary for securing applicable permits,
406 areas necessary for management of access, borrow pits, drainage

407 ditches, water retention areas, rest areas, replacement access
408 for landowners whose access is impaired due to the construction
409 of a facility, and replacement rights-of-way for relocated rail
410 and utility facilities;
411 (b) For existing, proposed, or anticipated transportation
412 facilities on the Seminole County Expressway System or in a
413 transportation corridor designated by the authority; or
414 (c) For the purposes of screening, relocation, removal, or
415 disposal of junkyards and scrap metal processing facilities.
416
417 The authority may condemn any material and property necessary
418 for these purposes.
419 (2) The authority may exercise the right of eminent domain
420 in the manner provided by law.
421 (3) If the authority acquires property for a transportation
422 facility or in a transportation corridor, the authority is not
423 subject to any liability imposed by chapter 376 or chapter 403,
424 Florida Statutes, for preexisting soil or groundwater
425 contamination due solely to its ownership. This section does not
426 affect the rights or liabilities of any past or future owners of
427 the acquired property, nor does it affect the liability of any
428 governmental entity for the results of its actions that create
429 or exacerbate a pollution source. The authority and the
430 Department of Environmental Protection may enter into an
431 interagency agreement for the performance, funding, and
432 reimbursement of the investigative and remedial acts necessary
433 for property acquired by the authority.
434 Section 9. Cooperation with other units, boards, agencies,
435 and individuals.—Any county, municipality, drainage district,

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436 road or bridge district, school district, or any other political
437 subdivision, board, commission, or individual in or of the state
438 may make and enter into a contract, lease, conveyance, or other
439 agreement consistent with sections 1-14 of this act with the
440 authority. The authority may make and enter into a contract,
441 lease, conveyance, or other agreement with any political
442 subdivision, agency, or instrumentality of the state, any
443 federal agency, any corporation, or any individual to implement
444 sections 1-14 of this act.
445 Section 10. Covenant of the state.—The state pledges to,
446 and agrees with, any person, firm, corporation, or federal or
447 state agency subscribing to or acquiring the bonds issued by the
448 authority pursuant to section 5 of this act that the state will
449 not limit or alter the rights vested in the authority and the
450 department until all bonds at any time issued, together with the
451 interest on the bonds, are fully paid and discharged. The state
452 pledges to, and agrees with, the United States that, when any
453 federal agency constructs or contributes any funds for the
454 completion, extension, or improvement of the Seminole County
455 Expressway System or any part or portion thereof, the state will
456 not alter or limit the rights and powers of the authority and
457 the department in any manner that would be inconsistent with the
458 continued maintenance and operation of the Seminole County
459 Expressway System or the completion, extension, or improvement
460 of the system, or that is inconsistent with the due performance
461 of the agreement between the authority and the federal agency.
462 The authority and the department have and may exercise all
463 powers granted in sections 1-14 of this act necessary to
464 implement the purposes of sections 1-14 of this act and the

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465 purposes of the United States in the completion, extension, or
466 improvement of the Seminole County Expressway System or any part
467 or portion of the system.
468 Section 11. Exemption from taxation.—The authority created
469 pursuant to sections 1-14 of this act is for the benefit of the
470 people of the state, for the increase of their commerce and
471 prosperity, and for the improvement of their health and living
472 conditions. Because the authority is performing essential
473 governmental functions in carrying out the purposes of sections
474 1-14 of this act, the authority is exempt from taxes or
475 assessments upon any property acquired or used by it for such
476 purposes, or upon any revenues, rates, fees, rentals, receipts,
477 income, or charges received by it. The bonds issued by the
478 authority, their transfer, and the income from the bonds,
479 including any profits made on the sale of the bonds, are at all
480 times free from taxation of any kind by the state or any
481 political subdivision, taxing agency, or instrumentality of the
482 state. However, the exemption granted by this section is not
483 applicable to any tax imposed under chapter 220, Florida
484 Statutes, on interest, income, or profits on debt obligations
485 owned by corporations. When a property of the authority is
486 leased, it is exempt from ad valorem taxes if the use by the
487 lessee qualifies the property for exemption under s. 196.199,
488 Florida Statutes.
489 Section 12. Eligibility for investments and security.—Any
490 bonds or other obligations issued pursuant to sections 1-14 of
491 this act are legal investments for banks, savings banks,
492 trustees, executors, administrators, and all other fiduciaries,
493 and for all state, municipal, and other public funds, and are

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494 securities eligible for deposit as security for all state,
495 municipal, or other public funds, notwithstanding the provisions
496 of any law.
497 Section 13. Pledges enforceable by bondholders.—A pledge by
498 the department of rates, fees, revenues, gasoline tax funds of
499 Seminole County, or other funds as rentals to the authority, or
500 any covenant or agreement relative to the pledge, is enforceable
501 in any court of competent jurisdiction against the authority or
502 directly against the department by any holder of bonds issued by
503 the authority.
504 Section 14. Complete and additional authority.—
505 (1) The powers conferred by sections 1-14 of this act are
506 in addition to the existing powers of the authority and the
507 department, and sections 1-14 of this act do not repeal any of
508 the provisions of any other law, general, special, or local. The
509 extension and improvement of the Seminole County Expressway
510 System, and the issuance of bonds pursuant to section 5 of this
511 act to finance all or part of the cost of the system, may be
512 accomplished upon compliance with the provisions of sections 1-
513 14 of this act without regard to or necessity for compliance
514 with the provisions, limitations, or restrictions contained in
515 any other general, special, or local law. Approval of any bonds
516 issued under this part by qualified electors or qualified
517 electors who are freeholders in the state, in Seminole County or
518 in any other political subdivision of the state, is not required
519 for the issuance of bonds pursuant to section 5 of this act.
520 (2) Sections 1-14 of this act do not repeal, rescind, or
521 modify any other law relating to the State Board of
522 Administration, the Department of Transportation, or the

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523 Division of Bond Finance of the State Board of Administration,
524 but supersede any law that is inconsistent with the provisions
525 of sections 1-14 of this act.
526 Section 15. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR DAVID SIMMONS
Majority Whip
22nd District

January 10, 2011

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Bill 354, Relating to the Seminole County Expressway Authority, on the next agenda for the Community Affairs Committee.

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

Sincerely yours,

David Simmons

rec'd 1/10/12 apw

cc: Tom Yeatman, staff director for Community Affairs Committee

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

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1 / 23/201
Meeting Date

Topic _____ Bill Number 354 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For in part [ ] 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

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 Community Affairs Committee

BILL: CS/SB 992

INTRODUCER: Community Affairs Committee and Senator Dean

SUBJECT: Regulation of Hoisting Equipment Used in Construction, Demolition or Excavation Work

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			RI	
3.			BC	
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 creates s. 489.1138, F.S., to establish state-wide standards for hoisting equipment and tower and mobile crane use at construction sites. The bill requires an applicant for a building permit involving the use of a tower or mobile crane to submit a site plan and compliance documentation to the appropriate local building official. In addition, the bill defines various types of hoisting equipment, provides for hurricane and high-wind event preparedness plans, and outlines crane operation safety measures. An intentional violation of this act is punishable under ss. 455.227 and 489.129, F.S.

The provisions of this bill preempt any local laws or permitting requirements pertaining to the regulation of hoisting equipment and persons operating the equipment in Florida. However, this act does not apply to elevators under ch. 399, F.S. or to airspace height restrictions under ch. 333, F.S.

This bill creates section 489.1138, Florida Statutes.

II. Present Situation:

Construction Contracting Regulation and Discipline

Construction contracting is regulated under part I of ch. 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR).[1] Section 489.115 provides that contractors must either be certified (licensed by the state to contract statewide) or registered (licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only) to engage in contracting in Florida.

The CILB is divided into two divisions: Division I and Division II.[2] Division I of the CILB has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II of the CILB has jurisdiction over the remaining contractors defined in s. 489.105(3). F.S., which include contractors in sheet metal, roofing, air conditioning, pools and spas, plumbing, underground utilities, solar panels, and pollutant storage systems.

The scope of work for which licensure is required for each type of contractor is specified in the definitions of s. 489.105, F.S. Each definition of a profession is known as the "practice act" for that profession which establishes guidelines for individual practitioners.

Section 455.227, F.S., provides grounds for disciplinary action by profession boards or the DPBR. Such grounds include, among others, violations of any provisions of the applicable professional practice act. Section 489.129, F.S., further specifies grounds for discipline and discipline measures that the CILB may take against licensed contractors. According to the DBPR, violating permit requirements has not been a violation of ch. 489, F.S.[3] The DBPR generally gets involved in local building department violations after the local board takes disciplinary action against the contractor and forwards the Order to the department.[4]

Occupational Safety and Health Act and Regulation of Hoisting Equipment

Florida currently does not regulate the operation of mobile or tower cranes on construction sites or license crane operators, nor does it provide for hurricane or high-wind event standards or plans relating to on-site crane use.

Federal Occupational Safety and Health Act (OSH Act)[5] regulations outline specific requirements for the use of cranes and other hoisting equipment at construction sites, and generally require compliance with either the manufacturer's specifications for erection,

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[1] See s. 489.103, F.S., for statutory exemptions.
[2] Section 489.107(4)(a)-(b), F.S.
[3] Department of Business and Professional Regulation, *Senate Bill 992 Analysis* (Mar. 3, 2011) (on file with the Senate Committee on Community Affairs).
[4] *Id.*
[5] 29 U.S.C. ss. 651-78.

maintenance, and operation of cranes and hoists, or in the absence of such guidelines, compliance with the determinations of a qualified engineer competent in the field.[6]

According to the DBPR, crane accidents are generally investigated by the Occupational Safety and Health Administration (OSHA) and their findings are obtained by the DBPR for possible disciplinary action against the contractor.[7]

Section 667(b) of the OSH Act provides that a state may assume responsibility for development and enforcement of occupational safety or health standards concerning occupational safety or health issues with respect to which a federal standard has already been promulgated. To do so, the state must submit a plan for the development of such standards for approval by the Administration Secretary.[8]

In *Associated Builders & Contractors Florida East Coast Chapter v. Miami-Dade County*,[9] the Eleventh Circuit Court held that a Miami-Dade County ordinance regulating the construction, installation, operation, and use of tower cranes was preempted by OSHA with regard to wind load standards for tower cranes and hoists.[10] It further held that, while OSHA regulations do not expressly provide a national standard for on-site wind load capacity or hurricane and high-wind event plans, they present a principle of law sufficiently intelligible to preempt similar county ordinances.[11]

Because there are no state regulations concerning cranes, any regulations in Florida regarding wind loads for on-site cranes stem from local government ordinances, which, under *Associated Builders*, are pre-empted by federal law if not part of a federally-approved state plan.[12]

Elevator Safety: Chapter 399, Florida Statutes

Chapter 399, Florida Statues, known as the "Elevator Safety Act," establishes minimum standards for elevator personnel to provide for the safety of life and limb and to promote public

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[6] 29 C.F.R. s. 1926.550(a)(1).
[7] Department of Business and Professional Regulation, *Senate Bill 992 Analysis* (Mar. 3, 2011) (on file with the Senate Committee on Community Affairs).
[8] *See* 29 U.S.C. s. 667(b), "Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement."
[9] 594 F. 3d 1321, 1322 (11th Cir. 2010).
[10] The county ordinance at issue set forth a 140 miles per hour hurricane wind load for tower cranes. The court granted a permanent injunction against county enforcement of the ordinance. It reasoned that OSHA set a federal standard by requiring employers operating cranes or hoists on a job site to comply with manufacturer specifications or limitations set forth by a competent engineer in the field. *See Associated Builders*. It further noted that, since the majority of crane manufacturers have adopted the European Standard 93 mile-per-hour wind load, there is an intelligible principle in requiring employers to use manufacturer specifications. *See id.* Without a state regulation plan approved by the Occupational Safety and Health Administration, Miami-Dade County ordinances concerning wind load standards were pre-empted by OSHA. *See id.*
[11] *See Associated Builders*. *See also Towne Constr. Co. v. Occupational Safety & Health Review Comm'n*, 847 F.2d 1187, 1189 (6th Cir. 1988) ("[T]he requirement that employers comply with manufacturer's [sic] load limits is not an unlawful delegation because the manufacturer's limits reflect the 'national consensus standard' that Congress authorized the Secretary to adopt.)
[12] *See Associated Builders.*

safety awareness. Section 399.01(6), F.S., defines "elevator" to mean one of the following mechanical devices:

- an escalator,
- a dumbwaiter,
- a moving walk,
- an inclined stairway chairlift,
- an inclined or vertical wheelchair lift, and
- a hoisting and lowering mechanism, equipped with a car and platform that moves in guide rails and serves two or more landings to transport material or passengers or both.[13]

Airport Zoning: Chapter 333, Florida Statutes

Chapter 333, Florida Statutes governs airport zoning in the state. Section 333.01(3), F.S., defines "airport hazard" to mean:

> any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29 and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft and for which no person has previously obtained a permit or variance pursuant to s. 333.025, F.S. or s. 333.07, F.S.

A permit from the Department of Transportation (DOT) is required for the erection, alteration, or modification of any structure the result of which would exceed the federal obstruction standards.[14] Airport zoning regulation shall, as a minimum, require:

- a variance for structures exceeding federal obstruction standards,
- obstruction marking and lighting for structures,
- compliance with federal notification requirements for proposed construction,
- criteria for variances, and
- that no variance shall be approved solely on the basis that a proposed structure will not exceed federal obstruction standards.[15]

III. Effect of Proposed Changes:

Section 1 creates s. 489.1138, F.S., to establish state-wide standards for tower and mobile crane use at construction sites. Subsection (1) of s. 489.1138, F.S., defines the following terms:

- "Hoisting equipment" means power-operated cranes, derricks, hoists, elevators, and conveyors used in construction, demolition, or excavation work that are regulated by the Occupational Safety and Health Administration under 29 C.F.R. parts 1910 and 1926;
- "Mobile crane" means a type of hoisting equipment incorporating a cable-suspended latticed boom or hydraulic telescoping boom designed to be moved between operating locations by transport over a roadway. The term does not include a mobile crane with a boom length of less than 25 feet or a maximum rated load capacity of less than 15,000 pounds; and

[13] Section 399.01(6)(a)-(f), F.S.
[14] Section 333.025(1), F.S.
[15] *See* s. 333.03(2)(c), F.S.

- "Tower crane" means a type of hoisting equipment using a vertical mast or tower to support a working boom in an elevated position, where the working boom can rotate to move loads laterally either by rotating at the top of the mast or tower or by the rotation of the mast or tower itself, whether the mast or tower base is fixed in one location or ballasted and moveable between locations.

Subsection (2) requires an applicant for a building permit for construction, demolition, or excavation work involving the use of a tower crane or mobile crane, to submit a site plan to the local building official of the appropriate county, municipality, or other political subdivision. The site plan must accurately identify:

- the location of the crane;
- clearances from above-ground power lines;
- the location of adjacent buildings; and
- the structural foundation of the crane.

Subsection (2) also requires the applicant to submit documentation of compliance with the requirements of all governmental authorities related to operation of the crane on the work site, including Federal Aviation Administration lighting requirements.

Subsection (3) provides that when two or more mobile or tower cranes are operating within the same swing radius, there must be a clear, independent, and operable channel of radio communications between the crane operators at all times.

Subsection (4) states that when a tower crane or mobile crane is located on a work site, a hurricane and high-wind event preparedness plan for the crane must be available for inspection at the site.

In preparation for a hurricane or high-wind event, the bill requires that hoisting equipment be secured as follows:

- hoisting equipment must be secured in compliance with manufacturer recommendations relating to hurricane and high-wind events and the placement, use, and removal of advertising banners and rigging;
- tower crane turntables must be lubricated before the event;
- whenever feasible, fixed booms on mobile cranes must be laid down;
- booms on hydraulic cranes must be retracted and stored;
- hoist counterweights must be locked below the top tie-in;
- tower cranes must be set in the weathervane position;
- all rigging must be removed from hoist blocks; and
- all power at the base of tower cranes must be disconnected.

Subsection (5) subjects construction contractors licensed under Part I of s. 489, F.S., to the disciplinary procedures provided under ss. 455.227 and 489.129, F.S., for any intentional violations of this act.

Subsection (6) provides that this regulation shall preempt any local act, law, ordinance, or regulation, including the local building codes or permit requirements of a county, municipality,

or other political subdivision pertaining to the regulation of hoisting equipment and hoisting equipment operators.

Subsection (7) stipulates that this section of law does not apply to the regulation of elevators under chapter 399, F.S., or to airspace height restrictions in ch. 333, F.S.

Section 2 provides this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Supremacy Clause of the U.S. Constitution provides that:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, *shall be the supreme Law of the Land;* and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [16]

The Supremacy Clause applies when state law is inconsistent with federal law. In instances where the state law attempts to invalidate the substance of a federal law or treaty, the state law cannot stand. Similarly, a state law that encourages conduct inconsistent with that required by federal law is invalid. The same result holds if state law forbids conduct that federal law is designed to foster, or interferes with the achievement of a federal objective.[17] This is known as the pre-emption doctrine.

If the provisions of this bill are not submitted to OSHA as part of a state plan for safety and health regulation of crane use, it may face preemption by federal OSHA crane safety standards in a manner similar to the Miami-Dade County ordinance ruled federally pre-

[16] U.S. CONST. ART.VI, CL. 2. [Emphasis added].
[17] *Perez v. Campbell*, 402 U.S. 637 (1971); *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819).

empted by the Eleventh Circuit Court in *Associated Builders & Contractors Florida East Coast Chapter v. Miami-Dade County*.[18]

In *Associated Builders*, the Eleventh Circuit Court held that OSHA regulations establish a superseding federal standard relating to wind loads for on-site crane use.[19] Accordingly, any Florida legislation that purports to regulate wind load safety standards for hoisting equipment could be pre-empted by a federal court if not part of a federally-approved state plan.[20]

In reaching its decision, the Eleventh Circuit Court relied on the Supreme Court case of *Gade v. National Solid Waste Management Ass'n*, where a plurality of the Supreme Court held that "nonapproved state regulation of occupational safety and health issues for which a federal standard is in effect is impliedly pre-empted as in conflict with the full purposes and objectives of the OSH Act."[21]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Construction contractors will be required to provide additional compliance documentation when they apply for construction permits involving the use of a tower or mobile crane or other hoisting equipment.

C. Government Sector Impact:

According to the DBPR, passage of the bill may require the development of a new violation code in their online licensing system, LicenseEase.[22] The work effort is estimated at six hours and can be accomplished with existing resources at the DBPR.

VI. Technical Deficiencies:

None.

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[18] 594 F. 3d 1321,1322 (11th Cir. 2010) *citing* The Supreme Court Case *Gade v. National Solid Wastes Management Ass'n*, 505 U.S. 88, 102, 112 (1992) (held that "the OSH Act precludes any state regulation of an occupational safety or health issue with respect to which a federal standard has been established, unless a state plan has been submitted.")
[19] *Id.*
[20] *See Gade* at 98-100. "The OSH Act as a whole evidences Congress' intent to avoid subjecting workers and employers to duplicative regulation; a State may develop an occupational safety and health program tailored to its own needs, but only if it is willing completely to displace the applicable federal regulations."
[21] 505 U.S. 88 (1992).
[22] Department of Business and Professional Regulation, *Senate Bill 992 Analysis* (Mar. 3, 2011) (on file with the Senate Committee on Community Affairs).

VII. Related Issues:

According to the DBPR, the language in the bill at proposed subsection (2), lines 89-92, may be too broad to provide guidance as to which requirements the DBPR would be requested to enforce.[23] In addition, s. 455.223, F.S., grants the DBPR the authority to make inspections only when authorized by statute. SB 992 does not grant such authority but does mention at proposed subsection (4)(b), lines 97-99, that ". . . a hurricane and high-wind event preparedness plan for the crane must be available for inspection at the site.[24]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on January 23, 2012: Provides that the act does not apply to airspace height restrictions under ch. 333, F.S.

B. Amendments:

None.

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

[23] *Id*.
[24] *Id*.

317422

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete line 126
4 and insert:
5 elevators under chapter 399 or to airspace height restrictions
6 in chapter 333.
7
8 ========== T I T L E A M E N D M E N T ==========
9 And the title is amended as follows:
10 Delete line 18
11 and insert:
12 the regulation of elevators or to airspace height

317422

13 restrictions; providing an effective

By Senator Dean

3-00949-12 2012992__

A bill to be entitled

An act relating to regulation of hoisting equipment used in construction, demolition, or excavation work; creating s. 489.1138, F.S.; defining the terms "hoisting equipment," "mobile crane," and "tower crane"; requiring an applicant for a building permit to submit certain information to a local building official; requiring radio communications between certain crane operators; requiring certain preparations for a hurricane or high-wind event; requiring a preparedness plan for certain cranes; requiring that hoisting equipment be secured in a specified manner under certain circumstances; providing penalties for violation of the act by certain licensed contractors; preempting regulation of hoisting equipment and persons operating the equipment to the state; providing that the act does not apply to the regulation of elevators; providing an effective date.

WHEREAS, cranes, derricks, hoists, elevators, and conveyors used in construction, demolition, or excavation work are currently regulated under federal rules adopted by the Occupational Safety and Health Administration in 29 C.F.R. parts 1910 and 1926, and

WHEREAS, the Occupational Safety and Health Administration has conducted a thorough and exhaustive review of these rules in an effort to better protect against the hazards presented by these types of hoisting equipment, and

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

3-00949-12 2012992__

WHEREAS, the review conducted by the Occupational Safety and Health Administration was undertaken in consultation with many of the most knowledgeable engineering, construction, and safety experts in the nation and in the world, and

WHEREAS, this review has culminated in the production of proposed rules setting forth comprehensive and detailed new regulations applicable to cranes, derricks, hoists, elevators, and conveyors, and to the operators of these types of hoisting equipment, as published in the Federal Register on October 9, 2008, and

WHEREAS, the Occupational Safety and Health Administration should be commended and supported in these efforts, and

WHEREAS, cranes, derricks, hoists, elevators, and conveyors are routinely transported across city, county, and state lines, making uniform federal regulation of these types of hoisting equipment and their operators essential to commerce, to Florida's economic competitiveness, and to minimizing construction costs in our state, and

WHEREAS, the Occupational Safety and Health Administration entered into a strategic alliance with the Associated Builders and Contractors of Florida, the South Florida Chapter of the Associated General Contractors of America, the Construction Association of South Florida, and the Florida Crane Owners Council to improve crane safety, NOW, THEREFORE,

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

Section 1. Section 489.1138, Florida Statutes, is created to read:

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

59 489.1138 Regulation of hoisting equipment used in
60 construction, demolition, or excavation work.—
61 (1) As used in this section, the term:
62 (a) "Hoisting equipment" means power-operated cranes,
63 derricks, hoists, elevators, and conveyors used in construction,
64 demolition, or excavation work that are regulated by the
65 Occupational Safety and Health Administration under 29 C.F.R.
66 parts 1910 and 1926.
67 (b) "Mobile crane" means a type of hoisting equipment
68 incorporating a cable-suspended latticed boom or hydraulic
69 telescoping boom designed to be moved between operating
70 locations by transport over a roadway. The term does not include
71 a mobile crane with a boom length of less than 25 feet or a
72 maximum rated load capacity of less than 15,000 pounds.
73 (c) "Tower crane" means a type of hoisting equipment using
74 a vertical mast or tower to support a working boom in an
75 elevated position, where the working boom can rotate to move
76 loads laterally either by rotating at the top of the mast or
77 tower or by the rotation of the mast or tower itself, whether
78 the mast or tower base is fixed in one location or ballasted and
79 moveable between locations.
80 (2) An applicant for a building permit for construction,
81 demolition, or excavation work involving the use of a tower
82 crane or mobile crane must submit to the local building official
83 of the appropriate county, municipality, or other political
84 subdivision:
85 (a) A site plan accurately identifying the location of the
86 crane, clearances from above-ground power lines, the location of
87 adjacent buildings, and the structural foundation of the crane.

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

88 (b) Documentation of compliance with the requirements of
89 all governmental authorities related to operation of the crane
90 on the work site, including compliance with the lighting
91 requirements of the Federal Aviation Administration.
92 (3) When two or more tower cranes or mobile cranes are
93 operating within the same swing radius, there must be at all
94 times a clear, independent, and operable channel of radio
95 communications between the persons operating the cranes.
96 (4)(a) When a tower crane or mobile crane is located on a
97 work site, a hurricane and high-wind event preparedness plan for
98 the crane must be available for inspection at the site.
99 (b) In preparation for a hurricane or high-wind event,
100 hoisting equipment must be secured in the following manner:
101 1. All hoisting equipment must be secured in compliance
102 with manufacturer recommendations relating to hurricane and
103 high-wind events, including any recommendations relating to the
104 placement, use, and removal of advertising banners and rigging.
105 2. Tower crane turntables must be lubricated before the
106 event.
107 3. Fixed booms on mobile cranes must be laid down whenever
108 feasible.
109 4. Booms on hydraulic cranes must be retracted and stored.
110 5. The counterweights of any hoists must be locked below
111 the top tie-in.
112 6. Tower cranes must be set in the weathervane position.
113 7. All rigging must be removed from hoist blocks.
114 8. All power at the base of tower cranes must be
115 disconnected.
116 (5) A person licensed under this part who intentionally

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

117 violates this section is subject to discipline under ss. 455.227
118 and 489.129.
119 (6) This section preempts any local act, law, ordinance, or
120 regulation, including, but not limited to, a local building code
121 or building permit requirement, of a county, municipality, or
122 other political subdivision that pertains to the regulation of
123 hoisting equipment and persons operating the equipment in the
124 state.
125 (7) This section does not apply to the regulation of
126 elevators under chapter 399.
127 Section 2. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

SENATOR CHARLES S. DEAN, SR.
3rd District

January 11, 2012

The Honorable Mike Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

I respectfully request you place Senate Bill 992, relating to Regulation of Hoisting Equipment Used in Construction, Demolition, or Excavation Work, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 3

cc: Tom Yeatman, Staff Director

rec'd 1/11/12 afw

REPLY TO:
- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Hoisting Equipment

Bill Number: SB 992 *(if applicable)*

Name: Carol Bowen

Amendment Barcode: *(if applicable)*

Job Title: VP Govt Affairs

Address: 3730 Cocanut Creek
Street

Cocoa Springs, FL
City *State* *Zip*

Phone: 954 984 0075

E-mail: cbowen@gbcaustfloridaa.com

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

Representing: Assoc Builders & Contractors East Coast

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)

1 /23/2012
Meeting Date

Topic _____

Bill Number 992 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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.

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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)

1/23/12
Meeting Date

Topic: SUPPORT AMENDMENT

Bill Number: SB 992 *(if applicable)*

Name: DARCY FOSTER

Amendment Barcode: 317422 *(if applicable)*

Job Title: DIRECTOR, GOVERNMENT AFFAIRS

Address: P.O. BOX 22287
Street

TAMPA, FL 33622
City, State, Zip

Phone: 813-927-8346

E-mail: DFOSTER@TAMPAAIRPORT.COM

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

Representing: Hillsborough County Aviation Authority

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)

1-23-12
Meeting Date

Topic: CRANES/HOIST EQUIPMT

Bill Number: 992 *(if applicable)*

Name: JESS McCARTY

Amendment Barcode: *(if applicable)*

Job Title: ASST COUNTY ATTY

Address: 111 NW 1st ST
Street

MIAMI 33128
City *State* *Zip*

Phone: 305-979-7110

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

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)

1/23/12
Meeting Date

Topic: Cranes

Bill Number: 992 *(if applicable)*

Name: Warren Husband

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: PO Box 10909
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850 205 9000

E-mail: _____

Speaking: ☐ For ☐ Against ☐ Information

Representing: Associated General Contractors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

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 Community Affairs Committee

BILL: SB 442

INTRODUCER: Senator Braynon

SUBJECT: Fair Housing

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill allows a person who alleges housing discrimination to file a civil action in a Florida court of law whether or not a complaint has been filed with the Florida Commission on Human Relations or a local housing discrimination agency and if a conciliation agreement has not been obtained.

This bill substantially amends section 760.35 of the Florida Statutes.

II. Present Situation:

Florida Commission on Human Relations

Chapter 760, F.S., ensures that all individuals in Florida are protected against discrimination in areas of employment, housing and other opportunities based on race, color, religion, sex, national origin, age, handicap, or marital or familial status. Section 760.03, F.S., creates the Florida Commission on Human Relations (Commission) and authorizes the Commission to carry out the purposes of ch. 760, F.S. Section 760.04, F.S., assigns the Commission to the Department of Management Services; however, the Commission is not subject to any control or supervision by or direction from the department.

The Commission is comprised of 12 individuals who are appointed by the Governor and confirmed by the Senate.[1] The membership of the Commission is broadly representative of various racial, religious, ethnic, social, economic, political, and professional groups in Florida.

[1] Section 760.03(1), F.S.

At least one member of the Commission, as required by law, must be 60 years of age or older.[2] The Commission is empowered, pursuant to s. 760.06, F.S., to receive, initiate, investigate, conciliate and hold hearings on and act upon complaints alleging any discriminatory practice.

Florida Fair Housing Act

Part II of Chapter 760, F.S., constitutes the Florida Fair Housing Act. It is the state's policy, as provided in s. 760.21, F.S., to provide for fair housing throughout the state. Part II defines what constitutes unlawful housing discrimination. For example, it is unlawful to refuse or sell or rent or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.[3] In addition, protection is afforded an individual who is pregnant or in the process of securing legal custody of a child 18 years of age or younger, or an individual who is disabled or is associated with a disabled person.[4]

Enforcement of the Florida Fair Housing Act

Section 760.34(1), F.S., provides that any person who claims to have been injured by a discriminatory housing practice, or who believes that he or she will be injured by a discriminatory housing practice that is about to occur, may file a complaint with the Commission. The complainant must file the complaint within one year after the alleged discriminatory practice has occurred. The Commission has 100 days after receiving the complaint to complete its investigation and issue a determination. The Commission can also decide to resolve the complaint and eliminate or correct the alleged discriminatory housing practice through conciliation. If, within 180 days after a complaint is filed, the Commission has been unable to obtain voluntary compliance, the complainant may commence a civil action or petition for an administrative determination.[5]

Section 760.34(8), F.S., provides that any local agency certified as substantially equivalent[6] may institute a civil action in any appropriate court if it is unable to obtain voluntary compliance with the local fair housing law. The local agency need not petition for an administrative hearing or exhaust its administrative remedies prior to bringing a civil action.

Civil Actions and Relief

Section 760.35, F.S., provides for civil actions and administrative relief. A civil action must be commenced no later than two years after the alleged discriminatory act occurred. The court can continue a civil case if conciliation efforts by the Commission or by the local housing agency are likely to result in a satisfactory settlement. If the court finds that a discriminatory housing practice has occurred, it is to issue an order prohibiting the practice and providing affirmative relief.[7] If the Commission is unable to obtain voluntary compliance or has reasonable cause to

[2] Section 760.03(2), F.S.
[3] Section 760.23(1), F.S.
[4] Sections 760.23(6)-(9), F.S.
[5] Section 760.34(4), F.S.
[6] Substantial equivalence certification takes place when a state or local agency applies for certification and the U.S. Department of Housing and Urban Development (HUD) determines that the agency enforces a law that provides substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the federal Fair Housing Act.
[7] Section 760.35(2), F.S.

believe that a discriminatory act has occurred, the Commission may institute an administrative proceeding or the aggrieved person may request administrative relief within 30 days after receiving notice that the Commission has concluded its investigation.[8]

Federal Discrimination Housing Law

In addition to adhering to the state discrimination laws, the Commission abides by federal discrimination laws. Through annual work-share agreements with the U.S. Department of Housing and Urban Development (HUD), the Commission, certified as a substantially equivalent agency,[9] accepts and investigates housing discrimination cases from HUD. Federal housing discrimination laws are contained in Title VIII (Fair Housing Act) of the federal Civil Rights Act of 1968. The Commission is reimbursed by HUD for closing housing cases; such funds are deposited into the Commission's trust fund. Trust fund monies received from HUD in FY 2010-11 totaled $926,679 or 79 percent.[10]

2010-2011 Housing Related Complaints

According to the FCHR's 2010-2011 Annual Report, housing complaints represented 22 percent of all complaints received by the Commission in 2011.[11] The 269 housing cases closed in FY 2010-11 were distributed as follows:[12]

No Cause	171 (64%)
Administrative Closure	46 (17%)
Cause	20 (7%)
Settlement	16 (6%)
Withdrawal with Benefits	16 (6%)

State Law Regarding Avenues of Relief for Complaints Under the Florida Fair Housing Act

Florida's 4th District Court of Appeal held in the 2004 case, *Belletete v. Halford*, that individuals claiming discrimination under the Florida Fair Housing Act must exhaust administrative remedies before bringing a judicial claim.[13] citing the doctrine of exhaustion of administrative remedies.[14] The Florida Supreme Court has not addressed this issue yet, leaving the 4th DCA

[8] Section 760.35(3), F.S.
[9] Certified as a "fair housing assistance program" (FHAP) with HUD. A variety of FHAP funds are available to agencies with substantial equivalence interim certification and certification.
[10] E-mail from Hunter Barnett, Policy Analyst, Florida Commission on Human Relations (January 19, 2012) (on file with the Senate Committee on Community Affairs). Total FY 2010-11 trust fund dollars were $1,168,651 and represented 27 percent of the FCHR's budget. FCHR's trust fund dollars are composed of federal fund receipts (from HUD and Equal Employment Opportunity Commission for closed cases), payment received for public records copy requests and 55+ housing registrations and renewals (biennial fee of $20 per facility/community).
[11] Employment complaints represented 73 percent, whistle blower complaints 3 percent and public accommodations 2 percent.
[12] E-mail from Hunter Barnett, Policy Analyst, Florida Commission on Human Relations (January 19, 2012) (on file with the Senate Committee on Community Affairs).
[13] Belletete v. Halford, 886 So.2d 308, 310 (Fla. 4th DCA 2004)
[14] The Doctrine of Exhaustion of Administrative Remedies stands generally for the proposition that judicial intervention in executive branch decisionmaking is precluded where administrative procedures can afford the relief a litigant seeks.

decision the only one on point in the state court system. However, in a case brought before the U.S. District Court for the Southern District of Florida and decided in 2010, the Florida Attorney General, in a motion to intervene, stated that "as co-enforcer with the Florida Commission on Human Relations of the FFHA [Florida Fair Housing Act], it has always interpreted the right of the private individual to file a judicial action under the FFHA without first pursuing an administrative remedy."[15] The court agreed that the 4th DCA decided Belletete incorrectly and that aggrieved parties did not have to exhaust administrative remedies before petitioning the courts for relief in a cause of action grounded in the Florida Fair Housing Act.[16]

III. Effect of Proposed Changes:

Section 1 amends s. 760.35, F.S., to add a subsection (4) providing that an aggrieved person may commence a civil action whether or not a complaint has been filed under s. 760.34, F.S., and without regard to the status of that complaint. However, if the Florida Commission on Human Relations or a local housing discrimination agency has obtained a conciliation agreement with the consent of an aggrieved person, an action may not be filed except for the purpose of enforcing the terms of that agreement.

Section 2 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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[15] *Milsap v. Cornerstone Residential Mgmt., Inc*., 2010 WL 427436 (S.D.Fla. 2010).
[16] *Id*. The court thought that the Florida Fair Housing Act should be interpreted similarly to the Federal Fair Housing Act, which has been interpreted by federal courts as allowing for actions in court whether or not all administrative remedies have been exhausted.

B. Private Sector Impact:

Entities engaged in the housing industry may experience indeterminate effects as a result of the bill.

C. Government Sector Impact:

According to the Commission, they would incur no fiscal or workload impact related to the bill.[17] However, the Commission cautioned that the bill may create additional workload on Florida's court system if persons bypass the investigation and conciliation process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

[17] Florida Commission on Human Relations, *SB 442 Analysis* (on file with the Senate Committee on Community Affairs)

By Senator Braynon

33-00434-12 2012442__

A bill to be entitled

An act relating to fair housing; amending s. 760.35, F.S.; providing that an aggrieved person may file a civil action without first filing an administrative complaint for a discriminatory housing practice; providing that, if the Florida Commission on Human Relations or local agency has obtained a conciliation agreement with the consent of the aggrieved person, the filing of a civil action is prohibited, except to enforce the terms of the agreement; providing an effective date.

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

Section 1. Subsection (4) is added to section 760.35, Florida Statutes, to read:

760.35 Civil actions and relief; administrative procedures.—

(4) An aggrieved person may commence a civil action under this section whether or not a complaint has been filed under s. 760.34 and without regard to the status of that complaint. However, if the commission or local agency has obtained a conciliation agreement with the consent of an aggrieved person, an action may not be filed under this section by the aggrieved person with respect to the alleged discriminatory housing practice that forms the basis for the complaint except for the purpose of enforcing the terms of that agreement.

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities
Ethics and Elections
Judiciary
Subcommittee on General Government Appropriations
Subcommittee on Higher Education Appropriations
Reapportionment
Regulated Industries

JOINT COMMITTEE:
Public Counsel Oversight

SENATOR OSCAR BRAYNON II
33rd District

December 6, 2011

Senator Michael Bennett, Chair
Community Affairs,
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bennett:

This letter is to request that SB 442, relating to ***Fair Housing*** be placed on the agenda of the next scheduled meeting of the committee.

SB 442 Providing that an aggrieved person may file a civil action without first filing an administrative complaint for a discriminatory housing practice; providing that, if the Florida Commission on Human Relations or local agency has obtained a conciliation agreement with the consent of the aggrieved person, the filing of a civil action is prohibited, except to enforce the terms of the agreement, etc.

Thank you for consideration of this request.

Sincerely,

Senator Braynon
District 33

cc. *Tom Yeatman, Staff Director, Community Affairs*
Ann Whittaker, Committee Administrative Assistant

rec'd 12/8/11 apw

REPLY TO:
❒ 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7154
❒ 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5116

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Wheelchair Accessible housing

Bill Number: 442 *(if applicable)*

Name: Loretta Wesley

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 8269 Sierra Woods Ct
Street

Tall FL 32311
City *State* *Zip*

Phone: 850 661-7211

E-mail: Loretta.wesley@y mail

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

Representing: Son and other Wheelchair bound individu

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)

1 / 23 /2012
Meeting Date

Topic _____ Bill Number 442 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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)

1-23-2012
Meeting Date

Topic: Fair Housing

Bill Number: SB442 *(if applicable)*

Name: Keenya Robertson

Amendment Barcode: _____ *(if applicable)*

Job Title: President & CEO

Address: 11501 NW 2nd Ave
Street

Miami, FL 33168
City *State* *Zip*

Phone: 305-651-4623

E-mail: keenya@hopefhc.com

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

Representing: Housing Opportunities Project for Excellence, Inc. (HOPE)

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 Community Affairs Committee

BILL: CS/SB 780

INTRODUCER: Transportation Committee and Senator Ring

SUBJECT: Airport Parking Fees

DATE: January 15, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	**Fav/CS**
2.	Toman	Yeatman	CA	**Favorable**
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:

This CS amends s. 316.1964(7), F.S., to add "vehicles with attachments to transport power mobility devices, as defined in 42 C.F.R. s. 410.38" to the list of those vehicles which specifically must be granted free parking by the governing bodies of publicly owned or publicly operated airports.

This CS substantially amends s. 316.1964, F.S.

II. Present Situation:

Currently, the governing body of a publicly owned or operated airport may choose whether or not to charge disabled drivers for parking at airports within their jurisdiction except that they must "grant free parking to any vehicle with specialized equipment, such as ramps, lifts, foot or hand controls, or for utilization by a person who has a disability or whose vehicle is displaying the Florida Toll Exemption permit."[1] This grant of local control has caused some airports in the

[1] s. 316.1964(7), F.S.

state to charge for parking for certain vehicles which are not specifically exempted, while other airports in the state would not charge for parking those same vehicles.

III. Effect of Proposed Changes:

Section 1 amends s. 316.1964(7), F.S., to add "vehicles with attachments to transport power mobility devices, as defined in 42 C.F.R. s. 410.38"[2] to the list of those vehicles which specifically must be granted free parking by the governing bodies of publicly owned or publicly operated airports.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Article VII, of the State Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. This CS mandates that publicly owned or operated airports must now offer free parking to a new class of vehicles thus reducing the revenue-raising authority of the airports.

Section 18(d), Article VII, of the State Constitution provides an exemption for laws determined to have an "insignificant impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 ($1.88 million for FY 2010-2011).

If the revenue loss for publicly owned or operated airports is greater than $1.88 million, the law may require a two-thirds vote of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[2] Power mobility device means a covered item of durable medical equipment that is in a class of wheelchairs that includes a power wheelchair (a four-wheeled motorized vehicle whose steering is operated by an electronic device or a joystick to control direction and turning) or a power-operated vehicle (a three or four-wheeled motorized scooter that is operated by a tiller) that a beneficiary uses in the home.

B. Private Sector Impact:

Private individuals with "vehicles with attachments to transport power mobility devices, as defined in 42 C.F.R. s. 410.38" would be able to park for free at publicly owned or publicly operated airports that may have charged for such parking previously.

C. Government Sector Impact:

Some publicly owned or operated airports may lose an indeterminate amount of revenue because they must now offer free parking to a new class of vehicles. However, some airports currently offer this form of free parking, including Miami International Airport and Melbourne International Airport,[3] and, as such, would be unaffected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Transportation on January 9, 2012:

The CS changed the term "motorized scooter" to the term "power mobility device", which is defined in 42 C.F.R. s. 410.38, in order to correct a technical deficiency.

B. Amendments:

None.

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

[3] As per an email conversation with Bill Johnson, Florida Airports Council, *Executive Director*, (December 22, 2011), on file with the Senate Committee on Transportation.

By the Committee on Transportation; and Senator Ring

596-01756-12 2012780c1

A bill to be entitled

An act relating to airport parking fees; amending s. 316.1964, F.S.; exempting vehicles transporting power mobility devices for use by persons who have a disability from payment of parking fees at a publicly owned or operated airport; providing an effective date.

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

Section 1. Subsection (7) of section 316.1964, Florida Statutes, is amended to read:

316.1964 Exemption of vehicles transporting certain persons who have disabilities from payment of parking fees and penalties.—

(7) An airport that owns, operates, or leases parking facilities, or any other parking facilities that are used for the purpose of air travel, may charge for parking vehicles that display a disabled parking permit or license tag issued under s. 316.1958, s. 320.084, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848. However, the governing body of each publicly owned or publicly operated airport must grant free parking to any vehicle with specialized equipment, such as ramps, lifts, ~~or~~ foot or hand controls, <u>or attachments to transport power mobility devices, as defined in 42 C.F.R. s. 410.38,</u> ~~or~~ for <u>use</u> ~~utilization~~ by a person who has a disability or whose vehicle is displaying the Florida Toll Exemption permit.

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Community Affairs
Higher Education

SENATOR JEREMY RING
32nd District

January 9, 2012

Honorable Senator Mike S. Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, Fl 32399

Dear Chairman Bennett,

I am writing to respectfully request your cooperation in placing Senate Bill 780, relating to Airport Parking Fees on the Community Affairs Committee agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 32

cc: Tom Yeatman, Staff Director

rec'd 1/10/12 afw

REPLY TO:
☐ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392
☐ 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5094

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

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2012
Meeting Date

Topic _____ Bill Number 780 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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

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 Community Affairs Committee

BILL: CS/SB 1042

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Emergency 911 Service

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			CU	
3.			BC	
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 CS amends certain provisions of the Emergency Communications Number E911 Act to:

- allow a 911 public safety telecommunicator to contact owners of automated external defibrillators to facilitate a coronary emergency call:
- modify membership numbers and composition of the E911 Board;
- clarify the application of the E911 fee to a customer using digital transmission link and service;
- clarify the indemnification and liability provisions related to provision of 911 or E911 service with respect to non-voice communications; and
- reflect the recent dissolution of the Florida Telecommunications Industry Association.

This CS substantially amends sections 365.171, 365.172, 401.2915, and 427.706 of the Florida Statutes.

II. Present Situation:

Automated External Defibrillators

It is the intent of the Legislature that an automated external defibrillator (AED) may be used by any person for the purpose of saving the life of another person in cardiac arrest.[1] In order to achieve that goal, the Legislature encourages training in lifesaving first aid and sets standards for and encourages the use of AEDs.[2]

Any person or entity in possession of an AED is encouraged to notify the local emergency medical services medical director of the location of the automated external defibrillator.[3] Public schools members of the Florida High School Athletic Association, state parks and multiservice senior centers are required to register their AED locations with a local emergency medical services director.[4]

The Cardiac Arrest Survival Act in s. 768.1325, F.S., addresses civil liability and AEDs.

> Notwithstanding any other provision of law to the contrary, . . . any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim of the perceived medical emergency, is immune from civil liability for any harm resulting from the use or attempted use of such device.[5]

According to the Department of Health's Guidelines for AEDs in State Owned or Leased Facilities, the optimal response time for use of an AED is three minutes or less. This interval begins from the moment a person is identified as needing emergency care to when the AED is at the side of the victim. Survival rates decrease by 7 to 10 percent for every minute that defibrillation is delayed.[6]

E911 Confidentiality of Records

Section 365.171(12), F.S. on E911 confidentiality of records states that :

> Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency communications E911 system is confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State

[1] Section 401.2915, F.S.
[2] *Id.*
[3] Section 401.2915(b), F.S.
[4] Sections 1006.165, 258.0165, and 430.902, F.S.
[5] Section 768.1325(3), F.S.
[6] *See* Rule 64J-1.023, F.A.C.

Constitution, except that such record or information may be disclosed to a public safety agency.[7]

Emergency Communications Number E911 Act

The Emergency Communications Number E911 Act (Act)[8] establishes a statewide E911 system to provide users of voice communications rapid, direct access to public safety agencies by accessing the telephone number "911." In addition, the Act is intended to:

- provide funds to counties to pay certain costs associated with their E911 or 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or E911 services;
- levy a reasonable fee on voice communications services to accomplish these purposes;
- provide for an E911 board to administer the fee; and
- ensure that the fee is used exclusively for recovery by wireless providers and by counties for costs associated with developing and maintaining E911 systems.[9]

Funding the E911 System

To fund the E911 system, the Act imposes a fee, capped at $.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 or E911 services. As of March 31, 2008, all 67 counties reported capability to receive a call back number and location information provided for the cellular caller from the service provider.[10]

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill.[11] "Service identifier" is defined as the service number, access line, or other unique identifier assigned to a customer for purposes of routing calls to the E911 system.[12] Consistent with the statutory definition for "voice communications services provider,"[13] the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol[14] ("VoIP").

For customers who receive service through a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications (such as primary rate

[7] Section 119.07, F.S., and s. 24(a), Art. I of the State Constitution, address inspection and copying of public records and access to public records and meetings respectively.
[8] Section 365.172, F.S. Originally cited as the "Wireless Emergency Communications Act," Chapter 99-367, L.O.F., codified in s. 365.172, F.S.
[9] Section 365.172(1)(a)-(e), F.S.
[10] Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 17, 2012).
[11] Section 365.172(8), F.S.
[12] Section 365.172(3)(z), F.S.
[13] Section 365.172(3)(bb) and (cc), F.S.
[14] Voice-over-Internet Protocol, or VoIP, is the method commonly used by traditional cable television service providers to provide voice communications service. In addition, companies referred to as "over-the-top" providers, like Vonage, use VoIP.

interface service or Digital Signal 1 level service), local exchange carriers are required by rule[15] to bill the E911 fee on the basis of five access lines for each digital transmission link up to a maximum of 25 access lines per account bill. A customer using one digital transmission link for service is able to use that link for 23 or 24 voice or data channels. The rule assumes that five of those channels, on average, are used as voice lines with access to the E911 system, and the customer is billed the E911 fee for five lines.

The E911 subscriber fee is not assessed on any pay telephone in the state. Except in the case of prepaid wireless service, each wireless provider bills the E911 fee to a subscriber on a per-service-identifier basis for service identifiers whose primary place of use is within Florida. E911 subscriber fees may not be assessed on or collected from the sale of prepaid wireless service prior to July 1, 2013.[16]

E911 Board

The E911 Board, formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the E911 Board (Board) is to make disbursements from the E911 Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. The Board consists of nine members including the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board. The remaining eight members are appointed by the Governor and must be composed of:

- four county 911 coordinators;
- two local exchange carrier representatives; and
- two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association (FTIA) in consultation with the wireless industry.[17]

According to the Florida Department of Management Services (DMS), the E911 Board industry representation currently includes AT&T (the local exchange carrier with the greatest number of access lines), CenturyLink (a local exchange carrier), Verizon (a wireless carrier) and TracFone Wireless (a wireless provider). FTIA's termination was filed June 2011, and is no longer available to make recommendations for replacement candidates.[18]

E911 Indemnification and Limitation of Liability

Section 365.172(11), F.S., protects voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service. Providers also receive

[15] Rule 60FF1-5.007, Florida Administrative Code.
[16] *See* s. 365.172(8), F.S. "Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.
[17] Section 365.172(5)(b), F.S.
[18] Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

liability protection for identification of the telephone number, address, or name associated with any person accessing 911 or E911 service.[19]

Further, the law authorizes local governments to indemnify local exchange carriers against liability in accordance with the carrier's lawfully filed tariffs. Since 2009, however, local exchange carriers have not been required to file tariffs (i.e., rate schedules) with the Public Service Commission ("PSC"). Instead, these carriers are required to publish their rate schedules through electronic or physical media and to inform customers where the schedules can be viewed.

Next Generation 911

The nation's current 911 system is designed around telephone technology and cannot handle the text, data, images, and video that are both increasingly common in personal communications and critical to future transportation safety and mobility advances. Development of next generation 911 technology is designed to create a system that is capable of voice, data, and video transmission from different types of communication devices into public safety answering points and on to emergency responder networks.[20]

Telecommunications Access System

Chapter 427, F.S., establishes the Telecommunications Access System Act of 1991 (TASA). Pursuant to TASA, the PSC is responsible for establishing, implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.[21] TASA establishes an advisory committee to assist the PSC. The advisory committee provides the expertise, experience, and perspective of people who are hearing impaired or speech impaired to the PSC regarding the operation of the telecommunications access system. The advisory committee consists of 10 members:

- two deaf persons;
- one hearing-impaired person;
- one deaf and blind person;
- one speech-impaired person;
- two representatives of telecommunications companies recommended by the Florida Telephone Association;
- one person with experience in providing relay services;
- one person recommended by the Advocacy Center for Persons with Disabilities; and
- one person recommended by the Florida League of Seniors.[22]

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[19] Absent any malicious purpose or wanton and willful disregard of the rights, safety, or property of the person when providing services.

[20] United States Department of Transportation, Research and Innovative Technology Administration, *Intelligent Transportation Systems Joint Program Office Website*, *available at* http://www.its.dot.gov/ng911/ (last visited Jan. 17, 2012). "Answering point" is defined in s. 365.172(3)(a), F.S., as the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

[21] Section 427.704, F.S.

[22] Section 427.706, F.S.

According to the Florida Department of State, Division of Corporations website, the Florida Telephone Association was renamed FTIA in May 1996. As mentioned previously, FTIA's termination was filed June 2011.

III. Effect of Proposed Changes:

Section 1 amends s. 365.171 (12), F.S., to allow a 911 public safety telecommunicator to contact a private owner of an automated external defibrillator who has notified the local emergency medical services director or a public safety answering point, if a confirmed coronary emergency call is taking place a reasonable distance from the defibrillator. The telecommunicator may then provide the location of the emergency to the defibrillator owner.

Section 2 amends s. 365.172(5), F.S., to change the composition of the E911 board membership. The CS increases the total number of board members from nine to eleven. The number of county 911 coordinator representatives is increased from four to five. The number of board members representing local exchange carriers increases from two to three. One of these representatives must be a representative of a certified competitive local exchange telecommunications company (e.g., a traditional landline competitive company or a cable voice service provider.). The CS removes a provision requiring the now-dissolved FTIA to recommend a wireless industry member.

This section also amends s. 365.172(8)(a), F.S., to clarify and modernize application of the E911 fee. The CS amends subparagraph 1. to provide that all voice communications services providers other than wireless providers must CS the E911 fee to each subscriber based on the number of access lines with access to the E911 system, on a service-identifier basis. Based on the applicable definition of "voice communications services provider," this provision should encompass every voice communications technology that is required by the Federal Communications Commission (FCC) to provide E911 service, including VoIP, other than wireless service.

The CS creates a new provision as subparagraph 2. to establish how voice communications services providers other than wireless providers will bill the E911 fee to customers that use a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications. Consistent with the existing rule of the E911 Board and FCC practice, these customers will be billed the fee for five service-identified access lines for each digital transmission link, up to a maximum of 25 access lines per account bill. The CS provides that a "digital transmission link" includes primary rate interface service or equivalent Digital Signal 1 level service. This is a codification of Rule 60FF1-5.007, F.A.C., which was enacted December 3, 2010.

The CS retains the existing provisions in s. 365.172(8)(a), F.S., that specify how wireless providers must bill the E911 fee to their customers.

Section 2 also amends s. 365.172(11), F.S., related to indemnification and limitation of liability to clarify application of the existing liability provisions to include services that are capable of providing access to the E911 system for nonvoice communications (e.g., text, data, images and video). These "Next Generation 911" systems are currently being developed.

Further, this section of the CS reflects that local exchange carriers are no longer required to file tariffs with the PSC. To do this, the CS provides that local governments may indemnify a local exchange carrier against liability in accordance with the carrier's lawfully published rate schedules, rather than its filed tariffs.

Section 3 amends s. 401.2915(2)(b), F.S., to encourage automated external defibrillator owners to notify a public safety answering point of the location of their devices.

Section 4 amends s. 427.706, F.S., to remove specifications related to the telecommunication company representation on the advisory committee charged with providing access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them. An obsolete reference to the role of the Florida Telephone Association in the advisory committee selection process is removed as well. The CS also provides that the uncompensated advisory committee members are entitled to reimbursement for per diem and travel expenses.

Section 5 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:

According to the DMS, no immediate effects are anticipated as a result of the CS's modifications of the E911 Board industry representation. With the CS's ability to represent various industries, no major changes are expected in the composition of the E911 Board industry representatives.[23]

[23] Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

C. Government Sector Impact:

The dissolution of the FTIA will affect how the Governor appoints E911 board members and how the PSC appoints Telecommunications Access System advisory committee members.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on January 23, 2012:

- Allows a 911 public safety telecommunicator to contact private owners of automated external defibrillators to facilitate a coronary emergency call.
- Changes the membership number and composition requirements of the E911 Board.
- Removes specifications related to the telecommunication company representation on the advisory committee charged with providing access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.
- Makes technical and clarifying changes.

B. Amendments:

None.

158586

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Subsection (12) of section 365.171, Florida
6 Statutes, is amended to read:
7 365.171 Emergency communications number E911 state plan.—
8 (12) CONFIDENTIALITY OF RECORDS.—
9 (a) Any record, recording, or information, or portions
10 thereof, obtained by a public agency or a public safety agency
11 for the purpose of providing services in an emergency and which
12 reveals the name, address, telephone number, or personal

158586

13 information about, or information which may identify any person
14 requesting emergency service or reporting an emergency by
15 accessing an emergency communications E911 system is
16 confidential and exempt from the provisions of s. 119.07(1) and
17 s. 24(a), Art. I of the State Constitution, except that such
18 record or information may be disclosed to a public safety
19 agency. The exemption applies only to the name, address,
20 telephone number or personal information about, or information
21 which may identify any person requesting emergency services or
22 reporting an emergency while such information is in the custody
23 of the public agency or public safety agency providing emergency
24 services. A telecommunications company or commercial mobile
25 radio service provider shall not be liable for damages to any
26 person resulting from or in connection with such telephone
27 company's or commercial mobile radio service provider's
28 provision of any lawful assistance to any investigative or law
29 enforcement officer of the State of Florida or political
30 subdivisions thereof, of the United States, or of any other
31 state or political subdivision thereof, in connection with any
32 lawful investigation or other law enforcement activity by such
33 law enforcement officer unless the telecommunications company or
34 commercial mobile radio service provider acted in a wanton and
35 willful manner.
36 (b) Notwithstanding paragraph (a), a 911 public safety
37 telecommunicator, as defined in s. 401.465, may contact any
38 private person or entity that owns an automated external
39 defibrillator who has notified the local emergency medical
40 services medical director or public safety answering point of
41 such ownership if a confirmed coronary emergency call is taking

158586

42 place and the location of the coronary emergency is within a
43 reasonable distance from the location of the defibrillator, and
44 may provide the location of the coronary emergency to that
45 person or entity.
46 Section 2. Paragraphs (a) and (b) of subsection (5),
47 paragraphs (a) and (e) of subsection (8), and subsection (11) of
48 section 365.172, Florida Statutes, are amended to read:
49 365.172 Emergency communications number "E911."—
50 (5) THE E911 BOARD.—
51 (a) The E911 Board is established to administer, with
52 oversight by the office, the fee imposed under subsection (8),
53 including receiving revenues derived from the fee; distributing
54 portions of the revenues to wireless providers, counties, and
55 the office; accounting for receipts, distributions, and income
56 derived by the funds maintained in the fund; and providing
57 annual reports to the Governor and the Legislature for
58 submission by the office on amounts collected and expended, the
59 purposes for which expenditures have been made, and the status
60 of E911 service in this state. In order to advise and assist the
61 office in implementing ~~carrying out~~ the purposes of this
62 section, the board, which has ~~shall have~~ the power of a body
63 corporate, has the powers enumerated in subsection (6).
64 (b) The board shall consist of eleven ~~nine~~ members, one of
65 whom must be the system director designated under s. 365.171(5),
66 or his or her designee, who shall serve as the chair of the
67 board. The remaining eight members of the board shall be
68 appointed by the Governor and must be composed of four county
69 911 coordinators, consisting of a representative from a rural
70 county, a representative from a medium county, a representative

158586

71 from a large county, and two ~~an~~ at-large representatives
72 ~~representative~~ recommended by the Florida Association of
73 Counties in consultation with the county 911 coordinators; three
74 ~~two~~ local exchange carrier member representatives ~~members~~, one
75 of whom ~~which~~ must be a representative of the local exchange
76 carrier having the greatest number of access lines in the state
77 and one of whom must be a representative of a certificated
78 telecommunications company; and two member representatives
79 ~~members~~ from the wireless telecommunications industry, with
80 ~~recommended by the Florida Telecommunications Industry~~
81 ~~Association in consultation with the wireless telecommunications~~
82 ~~industry. In recommending members from the wireless~~
83 ~~telecommunications industry,~~ consideration ~~must be~~ given to
84 wireless providers that ~~who~~ are not affiliated with local
85 exchange carriers. Not more than one member may be appointed to
86 represent any single provider on the board.
87 (8) E911 FEE.—
88 (a) Each voice communications services provider shall
89 collect the fee described in this subsection. Each provider, as
90 part of its monthly billing process, shall bill the fee as
91 follows. The fee may ~~shall~~ not be assessed on any pay telephone
92 in the state.
93 1. Each voice communications service provider other than a
94 wireless provider ~~local exchange carrier~~ shall bill the fee to a
95 subscriber based on the number of access lines having access to
96 the E911 system, ~~the local exchange subscribers~~ on a service-
97 identifier basis, up to a maximum of 25 access lines per account
98 bill rendered.
99 2. Each voice communications service provider other than a

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100 wireless provider shall bill the fee to a subscriber on a basis
101 of five service-identified access lines for each digital
102 transmission link, including primary rate interface service or
103 equivalent Digital-Signal-1-level service, which can be
104 channelized and split into 23 or 24 voice- or data-grade
105 channels for communications, up to a maximum of 25 access lines
106 per account bill rendered.
107 3.~~2.~~ Except in the case of prepaid wireless service, each
108 wireless provider shall bill the fee to a subscriber on a per-
109 service-identifier basis for service identifiers whose primary
110 place of use is within this state. Before July 1, 2013, the fee
111 shall not be assessed on or collected from a provider with
112 respect to an end user's service if that end user's service is a
113 prepaid calling arrangement that is subject to s. 212.05(1)(e).
114 a. An ~~No~~ E911 fee shall not be collected from the sale of
115 prepaid wireless service before ~~prior to~~ July 1, 2013.
116 b. For purposes of this section, the term:
117 (I) "Prepaid wireless service" means the right to access
118 telecommunications services, which ~~that~~ must be paid for in
119 advance and ~~is~~ sold in predetermined units or dollars enabling
120 the originator to make calls such that the number of units or
121 dollars declines with use in a known amount.
122 (II) "Prepaid wireless service providers" includes those
123 persons who sell prepaid wireless service regardless of its
124 form, ~~either~~ as a retailer or reseller.
125 4.~~3.~~ The ~~All~~ voice communications services providers not
126 addressed under subparagraphs 1., 2., and 3. ~~2.~~ shall bill the
127 fee on a per-service-identifier basis for service identifiers
128 whose primary place of use is within the state up to a maximum

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129 of 25 service identifiers for each account bill rendered.
130
131 The provider may list the fee as a separate entry on each bill,
132 in which case the fee must be identified as a fee for E911
133 services. A provider shall remit the fee to the board only if
134 the fee is paid by the subscriber. If a provider receives a
135 partial payment for a monthly bill from a subscriber, the amount
136 received shall first be applied to the payment due the provider
137 for providing voice communications service.
138 (e) Effective September 1, 2007, voice communications
139 services providers billing the fee to subscribers shall deliver
140 revenues from the fee to the board within 60 days after the end
141 of the month in which the fee was billed, together with a
142 monthly report of the number of service identifiers in each
143 county. Each wireless provider and other applicable provider
144 identified in subparagraph (a)4. ~~(a)3.~~ shall report the number
145 of service identifiers for subscribers whose place of primary
146 use is in each county. All provider subscriber information
147 provided to the board is subject to s. 365.174. If a provider
148 chooses to remit any fee amounts to the board before they are
149 paid by the subscribers, a provider may apply to the board for a
150 refund of, or may take a credit for, any such fees remitted to
151 the board which are not collected by the provider within 6
152 months following the month in which the fees are charged off for
153 federal income tax purposes as bad debt.
154 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local
155 government may ~~governments are authorized to undertake to~~
156 indemnify local exchange carriers against liability in
157 accordance with the published schedules ~~lawfully filed tariffs~~

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158 of the company. Notwithstanding an indemnification agreement, a
159 local exchange carrier, voice communications services provider,
160 or other service provider that provides 911 or E911 service on a
161 retail or wholesale basis is not liable for damages resulting
162 from or in connection with 911 or E911 service, or for
163 identification of the telephone number, or address, or name
164 associated with any person accessing 911 or E911 service, unless
165 the carrier or ~~the voice communications services~~ provider acted
166 with malicious purpose or in a manner exhibiting wanton and
167 willful disregard of the rights, safety, or property of a person
168 when providing such services. A carrier or ~~voice communications~~
169 ~~services~~ provider is not liable for damages to any person
170 resulting from or in connection with the carrier's or provider's
171 provision of any lawful assistance to any investigative or law
172 enforcement officer of the United States, this state, or a
173 political subdivision thereof, or of any other state or
174 political subdivision thereof, in connection with any lawful
175 investigation or other law enforcement activity by such law
176 enforcement officer. For purposes of this subsection, the term
177 "911 or E911 service" means a telecommunications service, voice
178 or nonvoice communications service, or other wireline or
179 wireless service, including, but not limited to, a service using
180 Internet protocol, which provides, in whole or in part, any of
181 the following functions: providing members of the public with
182 the ability to reach an answering point by using the digits 9-1-
183 1; directing 911 calls to answering points by selective routing;
184 providing for automatic number identification and automatic
185 location-identification features; or providing wireless E911
186 services as defined in the order.

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187 Section 3. Paragraph (b) of subsection (2) of section
188 401.2915, Florida Statutes, is amended to read:
189 401.2915 Automated external defibrillators.—It is the
190 intent of the Legislature that an automated external
191 defibrillator may be used by any person for the purpose of
192 saving the life of another person in cardiac arrest. In order to
193 achieve that goal, the Legislature intends to encourage training
194 in lifesaving first aid and set standards for and encourage the
195 use of automated external defibrillators.
196 (2) In order to promote public health and safety:
197 (b) Any person or entity in possession of an automated
198 external defibrillator is encouraged to notify the local
199 emergency medical services medical director or the local public
200 safety answering point, as defined in s. 365.172(3), of the
201 location of the automated external defibrillator.
202 Section 4. Paragraph (e) of subsection (1) and subsection
203 (3) of section 427.706, Florida Statutes, are amended to read:
204 427.706 Advisory committee.—
205 (1) The commission shall appoint an advisory committee to
206 assist the commission with the implementation of the provisions
207 of this part. The committee shall be composed of no more than 10
208 persons and shall include, to the extent practicable, the
209 following:
210 (e) Two representatives of telecommunications companies~~,~~
211 ~~one representing a local exchange telecommunications company and~~
212 ~~one representing an interexchange telecommunications company,~~
213 ~~recommended by the Florida Telephone Association~~.
214 (3) Members of the committee may ~~shall~~ not be compensated
215 for their services but are ~~shall be~~ entitled to receive

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216 reimbursement for per diem and travel expenses as provided in s.
217 112.061. The commission shall use funds from the Florida Public
218 Service Regulatory Trust Fund to cover the costs incurred by
219 members of the advisory committee.
220 Section 5. This act shall take effect July 1, 2012.
221
222 ========== T I T L E A M E N D M E N T ==========
223 And the title is amended as follows:
224 Delete everything before the enacting clause
225 and insert:
226 A bill to be entitled
227 An act relating to emergency 911 service; amending s.
228 365.171, F.S.; providing an exception to certain
229 confidentiality provisions for a 911 public safety
230 telecommunicator when a confirmed coronary emergency
231 call is taking place; amending s. 365.172, F.S.;
232 revising the qualifications required for the members
233 of the E911 Board; requiring that a voice
234 communications service provider, other than a wireless
235 service provider, impose a fee based on the number of
236 access lines to the E911 system and on the basis of
237 certain access lines for each digital transmission
238 link, up to a specified number of access lines per
239 account bill rendered; revising the criteria that a
240 local government may use in order to indemnify a local
241 carrier; expanding the types of providers that may be
242 indemnified and that are not liable for certain
243 damages; revising cross-references; defining the term
244 “911 or E911 service”; amending s. 401.2915, F.S.;

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245 providing for a person or entity in possession of an
246 automated external defibrillator to notify the local
247 public safety answering point regarding the location
248 of the defibrillator; amending s. 427.706, F.S.;
249 removing the requirement that the Florida Telephone
250 Association recommend certain representatives to an
251 advisory committee to the Public Service Commission;
252 providing an effective date.

402640

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment to Amendment (158586)**
2
3 Delete lines 67 - 68
4 and insert:
5 board. The remaining ten ~~eight~~ members of the board shall be
6 appointed by the Governor and must be composed of five ~~four~~
7 county

By Senator Bennett

21-00861A-12 20121042__

A bill to be entitled

An act relating to emergency 911 service; amending s. 365.172, F.S.; revising the qualifications required for the members of the E911 Board; requiring that a voice communications service provider, other than a wireless service provider, impose a fee based on the number of access lines to the E911 system and on the basis of certain access lines for each digital transmission link, up to a specified number of access lines per account bill rendered; revising the criteria that a local government may use in order to indemnify a local carrier; expanding the types of providers that may be indemnified and that are not liable for certain damages; revising cross-references; defining the term "provide 911 or E911 service"; amending s. 427.706, F.S.; removing the requirement that the Florida Telephone Association recommend certain representatives to an advisory committee to the Public Service Commission; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (5), paragraphs (a) and (e) of subsection (8), and subsection (11) of section 365.172, Florida Statutes, are amended to read:

365.172 Emergency communications number "E911."—

(5) THE E911 BOARD.—

(a) The E911 Board is established to administer, with oversight by the office, the fee imposed under subsection (8),

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

21-00861A-12 20121042__

including receiving revenues derived from the fee; distributing portions of the revenues to wireless providers, counties, and the office; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the office on amounts collected and expended, the purposes for which expenditures have been made, and the status of E911 service in this state. In order to advise and assist the office in implementing ~~carrying out~~ the purposes of this section, the board, which has ~~shall have~~ the power of a body corporate, has the powers enumerated in subsection (6).

(b) The board shall consist of nine members, one of whom must be the system director designated under s. 365.171(5), or his or her designee, who shall serve as the chair of the board. The remaining eight members of the board shall be appointed by the Governor and must be composed of four county 911 coordinators, consisting of a representative from a rural county, a representative from a medium county, a representative from a large county, and an at-large representative recommended by the Florida Association of Counties in consultation with the county 911 coordinators; three ~~two~~ local exchange carrier member representatives ~~members~~, one of whom ~~which~~ must be a representative of the local exchange carrier having the greatest number of access lines in the state and one of whom must be a representative of a certificated competitive local exchange telecommunications company; and one member representative ~~two members~~ from the wireless telecommunications industry, with ~~recommended by the Florida Telecommunications Industry Association in consultation with the wireless telecommunications~~

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59 ~~industry. In recommending members from the wireless~~
60 ~~telecommunications industry,~~ consideration ~~must be~~ given to
61 wireless providers that ~~who~~ are not affiliated with local
62 exchange carriers. Not more than one member may be appointed to
63 represent any single provider on the board.
64 (8) E911 FEE.—
65 (a) Each voice communications services provider shall
66 collect the fee described in this subsection. Each provider, as
67 part of its monthly billing process, shall bill the fee as
68 follows. The fee may ~~shall~~ not be assessed on any pay telephone
69 in the state.
70 1. Each voice communications service provider other than a
71 wireless provider ~~local exchange carrier~~ shall bill the fee to a
72 subscriber based on the number of access lines having access to
73 the E911 system, ~~the local exchange subscribers~~ on a service-
74 identifier basis, up to a maximum of 25 access lines per account
75 bill rendered.
76 2. Each voice communications service provider other than a
77 wireless provider shall bill the fee to a subscriber on a basis
78 of five service-identified access lines for each digital
79 transmission link, including primary rate interface service or
80 equivalent Digital Signal 1 level service, which can be
81 channelized and split into 23 or 24 voice or data grade channels
82 for communications, up to a maximum of 25 access lines per
83 account bill rendered.
84 3.~~2.~~ Except in the case of prepaid wireless service, each
85 wireless provider shall bill the fee to a subscriber on a per-
86 service-identifier basis for service identifiers whose primary
87 place of use is within this state. Before July 1, 2013, the fee

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88 may ~~shall~~ not be assessed on or collected from a provider with
89 respect to an end user's service if that end user's service is a
90 prepaid calling arrangement that is subject to s. 212.05(1)(e).
91 a. A ~~No~~ E911 fee may not ~~shall~~ be collected from the sale
92 of prepaid wireless service before ~~prior to~~ July 1, 2013.
93 b. For purposes of this section, the term:
94 (I) "Prepaid wireless service" means the right to access
95 telecommunications services, which ~~that~~ must be paid for in
96 advance and is sold in predetermined units or dollars enabling
97 the originator to make calls such that the number of units or
98 dollars declines with use in a known amount.
99 (II) "Prepaid wireless service providers" includes those
100 persons who sell prepaid wireless service regardless of its
101 form, ~~either~~ as a retailer or reseller.
102 4.~~3.~~ The ~~All~~ voice communications services providers not
103 addressed under subparagraphs 1., 2., and 3. ~~2.~~ shall bill the
104 fee on a per-service-identifier basis for service identifiers
105 whose primary place of use is within the state up to a maximum
106 of 25 service identifiers for each account bill rendered.
107
108 The provider may list the fee as a separate entry on each bill,
109 in which case the fee must be identified as a fee for E911
110 services. A provider shall remit the fee to the board only if
111 the fee is paid by the subscriber. If a provider receives a
112 partial payment for a monthly bill from a subscriber, the amount
113 received shall first be applied to the payment due the provider
114 for providing voice communications service.
115 (e) Effective September 1, 2007, voice communications
116 services providers billing the fee to subscribers shall deliver

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117 revenues from the fee to the board within 60 days after the end
118 of the month in which the fee was billed, together with a
119 monthly report of the number of service identifiers in each
120 county. Each wireless provider and other applicable provider
121 identified in subparagraph (a)4. ~~(a)3.~~ shall report the number
122 of service identifiers for subscribers whose place of primary
123 use is in each county. All provider subscriber information
124 provided to the board is subject to s. 365.174. If a provider
125 chooses to remit any fee amounts to the board before they are
126 paid by the subscribers, a provider may apply to the board for a
127 refund of, or may take a credit for, any such fees remitted to
128 the board which are not collected by the provider within 6
129 months following the month in which the fees are charged off for
130 federal income tax purposes as bad debt.
131 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local
132 government may ~~governments are authorized to undertake to~~
133 indemnify local exchange carriers against liability in
134 accordance with the published schedules ~~lawfully filed tariffs~~
135 of the company. Notwithstanding an indemnification agreement, a
136 local exchange carrier, voice communications services provider,
137 or other service provider that provides 911 or E911 service on a
138 retail or wholesale basis is not liable for damages resulting
139 from or in connection with 911 or E911 service, or for
140 identification of the telephone number, or address, or name
141 associated with any person accessing 911 or E911 service, unless
142 the carrier or ~~the voice communications services~~ provider acted
143 with malicious purpose or in a manner exhibiting wanton and
144 willful disregard of the rights, safety, or property of a person
145 when providing such services. A carrier or ~~voice communications~~

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

146 ~~services~~ provider is not liable for damages to any person
147 resulting from or in connection with the carrier's or provider's
148 provision of any lawful assistance to any investigative or law
149 enforcement officer of the United States, this state, or a
150 political subdivision thereof, or of any other state or
151 political subdivision thereof, in connection with any lawful
152 investigation or other law enforcement activity by such law
153 enforcement officer. For purposes of this subsection, the term
154 "provide 911 or E911 service" means to provide a
155 telecommunications service, voice or nonvoice communications
156 service, or other wireline or wireless service, including, but
157 not limited to, a service using Internet protocol, which
158 provides, in whole or in part, any of the following functions:
159 providing members of the public with the ability to reach an
160 answering point by using the digits 9-1-1; directing 911 calls
161 to answering points by selective routing; providing for
162 automatic number identification and automatic location-
163 identification features; or providing wireless E911 services as
164 defined in an order.
165 Section 2. Paragraph (e) of subsection (1) and subsection
166 (3) of section 427.706, Florida Statutes, are amended to read:
167 427.706 Advisory committee.—
168 (1) The commission shall appoint an advisory committee to
169 assist the commission with the implementation of the provisions
170 of this part. The committee shall be composed of no more than 10
171 persons and shall include, to the extent practicable, the
172 following:
173 (e) Two representatives of telecommunications companies,
174 one representing a local exchange telecommunications company and

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175 one representing an interexchange telecommunications company~~,~~
176 ~~recommended by the Florida Telephone Association~~.
177 (3) Members of the committee may ~~shall~~ not be compensated
178 for their services but are ~~shall be~~ entitled to receive
179 reimbursement for per diem and travel expenses as provided in s.
180 112.061. The commission shall use funds from the Florida Public
181 Service Regulatory Trust Fund to cover the costs incurred by
182 members of the advisory committee.
183 Section 3. 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)

1-23-12
Meeting Date

Topic _____ Bill Number 1042 *(if applicable)*

Name Richard Pinsky Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 106 E. College Ave.
Street

Tallahassee, FL. 32301
City *State* *Zip*

Phone _____

E-mail _____

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

Representing FL. 9-1-1 Emergency Dispatchers

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)

1042

Meeting Date

Topic: E911

Bill Number: ~~801~~ (if applicable)

Name: Jim Smith

Amendment Barcode: (if applicable)

Job Title: Director

Address: 315 S CALHOUN
Street

City State Zip

Phone: 850 212 5901

E-mail: James.Smith@CenturyLink

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

Representing: CenturyLink

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)

1/23/12
Meeting Date

Topic: 291

Bill Number: 1042 (if applicable)

Name: Paula Mateo

Amendment Barcode: _____ (if applicable)

Job Title: Area Manager

Address: 150 S. Monroe Street
Street

Tallahassee, FL 32301
City State Zip

Phone: 850-591-6002

E-mail: paula.mateo@att.com

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

Representing: AT&T

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: E 991

Bill Number: 1042 *(if applicable)*

Name: Charles Dudley

Amendment Barcode: *(if applicable)*

Job Title: General Counsel

Address: 108 S Monroe St. #200
Street

Tall. FL 32301
City *State* *Zip*

Phone: 681 0024

E-mail: CDudley@flcapartners.com

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

Representing: Fl. Cable Telecomm. Assoc.

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)

1/23/2012
Meeting Date

Topic: E-911

Bill Number: SB 1042 *(if applicable)*

Name: Woody Simmons

Amendment Barcode: *(if applicable)*

Job Title: AVP-Gov. Affairs

Address: 106 E. College Ave. Ste 710
Street

Tall FL 32301
City *State* *Zip*

Phone: 850 294-0700

E-mail: Woodrow.simmons@verizon.com

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

Representing: Verizon

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 842

INTRODUCER: Committee on Community Affairs and Senator Bennett

SUBJECT: Growth Management

DATE: January 20, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.			CM	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This committee substitute (CS) makes a number of non-substantive modifications and clarifications to ch. 2011-139, L.O.F, "The Community Planning Act" (the Act) that were compiled through various discussions and feedback received from stakeholders including the state land planning agency and local governments.

Modifications include fixing cross-references, updating outdated language, and removing provisions throughout the statutes that the Act made obsolete such as references to the twice-a-year limitation on adopting plan amendments that no longer exists and references to the evaluation and appraisal report that no longer is required.

This CS requires a regional planning council to determine before accepting a grant that the purpose of the grant is in furtherance of its functions. Also the CS prohibits a regional planning council from providing consulting services for a fee to any local government for a project for which the council will serve in a review capacity, as well as prohibits a regional planning council from providing consulting services to a private developer or landowner for a project for which the council may serve in a review capacity in the future.

This CS also addresses items that, although stemming from technical glitches, may have limited policy implications. These include:

- grandfathering of local government charter provisions in effect on June 1, 2011, relating to a local initiative or referendum process for the approval of development orders and comprehensive plan or map amendments;
- requiring comments by military installations to be considered by local governments in a manner consistent with s. 163.3184, F.S.
- removing criteria that exempts certain municipalities from being signatories to the school interlocal agreement as a prerequisite to implementing school concurrency, because school concurrency is now optional, and restoring criteria to exempt certain municipalities from being a party to the school interlocal agreement;
- extending the time for the state land planning agency and the Administration Commission to issue recommended and final orders, since the current time requirement is unworkable, and providing a time requirement for the state land planning agency to issue a notice of intent for a plan amendment adopted pursuant to a compliance agreement;
- deleting a required annual report by the Department of Economic Opportunity related to the optional sector plan pilot program.

This CS substantially amends the following sections of the Florida Statutes: 163.3167, 163.3174, 163.3175, 163.3177, 163.31777, 163.3178, 163.3180, 163.3184, 163.3191, 163.3245, 186.002, 186.007, 186.505, 186.508, 189.415, 288.975, 380.06, 380.115, 1013.33, 1013.35, 1013.351, and 1013.36.

II. Present Situation:

The Community Planning Act (ch. 2011-139, L.O.F.)
During the 2011 Session, the Legislature passed HB 7207, "The Community Planning Act" which became law on June 2, 2011. Ch. 2011-139, L.O.F., substantially reformed Florida's growth management system.

Part II of ch. 163, F.S., provides the minimum standards for Florida's comprehensive growth management system. Local governments are now primarily responsible for decisions relating to the future growth of their communities, and the state is now focused on protecting important state resources and facilities.

Local governments have the option to decide whether or not to continue implementing, pursuant to state guidelines, concurrency for transportation, school, and parks and recreation. A local government may continue applying concurrency in these areas without taking any action. If local governments wish to remove one of these forms of concurrency, a comprehensive plan amendment must be adopted, but it is not subject to state review. The Act also modified and attempted to clarify many of the provisions related to proportionate-share payments that local governments implementing transportation concurrency are required to implement.
Local governments must evaluate their comprehensive plans once every seven years and notify the state land planning agency, via a letter, whether or not update amendments are necessary. Local governments have the flexibility to adopt amendments to their comprehensive plan as needed, since there is no limit on the frequency in which plan amendments may be adopted.

Local governments are required to list their funded and unfunded capital improvements in the comprehensive plan.

The Act streamlined the comprehensive plan amendment process while maintaining public participation in the local government planning process. The Act focuses the state oversight role in growth management on protecting important state resources and facilities. State agencies, when reviewing plan amendments, may comment on adverse impacts to important state resources or facilities as they relate to areas within their jurisdiction. Further, the state land planning agency when challenging most plan amendments may only challenge based on an adverse impact to an "important state resource or facility."

SB 2156, which was signed into law as ch. 2011-142, L.O.F., created the Department of Economic Opportunity (DEO) that now serves as the state land planning agency. The Act requires the state land planning agency to provide direct and indirect technical assistance to help local governments find creative solutions to foster vibrant, healthy communities, while protecting the functions of important state resources and facilities.

If a plan amendment may adversely impact an important state resource or facility, upon request by the local government, the state land planning agency must coordinate multi-agency assistance, if needed, to develop an amendment to minimize any adverse impacts. The Act changed the requirements associated with the large-scale planning tools of sector plans and rural land stewardship areas.

Local Referendums and Initiatives

The Act modified current law to prohibit a local government from adopting any initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment. Prior to this, a local government was prohibited only from adopting an initiative or referendum process for approval of development orders or comprehensive plan amendments or future land use map amendments that affected five or fewer parcels of land. There were a number of already existing local government referendum processes that the Act made invalid.[1]

Town of Yankeetown, FL v. Department of Economic Opportunity

In August of 2011, the town of Yankeetown, FL, filed a complaint for declaratory judgment in Leon County Circuit Court naming the former Department of Community Affairs (DCA), then-DCA Secretary Billy Buzzett, and the Administration Commission as defendants.[2] In September of 2011, Yankeetown and the department reached a proposed settlement that was contingent on a legislative amendment to the Community Planning Act becoming law that would grandfather in local referendum or initiative requirements in regard to development orders or in regard to local

[1] In addition to Yankeetown, other local governments with a referendum or initiative process that were reportedly affected by the prohibition include Longboat Key, Key West, and Miami Beach.

[2] *See Town of Yankeetown, FL v. Dep't of Econ. Opportunity, et. al.*, Case No. 37 2011 CA 002036 (Fla. 2d Cir. Ct. 2011). The complaint alleged that ch. 2011-139, L.O.F., violated the single subject provision in Article III, s. 6 of the Florida Constitution, and that it was read by a misleading, inaccurate title. Yankeetown also alleged that the law contained unconstitutionally vague terms and contained an unlawful delegation of legislative authority. The city of St. Pete Beach has also filed a motion to intervene as a defendant in the case, on the same side as the state.

comprehensive plan amendments or map amendments that were in existence on June 2, 2011, when the Act became law.

Military Compatibility

There are several sections of law that deal with military compatibility with local land uses. Military bases can interfere with local land uses, and conversely, local land uses can interfere with the proper functioning of military bases. Section 163.3175, F.S., requires the exchange of information between local communities and military installations when land use decisions may affect operations at an installation. Section 163.3175, F.S., also specifies issues that the installation's commanding officer may address in commenting on a proposed land use change and requires a local government to consider the commanding officer's comments. It also requires a representative of the military installation to be included as an ex-officio, nonvoting member of the affected local government's land planning or zoning board.

The Act modified current law regarding the military base commander's comments to the local government. Section 163.3175, F.S., now states that commanding officer's comments, underlying studies, and reports are not binding on the local government. The affected local government shall take into consideration any comments provided by the commanding officer or his or her designee and must also be sensitive to private property rights and not be unduly restrictive on those rights. The affected local government shall forward a copy of any comments regarding comprehensive plan amendments to the state land planning agency.

School Interlocal Agreement

Interlocal agreements between a county, the municipalities within, and a school board exist in order to coordinate plans and processes of the local governments and school boards. Section 163.31777, F.S., provides that "[t]he county and municipalities located within the geographic area of a school district shall enter into an interlocal agreement with the district school board which jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated." The Act removed state oversight and review of the interlocal agreements while maintaining certain minimum issues that the interlocal agreement must address. If a local government chooses to maintain optional school concurrency within its jurisdiction, the interlocal agreement must also meet additional requirements. Certain outdated provisions relating to state oversight and review of interlocal agreements inadvertently still remain in s. 1013.33 and 1013.51, F.S.

The Act inadvertently removed the provision that exempted certain municipalities from entering into the school interlocal agreement.[3] However the Act maintained the language in s. 163.3180(6)(i), F.S., which provided that municipalities meeting certain criteria for having no significant impact on school attendance are not required to be a signatory to the interlocal agreement, as a prerequisite for imposition of school concurrency.

[3] The Act inadvertently removed 163.31777(6), F.S., (2010), which provided: "Except as provided in subsection (7), municipalities meeting the exemption criteria in s. 163.3177(12) are exempt from the requirements of subsections (1), (2), and (3)." The provisions within 163.3177(12), F.S., (2010) were also removed by the Act. The end result created a conflict with language in s. 163.3180(6)(i), F.S., (2011), and required every municipality to enter into an interlocal agreement.

Concurrency
Concurrency requires public facilities and services to be available concurrent with the impacts of development. Concurrency in Florida is required for sanitary sewer, solid waste, drainage, and potable water. Concurrency is tied to provisions requiring local governments to adopt level-of-service standards, address existing service deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan. The Act removed the mandatory requirement for transportation facilities, public education facilities, and parks and recreation to be available concurrent with development impacts, and a local government now has the flexibility to decide whether or not to maintain these forms of concurrency. If a local government chooses to remove any optional concurrency provisions from its comprehensive plan, an amendment is required. An amendment removing any optional concurrency is not subject to state review.

Regional Planning Councils
A regional planning council exists in each of the several comprehensive planning districts of the state. Only one agency shall exercise the responsibilities within the geographic boundaries of any one comprehensive planning district. Membership on the regional planning council shall be as follows:
(a) Representatives appointed by each of the member counties in the geographic area covered by the regional planning council.
(b) Representatives from other member local general-purpose governments in the geographic area covered by the regional planning council.
(c) Representatives appointed by the Governor from the geographic area covered by the regional planning council, including an elected school board member from the geographic area covered by the regional planning council, to be nominated by the Florida School Board Association.[4]

Any regional planning council has the power to accept and receive, in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies, and instrumentalities of state, municipal, or local government, or from private or civic sources. Each regional planning council shall render an accounting of the receipt and disbursement of all funds received by it, pursuant to the federal Older Americans Act, to the Legislature no later than March 1 of each year.[5] Also, the regional planning council has the power to provide technical assistance to local governments on growth management matters.[6]

Coordination of Planning with Local Governing Bodies
Currently the policy for the State of Florida is to require the coordination of planning between boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. Such planning must include the integration of the educational facilities plan and applicable policies and procedures of a board with the local comprehensive plan and land development regulations of local governments. The planning must include the consideration of allowing students to attend the school located nearest their homes when a new housing development is constructed near a county boundary and it is

[4] Section 186.504(2), F.S.
[5] Section 186.505(8), F.S.
[6] Section 186.505(20), F.S.

more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. The planning must also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment and the efficient use of infrastructure and to discourage uncontrolled urban sprawl. In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools program administered by the Department of Transportation.

State Coordinated Review Process

Section 163.3184, F.S., provides the processes for review of comprehensive plans and most plan amendments.[7] The "expedited state review process" is the process that most plan amendments are reviewed under. The expedited state review process requires two public hearings, one at the proposed phase and one at the adopted phase, and plan amendments are transmitted to reviewing agencies including the state land planning agency that may provide comments on the proposed plan amendment to the local government. The process may be used for all plan amendments except those that are specifically required to undergo the state coordinated review process. After adopting an amendment, the local government must transmit the plan amendment to the state land planning agency within 10 days of the second public hearing, and the state land planning agency must notify the local government of any deficiencies with the plan amendment within 5 working days. Unless timely challenged, an amendment adopted under the expedited state review process does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete.

The "state coordinated review process" is designed for new comprehensive plans and for amendments that require a more comprehensive review. Amendments that are in an area of critical state concern designated pursuant to s. 380.05, F.S., propose a rural land stewardship area pursuant to s. 163.3248, F.S., propose a sector plan pursuant to s. 163.3245, F.S., update a comprehensive plan based on an evaluation and appraisal review pursuant to s. 163.3191, F.S., and new plans for newly incorporated municipalities adopted pursuant to s. 163.3167, F.S., are required to follow the state coordinated review process. The state coordinated review process also requires two public hearings and a proposed plan or plan amendment is transmitted to the reviewing agencies within 10 days after the initial public hearing. Under the state coordinated review process, reviewing agency comments are sent to the state land planning agency that may elect to issue an Objections, Recommendations, and Comments (ORC) report to the local government within 60 days after receiving the proposed plan or plan amendment. The state land planning agency's ORC report details whether the proposed plan or plan amendment is in compliance and whether the proposed plan or plan amendment will adversely impact important state resources and facilities. Once a local government receives the ORC report, it has 180 days to hold a second public hearing on whether to adopt the plan or plan amendment. After a plan or amendment is adopted, the local government must transmit the plan or plan amendment to the state land planning agency within 10 days of the second public hearing, and the state land planning agency must notify the local government of any deficiencies within 5 working days. The state land planning agency then has 45 days to determine if the adopted plan or plan

[7] Section 163.3187, F.S., provides the review process for small-scale amendments, and s. 163.3246, F.S., provides the review process for local governments eligible for the Local Government Comprehensive Planning Certification Program.

amendment is in compliance or not in compliance. The state land planning agency must issue a notice of intent (NOI) to find that the plan or plan amendment is in compliance or not in compliance and must post a copy of the NOI on its website. If a NOI is issued to find the plan or plan amendment not in compliance, the NOI is forwarded to the Division of Administrative Hearings (DOAH) for a compliance hearing.

In addition to challenges brought by the state land planning agency, under both the expedited state review process and the state coordinated review process any "affected person", as defined by s. 163.3184(1)(a), F.S., may challenge an adopted plan or plan amendment by filing a petition with the DOAH within 30 days after the local government adopts the plan or plan amendment. Section 163.3184(5), F.S., provides the process for administrative challenges to adopted plans and plan amendments. If the administrative law judge (ALJ), after a hearing, recommends that the plan or plan amendment be found "not in compliance" the recommended order is submitted to the Administration Commission, comprised of the Governor and the Cabinet, which has 45 days to issue a final order on whether or not the plan or plan amendment is in compliance. If the ALJ, after a hearing, recommends that the plan or plan amendment be found "in compliance" the recommended order is submitted to the state land planning agency. The state land planning agency then has 30 days to refer the recommended order to the Administration Commission if the agency finds the plan or plan amendment to be not in compliance or 30 days to enter a final order if the state land planning agency finds the plan or plan amendment in compliance. According to the state land planning agency, the current timing requirements for issuance of a recommended and final order are largely unworkable given the size and complexity of some cases, the other timing requirements that govern administrative hearings within ch. 120, F.S.,[8] and the limited number of meetings of the Administration Commission.

The standard timing requirements for issuing a final order in an administrative hearing are found in s. 120.569(2)(l), F.S., which requires the final order to be entered within 90 days from the time the hearing is concluded (if conducted by an agency) or after a recommended order is submitted to the agency and mailed to the parties (if the hearing is conducted by an ALJ). This time period can be waived or extended with the consent of all parties.

Section 163.3184(6), F.S., also provides a procedure after the filing of a challenge, for the state land planning agency and the local government to voluntarily enter into a compliance agreement to resolve one or more of the issues raised in the challenge. An affected person involved in a challenge may also enter into the compliance agreement with the local government.

Sector Plan Report

Section 163.3245(7), F.S., requires DEO to provide a status report annually on December 1st to the Senate President and House Speaker regarding existing optional sector plans. The annual report was first required in December of 1999, when the optional sector plan was a pilot program. The Act removed the pilot program status of the sector plan process and streamlined it so that more local governments are able to efficiently use this long-term planning tool. The requirement for this report was removed by the Act, however other legislation passed during the

[8] For example s. 120.57(k), F.S., requires an agency to allow each party 15 days to submit written exceptions to the recommended order.

2011 Session inadvertently amended and retained the requirement, and therefore the requirement remains.[9]

III. Effect of Proposed Changes:

Section 1 amends subsection (8) of s. 163.3167, F.S., to authorize a local government to retain certain charter provisions that were in effect as of June 1, 2011, and that relate to an initiative or referendum process. This will grandfather in local government referendums and initiative processes that existed when the Act took effect while still prohibiting local governments from adopting new initiative or referendum processes regarding approval of development orders or local comprehensive plan amendments or map amendments.

Section 2 amends paragraph (b) of subsection (4) of s. 163.3174, F.S., to require a local land planning agency to periodically evaluate and appraise a comprehensive plan.

Section 3 amends s. 163.3175, F.S., requiring comments by military installations to be considered by local governments in a manner consistent with s. 163.3184, F.S., local governments should take into consideration comments as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base's operation, while also respecting private property.

Section 4 amends paragraphs (f) and (h) of subsection (6) of s. 163.3177, F.S., to revise the housing and intergovernmental coordination elements of comprehensive plans.

Section 5 adds subsections (3) and (4) to s. 163.31777, F.S., to exempt certain municipalities from the interlocal school agreement. This restores the four criteria, inadvertently removed in the Act, which a municipality must meet to show that it has no significant impact on school attendance. If a municipality meets all four criteria, it is exempt from the school interlocal agreement.

Section 6 amends subsection (3) and (6) of s. 163.3178, F.S., to conform to changes made by the Act and to delete provisions relating to the Coastal Resources Interagency Management Committee, a committee that no longer exists.

Section 7 amends paragraph (a) of subsection (1) and paragraphs (a), (i), (j), and (k) of subsection (6) of s. 163.3180, F.S., relating to concurrency to revise and provide requirements relating to public facilities and services, public education facilities, and local school concurrency system requirements; and to delete provisions excluding a municipality that is not a signatory to a certain interlocal agreement from participating in school concurrency. These four criteria are no longer needed since school concurrency is now implemented at the option of the local government.

Section 8 amends paragraphs (b) and (c) of subsection (3), paragraphs (b) and (e) of subsection (4), paragraphs (b), (d), and (e) of subsection (5), and paragraph (f) of subsection (6), and

[9] The optional sector plan report was repealed by s. 28, of ch. 2011-139 (The Act), however, s. 21, ch. 2011-34, amended the requirement and redesignated the subsection causing the report requirement to remain in statute.

subsection (12) of s. 163.3184, F.S., to revise provisions relating to the expedited state review process for adoption of comprehensive plan amendments; clarify the time in which a local government must transmit an amendment to a comprehensive plan and supporting data and analyses to the reviewing agencies; delete the deadlines in administrative challenges to comprehensive plans and plan amendments for the entry of final orders and referrals of recommended orders; and to specify a deadline for the state land planning agency to issue a notice of intent after receiving a complete comprehensive plan or plan amendment adopted pursuant to a compliance agreement.

Section 9 amends subsection (3) of s. 163.3191, F.S., to conform a cross-reference to changes made by the Act.

Section 10 redesignates subsections (8) through (14) of s. 163.3245, F.S., and amends subsections (1) and (7) of s. 163.3245, F.S., to delete an obsolete cross-reference; and to delete a required report relating to optional sector plans.

Section 11 amends paragraph (d) of subsection (2) of s. 186.002, F.S., to conform to changes made by the Act regarding the evaluation and appraisal process.

Section 12 amends subsection (8) of s. 186.007, F.S., to conform to changes made by the Act regarding the evaluation and appraisal process.

Section 13 amends s. 186.505, F.S., requiring a regional planning council to determine before accepting a grant that the purpose of the grant is in furtherance of its functions, prohibiting a regional planning council from providing consulting services for a fee to any local government for a project for which the council will serve in a review capacity, and prohibiting a regional planning council from providing consulting services to a private developer or landowner for a project for which the council may serve in a review capacity in the future.

Section 14 amends subsection (1) of s. 186.508, F.S., to conform to changes made by the Act regarding the evaluation and appraisal process.

Section 15 amends subsections (2) and (3) of s. 189.415, F.S., to conform to changes made by the Act regarding the evaluation and appraisal process.

Section 16 amends subsection (5) of s. 288.975, F.S., to conform to changes made by the Act regarding the limitation on the frequency of plan amendments.

Section 17 amends paragraph (b) of subsection (6), paragraph (e) of subsection (19), paragraphs (l) and (q) of subsection (24), and paragraph (b) of subsection (29) of s. 380.06, F.S., to correct cross-references.

Section 18 amends subsection (1) of s. 380.115, F.S., to add a cross-reference for exempt developments.

Section 19 amends s. 1013.33, F.S, to delete obsolete requirements for school interlocal agreements.

Section 20 amends paragraph (b) of subsection (2) of s. 1013.35, F.S., to delete a cross-reference to conform to changes made by the Act.

Section 21 amends subsections (3), (5), (6), (7), (8), (9), (10), and (11) of s. 1013.351, F.S., to delete redundant requirements for the submission of certain interlocal agreements with the Office of Educational Facilities and the state land planning agency and for review of the interlocal agreement by the office and the agency.

Section 22 amends subsection (6) of s. 1013.36, F.S., to delete an obsolete cross-reference.

Section 23 provides an effective date upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on January 23, 2012.
This CS removes all of the sections fixing cross references to the former Department of Community Affairs. The CS adds a provision regarding the base commander's comments as they pertain to local governments.

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	.	
01/23/2012	.	
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	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Subsection (8) of section 163.3167, Florida
6 Statutes, is amended to read:
7 163.3167 Scope of act.—
8 (8) An initiative or referendum process in regard to any
9 development order or in regard to any local comprehensive plan
10 amendment or map amendment is prohibited. <u>However, any local</u>
11 <u>government charter provision that was in effect as of June 1,</u>
12 <u>2011, for an initiative or referendum process in regard to</u>

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13 development orders or in regard to local comprehensive plan
14 amendments or map amendments may be retained and implemented.
15 Section 2. Paragraph (b) of subsection (4) of section
16 163.3174, Florida Statutes, is amended to read:
17 163.3174 Local planning agency.—
18 (4) The local planning agency shall have the general
19 responsibility for the conduct of the comprehensive planning
20 program. Specifically, the local planning agency shall:
21 (b) Monitor and oversee the effectiveness and status of the
22 comprehensive plan and recommend to the governing body such
23 changes in the comprehensive plan as may from time to time be
24 required, including the periodic evaluation and appraisal of the
25 comprehensive plan ~~preparation of the periodic reports~~ required
26 by s. 163.3191.
27 Section 3. Paragraphs (f) and (h) of subsection (6) of
28 section 163.3177, Florida Statutes, are amended to read:
29 163.3177 Required and optional elements of comprehensive
30 plan; studies and surveys.—
31 (6) In addition to the requirements of subsections (1)-(5),
32 the comprehensive plan shall include the following elements:
33 (f)1. A housing element consisting of principles,
34 guidelines, standards, and strategies to be followed in:
35 a. The provision of housing for all current and anticipated
36 future residents of the jurisdiction.
37 b. The elimination of substandard dwelling conditions.
38 c. The structural and aesthetic improvement of existing
39 housing.
40 d. The provision of adequate sites for future housing,
41 including affordable workforce housing as defined in s.

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42 380.0651(3)(h), housing for low-income, very low-income, and
43 moderate-income families, mobile homes, and group home
44 facilities and foster care facilities, with supporting
45 infrastructure and public facilities. The element may include
46 provisions that specifically address affordable housing for
47 persons 60 years of age or older. Real property that is conveyed
48 to a local government for affordable housing under this sub-
49 subparagraph shall be disposed of by the local government
50 pursuant to s. 125.379 or s. 166.0451.
51 e. Provision for relocation housing and identification of
52 historically significant and other housing for purposes of
53 conservation, rehabilitation, or replacement.
54 f. The formulation of housing implementation programs.
55 g. The creation or preservation of affordable housing to
56 minimize the need for additional local services and avoid the
57 concentration of affordable housing units only in specific areas
58 of the jurisdiction.
59 2. The principles, guidelines, standards, and strategies of
60 the housing element must be based on ~~the~~ data and analysis
61 prepared on housing needs, ~~including an inventory taken from the~~
62 ~~latest decennial United States Census or more recent estimates,~~
63 which shall include the number and distribution of dwelling
64 units by type, tenure, age, rent, value, monthly cost of owner-
65 occupied units, and rent or cost to income ratio, and shall show
66 the number of dwelling units that are substandard. The data and
67 analysis ~~inventory~~ shall also include the methodology used to
68 estimate the condition of housing, a projection of the
69 anticipated number of households by size, income range, and age
70 of residents derived from the population projections, and the

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71 minimum housing need of the current and anticipated future
72 residents of the jurisdiction.
73 3. The housing element must express principles, guidelines,
74 standards, and strategies that reflect, as needed, the creation
75 and preservation of affordable housing for all current and
76 anticipated future residents of the jurisdiction, elimination of
77 substandard housing conditions, adequate sites, and distribution
78 of housing for a range of incomes and types, including mobile
79 and manufactured homes. The element must provide for specific
80 programs and actions to partner with private and nonprofit
81 sectors to address housing needs in the jurisdiction, streamline
82 the permitting process, and minimize costs and delays for
83 affordable housing, establish standards to address the quality
84 of housing, stabilization of neighborhoods, and identification
85 and improvement of historically significant housing.
86 4. State and federal housing plans prepared on behalf of
87 the local government must be consistent with the goals,
88 objectives, and policies of the housing element. Local
89 governments are encouraged to use job training, job creation,
90 and economic solutions to address a portion of their affordable
91 housing concerns.
92 (h)1. An intergovernmental coordination element showing
93 relationships and stating principles and guidelines to be used
94 in coordinating the adopted comprehensive plan with the plans of
95 school boards, regional water supply authorities, and other
96 units of local government providing services but not having
97 regulatory authority over the use of land, with the
98 comprehensive plans of adjacent municipalities, the county,
99 adjacent counties, or the region, with the state comprehensive

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100 plan and with the applicable regional water supply plan approved
101 pursuant to s. 373.709, as the case may require and as such
102 adopted plans or plans in preparation may exist. This element of
103 the local comprehensive plan must demonstrate consideration of
104 the particular effects of the local plan, when adopted, upon the
105 development of adjacent municipalities, the county, adjacent
106 counties, or the region, or upon the state comprehensive plan,
107 as the case may require.
108 a. The intergovernmental coordination element must provide
109 procedures for identifying and implementing joint planning
110 areas, especially for the purpose of annexation, municipal
111 incorporation, and joint infrastructure service areas.
112 b. The intergovernmental coordination element shall provide
113 for a dispute resolution process, as established pursuant to s.
114 186.509, for bringing intergovernmental disputes to closure in a
115 timely manner.
116 c. The intergovernmental coordination element shall provide
117 for interlocal agreements as established pursuant to s.
118 333.03(1)(b).
119 2. The intergovernmental coordination element shall also
120 state principles and guidelines to be used in coordinating the
121 adopted comprehensive plan with the plans of school boards and
122 other units of local government providing facilities and
123 services but not having regulatory authority over the use of
124 land. In addition, the intergovernmental coordination element
125 must describe joint processes for collaborative planning and
126 decisionmaking on population projections and public school
127 siting, the location and extension of public facilities subject
128 to concurrency, and siting facilities with countywide

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129 significance, including locally unwanted land uses whose nature
130 and identity are established in an agreement.
131 3. Within 1 year after adopting their intergovernmental
132 coordination elements, each county, all the municipalities
133 within that county, the district school board, and any unit of
134 local government service providers in that county shall
135 establish by interlocal or other formal agreement executed by
136 all affected entities, the joint processes described in this
137 subparagraph consistent with their adopted intergovernmental
138 coordination elements. The agreement ~~element~~ must:
139 a. Ensure that the local government addresses through
140 coordination mechanisms the impacts of development proposed in
141 the local comprehensive plan upon development in adjacent
142 municipalities, the county, adjacent counties, the region, and
143 the state. The area of concern for municipalities shall include
144 adjacent municipalities, the county, and counties adjacent to
145 the municipality. The area of concern for counties shall include
146 all municipalities within the county, adjacent counties, and
147 adjacent municipalities.
148 b. Ensure coordination in establishing level of service
149 standards for public facilities with any state, regional, or
150 local entity having operational and maintenance responsibility
151 for such facilities.
152 Section 4. Subsections (3) and (4) are added to section
153 163.31777, Florida Statutes, to read:
154 163.31777 Public schools interlocal agreement.—
155 (3) A municipality is exempt from the requirements of
156 subsections (1) and (2) if the municipality meets all of the
157 following criteria for having no significant impact on school

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158 attendance:
159 (a) The municipality has issued development orders for
160 fewer than 50 residential dwelling units during the preceding 5
161 years, or the municipality has generated fewer than 25
162 additional public school students during the preceding 5 years.
163 (b) The municipality has not annexed new land during the
164 preceding 5 years in land use categories that permit residential
165 uses that will affect school attendance rates.
166 (c) The municipality has no public schools located within
167 its boundaries.
168 (d) At least 80 percent of the developable land within the
169 boundaries of the municipality has been built upon.
170 (4) At the time of the evaluation and appraisal of its
171 comprehensive plan pursuant to s. 163.3191, each exempt
172 municipality shall assess the extent to which it continues to
173 meet the criteria for exemption under subsection (3). If the
174 municipality continues to meet the criteria for exemption under
175 subsection (3), the municipality shall continue to be exempt
176 from the interlocal-agreement requirement. Each municipality
177 exempt under subsection (3) must comply with this section within
178 1 year after the district school board proposes, in its 5-year
179 district facilities work program, a new school within the
180 municipality's jurisdiction.
181 Section 5. Subsections (3) and (6) of section 163.3178,
182 Florida Statutes, are amended to read:
183 163.3178 Coastal management.—
184 (3) Expansions to port harbors, spoil disposal sites,
185 navigation channels, turning basins, harbor berths, and other
186 related inwater harbor facilities of ports listed in s.

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187 403.021(9); port transportation facilities and projects listed
188 in s. 311.07(3)(b); intermodal transportation facilities
189 identified pursuant to s. 311.09(3); and facilities determined
190 by the state land planning agency ~~Department of Community~~
191 ~~Affairs~~ and applicable general-purpose local government to be
192 port-related industrial or commercial projects located within 3
193 miles of or in a port master plan area which rely upon the use
194 of port and intermodal transportation facilities shall not be
195 designated as developments of regional impact if such
196 expansions, projects, or facilities are consistent with
197 comprehensive master plans that are in compliance with this
198 section.
199 (6) Local governments are encouraged to adopt countywide
200 marina siting plans to designate sites for existing and future
201 marinas. ~~The Coastal Resources Interagency Management Committee,~~
202 ~~at the direction of the Legislature, shall identify incentives~~
203 ~~to encourage local governments to adopt such siting plans and~~
204 ~~uniform criteria and standards to be used by local governments~~
205 ~~to implement state goals, objectives, and policies relating to~~
206 ~~marina siting. These criteria must ensure that priority is given~~
207 ~~to water-dependent land uses.~~ Countywide marina siting plans
208 must be consistent with state and regional environmental
209 planning policies and standards. Each local government in the
210 coastal area which participates in adoption of a countywide
211 marina siting plan shall incorporate the plan into the coastal
212 management element of its local comprehensive plan.
213 Section 6. Paragraph (a) of subsection (1) and paragraphs
214 (a), (i), (j), and (k) of subsection (6) of section 163.3180,
215 Florida Statutes, are amended to read:

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216 163.3180 Concurrency.—
217 (1) Sanitary sewer, solid waste, drainage, and potable
218 water are the only public facilities and services subject to the
219 concurrency requirement on a statewide basis. Additional public
220 facilities and services may not be made subject to concurrency
221 on a statewide basis without approval by the Legislature;
222 however, any local government may extend the concurrency
223 requirement so that it applies to additional public facilities
224 within its jurisdiction.
225 (a) If concurrency is applied to other public facilities,
226 the local government comprehensive plan must provide the
227 principles, guidelines, standards, and strategies, including
228 adopted levels of service, to guide its application. In order
229 for a local government to rescind any optional concurrency
230 provisions, a comprehensive plan amendment is required. An
231 amendment rescinding optional concurrency issues shall be
232 processed under the expedited state review process in s.
233 163.3184(3), but the amendment is not subject to state review
234 and is not required to be transmitted to the reviewing agencies
235 for comments, except that the local government shall transmit
236 the amendment to any local government or government agency that
237 has filed a request with the governing body, and for municipal
238 amendments, the amendment shall be transmitted to the county in
239 which the municipality is located. For informational purposes
240 only, a copy of the adopted amendment shall be provided to the
241 state land planning agency. A copy of the adopted amendment
242 shall also be provided to the Department of Transportation if
243 the amendment rescinds transportation concurrency and to the
244 Department of Education if the amendment rescinds school

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concurrency.

(6)(a) Local governments that apply ~~If~~ concurrency ~~is applied~~ to public education facilities~~, all local governments within a county, except as provided in paragraph (i),~~ shall include principles, guidelines, standards, and strategies, including adopted levels of service, in their comprehensive plans and interlocal agreements. The choice of one or more municipalities to not adopt school concurrency and enter into the interlocal agreement does not preclude implementation of school concurrency within other jurisdictions of the school district if the county and one or more municipalities have adopted school concurrency into their comprehensive plan and interlocal agreement that represents at least 80 percent of the total countywide population~~, the failure of one or more municipalities to adopt the concurrency and enter into the interlocal agreement does not preclude implementation of school concurrency within jurisdictions of the school district that have opted to implement concurrency~~. All local government provisions included in comprehensive plans regarding school concurrency within a county must be consistent with each other and ~~as well as~~ the requirements of this part.

~~(i) A municipality is not required to be a signatory to the interlocal agreement required by paragraph (j), as a prerequisite for imposition of school concurrency, and as a nonsignatory, may not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:~~

~~1. The municipality has issued development orders for fewer~~

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274 ~~than 50 residential dwelling units during the preceding 5 years,~~
275 ~~or the municipality has generated fewer than 25 additional~~
276 ~~public school students during the preceding 5 years.~~
277 ~~2. The municipality has not annexed new land during the~~
278 ~~preceding 5 years in land use categories which permit~~
279 ~~residential uses that will affect school attendance rates.~~
280 ~~3. The municipality has no public schools located within~~
281 ~~its boundaries.~~
282 ~~4. At least 80 percent of the developable land within the~~
283 ~~boundaries of the municipality has been built upon.~~
284 (i) ~~(j)~~ When establishing concurrency requirements for
285 public schools, a local government must enter into an interlocal
286 agreement that satisfies the requirements in ss.
287 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of
288 this subsection. The interlocal agreement shall acknowledge both
289 the school board's constitutional and statutory obligations to
290 provide a uniform system of free public schools on a countywide
291 basis, and the land use authority of local governments,
292 including their authority to approve or deny comprehensive plan
293 amendments and development orders. The interlocal agreement
294 shall meet the following requirements:
295 1. Establish the mechanisms for coordinating the
296 development, adoption, and amendment of each local government's
297 school concurrency related provisions of the comprehensive plan
298 with each other and the plans of the school board to ensure a
299 uniform districtwide school concurrency system.
300 2. Specify uniform, districtwide level-of-service standards
301 for public schools of the same type and the process for
302 modifying the adopted level-of-service standards.

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303 3. Define the geographic application of school concurrency.
304 If school concurrency is to be applied on a less than
305 districtwide basis in the form of concurrency service areas, the
306 agreement shall establish criteria and standards for the
307 establishment and modification of school concurrency service
308 areas. The agreement shall ensure maximum utilization of school
309 capacity, taking into account transportation costs and court-
310 approved desegregation plans, as well as other factors.
311 4. Establish a uniform districtwide procedure for
312 implementing school concurrency which provides for:
313 a. The evaluation of development applications for
314 compliance with school concurrency requirements, including
315 information provided by the school board on affected schools,
316 impact on levels of service, and programmed improvements for
317 affected schools and any options to provide sufficient capacity;
318 b. An opportunity for the school board to review and
319 comment on the effect of comprehensive plan amendments and
320 rezonings on the public school facilities plan; and
321 c. The monitoring and evaluation of the school concurrency
322 system.
323 5. A process and uniform methodology for determining
324 proportionate-share mitigation pursuant to paragraph (h).
325 (j) ~~(k)~~ This subsection does not limit the authority of a
326 local government to grant or deny a development permit or its
327 functional equivalent prior to the implementation of school
328 concurrency.
329 Section 7. Paragraphs (b) and (c) of subsection (3),
330 paragraphs (b) and (e) of subsection (4), paragraphs (b), (d),
331 and (e) of subsection (5), paragraph (f) of subsection (6), and

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332 subsection (12) of section 163.3184, Florida Statutes, are
333 amended to read:
334 163.3184 Process for adoption of comprehensive plan or plan
335 amendment.—
336 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
337 COMPREHENSIVE PLAN AMENDMENTS.—
338 (b)1. The local government, after the initial public
339 hearing held pursuant to subsection (11), shall transmit within
340 10 calendar days the amendment or amendments and appropriate
341 supporting data and analyses to the reviewing agencies. The
342 local governing body shall also transmit a copy of the
343 amendments and supporting data and analyses to any other local
344 government or governmental agency that has filed a written
345 request with the governing body.
346 2. The reviewing agencies and any other local government or
347 governmental agency specified in subparagraph 1. may provide
348 comments regarding the amendment or amendments to the local
349 government. State agencies shall only comment on important state
350 resources and facilities that will be adversely impacted by the
351 amendment if adopted. Comments provided by state agencies shall
352 state with specificity how the plan amendment will adversely
353 impact an important state resource or facility and shall
354 identify measures the local government may take to eliminate,
355 reduce, or mitigate the adverse impacts. Such comments, if not
356 resolved, may result in a challenge by the state land planning
357 agency to the plan amendment. Agencies and local governments
358 must transmit their comments to the affected local government
359 such that they are received by the local government not later
360 than 30 days after ~~from~~ the date on which the agency or

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361 government received the amendment or amendments. Reviewing
362 agencies shall also send a copy of their comments to the state
363 land planning agency.
364 3. Comments to the local government from a regional
365 planning council, county, or municipality shall be limited as
366 follows:
367 a. The regional planning council review and comments shall
368 be limited to adverse effects on regional resources or
369 facilities identified in the strategic regional policy plan and
370 extrajurisdictional impacts that would be inconsistent with the
371 comprehensive plan of any affected local government within the
372 region. A regional planning council may not review and comment
373 on a proposed comprehensive plan amendment prepared by such
374 council unless the plan amendment has been changed by the local
375 government subsequent to the preparation of the plan amendment
376 by the regional planning council.
377 b. County comments shall be in the context of the
378 relationship and effect of the proposed plan amendments on the
379 county plan.
380 c. Municipal comments shall be in the context of the
381 relationship and effect of the proposed plan amendments on the
382 municipal plan.
383 d. Military installation comments shall be provided in
384 accordance with s. 163.3175.
385 4. Comments to the local government from state agencies
386 shall be limited to the following subjects as they relate to
387 important state resources and facilities that will be adversely
388 impacted by the amendment if adopted:
389 a. The Department of Environmental Protection shall limit

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390 its comments to the subjects of air and water pollution;
391 wetlands and other surface waters of the state; federal and
392 state-owned lands and interest in lands, including state parks,
393 greenways and trails, and conservation easements; solid waste;
394 water and wastewater treatment; and the Everglades ecosystem
395 restoration.
396 b. The Department of State shall limit its comments to the
397 subjects of historic and archaeological resources.
398 c. The Department of Transportation shall limit its
399 comments to issues within the agency's jurisdiction as it
400 relates to transportation resources and facilities of state
401 importance.
402 d. The Fish and Wildlife Conservation Commission shall
403 limit its comments to subjects relating to fish and wildlife
404 habitat and listed species and their habitat.
405 e. The Department of Agriculture and Consumer Services
406 shall limit its comments to the subjects of agriculture,
407 forestry, and aquaculture issues.
408 f. The Department of Education shall limit its comments to
409 the subject of public school facilities.
410 g. The appropriate water management district shall limit
411 its comments to flood protection and floodplain management,
412 wetlands and other surface waters, and regional water supply.
413 h. The state land planning agency shall limit its comments
414 to important state resources and facilities outside the
415 jurisdiction of other commenting state agencies and may include
416 comments on countervailing planning policies and objectives
417 served by the plan amendment that should be balanced against
418 potential adverse impacts to important state resources and

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419 facilities.
420 (c)1. The local government shall hold its second public
421 hearing, which shall be a hearing on whether to adopt one or
422 more comprehensive plan amendments pursuant to subsection (11).
423 If the local government fails, within 180 days after receipt of
424 agency comments, to hold the second public hearing, the
425 amendments shall be deemed withdrawn unless extended by
426 agreement with notice to the state land planning agency and any
427 affected person that provided comments on the amendment. The
428 180-day limitation does not apply to amendments processed
429 pursuant to s. 380.06.
430 2. All comprehensive plan amendments adopted by the
431 governing body, along with the supporting data and analysis,
432 shall be transmitted within 10 calendar days after the second
433 public hearing to the state land planning agency and any other
434 agency or local government that provided timely comments under
435 subparagraph (b)2.
436 3. The state land planning agency shall notify the local
437 government of any deficiencies within 5 working days after
438 receipt of an amendment package. For purposes of completeness,
439 an amendment shall be deemed complete if it contains a full,
440 executed copy of the adoption ordinance or ordinances; in the
441 case of a text amendment, a full copy of the amended language in
442 legislative format with new words inserted in the text
443 underlined, and words deleted stricken with hyphens; in the case
444 of a future land use map amendment, a copy of the future land
445 use map clearly depicting the parcel, its existing future land
446 use designation, and its adopted designation; and a copy of any
447 data and analyses the local government deems appropriate.

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448 4. An amendment adopted under this paragraph does not
449 become effective until 31 days after the state land planning
450 agency notifies the local government that the plan amendment
451 package is complete. If timely challenged, an amendment does not
452 become effective until the state land planning agency or the
453 Administration Commission enters a final order determining the
454 adopted amendment to be in compliance.
455 (4) STATE COORDINATED REVIEW PROCESS.—
456 (b) *Local government transmittal of proposed plan or*
457 *amendment.*—Each local governing body proposing a plan or plan
458 amendment specified in paragraph (2)(c) shall transmit the
459 complete proposed comprehensive plan or plan amendment to the
460 reviewing agencies within 10 calendar days after ~~immediately~~
461 ~~following~~ the first public hearing pursuant to subsection (11).
462 The transmitted document shall clearly indicate on the cover
463 sheet that this plan amendment is subject to the state
464 coordinated review process of this subsection. The local
465 governing body shall also transmit a copy of the complete
466 proposed comprehensive plan or plan amendment to any other unit
467 of local government or government agency in the state that has
468 filed a written request with the governing body for the plan or
469 plan amendment.
470 (e) *Local government review of comments; adoption of plan*
471 *or amendments and transmittal.*—
472 1. The local government shall review the report submitted
473 to it by the state land planning agency, if any, and written
474 comments submitted to it by any other person, agency, or
475 government. The local government, upon receipt of the report
476 from the state land planning agency, shall hold its second

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477 public hearing, which shall be a hearing to determine whether to
478 adopt the comprehensive plan or one or more comprehensive plan
479 amendments pursuant to subsection (11). If the local government
480 fails to hold the second hearing within 180 days after receipt
481 of the state land planning agency's report, the amendments shall
482 be deemed withdrawn unless extended by agreement with notice to
483 the state land planning agency and any affected person that
484 provided comments on the amendment. The 180-day limitation does
485 not apply to amendments processed pursuant to s. 380.06.
486 2. All comprehensive plan amendments adopted by the
487 governing body, along with the supporting data and analysis,
488 shall be transmitted within 10 calendar days after the second
489 public hearing to the state land planning agency and any other
490 agency or local government that provided timely comments under
491 paragraph (c).
492 3. The state land planning agency shall notify the local
493 government of any deficiencies within 5 working days after
494 receipt of a plan or plan amendment package. For purposes of
495 completeness, a plan or plan amendment shall be deemed complete
496 if it contains a full, executed copy of the adoption ordinance
497 or ordinances; in the case of a text amendment, a full copy of
498 the amended language in legislative format with new words
499 inserted in the text underlined, and words deleted stricken with
500 hyphens; in the case of a future land use map amendment, a copy
501 of the future land use map clearly depicting the parcel, its
502 existing future land use designation, and its adopted
503 designation; and a copy of any data and analyses the local
504 government deems appropriate.
505 4. After the state land planning agency makes a

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506 determination of completeness regarding the adopted plan or plan
507 amendment, the state land planning agency shall have 45 days to
508 determine if the plan or plan amendment is in compliance with
509 this act. Unless the plan or plan amendment is substantially
510 changed from the one commented on, the state land planning
511 agency's compliance determination shall be limited to objections
512 raised in the objections, recommendations, and comments report.
513 During the period provided for in this subparagraph, the state
514 land planning agency shall issue, through a senior administrator
515 or the secretary, a notice of intent to find that the plan or
516 plan amendment is in compliance or not in compliance. The state
517 land planning agency shall post a copy of the notice of intent
518 on the agency's Internet website. Publication by the state land
519 planning agency of the notice of intent on the state land
520 planning agency's Internet site shall be prima facie evidence of
521 compliance with the publication requirements of this
522 subparagraph.
523 5. A plan or plan amendment adopted under the state
524 coordinated review process shall go into effect pursuant to the
525 state land planning agency's notice of intent. If timely
526 challenged, an amendment does not become effective until the
527 state land planning agency or the Administration Commission
528 enters a final order determining the adopted amendment to be in
529 compliance.
530 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
531 AMENDMENTS.—
532 (b) The state land planning agency may file a petition with
533 the Division of Administrative Hearings pursuant to ss. 120.569
534 and 120.57, with a copy served on the affected local government,

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535 to request a formal hearing to challenge whether the plan or
536 plan amendment is in compliance as defined in paragraph (1)(b).
537 The state land planning agency's petition must clearly state the
538 reasons for the challenge. Under the expedited state review
539 process, this petition must be filed with the division within 30
540 days after the state land planning agency notifies the local
541 government that the plan amendment package is complete according
542 to subparagraph (3)(c)3. Under the state coordinated review
543 process, this petition must be filed with the division within 45
544 days after the state land planning agency notifies the local
545 government that the plan amendment package is complete according
546 to subparagraph (4)(e)3. ~~(3)(c)3.~~
547 1. The state land planning agency's challenge to plan
548 amendments adopted under the expedited state review process
549 shall be limited to the comments provided by the reviewing
550 agencies pursuant to subparagraphs (3)(b)2.-4., upon a
551 determination by the state land planning agency that an
552 important state resource or facility will be adversely impacted
553 by the adopted plan amendment. The state land planning agency's
554 petition shall state with specificity how the plan amendment
555 will adversely impact the important state resource or facility.
556 The state land planning agency may challenge a plan amendment
557 that has substantially changed from the version on which the
558 agencies provided comments but only upon a determination by the
559 state land planning agency that an important state resource or
560 facility will be adversely impacted.
561 2. If the state land planning agency issues a notice of
562 intent to find the comprehensive plan or plan amendment not in
563 compliance with this act, the notice of intent shall be

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564 forwarded to the Division of Administrative Hearings of the
565 Department of Management Services, which shall conduct a
566 proceeding under ss. 120.569 and 120.57 in the county of and
567 convenient to the affected local jurisdiction. The parties to
568 the proceeding shall be the state land planning agency, the
569 affected local government, and any affected person who
570 intervenes. No new issue may be alleged as a reason to find a
571 plan or plan amendment not in compliance in an administrative
572 pleading filed more than 21 days after publication of notice
573 unless the party seeking that issue establishes good cause for
574 not alleging the issue within that time period. Good cause does
575 not include excusable neglect.
576 (d) If the administrative law judge recommends that the
577 amendment be found not in compliance, the judge shall submit the
578 recommended order to the Administration Commission for final
579 agency action. The Administration Commission shall make every
580 effort to enter a final order expeditiously, but at a minimum
581 within the time period provided by s. 120.569 ~~45 days after its~~
582 ~~receipt of the recommended order~~.
583 (e) If the administrative law judge recommends that the
584 amendment be found in compliance, the judge shall submit the
585 recommended order to the state land planning agency.
586 1. If the state land planning agency determines that the
587 plan amendment should be found not in compliance, the agency
588 shall make every effort to refer~~, within 30 days after receipt~~
589 ~~of the recommended order,~~ the recommended order and its
590 determination expeditiously to the Administration Commission for
591 final agency action, but at a minimum within the time period
592 provided by s. 120.569.

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593 2. If the state land planning agency determines that the
594 plan amendment should be found in compliance, the agency shall
595 make every effort to enter its final order expeditiously, but at
596 a minimum within the time period provided by s. 120.569 ~~not~~
597 ~~later than 30 days after receipt of the recommended order~~.
598 (6) COMPLIANCE AGREEMENT.—
599 (f) For challenges to amendments adopted under the state
600 coordinated process, the state land planning agency~~, upon~~
601 ~~receipt of a plan or plan amendment adopted pursuant to a~~
602 ~~compliance agreement,~~ shall issue a cumulative notice of intent
603 addressing both the remedial amendment and the plan or plan
604 amendment that was the subject of the agreement within 20 days
605 after receiving a complete plan or plan amendment adopted
606 pursuant to a compliance agreement.
607 1. If the local government adopts a comprehensive plan or
608 plan amendment pursuant to a compliance agreement and a notice
609 of intent to find the plan amendment in compliance is issued,
610 the state land planning agency shall forward the notice of
611 intent to the Division of Administrative Hearings and the
612 administrative law judge shall realign the parties in the
613 pending proceeding under ss. 120.569 and 120.57, which shall
614 thereafter be governed by the process contained in paragraph
615 (5)(a) and subparagraph (5)(c)1., including provisions relating
616 to challenges by an affected person, burden of proof, and issues
617 of a recommended order and a final order. Parties to the
618 original proceeding at the time of realignment may continue as
619 parties without being required to file additional pleadings to
620 initiate a proceeding, but may timely amend their pleadings to
621 raise any challenge to the amendment that is the subject of the

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622 cumulative notice of intent, and must otherwise conform to the
623 rules of procedure of the Division of Administrative Hearings.
624 Any affected person not a party to the realigned proceeding may
625 challenge the plan amendment that is the subject of the
626 cumulative notice of intent by filing a petition with the agency
627 as provided in subsection (5). The agency shall forward the
628 petition filed by the affected person not a party to the
629 realigned proceeding to the Division of Administrative Hearings
630 for consolidation with the realigned proceeding. If the
631 cumulative notice of intent is not challenged, the state land
632 planning agency shall request that the Division of
633 Administrative Hearings relinquish jurisdiction to the state
634 land planning agency for issuance of a final order.
635 2. If the local government adopts a comprehensive plan
636 amendment pursuant to a compliance agreement and a notice of
637 intent is issued that finds the plan amendment not in
638 compliance, the state land planning agency shall forward the
639 notice of intent to the Division of Administrative Hearings,
640 which shall consolidate the proceeding with the pending
641 proceeding and immediately set a date for a hearing in the
642 pending proceeding under ss. 120.569 and 120.57. Affected
643 persons who are not a party to the underlying proceeding under
644 ss. 120.569 and 120.57 may challenge the plan amendment adopted
645 pursuant to the compliance agreement by filing a petition
646 pursuant to paragraph (5)(a).
647 (12) CONCURRENT ZONING.— At the request of an applicant, a
648 local government shall consider an application for zoning
649 changes that would be required to properly enact any proposed
650 plan amendment transmitted pursuant to this section ~~subsection~~.

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651 Zoning changes approved by the local government are contingent
652 upon the comprehensive plan or plan amendment transmitted
653 becoming effective.
654 Section 8. Subsection (3) of section 163.3191, Florida
655 Statutes, is amended to read:
656 163.3191 Evaluation and appraisal of comprehensive plan.—
657 (3) Local governments are encouraged to comprehensively
658 evaluate and, as necessary, update comprehensive plans to
659 reflect changes in local conditions. Plan amendments transmitted
660 pursuant to this section shall be reviewed pursuant to ~~in~~
661 ~~accordance with~~ s. 163.3184(4).
662 Section 9. Subsections (8) through (14) of section
663 163.3245, Florida Statutes, are redesignated as subsections (7)
664 through (13), respectively, and present subsections (1) and (7)
665 of that section are amended to read:
666 163.3245 Sector plans.—
667 (1) In recognition of the benefits of long-range planning
668 for specific areas, local governments or combinations of local
669 governments may adopt into their comprehensive plans a sector
670 plan in accordance with this section. This section is intended
671 to promote and encourage long-term planning for conservation,
672 development, and agriculture on a landscape scale; to further
673 support ~~the intent of s. 163.3177(11), which supports~~ innovative
674 and flexible planning and development strategies, and the
675 purposes of this part and part I of chapter 380; to facilitate
676 protection of regionally significant resources, including, but
677 not limited to, regionally significant water courses and
678 wildlife corridors; and to avoid duplication of effort in terms
679 of the level of data and analysis required for a development of

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680 regional impact, while ensuring the adequate mitigation of
681 impacts to applicable regional resources and facilities,
682 including those within the jurisdiction of other local
683 governments, as would otherwise be provided. Sector plans are
684 intended for substantial geographic areas that include at least
685 15,000 acres of one or more local governmental jurisdictions and
686 are to emphasize urban form and protection of regionally
687 significant resources and public facilities. A sector plan may
688 not be adopted in an area of critical state concern.
689 ~~(7) Beginning December 1, 1999, and each year thereafter,~~
690 ~~the department shall provide a status report to the President of~~
691 ~~the Senate and the Speaker of the House of Representatives~~
692 ~~regarding each optional sector plan authorized under this~~
693 ~~section.~~
694 Section 10. Paragraph (d) of subsection (2) of section
695 186.002, Florida Statutes, is amended to read:
696 186.002 Findings and intent.—
697 (2) It is the intent of the Legislature that:
698 (d) The state planning process shall be informed and guided
699 by the experience of public officials at all levels of
700 government. ~~In preparing any plans or proposed revisions or~~
701 ~~amendments required by this chapter, the Governor shall consider~~
702 ~~the experience of and information provided by local governments~~
703 ~~in their evaluation and appraisal reports pursuant to s.~~
704 ~~163.3191.~~
705 Section 11. Subsection (8) of section 186.007, Florida
706 Statutes, is amended to read:
707 186.007 State comprehensive plan; preparation; revision.—
708 (8) The revision of the state comprehensive plan is a

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709 continuing process. Each section of the plan shall be reviewed
710 and analyzed biennially by the Executive Office of the Governor
711 in conjunction with the planning officers of other state
712 agencies significantly affected by the provisions of the
713 particular section under review. In conducting this review and
714 analysis, the Executive Office of the Governor shall review and
715 consider, with the assistance of the state land planning agency
716 and regional planning councils, ~~the evaluation and appraisal~~
717 ~~reports submitted pursuant to s. 163.3191 and~~ the evaluation and
718 appraisal reports prepared pursuant to s. 186.511. Any necessary
719 revisions of the state comprehensive plan shall be proposed by
720 the Governor in a written report and be accompanied by an
721 explanation of the need for such changes. If the Governor
722 determines that changes are unnecessary, the written report must
723 explain why changes are unnecessary. The proposed revisions and
724 accompanying explanations may be submitted in the report
725 required by s. 186.031. Any proposed revisions to the plan shall
726 be submitted to the Legislature as provided in s. 186.008(2) at
727 least 30 days prior to the regular legislative session occurring
728 in each even-numbered year.
729 Section 12. Subsection (1) of section 186.508, Florida
730 Statutes, is amended to read:
731 186.508 Strategic regional policy plan adoption;
732 consistency with state comprehensive plan.—
733 (1) Each regional planning council shall submit to the
734 Executive Office of the Governor its proposed strategic regional
735 policy plan on a schedule established by the Executive Office of
736 the Governor to coordinate implementation of the strategic
737 regional policy plans with the evaluation and appraisal <u>process</u>

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738 ~~reports~~ required by s. 163.3191. The Executive Office of the
739 Governor, or its designee, shall review the proposed strategic
740 regional policy plan to ensure consistency with the adopted
741 state comprehensive plan and shall, within 60 days, provide any
742 recommended revisions. The Governor's recommended revisions
743 shall be included in the plans in a comment section. However,
744 nothing in this section precludes ~~herein shall preclude~~ a
745 regional planning council from adopting or rejecting any or all
746 of the revisions as a part of its plan before ~~prior to~~ the
747 effective date of the plan. The rules adopting the strategic
748 regional policy plan are ~~shall~~ not ~~be~~ subject to rule challenge
749 under s. 120.56(2) or to drawout proceedings under s.
750 120.54(3)(c)2., but, once adopted, are ~~shall be~~ subject to an
751 invalidity challenge under s. 120.56(3) by substantially
752 affected persons, including the Executive Office of the
753 Governor. The rules shall be adopted by the regional planning
754 councils, and ~~shall~~ become effective upon filing with the
755 Department of State, notwithstanding the provisions of s.
756 120.54(3)(e)6.
757 Section 13. Subsections (2) and (3) of section 189.415,
758 Florida Statutes, are amended to read:
759 189.415 Special district public facilities report.—
760 (2) Each independent special district shall submit to each
761 local general-purpose government in which it is located a public
762 facilities report and an annual notice of any changes. The
763 public facilities report shall specify the following
764 information:
765 (a) A description of existing public facilities owned or
766 operated by the special district, and each public facility that

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767 is operated by another entity, except a local general-purpose
768 government, through a lease or other agreement with the special
769 district. This description shall include the current capacity of
770 the facility, the current demands placed upon it, and its
771 location. This information shall be required in the initial
772 report and updated every 7 ~~5~~ years at least 12 months before
773 ~~prior to~~ the submission date of the evaluation and appraisal
774 notification letter ~~report~~ of the appropriate local government
775 required by s. 163.3191. The department shall post a schedule on
776 its website, based on the evaluation and appraisal notification
777 schedule prepared pursuant to s. 163.3191(5), for use by a
778 special district to determine when its public facilities report
779 and updates to that report are due to the local general-purpose
780 governments in which the special district is located. ~~At least~~
781 ~~12 months prior to the date on which each special district's~~
782 ~~first updated report is due, the department shall notify each~~
783 ~~independent district on the official list of special districts~~
784 ~~compiled pursuant to s. 189.4035 of the schedule for submission~~
785 ~~of the evaluation and appraisal report by each local government~~
786 ~~within the special district's jurisdiction.~~
787 (b) A description of each public facility the district is
788 building, improving, or expanding, or is currently proposing to
789 build, improve, or expand within at least the next 7 ~~5~~ years,
790 including any facilities that the district is assisting another
791 entity, except a local general-purpose government, to build,
792 improve, or expand through a lease or other agreement with the
793 district. For each public facility identified, the report shall
794 describe how the district currently proposes to finance the
795 facility.

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796 (c) If the special district currently proposes to replace
797 any facilities identified in paragraph (a) or paragraph (b)
798 within the next 10 years, the date when such facility will be
799 replaced.
800 (d) The anticipated time the construction, improvement, or
801 expansion of each facility will be completed.
802 (e) The anticipated capacity of and demands on each public
803 facility when completed. In the case of an improvement or
804 expansion of a public facility, both the existing and
805 anticipated capacity must be listed.
806 (3) A special district proposing to build, improve, or
807 expand a public facility which requires a certificate of need
808 pursuant to chapter 408 shall elect to notify the appropriate
809 local general-purpose government of its plans either in its 7-
810 year ~~5-year~~ plan or at the time the letter of intent is filed
811 with the Agency for Health Care Administration pursuant to s.
812 408.039.
813 Section 14. Subsection (5) of section 288.975, Florida
814 Statutes, is amended to read:
815 288.975 Military base reuse plans.—
816 (5) At the discretion of the host local government, the
817 provisions of this act may be complied with through the adoption
818 of the military base reuse plan as a separate component of the
819 local government comprehensive plan or through simultaneous
820 amendments to all pertinent portions of the local government
821 comprehensive plan. Once adopted and approved in accordance with
822 this section, the military base reuse plan shall be considered
823 to be part of the host local government's comprehensive plan and
824 shall be thereafter implemented, amended, and reviewed pursuant

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825 to ~~in accordance with the provisions of~~ part II of chapter 163.
826 ~~Local government comprehensive plan amendments necessary to~~
827 ~~initially adopt the military base reuse plan shall be exempt~~
828 ~~from the limitation on the frequency of plan amendments~~
829 ~~contained in s. 163.3187(1).~~
830 Section 15. Paragraph (b) of subsection (6), paragraph (e)
831 of subsection (19), paragraphs (l) and (q) of subsection (24),
832 and paragraph (b) of subsection (29) of section 380.06, Florida
833 Statutes, are amended to read:
834 380.06 Developments of regional impact.—
835 (6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT
836 PLAN AMENDMENTS.—
837 (b) Any local government comprehensive plan amendments
838 related to a proposed development of regional impact, including
839 any changes proposed under subsection (19), may be initiated by
840 a local planning agency or the developer and must be considered
841 by the local governing body at the same time as the application
842 for development approval using the procedures provided for local
843 plan amendment in s. 163.3184 ~~163.3187~~ and applicable local
844 ordinances, without regard to local limits on the frequency of
845 consideration of amendments to the local comprehensive plan.
846 This paragraph does not require favorable consideration of a
847 plan amendment solely because it is related to a development of
848 regional impact. The procedure for processing such comprehensive
849 plan amendments is as follows:
850 1. If a developer seeks a comprehensive plan amendment
851 related to a development of regional impact, the developer must
852 so notify in writing the regional planning agency, the
853 applicable local government, and the state land planning agency

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854 no later than the date of preapplication conference or the
855 submission of the proposed change under subsection (19).
856 2. When filing the application for development approval or
857 the proposed change, the developer must include a written
858 request for comprehensive plan amendments that would be
859 necessitated by the development-of-regional-impact approvals
860 sought. That request must include data and analysis upon which
861 the applicable local government can determine whether to
862 transmit the comprehensive plan amendment pursuant to s.
863 163.3184.
864 3. The local government must advertise a public hearing on
865 the transmittal within 30 days after filing the application for
866 development approval or the proposed change and must make a
867 determination on the transmittal within 60 days after the
868 initial filing unless that time is extended by the developer.
869 4. If the local government approves the transmittal,
870 procedures set forth in s. 163.3184 ~~163.3184(4)(b)-(d)~~ must be
871 followed.
872 5. Notwithstanding subsection (11) or subsection (19), the
873 local government may not hold a public hearing on the
874 application for development approval or the proposed change or
875 on the comprehensive plan amendments sooner than 30 days after
876 reviewing agency comments are due to the local government ~~from~~
877 ~~receipt of the response from the state land planning agency~~
878 pursuant to s. 163.3184 ~~163.3184(4)(d).~~
879 6. The local government must hear both the application for
880 development approval or the proposed change and the
881 comprehensive plan amendments at the same hearing. However, the
882 local government must take action separately on the application

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883 for development approval or the proposed change and on the
884 comprehensive plan amendments.
885 7. Thereafter, the appeal process for the local government
886 development order must follow the provisions of s. 380.07, and
887 the compliance process for the comprehensive plan amendments
888 must follow the provisions of s. 163.3184.
889 (19) SUBSTANTIAL DEVIATIONS.—
890 (e)1. Except for a development order rendered pursuant to
891 subsection (22) or subsection (25), a proposed change to a
892 development order that individually or cumulatively with any
893 previous change is less than any numerical criterion contained
894 in subparagraphs (b)1.-10. and does not exceed any other
895 criterion, or that involves an extension of the buildout date of
896 a development, or any phase thereof, of less than 5 years is not
897 subject to the public hearing requirements of subparagraph
898 (f)3., and is not subject to a determination pursuant to
899 subparagraph (f)5. Notice of the proposed change shall be made
900 to the regional planning council and the state land planning
901 agency. Such notice shall include a description of previous
902 individual changes made to the development, including changes
903 previously approved by the local government, and shall include
904 appropriate amendments to the development order.
905 2. The following changes, individually or cumulatively with
906 any previous changes, are not substantial deviations:
907 a. Changes in the name of the project, developer, owner, or
908 monitoring official.
909 b. Changes to a setback that do not affect noise buffers,
910 environmental protection or mitigation areas, or archaeological
911 or historical resources.

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912 c. Changes to minimum lot sizes.
913 d. Changes in the configuration of internal roads that do
914 not affect external access points.
915 e. Changes to the building design or orientation that stay
916 approximately within the approved area designated for such
917 building and parking lot, and which do not affect historical
918 buildings designated as significant by the Division of
919 Historical Resources of the Department of State.
920 f. Changes to increase the acreage in the development,
921 provided that no development is proposed on the acreage to be
922 added.
923 g. Changes to eliminate an approved land use, provided that
924 there are no additional regional impacts.
925 h. Changes required to conform to permits approved by any
926 federal, state, or regional permitting agency, provided that
927 these changes do not create additional regional impacts.
928 i. Any renovation or redevelopment of development within a
929 previously approved development of regional impact which does
930 not change land use or increase density or intensity of use.
931 j. Changes that modify boundaries and configuration of
932 areas described in subparagraph (b)11. due to science-based
933 refinement of such areas by survey, by habitat evaluation, by
934 other recognized assessment methodology, or by an environmental
935 assessment. In order for changes to qualify under this sub-
936 subparagraph, the survey, habitat evaluation, or assessment must
937 occur prior to the time a conservation easement protecting such
938 lands is recorded and must not result in any net decrease in the
939 total acreage of the lands specifically set aside for permanent
940 preservation in the final development order.

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941 k. Any other change which the state land planning agency,
942 in consultation with the regional planning council, agrees in
943 writing is similar in nature, impact, or character to the
944 changes enumerated in sub-subparagraphs a.-j. and which does not
945 create the likelihood of any additional regional impact.
946
947 This subsection does not require the filing of a notice of
948 proposed change but shall require an application to the local
949 government to amend the development order in accordance with the
950 local government's procedures for amendment of a development
951 order. In accordance with the local government's procedures,
952 including requirements for notice to the applicant and the
953 public, the local government shall either deny the application
954 for amendment or adopt an amendment to the development order
955 which approves the application with or without conditions.
956 Following adoption, the local government shall render to the
957 state land planning agency the amendment to the development
958 order. The state land planning agency may appeal, pursuant to s.
959 380.07(3), the amendment to the development order if the
960 amendment involves sub-subparagraph g., sub-subparagraph h.,
961 sub-subparagraph j., or sub-subparagraph k., and it believes the
962 change creates a reasonable likelihood of new or additional
963 regional impacts.
964 3. Except for the change authorized by sub-subparagraph
965 2.f., any addition of land not previously reviewed or any change
966 not specified in paragraph (b) or paragraph (c) shall be
967 presumed to create a substantial deviation. This presumption may
968 be rebutted by clear and convincing evidence.
969 4. Any submittal of a proposed change to a previously

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970 approved development shall include a description of individual
971 changes previously made to the development, including changes
972 previously approved by the local government. The local
973 government shall consider the previous and current proposed
974 changes in deciding whether such changes cumulatively constitute
975 a substantial deviation requiring further development-of-
976 regional-impact review.
977 5. The following changes to an approved development of
978 regional impact shall be presumed to create a substantial
979 deviation. Such presumption may be rebutted by clear and
980 convincing evidence.
981 a. A change proposed for 15 percent or more of the acreage
982 to a land use not previously approved in the development order.
983 Changes of less than 15 percent shall be presumed not to create
984 a substantial deviation.
985 b. Notwithstanding any provision of paragraph (b) to the
986 contrary, a proposed change consisting of simultaneous increases
987 and decreases of at least two of the uses within an authorized
988 multiuse development of regional impact which was originally
989 approved with three or more uses specified in s. 380.0651(3)(c)
990 and (d) ~~380.0651(3)(c), (d), and (e)~~ and residential use.
991 6. If a local government agrees to a proposed change, a
992 change in the transportation proportionate share calculation and
993 mitigation plan in an adopted development order as a result of
994 recalculation of the proportionate share contribution meeting
995 the requirements of s. 163.3180(5)(h) in effect as of the date
996 of such change shall be presumed not to create a substantial
997 deviation. For purposes of this subsection, the proposed change
998 in the proportionate share calculation or mitigation plan shall

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999 not be considered an additional regional transportation impact.
1000 (24) STATUTORY EXEMPTIONS.—
1001 (l) Any proposed development within an urban service
1002 boundary established under s. 163.3177(14), Florida Statutes
1003 2010, which is not otherwise exempt pursuant to subsection (29),
1004 is exempt from this section if the local government having
1005 jurisdiction over the area where the development is proposed has
1006 adopted the urban service boundary and has entered into a
1007 binding agreement with jurisdictions that would be impacted and
1008 with the Department of Transportation regarding the mitigation
1009 of impacts on state and regional transportation facilities.
1010 (q) Any development identified in an airport master plan
1011 and adopted into the comprehensive plan pursuant to s.
1012 163.3177(6)(b)4. ~~163.3177(6)(k)~~ is exempt from this section.
1013
1014 If a use is exempt from review as a development of regional
1015 impact under paragraphs (a)-(u), but will be part of a larger
1016 project that is subject to review as a development of regional
1017 impact, the impact of the exempt use must be included in the
1018 review of the larger project, unless such exempt use involves a
1019 development of regional impact that includes a landowner,
1020 tenant, or user that has entered into a funding agreement with
1021 the Department of Economic Opportunity under the Innovation
1022 Incentive Program and the agreement contemplates a state award
1023 of at least $50 million.
1024 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
1025 (b) If a municipality that does not qualify as a dense
1026 urban land area pursuant to paragraph (a) ~~s. 163.3164~~ designates
1027 any of the following areas in its comprehensive plan, any

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1028 proposed development within the designated area is exempt from
1029 the development-of-regional-impact process:
1030 1. Urban infill as defined in s. 163.3164;
1031 2. Community redevelopment areas as defined in s. 163.340;
1032 3. Downtown revitalization areas as defined in s. 163.3164;
1033 4. Urban infill and redevelopment under s. 163.2517; or
1034 5. Urban service areas as defined in s. 163.3164 or areas
1035 within a designated urban service boundary under s.
1036 163.3177(14).
1037 Section 16. Subsection (1) of section 380.115, Florida
1038 Statutes, is amended to read:
1039 380.115 Vested rights and duties; effect of size reduction,
1040 changes in guidelines and standards.—
1041 (1) A change in a development-of-regional-impact guideline
1042 and standard does not abridge or modify any vested or other
1043 right or any duty or obligation pursuant to any development
1044 order or agreement that is applicable to a development of
1045 regional impact. A development that has received a development-
1046 of-regional-impact development order pursuant to s. 380.06, but
1047 is no longer required to undergo development-of-regional-impact
1048 review by operation of a change in the guidelines and standards
1049 or has reduced its size below the thresholds in s. 380.0651, or
1050 a development that is exempt pursuant to s. 380.06(24) or (29)
1051 shall be governed by the following procedures:
1052 (a) The development shall continue to be governed by the
1053 development-of-regional-impact development order and may be
1054 completed in reliance upon and pursuant to the development order
1055 unless the developer or landowner has followed the procedures
1056 for rescission in paragraph (b). Any proposed changes to those

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1057 developments which continue to be governed by a development
1058 order shall be approved pursuant to s. 380.06(19) as it existed
1059 prior to a change in the development-of-regional-impact
1060 guidelines and standards, except that all percentage criteria
1061 shall be doubled and all other criteria shall be increased by 10
1062 percent. The development-of-regional-impact development order
1063 may be enforced by the local government as provided by ss.
1064 380.06(17) and 380.11.
1065 (b) If requested by the developer or landowner, the
1066 development-of-regional-impact development order shall be
1067 rescinded by the local government having jurisdiction upon a
1068 showing that all required mitigation related to the amount of
1069 development that existed on the date of rescission has been
1070 completed.
1071 Section 17. Section 1013.33, Florida Statutes, is amended
1072 to read:
1073 1013.33 Coordination of planning with local governing
1074 bodies.—
1075 (1) It is the policy of this state to require the
1076 coordination of planning between boards and local governing
1077 bodies to ensure that plans for the construction and opening of
1078 public educational facilities are facilitated and coordinated in
1079 time and place with plans for residential development,
1080 concurrently with other necessary services. Such planning shall
1081 include the integration of the educational facilities plan and
1082 applicable policies and procedures of a board with the local
1083 comprehensive plan and land development regulations of local
1084 governments. The planning must include the consideration of
1085 allowing students to attend the school located nearest their

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1086 homes when a new housing development is constructed near a
1087 county boundary and it is more feasible to transport the
1088 students a short distance to an existing facility in an adjacent
1089 county than to construct a new facility or transport students
1090 longer distances in their county of residence. The planning must
1091 also consider the effects of the location of public education
1092 facilities, including the feasibility of keeping central city
1093 facilities viable, in order to encourage central city
1094 redevelopment and the efficient use of infrastructure and to
1095 discourage uncontrolled urban sprawl. In addition, all parties
1096 to the planning process must consult with state and local road
1097 departments to assist in implementing the Safe Paths to Schools
1098 program administered by the Department of Transportation.
1099 (2)~~(a)~~ The school board, county, and nonexempt
1100 municipalities located within the geographic area of a school
1101 district shall enter into an interlocal agreement according to
1102 s. 163.31777 that jointly establishes the specific ways in which
1103 the plans and processes of the district school board and the
1104 local governments are to be coordinated. ~~The interlocal~~
1105 ~~agreements shall be submitted to the state land planning agency~~
1106 ~~and the Office of Educational Facilities in accordance with a~~
1107 ~~schedule published by the state land planning agency.~~
1108 ~~(b) The schedule must establish staggered due dates for~~
1109 ~~submission of interlocal agreements that are executed by both~~
1110 ~~the local government and district school board, commencing on~~
1111 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
1112 ~~the same date for all governmental entities within a school~~
1113 ~~district. However, if the county where the school district is~~
1114 ~~located contains more than 20 municipalities, the state land~~

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1115 ~~planning agency may establish staggered due dates for the~~
1116 ~~submission of interlocal agreements by these municipalities. The~~
1117 ~~schedule must begin with those areas where both the number of~~
1118 ~~districtwide capital-outlay full-time-equivalent students equals~~
1119 ~~80 percent or more of the current year's school capacity and the~~
1120 ~~projected 5-year student growth rate is 1,000 or greater, or~~
1121 ~~where the projected 5-year student growth rate is 10 percent or~~
1122 ~~greater.~~
1123 ~~(c) If the student population has declined over the 5-year~~
1124 ~~period preceding the due date for submittal of an interlocal~~
1125 ~~agreement by the local government and the district school board,~~
1126 ~~the local government and district school board may petition the~~
1127 ~~state land planning agency for a waiver of one or more of the~~
1128 ~~requirements of subsection (3). The waiver must be granted if~~
1129 ~~the procedures called for in subsection (3) are unnecessary~~
1130 ~~because of the school district's declining school age~~
1131 ~~population, considering the district's 5-year work program~~
1132 ~~prepared pursuant to s. 1013.35. The state land planning agency~~
1133 ~~may modify or revoke the waiver upon a finding that the~~
1134 ~~conditions upon which the waiver was granted no longer exist.~~
1135 ~~The district school board and local governments must submit an~~
1136 ~~interlocal agreement within 1 year after notification by the~~
1137 ~~state land planning agency that the conditions for a waiver no~~
1138 ~~longer exist.~~
1139 ~~(d) Interlocal agreements between local governments and~~
1140 ~~district school boards adopted pursuant to s. 163.3177 before~~
1141 ~~the effective date of subsections (2)-(7) must be updated and~~
1142 ~~executed pursuant to the requirements of subsections (2)-(7), if~~
1143 ~~necessary. Amendments to interlocal agreements adopted pursuant~~

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1144 ~~to subsections (2)-(7) must be submitted to the state land~~
1145 ~~planning agency within 30 days after execution by the parties~~
1146 ~~for review consistent with subsections (3) and (4). Local~~
1147 ~~governments and the district school board in each school~~
1148 ~~district are encouraged to adopt a single interlocal agreement~~
1149 ~~in which all join as parties. The state land planning agency~~
1150 ~~shall assemble and make available model interlocal agreements~~
1151 ~~meeting the requirements of subsections (2)-(7) and shall notify~~
1152 ~~local governments and, jointly with the Department of Education,~~
1153 ~~the district school boards of the requirements of subsections~~
1154 ~~(2)-(7), the dates for compliance, and the sanctions for~~
1155 ~~noncompliance. The state land planning agency shall be available~~
1156 ~~to informally review proposed interlocal agreements. If the~~
1157 ~~state land planning agency has not received a proposed~~
1158 ~~interlocal agreement for informal review, the state land~~
1159 ~~planning agency shall, at least 60 days before the deadline for~~
1160 ~~submission of the executed agreement, renotify the local~~
1161 ~~government and the district school board of the upcoming~~
1162 ~~deadline and the potential for sanctions.~~
1163 ~~(3) At a minimum, the interlocal agreement must address~~
1164 ~~interlocal agreement requirements in s. 163.31777 and, if~~
1165 ~~applicable, s. 163.3180(6), and must address the following~~
1166 ~~issues:~~
1167 ~~(a) A process by which each local government and the~~
1168 ~~district school board agree and base their plans on consistent~~
1169 ~~projections of the amount, type, and distribution of population~~
1170 ~~growth and student enrollment. The geographic distribution of~~
1171 ~~jurisdiction-wide growth forecasts is a major objective of the~~
1172 ~~process.~~

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1173 ~~(b) A process to coordinate and share information relating~~
1174 ~~to existing and planned public school facilities, including~~
1175 ~~school renovations and closures, and local government plans for~~
1176 ~~development and redevelopment.~~
1177 ~~(c) Participation by affected local governments with the~~
1178 ~~district school board in the process of evaluating potential~~
1179 ~~school closures, significant renovations to existing schools,~~
1180 ~~and new school site selection before land acquisition. Local~~
1181 ~~governments shall advise the district school board as to the~~
1182 ~~consistency of the proposed closure, renovation, or new site~~
1183 ~~with the local comprehensive plan, including appropriate~~
1184 ~~circumstances and criteria under which a district school board~~
1185 ~~may request an amendment to the comprehensive plan for school~~
1186 ~~siting.~~
1187 ~~(d) A process for determining the need for and timing of~~
1188 ~~onsite and offsite improvements to support new construction,~~
1189 ~~proposed expansion, or redevelopment of existing schools. The~~
1190 ~~process shall address identification of the party or parties~~
1191 ~~responsible for the improvements.~~
1192 ~~(e) A process for the school board to inform the local~~
1193 ~~government regarding the effect of comprehensive plan amendments~~
1194 ~~on school capacity. The capacity reporting must be consistent~~
1195 ~~with laws and rules regarding measurement of school facility~~
1196 ~~capacity and must also identify how the district school board~~
1197 ~~will meet the public school demand based on the facilities work~~
1198 ~~program adopted pursuant to s. 1013.35.~~
1199 ~~(f) Participation of the local governments in the~~
1200 ~~preparation of the annual update to the school board's 5-year~~
1201 ~~district facilities work program and educational plant survey~~

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1202 ~~prepared pursuant to s. 1013.35.~~
1203 ~~(g) A process for determining where and how joint use of~~
1204 ~~either school board or local government facilities can be shared~~
1205 ~~for mutual benefit and efficiency.~~
1206 ~~(h) A procedure for the resolution of disputes between the~~
1207 ~~district school board and local governments, which may include~~
1208 ~~the dispute resolution processes contained in chapters 164 and~~
1209 ~~186.~~
1210 ~~(i) An oversight process, including an opportunity for~~
1211 ~~public participation, for the implementation of the interlocal~~
1212 ~~agreement.~~
1213 ~~(4)(a) The Office of Educational Facilities shall submit~~
1214 ~~any comments or concerns regarding the executed interlocal~~
1215 ~~agreement to the state land planning agency within 30 days after~~
1216 ~~receipt of the executed interlocal agreement. The state land~~
1217 ~~planning agency shall review the executed interlocal agreement~~
1218 ~~to determine whether it is consistent with the requirements of~~
1219 ~~subsection (3), the adopted local government comprehensive plan,~~
1220 ~~and other requirements of law. Within 60 days after receipt of~~
1221 ~~an executed interlocal agreement, the state land planning agency~~
1222 ~~shall publish a notice of intent in the Florida Administrative~~
1223 ~~Weekly and shall post a copy of the notice on the agency's~~
1224 ~~Internet site. The notice of intent must state that the~~
1225 ~~interlocal agreement is consistent or inconsistent with the~~
1226 ~~requirements of subsection (3) and this subsection as~~
1227 ~~appropriate.~~
1228 ~~(b) The state land planning agency's notice is subject to~~
1229 ~~challenge under chapter 120; however, an affected person, as~~
1230 ~~defined in s. 163.3184(1)(a), has standing to initiate the~~

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1231 ~~administrative proceeding, and this proceeding is the sole means~~
1232 ~~available to challenge the consistency of an interlocal~~
1233 ~~agreement required by this section with the criteria contained~~
1234 ~~in subsection (3) and this subsection. In order to have~~
1235 ~~standing, each person must have submitted oral or written~~
1236 ~~comments, recommendations, or objections to the local government~~
1237 ~~or the school board before the adoption of the interlocal~~
1238 ~~agreement by the district school board and local government. The~~
1239 ~~district school board and local governments are parties to any~~
1240 ~~such proceeding. In this proceeding, when the state land~~
1241 ~~planning agency finds the interlocal agreement to be consistent~~
1242 ~~with the criteria in subsection (3) and this subsection, the~~
1243 ~~interlocal agreement must be determined to be consistent with~~
1244 ~~subsection (3) and this subsection if the local government's and~~
1245 ~~school board's determination of consistency is fairly debatable.~~
1246 ~~When the state land planning agency finds the interlocal~~
1247 ~~agreement to be inconsistent with the requirements of subsection~~
1248 ~~(3) and this subsection, the local government's and school~~
1249 ~~board's determination of consistency shall be sustained unless~~
1250 ~~it is shown by a preponderance of the evidence that the~~
1251 ~~interlocal agreement is inconsistent.~~
1252 ~~(c) If the state land planning agency enters a final order~~
1253 ~~that finds that the interlocal agreement is inconsistent with~~
1254 ~~the requirements of subsection (3) or this subsection, the state~~
1255 ~~land planning agency shall forward it to the Administration~~
1256 ~~Commission, which may impose sanctions against the local~~
1257 ~~government pursuant to s. 163.3184(11) and may impose sanctions~~
1258 ~~against the district school board by directing the Department of~~
1259 ~~Education to withhold an equivalent amount of funds for school~~

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1260 ~~construction available pursuant to ss. 1013.65, 1013.68,~~
1261 ~~1013.70, and 1013.72.~~
1262 ~~(5) If an executed interlocal agreement is not timely~~
1263 ~~submitted to the state land planning agency for review, the~~
1264 ~~state land planning agency shall, within 15 working days after~~
1265 ~~the deadline for submittal, issue to the local government and~~
1266 ~~the district school board a notice to show cause why sanctions~~
1267 ~~should not be imposed for failure to submit an executed~~
1268 ~~interlocal agreement by the deadline established by the agency.~~
1269 ~~The agency shall forward the notice and the responses to the~~
1270 ~~Administration Commission, which may enter a final order citing~~
1271 ~~the failure to comply and imposing sanctions against the local~~
1272 ~~government and district school board by directing the~~
1273 ~~appropriate agencies to withhold at least 5 percent of state~~
1274 ~~funds pursuant to s. 163.3184(11) and by directing the~~
1275 ~~Department of Education to withhold from the district school~~
1276 ~~board at least 5 percent of funds for school construction~~
1277 ~~available pursuant to ss. 1013.65, 1013.68, 1013.70, and~~
1278 ~~1013.72.~~
1279 ~~(6) Any local government transmitting a public school~~
1280 ~~element to implement school concurrency pursuant to the~~
1281 ~~requirements of s. 163.3180 before the effective date of this~~
1282 ~~section is not required to amend the element or any interlocal~~
1283 ~~agreement to conform with the provisions of subsections (2)-(6)~~
1284 ~~if the element is adopted prior to or within 1 year after the~~
1285 ~~effective date of subsections (2)-(6) and remains in effect.~~
1286 (3) ~~(7)~~ A board and the local governing body must share and
1287 coordinate information related to existing and planned school
1288 facilities; proposals for development, redevelopment, or

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1289 additional development; and infrastructure required to support
1290 the school facilities, concurrent with proposed development. A
1291 school board shall use information produced by the demographic,
1292 revenue, and education estimating conferences pursuant to s.
1293 216.136 when preparing the district educational facilities plan
1294 pursuant to s. 1013.35, as modified and agreed to by the local
1295 governments, when provided by interlocal agreement, and the
1296 Office of Educational Facilities, in consideration of local
1297 governments' population projections, to ensure that the district
1298 educational facilities plan not only reflects enrollment
1299 projections but also considers applicable municipal and county
1300 growth and development projections. The projections must be
1301 apportioned geographically with assistance from the local
1302 governments using local government trend data and the school
1303 district student enrollment data. A school board is precluded
1304 from siting a new school in a jurisdiction where the school
1305 board has failed to provide the annual educational facilities
1306 plan for the prior year required pursuant to s. 1013.35 unless
1307 the failure is corrected.
1308 (4) ~~(8)~~ The location of educational facilities shall be
1309 consistent with the comprehensive plan of the appropriate local
1310 governing body developed under part II of chapter 163 and
1311 consistent with the plan's implementing land development
1312 regulations.
1313 (5) ~~(9)~~ To improve coordination relative to potential
1314 educational facility sites, a board shall provide written notice
1315 to the local government that has regulatory authority over the
1316 use of the land consistent with an interlocal agreement entered
1317 pursuant to s. 163.31777~~subsections (2)-(6)~~ at least 60 days

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1318 prior to acquiring or leasing property that may be used for a
1319 new public educational facility. The local government, upon
1320 receipt of this notice, shall notify the board within 45 days if
1321 the site proposed for acquisition or lease is consistent with
1322 the land use categories and policies of the local government's
1323 comprehensive plan. This preliminary notice does not constitute
1324 the local government's determination of consistency pursuant to
1325 subsection (6)~~(10)~~.
1326 (6)~~(10)~~ As early in the design phase as feasible and
1327 consistent with an interlocal agreement entered pursuant to s.
1328 163.31777~~subsections (2)-(6)~~, but no later than 90 days before
1329 commencing construction, the district school board shall in
1330 writing request a determination of consistency with the local
1331 government's comprehensive plan. The local governing body that
1332 regulates the use of land shall determine, in writing within 45
1333 days after receiving the necessary information and a school
1334 board's request for a determination, whether a proposed
1335 educational facility is consistent with the local comprehensive
1336 plan and consistent with local land development regulations. If
1337 the determination is affirmative, school construction may
1338 commence and further local government approvals are not
1339 required, except as provided in this section. Failure of the
1340 local governing body to make a determination in writing within
1341 90 days after a district school board's request for a
1342 determination of consistency shall be considered an approval of
1343 the district school board's application. Campus master plans and
1344 development agreements must comply with the provisions of s.
1345 1013.30.
1346 (7)~~(11)~~ A local governing body may not deny the site

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1347 applicant based on adequacy of the site plan as it relates
1348 solely to the needs of the school. If the site is consistent
1349 with the comprehensive plan's land use policies and categories
1350 in which public schools are identified as allowable uses, the
1351 local government may not deny the application but it may impose
1352 reasonable development standards and conditions in accordance
1353 with s. 1013.51(1) and consider the site plan and its adequacy
1354 as it relates to environmental concerns, health, safety and
1355 welfare, and effects on adjacent property. Standards and
1356 conditions may not be imposed which conflict with those
1357 established in this chapter or the Florida Building Code, unless
1358 mutually agreed and consistent with the interlocal agreement
1359 required by s. 163.31777~~subsections (2)-(6)~~.
1360 (8)~~(12)~~ This section does not prohibit a local governing
1361 body and district school board from agreeing and establishing an
1362 alternative process for reviewing a proposed educational
1363 facility and site plan, and offsite impacts, pursuant to an
1364 interlocal agreement adopted in accordance with s.
1365 163.31777~~subsections (2)-(6)~~.
1366 (9)~~(13)~~ Existing schools shall be considered consistent
1367 with the applicable local government comprehensive plan adopted
1368 under part II of chapter 163. If a board submits an application
1369 to expand an existing school site, the local governing body may
1370 impose reasonable development standards and conditions on the
1371 expansion only, and in a manner consistent with s. 1013.51(1).
1372 Standards and conditions may not be imposed which conflict with
1373 those established in this chapter or the Florida Building Code,
1374 unless mutually agreed. Local government review or approval is
1375 not required for:

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1376 (a) The placement of temporary or portable classroom
1377 facilities; or
1378 (b) Proposed renovation or construction on existing school
1379 sites, with the exception of construction that changes the
1380 primary use of a facility, includes stadiums, or results in a
1381 greater than 5 percent increase in student capacity, or as
1382 mutually agreed upon, pursuant to an interlocal agreement
1383 adopted in accordance with s. 163.31777~~subsections (2)-(6)~~.
1384 Section 18. Paragraph (b) of subsection (2) of section
1385 1013.35, Florida Statutes, is amended to read:
1386 1013.35 School district educational facilities plan;
1387 definitions; preparation, adoption, and amendment; long-term
1388 work programs.—
1389 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
1390 FACILITIES PLAN.—
1391 (b) The plan must also include a financially feasible
1392 district facilities work program for a 5-year period. The work
1393 program must include:
1394 1. A schedule of major repair and renovation projects
1395 necessary to maintain the educational facilities and ancillary
1396 facilities of the district.
1397 2. A schedule of capital outlay projects necessary to
1398 ensure the availability of satisfactory student stations for the
1399 projected student enrollment in K-12 programs. This schedule
1400 shall consider:
1401 a. The locations, capacities, and planned utilization rates
1402 of current educational facilities of the district. The capacity
1403 of existing satisfactory facilities, as reported in the Florida
1404 Inventory of School Houses must be compared to the capital

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1405 outlay full-time-equivalent student enrollment as determined by
1406 the department, including all enrollment used in the calculation
1407 of the distribution formula in s. 1013.64.
1408 b. The proposed locations of planned facilities, whether
1409 those locations are consistent with the comprehensive plans of
1410 all affected local governments, and recommendations for
1411 infrastructure and other improvements to land adjacent to
1412 existing facilities. The provisions of ss. 1013.33(6)~~(10)~~,
1413 (7)~~(11)~~, and (8)~~(12)~~ and 1013.36 must be addressed for new
1414 facilities planned within the first 3 years of the work plan, as
1415 appropriate.
1416 c. Plans for the use and location of relocatable
1417 facilities, leased facilities, and charter school facilities.
1418 d. Plans for multitrack scheduling, grade level
1419 organization, block scheduling, or other alternatives that
1420 reduce the need for additional permanent student stations.
1421 e. Information concerning average class size and
1422 utilization rate by grade level within the district which will
1423 result if the tentative district facilities work program is
1424 fully implemented.
1425 f. The number and percentage of district students planned
1426 to be educated in relocatable facilities during each year of the
1427 tentative district facilities work program. For determining
1428 future needs, student capacity may not be assigned to any
1429 relocatable classroom that is scheduled for elimination or
1430 replacement with a permanent educational facility in the current
1431 year of the adopted district educational facilities plan and in
1432 the district facilities work program adopted under this section.
1433 Those relocatable classrooms clearly identified and scheduled

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1434 for replacement in a school-board-adopted, financially feasible,
1435 5-year district facilities work program shall be counted at zero
1436 capacity at the time the work program is adopted and approved by
1437 the school board. However, if the district facilities work
1438 program is changed and the relocatable classrooms are not
1439 replaced as scheduled in the work program, the classrooms must
1440 be reentered into the system and be counted at actual capacity.
1441 Relocatable classrooms may not be perpetually added to the work
1442 program or continually extended for purposes of circumventing
1443 this section. All relocatable classrooms not identified and
1444 scheduled for replacement, including those owned, lease-
1445 purchased, or leased by the school district, must be counted at
1446 actual student capacity. The district educational facilities
1447 plan must identify the number of relocatable student stations
1448 scheduled for replacement during the 5-year survey period and
1449 the total dollar amount needed for that replacement.
1450 g. Plans for the closure of any school, including plans for
1451 disposition of the facility or usage of facility space, and
1452 anticipated revenues.
1453 h. Projects for which capital outlay and debt service funds
1454 accruing under s. 9(d), Art. XII of the State Constitution are
1455 to be used shall be identified separately in priority order on a
1456 project priority list within the district facilities work
1457 program.
1458 3. The projected cost for each project identified in the
1459 district facilities work program. For proposed projects for new
1460 student stations, a schedule shall be prepared comparing the
1461 planned cost and square footage for each new student station, by
1462 elementary, middle, and high school levels, to the low, average,

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1463 and high cost of facilities constructed throughout the state
1464 during the most recent fiscal year for which data is available
1465 from the Department of Education.
1466 4. A schedule of estimated capital outlay revenues from
1467 each currently approved source which is estimated to be
1468 available for expenditure on the projects included in the
1469 district facilities work program.
1470 5. A schedule indicating which projects included in the
1471 district facilities work program will be funded from current
1472 revenues projected in subparagraph 4.
1473 6. A schedule of options for the generation of additional
1474 revenues by the district for expenditure on projects identified
1475 in the district facilities work program which are not funded
1476 under subparagraph 5. Additional anticipated revenues may
1477 include effort index grants, SIT Program awards, and Classrooms
1478 First funds.
1479 Section 19. Subsections (3), (5), (6), (7), (8), (9), (10),
1480 and (11) of section 1013.351, Florida Statutes, are amended to
1481 read:
1482 1013.351 Coordination of planning between the Florida
1483 School for the Deaf and the Blind and local governing bodies.—
1484 (3) The board of trustees and the municipality in which the
1485 school is located may enter into an interlocal agreement to
1486 establish the specific ways in which the plans and processes of
1487 the board of trustees and the local government are to be
1488 coordinated. ~~If the school and local government enter into an~~
1489 ~~interlocal agreement, the agreement must be submitted to the~~
1490 ~~state land planning agency and the Office of Educational~~
1491 ~~Facilities.~~

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1492 ~~(5)(a) The Office of Educational Facilities shall submit~~
1493 ~~any comments or concerns regarding the executed interlocal~~
1494 ~~agreements to the state land planning agency no later than 30~~
1495 ~~days after receipt of the executed interlocal agreements. The~~
1496 ~~state land planning agency shall review the executed interlocal~~
1497 ~~agreements to determine whether they are consistent with the~~
1498 ~~requirements of subsection (4), the adopted local government~~
1499 ~~comprehensive plans, and other requirements of law. Not later~~
1500 ~~than 60 days after receipt of an executed interlocal agreement,~~
1501 ~~the state land planning agency shall publish a notice of intent~~
1502 ~~in the Florida Administrative Weekly. The notice of intent must~~
1503 ~~state that the interlocal agreement is consistent or~~
1504 ~~inconsistent with the requirements of subsection (4) and this~~
1505 ~~subsection as appropriate.~~
1506 ~~(b)1. The state land planning agency's notice is subject to~~
1507 ~~challenge under chapter 120. However, an affected person, as~~
1508 ~~defined in s. 163.3184, has standing to initiate the~~
1509 ~~administrative proceeding, and this proceeding is the sole means~~
1510 ~~available to challenge the consistency of an interlocal~~
1511 ~~agreement with the criteria contained in subsection (4) and this~~
1512 ~~subsection. In order to have standing, a person must have~~
1513 ~~submitted oral or written comments, recommendations, or~~
1514 ~~objections to the appropriate local government or the board of~~
1515 ~~trustees before the adoption of the interlocal agreement by the~~
1516 ~~board of trustees and local government. The board of trustees~~
1517 ~~and the appropriate local government are parties to any such~~
1518 ~~proceeding.~~
1519 ~~2. In the administrative proceeding, if the state land~~
1520 ~~planning agency finds the interlocal agreement to be consistent~~

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1521 ~~with the criteria in subsection (4) and this subsection, the~~
1522 ~~interlocal agreement must be determined to be consistent with~~
1523 ~~subsection (4) and this subsection if the local government and~~
1524 ~~board of trustees is fairly debatable.~~
1525 ~~3. If the state land planning agency finds the interlocal~~
1526 ~~agreement to be inconsistent with the requirements of subsection~~
1527 ~~(4) and this subsection, the determination of consistency by the~~
1528 ~~local government and board of trustees shall be sustained unless~~
1529 ~~it is shown by a preponderance of the evidence that the~~
1530 ~~interlocal agreement is inconsistent.~~
1531 ~~(c) If the state land planning agency enters a final order~~
1532 ~~that finds that the interlocal agreement is inconsistent with~~
1533 ~~the requirements of subsection (4) or this subsection, the state~~
1534 ~~land planning agency shall identify the issues in dispute and~~
1535 ~~submit the matter to the Administration Commission for final~~
1536 ~~action. The report to the Administration Commission must list~~
1537 ~~each issue in dispute, describe the nature and basis for each~~
1538 ~~dispute, identify alternative resolutions of each dispute, and~~
1539 ~~make recommendations. After receiving the report from the state~~
1540 ~~land planning agency, the Administration Commission shall take~~
1541 ~~action to resolve the issues. In deciding upon a proper~~
1542 ~~resolution, the Administration Commission shall consider the~~
1543 ~~nature of the issues in dispute, the compliance of the parties~~
1544 ~~with this section, the extent of the conflict between the~~
1545 ~~parties, the comparative hardships, and the public interest~~
1546 ~~involved. In resolving the matter, the Administration Commission~~
1547 ~~may prescribe, by order, the contents of the interlocal~~
1548 ~~agreement which shall be executed by the board of trustees and~~
1549 ~~the local government.~~

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1550 (5) ~~(6)~~ An interlocal agreement may be amended under
1551 subsections (2)-(4) ~~(2)-(5)~~:
1552 (a) In conjunction with updates to the school's educational
1553 plant survey prepared under s. 1013.31; or
1554 (b) If either party delays by more than 12 months the
1555 construction of a capital improvement identified in the
1556 agreement.
1557 (6) ~~(7)~~ This section does not prohibit a local governing
1558 body and the board of trustees from agreeing and establishing an
1559 alternative process for reviewing proposed expansions to the
1560 school's campus and offsite impacts, under the interlocal
1561 agreement adopted in accordance with subsections (2)-(5) ~~(2)-~~
1562 ~~(6)~~.
1563 (7) ~~(8)~~ School facilities within the geographic area or the
1564 campus of the school as it existed on or before January 1, 1998,
1565 are consistent with the local government's comprehensive plan
1566 developed under part II of chapter 163 and consistent with the
1567 plan's implementing land development regulations.
1568 (8) ~~(9)~~ To improve coordination relative to potential
1569 educational facility sites, the board of trustees shall provide
1570 written notice to the local governments consistent with the
1571 interlocal agreements entered under subsections (2)-(5) ~~(2)-(6)~~
1572 at least 60 days before the board of trustees acquires any
1573 additional property. The local government shall notify the board
1574 of trustees no later than 45 days after receipt of this notice
1575 if the site proposed for acquisition is consistent with the land
1576 use categories and policies of the local government's
1577 comprehensive plan. This preliminary notice does not constitute
1578 the local government's determination of consistency under

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1579 subsection (9) ~~(10)~~.
1580 (9) ~~(10)~~ As early in the design phase as feasible, but no
1581 later than 90 days before commencing construction, the board of
1582 trustees shall request in writing a determination of consistency
1583 with the local government's comprehensive plan and local
1584 development regulations for the proposed use of any property
1585 acquired by the board of trustees on or after January 1, 1998.
1586 The local governing body that regulates the use of land shall
1587 determine, in writing, no later than 45 days after receiving the
1588 necessary information and a school board's request for a
1589 determination, whether a proposed use of the property is
1590 consistent with the local comprehensive plan and consistent with
1591 local land development regulations. If the local governing body
1592 determines the proposed use is consistent, construction may
1593 commence and additional local government approvals are not
1594 required, except as provided in this section. Failure of the
1595 local governing body to make a determination in writing within
1596 90 days after receiving the board of trustees' request for a
1597 determination of consistency shall be considered an approval of
1598 the board of trustees' application. This subsection does not
1599 apply to facilities to be located on the property if a contract
1600 for construction of the facilities was entered on or before the
1601 effective date of this act.
1602 (10) ~~(11)~~ Disputes that arise in the implementation of an
1603 executed interlocal agreement or in the determinations required
1604 pursuant to subsection (8) ~~(9)~~ or subsection (9) ~~(10)~~ must be
1605 resolved in accordance with chapter 164.
1606 Section 20. Subsection (6) of section 1013.36, Florida
1607 Statutes, is amended to read:

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1608 1013.36 Site planning and selection.—
1609 (6) If the school board and local government have entered
1610 into an interlocal agreement pursuant to s. 1013.33(2) and
1611 ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a
1612 process to ensure consistency between the local government
1613 comprehensive plan and the school district educational
1614 facilities plan, site planning and selection must be consistent
1615 with the interlocal agreements and the plans.
1616
1617
1618 ========== T I T L E A M E N D M E N T ==========
1619 And the title is amended as follows:
1620 Delete everything before the enacting clause
1621 and insert:
1622 A bill to be entitled
1623 An act relating to growth management; amending s. 163.3167,
1624 F.S.; authorizing a local government to retain certain charter
1625 provisions that were in effect as of a specified date and that
1626 relate to an initiative or referendum process; amending s.
1627 163.3174, F.S.; requiring a local land planning agency to
1628 periodically evaluate and appraise a comprehensive plan;
1629 amending s. 163.3177, F.S.; revising the housing and
1630 intergovernmental coordination elements of comprehensive plans;
1631 amending s. 163.31777, F.S.; exempting certain municipalities
1632 from public schools interlocal-agreement requirements; providing
1633 requirements for municipalities meeting the exemption criteria;
1634 amending s. 163.3178, F.S.; replacing a reference to the
1635 Department of Community Affairs with the state land planning
1636 agency; deleting provisions relating to the Coastal Resources

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1637 Interagency Management Committee; amending s. 163.3180, F.S.,
1638 relating to concurrency; revising and providing requirements
1639 relating to public facilities and services, public education
1640 facilities, and local school concurrency system requirements;
1641 deleting provisions excluding a municipality that is not a
1642 signatory to a certain interlocal agreement from participating
1643 in a school concurrency system; amending s. 163.3184, F.S.;
1644 revising provisions relating to the expedited state review
1645 process for adoption of comprehensive plan amendments;
1646 clarifying the time in which a local government must transmit an
1647 amendment to a comprehensive plan and supporting data and
1648 analyses to the reviewing agencies; deleting the deadlines in
1649 administrative challenges to comprehensive plans and plan
1650 amendments for the entry of final orders and referrals of
1651 recommended orders; specifying a deadline for the state land
1652 planning agency to issue a notice of intent after receiving a
1653 complete comprehensive plan or plan amendment adopted pursuant
1654 to a compliance agreement; amending s. 163.3191, F.S.;
1655 conforming a cross-reference to changes made by the act;
1656 amending s. 163.3245, F.S.; deleting an obsolete cross-
1657 reference; deleting a reporting requirement relating to optional
1658 sector plans; amending s. 186.002, F.S.; deleting a requirement
1659 for the Governor to consider certain evaluation and appraisal
1660 reports in preparing certain plans and amendments; amending s.
1661 186.007, F.S.; deleting a requirement for the Governor to
1662 consider certain evaluation and appraisal reports when reviewing
1663 the state comprehensive plan; amending s. 186.508, F.S.;
1664 requiring regional planning councils to coordinate
1665 implementation of the strategic regional policy plans with the

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1666 evaluation and appraisal process; amending s. 189.415, F.S.;
1667 requiring an independent special district to update its public
1668 facilities report every 7 years and at least 12 months before
1669 the submission date of the evaluation and appraisal notification
1670 letter; requiring the Department of Economic Opportunity to post
1671 a schedule of the due dates for public facilities reports and
1672 updates that independent special districts must provide to local
1673 governments; amending s. 288.975, F.S.; deleting a provision
1674 exempting local government plan amendments necessary to
1675 initially adopt the military base reuse plan from a limitation
1676 on the frequency of plan amendments; amending s. 380.06, F.S.;
1677 correcting cross-references; amending s. 380.115, F.S.; adding a
1678 cross-reference for exempt developments; amending s. 1013.33,
1679 F.S.; deleting redundant requirements for interlocal agreements
1680 relating to public education facilities; amending s. 1013.35,
1681 F.S.; deleting a cross-reference to conform to changes made by
1682 the act; amending s. 1013.351, F.S.; deleting redundant
1683 requirements for the submission of certain interlocal agreements
1684 with the Office of Educational Facilities and the state land
1685 planning agency and for review of the interlocal agreement by
1686 the office and the agency; amending s. 1013.36, F.S.; deleting
1687 an obsolete cross-reference; providing an effective date.
1688

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Subsection (8) of section 163.3167, Florida
6 Statutes, is amended to read:
7 163.3167 Scope of act.—
8 (8) An initiative or referendum process in regard to any
9 development order or in regard to any local comprehensive plan
10 amendment or map amendment is prohibited. <u>However, any local</u>
11 <u>government charter provision that was in effect as of June 1,</u>
12 <u>2011, for an initiative or referendum process in regard to</u>

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13 development orders or in regard to local comprehensive plan
14 amendments or map amendments may be retained and implemented.
15 Section 2. Paragraph (b) of subsection (4) of section
16 163.3174, Florida Statutes, is amended to read:
17 163.3174 Local planning agency.—
18 (4) The local planning agency shall have the general
19 responsibility for the conduct of the comprehensive planning
20 program. Specifically, the local planning agency shall:
21 (b) Monitor and oversee the effectiveness and status of the
22 comprehensive plan and recommend to the governing body such
23 changes in the comprehensive plan as may from time to time be
24 required, including the periodic evaluation and appraisal of the
25 comprehensive plan ~~preparation of the periodic reports~~ required
26 by s. 163.3191.
27 Section 3. Subsections (5) and (6) of section 163.3175,
28 Florida Statutes, are amended to read
29 163.3175 Legislative findings on compatibility of
30 development with military installations; exchange of information
31 between local governments and military installations.—
32 (5) The commanding officer or his or her designee may
33 provide comments to the affected local government on the impact
34 such proposed changes may have on the mission of the military
35 installation. Such comments may include:
36 (a) If the installation has an airfield, whether such
37 proposed changes will be incompatible with the safety and noise
38 standards contained in the Air Installation Compatible Use Zone
39 (AICUZ) adopted by the military installation for that airfield;
40 (b) Whether such changes are incompatible with the
41 Installation Environmental Noise Management Program (IENMP) of

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42 the United States Army;
43 (c) Whether such changes are incompatible with the findings
44 of a Joint Land Use Study (JLUS) for the area if one has been
45 completed; and
46 (d) Whether the military installation's mission will be
47 adversely affected by the proposed actions of the county or
48 affected local government.
49
50 The commanding officer's comments, underlying studies, and
51 reports shall be considered by the local government in the same
52 manner as the comments received from other reviewing agencies
53 pursuant to s. 163.3184 ~~are not binding on the local government~~.
54 (6) The affected local government shall take into
55 consideration any comments provided by the commanding officer or
56 his or her designee pursuant to subsection (4) as they relate to
57 the strategic mission of the base, public safety, and the
58 economic vitality associated with the base's operation, while
59 also respecting ~~and must also be sensitive to~~ private property
60 rights and not be unduly restrictive on those rights. The
61 affected local government shall forward a copy of any comments
62 regarding comprehensive plan amendments to the state land
63 planning agency.
64 Section 4. Paragraph (h) of subsection (6) of section
65 163.3177, Florida Statutes, is amended to read:
66 163.3177 Required and optional elements of comprehensive
67 plan; studies and surveys.—
68 (6) In addition to the requirements of subsections (1)-(5),
69 the comprehensive plan shall include the following elements:
70 (h)1. An intergovernmental coordination element showing

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71 relationships and stating principles and guidelines to be used
72 in coordinating the adopted comprehensive plan with the plans of
73 school boards, regional water supply authorities, and other
74 units of local government providing services but not having
75 regulatory authority over the use of land, with the
76 comprehensive plans of adjacent municipalities, the county,
77 adjacent counties, or the region, with the state comprehensive
78 plan and with the applicable regional water supply plan approved
79 pursuant to s. 373.709, as the case may require and as such
80 adopted plans or plans in preparation may exist. This element of
81 the local comprehensive plan must demonstrate consideration of
82 the particular effects of the local plan, when adopted, upon the
83 development of adjacent municipalities, the county, adjacent
84 counties, or the region, or upon the state comprehensive plan,
85 as the case may require.
86 a. The intergovernmental coordination element must provide
87 procedures for identifying and implementing joint planning
88 areas, especially for the purpose of annexation, municipal
89 incorporation, and joint infrastructure service areas.
90 b. The intergovernmental coordination element shall provide
91 for a dispute resolution process, as established pursuant to s.
92 186.509, for bringing intergovernmental disputes to closure in a
93 timely manner.
94 c. The intergovernmental coordination element shall provide
95 for interlocal agreements as established pursuant to s.
96 333.03(1)(b).
97 2. The intergovernmental coordination element shall also
98 state principles and guidelines to be used in coordinating the
99 adopted comprehensive plan with the plans of school boards and

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100 other units of local government providing facilities and
101 services but not having regulatory authority over the use of
102 land. In addition, the intergovernmental coordination element
103 must describe joint processes for collaborative planning and
104 decisionmaking on population projections and public school
105 siting, the location and extension of public facilities subject
106 to concurrency, and siting facilities with countywide
107 significance, including locally unwanted land uses whose nature
108 and identity are established in an agreement.
109 3. Within 1 year after adopting their intergovernmental
110 coordination elements, each county, all the municipalities
111 within that county, the district school board, and any unit of
112 local government service providers in that county shall
113 establish by interlocal or other formal agreement executed by
114 all affected entities, the joint processes described in this
115 subparagraph consistent with their adopted intergovernmental
116 coordination elements. The agreement ~~element~~ must:
117 a. Ensure that the local government addresses through
118 coordination mechanisms the impacts of development proposed in
119 the local comprehensive plan upon development in adjacent
120 municipalities, the county, adjacent counties, the region, and
121 the state. The area of concern for municipalities includes ~~shall~~
122 ~~include~~ adjacent municipalities, the county, and counties
123 adjacent to the municipality. The area of concern for counties
124 includes ~~shall include~~ all municipalities within the county,
125 adjacent counties, and adjacent municipalities.
126 b. Ensure coordination in establishing level of service
127 standards for public facilities with any state, regional, or
128 local entity having operational and maintenance responsibility

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129 for such facilities.
130 Section 5. Subsections (3) and (4) are added to section
131 163.31777, Florida Statutes, to read:
132 163.31777 Public schools interlocal agreement.—
133 (3) A municipality is exempt from the requirements of
134 subsections (1) and (2) if the municipality meets all of the
135 following criteria for having no significant impact on school
136 attendance:
137 (a) The municipality has issued development orders for
138 fewer than 50 residential dwelling units during the preceding 5
139 years, or the municipality has generated fewer than 25
140 additional public school students during the preceding 5 years.
141 (b) The municipality has not annexed new land during the
142 preceding 5 years in land use categories that permit residential
143 uses that will affect school attendance rates.
144 (c) The municipality has no public schools located within
145 its boundaries.
146 (d) At least 80 percent of the developable land within the
147 boundaries of the municipality has been built upon.
148 (4) At the time of the evaluation and appraisal of its
149 comprehensive plan pursuant to s. 163.3191, each exempt
150 municipality shall assess the extent to which it continues to
151 meet the criteria for exemption under subsection (3). If the
152 municipality continues to meet the criteria for exemption under
153 subsection (3), the municipality shall continue to be exempt
154 from the interlocal-agreement requirement. Each municipality
155 exempt under subsection (3) must comply with this section within
156 1 year after the district school board proposes, in its 5-year
157 district facilities work program, a new school within the

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158 municipality's jurisdiction.
159 Section 6. Subsections (3) and (6) of section 163.3178,
160 Florida Statutes, are amended to read:
161 163.3178 Coastal management.—
162 (3) Expansions to port harbors, spoil disposal sites,
163 navigation channels, turning basins, harbor berths, and other
164 related inwater harbor facilities of ports listed in s.
165 403.021(9); port transportation facilities and projects listed
166 in s. 311.07(3)(b); intermodal transportation facilities
167 identified pursuant to s. 311.09(3); and facilities determined
168 by the state land planning agency ~~Department of Community~~
169 ~~Affairs~~ and applicable general-purpose local government to be
170 port-related industrial or commercial projects located within 3
171 miles of or in a port master plan area which rely upon the use
172 of port and intermodal transportation facilities shall not be
173 designated as developments of regional impact if such
174 expansions, projects, or facilities are consistent with
175 comprehensive master plans that are in compliance with this
176 section.
177 (6) Local governments are encouraged to adopt countywide
178 marina siting plans to designate sites for existing and future
179 marinas. ~~The Coastal Resources Interagency Management Committee,~~
180 ~~at the direction of the Legislature, shall identify incentives~~
181 ~~to encourage local governments to adopt such siting plans and~~
182 ~~uniform criteria and standards to be used by local governments~~
183 ~~to implement state goals, objectives, and policies relating to~~
184 ~~marina siting. These criteria must ensure that priority is given~~
185 ~~to water-dependent land uses.~~ Countywide marina siting plans
186 must be consistent with state and regional environmental

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187 planning policies and standards. Each local government in the
188 coastal area which participates in adoption of a countywide
189 marina siting plan shall incorporate the plan into the coastal
190 management element of its local comprehensive plan.
191 Section 7. Paragraph (a) of subsection (1) and paragraphs
192 (a), (i), (j), and (k) of subsection (6) of section 163.3180,
193 Florida Statutes, are amended to read:
194 163.3180 Concurrency.—
195 (1) Sanitary sewer, solid waste, drainage, and potable
196 water are the only public facilities and services subject to the
197 concurrency requirement on a statewide basis. Additional public
198 facilities and services may not be made subject to concurrency
199 on a statewide basis without approval by the Legislature;
200 however, any local government may extend the concurrency
201 requirement so that it applies to additional public facilities
202 within its jurisdiction.
203 (a) If concurrency is applied to other public facilities,
204 the local government comprehensive plan must provide the
205 principles, guidelines, standards, and strategies, including
206 adopted levels of service, to guide its application. In order
207 for a local government to rescind any optional concurrency
208 provisions, a comprehensive plan amendment is required. An
209 amendment rescinding optional concurrency issues shall be
210 processed under the expedited state review process in s.
211 163.3184(3), but the amendment is not subject to state review
212 and is not required to be transmitted to the reviewing agencies
213 for comments, except that the local government shall transmit
214 the amendment to any local government or government agency that
215 has filed a request with the governing body, and for municipal

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216 amendments, the amendment shall be transmitted to the county in
217 which the municipality is located. For informational purposes
218 only, a copy of the adopted amendment shall be provided to the
219 state land planning agency. A copy of the adopted amendment
220 shall also be provided to the Department of Transportation if
221 the amendment rescinds transportation concurrency and to the
222 Department of Education if the amendment rescinds school
223 concurrency.
224 (6)(a) Local governments that apply ~~If~~ concurrency ~~is~~
225 ~~applied~~ to public education facilities~~, all local governments~~
226 ~~within a county, except as provided in paragraph (i),~~ shall
227 include principles, guidelines, standards, and strategies,
228 including adopted levels of service, in their comprehensive
229 plans and interlocal agreements. The choice of one or more
230 municipalities to not adopt school concurrency and enter into
231 the interlocal agreement does not preclude implementation of
232 school concurrency within other jurisdictions of the school
233 district if the county and one or more municipalities have
234 adopted school concurrency into their comprehensive plan and
235 interlocal agreement that represents at least 80 percent of the
236 total countywide population~~, the failure of one or more~~
237 ~~municipalities to adopt the concurrency and enter into the~~
238 ~~interlocal agreement does not preclude implementation of school~~
239 ~~concurrency within jurisdictions of the school district that~~
240 ~~have opted to implement concurrency~~. All local government
241 provisions included in comprehensive plans regarding school
242 concurrency within a county must be consistent with each other
243 as well as the requirements of this part.
244 ~~(i) A municipality is not required to be a signatory to the~~

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245 ~~interlocal agreement required by paragraph (j), as a~~
246 ~~prerequisite for imposition of school concurrency, and as a~~
247 ~~nonsignatory, may not participate in the adopted local school~~
248 ~~concurrency system, if the municipality meets all of the~~
249 ~~following criteria for having no significant impact on school~~
250 ~~attendance:~~
251 ~~1. The municipality has issued development orders for fewer~~
252 ~~than 50 residential dwelling units during the preceding 5 years,~~
253 ~~or the municipality has generated fewer than 25 additional~~
254 ~~public school students during the preceding 5 years.~~
255 ~~2. The municipality has not annexed new land during the~~
256 ~~preceding 5 years in land use categories which permit~~
257 ~~residential uses that will affect school attendance rates.~~
258 ~~3. The municipality has no public schools located within~~
259 ~~its boundaries.~~
260 ~~4. At least 80 percent of the developable land within the~~
261 ~~boundaries of the municipality has been built upon.~~
262 (i) ~~(j)~~ When establishing concurrency requirements for
263 public schools, a local government must enter into an interlocal
264 agreement that satisfies the requirements in ss.
265 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of
266 this subsection. The interlocal agreement shall acknowledge both
267 the school board's constitutional and statutory obligations to
268 provide a uniform system of free public schools on a countywide
269 basis, and the land use authority of local governments,
270 including their authority to approve or deny comprehensive plan
271 amendments and development orders. The interlocal agreement
272 shall meet the following requirements:
273 1. Establish the mechanisms for coordinating the

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274 development, adoption, and amendment of each local government's
275 school concurrency related provisions of the comprehensive plan
276 with each other and the plans of the school board to ensure a
277 uniform districtwide school concurrency system.
278 2. Specify uniform, districtwide level-of-service standards
279 for public schools of the same type and the process for
280 modifying the adopted level-of-service standards.
281 3. Define the geographic application of school concurrency.
282 If school concurrency is to be applied on a less than
283 districtwide basis in the form of concurrency service areas, the
284 agreement shall establish criteria and standards for the
285 establishment and modification of school concurrency service
286 areas. The agreement shall ensure maximum utilization of school
287 capacity, taking into account transportation costs and court-
288 approved desegregation plans, as well as other factors.
289 4. Establish a uniform districtwide procedure for
290 implementing school concurrency which provides for:
291 a. The evaluation of development applications for
292 compliance with school concurrency requirements, including
293 information provided by the school board on affected schools,
294 impact on levels of service, and programmed improvements for
295 affected schools and any options to provide sufficient capacity;
296 b. An opportunity for the school board to review and
297 comment on the effect of comprehensive plan amendments and
298 rezonings on the public school facilities plan; and
299 c. The monitoring and evaluation of the school concurrency
300 system.
301 5. A process and uniform methodology for determining
302 proportionate-share mitigation pursuant to paragraph (h).

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303 (j) ~~(k)~~ This subsection does not limit the authority of a
304 local government to grant or deny a development permit or its
305 functional equivalent prior to the implementation of school
306 concurrency.
307 Section 8. Paragraphs (b) and (c) of subsection (3),
308 paragraphs (b) and (e) of subsection (4), paragraphs (b), (d),
309 and (e) of subsection (5), paragraph (f) of subsection (6), and
310 subsection (12) of section 163.3184, Florida Statutes, are
311 amended to read:
312 163.3184 Process for adoption of comprehensive plan or plan
313 amendment.—
314 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
315 COMPREHENSIVE PLAN AMENDMENTS.—
316 (b)1. The local government, after the initial public
317 hearing held pursuant to subsection (11), shall transmit within
318 10 calendar days the amendment or amendments and appropriate
319 supporting data and analyses to the reviewing agencies. The
320 local governing body shall also transmit a copy of the
321 amendments and supporting data and analyses to any other local
322 government or governmental agency that has filed a written
323 request with the governing body.
324 2. The reviewing agencies and any other local government or
325 governmental agency specified in subparagraph 1. may provide
326 comments regarding the amendment or amendments to the local
327 government. State agencies shall only comment on important state
328 resources and facilities that will be adversely impacted by the
329 amendment if adopted. Comments provided by state agencies shall
330 state with specificity how the plan amendment will adversely
331 impact an important state resource or facility and shall

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332 identify measures the local government may take to eliminate,
333 reduce, or mitigate the adverse impacts. Such comments, if not
334 resolved, may result in a challenge by the state land planning
335 agency to the plan amendment. Agencies and local governments
336 must transmit their comments to the affected local government
337 such that they are received by the local government not later
338 than 30 days from the date on which the agency or government
339 received the amendment or amendments. Reviewing agencies shall
340 also send a copy of their comments to the state land planning
341 agency.
342 3. Comments to the local government from a regional
343 planning council, county, or municipality shall be limited as
344 follows:
345 a. The regional planning council review and comments shall
346 be limited to adverse effects on regional resources or
347 facilities identified in the strategic regional policy plan and
348 extrajurisdictional impacts that would be inconsistent with the
349 comprehensive plan of any affected local government within the
350 region. A regional planning council may not review and comment
351 on a proposed comprehensive plan amendment prepared by such
352 council unless the plan amendment has been changed by the local
353 government subsequent to the preparation of the plan amendment
354 by the regional planning council.
355 b. County comments shall be in the context of the
356 relationship and effect of the proposed plan amendments on the
357 county plan.
358 c. Municipal comments shall be in the context of the
359 relationship and effect of the proposed plan amendments on the
360 municipal plan.

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361 d. Military installation comments shall be provided in
362 accordance with s. 163.3175.
363 4. Comments to the local government from state agencies
364 shall be limited to the following subjects as they relate to
365 important state resources and facilities that will be adversely
366 impacted by the amendment if adopted:
367 a. The Department of Environmental Protection shall limit
368 its comments to the subjects of air and water pollution;
369 wetlands and other surface waters of the state; federal and
370 state-owned lands and interest in lands, including state parks,
371 greenways and trails, and conservation easements; solid waste;
372 water and wastewater treatment; and the Everglades ecosystem
373 restoration.
374 b. The Department of State shall limit its comments to the
375 subjects of historic and archaeological resources.
376 c. The Department of Transportation shall limit its
377 comments to issues within the agency’s jurisdiction as it
378 relates to transportation resources and facilities of state
379 importance.
380 d. The Fish and Wildlife Conservation Commission shall
381 limit its comments to subjects relating to fish and wildlife
382 habitat and listed species and their habitat.
383 e. The Department of Agriculture and Consumer Services
384 shall limit its comments to the subjects of agriculture,
385 forestry, and aquaculture issues.
386 f. The Department of Education shall limit its comments to
387 the subject of public school facilities.
388 g. The appropriate water management district shall limit
389 its comments to flood protection and floodplain management,

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390 wetlands and other surface waters, and regional water supply.
391 h. The state land planning agency shall limit its comments
392 to important state resources and facilities outside the
393 jurisdiction of other commenting state agencies and may include
394 comments on countervailing planning policies and objectives
395 served by the plan amendment that should be balanced against
396 potential adverse impacts to important state resources and
397 facilities.
398 (c)1. The local government shall hold its second public
399 hearing, which shall be a hearing on whether to adopt one or
400 more comprehensive plan amendments pursuant to subsection (11).
401 If the local government fails, within 180 days after receipt of
402 agency comments, to hold the second public hearing, the
403 amendments shall be deemed withdrawn unless extended by
404 agreement with notice to the state land planning agency and any
405 affected person that provided comments on the amendment. The
406 180-day limitation does not apply to amendments processed
407 pursuant to s. 380.06.
408 2. All comprehensive plan amendments adopted by the
409 governing body, along with the supporting data and analysis,
410 shall be transmitted within 10 calendar days after the second
411 public hearing to the state land planning agency and any other
412 agency or local government that provided timely comments under
413 subparagraph (b)2.
414 3. The state land planning agency shall notify the local
415 government of any deficiencies within 5 working days after
416 receipt of an amendment package. For purposes of completeness,
417 an amendment shall be deemed complete if it contains a full,
418 executed copy of the adoption ordinance or ordinances; in the

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419 case of a text amendment, a full copy of the amended language in
420 legislative format with new words inserted in the text
421 underlined, and words deleted stricken with hyphens; in the case
422 of a future land use map amendment, a copy of the future land
423 use map clearly depicting the parcel, its existing future land
424 use designation, and its adopted designation; and a copy of any
425 data and analyses the local government deems appropriate.
426 4. An amendment adopted under this paragraph does not
427 become effective until 31 days after the state land planning
428 agency notifies the local government that the plan amendment
429 package is complete. If timely challenged, an amendment does not
430 become effective until the state land planning agency or the
431 Administration Commission enters a final order determining the
432 adopted amendment to be in compliance.
433 (4) STATE COORDINATED REVIEW PROCESS.—
434 (b) *Local government transmittal of proposed plan or*
435 *amendment.*—Each local governing body proposing a plan or plan
436 amendment specified in paragraph (2)(c) shall transmit the
437 complete proposed comprehensive plan or plan amendment to the
438 reviewing agencies within 10 calendar days after ~~immediately~~
439 ~~following~~ the first public hearing pursuant to subsection (11).
440 The transmitted document shall clearly indicate on the cover
441 sheet that this plan amendment is subject to the state
442 coordinated review process of this subsection. The local
443 governing body shall also transmit a copy of the complete
444 proposed comprehensive plan or plan amendment to any other unit
445 of local government or government agency in the state that has
446 filed a written request with the governing body for the plan or
447 plan amendment.

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448 (e) *Local government review of comments; adoption of plan*
449 *or amendments and transmittal.*—
450 1. The local government shall review the report submitted
451 to it by the state land planning agency, if any, and written
452 comments submitted to it by any other person, agency, or
453 government. The local government, upon receipt of the report
454 from the state land planning agency, shall hold its second
455 public hearing, which shall be a hearing to determine whether to
456 adopt the comprehensive plan or one or more comprehensive plan
457 amendments pursuant to subsection (11). If the local government
458 fails to hold the second hearing within 180 days after receipt
459 of the state land planning agency's report, the amendments shall
460 be deemed withdrawn unless extended by agreement with notice to
461 the state land planning agency and any affected person that
462 provided comments on the amendment. The 180-day limitation does
463 not apply to amendments processed pursuant to s. 380.06.
464 2. All comprehensive plan amendments adopted by the
465 governing body, along with the supporting data and analysis,
466 shall be transmitted within 10 calendar days after the second
467 public hearing to the state land planning agency and any other
468 agency or local government that provided timely comments under
469 paragraph (c).
470 3. The state land planning agency shall notify the local
471 government of any deficiencies within 5 working days after
472 receipt of a plan or plan amendment package. For purposes of
473 completeness, a plan or plan amendment shall be deemed complete
474 if it contains a full, executed copy of the adoption ordinance
475 or ordinances; in the case of a text amendment, a full copy of
476 the amended language in legislative format with new words

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477 inserted in the text underlined, and words deleted stricken with
478 hyphens; in the case of a future land use map amendment, a copy
479 of the future land use map clearly depicting the parcel, its
480 existing future land use designation, and its adopted
481 designation; and a copy of any data and analyses the local
482 government deems appropriate.
483 4. After the state land planning agency makes a
484 determination of completeness regarding the adopted plan or plan
485 amendment, the state land planning agency shall have 45 days to
486 determine if the plan or plan amendment is in compliance with
487 this act. Unless the plan or plan amendment is substantially
488 changed from the one commented on, the state land planning
489 agency’s compliance determination shall be limited to objections
490 raised in the objections, recommendations, and comments report.
491 During the period provided for in this subparagraph, the state
492 land planning agency shall issue, through a senior administrator
493 or the secretary, a notice of intent to find that the plan or
494 plan amendment is in compliance or not in compliance. The state
495 land planning agency shall post a copy of the notice of intent
496 on the agency’s Internet website. Publication by the state land
497 planning agency of the notice of intent on the state land
498 planning agency’s Internet site shall be prima facie evidence of
499 compliance with the publication requirements of this
500 subparagraph.
501 5. A plan or plan amendment adopted under the state
502 coordinated review process shall go into effect pursuant to the
503 state land planning agency’s notice of intent. If timely
504 challenged, an amendment does not become effective until the
505 state land planning agency or the Administration Commission

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506 enters a final order determining the adopted amendment to be in
507 compliance.
508 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
509 AMENDMENTS.—
510 (b) The state land planning agency may file a petition with
511 the Division of Administrative Hearings pursuant to ss. 120.569
512 and 120.57, with a copy served on the affected local government,
513 to request a formal hearing to challenge whether the plan or
514 plan amendment is in compliance as defined in paragraph (1)(b).
515 The state land planning agency's petition must clearly state the
516 reasons for the challenge. Under the expedited state review
517 process, this petition must be filed with the division within 30
518 days after the state land planning agency notifies the local
519 government that the plan amendment package is complete according
520 to subparagraph (3)(c)3. Under the state coordinated review
521 process, this petition must be filed with the division within 45
522 days after the state land planning agency notifies the local
523 government that the plan amendment package is complete according
524 to subparagraph (4)(e)3 ~~(3)(e)3~~.
525 1. The state land planning agency's challenge to plan
526 amendments adopted under the expedited state review process
527 shall be limited to the comments provided by the reviewing
528 agencies pursuant to subparagraphs (3)(b)2.-4., upon a
529 determination by the state land planning agency that an
530 important state resource or facility will be adversely impacted
531 by the adopted plan amendment. The state land planning agency's
532 petition shall state with specificity how the plan amendment
533 will adversely impact the important state resource or facility.
534 The state land planning agency may challenge a plan amendment

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535 that has substantially changed from the version on which the
536 agencies provided comments but only upon a determination by the
537 state land planning agency that an important state resource or
538 facility will be adversely impacted.
539 2. If the state land planning agency issues a notice of
540 intent to find the comprehensive plan or plan amendment not in
541 compliance with this act, the notice of intent shall be
542 forwarded to the Division of Administrative Hearings of the
543 Department of Management Services, which shall conduct a
544 proceeding under ss. 120.569 and 120.57 in the county of and
545 convenient to the affected local jurisdiction. The parties to
546 the proceeding shall be the state land planning agency, the
547 affected local government, and any affected person who
548 intervenes. A ~~No~~ new issue may not be alleged as a reason to
549 find a plan or plan amendment not in compliance in an
550 administrative pleading filed more than 21 days after
551 publication of notice unless the party seeking that issue
552 establishes good cause for not alleging the issue within that
553 time period. Good cause does not include excusable neglect.
554 (d) If the administrative law judge recommends that the
555 amendment be found not in compliance, the judge shall submit the
556 recommended order to the Administration Commission for final
557 agency action. The Administration Commission shall make every
558 effort to enter a final order expeditiously, but at a minimum,
559 within the time period provided by s. 120.569 ~~45 days after its~~
560 ~~receipt of the recommended order~~.
561 (e) If the administrative law judge recommends that the
562 amendment be found in compliance, the judge shall submit the
563 recommended order to the state land planning agency.

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564 1. If the state land planning agency determines that the
565 plan amendment should be found not in compliance, the agency
566 shall make every effort to refer~~, within 30 days after receipt~~
567 ~~of the recommended order,~~ the recommended order and its
568 determination expeditiously to the Administration Commission for
569 final agency action, but at a minimum within the time period
570 provided by 120.569.
571 2. If the state land planning agency determines that the
572 plan amendment should be found in compliance, the agency shall
573 enter its final order expeditiously, but at a minimum, within
574 the time period provided by s. 120.569 ~~not later than 30 days~~
575 ~~after receipt of the recommended order~~.
576 (6) COMPLIANCE AGREEMENT.—
577 (f) For challenges to amendments adopted under the state
578 coordinated process, the state land planning agency~~, upon~~
579 ~~receipt of a plan or plan amendment adopted pursuant to a~~
580 ~~compliance agreement,~~ shall issue a cumulative notice of intent
581 addressing both the remedial amendment and the plan or plan
582 amendment that was the subject of the agreement within 20 days
583 after receiving a complete plan or plan amendment adopted
584 pursuant to a compliance agreement.
585 1. If the local government adopts a comprehensive plan or
586 plan amendment pursuant to a compliance agreement and a notice
587 of intent to find the plan amendment in compliance is issued,
588 the state land planning agency shall forward the notice of
589 intent to the Division of Administrative Hearings and the
590 administrative law judge shall realign the parties in the
591 pending proceeding under ss. 120.569 and 120.57, which shall
592 thereafter be governed by the process contained in paragraph

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593 (5)(a) and subparagraph (5)(c)1., including provisions relating
594 to challenges by an affected person, burden of proof, and issues
595 of a recommended order and a final order. Parties to the
596 original proceeding at the time of realignment may continue as
597 parties without being required to file additional pleadings to
598 initiate a proceeding, but may timely amend their pleadings to
599 raise any challenge to the amendment that is the subject of the
600 cumulative notice of intent, and must otherwise conform to the
601 rules of procedure of the Division of Administrative Hearings.
602 Any affected person not a party to the realigned proceeding may
603 challenge the plan amendment that is the subject of the
604 cumulative notice of intent by filing a petition with the agency
605 as provided in subsection (5). The agency shall forward the
606 petition filed by the affected person not a party to the
607 realigned proceeding to the Division of Administrative Hearings
608 for consolidation with the realigned proceeding. If the
609 cumulative notice of intent is not challenged, the state land
610 planning agency shall request that the Division of
611 Administrative Hearings relinquish jurisdiction to the state
612 land planning agency for issuance of a final order.
613 2. If the local government adopts a comprehensive plan
614 amendment pursuant to a compliance agreement and a notice of
615 intent is issued that finds the plan amendment not in
616 compliance, the state land planning agency shall forward the
617 notice of intent to the Division of Administrative Hearings,
618 which shall consolidate the proceeding with the pending
619 proceeding and immediately set a date for a hearing in the
620 pending proceeding under ss. 120.569 and 120.57. Affected
621 persons who are not a party to the underlying proceeding under

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622 ss. 120.569 and 120.57 may challenge the plan amendment adopted
623 pursuant to the compliance agreement by filing a petition
624 pursuant to paragraph (5)(a).
625 (12) CONCURRENT ZONING.—At the request of an applicant, a
626 local government shall consider an application for zoning
627 changes that would be required to properly enact any proposed
628 plan amendment transmitted pursuant to this section ~~subsection~~.
629 Zoning changes approved by the local government are contingent
630 upon the comprehensive plan or plan amendment transmitted
631 becoming effective.
632 Section 9. Subsection (3) of section 163.3191, Florida
633 Statutes, is amended to read:
634 163.3191 Evaluation and appraisal of comprehensive plan.—
635 (3) Local governments are encouraged to comprehensively
636 evaluate and, as necessary, update comprehensive plans to
637 reflect changes in local conditions. Plan amendments transmitted
638 pursuant to this section shall be reviewed pursuant to s.
639 163.3184(4) ~~in accordance with s. 163.3184~~.
640 Section 10. Subsections (1) and (7) of section 163.3245,
641 Florida Statutes, are amended, and present subsections (8)
642 through (14) of that section are redesignated as subsections (7)
643 through (13), respectively, to read:
644 163.3245 Sector plans.—
645 (1) In recognition of the benefits of long-range planning
646 for specific areas, local governments or combinations of local
647 governments may adopt into their comprehensive plans a sector
648 plan in accordance with this section. This section is intended
649 to promote and encourage long-term planning for conservation,
650 development, and agriculture on a landscape scale; to further

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651 support ~~the intent of s. 163.3177(11), which supports~~ innovative
652 and flexible planning and development strategies, and the
653 purposes of this part and part I of chapter 380; to facilitate
654 protection of regionally significant resources, including, but
655 not limited to, regionally significant water courses and
656 wildlife corridors; and to avoid duplication of effort in terms
657 of the level of data and analysis required for a development of
658 regional impact, while ensuring the adequate mitigation of
659 impacts to applicable regional resources and facilities,
660 including those within the jurisdiction of other local
661 governments, as would otherwise be provided. Sector plans are
662 intended for substantial geographic areas that include at least
663 15,000 acres of one or more local governmental jurisdictions and
664 are to emphasize urban form and protection of regionally
665 significant resources and public facilities. A sector plan may
666 not be adopted in an area of critical state concern.
667 ~~(7) Beginning December 1, 1999, and each year thereafter,~~
668 ~~the department shall provide a status report to the President of~~
669 ~~the Senate and the Speaker of the House of Representatives~~
670 ~~regarding each optional sector plan authorized under this~~
671 ~~section.~~
672 Section 11. Paragraph (d) of subsection (2) of section
673 186.002, Florida Statutes, is amended to read:
674 186.002 Findings and intent.—
675 (2) It is the intent of the Legislature that:
676 (d) The state planning process shall be informed and guided
677 by the experience of public officials at all levels of
678 government. ~~In preparing any plans or proposed revisions or~~
679 ~~amendments required by this chapter, the Governor shall consider~~

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680 ~~the experience of and information provided by local governments~~
681 ~~in their evaluation and appraisal reports pursuant to s.~~
682 ~~163.3191.~~
683 Section 12. Subsection (8) of section 186.007, Florida
684 Statutes, is amended to read:
685 186.007 State comprehensive plan; preparation; revision.—
686 (8) The revision of the state comprehensive plan is a
687 continuing process. Each section of the plan shall be reviewed
688 and analyzed biennially by the Executive Office of the Governor
689 in conjunction with the planning officers of other state
690 agencies significantly affected by the provisions of the
691 particular section under review. In conducting this review and
692 analysis, the Executive Office of the Governor shall review and
693 consider, with the assistance of the state land planning agency
694 and regional planning councils, ~~the evaluation and appraisal~~
695 ~~reports submitted pursuant to s. 163.3191 and~~ the evaluation and
696 appraisal reports prepared pursuant to s. 186.511. Any necessary
697 revisions of the state comprehensive plan shall be proposed by
698 the Governor in a written report and be accompanied by an
699 explanation of the need for such changes. If the Governor
700 determines that changes are unnecessary, the written report must
701 explain why changes are unnecessary. The proposed revisions and
702 accompanying explanations may be submitted in the report
703 required by s. 186.031. Any proposed revisions to the plan shall
704 be submitted to the Legislature as provided in s. 186.008(2) at
705 least 30 days before ~~prior to~~ the regular legislative session
706 occurring in each even-numbered year.
707 Section 13. Subsections (8) and (20) of section 186.505,
708 Florida Statutes, are amended to read:

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709 186.505 Regional planning councils; powers and duties.—Any
710 regional planning council created hereunder shall have the
711 following powers:
712 (8) To accept and receive, in furtherance of its functions,
713 funds, grants, and services from the Federal Government or its
714 agencies; from departments, agencies, and instrumentalities of
715 state, municipal, or local government; or from private or civic
716 sources, except as prohibited by subsection (20). Each regional
717 planning council shall render an accounting of the receipt and
718 disbursement of all funds received by it, pursuant to the
719 federal Older Americans Act, to the Legislature no later than
720 March 1 of each year. Before accepting a grant, a regional
721 planning council must make a formal public determination that
722 the purpose of the grant is in furtherance of the council's
723 functions and will not diminish the council's ability to fund
724 and accomplish its statutory functions.
725 (20) To provide technical assistance to local governments
726 on growth management matters. However, a regional planning
727 council may not provide consulting services for a fee to a local
728 government for a project for which the council also serves in a
729 review capacity or provide consulting services to a private
730 developer or landowner for a project for which the council may
731 also serve in a review capacity in the future.
732 Section 14. Subsection (1) of section 186.508, Florida
733 Statutes, is amended to read:
734 186.508 Strategic regional policy plan adoption;
735 consistency with state comprehensive plan.—
736 (1) Each regional planning council shall submit to the
737 Executive Office of the Governor its proposed strategic regional

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738 policy plan on a schedule established by the Executive Office of
739 the Governor to coordinate implementation of the strategic
740 regional policy plans with the evaluation and appraisal process
741 ~~reports~~ required by s. 163.3191. The Executive Office of the
742 Governor, or its designee, shall review the proposed strategic
743 regional policy plan to ensure consistency with the adopted
744 state comprehensive plan and shall, within 60 days, provide any
745 recommended revisions. The Governor's recommended revisions
746 shall be included in the plans in a comment section. However,
747 nothing in this section precludes ~~herein shall preclude~~ a
748 regional planning council from adopting or rejecting any or all
749 of the revisions as a part of its plan before ~~prior to~~ the
750 effective date of the plan. The rules adopting the strategic
751 regional policy plan are ~~shall~~ not ~~be~~ subject to rule challenge
752 under s. 120.56(2) or to drawout proceedings under s.
753 120.54(3)(c)2., but, once adopted, are ~~shall be~~ subject to an
754 invalidity challenge under s. 120.56(3) by substantially
755 affected persons, including the Executive Office of the
756 Governor. The rules shall be adopted by the regional planning
757 councils, and ~~shall~~ become effective upon filing with the
758 Department of State, notwithstanding the provisions of s.
759 120.54(3)(e)6.
760 Section 15. Subsections (2) and (3) of section 189.415,
761 Florida Statutes, are amended to read:
762 189.415 Special district public facilities report.—
763 (2) Each independent special district shall submit to each
764 local general-purpose government in which it is located a public
765 facilities report and an annual notice of any changes. The
766 public facilities report shall specify the following

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767 information:
768 (a) A description of existing public facilities owned or
769 operated by the special district, and each public facility that
770 is operated by another entity, except a local general-purpose
771 government, through a lease or other agreement with the special
772 district. This description shall include the current capacity of
773 the facility, the current demands placed upon it, and its
774 location. This information shall be required in the initial
775 report and updated every 7 ~~5~~ years at least 12 months before
776 ~~prior to~~ the submission date of the evaluation and appraisal
777 notification letter ~~report~~ of the appropriate local government
778 required by s. 163.3191. The department shall post a schedule on
779 its website, based on the evaluation and appraisal notification
780 schedule prepared pursuant to s. 163.3191(5), for use by a
781 special district to determine when its public facilities report
782 and updates to that report are due to the local general-purpose
783 governments in which the special district is located. ~~At least~~
784 ~~12 months prior to the date on which each special district's~~
785 ~~first updated report is due, the department shall notify each~~
786 ~~independent district on the official list of special districts~~
787 ~~compiled pursuant to s. 189.4035 of the schedule for submission~~
788 ~~of the evaluation and appraisal report by each local government~~
789 ~~within the special district's jurisdiction.~~
790 (b) A description of each public facility the district is
791 building, improving, or expanding, or is currently proposing to
792 build, improve, or expand within at least the next 7 ~~5~~ years,
793 including any facilities that the district is assisting another
794 entity, except a local general-purpose government, to build,
795 improve, or expand through a lease or other agreement with the

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796 district. For each public facility identified, the report shall
797 describe how the district currently proposes to finance the
798 facility.
799 (c) If the special district currently proposes to replace
800 any facilities identified in paragraph (a) or paragraph (b)
801 within the next 10 years, the date when such facility will be
802 replaced.
803 (d) The anticipated time the construction, improvement, or
804 expansion of each facility will be completed.
805 (e) The anticipated capacity of and demands on each public
806 facility when completed. In the case of an improvement or
807 expansion of a public facility, both the existing and
808 anticipated capacity must be listed.
809 (3) A special district proposing to build, improve, or
810 expand a public facility which requires a certificate of need
811 pursuant to chapter 408 shall elect to notify the appropriate
812 local general-purpose government of its plans either in its 7-
813 year ~~5-year~~ plan or at the time the letter of intent is filed
814 with the Agency for Health Care Administration pursuant to s.
815 408.039.
816 Section 16. Subsection (5) of section 288.975, Florida
817 Statutes, is amended to read:
818 288.975 Military base reuse plans.—
819 (5) At the discretion of the host local government, the
820 provisions of this act may be complied with through the adoption
821 of the military base reuse plan as a separate component of the
822 local government comprehensive plan or through simultaneous
823 amendments to all pertinent portions of the local government
824 comprehensive plan. Once adopted and approved in accordance with

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825 this section, the military base reuse plan shall be considered
826 to be part of the host local government's comprehensive plan and
827 shall be thereafter implemented, amended, and reviewed pursuant
828 to ~~in accordance with the provisions of~~ part II of chapter 163.
829 ~~Local government comprehensive plan amendments necessary to~~
830 ~~initially adopt the military base reuse plan shall be exempt~~
831 ~~from the limitation on the frequency of plan amendments~~
832 ~~contained in s. 163.3187(1)~~.
833 Section 17. Paragraph (b) of subsection (6), paragraph (e)
834 of subsection (19), subsection (24), and paragraph (b) of
835 subsection (29) of section 380.06, Florida Statutes, are amended
836 to read:
837 380.06 Developments of regional impact.—
838 (6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT
839 PLAN AMENDMENTS.—
840 (b) Any local government comprehensive plan amendments
841 related to a proposed development of regional impact, including
842 any changes proposed under subsection (19), may be initiated by
843 a local planning agency or the developer and must be considered
844 by the local governing body at the same time as the application
845 for development approval using the procedures provided for local
846 plan amendment in s. 163.3184 ~~s. 163.3187~~ and applicable local
847 ordinances, without regard to local limits on the frequency of
848 consideration of amendments to the local comprehensive plan.
849 This paragraph does not require favorable consideration of a
850 plan amendment solely because it is related to a development of
851 regional impact. The procedure for processing such comprehensive
852 plan amendments is as follows:
853 1. If a developer seeks a comprehensive plan amendment

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854 related to a development of regional impact, the developer must
855 so notify in writing the regional planning agency, the
856 applicable local government, and the state land planning agency
857 no later than the date of preapplication conference or the
858 submission of the proposed change under subsection (19).
859 2. When filing the application for development approval or
860 the proposed change, the developer must include a written
861 request for comprehensive plan amendments that would be
862 necessitated by the development-of-regional-impact approvals
863 sought. That request must include data and analysis upon which
864 the applicable local government can determine whether to
865 transmit the comprehensive plan amendment pursuant to s.
866 163.3184.
867 3. The local government must advertise a public hearing on
868 the transmittal within 30 days after filing the application for
869 development approval or the proposed change and must make a
870 determination on the transmittal within 60 days after the
871 initial filing unless that time is extended by the developer.
872 4. If the local government approves the transmittal,
873 procedures set forth in s. 163.3184 ~~s. 163.3184(4)(b)-(d)~~ must
874 be followed.
875 5. Notwithstanding subsection (11) or subsection (19), the
876 local government may not hold a public hearing on the
877 application for development approval or the proposed change or
878 on the comprehensive plan amendments sooner than 30 days after
879 reviewing agency comments are due to the local government ~~from~~
880 ~~receipt of the response from the state land planning agency~~
881 pursuant to s. 163.3184 ~~s. 163.3184(4)(d)~~.
882 6. The local government must hear both the application for

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883 development approval or the proposed change and the
884 comprehensive plan amendments at the same hearing. However, the
885 local government must take action separately on the application
886 for development approval or the proposed change and on the
887 comprehensive plan amendments.
888 7. Thereafter, the appeal process for the local government
889 development order must follow the provisions of s. 380.07, and
890 the compliance process for the comprehensive plan amendments
891 must follow the provisions of s. 163.3184.
892 (19) SUBSTANTIAL DEVIATIONS.—
893 (e)1. Except for a development order rendered pursuant to
894 subsection (22) or subsection (25), a proposed change to a
895 development order that individually or cumulatively with any
896 previous change is less than any numerical criterion contained
897 in subparagraphs (b)1.-10. and does not exceed any other
898 criterion, or that involves an extension of the buildout date of
899 a development, or any phase thereof, of less than 5 years is not
900 subject to the public hearing requirements of subparagraph
901 (f)3., and is not subject to a determination pursuant to
902 subparagraph (f)5. Notice of the proposed change shall be made
903 to the regional planning council and the state land planning
904 agency. Such notice shall include a description of previous
905 individual changes made to the development, including changes
906 previously approved by the local government, and shall include
907 appropriate amendments to the development order.
908 2. The following changes, individually or cumulatively with
909 any previous changes, are not substantial deviations:
910 a. Changes in the name of the project, developer, owner, or
911 monitoring official.

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912 b. Changes to a setback that do not affect noise buffers,
913 environmental protection or mitigation areas, or archaeological
914 or historical resources.
915 c. Changes to minimum lot sizes.
916 d. Changes in the configuration of internal roads that do
917 not affect external access points.
918 e. Changes to the building design or orientation that stay
919 approximately within the approved area designated for such
920 building and parking lot, and which do not affect historical
921 buildings designated as significant by the Division of
922 Historical Resources of the Department of State.
923 f. Changes to increase the acreage in the development,
924 provided that no development is proposed on the acreage to be
925 added.
926 g. Changes to eliminate an approved land use, provided that
927 there are no additional regional impacts.
928 h. Changes required to conform to permits approved by any
929 federal, state, or regional permitting agency, provided that
930 these changes do not create additional regional impacts.
931 i. Any renovation or redevelopment of development within a
932 previously approved development of regional impact which does
933 not change land use or increase density or intensity of use.
934 j. Changes that modify boundaries and configuration of
935 areas described in subparagraph (b)11. due to science-based
936 refinement of such areas by survey, by habitat evaluation, by
937 other recognized assessment methodology, or by an environmental
938 assessment. In order for changes to qualify under this sub-
939 subparagraph, the survey, habitat evaluation, or assessment must
940 occur prior to the time a conservation easement protecting such

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941 lands is recorded and must not result in any net decrease in the
942 total acreage of the lands specifically set aside for permanent
943 preservation in the final development order.
944 k. Any other change which the state land planning agency,
945 in consultation with the regional planning council, agrees in
946 writing is similar in nature, impact, or character to the
947 changes enumerated in sub-subparagraphs a.-j. and which does not
948 create the likelihood of any additional regional impact.
949
950 This subsection does not require the filing of a notice of
951 proposed change but shall require an application to the local
952 government to amend the development order in accordance with the
953 local government's procedures for amendment of a development
954 order. In accordance with the local government's procedures,
955 including requirements for notice to the applicant and the
956 public, the local government shall either deny the application
957 for amendment or adopt an amendment to the development order
958 which approves the application with or without conditions.
959 Following adoption, the local government shall render to the
960 state land planning agency the amendment to the development
961 order. The state land planning agency may appeal, pursuant to s.
962 380.07(3), the amendment to the development order if the
963 amendment involves sub-subparagraph g., sub-subparagraph h.,
964 sub-subparagraph j., or sub-subparagraph k., and it believes the
965 change creates a reasonable likelihood of new or additional
966 regional impacts.
967 3. Except for the change authorized by sub-subparagraph
968 2.f., any addition of land not previously reviewed or any change
969 not specified in paragraph (b) or paragraph (c) shall be

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970 presumed to create a substantial deviation. This presumption may
971 be rebutted by clear and convincing evidence.
972 4. Any submittal of a proposed change to a previously
973 approved development shall include a description of individual
974 changes previously made to the development, including changes
975 previously approved by the local government. The local
976 government shall consider the previous and current proposed
977 changes in deciding whether such changes cumulatively constitute
978 a substantial deviation requiring further development-of-
979 regional-impact review.
980 5. The following changes to an approved development of
981 regional impact shall be presumed to create a substantial
982 deviation. Such presumption may be rebutted by clear and
983 convincing evidence.
984 a. A change proposed for 15 percent or more of the acreage
985 to a land use not previously approved in the development order.
986 Changes of less than 15 percent shall be presumed not to create
987 a substantial deviation.
988 b. Notwithstanding any provision of paragraph (b) to the
989 contrary, a proposed change consisting of simultaneous increases
990 and decreases of at least two of the uses within an authorized
991 multiuse development of regional impact which was originally
992 approved with three or more uses specified in s. 380.0651(3)(c)
993 and (d) ~~s. 380.0651(3)(c), (d), and (e)~~ and residential use.
994 6. If a local government agrees to a proposed change, a
995 change in the transportation proportionate share calculation and
996 mitigation plan in an adopted development order as a result of
997 recalculation of the proportionate share contribution meeting
998 the requirements of s. 163.3180(5)(h) in effect as of the date

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999 of such change shall be presumed not to create a substantial
1000 deviation. For purposes of this subsection, the proposed change
1001 in the proportionate share calculation or mitigation plan shall
1002 not be considered an additional regional transportation impact.
1003 (24) STATUTORY EXEMPTIONS.—
1004 (a) Any proposed hospital is exempt from this section.
1005 (b) Any proposed electrical transmission line or electrical
1006 power plant is exempt from this section.
1007 (c) Any proposed addition to an existing sports facility
1008 complex is exempt from this section if the addition meets the
1009 following characteristics:
1010 1. It would not operate concurrently with the scheduled
1011 hours of operation of the existing facility.
1012 2. Its seating capacity would be no more than 75 percent of
1013 the capacity of the existing facility.
1014 3. The sports facility complex property is owned by a
1015 public body before July 1, 1983.
1016
1017 This exemption does not apply to any pari-mutuel facility.
1018 (d) Any proposed addition or cumulative additions
1019 subsequent to July 1, 1988, to an existing sports facility
1020 complex owned by a state university is exempt if the increased
1021 seating capacity of the complex is no more than 30 percent of
1022 the capacity of the existing facility.
1023 (e) Any addition of permanent seats or parking spaces for
1024 an existing sports facility located on property owned by a
1025 public body before July 1, 1973, is exempt from this section if
1026 future additions do not expand existing permanent seating or
1027 parking capacity more than 15 percent annually in excess of the

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1028 prior year's capacity.
1029 (f) Any increase in the seating capacity of an existing
1030 sports facility having a permanent seating capacity of at least
1031 50,000 spectators is exempt from this section, provided that
1032 such an increase does not increase permanent seating capacity by
1033 more than 5 percent per year and not to exceed a total of 10
1034 percent in any 5-year period, and provided that the sports
1035 facility notifies the appropriate local government within which
1036 the facility is located of the increase at least 6 months before
1037 the initial use of the increased seating, in order to permit the
1038 appropriate local government to develop a traffic management
1039 plan for the traffic generated by the increase. Any traffic
1040 management plan shall be consistent with the local comprehensive
1041 plan, the regional policy plan, and the state comprehensive
1042 plan.
1043 (g) Any expansion in the permanent seating capacity or
1044 additional improved parking facilities of an existing sports
1045 facility is exempt from this section, if the following
1046 conditions exist:
1047 1.a. The sports facility had a permanent seating capacity
1048 on January 1, 1991, of at least 41,000 spectator seats;
1049 b. The sum of such expansions in permanent seating capacity
1050 does not exceed a total of 10 percent in any 5-year period and
1051 does not exceed a cumulative total of 20 percent for any such
1052 expansions; or
1053 c. The increase in additional improved parking facilities
1054 is a one-time addition and does not exceed 3,500 parking spaces
1055 serving the sports facility; and
1056 2. The local government having jurisdiction of the sports

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1057 facility includes in the development order or development permit
1058 approving such expansion under this paragraph a finding of fact
1059 that the proposed expansion is consistent with the
1060 transportation, water, sewer and stormwater drainage provisions
1061 of the approved local comprehensive plan and local land
1062 development regulations relating to those provisions.
1063
1064 Any owner or developer who intends to rely on this statutory
1065 exemption shall provide to the department a copy of the local
1066 government application for a development permit. Within 45 days
1067 after receipt of the application, the department shall render to
1068 the local government an advisory and nonbinding opinion, in
1069 writing, stating whether, in the department's opinion, the
1070 prescribed conditions exist for an exemption under this
1071 paragraph. The local government shall render the development
1072 order approving each such expansion to the department. The
1073 owner, developer, or department may appeal the local government
1074 development order pursuant to s. 380.07, within 45 days after
1075 the order is rendered. The scope of review shall be limited to
1076 the determination of whether the conditions prescribed in this
1077 paragraph exist. If any sports facility expansion undergoes
1078 development-of-regional-impact review, all previous expansions
1079 which were exempt under this paragraph shall be included in the
1080 development-of-regional-impact review.
1081 (h) Expansion to port harbors, spoil disposal sites,
1082 navigation channels, turning basins, harbor berths, and other
1083 related inwater harbor facilities of ports listed in s.
1084 403.021(9)(b), port transportation facilities and projects
1085 listed in s. 311.07(3)(b), and intermodal transportation

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1086 facilities identified pursuant to s. 311.09(3) are exempt from
1087 this section when such expansions, projects, or facilities are
1088 consistent with comprehensive master plans that are in
1089 compliance with s. 163.3178.
1090 (i) Any proposed facility for the storage of any petroleum
1091 product or any expansion of an existing facility is exempt from
1092 this section.
1093 (j) Any renovation or redevelopment within the same land
1094 parcel which does not change land use or increase density or
1095 intensity of use.
1096 (k) Waterport and marina development, including dry storage
1097 facilities, are exempt from this section.
1098 (l) Any proposed development within an urban service
1099 boundary established under s. 163.3177(14), Florida Statutes
1100 (2010), which is not otherwise exempt pursuant to subsection
1101 (29), is exempt from this section if the local government having
1102 jurisdiction over the area where the development is proposed has
1103 adopted the urban service boundary and has entered into a
1104 binding agreement with jurisdictions that would be impacted and
1105 with the Department of Transportation regarding the mitigation
1106 of impacts on state and regional transportation facilities.
1107 (m) Any proposed development within a rural land
1108 stewardship area created under s. 163.3248.
1109 (n) The establishment, relocation, or expansion of any
1110 military installation as defined in s. 163.3175, is exempt from
1111 this section.
1112 (o) Any self-storage warehousing that does not allow retail
1113 or other services is exempt from this section.
1114 (p) Any proposed nursing home or assisted living facility

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1115 is exempt from this section.
1116 (q) Any development identified in an airport master plan
1117 and adopted into the comprehensive plan pursuant to s.
1118 163.3177(6)(b)4. ~~s. 163.3177(6)(k)~~ is exempt from this section.
1119 (r) Any development identified in a campus master plan and
1120 adopted pursuant to s. 1013.30 is exempt from this section.
1121 (s) Any development in a detailed specific area plan which
1122 is prepared and adopted pursuant to s. 163.3245 is exempt from
1123 this section.
1124 (t) Any proposed solid mineral mine and any proposed
1125 addition to, expansion of, or change to an existing solid
1126 mineral mine is exempt from this section. A mine owner will
1127 enter into a binding agreement with the Department of
1128 Transportation to mitigate impacts to strategic intermodal
1129 system facilities pursuant to the transportation thresholds in
1130 subsection (19) or rule 9J-2.045(6), Florida Administrative
1131 Code. Proposed changes to any previously approved solid mineral
1132 mine development-of-regional-impact development orders having
1133 vested rights are is not subject to further review or approval
1134 as a development-of-regional-impact or notice-of-proposed-change
1135 review or approval pursuant to subsection (19), except for those
1136 applications pending as of July 1, 2011, which shall be governed
1137 by s. 380.115(2). Notwithstanding the foregoing, however,
1138 pursuant to s. 380.115(1), previously approved solid mineral
1139 mine development-of-regional-impact development orders shall
1140 continue to enjoy vested rights and continue to be effective
1141 unless rescinded by the developer. All local government
1142 regulations of proposed solid mineral mines shall be applicable
1143 to any new solid mineral mine or to any proposed addition to,

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1144 expansion of, or change to an existing solid mineral mine.
1145 (u) Notwithstanding any provisions in an agreement with or
1146 among a local government, regional agency, or the state land
1147 planning agency or in a local government's comprehensive plan to
1148 the contrary, a project no longer subject to development-of-
1149 regional-impact review under revised thresholds is not required
1150 to undergo such review.
1151 (v) Any development within a county with a research and
1152 education authority created by special act and that is also
1153 within a research and development park that is operated or
1154 managed by a research and development authority pursuant to part
1155 V of chapter 159 is exempt from this section.
1156 (w) Any development in an energy economic zone designated
1157 pursuant to s. 377.809 is exempt from this section upon approval
1158 by its local governing body.
1159
1160 If a use is exempt from review as a development of regional
1161 impact under paragraphs (a)-(u), but will be part of a larger
1162 project that is subject to review as a development of regional
1163 impact, the impact of the exempt use must be included in the
1164 review of the larger project, unless such exempt use involves a
1165 development of regional impact that includes a landowner,
1166 tenant, or user that has entered into a funding agreement with
1167 the Department of Economic Opportunity under the Innovation
1168 Incentive Program and the agreement contemplates a state award
1169 of at least $50 million.
1170 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
1171 (b) If a municipality that does not qualify as a dense
1172 urban land area pursuant to paragraph (a) ~~s. 163.3164~~ designates

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1173 any of the following areas in its comprehensive plan, any
1174 proposed development within the designated area is exempt from
1175 the development-of-regional-impact process:
1176 1. Urban infill as defined in s. 163.3164;
1177 2. Community redevelopment areas as defined in s. 163.340;
1178 3. Downtown revitalization areas as defined in s. 163.3164;
1179 4. Urban infill and redevelopment under s. 163.2517; or
1180 5. Urban service areas as defined in s. 163.3164 or areas
1181 within a designated urban service boundary under s.
1182 163.3177(14).
1183 Section 18. Subsection (1) of section 380.115, Florida
1184 Statutes, is amended to read:
1185 380.115 Vested rights and duties; effect of size reduction,
1186 changes in guidelines and standards.—
1187 (1) A change in a development-of-regional-impact guideline
1188 and standard does not abridge or modify any vested or other
1189 right or any duty or obligation pursuant to any development
1190 order or agreement that is applicable to a development of
1191 regional impact. A development that has received a development-
1192 of-regional-impact development order pursuant to s. 380.06, but
1193 is no longer required to undergo development-of-regional-impact
1194 review by operation of a change in the guidelines and standards
1195 or has reduced its size below the thresholds in s. 380.0651, or
1196 a development that is exempt pursuant to s. 380.06(24) or s.
1197 380.06(29) shall be governed by the following procedures:
1198 (a) The development shall continue to be governed by the
1199 development-of-regional-impact development order and may be
1200 completed in reliance upon and pursuant to the development order
1201 unless the developer or landowner has followed the procedures

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1202 for rescission in paragraph (b). Any proposed changes to those
1203 developments which continue to be governed by a development
1204 order shall be approved pursuant to s. 380.06(19) as it existed
1205 prior to a change in the development-of-regional-impact
1206 guidelines and standards, except that all percentage criteria
1207 shall be doubled and all other criteria shall be increased by 10
1208 percent. The development-of-regional-impact development order
1209 may be enforced by the local government as provided by ss.
1210 380.06(17) and 380.11.
1211 (b) If requested by the developer or landowner, the
1212 development-of-regional-impact development order shall be
1213 rescinded by the local government having jurisdiction upon a
1214 showing that all required mitigation related to the amount of
1215 development that existed on the date of rescission has been
1216 completed.
1217 Section 19. Section 1013.33, Florida Statutes, is amended
1218 to read:
1219 1013.33 Coordination of planning with local governing
1220 bodies.—
1221 (1) It is the policy of this state to require the
1222 coordination of planning between boards and local governing
1223 bodies to ensure that plans for the construction and opening of
1224 public educational facilities are facilitated and coordinated in
1225 time and place with plans for residential development,
1226 concurrently with other necessary services. Such planning shall
1227 include the integration of the educational facilities plan and
1228 applicable policies and procedures of a board with the local
1229 comprehensive plan and land development regulations of local
1230 governments. The planning must include the consideration of

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1231 allowing students to attend the school located nearest their
1232 homes when a new housing development is constructed near a
1233 county boundary and it is more feasible to transport the
1234 students a short distance to an existing facility in an adjacent
1235 county than to construct a new facility or transport students
1236 longer distances in their county of residence. The planning must
1237 also consider the effects of the location of public education
1238 facilities, including the feasibility of keeping central city
1239 facilities viable, in order to encourage central city
1240 redevelopment and the efficient use of infrastructure and to
1241 discourage uncontrolled urban sprawl. In addition, all parties
1242 to the planning process must consult with state and local road
1243 departments to assist in implementing the Safe Paths to Schools
1244 program administered by the Department of Transportation.
1245 (2)~~(a)~~ The school board, county, and nonexempt
1246 municipalities located within the geographic area of a school
1247 district shall enter into an interlocal agreement according to
1248 s. 163.31777, which ~~that~~ jointly establishes the specific ways
1249 in which the plans and processes of the district school board
1250 and the local governments are to be coordinated. ~~The interlocal~~
1251 ~~agreements shall be submitted to the state land planning agency~~
1252 ~~and the Office of Educational Facilities in accordance with a~~
1253 ~~schedule published by the state land planning agency.~~
1254 ~~(b) The schedule must establish staggered due dates for~~
1255 ~~submission of interlocal agreements that are executed by both~~
1256 ~~the local government and district school board, commencing on~~
1257 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
1258 ~~the same date for all governmental entities within a school~~
1259 ~~district. However, if the county where the school district is~~

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1260 ~~located contains more than 20 municipalities, the state land~~
1261 ~~planning agency may establish staggered due dates for the~~
1262 ~~submission of interlocal agreements by these municipalities. The~~
1263 ~~schedule must begin with those areas where both the number of~~
1264 ~~districtwide capital-outlay full-time-equivalent students equals~~
1265 ~~80 percent or more of the current year's school capacity and the~~
1266 ~~projected 5-year student growth rate is 1,000 or greater, or~~
1267 ~~where the projected 5-year student growth rate is 10 percent or~~
1268 ~~greater.~~
1269 ~~(c) If the student population has declined over the 5-year~~
1270 ~~period preceding the due date for submittal of an interlocal~~
1271 ~~agreement by the local government and the district school board,~~
1272 ~~the local government and district school board may petition the~~
1273 ~~state land planning agency for a waiver of one or more of the~~
1274 ~~requirements of subsection (3). The waiver must be granted if~~
1275 ~~the procedures called for in subsection (3) are unnecessary~~
1276 ~~because of the school district's declining school age~~
1277 ~~population, considering the district's 5-year work program~~
1278 ~~prepared pursuant to s. 1013.35. The state land planning agency~~
1279 ~~may modify or revoke the waiver upon a finding that the~~
1280 ~~conditions upon which the waiver was granted no longer exist.~~
1281 ~~The district school board and local governments must submit an~~
1282 ~~interlocal agreement within 1 year after notification by the~~
1283 ~~state land planning agency that the conditions for a waiver no~~
1284 ~~longer exist.~~
1285 ~~(d) Interlocal agreements between local governments and~~
1286 ~~district school boards adopted pursuant to s. 163.3177 before~~
1287 ~~the effective date of subsections (2)-(7) must be updated and~~
1288 ~~executed pursuant to the requirements of subsections (2)-(7), if~~

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1289 ~~necessary. Amendments to interlocal agreements adopted pursuant~~
1290 ~~to subsections (2)-(7) must be submitted to the state land~~
1291 ~~planning agency within 30 days after execution by the parties~~
1292 ~~for review consistent with subsections (3) and (4). Local~~
1293 ~~governments and the district school board in each school~~
1294 ~~district are encouraged to adopt a single interlocal agreement~~
1295 ~~in which all join as parties. The state land planning agency~~
1296 ~~shall assemble and make available model interlocal agreements~~
1297 ~~meeting the requirements of subsections (2)-(7) and shall notify~~
1298 ~~local governments and, jointly with the Department of Education,~~
1299 ~~the district school boards of the requirements of subsections~~
1300 ~~(2)-(7), the dates for compliance, and the sanctions for~~
1301 ~~noncompliance. The state land planning agency shall be available~~
1302 ~~to informally review proposed interlocal agreements. If the~~
1303 ~~state land planning agency has not received a proposed~~
1304 ~~interlocal agreement for informal review, the state land~~
1305 ~~planning agency shall, at least 60 days before the deadline for~~
1306 ~~submission of the executed agreement, renotify the local~~
1307 ~~government and the district school board of the upcoming~~
1308 ~~deadline and the potential for sanctions.~~
1309 ~~(3) At a minimum, the interlocal agreement must address~~
1310 ~~interlocal agreement requirements in s. 163.31777 and, if~~
1311 ~~applicable, s. 163.3180(6), and must address the following~~
1312 ~~issues:~~
1313 ~~(a) A process by which each local government and the~~
1314 ~~district school board agree and base their plans on consistent~~
1315 ~~projections of the amount, type, and distribution of population~~
1316 ~~growth and student enrollment. The geographic distribution of~~
1317 ~~jurisdiction-wide growth forecasts is a major objective of the~~

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1318 ~~process.~~
1319 ~~(b) A process to coordinate and share information relating~~
1320 ~~to existing and planned public school facilities, including~~
1321 ~~school renovations and closures, and local government plans for~~
1322 ~~development and redevelopment.~~
1323 ~~(c) Participation by affected local governments with the~~
1324 ~~district school board in the process of evaluating potential~~
1325 ~~school closures, significant renovations to existing schools,~~
1326 ~~and new school site selection before land acquisition. Local~~
1327 ~~governments shall advise the district school board as to the~~
1328 ~~consistency of the proposed closure, renovation, or new site~~
1329 ~~with the local comprehensive plan, including appropriate~~
1330 ~~circumstances and criteria under which a district school board~~
1331 ~~may request an amendment to the comprehensive plan for school~~
1332 ~~siting.~~
1333 ~~(d) A process for determining the need for and timing of~~
1334 ~~onsite and offsite improvements to support new construction,~~
1335 ~~proposed expansion, or redevelopment of existing schools. The~~
1336 ~~process shall address identification of the party or parties~~
1337 ~~responsible for the improvements.~~
1338 ~~(e) A process for the school board to inform the local~~
1339 ~~government regarding the effect of comprehensive plan amendments~~
1340 ~~on school capacity. The capacity reporting must be consistent~~
1341 ~~with laws and rules regarding measurement of school facility~~
1342 ~~capacity and must also identify how the district school board~~
1343 ~~will meet the public school demand based on the facilities work~~
1344 ~~program adopted pursuant to s. 1013.35.~~
1345 ~~(f) Participation of the local governments in the~~
1346 ~~preparation of the annual update to the school board's 5-year~~

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1347 ~~district facilities work program and educational plant survey~~
1348 ~~prepared pursuant to s. 1013.35.~~
1349 ~~(g) A process for determining where and how joint use of~~
1350 ~~either school board or local government facilities can be shared~~
1351 ~~for mutual benefit and efficiency.~~
1352 ~~(h) A procedure for the resolution of disputes between the~~
1353 ~~district school board and local governments, which may include~~
1354 ~~the dispute resolution processes contained in chapters 164 and~~
1355 ~~186.~~
1356 ~~(i) An oversight process, including an opportunity for~~
1357 ~~public participation, for the implementation of the interlocal~~
1358 ~~agreement.~~
1359 ~~(4)(a) The Office of Educational Facilities shall submit~~
1360 ~~any comments or concerns regarding the executed interlocal~~
1361 ~~agreement to the state land planning agency within 30 days after~~
1362 ~~receipt of the executed interlocal agreement. The state land~~
1363 ~~planning agency shall review the executed interlocal agreement~~
1364 ~~to determine whether it is consistent with the requirements of~~
1365 ~~subsection (3), the adopted local government comprehensive plan,~~
1366 ~~and other requirements of law. Within 60 days after receipt of~~
1367 ~~an executed interlocal agreement, the state land planning agency~~
1368 ~~shall publish a notice of intent in the Florida Administrative~~
1369 ~~Weekly and shall post a copy of the notice on the agency's~~
1370 ~~Internet site. The notice of intent must state that the~~
1371 ~~interlocal agreement is consistent or inconsistent with the~~
1372 ~~requirements of subsection (3) and this subsection as~~
1373 ~~appropriate.~~
1374 ~~(b) The state land planning agency's notice is subject to~~
1375 ~~challenge under chapter 120; however, an affected person, as~~

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1376 ~~defined in s. 163.3184(1)(a), has standing to initiate the~~
1377 ~~administrative proceeding, and this proceeding is the sole means~~
1378 ~~available to challenge the consistency of an interlocal~~
1379 ~~agreement required by this section with the criteria contained~~
1380 ~~in subsection (3) and this subsection. In order to have~~
1381 ~~standing, each person must have submitted oral or written~~
1382 ~~comments, recommendations, or objections to the local government~~
1383 ~~or the school board before the adoption of the interlocal~~
1384 ~~agreement by the district school board and local government. The~~
1385 ~~district school board and local governments are parties to any~~
1386 ~~such proceeding. In this proceeding, when the state land~~
1387 ~~planning agency finds the interlocal agreement to be consistent~~
1388 ~~with the criteria in subsection (3) and this subsection, the~~
1389 ~~interlocal agreement must be determined to be consistent with~~
1390 ~~subsection (3) and this subsection if the local government's and~~
1391 ~~school board's determination of consistency is fairly debatable.~~
1392 ~~When the state land planning agency finds the interlocal~~
1393 ~~agreement to be inconsistent with the requirements of subsection~~
1394 ~~(3) and this subsection, the local government's and school~~
1395 ~~board's determination of consistency shall be sustained unless~~
1396 ~~it is shown by a preponderance of the evidence that the~~
1397 ~~interlocal agreement is inconsistent.~~
1398 ~~(c) If the state land planning agency enters a final order~~
1399 ~~that finds that the interlocal agreement is inconsistent with~~
1400 ~~the requirements of subsection (3) or this subsection, the state~~
1401 ~~land planning agency shall forward it to the Administration~~
1402 ~~Commission, which may impose sanctions against the local~~
1403 ~~government pursuant to s. 163.3184(11) and may impose sanctions~~
1404 ~~against the district school board by directing the Department of~~

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1405 ~~Education to withhold an equivalent amount of funds for school~~
1406 ~~construction available pursuant to ss. 1013.65, 1013.68,~~
1407 ~~1013.70, and 1013.72.~~
1408 ~~(5) If an executed interlocal agreement is not timely~~
1409 ~~submitted to the state land planning agency for review, the~~
1410 ~~state land planning agency shall, within 15 working days after~~
1411 ~~the deadline for submittal, issue to the local government and~~
1412 ~~the district school board a notice to show cause why sanctions~~
1413 ~~should not be imposed for failure to submit an executed~~
1414 ~~interlocal agreement by the deadline established by the agency.~~
1415 ~~The agency shall forward the notice and the responses to the~~
1416 ~~Administration Commission, which may enter a final order citing~~
1417 ~~the failure to comply and imposing sanctions against the local~~
1418 ~~government and district school board by directing the~~
1419 ~~appropriate agencies to withhold at least 5 percent of state~~
1420 ~~funds pursuant to s. 163.3184(11) and by directing the~~
1421 ~~Department of Education to withhold from the district school~~
1422 ~~board at least 5 percent of funds for school construction~~
1423 ~~available pursuant to ss. 1013.65, 1013.68, 1013.70, and~~
1424 ~~1013.72.~~
1425 ~~(6) Any local government transmitting a public school~~
1426 ~~element to implement school concurrency pursuant to the~~
1427 ~~requirements of s. 163.3180 before the effective date of this~~
1428 ~~section is not required to amend the element or any interlocal~~
1429 ~~agreement to conform with the provisions of subsections (2)-(6)~~
1430 ~~if the element is adopted prior to or within 1 year after the~~
1431 ~~effective date of subsections (2)-(6) and remains in effect.~~
1432 (3) ~~(7)~~ A board and the local governing body must share and
1433 coordinate information related to existing and planned school

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1434 facilities; proposals for development, redevelopment, or
1435 additional development; and infrastructure required to support
1436 the school facilities, concurrent with proposed development. A
1437 school board shall use information produced by the demographic,
1438 revenue, and education estimating conferences pursuant to s.
1439 216.136 when preparing the district educational facilities plan
1440 pursuant to s. 1013.35, as modified and agreed to by the local
1441 governments, when provided by interlocal agreement, and the
1442 Office of Educational Facilities, in consideration of local
1443 governments' population projections, to ensure that the district
1444 educational facilities plan not only reflects enrollment
1445 projections but also considers applicable municipal and county
1446 growth and development projections. The projections must be
1447 apportioned geographically with assistance from the local
1448 governments using local government trend data and the school
1449 district student enrollment data. A school board is precluded
1450 from siting a new school in a jurisdiction where the school
1451 board has failed to provide the annual educational facilities
1452 plan for the prior year required pursuant to s. 1013.35 unless
1453 the failure is corrected.
1454 (4) ~~(8)~~ The location of educational facilities shall be
1455 consistent with the comprehensive plan of the appropriate local
1456 governing body developed under part II of chapter 163 and
1457 consistent with the plan's implementing land development
1458 regulations.
1459 (5) ~~(9)~~ To improve coordination relative to potential
1460 educational facility sites, a board shall provide written notice
1461 to the local government that has regulatory authority over the
1462 use of the land consistent with an interlocal agreement entered

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1463 pursuant to s. 163.31777 ~~subsections (2)-(6)~~ at least 60 days
1464 before ~~prior to~~ acquiring or leasing property that may be used
1465 for a new public educational facility. The local government,
1466 upon receipt of this notice, shall notify the board within 45
1467 days if the site proposed for acquisition or lease is consistent
1468 with the land use categories and policies of the local
1469 government's comprehensive plan. This preliminary notice does
1470 not constitute the local government's determination of
1471 consistency pursuant to subsection (6) ~~(10)~~.
1472 (6) ~~(10)~~ As early in the design phase as feasible and
1473 consistent with an interlocal agreement entered pursuant to s.
1474 163.31777 ~~subsections (2)-(6)~~, but no later than 90 days before
1475 commencing construction, the district school board shall in
1476 writing request a determination of consistency with the local
1477 government's comprehensive plan. The local governing body that
1478 regulates the use of land shall determine, in writing within 45
1479 days after receiving the necessary information and a school
1480 board's request for a determination, whether a proposed
1481 educational facility is consistent with the local comprehensive
1482 plan and consistent with local land development regulations. If
1483 the determination is affirmative, school construction may
1484 commence and further local government approvals are not
1485 required, except as provided in this section. Failure of the
1486 local governing body to make a determination in writing within
1487 90 days after a district school board's request for a
1488 determination of consistency shall be considered an approval of
1489 the district school board's application. Campus master plans and
1490 development agreements must comply with the provisions of s.
1491 1013.30.

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1492 (7) ~~(11)~~ A local governing body may not deny the site
1493 applicant based on adequacy of the site plan as it relates
1494 solely to the needs of the school. If the site is consistent
1495 with the comprehensive plan's land use policies and categories
1496 in which public schools are identified as allowable uses, the
1497 local government may not deny the application but it may impose
1498 reasonable development standards and conditions in accordance
1499 with s. 1013.51(1) and consider the site plan and its adequacy
1500 as it relates to environmental concerns, health, safety and
1501 welfare, and effects on adjacent property. Standards and
1502 conditions may not be imposed which conflict with those
1503 established in this chapter or the Florida Building Code, unless
1504 mutually agreed and consistent with the interlocal agreement
1505 required by s. 163.31777 ~~subsections (2)-(6)~~.
1506 (8) ~~(12)~~ This section does not prohibit a local governing
1507 body and district school board from agreeing and establishing an
1508 alternative process for reviewing a proposed educational
1509 facility and site plan, and offsite impacts, pursuant to an
1510 interlocal agreement adopted in accordance with s. 163.31777
1511 ~~subsections (2)-(6)~~.
1512 (9) ~~(13)~~ Existing schools shall be considered consistent
1513 with the applicable local government comprehensive plan adopted
1514 under part II of chapter 163. If a board submits an application
1515 to expand an existing school site, the local governing body may
1516 impose reasonable development standards and conditions on the
1517 expansion only, and in a manner consistent with s. 1013.51(1).
1518 Standards and conditions may not be imposed which conflict with
1519 those established in this chapter or the Florida Building Code,
1520 unless mutually agreed. Local government review or approval is

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1521 not required for:
1522 (a) The placement of temporary or portable classroom
1523 facilities; or
1524 (b) Proposed renovation or construction on existing school
1525 sites, with the exception of construction that changes the
1526 primary use of a facility, includes stadiums, or results in a
1527 greater than 5 percent increase in student capacity, or as
1528 mutually agreed upon, pursuant to an interlocal agreement
1529 adopted in accordance with s. 163.31777 ~~subsections (2)-(6)~~.
1530 Section 20. Paragraph (b) of subsection (2) of section
1531 1013.35, Florida Statutes, is amended to read:
1532 1013.35 School district educational facilities plan;
1533 definitions; preparation, adoption, and amendment; long-term
1534 work programs.—
1535 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
1536 FACILITIES PLAN.—
1537 (b) The plan must also include a financially feasible
1538 district facilities work program for a 5-year period. The work
1539 program must include:
1540 1. A schedule of major repair and renovation projects
1541 necessary to maintain the educational facilities and ancillary
1542 facilities of the district.
1543 2. A schedule of capital outlay projects necessary to
1544 ensure the availability of satisfactory student stations for the
1545 projected student enrollment in K-12 programs. This schedule
1546 shall consider:
1547 a. The locations, capacities, and planned utilization rates
1548 of current educational facilities of the district. The capacity
1549 of existing satisfactory facilities, as reported in the Florida

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1550 Inventory of School Houses must be compared to the capital
1551 outlay full-time-equivalent student enrollment as determined by
1552 the department, including all enrollment used in the calculation
1553 of the distribution formula in s. 1013.64.
1554 b. The proposed locations of planned facilities, whether
1555 those locations are consistent with the comprehensive plans of
1556 all affected local governments, and recommendations for
1557 infrastructure and other improvements to land adjacent to
1558 existing facilities. The provisions of ss. 1013.33(6), (7), and
1559 (8) ~~ss. 1013.33(10), (11), and (12)~~ and 1013.36 must be
1560 addressed for new facilities planned within the first 3 years of
1561 the work plan, as appropriate.
1562 c. Plans for the use and location of relocatable
1563 facilities, leased facilities, and charter school facilities.
1564 d. Plans for multitrack scheduling, grade level
1565 organization, block scheduling, or other alternatives that
1566 reduce the need for additional permanent student stations.
1567 e. Information concerning average class size and
1568 utilization rate by grade level within the district which will
1569 result if the tentative district facilities work program is
1570 fully implemented.
1571 f. The number and percentage of district students planned
1572 to be educated in relocatable facilities during each year of the
1573 tentative district facilities work program. For determining
1574 future needs, student capacity may not be assigned to any
1575 relocatable classroom that is scheduled for elimination or
1576 replacement with a permanent educational facility in the current
1577 year of the adopted district educational facilities plan and in
1578 the district facilities work program adopted under this section.

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1579 Those relocatable classrooms clearly identified and scheduled
1580 for replacement in a school-board-adopted, financially feasible,
1581 5-year district facilities work program shall be counted at zero
1582 capacity at the time the work program is adopted and approved by
1583 the school board. However, if the district facilities work
1584 program is changed and the relocatable classrooms are not
1585 replaced as scheduled in the work program, the classrooms must
1586 be reentered into the system and be counted at actual capacity.
1587 Relocatable classrooms may not be perpetually added to the work
1588 program or continually extended for purposes of circumventing
1589 this section. All relocatable classrooms not identified and
1590 scheduled for replacement, including those owned, lease-
1591 purchased, or leased by the school district, must be counted at
1592 actual student capacity. The district educational facilities
1593 plan must identify the number of relocatable student stations
1594 scheduled for replacement during the 5-year survey period and
1595 the total dollar amount needed for that replacement.
1596 g. Plans for the closure of any school, including plans for
1597 disposition of the facility or usage of facility space, and
1598 anticipated revenues.
1599 h. Projects for which capital outlay and debt service funds
1600 accruing under s. 9(d), Art. XII of the State Constitution are
1601 to be used shall be identified separately in priority order on a
1602 project priority list within the district facilities work
1603 program.
1604 3. The projected cost for each project identified in the
1605 district facilities work program. For proposed projects for new
1606 student stations, a schedule shall be prepared comparing the
1607 planned cost and square footage for each new student station, by

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1608 elementary, middle, and high school levels, to the low, average,
1609 and high cost of facilities constructed throughout the state
1610 during the most recent fiscal year for which data is available
1611 from the Department of Education.
1612 4. A schedule of estimated capital outlay revenues from
1613 each currently approved source which is estimated to be
1614 available for expenditure on the projects included in the
1615 district facilities work program.
1616 5. A schedule indicating which projects included in the
1617 district facilities work program will be funded from current
1618 revenues projected in subparagraph 4.
1619 6. A schedule of options for the generation of additional
1620 revenues by the district for expenditure on projects identified
1621 in the district facilities work program which are not funded
1622 under subparagraph 5. Additional anticipated revenues may
1623 include effort index grants, SIT Program awards, and Classrooms
1624 First funds.
1625 Section 21. Subsections (3), (5), (6), (7), (8), (9), (10),
1626 and (11) of section 1013.351, Florida Statutes, are amended to
1627 read:
1628 1013.351 Coordination of planning between the Florida
1629 School for the Deaf and the Blind and local governing bodies.—
1630 (3) The board of trustees and the municipality in which the
1631 school is located may enter into an interlocal agreement to
1632 establish the specific ways in which the plans and processes of
1633 the board of trustees and the local government are to be
1634 coordinated. ~~If the school and local government enter into an~~
1635 ~~interlocal agreement, the agreement must be submitted to the~~
1636 ~~state land planning agency and the Office of Educational~~

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1637 ~~Facilities.~~
1638 ~~(5)(a) The Office of Educational Facilities shall submit~~
1639 ~~any comments or concerns regarding the executed interlocal~~
1640 ~~agreements to the state land planning agency no later than 30~~
1641 ~~days after receipt of the executed interlocal agreements. The~~
1642 ~~state land planning agency shall review the executed interlocal~~
1643 ~~agreements to determine whether they are consistent with the~~
1644 ~~requirements of subsection (4), the adopted local government~~
1645 ~~comprehensive plans, and other requirements of law. Not later~~
1646 ~~than 60 days after receipt of an executed interlocal agreement,~~
1647 ~~the state land planning agency shall publish a notice of intent~~
1648 ~~in the Florida Administrative Weekly. The notice of intent must~~
1649 ~~state that the interlocal agreement is consistent or~~
1650 ~~inconsistent with the requirements of subsection (4) and this~~
1651 ~~subsection as appropriate.~~
1652 ~~(b)1. The state land planning agency's notice is subject to~~
1653 ~~challenge under chapter 120. However, an affected person, as~~
1654 ~~defined in s. 163.3184, has standing to initiate the~~
1655 ~~administrative proceeding, and this proceeding is the sole means~~
1656 ~~available to challenge the consistency of an interlocal~~
1657 ~~agreement with the criteria contained in subsection (4) and this~~
1658 ~~subsection. In order to have standing, a person must have~~
1659 ~~submitted oral or written comments, recommendations, or~~
1660 ~~objections to the appropriate local government or the board of~~
1661 ~~trustees before the adoption of the interlocal agreement by the~~
1662 ~~board of trustees and local government. The board of trustees~~
1663 ~~and the appropriate local government are parties to any such~~
1664 ~~proceeding.~~
1665 ~~2. In the administrative proceeding, if the state land~~

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1666 ~~planning agency finds the interlocal agreement to be consistent~~
1667 ~~with the criteria in subsection (4) and this subsection, the~~
1668 ~~interlocal agreement must be determined to be consistent with~~
1669 ~~subsection (4) and this subsection if the local government and~~
1670 ~~board of trustees is fairly debatable.~~
1671 ~~3. If the state land planning agency finds the interlocal~~
1672 ~~agreement to be inconsistent with the requirements of subsection~~
1673 ~~(4) and this subsection, the determination of consistency by the~~
1674 ~~local government and board of trustees shall be sustained unless~~
1675 ~~it is shown by a preponderance of the evidence that the~~
1676 ~~interlocal agreement is inconsistent.~~
1677 ~~(c) If the state land planning agency enters a final order~~
1678 ~~that finds that the interlocal agreement is inconsistent with~~
1679 ~~the requirements of subsection (4) or this subsection, the state~~
1680 ~~land planning agency shall identify the issues in dispute and~~
1681 ~~submit the matter to the Administration Commission for final~~
1682 ~~action. The report to the Administration Commission must list~~
1683 ~~each issue in dispute, describe the nature and basis for each~~
1684 ~~dispute, identify alternative resolutions of each dispute, and~~
1685 ~~make recommendations. After receiving the report from the state~~
1686 ~~land planning agency, the Administration Commission shall take~~
1687 ~~action to resolve the issues. In deciding upon a proper~~
1688 ~~resolution, the Administration Commission shall consider the~~
1689 ~~nature of the issues in dispute, the compliance of the parties~~
1690 ~~with this section, the extent of the conflict between the~~
1691 ~~parties, the comparative hardships, and the public interest~~
1692 ~~involved. In resolving the matter, the Administration Commission~~
1693 ~~may prescribe, by order, the contents of the interlocal~~
1694 ~~agreement which shall be executed by the board of trustees and~~

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1695 ~~the local government.~~
1696 (5)~~(6)~~ An interlocal agreement may be amended under
1697 subsections (2)-(4) ~~(2)-(5)~~:
1698 (a) In conjunction with updates to the school's educational
1699 plant survey prepared under s. 1013.31; or
1700 (b) If either party delays by more than 12 months the
1701 construction of a capital improvement identified in the
1702 agreement.
1703 (6)~~(7)~~ This section does not prohibit a local governing
1704 body and the board of trustees from agreeing and establishing an
1705 alternative process for reviewing proposed expansions to the
1706 school's campus and offsite impacts, under the interlocal
1707 agreement adopted in accordance with subsections (2)-(5) ~~(2)-~~
1708 ~~(6)~~.
1709 (7)~~(8)~~ School facilities within the geographic area or the
1710 campus of the school as it existed on or before January 1, 1998,
1711 are consistent with the local government's comprehensive plan
1712 developed under part II of chapter 163 and consistent with the
1713 plan's implementing land development regulations.
1714 (8)~~(9)~~ To improve coordination relative to potential
1715 educational facility sites, the board of trustees shall provide
1716 written notice to the local governments consistent with the
1717 interlocal agreements entered under subsections (2)-(5) ~~(2)-(6)~~
1718 at least 60 days before the board of trustees acquires any
1719 additional property. The local government shall notify the board
1720 of trustees no later than 45 days after receipt of this notice
1721 if the site proposed for acquisition is consistent with the land
1722 use categories and policies of the local government's
1723 comprehensive plan. This preliminary notice does not constitute

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1724 the local government's determination of consistency under
1725 subsection (9) ~~(10)~~.
1726 (9) ~~(10)~~ As early in the design phase as feasible, but no
1727 later than 90 days before commencing construction, the board of
1728 trustees shall request in writing a determination of consistency
1729 with the local government's comprehensive plan and local
1730 development regulations for the proposed use of any property
1731 acquired by the board of trustees on or after January 1, 1998.
1732 The local governing body that regulates the use of land shall
1733 determine, in writing, no later than 45 days after receiving the
1734 necessary information and a school board's request for a
1735 determination, whether a proposed use of the property is
1736 consistent with the local comprehensive plan and consistent with
1737 local land development regulations. If the local governing body
1738 determines the proposed use is consistent, construction may
1739 commence and additional local government approvals are not
1740 required, except as provided in this section. Failure of the
1741 local governing body to make a determination in writing within
1742 90 days after receiving the board of trustees' request for a
1743 determination of consistency shall be considered an approval of
1744 the board of trustees' application. This subsection does not
1745 apply to facilities to be located on the property if a contract
1746 for construction of the facilities was entered on or before the
1747 effective date of this act.
1748 (10) ~~(11)~~ Disputes that arise in the implementation of an
1749 executed interlocal agreement or in the determinations required
1750 pursuant to subsection (8) ~~(9)~~ or subsection (9) ~~(10)~~ must be
1751 resolved in accordance with chapter 164.
1752 Section 22. Subsection (6) of section 1013.36, Florida

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1753 Statutes, is amended to read:
1754 1013.36 Site planning and selection.—
1755 (6) If the school board and local government have entered
1756 into an interlocal agreement pursuant to s. 1013.33(2) and
1757 ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a
1758 process to ensure consistency between the local government
1759 comprehensive plan and the school district educational
1760 facilities plan, site planning and selection must be consistent
1761 with the interlocal agreements and the plans.
1762 Section 23. This act shall take effect upon becoming a law.
1763
1764 ========== T I T L E A M E N D M E N T ==========
1765 And the title is amended as follows:
1766 Delete everything before the enacting clause
1767 and insert:
1768 A bill to be entitled
1769 An act relating to growth management; amending s.
1770 163.3167, F.S.; authorizing a local government to
1771 retain certain charter provisions that were in effect
1772 as of a specified date and that relate to an
1773 initiative or referendum process; amending s.
1774 163.3174, F.S.; requiring a local land planning agency
1775 to periodically evaluate and appraise a comprehensive
1776 plan; amending s. 163.3175, F.S., requiring comments
1777 by military installations to be considered by local
1778 governments in a manner consistent with s. 163.3184,
1779 F.S.; specifying comments to be considered by the
1780 local government; amending s. 163.3177, F.S.; revising
1781 the housing and intergovernmental coordination

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1782 elements of comprehensive plans; amending s.
1783 163.31777, F.S.; exempting certain municipalities from
1784 public schools interlocal-agreement requirements;
1785 providing requirements for municipalities meeting the
1786 exemption criteria; amending s. 163.3178, F.S.;
1787 replacing a reference to the Department of Community
1788 Affairs with the state land planning agency; deleting
1789 provisions relating to the Coastal Resources
1790 Interagency Management Committee; amending s.
1791 163.3180, F.S., relating to concurrency; revising and
1792 providing requirements relating to public facilities
1793 and services, public education facilities, and local
1794 school concurrency system requirements; deleting
1795 provisions excluding a municipality that is not a
1796 signatory to a certain interlocal agreement from
1797 participating in a school concurrency system; amending
1798 s. 163.3184, F.S.; revising provisions relating to the
1799 expedited state review process for adoption of
1800 comprehensive plan amendments; clarifying the time in
1801 which a local government must transmit an amendment to
1802 a comprehensive plan and supporting data and analyses
1803 to the reviewing agencies; deleting the deadlines in
1804 administrative challenges to comprehensive plans and
1805 plan amendments for the entry of final orders and
1806 referrals of recommended orders; specifying a deadline
1807 for the state land planning agency to issue a notice
1808 of intent after receiving a complete comprehensive
1809 plan or plan amendment adopted pursuant to a
1810 compliance agreement; amending s. 163.3191, F.S.;

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1811 conforming a cross-reference to changes made by the
1812 act; amending s. 163.3245, F.S.; deleting an obsolete
1813 cross-reference; deleting a reporting requirement
1814 relating to optional sector plans; amending s.
1815 186.002, F.S.; deleting a requirement for the Governor
1816 to consider certain evaluation and appraisal reports
1817 in preparing certain plans and amendments; amending s.
1818 186.007, F.S.; deleting a requirement for the Governor
1819 to consider certain evaluation and appraisal reports
1820 when reviewing the state comprehensive plan; amending
1821 s. 186.505, F.S.; requiring a regional planning
1822 council to determine before accepting a grant that the
1823 purpose of the grant is in furtherance of its
1824 functions; prohibiting a regional planning council
1825 from providing consulting services for a fee to any
1826 local government for a project for which the council
1827 will serve in a review capacity; prohibiting a
1828 regional planning council from providing consulting
1829 services to a private developer or landowner for a
1830 project for which the council may serve in a review
1831 capacity in the future; amending s. 186.508, F.S.;
1832 requiring that regional planning councils coordinate
1833 implementation of the strategic regional policy plans
1834 with the evaluation and appraisal process; amending s.
1835 189.415, F.S.; requiring an independent special
1836 district to update its public facilities report every
1837 7 years and at least 12 months before the submission
1838 date of the evaluation and appraisal notification
1839 letter; requiring the Department of Economic

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1840 Opportunity to post a schedule of the due dates for
1841 public facilities reports and updates that independent
1842 special districts must provide to local governments;
1843 amending s. 288.975, F.S.; deleting a provision
1844 exempting local government plan amendments necessary
1845 to initially adopt the military base reuse plan from a
1846 limitation on the frequency of plan amendments;
1847 amending s. 380.06, F.S.; correcting cross-references;
1848 amending s. 380.115, F.S.; adding a cross-reference
1849 for exempt developments; amending s. 1013.33, F.S.;
1850 deleting redundant requirements for interlocal
1851 agreements relating to public education facilities;
1852 amending s. 1013.35, F.S.; deleting a cross-reference
1853 to conform to changes made by the act; amending s.
1854 1013.351, F.S.; deleting redundant requirements for
1855 the submission of certain interlocal agreements to the
1856 Office of Educational Facilities and the state land
1857 planning agency and for review of the interlocal
1858 agreement by the office and the agency; amending s.
1859 1013.36, F.S.; deleting an obsolete cross-reference;
1860 providing an effective date.

By Senator Bennett

21-00445C-12 2012842__

A bill to be entitled

An act relating to growth management; repealing s. 163.03, F.S., relating to the powers and duties of the Secretary of Community Affairs and functions of the Department of Community Affairs with respect to federal grant-in-aid programs; amending s. 163.065, F.S.; conforming cross-references to changes made by the act; amending s. 163.2511, F.S.; conforming cross-references to changes made by the act; amending s. 163.2514, F.S.; conforming cross-references to changes made by the act; amending s. 163.2517, F.S.; replacing references to the Department of Community Affairs with state land planning agency; repealing s. 163.2523, F.S., relating to the Urban Infill and Redevelopment Assistance Grant Program; amending s. 163.3167, F.S.; authorizing a local government to retain certain charter provisions that were in effect as of a specified date and that relate to an initiatives or referendum process; amending s. 163.3174, F.S.; requiring a local land planning agency to periodically evaluate a comprehensive plan; amending s. 163.3177, F.S.; making technical and grammatical changes; amending s. 163.3178, F.S.; replacing reference to the Department of Community Affairs with the state land planning agency; deleting provisions relating to the Coastal Resources Interagency Management Committee; amending s. 163.3180, F.S.; deleting provisions excluding a municipality that is not a signatory to a certain interlocal agreement from participating in a

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school concurrency system; amending s. 163.3184, F.S.; clarifying the time in which a local government must transmit an amendment to a comprehensive plan to the reviewing agencies; deleting the deadlines in administrative challenges to comprehensive plans and plan amendments for the entry of final orders and referrals of recommended orders; specifying a deadline for the state land planning agency to issue a notice of intent after receiving a complete comprehensive plan or plan amendment adopted pursuant to a compliance agreement; amending s. 163.3191, F.S.; conforming a cross-reference to changes made by the act; amending s. 163.3204, F.S.; replacing a reference to the Department of Community Affairs with the state land planning agency; amending s. 163.3221, F.S.; replacing a reference to the Department of Community Affairs with the Department of Economic Opportunity; amending s. 163.3246, F.S.; replacing a reference to the Department of Community Affairs with the Department of Economic Opportunity; providing for a local government to update its comprehensive plan based on an evaluation and appraisal review; amending s. 163.3247, F.S.; replacing a reference to the Secretary of Community Affairs with the executive director of the state land planning agency; replacing a reference to the Department of Community Affairs with the state land planning agency; amending s. 163.336, F.S.; replacing a reference to the Department of Community Affairs with the Department of Economic

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59 Opportunity; amending s. 163.458, F.S.; replacing a
60 reference to the Department of Community Affairs with
61 the Department of Economic Opportunity; amending s.
62 163.460, F.S.; replacing references to the Department
63 of Community Affairs with the Department of Economic
64 Opportunity; amending s. 163.461, F.S.; replacing
65 references to the Department of Community Affairs with
66 the Department of Economic Opportunity; amending s.
67 163.462, F.S.; replacing a reference to the Department
68 of Community Affairs with the Department of Economic
69 Opportunity; amending s. 163.5055, F.S.; replacing
70 references to the Department of Community Affairs with
71 the Department of Economic Opportunity; amending s.
72 163.506, F.S.; replacing a reference to the Department
73 of Community Affairs with the Department of Economic
74 Opportunity; amending s. 163.508, F.S.; replacing a
75 reference to the Department of Community Affairs with
76 the Department of Economic Opportunity; amending s.
77 163.511, F.S.; replacing a reference to the Department
78 of Community Affairs with the Department of Economic
79 Opportunity; amending s. 163.512, F.S.; replacing a
80 reference to the Department of Community Affairs with
81 the Department of Economic Opportunity; amending s.
82 186.002, F.S.; deleting a requirement for the Governor
83 to consider evaluation and appraisal reports in
84 preparing certain plans and amendments; amending s.
85 186.007, F.S.; deleting a requirement for the Governor
86 consider certain evaluation and appraisal reports when
87 reviewing the state comprehensive plan; amending s.

88 186.505, F.S.; requiring a regional planning council
89 to determine before accepting a grant that the purpose
90 of the grant is in furtherance of its functions;
91 prohibiting a regional planning council from providing
92 consulting services for a fee to any local government
93 for a project for which the council will serve in a
94 review capacity; prohibiting a regional planning
95 council from providing consulting services to a
96 private developer or landowner for a project for which
97 the council may serve in a review capacity in the
98 future; amending s. 186.508, F.S.; requiring regional
99 planning councils to coordinate implementation of the
100 strategic regional policy plans with the evaluation
101 and appraisal process; amending s. 189.415, F.S.;
102 requiring an independent special district to update
103 its public facilities report every 7 years and at
104 least 12 months before the submission date of the
105 evaluation and appraisal notification letter;
106 requiring the Department of Economic Opportunity post
107 a schedule of the due dates for public facilities
108 reports and updates that independent special districts
109 must provide to local governments; amending s.
110 288.975, F.S.; deleting a provision exempting local
111 government plan amendments to initially adopt the
112 military base reuse plan from a limitation on the
113 frequency of plan amendments; amending s. 342.201,
114 F.S.; replacing a reference to the Department of
115 Environmental Protection with the Department of
116 Economic Opportunity; amending s. 380.06, F.S.;

conforming cross-references to changes made by the act; deleting provisions subjecting recreational vehicle parks that increase in area to potential development-of-regional impact review; exempting development within an urban service boundary and development identified in an airport master plan from development-of-regional-impact review under certain circumstances; correcting cross-references; amending s. 1013.33, F.S.; deleting requirements for interlocal agreements relating to public education facilities; conforming cross-references to changes made by the act; amending s. 1013.35, F.S.; conforming cross-references to changes made by the act; amending s. 1013.351, F.S.; deleting a requirement for the School for the Deaf and the Blind to send an interlocal agreement with the municipality in which the school is located to the state land planning agency and the Office of Educational Facilities; providing an effective date.

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

Section 1. Section 163.03, Florida Statutes, is repealed.

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

163.065 Miami River Improvement Act.—

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

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

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

163.2511 Urban infill and redevelopment.—

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

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

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

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

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

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

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

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

(d) More than 50 percent of the area is within 1/4 mile of

175 a transit stop, or a sufficient number of transit stops will be
176 made available concurrent with the designation; and
177 (e) The area includes or is adjacent to community
178 redevelopment areas, brownfields, enterprise zones, or Main
179 Street programs, or has been designated by the state or Federal
180 Government as an urban redevelopment, revitalization, or infill
181 area under empowerment zone, enterprise community, or brownfield
182 showcase community programs or similar programs.
183 Section 5. Paragraph (b) of subsection (6) of section
184 163.2517, Florida Statutes, is amended to read:
185 163.2517 Designation of urban infill and redevelopment
186 area.—
187 (6)
188 (b) If the local government fails to implement the urban
189 infill and redevelopment plan in accordance with the deadlines
190 set forth in the plan, the state land planning agency ~~Department~~
191 ~~of Community Affairs~~ may seek to rescind the economic and
192 regulatory incentives granted to the urban infill and
193 redevelopment area, subject to the provisions of chapter 120.
194 The action to rescind may be initiated 90 days after issuing a
195 written letter of warning to the local government.
196 Section 6. Section 163.2523, Florida Statutes, is repealed.
197 Section 7. Subsection (8) of section 163.3167, Florida
198 Statutes, is amended to read:
199 163.3167 Scope of act.—
200 (8) An initiative or referendum process in regard to any
201 development order or in regard to any local comprehensive plan
202 amendment or map amendment is prohibited. However, any local
203 government charter provision that was in effect as of June 1,

204 2011, for an initiative or referendum process in regard to
205 development orders or in regard to local comprehensive plan
206 amendments or map amendments, may be retained and implemented.
207 Section 8. Paragraph (b) of subsection (4) of section
208 163.3174, Florida Statutes, is amended to read:
209 163.3174 Local planning agency.—
210 (4) The local planning agency shall have the general
211 responsibility for the conduct of the comprehensive planning
212 program. Specifically, the local planning agency shall:
213 (b) Monitor and oversee the effectiveness and status of the
214 comprehensive plan and recommend to the governing body such
215 changes in the comprehensive plan as may from time to time be
216 required, including the periodic evaluation and appraisal of the
217 comprehensive plan ~~preparation of the periodic reports~~ required
218 by s. 163.3191.
219 Section 9. Paragraph (h) of subsection (6) of section
220 163.3177, Florida Statutes, is amended to read:
221 163.3177 Required and optional elements of comprehensive
222 plan; studies and surveys.—
223 (6) In addition to the requirements of subsections (1)-(5),
224 the comprehensive plan shall include the following elements:
225 (h)1. An intergovernmental coordination element showing
226 relationships and stating principles and guidelines to be used
227 in coordinating the adopted comprehensive plan with the plans of
228 school boards, regional water supply authorities, and other
229 units of local government providing services but not having
230 regulatory authority over the use of land, with the
231 comprehensive plans of adjacent municipalities, the county,
232 adjacent counties, or the region, with the state comprehensive

233 plan and with the applicable regional water supply plan approved
234 pursuant to s. 373.709, as the case may require and as such
235 adopted plans or plans in preparation may exist. This element of
236 the local comprehensive plan must demonstrate consideration of
237 the particular effects of the local plan, when adopted, upon the
238 development of adjacent municipalities, the county, adjacent
239 counties, or the region, or upon the state comprehensive plan,
240 as the case may require.
241 a. The intergovernmental coordination element must provide
242 procedures for identifying and implementing joint planning
243 areas, especially for the purpose of annexation, municipal
244 incorporation, and joint infrastructure service areas.
245 b. The intergovernmental coordination element shall provide
246 for a dispute resolution process, as established pursuant to s.
247 186.509, for bringing intergovernmental disputes to closure in a
248 timely manner.
249 c. The intergovernmental coordination element shall provide
250 for interlocal agreements as established pursuant to s.
251 333.03(1)(b).
252 2. The intergovernmental coordination element shall also
253 state principles and guidelines to be used in coordinating the
254 adopted comprehensive plan with the plans of school boards and
255 other units of local government providing facilities and
256 services but not having regulatory authority over the use of
257 land. In addition, the intergovernmental coordination element
258 must describe joint processes for collaborative planning and
259 decisionmaking on population projections and public school
260 siting, the location and extension of public facilities subject
261 to concurrency, and siting facilities with countywide

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262 significance, including locally unwanted land uses whose nature
263 and identity are established in an agreement.
264 3. Within 1 year after adopting their intergovernmental
265 coordination elements, each county, all the municipalities
266 within that county, the district school board, and any unit of
267 local government service providers in that county shall
268 establish by interlocal or other formal agreement executed by
269 all affected entities, the joint processes described in this
270 subparagraph consistent with their adopted intergovernmental
271 coordination elements. The agreement ~~element~~ must:
272 a. Ensure that the local government addresses through
273 coordination mechanisms the impacts of development proposed in
274 the local comprehensive plan upon development in adjacent
275 municipalities, the county, adjacent counties, the region, and
276 the state. The area of concern for municipalities includes ~~shall~~
277 ~~include~~ adjacent municipalities, the county, and counties
278 adjacent to the municipality. The area of concern for counties
279 includes ~~shall include~~ all municipalities within the county,
280 adjacent counties, and adjacent municipalities.
281 b. Ensure coordination in establishing level of service
282 standards for public facilities with any state, regional, or
283 local entity having operational and maintenance responsibility
284 for such facilities.
285 Section 10. Subsections (3) and (6) of section 163.3178,
286 Florida Statutes, are amended to read:
287 163.3178 Coastal management.—
288 (3) Expansions to port harbors, spoil disposal sites,
289 navigation channels, turning basins, harbor berths, and other
290 related inwater harbor facilities of ports listed in s.

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291 403.021(9); port transportation facilities and projects listed
292 in s. 311.07(3)(b); intermodal transportation facilities
293 identified pursuant to s. 311.09(3); and facilities determined
294 by the state land planning agency ~~Department of Community~~
295 ~~Affairs~~ and applicable general-purpose local government to be
296 port-related industrial or commercial projects located within 3
297 miles of or in a port master plan area which rely upon the use
298 of port and intermodal transportation facilities may ~~shall~~ not
299 be designated as developments of regional impact if such
300 expansions, projects, or facilities are consistent with
301 comprehensive master plans that are in compliance with this
302 section.
303 (6) Local governments are encouraged to adopt countywide
304 marina siting plans to designate sites for existing and future
305 marinas. ~~The Coastal Resources Interagency Management Committee,~~
306 ~~at the direction of the Legislature, shall identify incentives~~
307 ~~to encourage local governments to adopt such siting plans and~~
308 ~~uniform criteria and standards to be used by local governments~~
309 ~~to implement state goals, objectives, and policies relating to~~
310 ~~marina siting. These criteria must ensure that priority is given~~
311 ~~to water-dependent land uses. Countywide marina siting plans~~
312 ~~must be consistent with state and regional environmental~~
313 ~~planning policies and standards.~~ Each local government in the
314 coastal area which participates in adoption of a countywide
315 marina siting plan shall incorporate the plan into the coastal
316 management element of its local comprehensive plan.
317 Section 11. Paragraphs (a) and (i) of subsection (6) of
318 section 163.3180, Florida Statutes, are amended, and paragraphs
319 (j) and (k) of that subsection are redesignated as paragraphs

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320 (i) and (j), respectively, to read:
321 163.3180 Concurrency.—
322 (6)(a) ~~If concurrency is applied to public education~~
323 ~~facilities,~~ All local governments that apply concurrency to
324 public education facilities ~~within a county, except as provided~~
325 ~~in paragraph (i),~~ shall include principles, guidelines,
326 standards, and strategies, including adopted levels of service,
327 in their comprehensive plans and interlocal agreements. If the
328 county and one or more municipalities have adopted school
329 concurrency into their comprehensive plan and interlocal
330 agreement that represents at least 80 percent of the total
331 countywide population, the choice ~~failure~~ of one or more
332 municipalities to adopt the concurrency and enter into the
333 interlocal agreement does not preclude implementation of school
334 concurrency within jurisdictions of the school district that
335 have opted to implement concurrency. All local government
336 provisions included in comprehensive plans regarding school
337 concurrency within a county must be consistent with each other
338 and ~~as well as~~ the requirements of this part.
339 ~~(i) A municipality is not required to be a signatory to the~~
340 ~~interlocal agreement required by paragraph (j), as a~~
341 ~~prerequisite for imposition of school concurrency, and as a~~
342 ~~nonsignatory, may not participate in the adopted local school~~
343 ~~concurrency system, if the municipality meets all of the~~
344 ~~following criteria for having no significant impact on school~~
345 ~~attendance:~~
346 ~~1. The municipality has issued development orders for fewer~~
347 ~~than 50 residential dwelling units during the preceding 5 years,~~
348 ~~or the municipality has generated fewer than 25 additional~~

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349 ~~public school students during the preceding 5 years.~~
350 ~~2. The municipality has not annexed new land during the~~
351 ~~preceding 5 years in land use categories which permit~~
352 ~~residential uses that will affect school attendance rates.~~
353 ~~3. The municipality has no public schools located within~~
354 ~~its boundaries.~~
355 ~~4. At least 80 percent of the developable land within the~~
356 ~~boundaries of the municipality has been built upon.~~
357 Section 12. Paragraph (b) of subsection (3), paragraphs (d)
358 and (e) of subsection (5), paragraph (f) of subsection (6), and
359 paragraph (d) of subsection (7) of section 163.3184, Florida
360 Statutes, are amended to read:
361 163.3184 Process for adoption of comprehensive plan or plan
362 amendment.—
363 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
364 COMPREHENSIVE PLAN AMENDMENTS.—
365 (b)1. The local government, after the initial public
366 hearing held pursuant to subsection (11), shall transmit within
367 10 calendar days the amendment or amendments and appropriate
368 supporting data and analyses to the reviewing agencies. The
369 local governing body shall also transmit a copy of the
370 amendments and supporting data and analyses to any other local
371 government or governmental agency that has filed a written
372 request with the governing body.
373 2. The reviewing agencies and any other local government or
374 governmental agency specified in subparagraph 1. may provide
375 comments regarding the amendment or amendments to the local
376 government. State agencies shall only comment on important state
377 resources and facilities that will be adversely impacted by the

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378 amendment if adopted. Comments provided by state agencies shall
379 state with specificity how the plan amendment will adversely
380 impact an important state resource or facility and shall
381 identify measures the local government may take to eliminate,
382 reduce, or mitigate the adverse impacts. Such comments, if not
383 resolved, may result in a challenge by the state land planning
384 agency to the plan amendment. Agencies and local governments
385 must transmit their comments to the affected local government
386 such that they are received by the local government not later
387 than 30 days after ~~from~~ the date on which the agency or
388 government received the amendment or amendments. Reviewing
389 agencies shall also send a copy of their comments to the state
390 land planning agency.
391 3. Comments to the local government from a regional
392 planning council, county, or municipality shall be limited as
393 follows:
394 a. The regional planning council review and comments shall
395 be limited to adverse effects on regional resources or
396 facilities identified in the strategic regional policy plan and
397 extrajurisdictional impacts that would be inconsistent with the
398 comprehensive plan of any affected local government within the
399 region. A regional planning council may not review and comment
400 on a proposed comprehensive plan amendment prepared by such
401 council unless the plan amendment has been changed by the local
402 government subsequent to the preparation of the plan amendment
403 by the regional planning council.
404 b. County comments shall be in the context of the
405 relationship and effect of the proposed plan amendments on the
406 county plan.

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c. Municipal comments shall be in the context of the relationship and effect of the proposed plan amendments on the municipal plan.

d. Military installation comments shall be provided in accordance with s. 163.3175.

4. Comments to the local government from state agencies shall be limited to the following subjects as they relate to important state resources and facilities that will be adversely impacted by the amendment if adopted:

a. The Department of Environmental Protection shall limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.

b. The Department of State shall limit its comments to the subjects of historic and archaeological resources.

c. The Department of Transportation shall limit its comments to issues within the agency's jurisdiction as it relates to transportation resources and facilities of state importance.

d. The Fish and Wildlife Conservation Commission shall limit its comments to subjects relating to fish and wildlife habitat and listed species and their habitat.

e. The Department of Agriculture and Consumer Services shall limit its comments to the subjects of agriculture, forestry, and aquaculture issues.

f. The Department of Education shall limit its comments to

the subject of public school facilities.

g. The appropriate water management district shall limit its comments to flood protection and floodplain management, wetlands and other surface waters, and regional water supply.

h. The state land planning agency shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important state resources and facilities.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(d) If the administrative law judge recommends that the amendment be found not in compliance, the judge shall submit the recommended order to the Administration Commission for final agency action. ~~The Administration Commission shall enter a final order within 45 days after its receipt of the recommended order.~~

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall refer~~, within 30 days after receipt of the recommended order,~~ the recommended order and its determination to the Administration Commission for final agency action.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall enter its final order ~~not later than 30 days after receipt of~~

465 ~~the recommended order~~.
466 (6) COMPLIANCE AGREEMENT.—
467 (f) For challenges to amendments adopted under the state
468 coordinated process, the state land planning agency~~, upon~~
469 ~~receipt of a plan or plan amendment adopted pursuant to a~~
470 ~~compliance agreement,~~ shall issue a cumulative notice of intent
471 addressing both the remedial amendment and the plan or plan
472 amendment that was the subject of the agreement within 30 days
473 after receiving a complete plan or plan amendment adopted
474 pursuant to a compliance agreement.
475 1. If the local government adopts a comprehensive plan or
476 plan amendment pursuant to a compliance agreement and a notice
477 of intent to find the plan amendment in compliance is issued,
478 the state land planning agency shall forward the notice of
479 intent to the Division of Administrative Hearings and the
480 administrative law judge shall realign the parties in the
481 pending proceeding under ss. 120.569 and 120.57, which shall
482 thereafter be governed by the process contained in paragraph
483 (5)(a) and subparagraph (5)(c)1., including provisions relating
484 to challenges by an affected person, burden of proof, and issues
485 of a recommended order and a final order. Parties to the
486 original proceeding at the time of realignment may continue as
487 parties without being required to file additional pleadings to
488 initiate a proceeding, but may timely amend their pleadings to
489 raise any challenge to the amendment that is the subject of the
490 cumulative notice of intent, and must otherwise conform to the
491 rules of procedure of the Division of Administrative Hearings.
492 Any affected person not a party to the realigned proceeding may
493 challenge the plan amendment that is the subject of the

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494 cumulative notice of intent by filing a petition with the agency
495 as provided in subsection (5). The agency shall forward the
496 petition filed by the affected person not a party to the
497 realigned proceeding to the Division of Administrative Hearings
498 for consolidation with the realigned proceeding. If the
499 cumulative notice of intent is not challenged, the state land
500 planning agency shall request that the Division of
501 Administrative Hearings relinquish jurisdiction to the state
502 land planning agency for issuance of a final order.
503 2. If the local government adopts a comprehensive plan
504 amendment pursuant to a compliance agreement and a notice of
505 intent is issued that finds the plan amendment not in
506 compliance, the state land planning agency shall forward the
507 notice of intent to the Division of Administrative Hearings,
508 which shall consolidate the proceeding with the pending
509 proceeding and immediately set a date for a hearing in the
510 pending proceeding under ss. 120.569 and 120.57. Affected
511 persons who are not a party to the underlying proceeding under
512 ss. 120.569 and 120.57 may challenge the plan amendment adopted
513 pursuant to the compliance agreement by filing a petition
514 pursuant to paragraph (5)(a).
515 (7) MEDIATION AND EXPEDITIOUS RESOLUTION.—
516 ~~(d) Absent a showing of extraordinary circumstances, the~~
517 ~~Administration Commission shall issue a final order, in a case~~
518 ~~proceeding under subsection (5), within 45 days after the~~
519 ~~issuance of the recommended order, unless the parties agree in~~
520 ~~writing to a longer time.~~
521 Section 13. Subsection (3) of section 163.3191, Florida
522 Statutes, is amended to read:

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523 163.3191 Evaluation and appraisal of comprehensive plan.—
524 (3) Local governments are encouraged to comprehensively
525 evaluate and, as necessary, update comprehensive plans to
526 reflect changes in local conditions. Plan amendments transmitted
527 pursuant to this section shall be reviewed pursuant to ~~in~~
528 ~~accordance with~~ s. 163.3184(4).
529 Section 14. Section 163.3204, Florida Statutes, is amended
530 to read:
531 163.3204 Cooperation by state and regional agencies.—The
532 state land planning agency ~~Department of Community Affairs~~ and
533 any ad hoc working groups appointed by the department and all
534 state and regional agencies involved in the administration and
535 implementation of the Community Planning ~~this~~ Act shall
536 cooperate and work with units of local government in the
537 preparation and adoption of comprehensive plans, or elements or
538 portions thereof, and of local land development regulations.
539 Section 15. Subsection (14) of section 163.3221, Florida
540 Statutes, is amended to read:
541 163.3221 Florida Local Government Development Agreement
542 Act; definitions.—As used in ss. 163.3220-163.3243:
543 (14) "State land planning agency" means the Department of
544 Economic Opportunity ~~Community Affairs~~.
545 Section 16. Subsections (1) and (12) of section 163.3246,
546 Florida Statutes, are amended to read:
547 163.3246 Local government comprehensive planning
548 certification program.—
549 (1) There is created the Local Government Comprehensive
550 Planning Certification Program to be administered by the state
551 land planning agency ~~Department of Community Affairs~~. The

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552 purpose of the program is to create a certification process for
553 local governments who identify a geographic area for
554 certification within which they commit to directing growth and
555 who, because of a demonstrated record of effectively adopting,
556 implementing, and enforcing its comprehensive plan, the level of
557 technical planning experience exhibited by the local government,
558 and a commitment to implement exemplary planning practices,
559 require less state and regional oversight of the comprehensive
560 plan amendment process. The purpose of the certification area is
561 to designate areas that are contiguous, compact, and appropriate
562 for urban growth and development within a 10-year planning
563 timeframe. Municipalities and counties are encouraged to jointly
564 establish the certification area, and subsequently enter into
565 joint certification agreement with the department.
566 (12) A local government's certification shall be reviewed
567 by the local government and the department as part of the
568 evaluation and appraisal process pursuant to s. 163.3191. Within
569 1 year after the deadline for the local government to update its
570 comprehensive plan based on the evaluation and appraisal review
571 ~~report~~, the department shall renew or revoke the certification.
572 The local government's failure to timely adopt necessary
573 amendments to update its comprehensive plan based on an
574 evaluation and appraisal, which are found to be in compliance by
575 the department, shall be cause for revoking the certification
576 agreement. The department's decision to renew or revoke shall be
577 considered agency action subject to challenge under s. 120.569.
578 Section 17. Paragraphs (a) and (b) of subsection (5) of
579 section 163.3247, Florida Statutes, are amended to read:
580 163.3247 Century Commission for a Sustainable Florida.—

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581 (5) EXECUTIVE DIRECTOR; STAFF AND OTHER ASSISTANCE.—
582 (a) The executive director of the state land planning
583 agency ~~Secretary of Community Affairs~~ shall select an executive
584 director of the commission, and the executive director of the
585 commission shall serve at the pleasure of the executive director
586 of the state land planning agency ~~secretary~~ under the
587 supervision and control of the commission.
588 (b) The state land planning agency ~~Department of Community~~
589 ~~Affairs~~ shall provide staff and other resources necessary to
590 accomplish the goals of the commission based upon
591 recommendations of the Governor.
592 Section 18. Paragraph (c) of subsection (2) of section
593 163.336, Florida Statutes, is amended to read:
594 163.336 Coastal resort area redevelopment pilot project.—
595 (2) PILOT PROJECT ADMINISTRATION.—
596 (c) The Office of the Governor, Department of Environmental
597 Protection, and the Department of Economic Opportunity ~~Community~~
598 ~~Affairs~~ are directed to provide technical assistance to expedite
599 permitting for redevelopment projects and construction
600 activities within the pilot project areas consistent with the
601 principles, processes, and timeframes provided in s. 403.973.
602 Section 19. Section 163.458, Florida Statutes, is amended
603 to read:
604 163.458 Three-tiered plan.—The Department of Economic
605 Opportunity may ~~Community Affairs is authorized to~~ award core
606 administrative and operating grants. Administrative and
607 operating grants shall be used for staff salaries and
608 administrative expenses for eligible community-based development
609 organizations selected through a competitive three-tiered

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610 process for the purpose of housing and economic development
611 projects. The department shall adopt by rule a set of criteria
612 for three-tiered funding which ~~that~~ shall ensure equitable
613 geographic distribution of the funding throughout the state.
614 This three-tiered plan shall include emerging, intermediate, and
615 mature community-based development organizations recognizing the
616 varying needs of the three tiers. Funding shall be provided for
617 core administrative and operating grants for all levels of
618 community-based development organizations. Priority shall be
619 given to those organizations that demonstrate community-based
620 productivity and high performance as evidenced by past projects
621 developed with stakeholder input that have responded to
622 neighborhood needs, and have current projects located in high-
623 poverty neighborhoods, and to emerging community-based
624 development corporations that demonstrate a positive need
625 identified by stakeholders. Persons, equipment, supplies, and
626 other resources funded in whole or in part by grant funds shall
627 be used ~~utilized~~ to further the purposes of the Community-Based
628 Development Organization Assistance ~~this~~ Act, and may be used
629 ~~utilized~~ to further the goals and objectives of the Front Porch
630 Florida Initiative. Each community-based development
631 organization shall be eligible to apply for a grant of up to
632 $50,000 per year for a period of 5 years.
633 Section 20. Subsection (5) of section 163.460, Florida
634 Statutes, is amended to read:
635 163.460 Application requirements.—A community-based
636 development organization applying for a core administrative and
637 operating grant pursuant to the Community-Based Development
638 Organization Assistance ~~this~~ Act must submit a proposal to the

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639 Department of Economic Opportunity ~~Community Affairs~~ that
640 includes:
641 (5) Other supporting information that may be required by
642 the Department of Economic Opportunity ~~Community Affairs~~ to
643 determine the organization's capacity and productivity.
644 Section 21. Subsection (14) of section 163.461, Florida
645 Statutes, is amended to read:
646 163.461 Reporting and evaluation requirements.—Community-
647 based development organizations that receive funds under the
648 Community-Based Development Organization Assistance ~~this~~ Act
649 shall provide the following information to the Department of
650 Economic Opportunity ~~Community Affairs~~ annually:
651 (14) Such other information as the Department of Economic
652 Opportunity ~~Community Affairs~~ requires.
653 Section 22. Section 163.462, Florida Statutes, is amended
654 to read:
655 163.462 Rulemaking authority.—The Department of Economic
656 Opportunity ~~Community Affairs~~ shall adopt rules for the
657 administration of the Community-Based Development Organization
658 Assistance ~~this~~ Act.
659 Section 23. Subsection (1) of section 163.5055, Florida
660 Statutes, is amended to read:
661 163.5055 Registration of district establishment; notice of
662 dissolution.—
663 (1)(a) Each neighborhood improvement district authorized
664 and established under this part shall within 30 days thereof
665 register with both the Department of Economic Opportunity
666 ~~Community Affairs~~ and the Department of Legal Affairs by
667 providing these departments with the district's name, location,

668 size, and type, and such other information as the departments
669 may require.
670 (b) Each local governing body that ~~which~~ authorizes the
671 dissolution of a district shall notify both the Department of
672 Economic Opportunity ~~Community Affairs~~ and the Department of
673 Legal Affairs within 30 days after the dissolution of the
674 district.
675 Section 24. Paragraph (h) of subsection (1) of section
676 163.506, Florida Statutes, is amended to read:
677 163.506 Local government neighborhood improvement
678 districts; creation; advisory council; dissolution.—
679 (1) After a local planning ordinance has been adopted
680 authorizing the creation of local government neighborhood
681 improvement districts, the local governing body of a
682 municipality or county may create local government neighborhood
683 improvement districts by the enactment of a separate ordinance
684 for each district, which ordinance:
685 (h) Requires the district to notify the Department of Legal
686 Affairs and the Department of Economic Opportunity ~~Community~~
687 ~~Affairs~~ in writing of its establishment within 30 days thereof
688 pursuant to s. 163.5055.
689 Section 25. Paragraph (g) of subsection (1) of section
690 163.508, Florida Statutes, is amended to read:
691 163.508 Property owners' association neighborhood
692 improvement districts; creation; powers and duties; duration.—
693 (1) After a local planning ordinance has been adopted
694 authorizing the creation of property owners' association
695 neighborhood improvement districts, the local governing body of
696 a municipality or county may create property owners' association

697 neighborhood improvement districts by the enactment of a
698 separate ordinance for each district, which ordinance:
699 (g) Requires the district to notify the Department of Legal
700 Affairs and the Department of Economic Opportunity ~~Community~~
701 ~~Affairs~~ in writing of its establishment within 30 days thereof
702 pursuant to s. 163.5055.
703 Section 26. Paragraph (i) of subsection (1) of section
704 163.511, Florida Statutes, is amended to read:
705 163.511 Special neighborhood improvement districts;
706 creation; referendum; board of directors; duration; extension.—
707 (1) After a local planning ordinance has been adopted
708 authorizing the creation of special neighborhood improvement
709 districts, the governing body of a municipality or county may
710 declare the need for and create special residential or business
711 neighborhood improvement districts by the enactment of a
712 separate ordinance for each district, which ordinance:
713 (i) Requires the district to notify the Department of Legal
714 Affairs and the Department of Economic Opportunity ~~Community~~
715 ~~Affairs~~ in writing of its establishment within 30 days thereof
716 pursuant to s. 163.5055.
717 Section 27. Paragraph (i) of subsection (1) of section
718 163.512, Florida Statutes, is amended to read:
719 163.512 Community redevelopment neighborhood improvement
720 districts; creation; advisory council; dissolution.—
721 (1) Upon the recommendation of the community redevelopment
722 agency and after a local planning ordinance has been adopted
723 authorizing the creation of community redevelopment neighborhood
724 improvement districts, the local governing body of a
725 municipality or county may create community redevelopment

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726 neighborhood improvement districts by the enactment of a
727 separate ordinance for each district, which ordinance:
728 (i) Requires the district to notify the Department of Legal
729 Affairs and the Department of Economic Opportunity ~~Community~~
730 ~~Affairs~~ in writing of its establishment within 30 days thereof
731 pursuant to s. 163.5055.
732 Section 28. Paragraph (d) of subsection (2) of section
733 186.002, Florida Statutes, is amended to read:
734 186.002 Findings and intent.—
735 (2) It is the intent of the Legislature that:
736 (d) The state planning process ~~shall~~ be informed and guided
737 by the experience of public officials at all levels of
738 government. ~~In preparing any plans or proposed revisions or~~
739 ~~amendments required by this chapter, the Governor shall consider~~
740 ~~the experience of and information provided by local governments~~
741 ~~in their evaluation and appraisal reports pursuant to s.~~
742 ~~163.3191.~~
743 Section 29. Subsection (8) of section 186.007, Florida
744 Statutes, is amended to read:
745 186.007 State comprehensive plan; preparation; revision.—
746 (8) The revision of the state comprehensive plan is a
747 continuing process. Each section of the plan shall be reviewed
748 and analyzed biennially by the Executive Office of the Governor
749 in conjunction with the planning officers of other state
750 agencies significantly affected by the provisions of the
751 particular section under review. In conducting this review and
752 analysis, the Executive Office of the Governor shall review and
753 consider, with the assistance of the state land planning agency
754 and regional planning councils~~,~~ the ~~evaluation and appraisal~~

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755 ~~reports submitted pursuant to s. 163.3191 and the~~ evaluation and
756 appraisal reports prepared pursuant to s. 186.511. Any necessary
757 revisions of the state comprehensive plan shall be proposed by
758 the Governor in a written report and be accompanied by an
759 explanation of the need for such changes. If the Governor
760 determines that changes are unnecessary, the written report must
761 explain why changes are unnecessary. The proposed revisions and
762 accompanying explanations may be submitted in the report
763 required by s. 186.031. Any proposed revisions to the plan shall
764 be submitted to the Legislature as provided in s. 186.008(2) at
765 least 30 days prior to the regular legislative session occurring
766 in each even-numbered year.
767 Section 30. Subsections (8) and (20) of section 186.505,
768 Florida Statutes, are amended to read:
769 186.505 Regional planning councils; powers and duties.—Any
770 regional planning council created hereunder shall have the
771 following powers:
772 (8) To accept and receive, in furtherance of its functions,
773 funds, grants, and services from the Federal Government or its
774 agencies; from departments, agencies, and instrumentalities of
775 state, municipal, or local government; or from private or civic
776 sources, except as prohibited by subsection (20). Each regional
777 planning council shall render an accounting of the receipt and
778 disbursement of all funds received by it, pursuant to the
779 federal Older Americans Act, to the Legislature no later than
780 March 1 of each year. Before accepting a grant, a regional
781 planning council must make a formal public determination that
782 the purpose of the grant is in furtherance of the council's
783 functions and will not diminish the council's ability to fund

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784 and accomplish its statutory functions.
785 (20) To provide technical assistance to local governments
786 on growth management matters. However, a regional planning
787 council may not provide consulting services for a fee to a local
788 government for a project for which the council also serves in a
789 review capacity or provide consulting services to a private
790 developer or landowner for a project for which the council may
791 also serve in a review capacity in the future.
792 Section 31. Subsection (1) of section 186.508, Florida
793 Statutes, is amended to read:
794 186.508 Strategic regional policy plan adoption;
795 consistency with state comprehensive plan.—
796 (1) Each regional planning council shall submit to the
797 Executive Office of the Governor its proposed strategic regional
798 policy plan on a schedule established by the Executive Office of
799 the Governor to coordinate implementation of the strategic
800 regional policy plans with the evaluation and appraisal process
801 ~~reports~~ required by s. 163.3191. The Executive Office of the
802 Governor, or its designee, shall review the proposed strategic
803 regional policy plan to ensure consistency with the adopted
804 state comprehensive plan and shall, within 60 days, provide any
805 recommended revisions. The Governor's recommended revisions
806 shall be included in the plans in a comment section. However,
807 nothing in this section precludes ~~herein shall preclude~~ a
808 regional planning council from adopting or rejecting any or all
809 of the revisions as a part of its plan before ~~prior to~~ the
810 effective date of the plan. The rules adopting the strategic
811 regional policy plan are ~~shall~~ not ~~be~~ subject to rule challenge
812 under s. 120.56(2) or to drawout proceedings under s.

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813 120.54(3)(c)2., but, once adopted, are ~~shall be~~ subject to an
814 invalidity challenge under s. 120.56(3) by substantially
815 affected persons, including the Executive Office of the
816 Governor. The rules shall be adopted by the regional planning
817 councils, and ~~shall~~ become effective upon filing with the
818 Department of State, notwithstanding the provisions of s.
819 120.54(3)(e)6.
820 Section 32. Paragraph (a) of subsection (2) of section
821 189.415, Florida Statutes, is amended to read:
822 189.415 Special district public facilities report.—
823 (2) Each independent special district shall submit to each
824 local general-purpose government in which it is located a public
825 facilities report and an annual notice of any changes. The
826 public facilities report shall specify the following
827 information:
828 (a) A description of existing public facilities owned or
829 operated by the special district, and each public facility that
830 is operated by another entity, except a local general-purpose
831 government, through a lease or other agreement with the special
832 district. This description shall include the current capacity of
833 the facility, the current demands placed upon it, and its
834 location. This information shall be required in the initial
835 report and updated every 7 ~~5~~ years at least 12 months before
836 ~~prior to~~ the submission date of the evaluation and appraisal
837 notification letter ~~report~~ of the appropriate local government
838 required by s. 163.3191. The department shall post a schedule on
839 its website, based on the evaluation and appraisal notification
840 schedule prepared pursuant to s. 163.3191(5), for use by a
841 special district to determine when its public facilities report

842 and updates to that report are due to the local general-purpose
843 governments in which the special district is located. ~~At least~~
844 ~~12 months prior to the date on which each special district's~~
845 ~~first updated report is due, the department shall notify each~~
846 ~~independent district on the official list of special districts~~
847 ~~compiled pursuant to s. 189.4035 of the schedule for submission~~
848 ~~of the evaluation and appraisal report by each local government~~
849 ~~within the special district's jurisdiction.~~
850 Section 33. Subsection (5) of section 288.975, Florida
851 Statutes, is amended to read:
852 288.975 Military base reuse plans.—
853 (5) At the discretion of the host local government, the
854 provisions of this act may be complied with through the adoption
855 of the military base reuse plan as a separate component of the
856 local government comprehensive plan or through simultaneous
857 amendments to all pertinent portions of the local government
858 comprehensive plan. Once adopted and approved in accordance with
859 this section, the military base reuse plan shall be considered
860 to be part of the host local government's comprehensive plan and
861 shall be thereafter implemented, amended, and reviewed pursuant
862 to ~~in accordance with the provisions of~~ part II of chapter 163.
863 ~~Local government comprehensive plan amendments necessary to~~
864 ~~initially adopt the military base reuse plan shall be exempt~~
865 ~~from the limitation on the frequency of plan amendments~~
866 ~~contained in s. 163.3187(1).~~
867 Section 34. Subsection (1) of section 342.201, Florida
868 Statutes, is amended to read:
869 342.201 Waterfronts Florida Program.—
870 (1) There is established within the Department of Economic

871 Opportunity ~~Environmental Protection~~ the Waterfronts Florida
872 Program to provide technical assistance and support to
873 communities in revitalizing waterfront areas in this state.
874 Section 35. Paragraph (b) of subsection (6), paragraph (b)
875 of subsection (19), paragraphs (l) and (q) of subsection (24),
876 and paragraphs (b) and (c) of subsection (29) of section 380.06,
877 Florida Statutes, are amended to read:
878 380.06 Developments of regional impact.—
879 (6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT
880 PLAN AMENDMENTS.—
881 (b) Any local government comprehensive plan amendments
882 related to a proposed development of regional impact, including
883 any changes proposed under subsection (19), may be initiated by
884 a local planning agency or the developer and must be considered
885 by the local governing body at the same time as the application
886 for development approval using the procedures provided for local
887 plan amendment in s. 163.3187 and applicable local ordinances,
888 without regard to local limits on the frequency of consideration
889 of amendments to the local comprehensive plan. This paragraph
890 does not require favorable consideration of a plan amendment
891 solely because it is related to a development of regional
892 impact. The procedure for processing such comprehensive plan
893 amendments is as follows:
894 1. If a developer seeks a comprehensive plan amendment
895 related to a development of regional impact, the developer must
896 so notify in writing the regional planning agency, the
897 applicable local government, and the state land planning agency
898 no later than the date of preapplication conference or the
899 submission of the proposed change under subsection (19).

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900 2. When filing the application for development approval or
901 the proposed change, the developer must include a written
902 request for comprehensive plan amendments that would be
903 necessitated by the development-of-regional-impact approvals
904 sought. That request must include data and analysis upon which
905 the applicable local government can determine whether to
906 transmit the comprehensive plan amendment pursuant to s.
907 163.3184.
908 3. The local government must advertise a public hearing on
909 the transmittal within 30 days after filing the application for
910 development approval or the proposed change and must make a
911 determination on the transmittal within 60 days after the
912 initial filing unless that time is extended by the developer.
913 4. If the local government approves the transmittal,
914 procedures set forth in s. 163.3184(3)(b) and (c)~~(4)(b)-(d)~~ must
915 be followed.
916 5. Notwithstanding subsection (11) or subsection (19), the
917 local government may not hold a public hearing on the
918 application for development approval or the proposed change or
919 on the comprehensive plan amendments sooner than 30 days after
920 ~~from~~ receipt of the response from the state land planning agency
921 pursuant to s. 163.3184(3)(c)1.~~(4)(d).~~
922 6. The local government must hear both the application for
923 development approval or the proposed change and the
924 comprehensive plan amendments at the same hearing. However, the
925 local government must take action separately on the application
926 for development approval or the proposed change and on the
927 comprehensive plan amendments.
928 7. Thereafter, the appeal process for the local government

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929 development order must follow the provisions of s. 380.07, and
930 the compliance process for the comprehensive plan amendments
931 must follow the provisions of s. 163.3184.
932 (19) SUBSTANTIAL DEVIATIONS.—
933 (b) Any proposed change to a previously approved
934 development of regional impact or development order condition
935 which, either individually or cumulatively with other changes,
936 exceeds any of the following criteria shall constitute a
937 substantial deviation and shall cause the development to be
938 subject to further development-of-regional-impact review without
939 the necessity for a finding of same by the local government:
940 1. An increase in the number of parking spaces at an
941 attraction or recreational facility by 15 percent or 500 spaces,
942 whichever is greater, or an increase in the number of spectators
943 that may be accommodated at such a facility by 15 percent or
944 1,500 spectators, whichever is greater.
945 2. A new runway, a new terminal facility, a 25-percent
946 lengthening of an existing runway, or a 25-percent increase in
947 the number of gates of an existing terminal, but only if the
948 increase adds at least three additional gates.
949 3. An increase in land area for office development by 15
950 percent or an increase of gross floor area of office development
951 by 15 percent or 100,000 gross square feet, whichever is
952 greater.
953 4. An increase in the number of dwelling units by 10
954 percent or 55 dwelling units, whichever is greater.
955 5. An increase in the number of dwelling units by 50
956 percent or 200 units, whichever is greater, provided that 15
957 percent of the proposed additional dwelling units are dedicated

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958 to affordable workforce housing, subject to a recorded land use
959 restriction that shall be for a period of not less than 20 years
960 and that includes resale provisions to ensure long-term
961 affordability for income-eligible homeowners and renters and
962 provisions for the workforce housing to be commenced prior to
963 the completion of 50 percent of the market rate dwelling. For
964 purposes of this subparagraph, the term "affordable workforce
965 housing" means housing that is affordable to a person who earns
966 less than 120 percent of the area median income, or less than
967 140 percent of the area median income if located in a county in
968 which the median purchase price for a single-family existing
969 home exceeds the statewide median purchase price of a single-
970 family existing home. For purposes of this subparagraph, the
971 term "statewide median purchase price of a single-family
972 existing home" means the statewide purchase price as determined
973 in the Florida Sales Report, Single-Family Existing Homes,
974 released each January by the Florida Association of Realtors and
975 the University of Florida Real Estate Research Center.
976 6. An increase in commercial development by 60,000 square
977 feet of gross floor area or of parking spaces provided for
978 customers for 425 cars or a 10-percent increase, whichever is
979 greater.
980 ~~7. An increase in a recreational vehicle park area by 10~~
981 ~~percent or 110 vehicle spaces, whichever is less.~~
982 7.~~8.~~ A decrease in the area set aside for open space of 5
983 percent or 20 acres, whichever is less.
984 8.~~9.~~ A proposed increase to an approved multiuse
985 development of regional impact where the sum of the increases of
986 each land use as a percentage of the applicable substantial

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987 deviation criteria is equal to or exceeds 110 percent. The
988 percentage of any decrease in the amount of open space shall be
989 treated as an increase for purposes of determining when 110
990 percent has been reached or exceeded.
991 9.~~10.~~ A 15-percent increase in the number of external
992 vehicle trips generated by the development above that which was
993 projected during the original development-of-regional-impact
994 review.
995 10.~~11.~~ Any change which would result in development of any
996 area which was specifically set aside in the application for
997 development approval or in the development order for
998 preservation or special protection of endangered or threatened
999 plants or animals designated as endangered, threatened, or
1000 species of special concern and their habitat, any species
1001 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or
1002 archaeological and historical sites designated as significant by
1003 the Division of Historical Resources of the Department of State.
1004 The refinement of the boundaries and configuration of such areas
1005 shall be considered under sub-subparagraph (e)2.j.
1006
1007 The substantial deviation numerical standards in subparagraphs
1008 3., 6., and 8. ~~9.~~, excluding residential uses, and in
1009 subparagraph 9. ~~10.~~, are increased by 100 percent for a project
1010 certified under s. 403.973 which creates jobs and meets criteria
1011 established by the Office of Tourism, Trade, and Economic
1012 Development as to its impact on an area's economy, employment,
1013 and prevailing wage and skill levels. The substantial deviation
1014 numerical standards in subparagraphs 3., 4., 5., 6., ~~9.,~~ and 8.
1015 ~~10~~. are increased by 50 percent for a project located wholly

1016 within an urban infill and redevelopment area designated on the
1017 applicable adopted local comprehensive plan future land use map
1018 and not located within the coastal high hazard area.
1019 (24) STATUTORY EXEMPTIONS.—
1020 (l) Any proposed development within an urban service
1021 boundary established under s. 163.3177(14) (2010), which is not
1022 otherwise exempt pursuant to subsection (29), is exempt from
1023 this section if the local government having jurisdiction over
1024 the area where the development is proposed has adopted the urban
1025 service boundary and has entered into a binding agreement with
1026 jurisdictions that would be impacted and with the Department of
1027 Transportation regarding the mitigation of impacts on state and
1028 regional transportation facilities.
1029 (q) Any development identified in an airport master plan
1030 and adopted into the comprehensive plan pursuant to s.
1031 163.3177(6)(k) (2010) is exempt from this section.
1032
1033 If a use is exempt from review as a development of regional
1034 impact under paragraphs (a)-(u), but will be part of a larger
1035 project that is subject to review as a development of regional
1036 impact, the impact of the exempt use must be included in the
1037 review of the larger project, unless such exempt use involves a
1038 development of regional impact that includes a landowner,
1039 tenant, or user that has entered into a funding agreement with
1040 the Department of Economic Opportunity under the Innovation
1041 Incentive Program and the agreement contemplates a state award
1042 of at least $50 million.
1043 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
1044 (b) If a municipality that does not qualify as a dense

1045 urban land area ~~pursuant to s. 163.3164~~ designates any of the
1046 following areas in its comprehensive plan, any proposed
1047 development within the designated area is exempt from the
1048 development-of-regional-impact process:
1049 1. Urban infill as defined in s. 163.3164;
1050 2. Community redevelopment areas as defined in s. 163.340;
1051 3. Downtown revitalization areas as defined in s. 163.3164;
1052 4. Urban infill and redevelopment under s. 163.2517; or
1053 5. Urban service areas as defined in s. 163.3164 or areas
1054 within a designated urban service boundary under s.
1055 163.3177(14).
1056 (c) If a county that does not qualify as a dense urban land
1057 area ~~pursuant to s. 163.3164~~ designates any of the following
1058 areas in its comprehensive plan, any proposed development within
1059 the designated area is exempt from the development-of-regional-
1060 impact process:
1061 1. Urban infill as defined in s. 163.3164;
1062 2. Urban infill and redevelopment under s. 163.2517; or
1063 3. Urban service areas as defined in s. 163.3164.
1064 Section 36. Section 1013.33, Florida Statutes, is amended
1065 to read:
1066 1013.33 Coordination of planning with local governing
1067 bodies.—
1068 (1) It is the policy of this state to require the
1069 coordination of planning between boards and local governing
1070 bodies to ensure that plans for the construction and opening of
1071 public educational facilities are facilitated and coordinated in
1072 time and place with plans for residential development,
1073 concurrently with other necessary services. Such planning shall

1074 include the integration of the educational facilities plan and
1075 applicable policies and procedures of a board with the local
1076 comprehensive plan and land development regulations of local
1077 governments. The planning must include the consideration of
1078 allowing students to attend the school located nearest their
1079 homes when a new housing development is constructed near a
1080 county boundary and it is more feasible to transport the
1081 students a short distance to an existing facility in an adjacent
1082 county than to construct a new facility or transport students
1083 longer distances in their county of residence. The planning must
1084 also consider the effects of the location of public education
1085 facilities, including the feasibility of keeping central city
1086 facilities viable, in order to encourage central city
1087 redevelopment and the efficient use of infrastructure and to
1088 discourage uncontrolled urban sprawl. In addition, all parties
1089 to the planning process must consult with state and local road
1090 departments to assist in implementing the Safe Paths to Schools
1091 program administered by the Department of Transportation.
1092 (2) ~~(a)~~ The school board, county, and nonexempt
1093 municipalities located within the geographic area of a school
1094 district shall enter into an interlocal agreement that jointly
1095 establishes the specific ways in which the plans and processes
1096 of the district school board and the local governments are to be
1097 coordinated. ~~The interlocal agreements shall be submitted to the~~
1098 ~~state land planning agency and the Office of Educational~~
1099 ~~Facilities in accordance with a schedule published by the state~~
1100 ~~land planning agency.~~
1101 ~~(b) The schedule must establish staggered due dates for~~
1102 ~~submission of interlocal agreements that are executed by both~~

1103 ~~the local government and district school board, commencing on~~
1104 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
1105 ~~the same date for all governmental entities within a school~~
1106 ~~district. However, if the county where the school district is~~
1107 ~~located contains more than 20 municipalities, the state land~~
1108 ~~planning agency may establish staggered due dates for the~~
1109 ~~submission of interlocal agreements by these municipalities. The~~
1110 ~~schedule must begin with those areas where both the number of~~
1111 ~~districtwide capital-outlay full-time-equivalent students equals~~
1112 ~~80 percent or more of the current year's school capacity and the~~
1113 ~~projected 5-year student growth rate is 1,000 or greater, or~~
1114 ~~where the projected 5-year student growth rate is 10 percent or~~
1115 ~~greater.~~
1116 ~~(c) If the student population has declined over the 5-year~~
1117 ~~period preceding the due date for submittal of an interlocal~~
1118 ~~agreement by the local government and the district school board,~~
1119 ~~the local government and district school board may petition the~~
1120 ~~state land planning agency for a waiver of one or more of the~~
1121 ~~requirements of subsection (3). The waiver must be granted if~~
1122 ~~the procedures called for in subsection (3) are unnecessary~~
1123 ~~because of the school district's declining school age~~
1124 ~~population, considering the district's 5-year work program~~
1125 ~~prepared pursuant to s. 1013.35. The state land planning agency~~
1126 ~~may modify or revoke the waiver upon a finding that the~~
1127 ~~conditions upon which the waiver was granted no longer exist.~~
1128 ~~The district school board and local governments must submit an~~
1129 ~~interlocal agreement within 1 year after notification by the~~
1130 ~~state land planning agency that the conditions for a waiver no~~
1131 ~~longer exist.~~

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1132 ~~(d) Interlocal agreements between local governments and~~
1133 ~~district school boards adopted pursuant to s. 163.3177 before~~
1134 ~~the effective date of subsections (2)-(7) must be updated and~~
1135 ~~executed pursuant to the requirements of subsections (2)-(7), if~~
1136 ~~necessary. Amendments to interlocal agreements adopted pursuant~~
1137 ~~to subsections (2)-(7) must be submitted to the state land~~
1138 ~~planning agency within 30 days after execution by the parties~~
1139 ~~for review consistent with subsections (3) and (4).~~ Local
1140 governments and the district school board in each school
1141 district are encouraged to adopt a single interlocal agreement
1142 in which all join as parties. ~~The state land planning agency~~
1143 ~~shall assemble and make available model interlocal agreements~~
1144 ~~meeting the requirements of subsections (2)-(7) and shall notify~~
1145 ~~local governments and, jointly with the Department of Education,~~
1146 ~~the district school boards of the requirements of subsections~~
1147 ~~(2)-(7), the dates for compliance, and the sanctions for~~
1148 ~~noncompliance. The state land planning agency shall be available~~
1149 ~~to informally review proposed interlocal agreements. If the~~
1150 ~~state land planning agency has not received a proposed~~
1151 ~~interlocal agreement for informal review, the state land~~
1152 ~~planning agency shall, at least 60 days before the deadline for~~
1153 ~~submission of the executed agreement, renotify the local~~
1154 ~~government and the district school board of the upcoming~~
1155 ~~deadline and the potential for sanctions.~~
1156 (3) At a minimum, the interlocal agreement must address
1157 ~~interlocal agreement requirements in s. 163.31777 and, if~~
1158 ~~applicable, s. 163.3180(6), and must address~~ the following
1159 issues:
1160 (a) A process by which each local government and the

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1161 district school board agree and base their plans on consistent
1162 projections of the amount, type, and distribution of population
1163 growth and student enrollment. The geographic distribution of
1164 jurisdiction-wide growth forecasts is a major objective of the
1165 process.
1166 (b) A process to coordinate and share information relating
1167 to existing and planned public school facilities, including
1168 school renovations and closures, and local government plans for
1169 development and redevelopment.
1170 (c) Participation by affected local governments with the
1171 district school board in the process of evaluating potential
1172 school closures, significant renovations to existing schools,
1173 and new school site selection before land acquisition. Local
1174 governments shall advise the district school board as to the
1175 consistency of the proposed closure, renovation, or new site
1176 with the local comprehensive plan, including appropriate
1177 circumstances and criteria under which a district school board
1178 may request an amendment to the comprehensive plan for school
1179 siting.
1180 (d) A process for determining the need for and timing of
1181 onsite and offsite improvements to support new construction,
1182 proposed expansion, or redevelopment of existing schools. The
1183 process shall address identification of the party or parties
1184 responsible for the improvements.
1185 (e) A process for the school board to inform the local
1186 government regarding the effect of comprehensive plan amendments
1187 on school capacity. The capacity reporting must be consistent
1188 with laws and rules regarding measurement of school facility
1189 capacity and must also identify how the district school board

1190 will meet the public school demand based on the facilities work
1191 program adopted pursuant to s. 1013.35.
1192 (f) Participation of the local governments in the
1193 preparation of the annual update to the school board's 5-year
1194 district facilities work program and educational plant survey
1195 prepared pursuant to s. 1013.35.
1196 (g) A process for determining where and how joint use of
1197 either school board or local government facilities can be shared
1198 for mutual benefit and efficiency.
1199 (h) A procedure for the resolution of disputes between the
1200 district school board and local governments, which may include
1201 the dispute resolution processes contained in chapters 164 and
1202 186.
1203 (i) An oversight process, including an opportunity for
1204 public participation, for the implementation of the interlocal
1205 agreement.
1206 ~~(4)(a) The Office of Educational Facilities shall submit~~
1207 ~~any comments or concerns regarding the executed interlocal~~
1208 ~~agreement to the state land planning agency within 30 days after~~
1209 ~~receipt of the executed interlocal agreement. The state land~~
1210 ~~planning agency shall review the executed interlocal agreement~~
1211 ~~to determine whether it is consistent with the requirements of~~
1212 ~~subsection (3), the adopted local government comprehensive plan,~~
1213 ~~and other requirements of law. Within 60 days after receipt of~~
1214 ~~an executed interlocal agreement, the state land planning agency~~
1215 ~~shall publish a notice of intent in the Florida Administrative~~
1216 ~~Weekly and shall post a copy of the notice on the agency's~~
1217 ~~Internet site. The notice of intent must state that the~~
1218 ~~interlocal agreement is consistent or inconsistent with the~~

1219 ~~requirements of subsection (3) and this subsection as~~
1220 ~~appropriate.~~
1221 ~~(b) The state land planning agency's notice is subject to~~
1222 ~~challenge under chapter 120; however, an affected person, as~~
1223 ~~defined in s. 163.3184(1)(a), has standing to initiate the~~
1224 ~~administrative proceeding, and this proceeding is the sole means~~
1225 ~~available to challenge the consistency of an interlocal~~
1226 ~~agreement required by this section with the criteria contained~~
1227 ~~in subsection (3) and this subsection. In order to have~~
1228 ~~standing, each person must have submitted oral or written~~
1229 ~~comments, recommendations, or objections to the local government~~
1230 ~~or the school board before the adoption of the interlocal~~
1231 ~~agreement by the district school board and local government. The~~
1232 ~~district school board and local governments are parties to any~~
1233 ~~such proceeding. In this proceeding, when the state land~~
1234 ~~planning agency finds the interlocal agreement to be consistent~~
1235 ~~with the criteria in subsection (3) and this subsection, the~~
1236 ~~interlocal agreement must be determined to be consistent with~~
1237 ~~subsection (3) and this subsection if the local government's and~~
1238 ~~school board's determination of consistency is fairly debatable.~~
1239 ~~When the state land planning agency finds the interlocal~~
1240 ~~agreement to be inconsistent with the requirements of subsection~~
1241 ~~(3) and this subsection, the local government's and school~~
1242 ~~board's determination of consistency shall be sustained unless~~
1243 ~~it is shown by a preponderance of the evidence that the~~
1244 ~~interlocal agreement is inconsistent.~~
1245 ~~(c) If the state land planning agency enters a final order~~
1246 ~~that finds that the interlocal agreement is inconsistent with~~
1247 ~~the requirements of subsection (3) or this subsection, the state~~

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1248 ~~land planning agency shall forward it to the Administration~~
1249 ~~Commission, which may impose sanctions against the local~~
1250 ~~government pursuant to s. 163.3184(11) and may impose sanctions~~
1251 ~~against the district school board by directing the Department of~~
1252 ~~Education to withhold an equivalent amount of funds for school~~
1253 ~~construction available pursuant to ss. 1013.65, 1013.68,~~
1254 ~~1013.70, and 1013.72.~~
1255 ~~(5) If an executed interlocal agreement is not timely~~
1256 ~~submitted to the state land planning agency for review, the~~
1257 ~~state land planning agency shall, within 15 working days after~~
1258 ~~the deadline for submittal, issue to the local government and~~
1259 ~~the district school board a notice to show cause why sanctions~~
1260 ~~should not be imposed for failure to submit an executed~~
1261 ~~interlocal agreement by the deadline established by the agency.~~
1262 ~~The agency shall forward the notice and the responses to the~~
1263 ~~Administration Commission, which may enter a final order citing~~
1264 ~~the failure to comply and imposing sanctions against the local~~
1265 ~~government and district school board by directing the~~
1266 ~~appropriate agencies to withhold at least 5 percent of state~~
1267 ~~funds pursuant to s. 163.3184(11) and by directing the~~
1268 ~~Department of Education to withhold from the district school~~
1269 ~~board at least 5 percent of funds for school construction~~
1270 ~~available pursuant to ss. 1013.65, 1013.68, 1013.70, and~~
1271 ~~1013.72.~~
1272 (4) ~~(6)~~ Any local government transmitting a public school
1273 element to implement school concurrency pursuant to the
1274 requirements of s. 163.3180 before May 31, 2002, ~~the effective~~
1275 ~~date of this section~~ is not required to amend the element or any
1276 interlocal agreement to conform with the provisions of

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1277 subsections (2)-(4) ~~(2)-(6)~~ if the element is adopted before
1278 June 1, 2003, ~~prior to or within 1 year after the effective date~~
1279 ~~of subsections (2)-(6)~~ and remains in effect.
1280 (5)~~(7)~~ A board and the local governing body must share and
1281 coordinate information related to existing and planned school
1282 facilities; proposals for development, redevelopment, or
1283 additional development; and infrastructure required to support
1284 the school facilities, concurrent with proposed development. A
1285 school board must ~~shall~~ use information produced by the
1286 demographic, revenue, and education estimating conferences
1287 pursuant to s. 216.136 when preparing the district educational
1288 facilities plan pursuant to s. 1013.35, as modified and agreed
1289 to by the local governments, if ~~when~~ provided by interlocal
1290 agreement, and the Office of Educational Facilities, in
1291 consideration of local governments' population projections, to
1292 ensure that the district educational facilities plan not only
1293 reflects enrollment projections but also considers applicable
1294 municipal and county growth and development projections. The
1295 projections must be apportioned geographically with assistance
1296 from the local governments using local government trend data and
1297 the school district student enrollment data. A school board is
1298 precluded from siting a new school in a jurisdiction where the
1299 school board has failed to provide the annual educational
1300 facilities plan for the prior year required pursuant to s.
1301 1013.35 unless the failure is corrected.
1302 (6)~~(8)~~ The location of educational facilities shall be
1303 consistent with the comprehensive plan of the appropriate local
1304 governing body developed under part II of chapter 163 and
1305 consistent with the plan's implementing land development

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1306 regulations.
1307 (7)~~(9)~~ To improve coordination relative to potential
1308 educational facility sites, a board shall provide written notice
1309 to the local government that has regulatory authority over the
1310 use of the land consistent with an interlocal agreement entered
1311 pursuant to subsections (2)-(4) ~~(2)-(6)~~ at least 60 days before
1312 ~~prior to~~ acquiring or leasing property that may be used for a
1313 new public educational facility. The local government, upon
1314 receipt of this notice, shall notify the board within 45 days if
1315 the site proposed for acquisition or lease is consistent with
1316 the land use categories and policies of the local government's
1317 comprehensive plan. This preliminary notice does not constitute
1318 the local government's determination of consistency pursuant to
1319 subsection (8) ~~(10)~~.
1320 (8)~~(10)~~ As early in the design phase as feasible and
1321 consistent with an interlocal agreement entered pursuant to
1322 subsections (2)-(4) ~~(2)-(6)~~, but no later than 90 days before
1323 commencing construction, the district school board shall in
1324 writing request a determination of consistency with the local
1325 government's comprehensive plan. The local governing body that
1326 regulates the use of land shall determine, in writing within 45
1327 days after receiving the necessary information and a school
1328 board's request for a determination, whether a proposed
1329 educational facility is consistent with the local comprehensive
1330 plan and consistent with local land development regulations. If
1331 the determination is affirmative, school construction may
1332 commence and further local government approvals are not
1333 required, except as provided in this section. Failure of the
1334 local governing body to make a determination in writing within

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1335 90 days after a district school board's request for a
1336 determination of consistency shall be considered an approval of
1337 the district school board's application. Campus master plans and
1338 development agreements must comply with the provisions of s.
1339 1013.30.
1340 (9) ~~(11)~~ A local governing body may not deny the site
1341 applicant based on adequacy of the site plan as it relates
1342 solely to the needs of the school. If the site is consistent
1343 with the comprehensive plan's land use policies and categories
1344 in which public schools are identified as allowable uses, the
1345 local government may not deny the application but it may impose
1346 reasonable development standards and conditions in accordance
1347 with s. 1013.51(1) and consider the site plan and its adequacy
1348 as it relates to environmental concerns, health, safety and
1349 welfare, and effects on adjacent property. Standards and
1350 conditions may not be imposed which conflict with those
1351 established in this chapter or the Florida Building Code, unless
1352 mutually agreed and consistent with the interlocal agreement
1353 required by subsections (2)-(4) ~~(2)-(6)~~.
1354 (10) ~~(12)~~ This section does not prohibit a local governing
1355 body and district school board from agreeing and establishing an
1356 alternative process for reviewing a proposed educational
1357 facility and site plan, and offsite impacts, pursuant to an
1358 interlocal agreement adopted in accordance with subsections (2)-
1359 (4) ~~(2)-(6)~~.
1360 (11) ~~(13)~~ Existing schools shall be considered consistent
1361 with the applicable local government comprehensive plan adopted
1362 under part II of chapter 163. If a board submits an application
1363 to expand an existing school site, the local governing body may

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1364 impose reasonable development standards and conditions on the
1365 expansion only, and in a manner consistent with s. 1013.51(1).
1366 Standards and conditions may not be imposed which conflict with
1367 those established in this chapter or the Florida Building Code,
1368 unless mutually agreed. Local government review or approval is
1369 not required for:
1370 (a) The placement of temporary or portable classroom
1371 facilities; or
1372 (b) Proposed renovation or construction on existing school
1373 sites, with the exception of construction that changes the
1374 primary use of a facility, includes stadiums, or results in a
1375 greater than 5 percent increase in student capacity, or as
1376 mutually agreed upon, pursuant to an interlocal agreement
1377 adopted in accordance with subsections (2)-(4) ~~(2)-(6)~~.
1378 Section 37. Paragraph (b) of subsection (2) and subsection
1379 (3) of section 1013.35, Florida Statutes, are amended to read:
1380 1013.35 School district educational facilities plan;
1381 definitions; preparation, adoption, and amendment; long-term
1382 work programs.—
1383 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
1384 FACILITIES PLAN.—
1385 (b) The plan must also include a financially feasible
1386 district facilities work program for a 5-year period. The work
1387 program must include:
1388 1. A schedule of major repair and renovation projects
1389 necessary to maintain the educational facilities and ancillary
1390 facilities of the district.
1391 2. A schedule of capital outlay projects necessary to
1392 ensure the availability of satisfactory student stations for the

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1393 projected student enrollment in K-12 programs. This schedule
1394 shall consider:
1395 a. The locations, capacities, and planned utilization rates
1396 of current educational facilities of the district. The capacity
1397 of existing satisfactory facilities, as reported in the Florida
1398 Inventory of School Houses must be compared to the capital
1399 outlay full-time-equivalent student enrollment as determined by
1400 the department, including all enrollment used in the calculation
1401 of the distribution formula in s. 1013.64.
1402 b. The proposed locations of planned facilities, whether
1403 those locations are consistent with the comprehensive plans of
1404 all affected local governments, and recommendations for
1405 infrastructure and other improvements to land adjacent to
1406 existing facilities. The provisions of ss. 1013.33(8), (9), and
1407 (10) ~~ss. 1013.33(10), (11), and (12)~~ and 1013.36 must be
1408 addressed for new facilities planned within the first 3 years of
1409 the work plan, as appropriate.
1410 c. Plans for the use and location of relocatable
1411 facilities, leased facilities, and charter school facilities.
1412 d. Plans for multitrack scheduling, grade level
1413 organization, block scheduling, or other alternatives that
1414 reduce the need for additional permanent student stations.
1415 e. Information concerning average class size and
1416 utilization rate by grade level within the district which will
1417 result if the tentative district facilities work program is
1418 fully implemented.
1419 f. The number and percentage of district students planned
1420 to be educated in relocatable facilities during each year of the
1421 tentative district facilities work program. For determining

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1422 future needs, student capacity may not be assigned to any
1423 relocatable classroom that is scheduled for elimination or
1424 replacement with a permanent educational facility in the current
1425 year of the adopted district educational facilities plan and in
1426 the district facilities work program adopted under this section.
1427 Those relocatable classrooms clearly identified and scheduled
1428 for replacement in a school-board-adopted, financially feasible,
1429 5-year district facilities work program shall be counted at zero
1430 capacity at the time the work program is adopted and approved by
1431 the school board. However, if the district facilities work
1432 program is changed and the relocatable classrooms are not
1433 replaced as scheduled in the work program, the classrooms must
1434 be reentered into the system and be counted at actual capacity.
1435 Relocatable classrooms may not be perpetually added to the work
1436 program or continually extended for purposes of circumventing
1437 this section. All relocatable classrooms not identified and
1438 scheduled for replacement, including those owned, lease-
1439 purchased, or leased by the school district, must be counted at
1440 actual student capacity. The district educational facilities
1441 plan must identify the number of relocatable student stations
1442 scheduled for replacement during the 5-year survey period and
1443 the total dollar amount needed for that replacement.
1444 g. Plans for the closure of any school, including plans for
1445 disposition of the facility or usage of facility space, and
1446 anticipated revenues.
1447 h. Projects for which capital outlay and debt service funds
1448 accruing under s. 9(d), Art. XII of the State Constitution are
1449 to be used shall be identified separately in priority order on a
1450 project priority list within the district facilities work

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1451 program.
1452 3. The projected cost for each project identified in the
1453 district facilities work program. For proposed projects for new
1454 student stations, a schedule shall be prepared comparing the
1455 planned cost and square footage for each new student station, by
1456 elementary, middle, and high school levels, to the low, average,
1457 and high cost of facilities constructed throughout the state
1458 during the most recent fiscal year for which data is available
1459 from the Department of Education.
1460 4. A schedule of estimated capital outlay revenues from
1461 each currently approved source which is estimated to be
1462 available for expenditure on the projects included in the
1463 district facilities work program.
1464 5. A schedule indicating which projects included in the
1465 district facilities work program will be funded from current
1466 revenues projected in subparagraph 4.
1467 6. A schedule of options for the generation of additional
1468 revenues by the district for expenditure on projects identified
1469 in the district facilities work program which are not funded
1470 under subparagraph 5. Additional anticipated revenues may
1471 include effort index grants, SIT Program awards, and Classrooms
1472 First funds.
1473 (3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES
1474 PLAN TO LOCAL GOVERNMENT.—The district school board shall submit
1475 a copy of its tentative district educational facilities plan to
1476 all affected local governments prior to adoption by the board.
1477 The affected local governments shall review the tentative
1478 district educational facilities plan and comment to the district
1479 school board on the consistency of the plan with the local

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1480 comprehensive plan, whether a comprehensive plan amendment will
1481 be necessary for any proposed educational facility, and whether
1482 the local government supports a necessary comprehensive plan
1483 amendment. If the local government does not support a
1484 comprehensive plan amendment for a proposed educational
1485 facility, the matter shall be resolved pursuant to the
1486 interlocal agreement when required by ss. 163.3177(6)(h) and~~,~~
1487 163.31777~~, and 1013.33(2)~~. The process for the submittal and
1488 review shall be detailed in the interlocal agreement when
1489 required pursuant to ss. 163.3177(6)(h) and~~,~~ 163.31777~~, and~~
1490 ~~1013.33(2)~~.
1491 Section 38. Subsection (3) of section 1013.351, Florida
1492 Statutes, is amended to read:
1493 1013.351 Coordination of planning between the Florida
1494 School for the Deaf and the Blind and local governing bodies.—
1495 (3) The board of trustees and the municipality in which the
1496 school is located may enter into an interlocal agreement to
1497 establish the specific ways in which the plans and processes of
1498 the board of trustees and the local government are to be
1499 coordinated. ~~If the school and local government enter into an~~
1500 ~~interlocal agreement, the agreement must be submitted to the~~
1501 ~~state land planning agency and the Office of Educational~~
1502 ~~Facilities.~~
1503 Section 39. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/12
Meeting Date

Topic: Growth Management

Bill Number: 842 *(if applicable)*

Name: CHARLES PATTISON

Amendment Barcode: 805156 *(if applicable)*

Job Title: PRESIDENT

Address: 308 N. MONROE ST.
Street

TALLAHASSEE, 32308
City *State* *Zip*

Phone: (850) 222-6277

E-mail: cpattison@1000fof.org

Speaking: ☐ For ☐ Against ☑ Information

Representing: 1000 FRIENDS 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)

1/23/2012
Meeting Date

Topic _____

Bill Number 842 *(if applicable)*

Name Leticia M. Adams

Amendment Barcode _____ *(if applicable)*

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-521-1279

E-mail ladams@flchamber.com

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

Representing Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

14

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-22-12
Meeting Date

Topic: GROWTH Mngt

Bill Number: SB 842 *(if applicable)*

Name: Richard Gentry

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2305 BRAEBURN CIR.
Street

TLH 32309
City *State* *Zip*

Phone: 251-1837

E-mail:

Speaking: ☑ For ☐ Against ☐ Information

Representing: AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 816

INTRODUCER: Senator Bennett

SUBJECT: Professional Sports Facilities

DATE: January 17, 2012 REVISED: 01/23/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/1 amendment**
2.			CM	
3.			CF	
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [ ] Statement of Substantial Changes

B. AMENDMENTS..... [ ] Technical amendments were recommended

[ ] Amendments were recommended

[X] Significant amendments were recommended

I. Summary:

This bill requires a professional sports franchise that plays in a facility that benefited from financial assistance from the state and the county in which the facility is located to document that a homeless shelter has been operating at the sports facility from the effective date of the contract between the county and the professional sports franchise. If the professional sports franchise cannot demonstrate to the Auditor General that a homeless shelter has been operating at the sports facility or has only been operating for a portion of that time, the county and the professional sports franchise shall refund to the state all funds advanced to the county and the professional sports franchise by the state, less the sum representing any month in which the facility has operated as a homeless shelter. Additional fines are levied on the sports franchise and county until a homeless shelter is operating at the facility. The bill also requires that a county commission establish a local homeless coalition to oversee the operation of the shelter site if a local homeless program does not exist.

This bill substantially amends section 288.1166 of the Florida Statutes:

II. Present Situation:

Section 288.1166, F.S., provides that any professional sports facility constructed with financial assistance from the state of Florida shall be designated as a shelter site for the homeless in accordance with the criteria of locally existing homeless shelter programs except when the facility is otherwise contractually obligated for a specific event or activity.

Facilities for New Professional Sports, Retained Professional Sports, or Retained Spring Training Franchise

The Catalog of State Financial Assistance identifies CSFA No. 73.016, Facilities for New Professional Sports, Retained Professional Sports, or Retained Spring Training Franchise as the State financial assistance program relating to professional sports facilities.[1] Local government, non-profit, and for-profit entities may apply to the program. Section 288.1162(6), F.S., provides for no more than eight new or retained sports franchise facilities in the program. Section 288.11621(2)(b), F.S., caps the number of retained spring training facilities at 10.

Program Restrictions

The applicant must have a signed agreement with a new professional sports franchise or retained professional sports franchise for a term of at least 10 years or 20 years, respectively. There must be existing projections and independent studies demonstrating that the new or retained sports franchise will attract a paid attendance of more than 300,000 annually and generate sales tax revenue equal to or greater than $2 million annually.

The applicant must have a signed agreement with a retained spring training franchise for a term of at least 15 years. There must be existing projections and independent studies demonstrating that the facility for retained spring training franchise will attract a paid attendance of at least 50,000. Funds may not be expended to subsidize privately owned and maintained facilities for use by the spring training franchise.

No more than $416,670 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. No applicant may receive more in distributions than he/she actually expended for the public purposes provided in s. 288.1162(6), F.S. No applicant previously certified under any provision of s. 288.1162, F.S., shall be eligible for an additional certification.

The Department of Revenue (DOR) may audit as provided in s. 213.34, F.S., to verify that the distributions pursuant to this section have been expended as required in this section.

[1] Florida Department of Financial Services, The Catalog of State Financial Assistance, *Facilities for New Professional Sports, Retained Professional Sports, or Retained Spring Training Franchise*, *available at* https://apps.fldfs.com/fsaa/searchCatalogResultsDetail.aspx?id=40376 (last visited Jan. 17, 2012). Authorization for the program is provided under s. 212.20, F.S. and s. 288.1162, F.S.

Award Procedures
Applications for the program are filed with the Division of Strategic Business Development (DSBD) in the Department of Economic Opportunity (DEO).[2] DSDB shall competitively evaluate applications and certify applicants as a facility for a new professional sports franchise or as a facility for a retained spring training franchise and notify the DOR.

Upon certification by DSDB, the DOR shall distribute monthly, $166,667 to facilities for new professional sports franchise or for retained professional sports franchises. The DOR shall distribute up to $41,667 monthly to facilities for retained spring training franchise. Distributions shall begin 60 days following certification and shall continue for not more than 30 years. DSDB shall certify no more than eight facilities for a retained professional sports franchise and the eighth shall be a franchise of the NBA and located in Florida since 1987 and not previously certified.

DISTRIBUTION TO PRO SPORTS FACILITIES[3]

Professional Sports Franchise Facility	Name of Team/Facility	Type of Facility	First Distribution	Total $ Paid to Date
Dolphin Stadium /South Florida Stadium (Joe Robbie Stadium, Pro Player Stadium)	Florida Marlins (baseball) Dolphins (football)	Pro	06/94	37,000,074
City of Jacksonville	Jacksonville Jaguars (football)	Pro	06/94	35,166,737
City of St. Petersburg	Tampa Bay Rays (baseball)	Pro	06/95	33,000,066
Tampa Sports Authority	Tampa Bay Lightning (hockey)	Pro	09/95	32,666,732
Broward County	Florida Panthers (hockey)	Pro	08/96	30,833,395
Hillsborough County	Tampa Bay Buccaneers (football)	Pro	01/97	30,000,060
CitiBank, NA as Trustee	Miami Heat (Basketball Properties, Ltd.)	Pro	03/98	27,500,055
City of Orlando	Orlando Magic (basketball)	Pro	02/08	7,833,349
City of Clearwater	Philadelphia Phillies (baseball)	Spring Training	02/01	5,416,710
City of Dunedin	Toronto Bluejays (baseball)	Spring Training	02/01	5,416,710
Indian River County	L.A. Dodgers (baseball)	Spring Training	02/01	5,416,710
Osceola County	Houston Astros (baseball)	Spring Training	02/01	5,416,710
City of Lakeland	Detroit Tigers (baseball)	Spring Training	02/01	5,055,570

[2] *See* ch. 2011-142, L.O.F., regarding the transfer of responsibilities from the Office of Tourism, Trade and Economic Development to the DSBD.
[3] E-mail from Lynne Moeller, Legislative and Cabinet Services, Florida Department of Revenue (Jan. 18, 2012) (on file with the Senate Committee on Community Affairs). The original data from DOR has been reformatted to fit within this document.

Charlotte County BOCC	Tampa Bay Rays (baseball)	Spring Training	03/07	2,416,686
City of Bradenton	Pittsburgh Pirates (baseball)	Spring Training	03/07	2,416,686
City of Fort Lauderdale	Currently without a team	Spring Training	03/07	2,291,685
City of Sarasota	Baltimore Orioles (baseball)	Spring Training	03/07	2,416,686
St. Lucie County	New York Mets (baseball)	Spring Training	03/07	1,275,157
TOTAL				**271,539,778**

Local Coalitions for the Homeless

Section 420.623, F.S., provides that the DEO shall establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless. The local coalitions address local issues related to homelessness and the needs of the homeless.

III. Effect of Proposed Changes:

Section 1 amends s. 288.1166, F.S., to require a professional sports franchise that plays in a facility that benefited from financial assistance from the state and the county in which the facility is located to, by January 1, 2013, document with the Auditor General that a homeless shelter has been operating at the sports facility from the effective date of the contract between the county and the professional sports franchise. If the professional sports franchise that plays in a facility that benefited from financial assistance cannot demonstrate to the Auditor General that a homeless shelter has been operating at the sports facility from the effective date of the contract between the county and the professional sports franchise until July 1, 2012, or has only been operating for a portion of that time, the county and the professional sports franchise shall refund to the state all funds advanced to the county and the professional sports franchise by the state, less the sum representing any month in which the facility has operated as a homeless shelter. Such refund shall be made no later than December 31, 2012.

The bill also requires that a county commission establish a local homeless coalition under s. 420.623, F.S., to oversee the operation of the shelter site if a local homeless program does not exist in the county where a facility is located.

This bill requires that if, after January 1, 2013, the Auditor General determines that a homeless shelter is still not operating at a facility that benefited from financial assistance from the state, the Auditor General shall fine the professional sports franchise that plays in the facility and the county in which the facility is located an amount going forward equal to 150 percent of any financial assistance received each month from the state until the professional sports franchise and the county are operating a homeless shelter at the sports facility.

Section 2 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:

Sports franchises that are not in compliance with the provisions of the bill will be required to refund all financial assistance funds advanced to them by the state. If the sports franchise remains in noncompliance, it will be fined additional amounts until it satisfies the provisions of the bill. The extent of the refund and/or fine will be linked to the financial assistance received. It is unclear how many of the affected sports franchises have been operating homeless shelters.

C. Government Sector Impact:

A county with a sports franchise that is not in compliance with the provisions of the bill will be required to refund all financial assistance funds advanced to it by the state. If the county and sports franchise remain in noncompliance, the county will be fined additional amounts until it satisfies the provisions of the bill. The extent of the refund and/or fine will be linked to the financial assistance received. It is unclear how many of the affected sports franchise have been operating homeless shelters.

The Auditor General will need to deploy agency resources related to the compliance reporting, collection of refunds, and assessment and collection of fines provided in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

Barcode 362006 by Community Affairs on January 23, 2012:
Prohibits a new or retained professional sports franchise facility that receives state funds -- or the franchise's league -- from administering a broadcast blackout due to insufficient ticket sales. Provides a fine if a blackout occurs and requires that the fine proceeds be used to purchase tickets to games of the sports franchise for specified individuals and their families. (WITH TITLE AMENDMENT)

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

362006

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/23/2012	.	
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The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 79 and 80
4 insert:
5 Section 2. Broadcast blackouts prohibited at publicly
6 financed facilities.—
7 (1) A new or retained professional sports franchise using a
8 facility that receives public funding under s. 212.20(6)(d)6.,
9 Florida Statutes, or the franchise's league may not prohibit
10 television or radio broadcasts of a game played in the facility
11 in areas near the facility due to insufficient ticket sales.
12 (2) If the professional sports franchise or its league

362006

13 violates this section, the professional sports franchise is
14 subject to a fine by the county in which the facility is located
15 in the amount of $125,000 per violation. A fine assessed under
16 this section must be paid by the franchise before it plays the
17 first regular season game of the next season in the publicly
18 financed facility.
19 (3) The proceeds of the fine shall be used by the county or
20 the public sports authority for the county exclusively to
21 purchase tickets to games of the professional sports franchise
22 at the facility for foster children and their foster families,
23 nonprofit youth organizations, and the United Service
24 Organization, Inc., which organization will provide the tickets
25 to servicemembers on leave from active duty in a combat zone and
26 their families.
27
28 ========== T I T L E A M E N D M E N T ==========
29 And the title is amended as follows:
30 Delete line 25
31 and insert:
32 and county are operating a homeless shelter; prohibiting a
33 new or retained professional sport franchise that uses a
34 facility that receives certain distributions of public funds or
35 the franchise's league from preventing television or radio
36 broadcasts of games in the facility due to insufficient ticket
37 sales; providing that the sports franchise is subject to a fine
38 by the county in which the facility is located if broadcasts of
39 a game are prohibited; requiring that the proceeds of the fine
40 be used to purchase tickets to games of the sports franchise at
41 the publicly financed facility for specified individuals and

362006

42 their families; providing

By Senator Bennett

21-00411A-12 2012816__

A bill to be entitled

An act relating to professional sports facilities; amending s. 288.1166, F.S.; requiring the county commission in a county in which a professional sports facility is located to establish a local homeless coalition if a local homeless program does not exist in that county; requiring that, by a specified date, the professional sports franchise that plays in a facility that benefited from financial assistance from the state, and the county in which the facility is located, provide the Auditor General with documentation that a homeless shelter has been operating at the facility from the effective date of the contract between the county and the professional sports franchise; requiring the professional sports franchise and the county to refund any financial assistance received from the state which benefited the facility during the period that the facility failed to operate a homeless shelter; requiring the Auditor General to levy a specified fine against the professional sports franchise and the county if, after a specified date, the Auditor General determines that a homeless shelter is not operating at the facility until such time that the professional sports franchise and county are operating a homeless shelter; providing an effective date.

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

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

21-00411A-12 2012816__

Section 1. Section 288.1166, Florida Statutes, is amended to read:

288.1166 Professional sports facility; designation as shelter site for the homeless; establishment of local programs.—

(1) Any professional sports facility constructed with financial assistance from the state ~~of Florida~~ shall be designated as a shelter site for the homeless in accordance with the criteria of locally existing homeless shelter programs.~~,~~

(2) Subsection (1) does not apply ~~except~~ when the facility is otherwise contractually obligated for a specific event or activity.

(3) If ~~Should~~ a local homeless program does not exist ~~be~~ in ~~existence in~~ the county where the facility is located ~~facility's area~~, the county commission shall establish a local homeless coalition under s. 420.623 to oversee the operation of the shelter site ~~such program shall be established in accordance with normally accepted criteria as defined by the county or its designee~~.

(4) The professional sports franchise that plays in a facility that benefited from financial assistance from the state and the county in which the facility is located shall, by January 1, 2013, document with the Auditor General that a homeless shelter has been operating at the sports facility from the effective date of the contract between the county and the professional sports franchise.

(5)(a) If the professional sports franchise that plays in a facility that benefited from financial assistance from the state and the county in which the facility is located cannot demonstrate to the Auditor General that a homeless shelter has

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

59 been operating at the sports facility from the effective date of
60 the contract between the county and the professional sports
61 franchise until July 1, 2012, or has only been operating for a
62 portion of that time, the county and the professional sports
63 franchise shall refund to the state all funds advanced to the
64 county and the professional sports franchise by the state, less
65 the sum representing any month in which the facility has
66 operated as a homeless shelter.
67 (b) The professional sports franchise that plays in the
68 facility and the county in which the facility is located shall
69 refund all assistance received from the state no later than
70 December 31, 2012.
71 (6) If, after January 1, 2013, the Auditor General
72 determines that a homeless shelter is still not operating at a
73 facility that benefited from financial assistance from the
74 state, the Auditor General shall fine the professional sports
75 franchise that plays in the facility and the county in which the
76 facility is located an amount going forward equal to 150 percent
77 of any financial assistance received each month from the state
78 until the professional sports franchise and the county are
79 operating a homeless shelter at the sports facility.
80 Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2012
Meeting Date

Topic _____ Bill Number 816 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☑ For in part ☐ 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)

1-23-12
Meeting Date

Topic: Professional Sports Facilities

Bill Number: SB 816 (if applicable)

Name: FELY CURVA

Amendment Barcode: (if applicable)

Job Title: Partner, Curva & Assoc. LLC

Address: 1212 Piedmont Dr.
Street

Tallahassee, FL 32312
City, State, Zip

Phone: (850) 508-2256

E-mail: curva@mindspring.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: FL. Coalition for the Homeless; FL. IMPACT

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1196

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Residential Construction Warranties

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.			JU	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This committee substitute (CS) provides a legislative intent explanation to affirm the limitations of the doctrine of implied warranty of fitness and merchantability or habitability associated with the construction and sale of a new home. This CS provides a definition for "off-site improvement". This CS prohibits a cause of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for off-site improvements, except as otherwise provided by law.

This CS creates s. 553.835 and an undesignated section of the Florida Statutes.

II. Present Situation:

The Florida Building Code

The purpose and intent of the Florida Building Codes Act located in part IV, of ch. 553, F.S., is "to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single unified state building code," known as the Florida Building Code. Section 553.72, F.S., defines the Florida Building Code as a "single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or

private buildings, structures, or facilities in this state" which establish minimum standards that shall be enforced by authorized state and local government enforcement agencies. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.

Statute of Repose for Construction Defects

A statute of repose is similar to a statute of limitations. A statute of repose bars a suit after a fixed period of time after the defendant acts in some way, even if this period ends before the plaintiff has suffered any injury. Although phrased in similar language imposing time limits within which legal proceedings on a cause of action must be commenced, a statute of repose is not a true statute of limitations because it begins to run not from accrual of the cause of action, but from an established or fixed event, such as the delivery of a product or the completion of work, which is unrelated to accrual of the cause of action.[1] Moreover, unlike a statute of limitations, a statute of repose abolishes or completely eliminates the underlying substantive right of action, not just the remedy available to the plaintiff, upon expiration of the limitation period specified in the statute of repose.[2]

Limitations Other Than for the Recovery of Real Property

Section 95.11(3)(c), F.S., provides that an action, other than for the recovery of real property, shall be commenced within four years when the cause of action is founded on the design, planning, or construction of an improvement to real property. The four years begin running from the latest of the following:

- The date of actual possession of the real property by the owner;
- The date of the issuance of the certificate of occupancy;
- The date of abandonment of the construction if not completed; or
- The date of completion or termination of the contract with an engineer, architect, or contractor and his or her employer.

If the action involves a latent defect, however, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, an action for a latent defect must be commenced within 10 years after the latest of the following:

- The date of actual possession of the real property by the owner;
- The date of the issuance of the certificate of occupancy;
- The date of abandonment of the construction if not completed; or
- The date of completion or termination of the contract with an engineer, architect, or contractor and his or her employer.

Implied Warranty of Fitness and Merchantability

In 1972 the Florida Supreme Court, in *Gable v. Silver* followed a national trend and abrogated the doctrine of caveat emptor in real estate transactions as applied to initial home sales and instead applied the common law doctrine of implied warranty to such transactions.[3] In this

[1] *Kush v. Lloyd*, 616 So. 2d 415 (Fla. 1992).
[2] *Beach v. Great Western Bank*, 692 So. 2d 146 (Fla. 1997).
[3] *Gable v. Silver*, 258 So. 2d 11 (Fla. 4th DCA 1972), *adopted*, 264 So. 2d 418 (Fla. 1972)

regard, the Court found the sale of a newly constructed home by a home builder-seller to the first purchaser, as a matter of law, carried with it an implied warranty for construction defects affecting the fitness and merchantability (or habitability) of the home or such other improvements that "immediately support" the home. Improvements that immediately support the home have been interpreted by the courts to include a water well or septic tank. These warranties are limited in that they extend to original purchasers only.[4] The implied warranties do not arise in the sale of nonresidential property or property intended for residential development.[5]

Warranties of Fitness for Work and Materials Specified in a Condominium Construction Contract

Section 718.203(2), F.S., provides that the contractor, subcontractors, and suppliers, grant to the developer and to the purchaser of each condominium unit implied warranties of fitness as to the work performed or materials supplied by them as follows:

- For three years from the date of completion of construction of a building or improvement, a warranty for the roof and structural components of the building or improvement and mechanical and plumbing elements serving a building or an improvement, except mechanical elements serving only one unit; and
- For one year after completion of all construction, a warranty as to all other improvements and materials.

Section 718.203(6), F.S., provides that nothing in the section affects a condominium as to which rights are established by contracts for sale of 10 percent or more of the units in the condominium by the developer to prospective unit owners prior to July 1, 1974, or as to condominium buildings on which construction has been commenced prior to July 1, 1974.

Maronda v. Lakeview

The Florida Supreme Court recently heard oral arguments on *Maronda Homes, Inc. v. Lakeview Reserve Homeowners Association, Inc.*,[6] an appeal from an October 2010 decision of the Fifth District Court of Appeal. In the decision under appeal the Fifth District determined that Lakeview Reserve could pursue the project developer, Maronda Homes, under an implied warranty theory for defects and deficiencies in the roads, drainage systems, retention ponds, and underground piping of the subdivision. At issue was the interpretation of the Supreme Court's decision in *Conklin v. Hurley*, in which the Supreme Court determined that implied warranties extended only to the construction of a residence and "improvements immediately supporting the residence" such as water wells and septic tanks.[7] The Fourth District Court of Appeal, in 1985, interpreted *Conklin* as precluding recovery by a homeowner's association under an implied warranty theory for defects in subdivision roads and drainage improvements.[8]

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[4] *Strathmore Riverside Villas Condominium Association, Inc. v. Pacer Development Corp.*, 369 So. 2d 971 (Fla. 2d DCA 1979).
[5] *Conklin v. Hurley*, 428 So. 2d 654 (Fla. 1983).
[6] *Maronda Homes, Inc. v. Lakeview Reserve Homeowners Association, Inc.,* 48 So. 3d 902 (Fla. 5th DCA 2010)
[7] *Conklin v. Hurley*, 428 So. 2d 654 (Fla. 1983)
[8] *Port Seawall Harbor and Tennis Club Owners Ass'n., Inc. v. First Federal Savings and Loan Association of Martin County*, 463 So.2d 530 (Fla. 4th DCA 1985).

The Florida Supreme Court will decide whether the Fourth District (no implied warranties for off-site improvements) or the Fifth District (implied warranties for off-site improvements) is the law in the State of Florida for homeowners. The other issue to be decided by the Supreme Court is whether the Association itself has standing to pursue the claim or whether a class action on behalf of the homeowners is necessary. The Fifth District ruled that the Association had standing to bring the action.

Summary of Other States
According to the National Association of Home Builders, there are twelve states that have, or have had, statutory warranties.

The statutory new home warranty acts for Indiana, Louisiana, Maryland, Minnesota, Mississippi, and New Jersey all specifically exclude, "off-site improvements" from warranty coverage. Mississippi is the most specific in its exclusion language, listing the non-covered off-site improvements as follows: "off-site improvements including streets, roads, drainage and utilities or any other improvements not a part of the home itself."[9]

The statutory new home warranty provision for Connecticut, Maine, New York, and Virginia do not indicate whether off-site improvements would be included or excluded from warranty coverage.

III. Effect of Proposed Changes:

Section 1 creates s. 553.835, F.S., which provides a legislative intent explanation to affirm the limitations of the doctrine of implied warranty of fitness and merchantability or habitability associated with the construction and sale of a new home. This section defines "off-site improvement," prohibits a cause of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for off-site improvements, except as otherwise provided by law, and provides that the existing right of purchasers of homes or homeowners' associations to pursue causes of action based upon contract, tort, or statute are not altered or limited.

Section 2 provides that if any provision in the act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 3 provides an effective date of July 1, 2012, and applies to all cases accruing before, pending on, or filed after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[9] Section 83-58-5, Miss. Code Ann.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

Section 3 of the CS may raise an impairment of contract constitutional issue. Both the Federal and Florida State Constitutions contain limitations on the State's right to alter or impair existing contracts.[10] Article I, Section 10 of the State Constitution and the Contract Clause of the United States Constitution prohibit laws impairing contractual obligations. Retrospective operation is not favored by courts, and a law is not construed as retroactive unless the act clearly, by express language or necessary implication, indicates that the Legislature intended a retroactive application.[11] These provisions allow courts to strike laws which retroactively burden or alter contractual obligations.[12]

The framework courts use to determine whether a law has impaired a contract is similar to a rational basis review. The United States Supreme Court set forth a three part test for whether a law violates a private contract under the Contract Clause in Energy Reserves Group v. Kansas Power & Light.[13] First, the state regulation must substantially impair a contractual relationship. If it doesn't substantially impair a contractual obligation then the inquiry ends, as the Contract Clause applies only to laws which *substantially* impair contract rights. Second, the State "must have a significant and legitimate purpose behind the regulation, such as the remedying of a broad and general social or economic problem."[14] Third, the law must be reasonable and appropriate for its intended purpose.

Florida's Contract Clause interpretations have generally mirrored the United States Supreme Court's interpretation of the Contract Clause of the Constitution of the United States.[15]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

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[10] *See* U.S. Const., Art. I, Sec. 10, clause 1; Fla. Const., Art. I, Sec. 10.
[11] See *Heberle v. P.R.O. Liquidating Co.,* 186 So. 2d 280, 282 (1st DCA 1966) ("A strict rule of statutory construction indulged in by the courts is the presumption that the legislature, in the absence of a positive expression, intended statutes or amendments enacted by it to operate prospectively only, not retroactively.").
[12] *See In re Advisory Opinion to the Governor*, 509 So. 2d 292 (Fla. 1987); *Daytona Beach Racing & Recreational Facilities District v. Volusia County*, 372 So. 2d 419 (Fla. 1979).
[13] 459 U.S. 400 (1983).
[14] *Id.* at 411-13.
[15] *See generally Pomponio v. Cladridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1980); *Brevard County v. Florida Power and Light*, 693 So. 2d 77 (Fla. 5th DCA 1997).

B. Private Sector Impact:

This CS might have an economic impact on the real estate development community. This legislation would limit the ability of new homeowners to bring a cause of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for off-site improvements.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Supreme Court heard oral arguments on December 6, 2011, regarding the *Maronda v. Lakeview* case and has yet to release an opinion.[16]

VIII. Additional Information:

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

CS by Community Affairs on January 23, 2012
The CS strikes the definition of habitability. The CS inserts the phrase 'fitness and merchantability' as interchangeable with habitability to line up with case law. The CS replaces a provision regarding the applicability of s. 553.835, F.S. The CS provides that the existing rights of purchasers of homes or homeowners' associations to pursue certain causes of action are not altered or limited.

B. Amendments:

None.

[16] SC10-2292 & SC10-2336, Fla. Sup. Ct.

672482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
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	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 553.835, Florida Statutes, is created to
6 read:
7 553.835 Implied warranties.—
8 (1) The Legislature finds that the courts have reached
9 different conclusions concerning the scope and extent of the
10 common law doctrine of implied warranty of fitness and
11 merchantability or habitability for improvements immediately
12 supporting the structure of a new home, which creates

672482

13 uncertainty in the state's fragile real estate and construction
14 industry.
15 (2) It is the intent of the Legislature to affirm the
16 limitations to the doctrine of implied warranty of fitness and
17 merchantability or habitability associated with the construction
18 and sale of a new home.
19 (3) As used in this section, the term "offsite improvement"
20 means the street, road, sidewalk, drainage, utilities, or any
21 other improvement or structure that is not located on or under
22 the lot on which a new home is constructed, or that is located
23 on or under the lot but that does not immediately and directly
24 support the fitness and merchantability or habitability of the
25 home itself.
26 (4) There is no cause of action in law or equity available
27 to a purchaser of a home or to a homeowners' association based
28 upon the doctrine or theory of implied warranty of fitness and
29 merchantability or habitability for damages to offsite
30 improvements. However, this section does not alter or limit the
31 existing rights of purchasers of homes or homeowners'
32 associations to pursue any other cause of action arising from
33 defects in offsite improvements based upon contract, tort, or
34 statute.
35 Section 2. If any provision of the act or its application
36 to any person or circumstance is held invalid, the invalidity
37 does not affect other provisions or applications of the act
38 which can be given effect without the invalid provision or
39 application, and to this end the provisions of this act are
40 severable.
41 Section 3. This act shall take effect July 1, 2012, and

672482

42 applies to all cases accruing before, pending on, or filed after
43 that date.
44
45 ========== T I T L E A M E N D M E N T ==========
46 And the title is amended as follows:
47 Delete everything before the enacting clause
48 and insert:
49 A bill to be entitled
50 An act relating to residential construction
51 warranties; creating s. 553.835, F.S.; providing
52 legislative findings; providing legislative intent to
53 affirm the limitations to the doctrine of implied
54 warranty of fitness and merchantability or
55 habitability associated with the construction and sale
56 of a new home; providing a definition; prohibiting a
57 cause of action in law or equity based upon the
58 doctrine of implied warranty of fitness and
59 merchantability or habitability for offsite
60 improvements; providing that the existing rights of
61 purchasers of homes or homeowners' associations to
62 pursue certain causes of action are not altered or
63 limited; providing for applicability of the act;
64 providing for severability; providing an effective
65 date.
66
67 WHEREAS, the Legislature recognizes and agrees with the
68 limitations on the applicability of the doctrine of implied
69 warranty of fitness and merchantability or habitability for a
70 new home as established in the seminal cases of *Gable v. Silver,*

672482

71 258 So.2d 11 (Fla. 4th DCA 1972) adopted and cert. dism, 264
72 So.2d 418 (Fla. 1972); *Conklin v. Hurley,* 428 So.2d 654 (Fla.
73 1983); and *Port Sewall Harbor & Tennis Club Owners Ass'n v.*
74 *First Fed. S. & L. Ass'n.,* 463 So.2d 530 (Fla. 4th DCA 1985),
75 and does not wish to expand any prospective rights,
76 responsibilities, or liabilities resulting from these decisions,
77 and
78 WHEREAS, the recent decision by the Fifth District Court of
79 Appeal rendered in October of 2010, in *Lakeview Reserve*
80 *Homeowners et. al. v. Maronda Homes, Inc., et. al.,* 48 So.3d 902
81 (Fla. 5th DCA, 2010), expands the doctrine of implied warranty
82 of fitness and merchantability or habitability for a new home to
83 the construction of roads, drainage systems, retention ponds,
84 and underground pipes, which the court described as essential
85 services, supporting a new home, and
86 WHEREAS, the Legislature finds, as a matter of public
87 policy, that the *Maronda* case goes beyond the fundamental
88 protections that are necessary for a purchaser of a new home and
89 that form the basis for imposing an implied warranty of fitness
90 and merchantability or habitability for a new home, and creates
91 uncertainty in the state's fragile real estate and construction
92 industry, and
93 WHEREAS, it is the intent of the Legislature to reject the
94 decision by the Fifth District Court of Appeal in the *Maronda*
95 case insofar as it expands the doctrine of implied warranty and
96 fitness and merchantability or habitability for a new home to
97 include essential services as defined by the court, NOW
98 THEREFORE,

By Senator Bennett

21-01057-12 20121196__

A bill to be entitled

An act relating to residential construction warranties; creating s. 553.835, F.S.; providing legislative findings; providing legislative intent to affirm the limitations to the doctrine of implied warranty of fitness and merchantability or habitability associated with the construction and sale of a new home; providing definitions; prohibiting a cause of action in law or equity based upon the doctrine of implied warranty of fitness and merchantability or habitability for off-site improvements, except as otherwise provided by law; providing for applicability of the act; providing for severability; providing an effective date.

WHEREAS, the Legislature recognizes and agrees with the limitations on the applicability of the doctrine of implied warranty of fitness and merchantability or habitability for a new home as established in the seminal cases of *Gable v. Silver*, 258 So.2d 11 (Fla. 4th DCA 1972) adopted and cert. dism, 264 So.2d 418 (Fla. 1972); *Conklin v. Hurley*, 428 So.2d 654 (Fla. 1983); and *Port Sewall Harbor & Tennis Club Owners Ass'n v. First Fed. S. & L. Ass'n.*, 463 So.2d 530 (Fla. 4th DCA 1985), and does not wish to expand any prospective rights, responsibilities, or liabilities resulting from these decisions, and

WHEREAS, the recent decision by the Fifth District Court of Appeal rendered in October of 2010, in *Lakeview Reserve Homeowners et. al. v. Maronda Homes, Inc., et. al.*, 48 So.3d 902

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

21-01057-12 20121196__

(Fla. 5th DCA, 2010), expands the doctrine of implied warranty of fitness and merchantability or habitability for a new home to the construction of roads, drainage systems, retention ponds, and underground pipes, which the court described as essential services, supporting a new home, and

WHEREAS, the Florida Legislature finds, as a matter of public policy, that the *Maronda* case goes beyond the fundamental protections that are necessary for a purchaser of a new home and that form the basis for imposing an implied warranty of fitness and merchantability or habitability for a new home, and creates uncertainty in the state's fragile real estate and construction industry, and

WHEREAS, it is the intent of the Legislature to reject the decision by the Fifth District Court of Appeal in the *Maronda* case insofar as it expands the doctrine of implied warranty and fitness and merchantability or habitability for a new home to include essential services as defined by the court, NOW THEREFORE,

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

Section 1. Section 553.835, Florida Statutes, is created to read:

553.835 Implied warranties.—

(1) The Legislature finds that the courts have reached different conclusions concerning the scope and extent of the common law doctrine of implied warranty of fitness and merchantability or habitability for improvements immediately supporting the structure of a new home, which creates

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

59 uncertainty in the state's fragile real estate and construction
60 industry.
61 (2) It is the intent of the Legislature to affirm the
62 limitations to the doctrine of implied warranty of fitness and
63 merchantability or habitability associated with the construction
64 and sale of a new home.
65 (3) As used in this section, the term:
66 (a) "Habitability" means the condition of a home in which
67 inhabitants can live free of structural defects that will likely
68 cause significant harm to the health or safety of inhabitants.
69 (b) "Off-site improvement" means the street, road,
70 sidewalk, drainage, utilities, or any other improvement or
71 structure that is not located on or under the lot on which a new
72 home is constructed, or that is located on or under the lot but
73 that does not immediately and directly support the habitability
74 of the home itself.
75 (4) There is no cause of action in law or equity available
76 to a person based upon the doctrine of implied warranty of
77 fitness and merchantability or habitability for off-site
78 improvements, except as otherwise provided by law.
79 Section 2. If any provision of the act or its application
80 to any person or circumstance is held invalid, the invalidity
81 does not affect other provisions or applications of the act
82 which can be given effect without the invalid provision or
83 application, and to this end the provisions of this act are
84 severable.
85 Section 3. This act shall take effect July 1, 2012, and
86 applies to all cases accruing before, pending on, or filed after
87 that date.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2012
Meeting Date

Topic _____ Bill Number 1196 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVENUE 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)

1/23/2011
Meeting Date

Topic: IMPLIED WARRANTIES

Bill Number: 1196 *(if applicable)*

Name: DAVID RAMBA

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: ~~#~~ 120 S. MONROE ST.
Street

TALLAHASSEE, FL 32311
City *State* *Zip*

Phone: 727-7087

E-mail: david@rambaconsulting.com

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

Representing: NEAL COMMUNITIES

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)

1/23/12
Meeting Date

Topic: Implied Warranties

Bill Number: 1196 (if applicable)

Name: Keith Hetrick

Amendment Barcode: _____ (if applicable)

Job Title: Of Counsel -- Broad + Cassel

Address: 215 S. Monroe St.
Street

Tall. FL 32311
City State Zip

Phone: 251-1838

E-mail: khetrick@broadandcassel.com

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

Representing: Association of Florida Community Developers
Florida Home Builders Association

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

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

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

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

S-001 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1-22-12
Meeting Date

Topic: Res. Warrantees

Bill Number: SB 1196 *(if applicable)*

Name: Richard Gentry

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2305 BRAEBURN CIR
Street

TLH 32309
City *State* *Zip*

Phone: 251-1837

E-mail:

Speaking: ☑ For ☐ Against ☐ Information

Representing: AIF

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)

01/23/2012
Meeting Date

Topic: HOME WARRANTY ISSUES

Bill Number: SB 1196 (if applicable)

Name: EDWARD E. "GENE" ADAMS

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 215 SOUTH MONROE ST., 2ND FLOOR
Street

TALLAHASSEE FLA. 32301-1839
City State Zip

Phone: 850-222-3533

E-mail: GENE@PENNINGTONLAW.COM

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

Representing: REAL PROPERTY PROBATE + TRUST LAW SECTION

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 818

INTRODUCER: Committee on Community Affairs and Senators Bennett and Gaetz

SUBJECT: Animal Shelters and Animal Control Agencies

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	**Fav/CS**
2.			AG	
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 CS requires animal control agencies or animal shelters that euthanize animals to maintain a registry of animal rescue groups willing to accept animals that are subject to euthanization. The CS provides definitions and specifics regarding who can be included in the registry and who can, if necessary, be removed from the registry. The CS specifies what contact information must be included in the registry. Entities that agree to be included in the registry must specify the type of animals they will accept and under what circumstances.

The animal control agency or animal shelter may not euthanize an animal until the animal control agency or animal shelter has notified, or attempted to notify, all rescue groups or persons on the euthanization registry, which have indicated a willingness to take an animal of that type. The notification process must run concurrently and not in addition to any holding periods required by local ordinances. A holding period for a healthy animal may not be less than three days. The notification must take place at least 24 hours before the animal is scheduled to be euthanized. The rescue group or person agreeing to take possession of the animal must do so within 2 business days after notifying the animal control agency. Further, the CS specifies under what circumstances an animal may be euthanized.

An animal control agency or animal shelter must provide for public inspection a monthly and annual summary that includes the number of animals, by species type, which were taken in by the animal control agency or animal shelter and which were:

- surrendered by the owner;
- picked up as a stray;
- confiscated by the animal control agency or animal shelter; or
- imported into the state.

The reporting requirement also specifies that the animal control agency or shelter must provide for public inspection a monthly and annual summary that includes the number of animals that were impounded, euthanized, lost or stolen, returned to their owners, adopted, transferred to other organizations or rescue groups, or had died, or remained in the custody of the agency or shelter.

The CS creates s. 828.067, of the Florida Statues.

II. Present Situation:

The Humane Society of the United States (HSUS) estimated that animal shelters care for 6-8 million dogs and cats every year in the United States, of whom approximately 3-4 million are euthanized. According to the HSUS this is an estimate as there is no central data reporting agency for animal shelters. In the 1970s, American shelters euthanized 12-20 million dogs and cats, at a time when there were 67 million pets in homes. Today shelters euthanize around 4 million animals while there are more than 135 million dogs and cats in homes.[1]

According to the Senate Committee on Agriculture's *Interim Report 2009-101*, the history of no-kill sheltering began more than half a century ago when independent caregivers began rescuing and sheltering homeless animals with the intention of keeping them alive. This was in reaction to the current policy of most humane societies and tax supported animal control services that routinely euthanized stray and abandoned animals. In 1994, the city and county of San Francisco became the first community in the nation to end the euthanization of healthy dogs and cats in its animal shelter system. An agreement between the city's Animal Care and Control Department and the private San Francisco Society for the Prevention of Cruelty to Animals (SPCA) ensured a home not only to each and every healthy dog and cat, but also to thousands who were sick or injured but treatable. In addition, a citywide preference for neutering/spaying over impounding and euthanizing reduced the death rate for feral cats by 73 percent and for underage kittens by 81 percent. In 1999, the Hayden Shelter Reform Law became effective. It changed California's state policy regarding shelter care for stray and abandoned animals. Most notably it (1) declares "It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home," and (2) lengthens the time (generally from three days to six) that shelters must care for animals before euthanizing them.[2]

---

[1] The Humane Society of the United States, *Common Questions about Animal Shelters*, http://www.humanesociety.org/animal-community/resources/qa/common_questions_on_shelters.html (last visited Dec. 20, 2011).

[2] The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.

The interim report also stated that providing low cost spay/neuter options to the community at a high volume, recruiting large numbers of volunteers, and building a strong relationship with the community was key to the success of any no kill/low kill program. For example, in San Francisco, a community of approximately 800,000 people, there are volunteers that log over 110,000 hours at the shelter each year. Assuming the prevailing hourly wage, payroll taxes and benefits, it would cost the San Francisco SPCA over $1 million dollars annually to provide those services.[3]

Rescue and foster care groups are another key element to a successful no kill/low kill program. An adoption or transfer of animals to a rescue group makes cage and kennel space available and reduces feeding and watering costs. These groups can take care of animals that are too sick, too young, or not socialized enough to be immediately adopted.

Cities and counties that administer animal control programs or shelters often develop relationships with foster care and rescue groups to find homes for the animals in their care. In many cases, programs have been developed around the resources available and the agencies' familiarity with the community. Through trial and error, each program develops a system to determine which groups are reliable and can be used to help place animals. Few city and county animal control programs or shelters have enough programs in place to deal with the number of animals that are brought to the shelter and are diseased and need to be quarantined or euthanized or an unweaned animal without its mother.

Animal Shelters in Florida

Chapter 828.27, F.S., defines local "animal control officers" as any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations.[4] The statute also describes that the county-employed animal control officers must and municipally employed animal control officers may complete a 40-hour minimum standards training course. Such a course includes training for animal cruelty investigations, search and seizure, animal handling, courtroom demeanor and civil citations. The course curriculum must be approved by the Florida Animal Control Association (FACA).[5] This professional association helps train and educate animal control officers in Florida. Their mission, according to their website, "is to improve the methods and standards of the animal control and protection profession throughout Florida."[6]

Senate staff contacted FACA to find out if there was a mechanism to communicate with all of the animal control agencies and shelters in each of the 67 counties in an attempt to identify each agency that performs the "animal control" function in Florida. The association compiled a list that reflects 107 agencies in the 67 counties. "Some police agencies must perform this role in the absence of an actual animal control agency available in their jurisdictions; some law enforcement agencies employ one or two positions specifically for this function."[7] The list that FACA has

[3] *Id.*
[4] Section 828.27, (1) (b), F.S.
[5] Section 828.27, F.S.
[6] Florida Animal Control Association, Mission Statement, http://floridaanimalcontrol.org/ (last visited Jan. 5, 2012).
[7] Email from Capt. David Walesky, Operations Manager, Field Services, Palm Beach County Animal Care and Control, (dated Jan. 5, 2012) (on file with the Senate Committee on Community Affairs).

compiled seems comprehensive but there is no state mandated reporting system in Florida. Further, there is not a central reporting system that all of the animal control agencies or shelters utilize to track how many animals are brought to their shelters, the number adopted and the number euthanized.

The Senate Agriculture Committee, in September 2008, sent out 180 surveys to both municipal and private animal shelters around the state to gather how many animals are brought to their shelters, the number adopted and the number euthanized. A total of 30 were completed and returned. The municipal shelters that responded received 48,558 dogs and 59,562 cats in 2007. The privately funded shelters that responded received 17,955 dogs and 26,925 cats in the same time period. The survey results indicate that municipal shelters receive nearly three times more dogs and more than twice the number of cats than the privately funded shelters.[8]

The study references the no-kill movement in Florida but states that "it is a reality that non-rehabilitable and non-adoptable animals must be euthanized."[9] The data revealed that municipal shelters euthanized 31,536 dogs and 55,984 cats in the year 2007. The privately funded shelters euthanized 5,735 dogs and 14,348 cats in the same period. The survey results indicate that shelters euthanize more than five times as many dogs and nearly four times as many cats as the privately funded shelters.[10]

Manatee County's no-kill program

The Manatee County Animal Services implemented a no-kill program by including a cadre of goals and directives to save as many animals as possible with a goal of a 90 percent save rate. The Manatee County Animal Services Actionable Implementation Plan that went into effect October of 2011 addresses how to find homes for animals and stresses the importance of staff commitment to the plan. The plan describes that saving animals will be accomplished in cooperation with other welfare organizations, animals shelters, the media and the public through owner retention, returns to owners, increased fostering and adoption, free and low cost spaying and neutering and a feline Trap, Neuter, Return (TNR) program.[11]

All Manatee County's stray, nuisance, or abandoned animals are taken to the Manatee County Animal Services facility. The animal shelters, animal rescue groups, foster groups, and other animal volunteer groups, are immediately notified of the animals that have arrived at Manatee County Animal Services. This policy was designed to allow as much time as possible to locate a home for the animal, if needed, while also adhering to local ordinances regarding how long unclaimed animals must be held. The Chief of Manatee County Animal Services Kristopher Weiskopf explained that the No-Kill plan is being instituted in Manatee County without additional funds.[12] If an animal arrives at the shelter and is suffering, the animal is euthanized.

[8] The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.
[9] *Id*.
[10] The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.
[11] Manatee County Animal Services, Actionable Implementation Plan for Manatee County, October 2011.
[12] Conversation with Kristopher Weiskopf, Chief of Manatee County Animal Services, (January 13, 2012).

According to the Manatee County Shelter Chief, if a puppy arrives with parvo[13] the animal would be euthanized to avoid needless suffering for an animal, which may still perish, and to avoid the possibility of spreading disease. Manatee County Animal Services no-kill program has only been implemented since October, so it is too soon to measure success.

III. Effect of Proposed Changes:

Section 1 creates the "Animal Rescue Act."

Section 2 creates s. 828.067, F.S., and provides definitions. The CS defines the following terms: animal control agency, animal rescue group or rescue group, and animal shelter. The CS requires that an animal control agency or animal shelter that euthanizes animals must maintain a registry of animal rescue groups that are willing to accept animals that are subject to euthanization. The euthanization registry must consist of any animal control agency, animal shelter, or animal rescue group that meets the qualifications of s. 501(c)(3) of the Internal Revenue Code and that has requested to be placed on the euthanization registry. An animal control agency or shelter may refuse to include a rescue group or person on the euthanization registry or may remove the person from the euthanization registry if a current director, officer, staff member, or volunteer of the rescue group has been convicted of a crime consisting of cruelty to animals or neglect to animals, or if such charges are pending, or if the rescue group is constrained by a court order. The animal control agency or shelter may require the rescue group to disclose any convictions, charges, or legal impediments.

The registry must include:
- the name of the rescue group or person;
- the mailing address and telephone number;
- the website and email address, if any;
- the emergency contact information for the rescue group;
- the types of animals about which the rescue group wishes to be contacted, including the species type and breed; and
- a statement as to whether the rescue group is willing to care for unweaned animals, sick or injured animals, or animals with behavior problems.

The animal control agency or animal shelter may require that a rescue group provide for monthly public inspection information concerning the number of animals that:
- have been taken from the animal control agency or animal shelter and placed with the rescue group;
- have been adopted;
- have died or been euthanized; or
- remain in the care of the rescue group.

The registry information can be provided in an informal format, such as via electronic mail. An animal control agency or animal shelter may require additional information as a prerequisite for

[13] Canine parvovirus (colloquially parvo) is a contagious virus mainly affecting dogs. The disease is highly contagious and is spread from dog to dog by direct or indirect contact with feces.-Wikipedia, (January 15, 2012), http://en.wikipedia.org/wiki/Canine_parovirus.

including a rescue group on the euthanization registry or for continuing to maintain the rescue group on the registry.

An animal control agency or animal shelter may not euthanize an animal until the animal control agency or animal shelter has notified, or made a reasonable attempt to notify, all rescue groups or persons on the euthanization registry that have indicated a willingness to take an animal of that type.

The notification must:
- take place at least 24 hours before the animal is scheduled to be euthanized;
- include a verifiable electronic communication.

An animal may not be euthanized if a rescue group or person on the registry indicates a willingness to take possession of the animal. The animal control agency must notify the rescue and shelter groups that have expressed a willingness to take possession of those animals at least 24 hours before the animal is to be euthanized but must allow for 2 business days for the rescue or shelter group to take possession of the animal. The notification process must run concurrently and not in addition to any holding periods required by local ordinances. A holding period for a healthy animal may not be less than three days. The animal control agency or animal shelter may assess a fee not to exceed the standard adoption fee for each animal released to a rescue group.

The animal control agency or animal shelter may euthanize an animal that is irremediably suffering or a dog that is designated as a dangerous dog under s. 767.13, F.S. If an unweaned animal is turned into the animal control agency or animal shelter without its mother and the agency cannot provide supplemental feeding or locate foster care, then an emergency appeal to a rescue group or person on the euthanization registry who has indicated a willingness to care for these types of animals must be notified. The animal control agency or animal shelter must give the rescue group or person a reasonable amount of time, but not less than 8 hours, to respond to the appeal.

An animal control agency or animal shelter shall provide for public inspection a monthly and annual summary that includes the number of animals, by species type, which were taken in by the animal control agency or animal shelter and which were:
- surrendered by the owner;
- picked up as a stray;
- confiscated by the animal control agency or animal shelter; or
- imported into the state.

Each animal control agency or animal shelter shall provide for public inspection a monthly and annual summary that includes the number of animals, by species type, which:
- were impounded;
- were euthanized by the animal control agency or animal shelter;
- died, were lost, or were stolen while in the direct or constructive care of the animal control agency or animal shelter;
- were returned to their owners;
- were adopted;

- were transferred to other organizations or rescue groups; or
- remain in the custody of the agency or shelter.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(a) of the Florida Constitution states that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and it meets one of these exceptions:

- The Legislature appropriates funds or provides a funding source not available for such county or municipality on February 1, 1989;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and counties or municipalities; or
- The law is required to comply with a federal requirement.

Subsection (d) provides an additional applicable exemption. Laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 ($1.88 million for FY 2010-2011), are exempt.

The facilities are required to collect and report specific data on a monthly and annual basis. Facilities that are not already collecting that information will need to develop a plan to do so which could increase their costs. If a registry is already in place and only requires an animal shelter staff person to send a mass email then the increased costs to the facilities should be minimal. Each facility will have to decide what plan works best for them regarding notifying shelter and rescue groups in compliance with local owner notification and animal holding ordinances.

The city and county animal control facilities and shelters that euthanize animals have indicated that in order to comply with the provisions of the CS they will have to house animals for longer periods of time. Facilities that do not have programs in place to accommodate unweaned animals or animals with contagious diseases will have to develop a plan to do so. Their plan may include the need for more space and more personnel, which could increase their costs. Their plan may include relying on animal rescue groups, shelter volunteers, or foster groups to feed the unweaned animals that arrive at the animal control facilities and shelters. Animal control agencies have reported that they are struggling with a pet overpopulation and relying on animal rescue groups and shelter volunteers, or foster groups is not a feasible option. The No-Kill facility in Manatee County does not project the need for additional costs to comply with the provisions of the CS. If the programmatic costs incurred by counties or municipalities are greater than $1.88 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

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:

Private rescue groups, foster groups, volunteers, and animal agencies may be asked to care for more animals by animal control agencies that are unable to accommodate unweaned animals, animals with contagious diseases, or animals that exhibit aggressive behavior but have not been designated as a dangerous dog.

Private animal control facilities and shelters may have an increase in costs to comply with the reporting requirements if they are not already collecting that information. Private animal control facilities that euthanize animals may have an increase in costs in order to house, feed, and water the animals, if they hold the animals for longer periods.

C. Government Sector Impact:

City and county animal control facilities and shelters may have an increase in costs to comply with the reporting requirements if they are not already collecting that information. The facilities that euthanize animals will have an increase in costs in order to house, feed, and water the animals for longer periods. The actual fiscal impact is difficult to determine but animal control agencies and shelters have indicated that the fiscal impact would be significant and that they could not afford to comply with this requirement.

The No-Kill facility in Manatee County does not project the need for additional costs to comply with the provisions of the CS.

City and county facilities have indicated that they do not have enough space in their facilities to quarantine an animal that has a disease that is highly contagious but is treatable. In this instance, the diseased animal could expose or infect the shelter population to this disease. A disease that is considered treatable may not be considered irremediable, and must be treated. There could be financial costs to treat the animal as well as a significant reduction in the animal's quality of life. City and county facilities have indicated that they will not be able to comply with this requirement due to the risk of spreading the diseases to the rest of the shelter population. According to the Manatee

County Shelter, if a puppy arrives with parvo[14] the animal would be euthanized to avoid needless suffering for an animal, which may still perish, and to avoid the possibility of spreading disease.

Dogs that the shelter may have deemed as aggressive or have been known to bite do not fall under the dangerous dog definition outlined in s. 767.13, F.S. This scenario could be problematic for the agency when trying to find the animal a home. The animal could also be a liability concern especially if someone adopted the animal and was bitten. Further, rescue groups that are registered as a 501(c)(3) of the Internal Revenue Code, may want to adopt an aggressive animal with the intention of saving it from being euthanized but are not equipped to care for the animal. This could potentially become a safety concern for the community.

Animal control agencies and shelters have indicated that caring for an unweaned animal after normal business hours is beyond their current budget limitations. City and county facilities with limited resources may not be able to comply with this requirement due to the added staff cost. Animal control agencies have reported that they are struggling with pet overpopulation and relying on animal rescue groups and shelter volunteers, or foster groups is not a feasible option.

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 CS.)

CS by Community Affairs on January 23, 2012:
The CS specifies that an animal control agency or animal shelter may require additional information as a prerequisite for including a rescue group on the euthanization registry or for continuing to maintain the rescue group on the registry. The CS clarifies that the notification process must run concurrently and not in addition to any holding periods required by local ordinances. The CS further clarifies that the holding period for a healthy animal may not be less than three days. The CS adds an additional reporting requirement for animal control agencies or animal shelters to provide for public inspection a monthly and annual summary that includes the number of animals, by species type, which were taken in by the animal control agency or animal shelter and which were:

- surrendered by the owner;

[14] Canine parvovirus (colloquially parvo) is a contagious virus mainly affecting dogs. The disease is highly contagious and is spread from dog to dog by direct or indirect contact with feces.-Wikipedia, (January 15, 2012), http://en.wikipedia.org/wiki/Canine_parovirus.

- picked up as a stray;
- confiscated by the animal control agency or animal shelter; or
- imported into the state.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. This act may be cited as the "Animal Rescue
6 Act."
7 Section 2. Section 828.067, Florida Statutes, is created to
8 read:
9 828.067 Animal shelters and animal control agencies;
10 euthanization registry.—
11 (1) As used in this section, the term:
12 (a) "Animal control agency" means an organization operated

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13 by or under contract with the state or a political subdivision
14 for the purpose of impounding or harboring seized, stray,
15 homeless, abandoned, or unwanted animals.
16 (b) “Animal rescue group” or “rescue group” means a group
17 of persons who hold themselves out as an animal rescue group and
18 who accept or solicit dogs, cats, or other animals with the
19 intent of finding permanent adoptive homes or providing lifelong
20 care for such dogs, cats, or other animals and who use foster
21 homes as the primary means of housing animals, or a group of
22 persons formed for the prevention of cruelty to animals.
23 (c) “Animal shelter” means a facility that is used for
24 housing or containing dogs, cats, or other animals and that is
25 owned, operated, or maintained by a humane society, an animal
26 welfare society, a society for the prevention of cruelty to
27 animals, or another nonprofit organization devoted to the
28 welfare, protection, and humane treatment of dogs, cats, or
29 other animals.
30 (2) An animal control agency or animal shelter that
31 euthanizes animals shall maintain a registry of animal rescue
32 groups that are willing to accept animals that are subject to
33 euthanization.
34 (a) The euthanization registry must consist of any animal
35 control agency, animal shelter, or animal rescue group that is
36 designated as an agency meeting the qualifications of s.
37 501(c)(3) of the Internal Revenue Code and that has requested
38 that its name be placed on the euthanization registry. Such an
39 agency, shelter, or rescue group must be included on the
40 euthanization registry regardless of the geographical location
41 of the agency, shelter, or rescue group and regardless of any

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42 other factor except as described in subsection (3).
43 (b) The euthanization registry may include, at the
44 discretion of the animal control agency or animal shelter, any
45 person or animal rescue group that has not met the
46 qualifications of s. 501(c)(3) of the Internal Revenue Code.
47 (3) An animal control agency or animal shelter may refuse
48 to include a rescue group or person on the euthanization
49 registry or may remove it or the person from the euthanization
50 registry if a current director, officer, staff member, or
51 volunteer of the rescue group has been convicted in a court of
52 competent jurisdiction of a crime consisting of cruelty to
53 animals or neglect of animals, or if such charges are pending,
54 or if the rescue group is constrained by a court order that
55 prevents the rescue group from taking in or keeping animals. An
56 animal control agency or animal shelter may require the rescue
57 group to disclose any convictions, charges, or legal impediments
58 described in this subsection.
59 (4) The euthanization registry must include the following
60 information provided by the rescue group:
61 (a) The name of the rescue group or person.
62 (b) The mailing address and telephone number.
63 (c) The website and e-mail address, if any.
64 (d) The emergency contact information for the rescue group.
65 (e) The types of animals about whom the rescue group wishes
66 to be contacted, including species type and breed.
67 (f) A statement as to whether the rescue group is willing
68 and able to care for unweaned animals, sick or injured animals,
69 or animals that have behavior problems.
70 (5) An animal control agency or animal shelter may require

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71 that a rescue group provide monthly for public inspection
72 information concerning the number of animals that:
73 (a) Have been taken from an animal control agency or animal
74 shelter and placed with the rescue group;
75 (b) Have been adopted;
76 (c) Have died or have been euthanized; or
77 (d) Remain in the care of the rescue group.
78
79 This information may be provided in an informal format, such as
80 via electronic mail. An animal control agency or animal shelter
81 may require additional information other than that described in
82 this subsection as a prerequisite for including a rescue group
83 on the euthanization registry or for continuing to maintain the
84 rescue group on the registry.
85 (6) An animal control agency or animal shelter may not
86 euthanize an animal until the animal control agency or animal
87 shelter has notified, or made a reasonable attempt to notify,
88 all rescue groups or persons on the euthanization registry who
89 have indicated a willingness to take an animal of that type.
90 (a) The notification must take place at least 24 hours
91 before the animal is scheduled to be euthanized.
92 (b) At a minimum, the notification must include a
93 verifiable electronic communication. Notification to each rescue
94 group is considered complete when this has been accomplished.
95 (c) An animal may not be euthanized if a rescue group or
96 person on the euthanization registry indicates a willingness to
97 take possession of the animal.
98 (d) The rescue group or person agreeing to take possession
99 of the animal must do so within 2 business days after notifying

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100 the animal control agency or animal shelter that has possession
101 of the animal.
102 (e) The holding periods described in paragraphs (a) and (d)
103 must run concurrently with any holding period required by a
104 local ordinance or other provision of state law and are not in
105 addition to those mandated holding periods. A holding period for
106 a healthy animal may not, however, be less than a total of 3
107 days as described in paragraphs (a) and (d).
108 (f) The animal control agency or animal shelter may assess
109 a fee, not to exceed the standard adoption fee, for each animal
110 released to a rescue group.
111 (7) The requirements of subsection (6) do not apply in the
112 following cases:
113 (a) An irremediably suffering animal may be euthanized
114 without delay under s. 828.05.
115 (b) A dangerous dog may be euthanized without delay under
116 s. 767.13.
117 (c) Upon the impoundment of an unweaned animal without its
118 mother, an animal control agency or animal shelter that has not
119 placed the animal into foster care or is not able to provide
120 supplemental feeding shall immediately make an emergency appeal
121 to a rescue group or person on the euthanization registry who
122 has indicated a willingness to care for unweaned animals, and
123 shall give the rescue group or person a reasonable amount of
124 time, but not less than 8 hours, to respond to the appeal.
125 (8) An animal control agency or animal shelter shall
126 provide for public inspection a monthly and annual summary that
127 includes the number of animals, by species type, during the
128 previous month which were taken in by the animal control agency

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129 or animal shelter and which were:
130 (a) Surrendered by the owner;
131 (b) Picked up as a stray;
132 (c) Confiscated by the animal control agency or animal
133 shelter; or
134 (d) Imported into the state.
135 (9) An animal control agency or animal shelter shall
136 provide for public inspection a monthly summary that includes
137 the number of animals, by species type, during the previous
138 month which:
139 (a) Were impounded;
140 (b) Were euthanized by the animal control agency or animal
141 shelter;
142 (c) Died, were lost, or were stolen while in the direct or
143 constructive care of the animal control agency or animal
144 shelter;
145 (d) Were returned to their owners;
146 (e) Were adopted;
147 (f) Were transferred to other organizations or rescue
148 groups; or
149 (g) Remain in the custody of the agency or shelter.
150 (10) Each animal control agency or animal shelter shall
151 provide for public inspection an annual summary that includes
152 the number of animals, by species type, during the previous
153 calendar year which:
154 (a) Were impounded;
155 (b) Were euthanized by the animal control agency or animal
156 shelter;
157 (c) Died, were lost, or were stolen while in the direct or

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158 constructive care of the animal control agency or animal
159 shelter;
160 (d) Were returned to their owners;
161 (e) Were adopted;
162 (f) Were transferred to other organizations or rescue
163 groups; or
164 (g) Remain in the custody of the agency or shelter.
165 Section 3. This act shall take effect July 1, 2012.
166
167 ========== T I T L E A M E N D M E N T ==========
168 And the title is amended as follows:
169 Delete everything before the enacting clause
170 and insert:
171 A bill to be entitled
172 An act relating to animal shelters and animal control
173 agencies; creating the “Animal Rescue Act”; creating
174 s. 828.067, F.S.; defining the terms “animal control
175 agency,” “animal rescue group” or “rescue group,” and
176 “animal shelter”; requiring any animal control agency
177 or animal shelter that euthanizes animals to maintain
178 a registry of animal rescue groups that are willing to
179 accept animals that would otherwise be subject to
180 euthanization; providing eligibility criteria for
181 rescue groups and persons desiring to be on the
182 euthanization registry; providing criteria under which
183 an animal control agency or animal shelter may reject
184 an applicant for the euthanization registry or remove
185 a participant from the registry; requiring that
186 certain specified information concerning an animal

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187 rescue group be included in the group's application
188 for inclusion on the euthanasia registry; authorizing
189 an animal control agency or animal shelter to require
190 a rescue group or person to provide specified data to
191 the animal control agency or animal shelter each
192 month; prohibiting an animal control agency or animal
193 shelter from euthanizing an animal until the animal
194 control agency or animal shelter has notified the
195 appropriate animal rescue group or person listed on
196 the euthanization registry; requiring that a rescue
197 group or person agreeing to take possession of the
198 animal do so within a specified time; providing for a
199 required minimum holding period for a healthy animal;
200 providing exceptions to the requirement to notify a
201 rescue group and to abide by the minimum holding
202 period; authorizing an animal control agency or animal
203 shelter to assess a fee, not to exceed the standard
204 adoption fee, for each animal released to a rescue
205 group; requiring that each animal control agency or
206 animal shelter provide for public inspection certain
207 information on a monthly and annual basis; providing
208 an effective date.

By Senator Bennett

21-00410F-12 2012818__

A bill to be entitled

An act relating to animal shelters and animal control agencies; creating the "Animal Rescue Act"; creating s. 828.067, F.S.; defining the terms "animal control agency," "animal rescue group" or "rescue group," and "animal shelter"; requiring any animal control agency or animal shelter that euthanizes animals to maintain a registry of animal rescue groups that are willing to accept animals that would otherwise be subject to euthanization; providing eligibility criteria for rescue groups and persons desiring to be on the euthanization registry; providing criteria under which an animal control agency or animal shelter may reject an applicant for the euthanization registry or remove a participant from the registry; requiring that certain specified information concerning an animal rescue group be included in the group's application for inclusion on the euthanasia registry; authorizing the animal control agency or animal shelter to require a rescue group or person to provide certain specified data to the animal control agency or animal shelter each month; prohibiting an animal control agency or animal shelter from euthanizing an animal until the animal control agency or animal shelter has notified the appropriate animal rescue group or person listed on the euthanization registry; providing exceptions to the requirement to notify certain rescue groups; authorizing an animal control agency or animal shelter to assess a fee, not to exceed the standard adoption

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

21-00410F-12 2012818__

fee, for each animal released to a rescue group; requiring that each animal control agency or animal shelter provide for public inspection certain information on a monthly and annual basis; providing an effective date.

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

Section 1. This act may be cited as the "Animal Rescue Act."

Section 2. Section 828.067, Florida Statutes, is created to read:

828.067 Animal shelters and animal control agencies; euthanization registry.—

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

(a) "Animal control agency" means an organization operated by or under contract with the state or a political subdivision for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals.

(b) "Animal rescue group" or "rescue group" means a group of persons who hold themselves out as an animal rescue group and who accept or solicit dogs, cats, or other animals with the intent of finding permanent adoptive homes or providing lifelong care for such dogs, cats, or other animals and who use foster homes as the primary means of housing animals, or a group of persons formed for the prevention of cruelty to animals.

(c) "Animal shelter" means a facility that is used for housing or containing dogs, cats, or other animals and that is owned, operated, or maintained by a humane society, an animal

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59 welfare society, a society for the prevention of cruelty to
60 animals, or another nonprofit organization devoted to the
61 welfare, protection, and humane treatment of dogs, cats, or
62 other animals.
63 (2) An animal control agency or animal shelter that
64 euthanizes animals shall maintain a registry of animal rescue
65 groups that are willing to accept animals that are subject to
66 euthanization.
67 (a) The euthanization registry must consist of any animal
68 control agency, animal shelter, or animal rescue group that is
69 designated as an agency meeting the qualifications of s.
70 501(c)(3) of the Internal Revenue Code and that has requested
71 that its name be placed on the euthanization registry. Such an
72 agency, shelter, or rescue group must be included on the
73 euthanization registry regardless of the geographical location
74 of the agency, shelter, or rescue group and regardless of any
75 other factor except as described in subsection (3).
76 (b) The euthanization registry may include, at the
77 discretion of the animal control agency or animal shelter, any
78 person or animal rescue group that has not met the
79 qualifications of s. 501(c)(3) of the Internal Revenue Code.
80 (3) An animal control agency or animal shelter may refuse
81 to include a rescue group or person on the euthanization
82 registry or may remove it or the person from the euthanization
83 registry if a current director, officer, staff member, or
84 volunteer of the rescue group has been convicted in a court of
85 competent jurisdiction of a crime consisting of cruelty to
86 animals or neglect of animals, or if such charges are pending,
87 or if the rescue group is constrained by a court order that

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88 prevents the rescue group from taking in or keeping animals. An
89 animal control agency or animal shelter may require the rescue
90 group to disclose any convictions, charges, or legal impediments
91 described in this subsection.
92 (4) The euthanization registry must include the following
93 information provided by the rescue group:
94 (a) The name of the rescue group or person.
95 (b) The mailing address and telephone number.
96 (c) The website and e-mail address, if any.
97 (d) The emergency contact information for the rescue group.
98 (e) The types of animals about whom the rescue group wishes
99 to be contacted, including species type and breed.
100 (f) A statement as to whether the rescue group is willing
101 and able to care for unweaned animals, sick or injured animals,
102 or animals with behavior problems.
103 (5) An animal control agency or animal shelter may require
104 that a rescue group provide monthly for public inspection
105 information concerning the number of animals that:
106 (a) Have been taken from an animal control agency or animal
107 shelter and placed with the rescue group;
108 (b) Have been adopted;
109 (c) Have died or have been euthanized; or
110 (d) Remain in the care of the rescue group.
111
112 This information may be provided in an informal format, such as
113 via electronic mail. An animal control agency or animal shelter
114 may not demand additional information other than that described
115 in this subsection as a prerequisite for including a rescue
116 group on the euthanization registry or for continuing to

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117 maintain the rescue group on the registry.
118 (6) An animal control agency or animal shelter may not
119 euthanize an animal until the animal control agency or animal
120 shelter has notified, or made a reasonable attempt to notify,
121 all rescue groups or persons on the euthanization registry which
122 have indicated a willingness to take an animal of that type.
123 (a) The notification must take place at least 24 hours
124 before the animal is scheduled to be euthanized.
125 (b) At a minimum, the notification must include a
126 verifiable electronic communication. Notification to each rescue
127 group is considered complete when this has been accomplished.
128 (c) An animal may not be euthanized if a rescue group or
129 person on the euthanization registry indicates a willingness to
130 take possession of the animal.
131 (d) The rescue group or person agreeing to take possession
132 of the animal must do so within 2 business days after notifying
133 the animal control agency or animal shelter that has possession
134 of the animal.
135 (e) The animal control agency or animal shelter may assess
136 a fee, not to exceed the standard adoption fee, for each animal
137 released to a rescue group.
138 (7) The requirements of subsection (6) do not apply in the
139 following cases:
140 (a) An irremediably suffering animal may be euthanized
141 without delay under s. 828.05.
142 (b) A dangerous dog may be euthanized without delay under
143 s. 767.13.
144 (c) Upon the impoundment of an unweaned animal without its
145 mother, an animal control agency or animal shelter that has not

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146 placed the animal into foster care or is not able to provide
147 supplemental feeding shall immediately make an emergency appeal
148 to a rescue group or person on the euthanization registry who
149 has indicated a willingness to care for unweaned animals, and
150 shall give the rescue group or person a reasonable amount of
151 time, but not less than 8 hours, to respond to the appeal.
152 (8) An animal control agency or animal shelter shall
153 provide for public inspection a monthly summary that includes
154 the number of animals, by species type, during the previous
155 month which:
156 (a) Were impounded;
157 (b) Were euthanized by the animal control agency or animal
158 shelter;
159 (c) Died, were lost, or were stolen while in the direct or
160 constructive care of the animal control agency or animal
161 shelter;
162 (d) Were returned to their owners;
163 (e) Were adopted;
164 (f) Were transferred to other organizations or rescue
165 groups; or
166 (g) Remain in the custody of the agency or shelter.
167 (9) Each animal control agency or animal shelter shall
168 provide for public inspection an annual summary that includes
169 the number of animals, by species type, during the previous
170 calendar year which:
171 (a) Were impounded;
172 (b) Were euthanized by the animal control agency or animal
173 shelter;
174 (c) Died, were lost, or were stolen while in the direct or

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175 constructive care of the animal control agency or animal
176 shelter;
177 (d) Were returned to their owners;
178 (e) Were adopted;
179 (f) Were transferred to other organizations or rescue
180 groups; or
181 (g) Remain in the custody of the agency or shelter.
182 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)

1/23/12
Meeting Date

Topic: Animal Rescue Act

Bill Number: 818 *(if applicable)*

Name: Jean Gonzalez Wingo

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 460 Frank Shaw Rd
Street

Talla hassee
City *State* *Zip*

Phone: (850) 339-4601

E-mail: JeanGWingo@aol.com

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

Representing: citizens

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic: SB 818

Bill Number: SB 818 (if applicable)

Name: Melissa Abernathy

Amendment Barcode: (if applicable)

Job Title: Program Director

Address: 18841 Starhill Lane (Street)

Tallahassee, FL 32310 (City, State, Zip)

Phone: 850-559-0223

E-mail: fosterdirector@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Leon County Humane Society

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)

1/23/12
Meeting Date

Topic: SB 818

Bill Number: 818 (if applicable)

Name: Casey Cook

Amendment Barcode: _____ (if applicable)

Job Title: Legislative Advocate

Address: PO Box 1757
Street

Tallahassee, Fl 32302
City, State, Zip

Phone: 850 701 3701

E-mail: ccook@flcities.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida League of Cities

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)

1-23-12
Meeting Date

Topic: SB 818 Animal Rts

Bill Number: SB 818 *(if applicable)*

Name: Susan Ludder

Amendment Barcode: _____ *(if applicable)*

Job Title: self employed - mgr petsitter

Address: 9150 McDougal Ct
Street

Tallahassee FLA 32312
City *State* *Zip*

Phone: 850-559-9336

E-mail: susan@killearnpetsitting.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: _____

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)

Last 3

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic: SB 818

Bill Number: SB 818 (if applicable)

Name: JACK CORY

Amendment Barcode: (if applicable)

Job Title:

Address: 110 E. Cathy AC (Street)

Tall (City) State Zip

Phone: 888-593-0099

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: Fix 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)

1/23/12
Meeting Date

Topic: Florida Animal Rescue Act

Bill Number: 818 *(if applicable)*

Name: Amy Greene

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 56 Navajo Trl.
Street

Crawfordville FL 32327
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: _____

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)

1/23/12
Meeting Date

Topic: Shelters

Bill Number: 818 *(if applicable)*

Name: M Johan Mixon

Amendment Barcode: _____ *(if applicable)*

Job Title: Consultant

Address: 119 E Park Ave
Street

Tall FL
City *State* *Zip*

Phone: 5284441

E-mail: Johan@mixonandassociates.com

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

Representing: Fla Kennel Clubs / NAIA Trust

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.

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)

1/23/12
Meeting Date

Topic: Animals

Bill Number: 818 (if applicable)

Name: Jessica Janasiewicz

Amendment Barcode: (if applicable)

Job Title: Senior Consultant Governmental Affairs

Address: 119 E. Park Avenue
Street

Tallahassee FL 32301
City State Zip

Phone: 850-222-2591

E-mail: jessica@mixonandassociates.com

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

Representing: Florida Association of Kennel Clubs

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)

1-23-12
Meeting Date

Topic: Animal Rescue Act

Bill Number: SB 818 *(if applicable)*

Name: Richard Ziegler

Amendment Barcode: _____ *(if applicable)*

Job Title: Board Member - FL Animal Control Assoc.

Address: ~~325~~ 501-B Appleyard Dr.
Street

Tallahassee FL 32304
City *State* *Zip*

Phone: (850) 606-5400

E-mail: _____

Speaking: ☐ For ☒ Against ☒ Information

Representing: Florida Animal Control Assoc.

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)

1/23/12
Meeting Date

Topic: SUPPORT OF SB-818

Bill Number: SB-818 *(if applicable)*

Name: ROXANNE HURLBURT

Amendment Barcode: *(if applicable)*

Job Title: CONTROLLER - NO KILL NATION

Address: 837 SE 8th AVE #201
Street

DEERFIELD BCH FL 33344
City *State* *Zip*

Phone: 954-646-6241

E-mail: roxanne@thenokillnation.org

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

Representing: NO KILL NATION

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

Lobbyist registered with Legislature: [ ] Yes [x] 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)

Meeting Date: _____

Topic: IN Support of SB-818

Bill Number: SB-818 (if applicable)

Name: Debi M. Day

Amendment Barcode: _____ (if applicable)

Job Title: President/Director No Kill Nation

Address: 837 SE 8th Ave Ste 201 (Street)

Phone: 954-857-2850

Deerfield Beach FL 33441 (City, State, Zip)

E-mail: debi@thenokillnation.org

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

Representing: No Kill Nation, Inc.

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

Lobbyist registered with Legislature: [ ] Yes [x] 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)

1-23-12
Meeting Date

Topic: ARA SB 818

Bill Number: SB818 *(if applicable)*

Name: Debbie Elert

Amendment Barcode: *(if applicable)*

Job Title:

Address: 10082 Spring Sink Rd
Street

Tallahassee, FL 32305
City *State* *Zip*

Phone: (850) 212-0822

E-mail: debelert@hotmail.com

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

Representing: Fix Tallahassee

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

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

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

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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)

1-23-12
Meeting Date

Topic FARA SB818

Bill Number SB 818 *(if applicable)*

Name Diane Kochersperger

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 4519 Foxcroft Dr
Street

Tallahassee FL 32309
City *State* *Zip*

Phone _____

E-mail Tallahasseepetsalive@gmail.com

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

Representing Fix Tallahassee

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

2/23/12
Meeting Date

Topic: SB 818

Bill Number: SB 818 *(if applicable)*

Name: Cindy Harle

Amendment Barcode: _____ *(if applicable)*

Job Title: Attorney

Address: 1841 Wagon Wheel Cir. W.
Street

Tallahassee FL 32317
City *State* *Zip*

Phone: 322-1124

E-mail: camcneely@hotmail.com

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

Representing: Florida Coalition of No-Kill Animal Rescue Groups

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

1/23/2012
Meeting Date

Topic: Animal Rescue Act

Bill Number: SB-818 *(if applicable)*

Name: Karolyn Rico

Amendment Barcode: *(if applicable)*

Job Title:

Address: 9982 SW 2nd terrace
Street

Miami, Fl 33174
City *State* *Zip*

Phone: 305-905 4966

E-mail: Karolyn@thenokillnation.org

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

Representing: No Kill Nation

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

1/23/2012
Meeting Date

Topic _____

Bill Number 818 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For (in part) [ ] 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)

1-23-12
Meeting Date

Topic: Animal Rescue Act

Bill Number: 818 *(if applicable)*

Name: Dr. Rachel Reeves

Amendment Barcode: _____ *(if applicable)*

Job Title: Animal Services Veterinarian

Address: 1125 Easterwood Drive
Street

Tallahassee, FL 32311
City, State, Zip

Phone: 850 891-2980

E-mail: rachel.reeves@talgov.com

Speaking: ☐ For ☒ Against ☐ Information

FOR REFERENCE

Representing: Myself - concerned citizen

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)

01/23/12
Meeting Date

Topic: Animal Rescue Act

Bill Number: SB 818 *(if applicable)*

Name: Gerry Phipps

Amendment Barcode: *(if applicable)*

Job Title: president,

Address: 3563 Clippys dr.
Street

Tallahassee, Fl. 32303
City *State* *Zip*

Phone: 850-545-5145

E-mail: gavl@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing: Be the Solution, Inc. Spay and Neuter today

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)

1/23/12
Meeting Date

Topic: ANIMAL RESCUE ACT 818

Bill Number: 818 (if applicable)

Name: ERIKA LECKINGTON

Amendment Barcode: (if applicable)

Job Title: DIRECTOR

Address: 1125 EASTERWOOD DR
Street

TALLAHASSEE ANIMAL SERVICES
City State Zip

Phone: 6612431

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

FOR REFERENCE ONLY
↳ NO NEED TO SPEAK

Representing: TALLAHASSEE ANIMAL SERVICES

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)

1-23-12
Meeting Date

Topic: Animal Rescue Act

Bill Number: 618 *(if applicable)*

Name: Sonya White

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 413 Timberlane Rd
Street

TLH, Fl 32312
City, State, Zip

Phone: 904-612-1802

E-mail: swhite@LCHS.info

Speaking: ☐ For ☐ Against ☒ Information

Representing: Leon County Humane Society

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)

1/23/12
Meeting Date

Topic: FARA

Bill Number: SB 818 *(if applicable)*

Name: Heather Van Liere

Amendment Barcode: _____ *(if applicable)*

Job Title: Foster Coordinator - ASC

Address: 1262 Burnwell Road
Street

Tallahassee, FL 32317
City *State* *Zip*

Phone: 850-559-3629

E-mail: sfheatherlee@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: self

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)

1-23-12
Meeting Date

Topic: ANIMAL RESCUE ACT

Bill Number: SB 818 *(if applicable)*

Name: JEFF DOYLE

Amendment Barcode: *(if applicable)*

Job Title: ANIMAL CONTROL SUPERVISOR

Address: 1125 EASTERWOOD DR
Street

TALLAHASSEE FL 32311
City *State* *Zip*

Phone: 850-891-2972

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: CITY OF TALLAHASSEE ANIMAL CONTROL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

* FOR REFERENCE ONLY - SPOKE PREVIOUSLY.

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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)

1/23/2012
Meeting Date

Topic: ANIMAL RESCUE ACT

Bill Number: 818 (if applicable)

Name: SCOTT TREBATOSKI

Amendment Barcode: 902884 (if applicable)

Job Title: JACKSONVILLE ANIMAL CARE & PROTECTIVE SERVICES - DIVISION CHIEF

Address: 2020 FOREST ST
Street

JACKSONVILLE FL 32204
City State Zip

Phone: 904-255-7371

E-mail: trebatos@coj.net

Speaking: ☐ For ☐ Against ☒ Information

Representing: CITY OF JAC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

Next To Last

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-23-12
Meeting Date

Topic: SB-818

Bill Number: SB 818 *(if applicable)*

Name: Jim Crosby

Amendment Barcode: _____ *(if applicable)*

Job Title: Consultant

Address: 1435 Oak Haven Rd
Street

JAX
City *State* *Zip*

Phone: 904-476-7655

E-mail: Crosby.JamesW@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: self - NAIA - Best friends - Amer. Rott. Club

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)

1/23/12
Meeting Date

Topic: FARA

Bill Number: SB 818 *(if applicable)*

Name: James VanLiere

Amendment Barcode: *(if applicable)*

Job Title: Bar tender

Address: 1262 Burnwell Rd
Street

Tallahassee FL 32312
City *State* *Zip*

Phone: 707-364-6914

E-mail: bakinj@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

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)

1/23/12
Meeting Date

Topic: Florida Animal Rescue Act

Bill Number: 818 *(if applicable)*

Name: Lisa Blunt

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 3462 Chatelaine Ct
Street

Tallahassee, FL 32308
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: _____

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)

5 min

1

JAN 23, 2012
Meeting Date

Topic _____

Bill Number 818 *(if applicable)*

Name BILL LEFEVRE

Amendment Barcode _____ *(if applicable)*

Job Title DIRECTOR OF PROGRAMS DEVELOPMENT

Address 313 NE 2ND STREET
Street

Phone _____

FT. LAUDERDALE — FL — 33301
City — *State* — *Zip*

E-mail _____

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

Representing NO KILL NATION, INC.

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

Jan 23, 2012
Meeting Date

Topic: Florida Animal Rescue Act

Bill Number: 818 *(if applicable)*

Name: David Shelby

Amendment Barcode: _____ *(if applicable)*

Job Title: 6

Address: 6224 S.W. 92nd Dr.
Street

Jasper, Fl 32052
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

2012 Legislative Priorities

Senate Community Affairs Committee

01/12/2012

John Wayne Smith
Legislative Director

2011-12 County Property Tax Summary

- **2011 – 12 - $409 million Reduction**

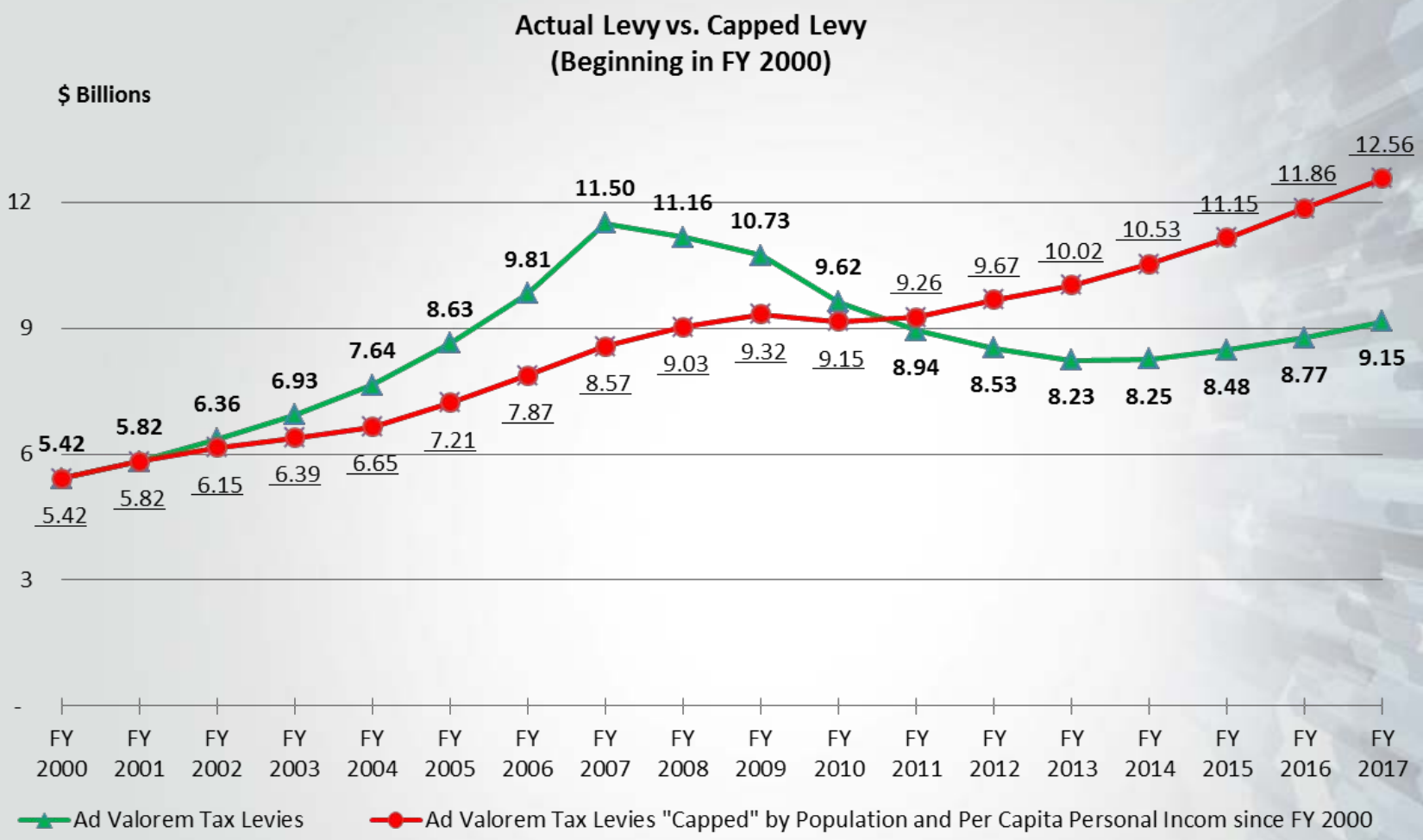
  Total Reduction 2007-2012 - $2.97 Billion

- **Revenue Estimating Conference**

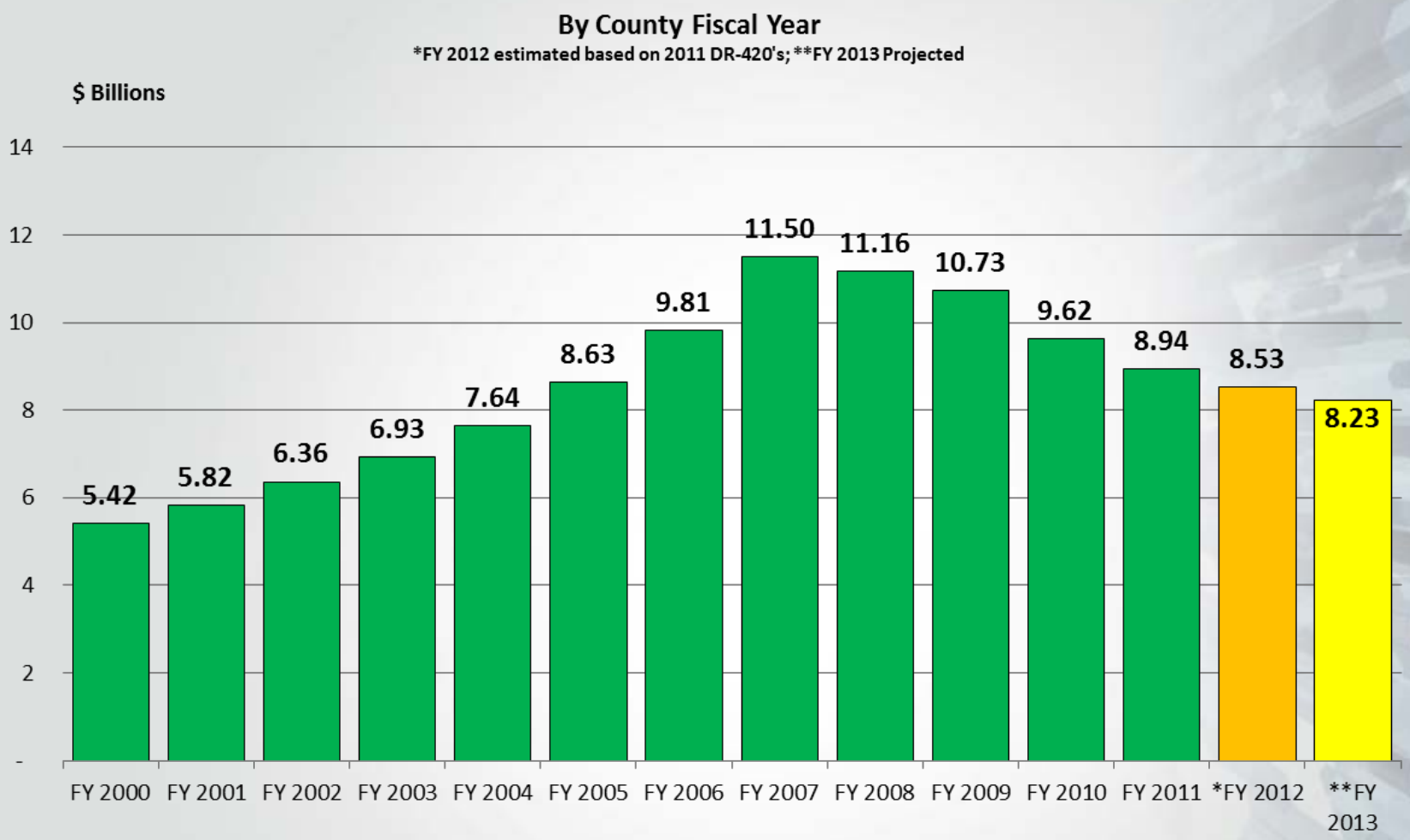
  2012 -13 – Base Reduction 3.46%

  2013-14 - Flat

County Ad Valorem Tax Levies by Fiscal Year



County Ad Valorem Tax Levies



2012 FAC Priorities

- **Proportionate Fair-Share Mitigation**
  - Glitch/Clarification
- **Juvenile Justice Reform**
  - Cost Savings
- **Pretrial Service Agencies**
- **Water Quality**
- **Numeric Nutrient Criteria**
  - Legislative Ratification
- **County Health Departments**
- **County Medicaid Cost Share**

FAC FLORIDA ASSOCIATION OF COUNTIES All About Florida

Local Savings Act

- **Public Notice Requirements – Flexibility**
- **Article V Index – eliminate**
- **Consultants competitive Negotiations Act (CCNA) Reform - alternative**

TIME OUTS

- **Property Tax Reform**
  - SJR 312 & 314
- **Local Option Taxes**
  - Local Business Tax
  - Communications Services Tax
  - Tourist Development Tax
- **Florida Retirement System**

FAC FLORIDA ASSOCIATION OF COUNTIES All About Florida

Thank You

Questions?

2011 County Property Tax Summary - PRELIMINARY

Doug Smith, President

Bill Williams, President-Elect

Bryan Desloge, 1st Vice President

Ken Welch, 2nd Vice President

Ilene Lieberman, Immediate Past President

Christopher L. Holley, Executive Director

For the 3rd year, the Florida Association of Counties has compiled the proposed property tax numbers for counties across the state to reflect the reductions and changes that have occurred over the past four years.

Counties primarily provide public safety, fire, emergency medical services, public record-keeping, jails, parks, libraries, health care, economic development, comprehensive planning, and roads, just to name a few.

Each year unlike the state and federal government, counties are required to establish the property tax rate needed to provide services for their community. State and federal government work within the confines of a predetermined tax rate. For instance, if the sales tax rate is 6% then tax revenue is determined by how much is sold and the state budget is determined based off the revenue expected.

County governments have the opportunity to determine the costs of services mandated by law, critical public safety services and other important services then set the tax rate that will ensure these demands are met. However, it is evident in the following report that with the drop in property values – close to 26 percent combined over the last four years – most local governments did not raise property taxes at all and eight exceeded the statutorily mandated roll back rate.

When local governments begin establishing their budgets they are required by the end of August to submit to the state their maximum proposed millage rate. Once that rate is established most counties then debate their proposed budget and millage rates making many changes along the way. Following the debate a minimum of two public hearings are held where citizens and community leaders can discuss their concerns and support of budget items.

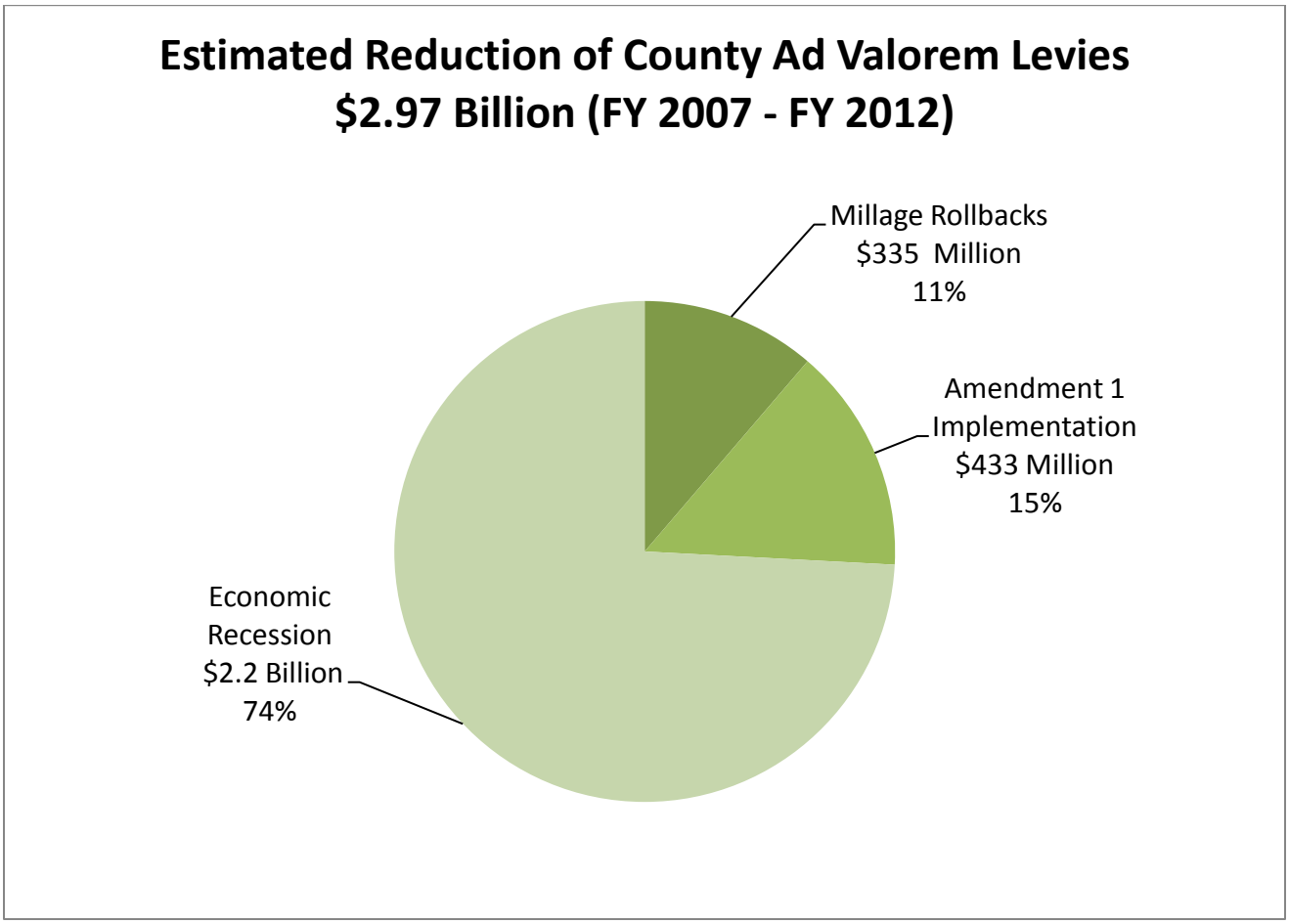
Throughout the budget process the millage rate may change many times, however, it can not exceed the rate given to the state in August. Therefore, many local governments may establish a higher preliminary millage rate to provide more room for debate and discussion and then will reduce that rate upon the final adoption of the budget at the end of September.

This report covers only the preliminary millage rates and a revised report will be completed after the first of the year when final millage rates and property values have been reported and verified.

Three major factors have impacted property taxes in Florida since 2007: the recession and resulting decline in property values, the implementation of the roll back rates (2007) and Amendment 1 (2008). This year alone counties have reduced revenue by nearly $409 million[1]

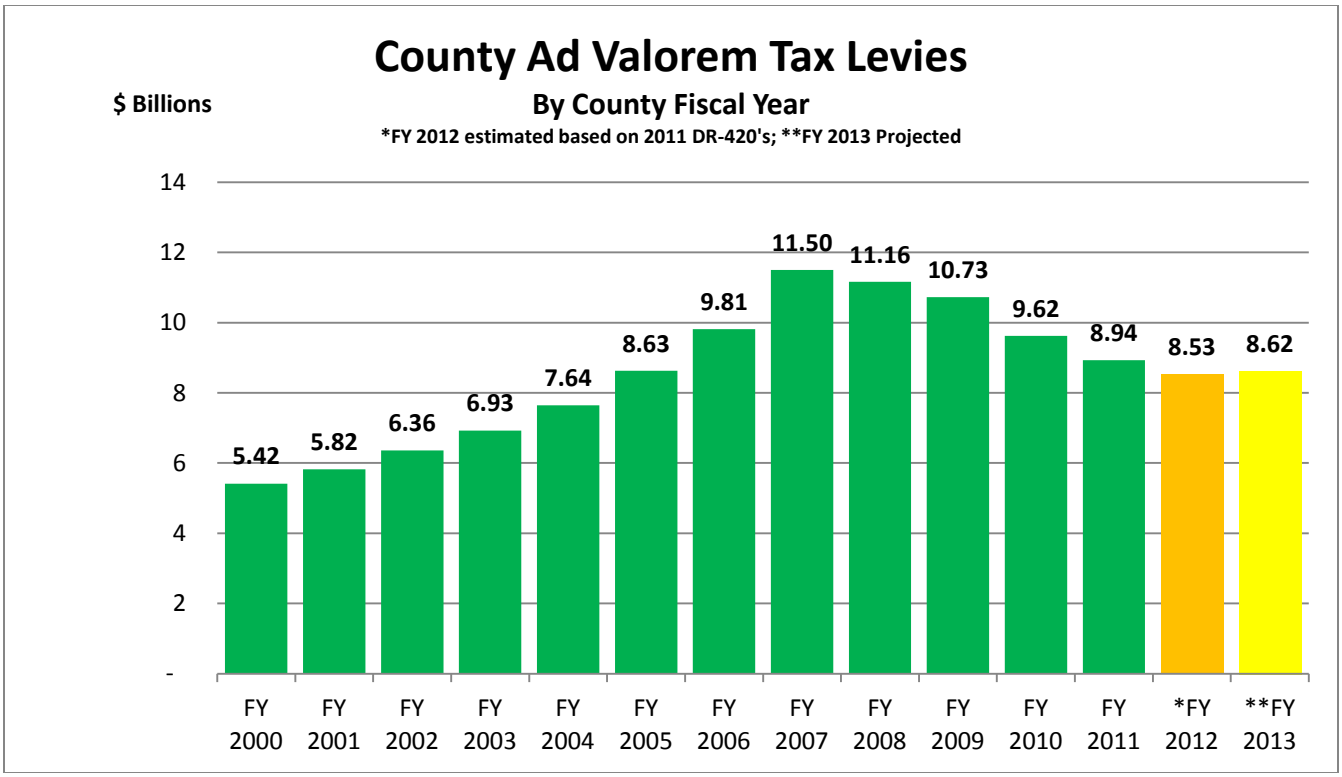
[1] Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

(4.6%). In five years, that reduction totals $3 Billion or 25.8%[2]. These reductions have resulted in major workforce cuts as well as cuts to all levels of service.



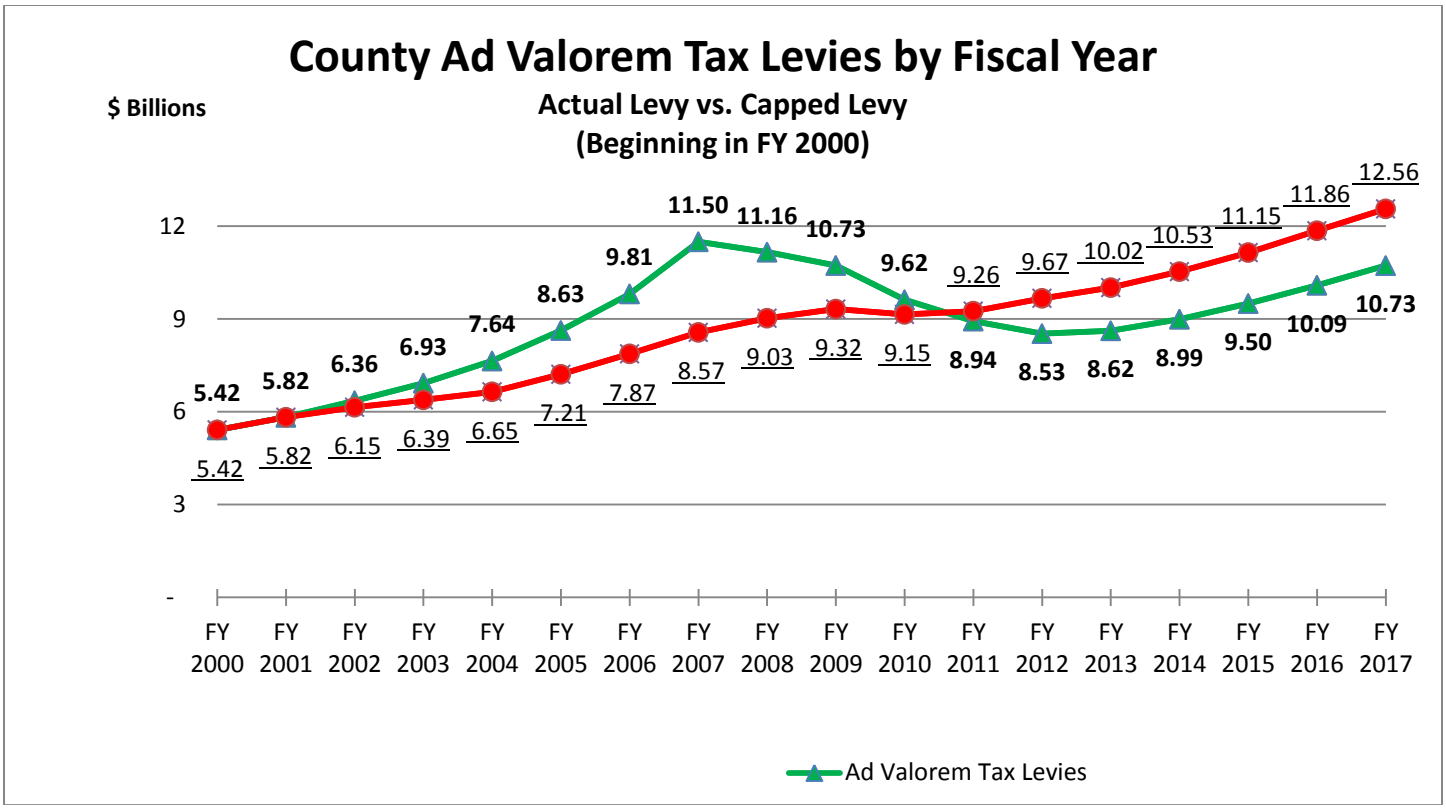
With property taxes influenced by the decline in property values as well as previous changes to the property tax system, 2011-12 property tax revenues are below 2004-05 revenues (see next chart). If current economic trends continue, counties will remain near or below 2004-2005 revenue levels until after 2013-14[3].

[2] Historical data for County Ad Valorem Tax Levies provided by LCIR Florida County Tax Profile 1999-2009.
[3] Future estimates of County Ad Valorem Levies use a combination of data provided by the Office of Economic and Demographic Research for Change in Taxable Values and New Construction Values. Future estimates of County Ad Valorem Levies assume no change in the proposed "aggregate statewide millage rate" of 7.5222.



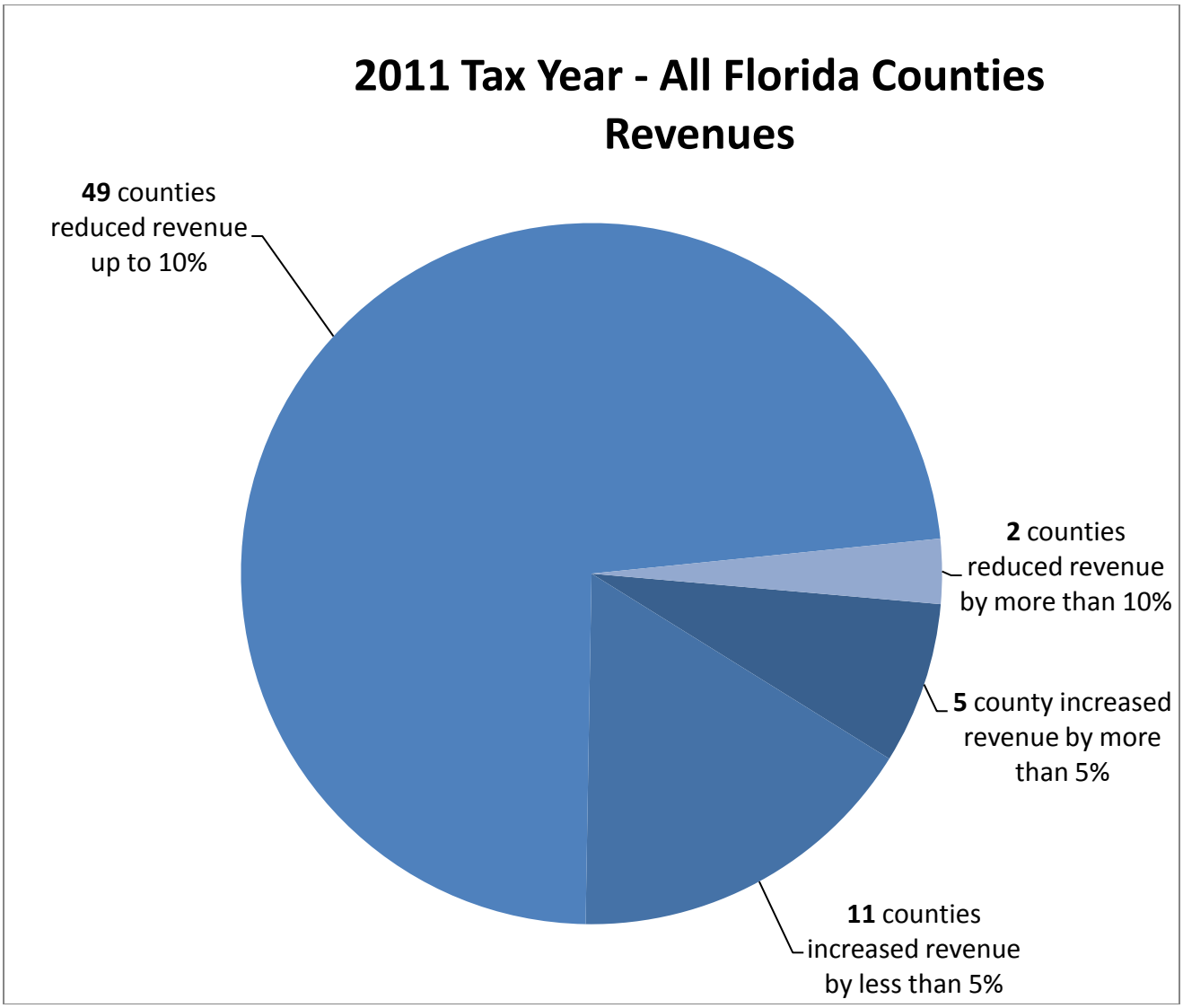
The next chart reflects actual property tax revenue numbers in comparison to the guidelines established by the Legislature in 2007[4]. This chart clearly outlines that economic conditions and existing property tax changes have realigned property tax revenues with the trend lines established by the Legislature. Based on proposed millage rates counties are more than $1 billion below the statutory trend line for FY 2012.

[4] Historical and future estimates of population and change in personal per capita income provided by data from the Office of Economic and Demographic Research. Historical and future estimates of the "capped" trend line were calculated by applying the combined change in population and per capita personal income against the total amount of taxes levied in the previous year. This calculation does not take into account any other factors used in the traditional calculation of millage rates and ad valorem tax levies. Additionally, the estimates do not take into account any other changes in Florida Ad Valorem law.



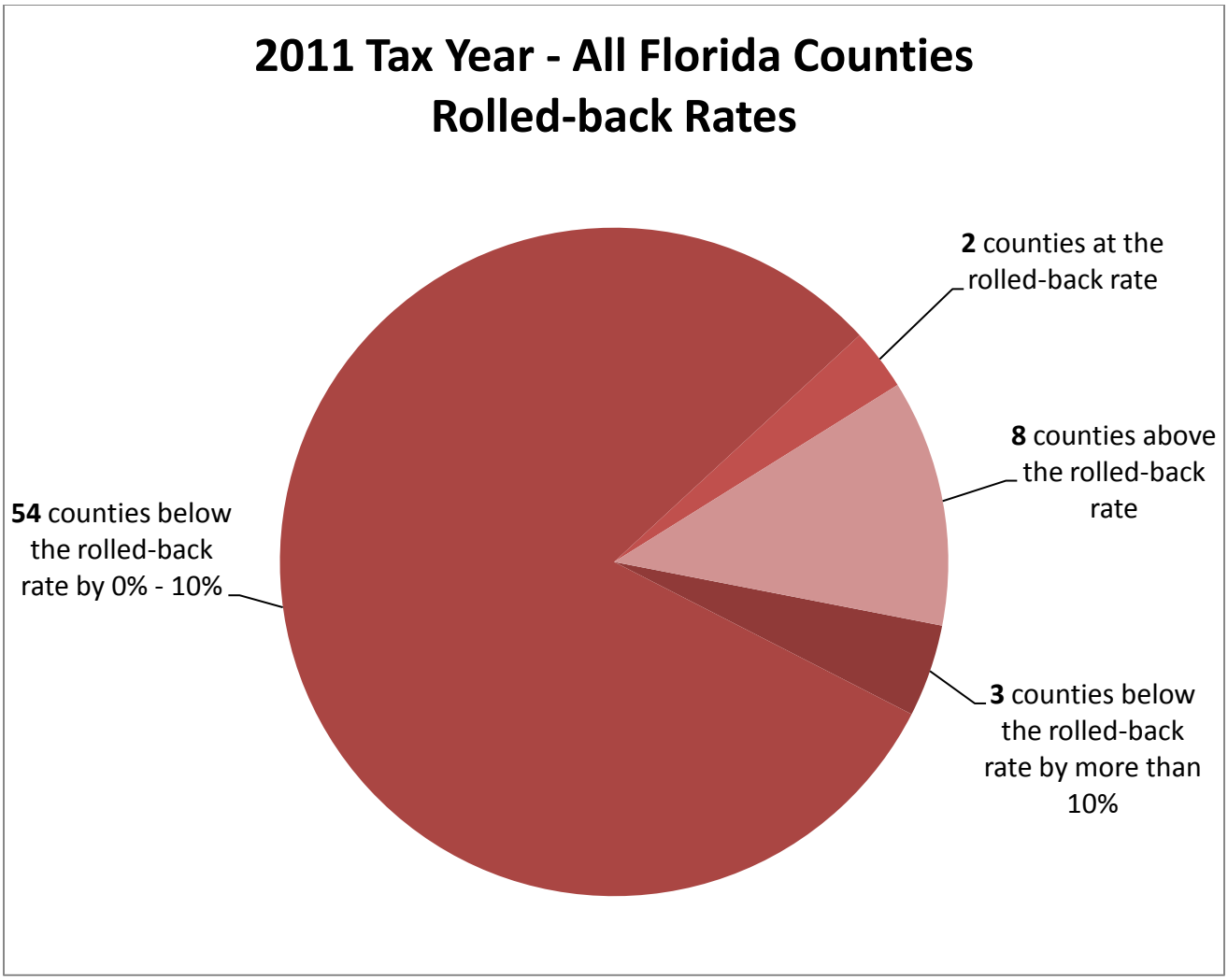
It can be reasonably argued that the jump in property values from 2006-2007 was an anomaly and the free market has leveled tax rates in such a manner that will likely keep local government revenue below any policies that the legislature has or may enact.

This year 51 counties (76%) will collect less property tax revenue and 16 counties (24%) will collect more property tax revenue than in 2010-11. Of those 51 counties, 2 of them have reduced their tax revenue by greater than 10%, and 49 have reduced their tax revenue up to, but below 10% . Of the 16 counties with increased property tax revenue, 11 counties increased their revenue by less than 5% and 5 by more than 5%. Fiscally constrained counties account for 10 of those 16 counties that voted to increase their property tax revenues.



If you were to look at these numbers in comparison to the statutory rollback rate, you would see that 57 counties are below the rollback rate, 2 counties met the rollback rate and 8 counties exceeded the rollback rate[5].

[5] Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.



Florida's strength is in her diversity and her counties paint that picture. While every county has made reductions over the last four years, each has done so in a manner that serves the unique community they represent.

The Florida Association of Counties (FAC) is committed to not only serving our members but providing our legislative partners with accurate and critical information needed to make ongoing tax decisions. It is clear that counties, just as the state, have been forced by many factors to make dramatic reductions and they have done so accordingly.

PRELIMINARY - FACT SHEET

County Property Taxes 2011-12

Property taxes levied in 2011-12 are **reduced by 4.6% or $409 Million** from 2010-11
Property taxes levied have been reduced by 26% or **$2.97 Billion** since 2006-07

Property Taxes Collected by Counties[6]

2012-2013* *(Projected)*	$8.63 Billion
2011-2012	$8.53 Billion
2010-2011	$8.94 Billion
2009-2010	$9.62 Billion
2008-2009	$10.73 Billion
2007-2008	$11.16 Billion
2006-2007	$11.5 Billion

Average County Proposed % Change in Taxes Levied (2011-12): -**2.84%**
Average County Proposed Percent Change in Tax rate compared to Rollback Rate: **-3.45%**

Est. taxable property values: *$1.28 Trillion, a reduction of 3.41%* or $45.3 Billion from 2010-11.

[6] Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

PRELIMINARY - FACT SHEET

County Property Taxes 2011-12

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30 counties increased their millage rate, of those 22 remained at or below the rollback rate. For Example: Brevard County increased their millage by 16.56% yet they remain 1.36% BELOW the rollback rate with $210,000 in decreased revenues - a .12% drop from 2011.

PRELIMINARY DATA 2011-2012 (September 2011)

51 counties (76%) will collect less property tax revenue

16 counties (24%) will collect more property tax revenue

57 counties are below the roll back rate

2 counties are proposing to adopt the roll back rate[7]

- Holmes County
- Levy County

8 counties could exceed the roll back rate

- Alachua County .02%
- Citrus County 1.26%
- Franklin County 5.14%
- Hendry County 6.89%
- Madison County .13%
- Okeechobee County 4.09%
- St. Johns County 3.97%
- St. Lucie County 1.69%

.83%: 2012 New Construction as a percent of 2011 Gross Taxable Value

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[7] Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

Florida Associations of Counties
2011 County by County Rollback Rate

#	Jurisdiction	2010 Taxable Value	2011 Taxable Value	FY 2011 Taxes Levied	FY 2012 Taxes Levied	FY 2012 Rolled-back Rate	FY 2012 Millage Rate	% over/under Rolled-back Rate
1	Miami-Dade County	183,044,795,314	186,962,023,337	1,517,317,588	1,308,425,106	7.9325	6.9983	(11.78%)
2	Wakulla County	1,192,454,342	1,083,304,763	10,433,979	9,478,917	9.7312	8.7500	(10.08%)
3	Washington County	932,940,830	842,673,063	8,321,366	7,516,222	9.9178	8.9195	(10.07%)
4	Marion County	16,212,563,401	14,999,675,147	107,359,945	98,003,318	7.2155	6.5337	(9.45%)
5	Hernando County	8,460,724,169	7,547,546,735	65,319,831	59,645,511	8.7255	7.9026	(9.43%)
6	Lake County	17,021,802,722	15,587,582,550	94,726,891	86,685,160	6.1301	5.5612	(9.28%)
7	Columbia County	2,446,401,713	2,268,066,777	19,607,893	18,178,555	8.7509	8.0150	(8.41%)
8	Gulf County	1,570,245,269	1,460,421,523	9,534,893	8,846,575	6.5839	6.0575	(8.00%)
9	Indian River County	14,139,034,830	13,237,968,419	72,054,224	67,067,832	5.4865	5.0663	(7.66%)
10	Sarasota County	42,128,065,358	39,575,831,502	156,256,971	146,276,730	3.9835	3.6961	(7.21%)
11	Putnam County	3,718,247,933	3,466,631,128	34,372,647	29,731,562	9.2295	8.5765	(7.08%)
12	Highlands County	4,921,416,247	4,662,113,828	34,964,459	33,101,008	7.6400	7.1000	(7.07%)
13	Polk County	26,042,396,666	24,440,706,317	187,486,816	175,677,088	7.7252	7.1879	(6.96%)
14	*Duval County	49,440,991,273	46,334,908,439	496,155,180	464,984,707	10.7688	10.0353	(6.81%)
15	Glades County	587,867,848	554,361,665	6,517,514	6,146,041	11.8538	11.0867	(6.47%)
16	Taylor County	1,261,092,580	1,185,814,649	9,986,968	9,388,649	8.4599	7.9175	(6.41%)
17	Seminole County	25,343,264,959	23,949,202,192	165,447,333	156,325,743	6.9582	6.5151	(6.37%)
18	Nassau County	7,015,415,600	6,636,382,806	47,659,219	45,025,712	7.2457	6.7847	(6.36%)
19	Dixie County	518,528,529	482,271,913	6,727,832	6,269,535	13.8831	13.0000	(6.36%)
20	Hillsborough County	64,703,059,287	62,100,870,943	582,419,055	556,627,429	9.5072	8.9633	(5.72%)
21	Orange County	83,586,769,561	81,565,444,961	563,226,859	546,446,201	7.1045	6.6995	(5.70%)
22	Okaloosa County	14,499,871,635	13,802,468,365	48,914,106	46,574,653	3.5696	3.3744	(5.47%)
23	Flagler County	7,657,765,461	6,563,932,871	42,811,764	40,848,667	6.5726	6.2232	(5.32%)
24	Osceola County	18,093,147,123	16,720,207,326	142,050,596	136,029,791	8.5813	8.1357	(5.19%)
25	Walton County	11,448,430,637	10,945,813,593	41,269,495	39,420,502	3.7962	3.6014	(5.13%)
26	Baker County	802,336,380	772,329,647	5,736,304	5,521,771	7.4891	7.1495	(4.53%)
27	Collier County	61,436,197,437	58,314,443,709	261,574,034	252,456,300	4.5206	4.3292	(4.23%)
28	Bay County	15,070,375,927	14,286,446,652	60,876,806	58,830,621	4.2968	4.1179	(4.16%)
29	Lee County	55,520,514,001	53,601,523,403	278,384,498	267,788,581	5.2128	4.9959	(4.16%)
30	Manatee County	24,748,698,573	23,756,729,326	166,836,702	161,814,214	7.0970	6.8113	(4.03%)
31	Hardee County	1,536,127,184	1,476,266,644	13,140,032	12,627,985	8.8928	8.5540	(3.81%)
32	Union County	227,518,526	219,714,910	2,369,990	2,197,149	10.3928	10.0000	(3.78%)
33	Santa Rosa County	7,567,223,011	7,393,027,769	46,120,020	45,062,722	6.3301	6.0953	(3.71%)
34	Monroe County	19,553,885,436	18,690,561,551	84,911,851	78,999,156	4.3886	4.2267	(3.69%)
35	Escambia County	13,638,819,049	13,296,901,852	101,913,481	99,330,134	7.7384	7.4702	(3.47%)
36	Pasco County	20,727,430,773	20,323,341,802	159,295,480	156,161,958	7.9323	7.6839	(3.13%)
37	Leon County	14,409,226,025	14,073,788,898	120,721,717	117,516,137	8.6168	8.3500	(3.10%)
38	Volusia County	26,182,716,383	24,090,219,710	200,737,428	197,138,007	8.4292	8.1833	(2.92%)
39	Bradford County	846,871,177	828,622,772	7,771,652	7,604,188	9.4501	9.1769	(2.89%)
40	Lafayette County	220,494,451	217,727,244	1,929,326	1,905,113	8.9724	8.7500	(2.48%)
41	Gadsden County	1,376,184,308	1,363,932,104	12,256,848	12,147,725	9.0820	8.9064	(1.93%)
42	Palm Beach County	126,784,523,829	124,519,237,190	837,930,145	835,144,556	6.8271	6.7070	(1.76%)
43	Jefferson County	542,142,579	538,337,799	4,512,036	4,480,370	8.4530	8.3226	(1.54%)
44	Clay County	8,598,848,683	8,112,601,529	62,095,422	61,563,038	7.7074	7.5886	(1.54%)
45	Hamilton County	713,571,187	706,800,381	7,135,712	7,068,004	10.1428	10.0000	(1.41%)
46	Brevard County	29,104,449,212	24,940,629,760	180,765,358	180,554,598	7.3391	7.2394	(1.36%)
47	Jackson County	1,432,377,309	1,420,143,629	10,201,821	10,114,689	7.2178	7.1223	(1.32%)
48	Pinnellas County	58,203,688,479	55,602,604,228	369,154,462	367,506,802	6.6974	6.6095	(1.31%)
49	Charlotte County	13,525,230,842	12,546,850,954	110,517,066	110,518,085	8.9060	8.8084	(1.10%)
50	Martin County	17,492,910,077	17,142,845,280	136,157,629	137,225,954	8.0743	8.0049	(0.86%)
51	Suwanee County	1,434,092,061	1,434,722,529	11,472,736	11,477,780	8.0693	8.0000	(0.86%)
52	Calhoun County	364,288,518	365,271,151	3,641,640	3,652,712	10.0659	10.0000	(0.65%)
53	Broward County	128,455,341,428	126,414,014,099	665,726,685	660,607,363	5.2459	5.2257	(0.39%)
54	Liberty County	207,330,999	209,517,414	2,136,160	2,095,174	10.0323	10.0000	(0.32%)
55	Gilchrist County	628,218,106	602,704,144	5,888,586	5,937,523	9.8686	9.8515	(0.17%)
56	Sumter County	6,204,767,892	6,633,699,940	39,273,461	41,924,984	6.3247	6.3200	(0.07%)
57	Desoto County	1,501,991,518	1,410,963,574	11,005,310	11,000,357	7.8000	7.7963	(0.05%)
58	Holmes County	408,011,267	404,877,841	3,855,380	3,911,322	9.6605	9.6605	0.00%
59	Levy County	1,869,593,968	1,731,342,655	13,874,631	13,957,046	8.0614	8.0614	0.00%
60	Alachua County	12,052,898,624	11,667,900,818	118,873,466	120,601,252	10.3337	10.3362	0.02%
61	Madison County	616,233,159	616,437,375	5,786,429	5,893,634	9.5487	9.5608	0.13%
62	Citrus County	9,582,636,515	9,336,411,252	62,040,409	63,215,255	6.6864	6.7708	1.26%
63	Saint Lucie County	15,013,709,614	14,445,123,153	122,631,894	124,146,416	8.4511	8.5943	1.69%
64	Saint Johns County	18,364,786,783	17,449,553,890	122,560,945	129,293,730	7.1267	7.4096	3.97%
65	Okeechobee County	1,556,664,948	1,457,037,157	12,455,578	13,113,334	8.6460	9.0000	4.09%
66	Franklin County	2,013,686,272	1,899,113,617	8,951,298	9,457,586	4.7365	4.9800	5.14%
67	Hendry County	1,790,130,483	1,709,978,757	11,656,254	12,464,719	6.8197	7.2894	6.89%
		1,328,314,036,280	1,283,000,522,921	8,935,820,106	8,526,749,258			

Notes:

***Duval County**	Data excludes values and figures for Beaches and Baldwin Districts
2010 & 2011 Taxable Value	These figures represent gross taxable value, not adjusted for new construction and were taken from 2011 Form DR-420 (Line 7 and Line 4) for each County
FY 2011 Taxes Levied	These figures were taken from Departmen of Revenue published data and were calculated after 2009/2010 VAB process. Data can be found at http://dor.myflorida.com/dor/property/taxpayers/cmdata/table1.html
FY 2012 Taxes Levied	These figures represent all ad valorem taxes levied including mstu's and were taken from 2011 Form DR-420 (line 25) for each County
FY 2012 Rolled-Back Rate	Current year **aggregate rollback rate**. Data taken from 2010 Form DR-420 (Line 23) for each county
FY 2012 Millage Rate	Current tax year calculated **aggregate millage rate** for each county (Current year total taxes levied divided by current year gross taxable value multiplied by 1000). Data taken from 2010 Form DR-420 (Line 23) for each county

Florida Association of Counties
2011 County by County Property Tax Data

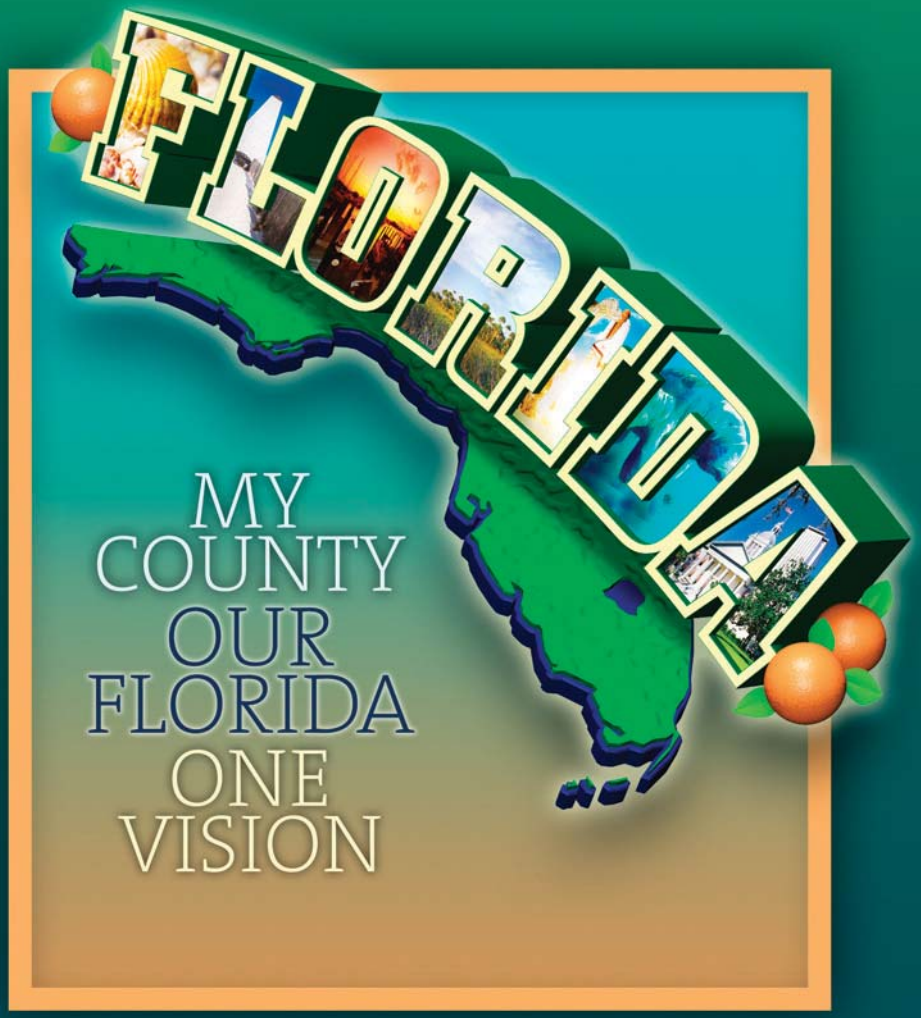
#	Jurisdiction	2010 Taxable Value	2011 Taxable Value	% +/- Taxable Value	New Construction	% New Construction	*FY 10/11 Taxes Levied	FY 11/12 Taxes Levied	FY 2011 Millage Rate	FY 2012 Rolled-Back Rate	FY 2012 Millage Rate	% +/- Rolled-Back Rate	$ Change +/- Taxes Levied	% Change +/- Taxes Levied
1	Alachua County	12,052,898,624	11,667,900,818	(3.19%)	90,814,100	0.78%	118,873,466	120,601,252	9.8626	10.3337	10.3362	0.02%	1,727,786	1.45%
2	Baker County	802,336,380	772,329,647	(3.74%)	6,376,045	0.83%	5,736,304	5,521,771	7.1495	7.4891	7.1495	(4.53%)	(214,533)	(3.74%)
3	Bay County	15,070,375,927	14,286,446,652	(5.20%)	76,411,397	0.53%	60,876,806	58,830,621	4.0395	4.2968	4.1179	(4.16%)	(2,046,185)	(3.36%)
4	Bradford County	846,871,177	828,622,772	(2.15%)	6,237,984	0.75%	7,771,652	7,604,188	9.1769	9.4501	9.1769	(2.89%)	(167,464)	(2.15%)
5	Brevard County	29,104,449,212	24,940,629,760	(14.31%)	210,398,625	0.84%	180,765,358	180,554,598	6.2109	7.3391	7.2394	(1.36%)	(210,760)	(0.12%)
6	Broward County	128,455,341,428	126,414,014,099	(1.59%)	633,590,520	0.50%	665,726,685	660,607,363	5.1826	5.2459	5.2257	(0.39%)	(5,119,322)	(0.77%)
7	Calhoun County	364,288,518	365,271,151	0.27%	3,365,919	0.92%	3,641,640	3,652,712	9.9966	10.0659	10.0000	(0.65%)	11,072	0.30%
8	Charlotte County	13,525,230,842	12,546,850,954	(7.23%)	78,127,215	0.62%	110,517,066	110,518,085	8.1712	8.9060	8.8084	(1.10%)	1,019	0.00%
9	Citrus County	9,582,636,515	9,336,411,252	(2.57%)	55,954,014	0.60%	62,040,409	63,215,255	6.4743	6.6864	6.7708	1.26%	1,174,846	1.89%
10	Clay County	8,598,848,683	8,112,601,529	(5.65%)	72,798,111	0.90%	62,095,422	61,563,038	7.2214	7.7074	7.5886	(1.54%)	(532,384)	(0.86%)
11	Collier County	61,436,197,437	58,314,443,709	(5.08%)	502,084,302	0.86%	261,574,034	252,456,300	4.2577	4.5206	4.3292	(4.23%)	(9,117,734)	(3.49%)
12	Columbia County	2,446,401,713	2,268,066,777	(7.29%)	22,050,151	0.97%	19,607,893	18,178,555	8.0150	8.7509	8.0150	(8.41%)	(1,429,338)	(7.29%)
13	Desoto County	1,501,991,518	1,410,963,574	(6.06%)	6,269,140	0.44%	11,005,310	11,000,357	7.3271	7.8000	7.7963	(0.05%)	(4,953)	(0.05%)
14	Dixie County	518,528,529	482,271,913	(6.99%)	67,992	0.01%	6,727,832	6,269,535	12.9749	13.8831	13.0000	(6.36%)	(458,297)	(6.81%)
15	*Duval County	49,440,991,273	46,334,908,439	(6.28%)	339,991,596	0.73%	496,155,180	464,984,707	10.0353	10.7688	10.0353	(6.81%)	(31,170,473)	(6.28%)
16	Escambia County	13,638,819,049	13,296,901,852	(2.51%)	88,069,833	0.66%	101,913,481	99,330,134	7.4723	7.7384	7.4702	(3.47%)	(2,583,347)	(2.53%)
17	Flagler County	7,657,765,461	6,563,932,871	(14.28%)	51,265,464	0.78%	42,811,764	40,848,667	5.5906	6.5726	6.2232	(5.32%)	(1,963,097)	(4.59%)
18	Franklin County	2,013,686,272	1,899,113,617	(5.69%)	9,729,324	0.51%	8,951,298	9,457,586	4.4452	4.7365	4.9800	5.14%	506,288	5.66%
19	Gadsden County	1,376,184,308	1,363,932,104	(0.89%)	14,362,569	1.05%	12,256,848	12,147,725	8.9064	9.0820	8.9064	(1.93%)	(109,123)	(0.89%)
20	Gilchrist County	628,218,106	602,704,144	(4.06%)	5,861,839	0.97%	5,888,586	5,937,523	9.3735	9.8686	9.8515	(0.17%)	48,937	0.83%
21	Glades County	587,867,848	554,361,665	(5.70%)	5,277,838	0.95%	6,517,514	6,146,041	11.0867	11.8538	11.0867	(6.47%)	(371,473)	(5.70%)
22	Gulf County	1,570,245,269	1,460,421,523	(6.99%)	10,054,860	0.69%	9,534,893	8,846,575	6.0722	6.5839	6.0575	(8.00%)	(688,318)	(7.22%)
23	Hamilton County	713,571,187	706,800,381	(0.95%)	3,276,412	0.46%	7,135,712	7,068,004	10.0000	10.1428	10.0000	(1.41%)	(67,708)	(0.95%)
24	Hardee County	1,536,127,184	1,476,266,644	(3.90%)	3,991,222	0.27%	13,140,032	12,627,985	8.5540	8.8928	8.5540	(3.81%)	(512,047)	(3.90%)
25	Hendry County	1,790,130,483	1,709,978,757	(4.48%)	6,194,540	0.36%	11,656,254	12,464,719	6.5114	6.8197	7.2894	6.89%	808,465	6.94%
26	Hernando County	8,460,724,169	7,547,546,735	(10.79%)	60,199,020	0.80%	65,319,831	59,645,511	7.7204	8.7255	7.9026	(9.43%)	(5,674,320)	(8.69%)
27	Highlands County	4,921,416,247	4,662,113,828	(5.27%)	57,248,135	1.23%	34,964,459	33,101,008	7.1046	7.6400	7.1000	(7.07%)	(1,863,451)	(5.33%)
28	Hillsborough County	64,703,059,287	62,100,870,943	(4.02%)	580,695,319	0.94%	582,419,055	556,627,429	9.0014	9.5072	8.9633	(5.72%)	(25,791,626)	(4.43%)
29	Holmes County	408,011,267	404,877,841	(0.77%)	5,789,468	1.43%	3,855,380	3,911,322	9.4492	9.6605	9.6605	0.00%	55,942	1.45%
30	Indian River County	14,139,034,830	13,237,968,419	(6.37%)	98,918,159	0.75%	72,054,224	67,067,832	5.0961	5.4865	5.0663	(7.66%)	(4,986,392)	(6.92%)
31	Jackson County	1,432,377,309	1,420,143,629	(0.85%)	10,485,291	0.74%	10,201,821	10,114,689	7.1223	7.2178	7.1223	(1.32%)	(87,132)	(0.85%)
32	Jefferson County	542,142,579	538,337,799	(0.70%)	4,559,527	0.85%	4,512,036	4,480,370	8.3226	8.4530	8.3226	(1.54%)	(31,666)	(0.70%)
33	Lafayette County	220,494,451	217,727,244	(1.26%)	2,698,507	1.24%	1,929,326	1,905,113	8.7500	8.9724	8.7500	(2.48%)	(24,213)	(1.25%)
34	Lake County	17,021,802,722	15,587,582,550	(8.43%)	164,819,391	1.06%	94,726,891	86,685,160	5.5650	6.1301	5.5612	(9.28%)	(8,041,731)	(8.49%)
35	Lee County	55,520,514,001	53,601,523,403	(3.46%)	371,608,661	0.69%	278,384,498	267,788,581	5.0141	5.2128	4.9959	(4.16%)	(10,595,917)	(3.81%)
36	Leon County	14,409,226,025	14,073,788,898	(2.33%)	71,143,406	0.51%	120,721,717	117,516,137	8.3781	8.6168	8.3500	(3.10%)	(3,205,580)	(2.66%)
37	Levy County	1,869,593,968	1,731,342,655	(7.39%)	9,853,871	0.57%	13,874,631	13,957,046	7.4212	8.0614	8.0614	0.00%	82,415	0.59%
38	Liberty County	207,330,999	209,517,414	1.05%	2,854,368	1.36%	2,136,160	2,095,174	10.3031	10.0323	10.0000	(0.32%)	(40,986)	(1.92%)
39	Madison County	616,233,159	616,437,375	0.03%	10,118,331	1.64%	5,786,429	5,893,634	9.3900	9.5487	9.5608	0.13%	107,205	1.85%
40	Manatee County	24,748,698,573	23,756,729,326	(4.01%)	264,119,102	1.11%	166,836,702	161,814,214	6.7412	7.0970	6.8113	(4.03%)	(5,022,488)	(3.01%)
41	Marion County	16,212,563,401	14,999,675,147	(7.48%)	112,507,642	0.75%	107,359,945	98,003,318	6.6220	7.2155	6.5337	(9.45%)	(9,356,627)	(8.72%)
42	Martin County	17,492,910,077	17,142,845,280	(2.00%)	323,594,067	1.89%	136,157,629	137,225,954	7.7836	8.0743	8.0049	(0.86%)	1,068,325	0.78%
43	Miami-Dade County	183,044,795,314	186,962,023,337	2.14%	1,543,251,369	0.83%	1,517,317,588	1,308,425,106	8.2893	7.9325	6.9983	(11.78%)	(208,892,482)	(13.77%)
44	Monroe County	19,553,885,436	18,690,561,551	(4.42%)	106,055,074	0.57%	84,911,851	78,999,156	4.3425	4.3886	4.2267	(3.69%)	(5,912,695)	(6.96%)
45	Nassau County	7,015,415,600	6,636,382,806	(5.40%)	58,691,463	0.88%	47,659,219	45,025,712	6.7935	7.2457	6.7847	(6.36%)	(2,633,507)	(5.53%)
46	Okaloosa County	14,499,871,635	13,802,468,365	(4.81%)	116,982,246	0.85%	48,914,106	46,574,653	3.3734	3.5696	3.3744	(5.47%)	(2,339,453)	(4.78%)
47	Okeechobee County	1,556,664,948	1,457,037,157	(6.40%)	16,683,460	1.15%	12,455,578	13,113,334	8.0015	8.6460	9.0000	4.09%	657,756	5.28%
48	Orange County	83,586,769,561	81,565,444,961	(2.42%)	905,996,685	1.11%	563,226,859	546,446,201	6.7382	7.1045	6.6995	(5.70%)	(16,780,658)	(2.98%)
49	Osceola County	18,093,147,123	16,720,207,326	(7.59%)	159,429,713	0.95%	142,050,596	136,029,791	7.8511	8.5813	8.1357	(5.19%)	(6,020,805)	(4.24%)
50	Palm Beach County	126,784,523,829	124,519,237,190	(1.79%)	1,024,390,339	0.82%	837,930,145	835,144,556	6.6091	6.8271	6.7070	(1.76%)	(2,785,589)	(0.33%)
51	Pasco County	20,727,430,773	20,323,341,802	(1.95%)	243,175,851	1.20%	159,295,480	156,161,958	7.6852	7.9323	7.6839	(3.13%)	(3,133,522)	(1.97%)
52	Pinnellas County	58,203,688,479	55,602,604,228	(4.47%)	312,200,916	0.56%	369,154,462	367,506,802	6.3425	6.6974	6.6095	(1.31%)	(1,647,660)	(0.45%)
53	Polk County	26,042,396,666	24,440,706,317	(6.15%)	314,191,415	1.29%	187,486,816	175,677,088	7.1993	7.7252	7.1879	(6.96%)	(11,809,728)	(6.30%)
54	Putnam County	3,718,247,933	3,466,631,128	(6.77%)	11,444,647	0.33%	34,372,647	29,731,562	9.2443	9.2295	8.5765	(7.08%)	(4,641,085)	(13.50%)
55	Saint Johns County	18,364,786,783	17,449,553,890	(4.98%)	231,333,079	1.33%	122,560,945	129,293,730	6.6737	7.1267	7.4096	3.97%	6,732,785	5.49%
56	Saint Lucie County	15,013,709,614	14,445,123,153	(3.79%)	34,210,907	0.24%	122,631,894	124,146,416	8.1680	8.4511	8.5943	1.69%	1,514,522	1.24%
57	Santa Rosa County	7,567,223,011	7,393,027,769	(2.30%)	114,425,411	1.55%	46,120,020	45,062,722	6.0947	6.3301	6.0953	(3.71%)	(1,057,298)	(2.29%)

Florida Association of Counties
2011 County by County Property Tax Data

#	Jurisdiction	2010 Taxable Value	2011 Taxable Value	% +/- Taxable Value	New Construction	% New Construction	*FY 10/11 Taxes Levied	FY 11/12 Taxes Levied	FY 2011 Millage Rate	FY 2012 Rolled-Back Rate	FY 2012 Millage Rate	% +/- Rolled-Back Rate	$ Change +/- Taxes Levied	% Change +/- Taxes Levied
58	Sarasota County	42,128,065,358	39,575,831,502	(6.06%)	224,315,474	0.57%	156,256,971	146,276,730	3.7091	3.9835	3.6961	(7.21%)	(9,980,241)	(6.39%)
59	Seminole County	25,343,264,959	23,949,202,192	(5.50%)	134,713,255	0.56%	165,447,333	156,325,743	6.5283	6.9582	6.5151	(6.37%)	(9,121,590)	(5.51%)
60	Sumter County	6,204,767,892	6,633,699,940	6.91%	425,315,559	6.41%	39,273,461	41,924,984	6.3296	6.3247	6.3200	(0.07%)	2,651,523	6.75%
61	Suwanee County	1,434,092,061	1,434,722,529	0.04%	12,949,251	0.90%	11,472,736	11,477,780	8.0000	8.0693	8.0000	(0.86%)	5,044	0.04%
62	Taylor County	1,261,092,580	1,185,814,649	(5.97%)	5,766,557	0.49%	9,986,968	9,388,649	7.9193	8.4599	7.9175	(6.41%)	(598,319)	(5.99%)
63	Union County	227,518,526	219,714,910	(3.43%)	1,996,990	0.91%	2,369,990	2,197,149	10.4167	10.3928	10.0000	(3.78%)	(172,841)	(7.29%)
64	Volusia County	26,182,716,383	24,090,219,710	(7.99%)	156,017,155	0.65%	200,737,428	197,138,007	7.6668	8.4292	8.1833	(2.92%)	(3,599,421)	(1.79%)
65	Wakulla County	1,192,454,342	1,083,304,763	(9.15%)	11,088,380	1.02%	10,433,979	9,478,917	8.7500	9.7312	8.7500	(10.08%)	(955,062)	(9.15%)
66	Walton County	11,448,430,637	10,945,813,593	(4.39%)	86,308,612	0.79%	41,269,495	39,420,502	3.6048	3.7962	3.6014	(5.13%)	(1,848,993)	(4.48%)
67	Washington County	932,940,830	842,673,063	(9.68%)	2,996,722	0.36%	8,321,366	7,516,222	8.9195	9.9178	8.9195	(10.07%)	(805,144)	(9.68%)
		1,328,314,036,280	1,283,000,522,921	(3.41%)	10,707,763,807	0.83%	8,935,820,106	8,526,749,258	7.4499	7.8364	7.5636	(3.45%)	(409,070,848)	(4.58%)

Notes:

***Duval County**	Data excludes values and figures for Beaches and Baldwin Districts
2010 & 2011 Taxable Value	These figures represent gross taxable value, not adjusted for new construction and were taken from 2011 Form DR-420 (Line 7 and Line 4) for each County
New Construction	These figures are shown as a percent of 2010 gross taxable value and were taken from 2011 Form DR-420 (Line 5) for each County
FY 10/11 Taxes Levied	These figures were taken from Departmen of Revenue published data and were calculated after FY 2011 VAB process. Data can be found at http://dor.myflorida.com/dor/property/taxpayers/cmdata/table1.html
FY 11/12 Taxes Levied	These figures represent all ad valorem taxes levied including mstu's and were taken from 2011 Form DR-420 (line 25) for each County
FY 2011 Millage Rate	Previous tax year calculated **aggregate millage rate** for each county (Previous year total taxes levied divided by previous year gross taxable value multiplied by 1000)
FY 2012 Rolled-Back Rate	Current year **aggregate rollback rate**. Data taken from 2011 Form DR-420 (Line 23) for each county
FY 2012 Millage Rate	Current tax year calculated **aggregate millage rate** for each county (Current year total taxes levied divided by current year gross taxable value multiplied by 1000). Data taken from 2011 Form DR-420 (Line 23) for each county



FAC
FLORIDA ASSOCIATION OF COUNTIES
All About Florida

2012
Legislative Priorities Program

Letter From the President

It is with great honor that I present to you the Florida Association of Counties' (FAC) 2012 Legislative Priorities Program. Florida's county officials have come together and worked tirelessly to develop a unified legislative agenda that benefits all counties. The FAC Legislative Priorities Program outlines statewide issues important to our shared constituency. The program includes a description of FAC's legislative priorities for the 2012 Session. These priorities underscore our commitment to protecting home rule and provide focus for the Association in responding to legislative issues.

Florida's county commissioners, staff and the Florida Association of Counties look forward to working with you during session. Should you have any questions about particular issues or if we can be of assistance, please contact John Wayne Smith, FAC Legislative Director at (850) 922-4300.

Best wishes for a productive and successful session!

Doug Smith
Martin County Commissioner
FAC President

2011-12 Executive Committee

President
Commissioner Doug Smith
Martin County

President-Elect
Commissioner Bill Williams
Gulf County

1st Vice President
Commissioner Bryan Desloge
Leon County

2nd Vice President
Commissioner Ken Welch
Pinellas County

Immediate Past President
Commissioner Ilene Lieberman
Broward County

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- *Ad Valorem Taxes*
- *County Budget Process and Procedures*
- *Fiscally Constrained County Funding*
- *Home Rule Revenues*
- *Local Option / Sales Taxes*
- *Revenue and Expenditure Caps*
- *Unfunded Mandates*

Florida Retirement System (FRS):

Background: Florida's counties are statutorily required to participate in the Florida Retirement System (FRS). Prior to the last quarter of County Fiscal Year 2011, the FRS was funded through employer contributions and there have been many benefit changes since counties joined the FRS in 1971 resulting in higher payroll costs and increased cost to tax payers.

On July 1, 2011, SB 2001 became effective which changed many FRS provisions, namely the requirement of employees to contribute towards their own retirement. While this provision has helped decrease overall payroll expenses and produced potential cost savings to taxpayers, the FRS is still faced with challenges in mitigating its projected unfunded actuarial liability status (As of September 2011 it is estimated that the system is only 87.1% funded on an actuarial basis).

FAC **OPPOSES** any FRS benefit changes that result in an increase in the FRS county and county employee contribution rates. **SUPPORT** requiring all legislation that potentially results in an increase in the FRS contribution rate to be analyzed and evaluated to determine the direct fiscal impact of proposed changes to all local and state government to be eligible for consideration.

Growth Management, Transportation & Emergency Management

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- *Affordable Housing*
- *Building Codes*
- *DRI's (Developments of Regional Impact)*
- *Emergency Management*
- *Growth Management*
- *MPO's (Metropolitan Planning Organizations)*
- *Regional Planning Councils*
- *School Concurrency*
- *Transportation*

Proportionate Fair-Share Mitigation:

Background: A key aspect of Florida's 1985 Growth Management Act required each county to maintain a transportation concurrency management system, which meant that it could not issue a building permit if roadway capacity were not available. Subsequent to the 1985 Act, a new funding process known as "Proportionate Share" was created that allowed a developer to satisfy concurrency by paying the county (or state) its proportionate share of a **scheduled** road improvement. In 2011, the Legislature enacted major revisions to the state's growth management law and eliminated transportation concurrency as a state requirement. However, it allowed counties to retain concurrency by local option under strict conditions. Specifically, a county must give a developer the option of using the proportionate share process, even if the county has no road improvement schedule. This means that a county must charge the developer a fee based on a hypothetical improvement that may never be built. The Legislature also revised the manner in which the proportionate formula is applied, resulting in a process where the first developer pays the fee but all subsequent applicants pay nothing.

- FAC believes that, as matter of fairness and equity, **any** development that creates a roadway deficiency and wants a building permit should pay its proportionate share of an actual scheduled improvement sufficient to mitigate its impacts.
- Any transportation improvements must be shared by all parties impacting road usage from the initial investment through continued improvements on transportation routes.
- Under current law, a single developer is left to shoulder the burden of transportation concurrency rather than fairly sharing those costs to all current and future developments that impact roadways.
- Responsible growth must not only be a shared reward for a community but a shared investment to ensure that citizens have a safe and reliable way to commute daily.

Recent legislative changes to the proportionate share funding process prevents counties, under certain circumstances, from charging a development its fair share of road improvements necessary to support that development. Accordingly, FAC **SUPPORTS** the following:

- Changes in law that gives counties the option of using the proportionate share process and modifying the proportionate share language to allow local governments to determine if the proportionate fair share payment is adequate to satisfy the requirements of the local government concurrency management system;
- Modifying the proportionate fair share language in statute to ensure local governments can charge each development its proportionate share of road improvements when the road is currently deficient or when development causes the road to operate below its adopted level of service; and
- Clarifying language in statute that requires local governments to apply a credit only to that portion of any transportation impact fee that would have been used to fund the same improvements on which a proportionate fair share contribution is calculated, while eliminating the requirement that counties give a dollar-for-dollar credit for impact fees paid or payable in the future.

Public Safety & Administration

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- *Article V*
- *Corrections*
- *Criminal Justice*
- *Elections*
- *Enterprise Florida*
- *Ethics / Gift Disclosure*
- *Florida Retirement System (FRS)*
- *Insurance*
- *Judicial*
- *Juvenile Detention Cost Share*
- *Workers' Compensation*

Pretrial Service Agencies

Background: Pretrial release is an alternative to incarceration that allows arrested individuals to be released from jail with supervision while they wait disposition of their case. Both the U.S. and Florida's Constitution favor pretrial release on reasonable conditions and favor non-monetary bail for nearly all individuals accused of a crime. FAC opposes legislation that limits local pretrial service agencies' ability to effectively supervise pretrial defendants using locally accepted conditions of release.

Additionally, FAC **SUPPORTS** maintaining county ability to provide non-monetary and risk assessment pretrial release services that ensure the safety and welfare of local communities by preventing new offenses and ensuring those appear as obligated. **OPPOSE** legislation limiting the discretion of the first appearance judge, requiring written reports and eliminating the presumption of release on non-monetary conditions. **SUPPORT** changing pretrial program reporting requirements as provided in s. 907.043, F.S., from weekly to monthly updates. **OPPOSE** legislation that restricts pretrial services to only indigent defendants and **SUPPORT** legislation that requires bail bondsmen to report information as required of pretrial service agencies in s.907.043. F.S.

Juvenile Justice Reform

Background: The Department of Juvenile Justice (DJJ) should have full and complete responsibility for juvenile detention; however, FAC supports reforming the juvenile justice system and worked with the DJJ throughout the summer on a list of recommendations that would create a more equitable partnership between the counties and the state.

FAC **SUPPORTS** the state taking full responsibility for funding and operation of detention facilities serving juveniles, both for pre-disposition and post-disposition days and implementing juvenile justice reform, as recommended by the Detention Cost Share Proviso Workgroup. **SUPPORT** recommendations of the joint Department of Juvenile Justice (DJJ) and Florida Association of Counties Workgroup regarding juvenile detention; including but not limited to:

- Align the DJJ Detention budget with the statutory split. The Department has submitted a Legislative Budget Request for $2.7 million that would help satisfy this recommendation;
- Clarify in statute that post-disposition detention stays, including those associated with post-disposition administrative handling, such as violations of probation and pickup orders, are not the responsibility of the county. Pre-disposition detention stays associated with violations of probation related to new charges will remain the responsibility of the county;
- Proceed with detention reform, including the implementation of a scientifically-validated Risk Assessment Instrument that can accurately predict the risk of reoffending and court appearance; and
- Require the DJJ to collaborate closely with counties to achieve accountable and collaborative governance at the local level.

Health & Human Services

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- *Behavioral Health Care*
- *County Health Departments*
- *Elder Care*
- *Emergency Medical Services*
- *Health Care / Health Insurance*
- *Human Services*
- *KidCare Program*
- *Social Services*
- *Substance Abuse*
- *Transportation Disadvantaged*

County Health Departments (CHDs)

Background: County health departments serve our most vulnerable citizens and must be protected to ensure adequate access to health care services statewide. The Florida Association of Counties supports efforts to restore the exemption from rate control for health departments and will work with Legislators to preserve funding for primary health care services.

FAC **SUPPORTS** maintaining state general revenue funding for CHDs, and **OPPOSES** any state reductions to the County Health Department Trust Funds. **SUPPORT** legislative efforts to retain Cost Based Reimbursement for CHDs and to align reimbursement methodologies with Federally Qualified Health Center's reimbursement methodologies under managed care. **SUPPORT** efforts to enable CHDs to transition to managed care under the Statewide Medicaid Managed Care Program without impacting service capacity. **SUPPORT** reinstating the exemption from rate control for county health departments.

Environment, Agriculture & Utilities

Water Quality

The protection and conservation of our natural resources is critical to managing growth, promoting economic development, and maintaining a healthy environment and high quality of life. Accordingly, and in keeping with home rule authority, the Florida Association of Counties supports the right of local government to adopt environmental regulations to protect its unique natural resources, to the benefit of its citizens, business owners and visitors.

The increased demand on Florida's water supplies requires that all Floridians, including county governments, state agencies and utilities, work together in planning for the future. The primary goal of these planning efforts should be to ensure resource availability for all reasonable beneficial uses consistent with the protection of our other natural resources. Policy decisions regarding water resources should be kept as local in nature as possible.

Many of Florida's counties have also made energy conservation and efficiency a priority. Counties continue to lead by example when it comes to energy, by investing in fuel-efficient fleet vehicles, energy-efficient buildings and renewable technologies, and by working collaboratively with stakeholders in the community to create innovative programs and encourage conservation.

Numeric Nutrient Criteria:

Background: Whether nutrient levels are regulated under federal or state law, county governments will have to spend billions of dollars to improve water quality. Therefore, environmental regulations must ensure that nutrient reduction measures are necessary and effective. Additionally, federal and state requirements must be technically and economically feasible, and must recognize the unique character of Florida's waterbodies and the limited resources of its taxpayers.

FAC **SUPPORTS** the DEP's Numeric Nutrient Criteria Rule as a replacement for the federally promulgated numeric nutrient criteria. The Florida rule provides the necessary protection to the State's waterbodies without imposing unnecessary costs to county governments. Furthermore, FAC supports the Department's petition to the EPA to rescind their January 2009 determination to federally promulgate numeric nutrient criteria only in Florida.

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- *Beaches and Coastal Management*
- *Energy*
- *Environmental Delegation and Permitting*
- *Everglades Restoration*
- *Land Acquisition and Management*
- *Solid Waste and Recycling*
- *Stormwater and Wastewater Utilities*
- *Water Quality and Supply*
- *Wetlands*

Mission

The Florida Association of Counties helps counties effectively serve and represent Floridians by strengthening and preserving county home rule through advocacy, education and collaboration.

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Committee on Community Affairs **Judge:**

Started: 1/23/2012 10:02:15 AM
Ends: 1/23/2012 11:59:59 AM Length: 01:57:45

10:02:20 AM	Roll call
10:02:22 AM	Quorum present
10:02:37 AM	Tab 4
10:05:58 AM	Roll Call
10:06:28 AM	Tab 8
10:06:32 AM	Senator Simmons presents the bill
10:17:55 AM	Roll call
10:18:22 AM	Tab 4
10:18:25 AM	Tab 3
10:18:26 AM	Senator Jones Presents
10:20:58 AM	Senator jones closes
10:21:03 AM	Roll Call
10:21:21 AM	Tab 6
10:21:31 AM	Senator Altman presents
10:22:30 AM	Roll Call
10:22:56 AM	Tab 7
10:22:58 AM	Presented by Senator Altman
10:24:02 AM	Senator Gibson
10:24:46 AM	Response
10:25:42 AM	Roll Call
10:26:05 AM	Tab 11
10:26:08 AM	Presentation
10:26:48 AM	(by Senator Ring)
10:27:15 AM	Roll Call
10:27:52 AM	Tab 5
10:27:53 AM	Presentation
10:28:17 AM	Christopher Barton
10:32:01 AM	Arlen Verimo speaks
10:38:38 AM	Senator Thrasher question
10:40:35 AM	Senator Gibson question
10:41:46 AM	Senator Storms
10:46:31 AM	Audry Edmondson speaks
10:50:06 AM	Senator Gibson
10:51:06 AM	Amendment to bill
10:51:49 AM	Amendment to bill (second)
10:52:09 AM	Amendment (third) - presented by Senator Norman
10:53:08 AM	Senator Gibson
10:53:49 AM	Closing remarks
10:54:28 AM	Roll Call on CS
10:54:51 AM	Tab 10
10:55:03 AM	Presentation
10:55:38 AM	Amendment
10:56:24 AM	Jess McCarty
10:57:29 AM	Roll Call
10:58:46 AM	Tab 1
10:58:48 AM	Presentation
11:04:04 AM	Senator Norman
11:05:11 AM	Senator Hayes responds
11:06:25 AM	Tab 2
11:06:27 AM	Presentation by Senator Hayes
11:07:03 AM	Questions
11:07:08 AM	Senator Gibson

11:08:27 AM	Senator Hayes responds
11:08:58 AM	Senator Gibson question
11:09:43 AM	Senator Hays responds
11:10:29 AM	Stacey Webb speaks
11:10:51 AM	Senator Gibson
11:11:13 AM	Roll Call
11:12:06 AM	Tab 12
11:12:28 AM	Senator Ring presents
11:13:05 AM	Senator Bennett question
11:14:12 AM	Roll Call
11:14:16 AM	Senator Norman has the chair
11:14:25 AM	Tab 13
11:14:29 AM	Senator Bennett presents
11:15:36 AM	Amendment
11:16:28 AM	Speakers
11:16:40 AM	Senator Bennett closing statement
11:17:43 AM	Roll Call
11:18:02 AM	Tab 14
11:18:05 AM	Senator Bennett presents
11:20:28 AM	Amendment adopted
11:20:37 AM	Senator Storms question
11:22:00 AM	Senator Storms comment
11:22:10 AM	(Senator Storms comment
11:22:29 AM	Roll Call
11:22:58 AM	Tab 15
11:23:25 AM	Senator Bennett presents
11:25:15 AM	Amendment
11:27:08 AM	Senator Wise
11:28:08 AM	Response
11:29:54 AM	Senator Gibson
11:30:21 AM	Response
11:30:37 AM	Follow-up by Senator Gibson
11:31:00 AM	Response
11:31:12 AM	Follow-up by Senator Gibson
11:32:59 AM	Senator Thrasher
11:34:09 AM	Response
11:34:15 AM	Senator Thrasher follow-up
11:34:49 AM	Senator Storms
11:35:43 AM	Senator Norman comment
11:37:02 AM	Brian Pitts
11:38:39 AM	Senator Gibson
11:39:46 AM	Senator Norman comments
11:39:52 AM	Senator Bennett closes
11:39:59 AM	Senator Bennett closes
11:40:40 AM	Roll Call
11:41:13 AM	Tab 16
11:41:16 AM	Senator Bennett presents
11:42:35 AM	Amendment
11:42:54 AM	Senator Gibson
11:43:44 AM	Response
11:43:51 AM	Senator Gibson follow-up
11:44:30 AM	Response
11:44:36 AM	Follow-up by Senator Gibson
11:46:10 AM	Brian Pitts
11:47:58 AM	Roll Call
11:48:32 AM	Tab 17
11:48:34 AM	Senator Bennett presents strike-all
11:50:35 AM	Bill Letehure
11:53:49 AM	Jim Crosby
11:56:32 AM	Jack Corry
11:58:21 AM	Roll Call
11:58:54 AM	Close of business