

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Detert, Chair**  
**Senator Dockery, Vice Chair**

**MEETING DATE:** Wednesday, December 7, 2011  
**TIME:** 9:30 a.m.—12:30 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Detert, Chair; Senator Dockery, Vice Chair; Senators Flores, Lynn, Montford, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by the Department of Revenue on the 2012 Unemployment Tax		Presented
<p>Consideration of proposed committee bill (Mandatory Review 2012-302 - Open Government Sunset Review of Section 288.075, F.S., Public Records Exemption for Information Held by Economic Development Agencies):</p>			
2	<b>SPB 7014</b>	OGSR/Economic Development Agencies; Amending provisions which provides public records exemptions for information held by economic development agencies; saving from repeal the exemption concerning plans, intentions, or interests of a private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state; saving from repeal the exemption for trade secrets; saving from repeal the exemption for proprietary confidential business information; saving from repeal the exemption for identification, account, and registration numbers and sales, wage, and tax data relating to a recipient of an economic development incentive; removing the scheduled repeal of the exemptions, etc.	Submitted as Committee Bill
<p>Consideration of proposed committee bill (Interim Project 2012-112 - Identification, Review, and Recommendation Relating to Statutory Changes Necessary to Implement the Governmental Reorganization Required by ch. 2011-142, L.O.F.):</p>			
3	<b>SPB 7024</b>	Governmental Reorganization; Correcting references to agency names and divisions and correcting cross-references to conform to the governmental reorganization resulting from the enactment of chapter 2011-142, Laws of Florida; making technical and grammatical changes; correcting a reference to the number of members of the Acquisition and Restoration Council; authorizing Enterprise Florida, Inc., to contract with the Florida Tourism Industry Marketing Corporation for management and operation of welcome centers, etc.	Submitted as Committee Bill

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Wednesday, December 7, 2011, 9:30 a.m.—12:30 p.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 486</b> Diaz de la Portilla (Identical H 917)	Jurisdiction of the Courts; Including as an additional basis for subjecting a person to the jurisdiction of the courts of this state provisions which state that a person submits to the jurisdiction of the courts of this state by entering into a contract that designates the law of this state as the law governing the contract and that contains a provision by which such person agrees to submit to the jurisdiction of the courts of this state; clarifying that an arbitral tribunal receiving a request for an interim measure to preserve evidence in a dispute governed by the Florida International Commercial Arbitration Act need consider only to the extent appropriate the potential harm that may occur if the measure is not awarded or the possibility that the requesting party will succeed on the merits of the claim; revising application dates of provisions relating to the jurisdiction of the courts, etc.  CM 12/07/2011 Favorable JU BC	Favorable Yeas 6 Nays 0
5	<b>SB 238</b> Evers (Identical H 4013)	Florida Renewable Fuel Standard Act; Repealing the Florida Renewable Fuel Standard Act, to remove the requirement that all gasoline offered for sale in this state include a percentage of ethanol, subject to specified exemptions, waivers, suspensions, extensions, enforcement, and reporting; conforming a cross-reference, etc.  CU 11/02/2011 Favorable CM 12/07/2011 Temporarily Postponed	Temporarily Postponed

---

Other Related Meeting Documents

---

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, [www.flsenate.gov](http://www.flsenate.gov) .

---

# 2012 Unemployment Compensation Tax Rates

Senate Commerce and Tourism Committee

December 7, 2011



Jim Evers, Program Director  
General Tax Administration  
Department of Revenue

# Unemployment Compensation Tax

Two components of Unemployment Tax:

- **State Tax** - paid to fund benefits paid from the Unemployment Compensation Trust Fund
- **Federal Tax** - imposed and paid directly to the Federal Government

# Unemployment Compensation Tax

---

## State Tax – two types of employers:

- **Reimbursing Employers:** Governmental entities, Non-profits and Indian Tribes can choose to reimburse the trust fund dollar for dollar based on benefits paid.
- **Contributing Employers** - All other employers are contributing employers, and are assigned a tax rate to pay tax on wages.
- States take different approaches for taxing contributing employers.

# Unemployment Compensation Tax

- Florida imposes a system of four categories of rates:
  - **New business** or initial rate of 2.7% (first 10 quarters of payroll)
  - **Minimum** rate set each year through calculations imposed by statute
  - **Experience** or earned rates between the minimum and maximum rates
  - **Maximum** rate of 5.4% (which also serves as the standard rate and the penalty rate)

# 2012 Unemployment Tax Rates

## 2012 Rate Calculation

- Legislative changes that were delayed by 2010 legislation take effect:
  - Taxable wage base increases from \$7000 to \$8500.
  - Trust Fund trigger is engaged.
  
- 2011 legislative changes:
  - For 11 of 12 quarters used in the calculation, only 90% of benefit charges are used.

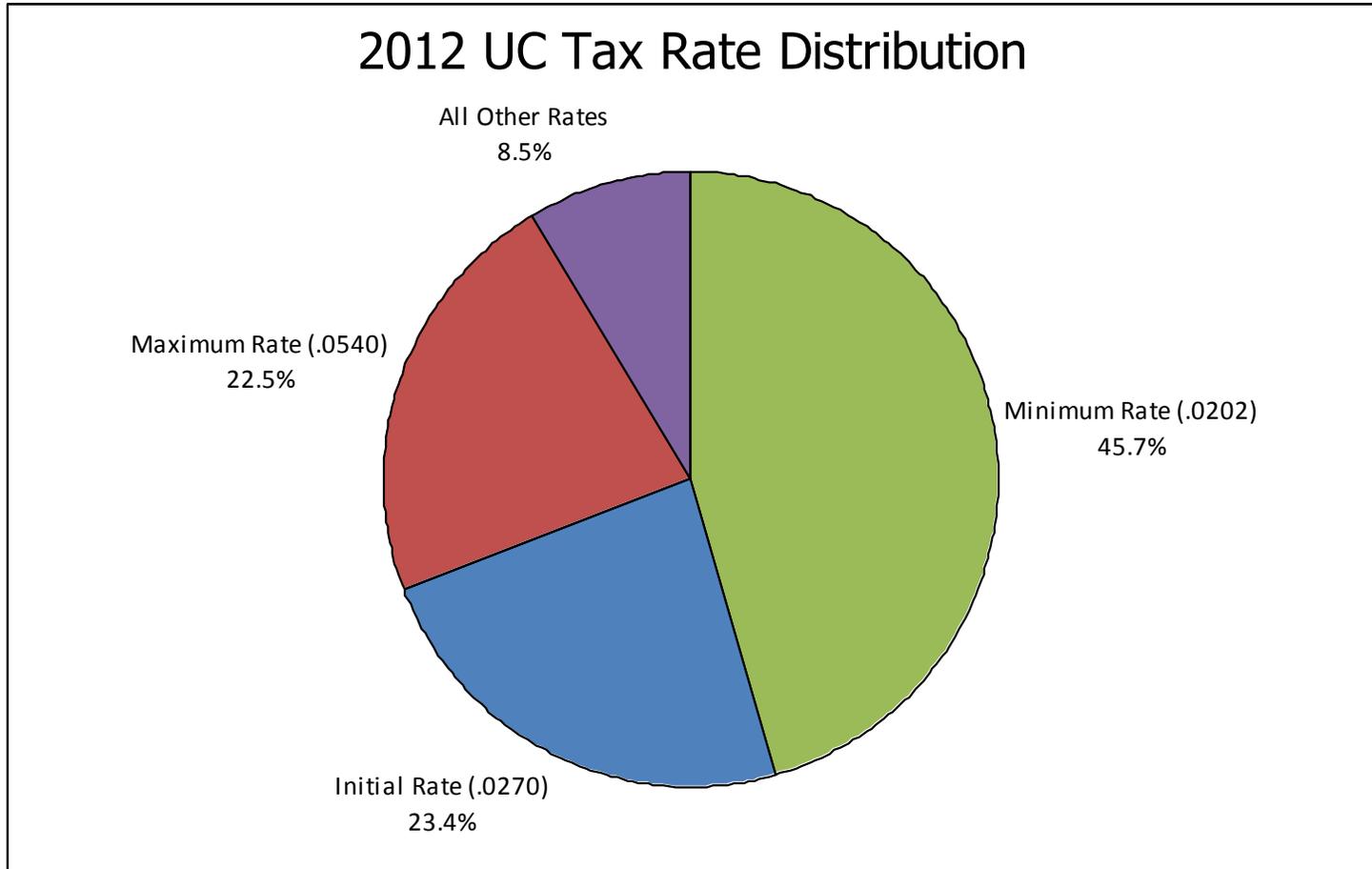
# 2012 Unemployment Tax Rates

- The Department of Revenue determines the minimum rate and experience/earned rates each year through calculations imposed by statute.
- Employers with earned rates, including those at the minimum rate, will see increases based on the change in the taxable wage base from \$7000 to \$8500 but, more significantly, from the spreading of non-charge benefits, excess payments and the fund size factor.

# 2012 Unemployment Tax Rates

- **Minimum rate employers** will pay \$171.70 per employee ( $\$8500 \times 2.02\%$ )
- **New business or initial rate employers** will pay \$229.50 per employee ( $\$8500 \times 2.7\%$ )
- **Maximum rate employers** will pay \$459 per employee ( $\$8500 \times 5.4\%$ )
- **Experience/earned rate employers** will pay between the minimum (\$171.70) and maximum (\$459) per employee.

# 2012 Unemployment Tax Rates



# 2011 and 2012 Unemployment Tax Rates

	<u>2011</u>	<u>2012</u>
<u>Minimum Rate</u>	\$72.10	\$171.70
<u>Initial Rate</u>	\$189	\$229.50
<u>Maximum Rate</u>	\$378	\$459
<u>Experience Rate</u>	\$72.10 - \$378	\$171.70 - \$459
<u>Taxable Wage Base</u>	\$7000	\$8500
<u>Trust Fund Trigger</u>	Off	On

# Unemployment Compensation Tax

## Minimum Rate

• 2008	0.10%	\$7.00
• 2009	0.12%	\$8.40
• 2010	0.36%	\$25.20*
• 2011	1.03%	\$72.10
• 2012	2.02%	\$171.70

\*2010 tax rates reflect changes made by Chapter Law 2010-1; original calculation resulted in minimum tax of \$100.30

# Unemployment Compensation Tax

---

- Florida's high unemployment and the resulting high benefit charges depleted the UC Trust Fund in August 2009.
- Florida has borrowed \$2.7 billion and repaid \$1,008,500,000. Current outstanding balance is \$1,722,700,000 as of 11/29/2011.

# Unemployment Compensation Tax

---

- Causes for the increase in tax rates:
  - Many employers paying at the 5.4% maximum are incurring more benefit charges against the trust fund than their tax rate will cover. These are known as Excess Payments.
  - Due to meeting certain statutory criteria, certain benefit charges cannot be charged back to any employer. These are known as Non-Charge benefits.
  - The trust fund trigger is engaged.
  - The taxable wage base is increased to \$8500.

# Unemployment Compensation Tax

---

- Excess payments and non-charge benefits become shared costs that are spread to employers not at the maximum rate.
- Shared costs have a greater impact on employers with better experience ratings.
- Employers whose own benefit experience already places them at the maximum tax rate are not impacted by these factors.

# Unemployment Compensation

---

## Federal Tax

- 1976 – June 30, 2011 federal tax rate 6.2%; paid on wage base of \$7000. As of July 1, 2011 federal tax rate is 6.0%
- Employers in good standing receive 5.4% credit if the state has a federally compliant unemployment tax program and no delinquent federal loans.
- Florida employers paid .8% or \$56 per employee in prior years.
- Since Florida had outstanding loans as of Nov. 10, 2011, employers will lose 0.3% of the credit.
- January 2011 – June 2011      1.1% or \$77 per employee
- July 2011 – December 2011      .9% or \$63 per employee
- The 0.3% reduction to the credit is used to pay back the federal loans.

# Additional Rate for Interest on Federal Advances

---

- In 2012 Florida employers will again be subject to an additional rate in order to pay interest accrued on the federal advances.
- REC has estimated the amount of interest due to the federal government will be \$43.3 million.
- The rate is determined by dividing the estimated amount of interest to be paid by 95% of the taxable wages for the previous fiscal year.
  - The additional rate is applied to each employer's one-year taxable wages for the period July 1, 2010 through June 30, 2011 to arrive at the proportionate share for each employer.
  - To see the additional rate at the employee level, multiply the taxable wages for one employee by the additional rate:

$$\$7,000 \text{ taxable wages} \times .00092 \text{ additional rate} = \$6.44 \text{ per employee}^*$$

- DOR will bill employers in February with payment due by June 30, 2012.

\*Preliminary data

# Notifications to Employers

---

December 2011	2012 Individual Tax Rate Notices Mailed
February 2012	Mail Additional Rate Notice for Interest on Federal Advances
March 2012	Begin mailing First Quarter Individual Tax Returns
April 2012	First Quarter Unemployment Tax and Returns due on April 1 <sup>st</sup> ; late after April 30 <sup>th</sup>

## 2012 Unemployment Compensation Tax Rates Fact Sheet

- The State of Florida pays Unemployment Compensation (UC) benefits to qualified claimants using monies from the UC Trust Fund, which is funded by the unemployment compensation tax paid by Florida employers; Florida employees do not pay into the fund.
- Florida law (s. 443.131(3)(e)2.a.(III), F.S.) is designed to annually adjust the unemployment tax rates to maintain the balance in the trust fund.
- When the amount in the trust fund falls below a specific amount specified in law, this triggers an increase to ensure the trust fund remains as healthy as possible.
- In August 2009, the trust fund became insolvent and the balance fell to zero due to high unemployment and unprecedented demand caused by the recession.
- At that time, Florida began borrowing from the federal government to pay unemployment compensation benefits, like many other states. As of November 2011, Florida owes the federal government \$1.7 billion in loans needed to meet the benefit demand.
- In an effort to reduce the impact to businesses during difficult economic times, legislation was implemented in 2010 that suppressed the rate-raising trigger, keeping the rates lower than what they otherwise would have been.
- The trigger was re-engaged in calculating the unemployment tax rates for 2012. However, the benefits charged to the employer's account between 7/1/2008 and 3/31/2011 were reduced to 90 percent of the total charge for each quarter. In addition, the taxable wage base is increased to up to \$8,500 for each employee for the period 1/1/2010 through 6/30/2011.
- **2012 Tax Rates** (effective January 1, 2012)
  - Minimum rate: .0202 or \$171.70 per employee
  - Maximum rate: .0540 or \$459.00 per employee
  - (The 2012 rate is based on annual salary up to \$8,500 per employee)
- The 2011 UC tax rates are currently:
  - **2011 Tax Rates**
    - Minimum rate: .0103 or \$72.10 per employee
    - Maximum rate: .0540 or \$378.00 per employee
    - (The 2011 rate is based on annual salary up to \$7,000 per employee)
- Unemployment tax rates first increase for those employers that have benefit charges – generally the more benefits paid, the higher the tax rate. Rates for employers can increase up to the statutory maximum of 5.4 percent per year. When the calculated tax rate has reached 5.4 percent, any additional charges that cannot be recouped within the 5.4 percent rate are spread across all employers.
- Notices of unemployment tax rates for each employer will be distributed in December 2011 and are effective for wages paid on or after January 1, 2012.

### **Special Interest Assessment**

- Since the State of Florida has borrowed funds from the federal government to pay unemployment compensation benefits, all contributing employers will pay a proportionate share of the federal interest payment through a special annual assessment which must be collected by June 30, 2012.
- The Florida Department of Revenue will send notices by February 1, 2012, explaining the calculation of the special interest assessment, with a coupon for the business to pay its share of the interest on the federal advances.

### **FUTA Tax Credit Reduction**

- Florida, like many other states, has had outstanding loans for two consecutive years.
- Employers will incur a 0.3 percent reduction in the amount of credit they can take against their 2011 Annual Federal Unemployment Tax (credit will decrease from 5.4 percent to 5.1 percent) due January 2012.
- The tax credit will decrease by 0.3 percent each year the balance remains unpaid. The 0.3 percent reduction to the credit is used to pay back the federal loans.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



12-7-11

*Meeting Date*

Topic 2012 Unemployment Tax Rates

Bill Number N/A  
*(if applicable)*

Name Jim Evers

Amendment Barcode N/A  
*(if applicable)*

Job Title General Tax Administration Program Director

Address 2450 Shumard Oak Blvd.

Phone (850) 617-8441

*Street*

Tallahassee

*City*

*State*

*Zip*

E-mail everj@dor.state.fl.us

Speaking:  For  Against  Information

Representing Department of Revenue

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 Commerce and Tourism Committee

---

BILL: SPB 7014

INTRODUCER: For consideration by Commerce and Tourism Committee

SUBJECT: OGSR/Economic Development Agencies

DATE: October 31, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

---

**I. Summary:**

Currently, certain business records are confidential and exempt from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc., (EFI), and other specified economic development agencies.

Section 288.075, F.S., lists as the categories of information to held confidential and exempt the following: business plans, intentions and interests; trade secrets; proprietary confidential business information; identification, account, and registration numbers; and information related to economic incentive programs. This section is scheduled to be repealed October 2, 2012.

SB 7014 is the result of Interim Report 2012-302,<sup>1</sup> the Commerce and Tourism Committee's Open Government Sunset Review of the public records exemption in s. 288.075, F.S. The report recommended re-enactment of this exemption, without changes.

The proposed committee bill removes the October 2, 2012, repeal date in s. 288.075, F.S. It must pass each chamber of the Legislature by a two-thirds vote of the members voting and present in order to become law.

---

<sup>1</sup> *Open Government Sunset Review of Section 288.075, F.S., Public Records Exemption for Information Held by Economic Development Agencies*. Report available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-302cm.pdf>. Site last visited Oct. 21, 2011.

**II. Present Situation:**

Public Records Exemptions for Economic Development Agencies

In 1977, the Legislature provided a public-records exemption for records of the Division of Economic Development of the Florida Department of Commerce that contained information concerning the plans of a corporation to locate, relocate, or expand any of its business activities in this state.<sup>2</sup> Since enacting the exemption, the Legislature has made several substantive and technical revisions while retaining the basic concept of affording confidentiality for records of an economic development agency. The last significant modification was in 2007, when a new category of business information was added and specific provisions of a related public-records exemption, s. 288.1067, F.S. (2006), were merged into s. 288.075, F.S., to create five distinct categories of exemptions related to the administration of economic development.<sup>3</sup> They are:

Exempted Material	Timeframe
Plans, intentions, or interests of a private company, person or individual considering locating, relocating, or expanding its business operations in Florida <sup>4</sup>	-- Confidential and exempt for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed whichever occurs first -- May be extended for up to an additional 12 months upon written request from the private company or individual upon a finding by the economic development agency that the entity is still actively seeking to locate, relocate, or expand in Florida
Trade secrets <sup>5</sup>	Permanent
Proprietary confidential business information <sup>6</sup>	Confidential and exempt until such time as the information becomes otherwise publically available or is no longer treated by the proprietor as confidential
Federal employer identification number, unemployment compensation account number, or Florida sales tax registration number <sup>7</sup>	Permanent
Specific sales, employee wage, and tax information related to the administration of state economic development incentives <sup>8</sup>	Exempt for a period not to exceed the duration of the incentive agreement or upon termination of the incentive agreement

<sup>2</sup> Senate Interim Project Report 2006-205, *Open Government Sunset Review of s. 288.075, F.S., Economic Development Agencies*. Available at: [http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim\\_reports/pdf/2006-205cm.pdf](http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-205cm.pdf). Site last visited Oct. 25, 2011.

<sup>3</sup> Chapter 2007-203, L.O.F. This law also repealed s. 288.1067, F.S. See *Review of Public Records Exemptions Relating to Economic Development Agencies*, The Florida Senate Committee on Commerce, Interim Project Report 2007-103 (October 2006), available at: [http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim\\_reports/pdf/2007-103cm.pdf](http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-103cm.pdf); and *House of Representatives Staff Analysis Bill # HB 7201*, Government Efficiency and Accountability Council (April 23, 2007), available at: <http://archive.flsenate.gov/data/session/2007/House/bills/analysis/pdf/h7201.GEAC.pdf>. All sites last visited Oct. 21, 2011.

<sup>4</sup> Section 288.075(2), F.S.

<sup>5</sup> Section 288.075(3), F.S.

<sup>6</sup> Section 288.075(4), F.S.

<sup>7</sup> Section 288.075(5), F.S.

<sup>8</sup> Section 288.075(6), F.S.

The public records exempted by s. 288.075, F.S., are maintained by an “economic development agency,” which is defined in s. 288.075(1)(a), F.S., to include:

- The Department of Economic Opportunity;<sup>9</sup>
- Any industrial development authority created in accordance with part III of ch. 159, F.S., or by special law;
- Space Florida created in part II of ch. 331, F.S.;<sup>10</sup>
- The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the local government’s business or industrial interests;
- Any research and development authority created in accordance with part V of ch. 159, F.S.; or
- Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state, municipality, or county.<sup>11</sup>

Section 288.075(1)(b), F.S., states that “proprietary confidential business information” means<sup>12</sup> information that is owned or controlled by the corporation, partnership, or person requesting confidentiality under this section; that is intended to be and is treated by the corporation, partnership, or person as private in that the disclosure of the information would cause harm to the business operations of the corporation, partnership, or person; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and is information concerning:

- Business plans;
- Internal auditing controls and reports of internal auditors, or
- Reports of external auditors for privately held companies.

Section 288.075(2)(c), F.S., states that a public officer or employee may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information under this subsection until 90 days after the information is made public unless:

- The public officer or employee is acting in an official capacity;
- The agreement does not accrue to the personal benefit of such public officer or employee; and
- In the professional judgment of the officer or employee, the agreement is necessary to effectuate an economic development project.

<sup>9</sup> Previously the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor was listed as an economic development agency. However, ch. 2011-142, L.O.F., abolished OTTED and amended s. 288.075, F.S. See s. 148, ch. 2011-142, L.O.F. The Division of Strategic Business Development is the division within the Department of Economic Opportunity that is responsible for many of OTTED’s functions and responsibilities.

<sup>10</sup> Space Florida is an Independent Special District of the State of Florida, created by part II of ch. 331, F.S., for the purposes of fostering the growth and development of a sustainable and world-leading space industry in Florida. See Space Florida’s website, available at <http://www.spaceflorida.gov/>. Site last visited Oct. 21, 2011.

<sup>11</sup> This refers to entities such as Enterprise Florida, Inc., and public private partnerships that work with local governments, also known as economic development organization.

<sup>12</sup> This definition was created in 2007 by ch. 2007-203, L.O.F., as part of the recommendations of Interim Project Report 2007-103 (October 2006). See FN 3.

This section of law prevents public officers or employees from using confidential information to their personal benefit.

Section 288.075(7), F.S., states that any person who is an employee of an economic development agency who violates the provisions of this section commits a second-degree misdemeanor, punishable by a maximum penalty of 60 days in jail and a \$500 fine.

#### General Background on Florida's Public Records and Public Meetings Laws

Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.<sup>13</sup> One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.<sup>14</sup>

Article I, s. 24, of the State Constitution, provides that:

(a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,<sup>15</sup> which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency<sup>16</sup> records are available for public inspection. The term "public record" is broadly defined to mean:

“. . .all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form,

---

<sup>13</sup> Sections 1390 and 1391, F.S. (Rev. 1892)

<sup>14</sup> Article I, s. 24, of the State Constitution.

<sup>15</sup> Chapter 119, F.S.

<sup>16</sup> The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”<sup>17</sup>

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate, or formalize knowledge.<sup>18</sup> All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.<sup>19</sup>

Article I, s. 24 of the State Constitution also provides that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the Legislature shall be open and noticed as provided in Art. III, s. 4(e), of the State Constitution, except with respect to meetings exempted pursuant to this section or specifically closed by the Constitution. In addition, the Sunshine Law, s. 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Only the Legislature is authorized to create exemptions to open government requirements.<sup>20</sup> An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.<sup>21</sup> A bill enacting an exemption<sup>22</sup> may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.<sup>23</sup>

There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.<sup>24</sup> If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.<sup>25</sup>

The Open Government Sunset Review Act (the act)<sup>26</sup> provides for the systematic review, through a 5-year cycle ending October 2 of the fifth year following enactment, of an exemption from the

---

<sup>17</sup> Section 119.011(12), F.S.

<sup>18</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

<sup>19</sup> *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

<sup>20</sup> Article I, s. 24(c), of the State Constitution.

<sup>21</sup> *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

<sup>22</sup> Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

<sup>23</sup> Article I, s. 24(c) of the State Constitution.

<sup>24</sup> Attorney General Opinion 85-62.

<sup>25</sup> *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5<sup>th</sup> DCA), review denied, 589 So.2d 289 (Fla. 1991).

<sup>26</sup> Section 119.15, F.S.

Public Records Act or the Sunshine Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.<sup>27</sup>

The act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?<sup>28</sup>

While the standards in the act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.<sup>29</sup> The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(8), F.S., makes explicit that:

“... notwithstanding s. 778.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of any exemption under this

<sup>27</sup> Section 119.15(6)(b), F.S.

<sup>28</sup> Section 119.15(6)(a), F.S.

<sup>29</sup> *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).

section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.”

### III. **Effect of Proposed Changes:**

SPB 7014 implements the recommendations in Senate Interim Report 2012-302.

Section 1: Removes the scheduled repeal date of October 2, 2012, in s. 288.075, F.S.

Section 2: Specifies the bill takes effect upon becoming a law.

SPB 7014 requires passage by a two-thirds vote of the Senate and the House of Representatives, of the members present and voting, in order to become law.

#### **Other Potential Implications:**

If the Legislature chooses not to retain the public-records exemption for the information obtained by economic development agencies, then the exemption will expire on October 2, 2012. Without the exemption, certain types of proprietary business information will become public – at least, what is not otherwise protected under federal law. DEO, EFI, Space Florida, local economic development organizations, and other entities that rely on this exemption during the economic recruitment efforts contend the loss of the exemption would hamper their ability to recruit new businesses to Florida and to retain existing businesses.

### IV. **Constitutional Issues:**

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

SB 7014 retains the substance of an existing public records exemption and existing public meetings exemption. It also complies with the requirement of Art. I, s. 24 of the Florida Constitution that public-records exemptions be addressed in legislation separate from substantive law changes. Finally, the proposed committee bill complies with s. 119.15(4)(c), F.S., which specifies that only existing exemptions that are substantially amended must undergo another scheduled repeal in 5 years.

#### C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.



544024

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
12/07/2011	.	
	.	
	.	
	.	

---

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 288.075, Florida Statutes, is amended to  
read:

288.075 Confidentiality of records.—

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

(a) "Economic development agency" means:

1. The Department of Economic Opportunity;

2. Any industrial development authority created in  
accordance with part III of chapter 159 or by special law;



544024

13           3. Space Florida created in part II of chapter 331;

14           4. The public economic development agency of a county or  
15 municipality or, if the county or municipality does not have a  
16 public economic development agency, the county or municipal  
17 officers or employees assigned the duty to promote the general  
18 business interests or industrial interests of that county or  
19 municipality or the responsibilities related thereto;

20           5. Any research and development authority created in  
21 accordance with part V of chapter 159; or

22           6. Any private agency, person, partnership, corporation, or  
23 business entity when authorized by the state, a municipality, or  
24 a county to promote the general business interests or industrial  
25 interests of the state or that municipality or county.

26           (b) "Proprietary confidential business information" means  
27 information that is owned or controlled by the corporation,  
28 partnership, or person requesting confidentiality under this  
29 section; that is intended to be and is treated by the  
30 corporation, partnership, or person as private in that the  
31 disclosure of the information would cause harm to the business  
32 operations of the corporation, partnership, or person; that has  
33 not been disclosed unless disclosed pursuant to a statutory  
34 provision, an order of a court or administrative body, or a  
35 private agreement providing that the information may be released  
36 to the public; and that is information concerning:

37           1. Business plans.

38           2. Internal auditing controls and reports of internal  
39 auditors.

40           3. Reports of external auditors for privately held  
41 companies.



544024

42 (c) "Trade secret" has the same meaning as in s. 688.002.

43 (2) PLANS, INTENTIONS, AND INTERESTS.—

44 (a) ~~If Upon written request from~~ a private corporation,  
45 partnership, or person requests in writing before an economic  
46 incentive agreement is signed that,~~information held by an~~  
47 economic development agency maintain the confidentiality of  
48 information concerning plans, intentions, or interests of a such  
49 private corporation, partnership, or person to locate, relocate,  
50 or expand any of its business activities in this state, the  
51 information is confidential and exempt from s. 119.07(1) and s.  
52 24(a), Art. I of the State Constitution. The information will  
53 remain confidential and exempt for 12 months after the date an  
54 economic development agency receives a request for  
55 confidentiality, for 90 days after the signing of an economic  
56 incentive agreement, or until the information is otherwise  
57 disclosed, whichever occurs first.

58 ~~(b) An economic development agency may extend the period of~~  
59 ~~confidentiality specified in paragraph (a) for up to an~~  
60 ~~additional 12 months upon written request from the private~~  
61 ~~corporation, partnership, or person who originally requested~~  
62 ~~confidentiality under this section and upon a finding by the~~  
63 ~~economic development agency that such private corporation,~~  
64 ~~partnership, or person is still actively considering locating,~~  
65 ~~relocating, or expanding its business activities in this state.~~  
66 ~~Such a request for an extension in the period of confidentiality~~  
67 ~~must be received prior to the expiration of any confidentiality~~  
68 ~~originally provided under this section.~~

69 (b)(e) A public officer or employee may not enter into a  
70 binding agreement with any corporation, partnership, or person



544024

71 who has requested confidentiality of information under this  
72 subsection until 90 days after the information is made public  
73 unless:

74 1. The public officer or employee is acting in an official  
75 capacity;

76 2. The agreement does not accrue to the personal benefit of  
77 such public officer or employee; and

78 3. In the professional judgment of the officer or employee,  
79 the agreement is necessary to effectuate an economic development  
80 project.

81 (3) TRADE SECRETS.—Trade secrets held by an economic  
82 development agency are confidential and exempt from s. 119.07(1)  
83 and s. 24(a), Art. I of the State Constitution.

84 (4) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—  
85 Proprietary confidential business information held by an  
86 economic development agency is confidential and exempt from s.  
87 119.07(1) and s. 24(a), Art. I of the State Constitution, until  
88 such information is otherwise publicly available or is no longer  
89 treated by the proprietor as proprietary confidential business  
90 information.

91 (5) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A  
92 federal employer identification number, unemployment  
93 compensation account number, or Florida sales tax registration  
94 number held by an economic development agency is confidential  
95 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
96 Constitution.

97 (6) ECONOMIC INCENTIVE PROGRAMS.—

98 (a) The following information held by an economic  
99 development agency pursuant to the administration of an economic



544024

100 incentive program for qualified businesses is confidential and  
101 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
102 Constitution for a period not to exceed the duration of the  
103 incentive agreement, including an agreement authorizing a tax  
104 refund or tax credit, or upon termination of the incentive  
105 agreement:

106 1. The percentage of the business's sales occurring outside  
107 this state and, for businesses applying under s. 288.1045, the  
108 percentage of the business's gross receipts derived from  
109 Department of Defense contracts during the 5 years immediately  
110 preceding the date the business's application is submitted.

111 ~~2. The anticipated wages for the project jobs that the~~  
112 ~~business plans to create, as reported on the application for~~  
113 ~~certification.~~

114 ~~2.3. The average wage actually paid by the business for~~  
115 ~~those jobs created by the project or An individual employee's~~  
116 ~~personal identifying information that ~~which~~ is held as evidence~~  
117 ~~of the achievement or nonachievement of the wage requirements of~~  
118 ~~the tax refund, tax credit, or incentive agreement programs or~~  
119 ~~of the job creation requirements of such programs.~~

120 ~~3.4. The amount of:~~

121 a. Taxes on sales, use, and other transactions paid  
122 pursuant to chapter 212;

123 b. Corporate income taxes paid pursuant to chapter 220;

124 c. Intangible personal property taxes paid pursuant to  
125 chapter 199;

126 d. Insurance premium taxes paid pursuant to chapter 624;

127 e. Excise taxes paid on documents pursuant to chapter 201;

128 f. Ad valorem taxes paid, as defined in s. 220.03(1); or



544024

129 g. State communications services taxes paid pursuant to  
130 chapter 202.

131  
132 However, an economic development agency may disclose in the  
133 annual incentives report required under s. 288.907 the aggregate  
134 amount of each tax identified in this subparagraph and paid by  
135 all businesses participating in each economic incentive program.

136 (b)1. The following information held by an economic  
137 development agency relating to a specific business participating  
138 in an economic incentive program is not confidential or exempt  
139 from disclosure 90 days after an economic incentive agreement is  
140 signed with that business ~~An economic development agency may~~  
141 ~~release:~~

142 a. The name ~~names~~ of the qualified business ~~businesses~~.

143 b. The total number of jobs the ~~each~~ business committed  
144 ~~expects~~ to create or retain.

145 c. The total number of jobs created or retained by the ~~each~~  
146 business.

147 d. Notwithstanding s. 213.053(2), the amount of tax  
148 refunds, tax credits, or incentives awarded to, and claimed by,  
149 or, if applicable, refunded to the state by the ~~each~~ business.

150 e. The anticipated total annual wages of employees the  
151 business committed to hire or retain.

152 2. For a business applying for certification under s.  
153 288.1045 which is based on obtaining a new Department of Defense  
154 contract, the total number of jobs expected and the amount of  
155 tax refunds claimed may not be released until the new Department  
156 of Defense contract is awarded.

157 ~~(c) An economic development agency may publish statistics~~



544024

158 ~~in the aggregate and classified so as to prevent the~~  
159 ~~identification of a single qualified applicant.~~

160 (7) PENALTIES.—Any person who is an employee of an economic  
161 development agency who violates the provisions of this section  
162 commits a misdemeanor of the second degree, punishable as  
163 provided in s. 775.082 or s. 775.083.

164 ~~(8) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is~~  
165 ~~subject to the Open Government Sunset Review Act in accordance~~  
166 ~~with s. 119.15 and shall stand repealed on October 2, 2012,~~  
167 ~~unless reviewed and saved from repeal through reenactment by the~~  
168 ~~Legislature.~~

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

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

172 And the title is amended as follows:

173 Delete everything before the enacting clause  
174 and insert:

175 A bill to be entitled  
176 An act relating to a review under the Open Government  
177 Sunset Review Act; amending s. 288.075, F.S., which  
178 provides public records exemptions for information  
179 held by economic development agencies; saving from  
180 repeal the exemption concerning plans, intentions, or  
181 interests of a private corporation, partnership, or  
182 person to locate, relocate, or expand any of its  
183 business activities in this state; providing that the  
184 exemption applies if a request for confidentiality is  
185 made before an economic incentives agreement is  
186 signed; revising the duration of the period in which



544024

187 information may remain confidential and exempt from  
188 disclosure; saving from repeal the exemption for trade  
189 secrets; saving from repeal the exemption for  
190 proprietary confidential business information; saving  
191 from repeal the exemption for identification, account,  
192 and registration numbers and sales, wage, and tax data  
193 relating to a recipient of an economic development  
194 incentive; providing that the taxes paid by businesses  
195 participating in an economic incentive program may be  
196 disclosed in the aggregate; authorizing the disclosure  
197 of specified information relating to a business 90  
198 days after an economic incentive agreement is signed;  
199 removing the scheduled repeal of the exemptions;  
200 providing an effective date.

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-00662-12

20127014\_\_

1 A bill to be entitled

2 An act relating to a review under the Open Government  
3 Sunset Review Act; amending s. 288.075, F.S., which  
4 provides public records exemptions for information  
5 held by economic development agencies; saving from  
6 repeal the exemption concerning plans, intentions, or  
7 interests of a private corporation, partnership, or  
8 person to locate, relocate, or expand any of its  
9 business activities in this state; saving from repeal  
10 the exemption for trade secrets; saving from repeal  
11 the exemption for proprietary confidential business  
12 information; saving from repeal the exemption for  
13 identification, account, and registration numbers and  
14 sales, wage, and tax data relating to a recipient of  
15 an economic development incentive; removing the  
16 scheduled repeal of the exemptions; providing an  
17 effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsection (8) of section 288.075, Florida  
22 Statutes, is amended to read:

23 288.075 Confidentiality of records.—

24 ~~(8) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is~~  
25 ~~subject to the Open Government Sunset Review Act in accordance~~  
26 ~~with s. 119.15 and shall stand repealed on October 2, 2012,~~  
27 ~~unless reviewed and saved from repeal through reenactment by the~~  
28 ~~Legislature.~~

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



# The Florida Senate

*Interim Report 2012-302*

*September 2011*

---

Committee on Commerce and Tourism

---

## **OPEN GOVERNMENT SUNSET REVIEW OF S. 228.075, F.S., PUBLIC RECORDS EXEMPTION FOR INFORMATION HELD BY ECONOMIC DEVELOPMENT AGENCIES**

### **Issue Description**

Chapter 77-75, L.O.F., created the general economic development exemption from Florida's public records requirements in s. 288.075, F.S.

Briefly, s. 288.075, F.S., currently identifies several categories of economic development agencies, and makes confidential and exempt the following information held by such agencies:

- Plans, intentions, or interests of a private company or individual considering locating, relocating, or expanding its business operations in Florida;
- Proprietary confidential business information;
- Trade secrets;
- Sales, employee wage and tax information related to businesses receiving state economic development incentives; and
- Identification, account, and registration numbers.

The length of time the above-mentioned categories of information are shielded from the public and the conditions for publicly releasing such information vary. The law also provides a criminal penalty for any person who fails to maintain the confidentiality of this information. This exemption is repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature prior to that date.

### **Background**

#### **Public Records and Meetings**

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.<sup>1</sup> One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.<sup>2</sup> Article I, s. 24, of the State Constitution, provides that:

- (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

---

<sup>1</sup> Section 1390, 139, F. S. (Rev. 1892).

<sup>2</sup> Article I, s. 24, of the State Constitution.

In addition to the State Constitution, the Public Records Act,<sup>3</sup> which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency<sup>4</sup> records are available for public inspection. The term “public record” is broadly defined to mean:

. . .all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.<sup>5</sup>

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate, or formalize knowledge.<sup>6</sup> All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.<sup>7</sup>

Article I, s. 24, of the State Constitution, also provides that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the Legislature shall be open and noticed as provided in Article III, s. 4(e), State Constitution, except with respect to meetings exempted pursuant to this section or specifically closed by the constitution. In addition, the Sunshine Law, s. 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Only the Legislature is authorized to create exemptions to open government requirements.<sup>8</sup> An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.<sup>9</sup> A bill enacting an exemption<sup>10</sup> may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.<sup>11</sup>

---

<sup>3</sup> Chapter 119, F.S.

<sup>4</sup> The word “agency” is defined in s. 119.011(2), F.S., to mean “. . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>5</sup> Section 119.011(12), F.S.

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

<sup>7</sup> *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

<sup>8</sup> Article I, s. 24(c), of the State Constitution.

<sup>9</sup> *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

<sup>10</sup> Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records. Under Florida law a two-thirds vote of each house is required for a public records or public meeting exemption to be created or expanded.

<sup>11</sup> Article I, s. 24(c), of the State Constitution.

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.<sup>12</sup> If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.<sup>13</sup>

The Open Government Sunset Review Act (the act)<sup>14</sup> provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Sunshine Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.<sup>15</sup>

The act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?<sup>16</sup>

While the standards in the act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.<sup>17</sup> The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(8), F.S., makes explicit that:

... notwithstanding s. 778.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and

---

<sup>12</sup> Attorney General Opinion 85-62.

<sup>13</sup> *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5<sup>th</sup> DCA), review denied, 589 So.2d 289 (Fla. 1991).

<sup>14</sup> Section 119.15, F.S.

<sup>15</sup> Section 119.15(6)(b), F.S.

<sup>16</sup> Section 119.15(6)(a), F.S.

<sup>17</sup> *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).

reenactment of any exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

### Public Records Exemptions for Economic Development Agencies

In 1977, the Legislature provided a public records exemption for records of the Division of Economic Development of the Florida Department of Commerce which contained information concerning the plans of a corporation to locate, relocate, or expand any of its business activities in this state.<sup>18</sup> Since enacting the exemption, the Legislature has made several substantive and technical revisions while retaining the basic concept of affording confidentiality for records of an economic development agency. The last significant modification was in 2007, when a new category of business information was added and specific provisions of a related public-records exemption, s. 288.1067, F.S. (2006), were merged into s. 288.075, F.S., to create 5 distinct categories of exemptions related to the administration of economic development.<sup>19</sup> Currently, the 5 categories of information held by economic development agencies that are exempt from public records are:

Exempted Material	Timeframe
Plans, intentions, or interests of a private company, person or individual considering locating, relocating, or expanding its business operations in Florida <sup>20</sup>	Confidential and exempt for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed whichever occurs first May be extended for up to an additional 12 months upon written request from the private company or individual upon a finding by the economic development agency that the entity is still actively seeking to locate, relocate, or expand in Florida
Trade secrets <sup>21</sup>	Permanent
Proprietary confidential business information <sup>22</sup>	Confidential and exempt until such time as the information becomes otherwise publicly available or is no longer treated by the proprietor as confidential
Federal employer identification number, unemployment compensation account number, or Florida sales tax registration number <sup>23</sup>	Permanent
Specific sales, employee wage, and tax information related to the administration of state economic development incentives <sup>24</sup>	Exempt for a period not to exceed the duration of the incentive agreement or upon termination of the incentive agreement

<sup>18</sup> Adapted from Senate Interim Project Report 2006-205, *Open Government Sunset Review of s. 288.075, F.S., Economic Development Agencies*. Available at: [http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim\\_reports/pdf/2006-205cm.pdf](http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-205cm.pdf). Site last visited Oct. 25, 2011.

<sup>19</sup> Chapter 2007-203, L.O.F. This law also repealed s. 288.1067, F.S. See also *Review of Public Records Exemptions Relating to Economic Development Agencies*, The Florida Senate Committee on Commerce, Interim Project Report 2007-103 (October 2006), available at [http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim\\_reports/pdf/2007-103cm.pdf](http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-103cm.pdf) (last visited 7/26/2011); and *House of Representatives Staff Analysis Bill #: HB 7201*, Government Efficiency and Accountability Council (April 23, 2007), available at <http://archive.flsenate.gov/data/session/2007/House/bills/analysis/pdf/h7201.GEAC.pdf> (last visited 7/26/2011).

<sup>20</sup> Section 288.075(2), F.S.

<sup>21</sup> Section 288.075(3), F.S.

<sup>22</sup> Section 288.075(4), F.S.

<sup>23</sup> Section 288.075(5), F.S.

<sup>24</sup> Section 288.075(6), F.S.

The public records exempted by s. 288.075, F.S., are maintained by an “economic development agency,” which is defined in s. 288.075(1)(a), F.S., to include:

1. The Department of Economic Opportunity;<sup>25</sup>
2. Any industrial development authority created in accordance with part III of ch. 159, F.S., or by special law;
3. Space Florida created in part II of ch. 331, F.S.;<sup>26</sup>
4. The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality or the responsibilities related thereto;
5. Any research and development authority created in accordance with part V of ch. 159, F.S.; or
6. Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.<sup>27</sup>

Section 288.075(1)(b), F.S., states that “proprietary confidential business information” means<sup>28</sup> information that is owned or controlled by the corporation, partnership, or person requesting confidentiality under this section; that is intended to be and is treated by the corporation, partnership, or person as private in that the disclosure of the information would cause harm to the business operations of the corporation, partnership, or person; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning:

1. Business plans.
2. Internal auditing controls and reports of internal auditors.
3. Reports of external auditors for privately held companies.

Section 288.075(2)(c), F.S., states that a public officer or employee may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information under this subsection until 90 days after the information is made public unless:

1. The public officer or employee is acting in an official capacity;
2. The agreement does not accrue to the personal benefit of such public officer or employee; and
3. In the professional judgment of the officer or employee, the agreement is necessary to effectuate an economic development project.

This section prevents public officers or employees from using confidential information to their personal benefit.

Section 288.075(7), F.S., states that any person who is an employee of an economic development agency who violates the provisions of this section commits a misdemeanor of the second degree.

### **Commission on Open Government Reform**

The Commission on Open Government Reform was created by Executive Order 07-107 to review, evaluate, and issue recommendations regarding Florida’s public records and public meetings laws. The commission’s final report was issued in January 2009 and contained the following recommendations with respect to s. 288.075, F.S.:

<sup>25</sup> Previously the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor was listed as an economic development agency. However, ch. 2011-142, L.O.F., abolished OTTED and amended s. 288.075, F.S. See s. 148, ch. 2011-142, L.O.F. The Division of Strategic Business Development is the division within the Department of Economic Opportunity that is responsible for many of OTTED’s functions and responsibilities.

<sup>26</sup> Space Florida is an Independent Special District of the State of Florida, created by part II of ch. 331, F.S., for the purposes of fostering the growth and development of a sustainable and world-leading space industry in Florida. See Space Florida’s website, available at <http://www.spaceflorida.gov/> (last visited 7/26/2011).

<sup>27</sup> This refers to entities such as Enterprise Florida, Inc., and public private partnerships that work with local governments, also known as economic development organization.

<sup>28</sup> This definition was created in 2007 by ch. 2007-203, L.O.F., as part of the recommendations of Interim Project Report 2007-103 (October 2006).

1. The Legislature amend s. 288.075, F.S., to include a definition of “economic development project” and to subject the exemption to review and reenactment under the Open Government Sunset Review Act.
2. The Florida Economic Development Council coordinate with the Office of Open Government to provide training to local government economic development agencies on the scope and application of s. 288.075, F.S.<sup>29</sup>

Florida Economic Development Council states that its purpose is to educate, advocate and connect the state wide network of economic developers through communications and events, providing leadership and vision to advance economic development professionals and economic development throughout the state of Florida as a whole.<sup>30</sup>

“The Office of Open Government is charged with providing both the Executive Office of the Governor and each of Florida’s agencies with the guidance and tools to serve Florida with integrity and transparency.”<sup>31</sup> The Office of Open Government was created by Governor Crist<sup>32</sup> and reestablished by Governor Scott.<sup>33</sup>

## Findings and/or Conclusions

### Methodology

A telephone survey was conducted regarding the exemption that included contacting state and local economic development agencies, the First Amendment Foundation, the Department of Economic Opportunity, Enterprise Florida, Inc. (EFI), and Space Florida. Responses were compiled and analyzed in the development of recommendations. There were a total of 75 entities contacted with 48 responding.

### Findings

All of the 48 entities who responded to staff indicated that they supported reenacting the statute. The Governor’s Office may be developing legislation to name the Governor and EFI as economic development agencies within s. 288.075, F.S., to “clarify any confusion that may exist regarding their roles in the economic development process.”

While not related to the specific exemption under s. 288.075, F.S., some economic development organizations expressed concerns about whether the organizations were considered to be “state agencies” for purposes of the Public Records Act and Sunshine Law. There has been some debate as to the nature of these organizations.<sup>34</sup> These organizations may be developing draft legislation to clarify this issue, such as the creation of a bright line test.

### Sunset Review Questions

The Open Government Sunset Review Act prescribes questions to be considered by the Legislature in deciding whether to save a public records exemption from its scheduled repeal. These questions address the content and general purpose of the exemption, and detail the specific documents and entities that are affected.

---

<sup>29</sup> *Reforming Florida’s Open Government Laws in the 21<sup>st</sup> Century*, The Commission on Open Government Reform, p. 20 (January 2009), on file with the Senate Commerce and Tourism Committee.

<sup>30</sup> Florida Economic Development Council, available at <http://www.fedc.net/join-fedc/purpose> (last visited 8/1/11).

<sup>31</sup> The Office of the 45<sup>th</sup> Governor of Florida, Rick Scott, Office of Open Government, available at [http://www.flgov.com/open\\_government/](http://www.flgov.com/open_government/) (last visited 8/4/11).

<sup>32</sup> Fla. Exec. Order No. 07-01, (January 2, 2007).

<sup>33</sup> Fla. Exec. Order No. 11-03, (January 4, 2011).

<sup>34</sup> See Inf. Op. to The Honorable Don Gaetz and The Honorable Marti Coley dated December 17, 2009, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/9FCB14946923BD198525768F00686F5A> (last visited 8/2/11); and see Inf. Op. to Mr. Derek P. Rooney Dated June 8, 2011, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/9BF33427865CA616852578B1005568A4> (last visited 8/2/11).

***Whom does the exemption uniquely affect, as opposed to the general public?***

The exemption affects businesses that are considering locating or expanding in Florida. Maintaining the confidentiality of the five categories of information encourages them to communicate with economic development agencies without concerns that confidential business information will be available to their competitors.

***What specific records or meetings are affected by the exemption?***

Records affected by this exemption are those held by an economic development agency relating to:

- Plans, Intentions, and Interests of a private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state.
- Trade Secrets.
- Proprietary Confidential Business Information meaning information that is owned or controlled by the corporation, partnership, or person requesting confidentiality under this statute; that is intended to be and is treated by the corporation, partnership, or person as private in that the disclosure of the information would cause harm to the business operations of the corporation, partnership, or person; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning:
  1. Business plans.
  2. Internal auditing controls and reports of internal auditors.
  3. Reports of external auditors for privately held companies.
- Identification, Account, and Registration Numbers meaning a federal employer identification number, unemployment compensation account number, or Florida sales tax registration number.
- Economic Incentive Programs.

***Can the information contained in the records be readily obtained by alternative means?***

The information contained in the exempt records is not publicly available, and cannot be otherwise obtained unless directly from the business.

***Is the record protected by another exemption and would it be appropriate to merge the exemptions?***

The broad range of records protected by this exemption is not protected elsewhere in statute. Trade secrets are protected under s. 812.081, F.S., and s. 688.002, F.S., however these sections of law do not specifically deal with public records exemptions and records held by an economic development agency, and it is not recommended that these sections of law be merged as this would only lead to confusion as to the status of trade secrets as it relates to economic development.

***What is the identifiable public purpose or goal of the exemption?***

The goal of this exemption is to facilitate communications between businesses and economic development agencies. The exemption allows businesses to keep strategic information confidential while considering sites to locate or expand, the release of which may adversely affect them in the marketplace.

**Conclusion**

As discussed above, the Open Government Sunset Review Act requires that a public records exemption must serve an identifiable public purpose in order to be maintained. The exemption provided in s. 288.075, F.S., serves a public purpose in two ways. First, the exemption allows state and local economic development agencies to effectively and efficiently administer their programs. The goal of these agencies is to promote growth and attract businesses to Florida. Most state and local economic development agencies surveyed indicated that without the exemption, businesses would be less likely to communicate with them, and therefore possibly less likely to locate or expand in Florida. Second, this exemption affects confidential business information, the disclosure of which could adversely affect the business in the marketplace. Competitors could use this information to their advantage, reacting to business plans that would otherwise be confidential absent inquiries with a government entity. In cases

where businesses are considering relocation, it could cause disruption in the workforce, encouraging current employees to seek other employment.

## Options and/or Recommendations

### Options

The Committee may consider the recommendations of the Commission on Open Government Reform in its deliberation of this matter.

The following language could be added to s. 288.075(6)(c), F.S., to clarify that an economic development agency must comply with other provisions of law relating to reporting requirements, examples of which would include:

- The annual state incentives report prepared by EFI is in s. 288. 907, F.S.
- The reporting by EDOs to the applicable county or city that gave it public dollars for ecodevelopment activities about how the EDOs spent the money in s. 125.045(4), F.S., and s. 166.021(9)(d), F.S.
- The annual reporting by all counties and certain cities (with annual revenues or expenditures greater \$250,000) on local incentives in excess of \$25,000 is specified in s. 125.045(5), F.S., and s. 166.021(9)(e), F.S.

“An economic development agency shall comply with all applicable reporting requirement outlined in Florida Statutes and may publish statistics in the aggregate and classified so as to prevent the identification of a single qualified applicant.”

### Recommendations

Committee staff recommends that the public records exemption provided in s. 288.075, F.S., relating to certain business records held by economic development agencies, be re-enacted. Through the review of the public records exemption, it has been determined that the exemption serves a public purpose, as it is necessary to carry out a government program and protects confidential business information.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic SRP.075, Public Records exemption for Economic Dev.

Bill Number SPB 7014  
*(if applicable)*

Name Gray Swoope

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Sec. of Commerce / EFI President

Address 352 John Knox Rd

Phone \_\_\_\_\_

Street

Tallahassee FL 32303

City

State

Zip

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**  
**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 Commerce and Tourism Committee

**BILL:** SPB 7024

**INTRODUCER:** For consideration by the Commerce and Tourism Committee

**SUBJECT:** Governmental Reorganization

**DATE:** December 6, 2011      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

SPB 7024 is the result of a review of the Florida Statutes for changes necessary due to the governmental reorganization provided by ch. 2011-142, L.O.F. The bill updates references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation; updates provisions or references which were enacted by other chapter laws; revises provisions or references which were drafting errors; and repeals any remaining outdated provisions.

This bill amends the following sections of the Florida Statutes: 68.096, 68.105, 159.81, 163.2517, 163.3178, 163.3191, 163.3204, 163.3221, 163.3246, 163.3247, 163.336, 163.458, 163.460, 163.461, 163.462, 163.5055, 163.506, 163.508, 163.511, 163.512, 212.096, 213.053, 215.55865, 218.411, 220.153, 220.183, 220.194, 258.501, 259.042, 259.101, 282.201, 288.021, 288.1045, 288.106, 288.108, 288.1083, 288.1089, 288.1097, 288.11621, 288.1168, 288.1171, 288.1254, 288.714, 288.7102, 288.987, 290.0055, 290.0065, 290.00726, 290.00727, 290.00728, 311.09, 320.08058, 320.080578, 339.135, 342.201, 377.703, 377.809, 380.06, 402.56, 403.0891, 420.503, 420.507, 420.101, 420.0005, 420.0006, 443.036, 443.091, 443.111, 443.141, 443.1715, 443.17161, 446.50, 450.261, 509.032, 624.5105, 1002.75, 1002.79, 259.035, 288.12265, 288.901, 288.980, and 331.3081.

This bill repeals ss. 163.03, 373.461, and 379.2353, F.S.

## II. Present Situation:

### **Governmental Reorganization<sup>1</sup>**

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of state government. Many of the functions and responsibilities of the Department of Community Affairs (DCA), the Agency for Workforce Innovation (AWI), and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor (OTTED) were transferred into a new state agency called the Department of Economic Opportunity (DEO).

### **Public/Private Partnerships**

The law also reorganized several public/private partnerships. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc (EFI). The Florida Commission on Tourism was abolished and much of its responsibilities and functions were transferred to the Division of Tourism Promotion within EFI. The Florida Tourism Industry Marketing Corporation (Visit Florida) was directed to contract with EFI. Further, the appointed members of the board of directors for EFI now also serve as the board of directors of Space Florida, which is still an independent special district.

### **Other Transfers**

Other functions of DCA, AWI, and OTTED were transferred to more appropriate state agencies, including:

- The Florida Building Code Commission was transferred from DCA to the Department of Business and Professional Regulation.
- The Division of Emergency Management (DEM) was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. DEM was transferred to the Executive Office of the Governor, while retaining its status as a separate budget entity.
- The Florida Communities Trust, the Parks and Open Space Florida Forever Grant Program, and the Stan Mayfield Working Waterfronts Florida Forever Grant Program were transferred from DCA to the Department of Environmental Protection.
- The Office of Early Learning within AWI was transferred to the Department of Education as a separate budget entity and is not subject to control, supervision, or direction by the department.

### **Office of Energy**

Additionally, the law reorganized a portion of the state's energy policy, by abolishing the Florida Energy and Climate Commission (FECC) and transferring the majority of its functions and responsibilities to the Department of Agriculture and Consumer Services (DACS). There is now

---

<sup>1</sup> For further information see Committee on Commerce and Tourism, the Florida Senate, Identification, Review, and Recommendation Relating to Statutory Changes Necessary to Implement the Governmental Reorganization Required by ch. 2011-142, L.O.F. (October 2011), Interim Report 2012-112, available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-112cm.pdf> (last visited 11/21/2011).

an Office of Energy within DACS.<sup>2</sup> Additionally, FECC's emergency management responsibilities were transferred to the Division of Emergency Management and administration of the Costal Energy Impact Program was transferred to the Department of Environmental Protection.

### **Ready to Work**

The law also transferred the administration of the Florida Ready to Work Program from the Department of Education to DEO.<sup>3</sup> However, the program must be implemented by DEO in coordination with the Department of Education

### **Interim Report 2012-112**

The Legislature recognized the need to conform the Florida Statutes to the policy decisions reflected in ch. 2011-142, L.O.F., and resolve apparent conflicts between any other legislation passed during the 2011 Regular Session and the transfer of duties made by the law.<sup>4</sup> Interim Report 2012-112 reviewed the reorganization provided for in ch. 2011-142, L.O.F., and Florida Statutes for any statutory changes necessary to implement the law.

This included review of the Florida Statutes for obsolete references, inconsistencies, or statutory notes by the Division of Statutory Revision related to the reorganization.<sup>5</sup> Additionally, staff contacted the transition coordinators for the various affected agencies for input.

Committee staff found several references remaining in statute to DCA, AWI, and OTTED. Some of these references exist due to other laws passed in the 2011 Regular Session. Additionally, committee staff discovered some idiosyncrasies due to multiple revisions of the original bill. Some agencies and transition coordinators also directed staff to inappropriate changes in references.

### **III. Effect of Proposed Changes:**

Based upon the review of the Florida Statutes, Interim Report 2012-112 recommended that draft legislation be developed to:

- Update references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation;
- Update provisions or references which were enacted by other chapter laws;
- Revise provisions or references which were drafting errors; and
- Repeal any remaining outdated provisions.

---

<sup>2</sup> See the Office of Energy website, which includes a history of state entities dealing with Florida energy policy, available at <http://www.freshfromflorida.com/offices/energy/> (last visited 11/21/2011).

<sup>3</sup> Florida Ready to Work is an employee credentialing program that is funded by the state. The program allows participants to take a skills test and credentialing classes online to earn a "career readiness certificate."

<sup>4</sup> Section 10, ch. 2011-142, L.O.F., also directs the Division of Statutory Revision to assist substantive committees to identify issues.

<sup>5</sup> The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve the clarity and facilitate the correct and proper interpretation of the statutes. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes, showing the changes made and the reason for such recommended change.

Specifically, PCB 7024 implements these recommendations in the following manner:

### **Update references to the former Department of Community Affairs**

**Sections 1 and 2** update references in the Florida Access to Civil Legal Assistance Act in ss. 68.096 and 68.105, F.S., related to administration of the program from DCA to the Department of Legal Affairs. This program was funded through the Department of Legal Affairs in the FY 2011-12 budget.<sup>6</sup>

References in the following sections are updated to refer to DEO or the “state land planning agency,” which is currently DEO:

- s. 163.2517(6), F.S. (**Section 4**);
- s. 163.3178(3), F.S. (**Section 5**);
- s. 163.3204, F.S. (**Section 7**);
- s. 163.3221(14), F.S. (**Section 8**);
- s. 163.3246(1), F.S. (**Section 9**);
- s. 163.3247(5), F.S. (**Section 10**);
- s. 163.336(2), F.S. (**Section 11**);
- s. 163.458, F.S. (**Section 12**);
- s. 163.460, F.S. (**Section 13**);
- s. 163.461, F.S. (**Section 14**);
- s. 163.462, F.S. (**Section 15**);
- s. 163.5055(1), F.S. (**Section 16**);
- s. 163.506(1), F.S. (**Section 17**);
- s. 163.508(1), F.S. (**Section 18**);
- s. 163.511(1), F.S. (**Section 19**);
- s. 163.512(1), F.S. (**Section 20**);
- s. 218.411(1), F.S. (**Section 24**);
- s. 258.501, F.S. (**Section 28**);
- s. 259.042(3), F.S. (**Section 29**);
- s. 282.201(4), F.S. (**Section 31**);
- s. 311.09, F.S. (**Section 51**);
- s. 320.08058(62), F.S. (**Section 52**);
- s. 377.703(2), F.S. (**Section 55**);
- s. 403.0891(6), F.S. (**Section 59**); and
- s. 509.032(7), F.S. (**Section 73**).

**Section 23** amends s. 215.55865, F.S., to update a reference from DCA to the Florida Building Commission.

**Section 30** amends s. 259.101(3), F.S., to update a reference from DCA to the Department of Environmental Protection.

---

<sup>6</sup> Line 1294A, ch. 2011-69, L.O.F. The Legislature appropriated \$1 million from general revenue for the program.

**Section 54** amends s. 342.201, F.S., to correct a reference for the administration of the Waterfronts Florida Program. This program had been administered by DCA, but is currently administered by DEO.

References in the following sections are updated to refer to the executive director of DEO instead of the secretary of DCA:

- s. 420.503(8), F.S. (**Section 60**);
- s. 420.507(30), F.S. (**Section 61**);
- s. 420.101(1), F.S. (**Section 62**);
- s. 420.0005, F.S. (**Section 63**);
- s. 420.0006, F.S. (**Section 64**); and
- s. 450.261, F.S. (**Section 72**).

**Section 77** amends s. 259.035, F.S., to correct a reference to the number of members of the Acquisition and Restoration Council. The secretary of DCA was removed from the council by s. 119, ch. 2011-142, L.O.F.

**Section 82** repeals s. 163.03, F.S., which deals specifically with the powers and duties of the secretary of DCA and functions of DCA. Much of these powers, duties, and functions have been transferred to DEO.<sup>7</sup>

#### **Update references to the former Agency for Workforce Innovation**

References in the following sections are updated to refer to DEO:

- s. 212.096(1), F.S. (**Section 21**);
- s. 220.194(3), F.S. (**Section 27**);
- s. 288.021(1), F.S. (**Section 32**);
- s. 443.036(26), F.S. (**Section 65**);
- s. 443.091(1), F.S. (**Section 66**);
- s. 443.111(5), F.S. (**Section 67**);
- s. 443.141(1), F.S. (**Section 68**);
- s. 443.1715(2), F.S. (**Section 69**);
- s. 443.17161, F.S. (**Section 70**);
- s. 446.50(2), F.S. (**Section 71**);
- s. 1002.75(4), F.S. (**Section 75**); and
- s. 1002.79(2), F.S. (**Section 76**).

**Section 58** amends s. 402.56(4), F.S., to correct a reference to the Office of Early Learning.

#### **Update references to the former Office of Tourism, Trade, and Economic Development**

References in the following sections are updated to refer to DEO:

- s. 159.81(1), F.S. (**Section 3**);
- s. 213.053(8), F.S. (**Section 22**);

---

<sup>7</sup> See s. 20.60, F.S.

- s. 220.153, F.S. (**Section 25**);
- s. 220.183(2), F.S. (**Section 26**);
- s. 220.194, F.S. (**Section 27**);
- s. 288.1045, F.S. (**Section 33**);
- s. 288.106, F.S. (**Section 34**);
- s. 288.108(3), F.S. (**Section 35**);
- s. 288.1083(3), F.S. (**Section 36**);
- s. 288.1089(2), F.S. (**Section 37**);
- s. 288.1097(2), F.S. (**Section 38**);
- s. 288.11621(3), F.S. (**Section 39**);
- s. 288.1168(6), F.S. (**Section 40**);
- s. 288.1171(4), F.S. (**Section 41**);
- s. 288.1254(8), F.S. (**Section 42**);
- s. 288.987, F.S. (**Section 45**);
- s. 290.0055(6), F.S. (**Section 46**);
- s. 290.0065(4), F.S. (**Section 47**);
- s. 290.00726, F.S. (**Section 48**);
- s. 290.00727, F.S. (**Section 49**);
- s. 290.00728, F.S. (**Section 50**);
- s. 339.135(5), F.S. (**Section 53**);
- s. 377.809(4), F.S. (**Section 56**);
- s. 380.06(19), F.S. (**Section 57**); and
- s. 624.5105(3), F.S. (**Section 74**).

**Section 80** amends s. 288.980, F.S., to correct a reference to the number of grant programs relating to the Florida Economic Reinvestment Initiative. It also updates a reference to the former OTTED.

**Section 83** repeals s. 373.461, F.S., which deals with the purchase of land for the restoration of the Lake Apopka Basin and certain requirements which had to be met in 1997.

**Section 84** repeals s. 379.2353, F.S., which deals with enterprise zone designations for communities suffering adverse impacts from the adoption of the 1995 constitutional amendment limiting the use of nets to harvest marine species. The statute states that any enterprise zone that designated under the paragraph which was effective on or before January 1, 2005, would cease to exist after December 31, 2005. Redesignated enterprise zones after that date were required to comply with the Florida Enterprise Zone Act in ch. 290, F.S.

#### **Update references to Public/Private Partnerships**

**Sections 43 and 44** amend ss. 288.714(2) and 288.7102(7), F.S., to update references to the former Black Business Investment Board.

**Section 52** amends s. 320.08058(9) and (35), F.S., to update references from the former Florida Sports Foundation to EFI.

**Section 78** amends s. 288.12265, F.S., to authorize EFI to contract with the Florida Tourism Industry Marketing Corporation (Visit Florida) for the management and operation of the welcome centers.

**Section 79** amends s. 288.901(5), F.S., to limit the requirement that members of the board of directors of EFI be confirmed by the Senate to those members who are appointed by the Governor. Members appointed by the President of the Senate or the Speaker of the House of Representatives would not be confirmed by the Senate.

**Section 81** amends s. 331.3081, F.S., to add the Governor or the Lieutenant Governor as the Governor's designee as a member and chair of the board of directors of Space Florida. This increases the number of members on the board from an even 12 to 13-members. Historically, the Governor or Lieutenant Governor has served on the board as the chair.

### **Cross-References**

**Section 6** amends s. 163.3191(3), F.S., to update a cross-reference.

**Section 57** amends s. 380.06(6), (24), and (29), F.S., to update cross-references.

### **Effective Date**

**Section 85** provides an effective date of upon becoming law.

## **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

## **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.



364178

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
12/07/2011	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete line 2557  
and insert:

Section 83. Subsection (5) of section 373.461, F.S., is amended, and present subsections (6) and (7) of that section are renumbered as subsections (5) and (6) respectively, to read:

373.461 Lake Apopka improvement and management.—

~~(5) PURCHASE OF AGRICULTURAL LANDS.—~~

~~(a) The Legislature finds that it is in the public interest of the state to acquire lands in agricultural production, along with their related facilities, which contribute, directly or~~



364178

13 ~~indirectly, to phosphorus discharges to Lake Apopka, for the~~  
14 ~~purpose of improving water quality in Lake Apopka. These lands~~  
15 ~~consist of those farming entities on Lake Apopka having consent~~  
16 ~~and settlement agreements with the district and those sand land~~  
17 ~~farms discharging indirectly to Lake Apopka through Lake Level~~  
18 ~~Canal, Apopka-Beauclair Canal, or McDonald Canal. The district~~  
19 ~~is granted the power of eminent domain on those properties.~~

20 ~~(b) In determining the fair market value of lands to be~~  
21 ~~purchased from willing sellers, all appraisals of such lands may~~  
22 ~~consider income from the use of the property for farming and,~~  
23 ~~for this purpose, such income shall be deemed attributable to~~  
24 ~~the real estate.~~

25 ~~(c) The district shall explore the availability of funding~~  
26 ~~from all sources, including any federal, state, regional, and~~  
27 ~~local land acquisition funding programs, to purchase the~~  
28 ~~agricultural lands described in paragraph (a). It is the~~  
29 ~~Legislature's intent that, if such funding sources can be~~  
30 ~~identified, acquisition of the lands described in paragraph (a)~~  
31 ~~may be undertaken by the district to purchase these properties~~  
32 ~~from willing sellers. However, the purchase price paid for~~  
33 ~~acquisition of such lands that were in active cultivation during~~  
34 ~~1996 shall not exceed the highest appraisal obtained by the~~  
35 ~~district for these lands from a state-certified general~~  
36 ~~appraiser following the Uniform Standards of Professional~~  
37 ~~Appraisal Practice. This maximum purchase price limitation shall~~  
38 ~~not include, nor be applicable to, that portion of the purchase~~  
39 ~~price attributable to consideration of income described in~~  
40 ~~paragraph (b), or that portion attributable to related~~  
41 ~~facilities, or closing costs.~~



364178

42           ~~(d) In connection with successful acquisition of any of the~~  
43 ~~lands described in this section which are not needed for~~  
44 ~~stormwater management facilities, the district shall give the~~  
45 ~~seller the option to lease the land for a period not to exceed 5~~  
46 ~~years, at a fair market lease value for similar agricultural~~  
47 ~~lands. Proceeds derived from such leases shall be used to offset~~  
48 ~~the cost of acquiring the land.~~

49           ~~(e) If all the lands within Zellwood are purchased in~~  
50 ~~accordance with this section prior to expiration of the consent~~  
51 ~~agreement between Zellwood and the district, Zellwood shall be~~  
52 ~~reimbursed for any costs described in subsection (4).~~

53           ~~(f)1. Tangible personal property acquired by the district~~  
54 ~~as part of related facilities pursuant to this section, and~~  
55 ~~classified as surplus by the district, shall be sold by the~~  
56 ~~Department of Management Services. The Department of Management~~  
57 ~~Services shall deposit the proceeds of such sale in the Economic~~  
58 ~~Development Trust Fund in the Executive Office of the Governor.~~  
59 ~~The proceeds shall be used for the purpose of providing economic~~  
60 ~~and infrastructure development in portions of northwestern~~  
61 ~~Orange County and east central Lake County which will be~~  
62 ~~adversely affected economically due to the acquisition of lands~~  
63 ~~pursuant to this subsection.~~

64           ~~2. The Office of Tourism, Trade, and Economic Development~~  
65 ~~shall, upon presentation of the appropriate documentation~~  
66 ~~justifying expenditure of the funds deposited pursuant to this~~  
67 ~~paragraph, pay any obligation for which it has sufficient funds~~  
68 ~~from the proceeds of the sale of tangible personal property and~~  
69 ~~which meets the limitations specified in paragraph (g). The~~  
70 ~~authority of the Office of Tourism, Trade, and Economic~~



364178

71 ~~Development to expend such funds shall expire 5 years from the~~  
72 ~~effective date of this paragraph. Such expenditures may occur~~  
73 ~~without future appropriation from the Legislature.~~

74 ~~3. Funds deposited under this paragraph may not be used for~~  
75 ~~any purpose other than those enumerated in paragraph (g).~~

76 ~~(g)1. The proceeds of sale of tangible personal property~~  
77 ~~authorized by paragraph (f) shall be distributed as follows: 60~~  
78 ~~percent to Orange County; 25 percent to the City of Apopka; and~~  
79 ~~15 percent to Lake County.~~

80 ~~2. Such proceeds shall be used to implement the~~  
81 ~~redevelopment plans adopted by the Orange County Board of County~~  
82 ~~Commissioners, Apopka City Commission, and Lake County Board of~~  
83 ~~County Commissioners.~~

84 ~~3. Of the total proceeds, the Orange County Board of County~~  
85 ~~Commissioners, Apopka City Commission, and Lake County Board of~~  
86 ~~County Commissioners, may not expend more than:~~

87 ~~a. Twenty percent for labor force training related to the~~  
88 ~~redevelopment plan;~~

89 ~~b. Thirty three percent for financial or economic~~  
90 ~~incentives for business location or expansion in the~~  
91 ~~redevelopment area; and~~

92 ~~c. Four percent for administration, planning, and marketing~~  
93 ~~the redevelopment plan.~~

94 ~~4. The Orange County Board of County Commissioners, Apopka~~  
95 ~~City Commission, and Lake County Board of County Commissioners~~  
96 ~~must spend those revenues not expended under subparagraph 3. for~~  
97 ~~infrastructure needs necessary for the redevelopment plan.~~

98  
99 ===== T I T L E A M E N D M E N T =====



364178

100 And the title is amended as follows:  
101       Delete lines 48 - 49  
102 and insert:  
103       federal grant-in-aid programs; amending s. 373.461,  
104       F.S.; removing obsolete provisions related to the  
105       purchase of land for the

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-00918B-12

20127024\_\_

1 A bill to be entitled  
 2 An act relating to governmental reorganization;  
 3 amending ss. 68.096, 68.105, 159.81, 163.2517,  
 4 163.3178, 163.3191, 163.3204, 163.3221, 163.3246,  
 5 163.3247, 163.336, 163.458, 163.460, 163.461, 163.462,  
 6 163.5055, 163.506, 163.508, 163.511, 163.512, 212.096,  
 7 213.053, 215.55865, 218.411, 220.153, 220.183,  
 8 220.194, 258.501, 259.042, 259.101, 282.201, 288.021,  
 9 288.1045, 288.106, 288.108, 288.1083, 288.1089,  
 10 288.1097, 288.11621, 288.1168, 288.1171, 288.1254,  
 11 288.714, 288.7102, 288.987, 290.0055, 290.0065,  
 12 290.00726, 290.00727, 290.00728, 311.09, 320.08058,  
 13 339.135, 342.201, 377.703, 377.809, 380.06, 402.56,  
 14 403.0891, 420.503, 420.507, 420.101, 420.0005,  
 15 420.0006, 443.036, 443.091, 443.111, 443.141,  
 16 443.1715, 443.17161, 446.50, 450.261, 509.032,  
 17 624.5105, 1002.75, and 1002.79, F.S.; correcting  
 18 references to agency names and divisions and  
 19 correcting cross-references to conform to the  
 20 governmental reorganization resulting from the  
 21 enactment of chapter 2011-142, Laws of Florida; making  
 22 technical and grammatical changes; amending s.  
 23 259.035, F.S.; correcting a reference to the number of  
 24 members of the Acquisition and Restoration Council;  
 25 amending s. 288.12265, F.S.; authorizing Enterprise  
 26 Florida, Inc., to contract with the Florida Tourism  
 27 Industry Marketing Corporation for management and  
 28 operation of welcome centers; amending s. 288.901,  
 29 F.S.; limiting the requirement that members of the

Page 1 of 89

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

577-00918B-12

20127024\_\_

30 board of directors of Enterprise Florida, Inc., be  
 31 confirmed by the Senate to those members who are  
 32 appointed by the Governor; amending s. 288.980, F.S.;  
 33 changing a reference to the Office of Tourism, Trade,  
 34 and Economic Development to the Department of Economic  
 35 Opportunity; correcting the number of grant programs  
 36 relating to Florida Economic Reinvestment Initiative;  
 37 amending s. 331.3081, F.S.; adding the Governor or the  
 38 Lieutenant Governor as the Governor's designee as a  
 39 member and chair of the board of directors of Space  
 40 Florida; providing for the advisory council to make  
 41 recommendations to the board of directors of Space  
 42 Florida; providing for members of the advisory council  
 43 to be reimbursed for expenses as determined by the  
 44 board of directors of Space Florida; repealing s.  
 45 163.03, F.S., relating to the powers and duties of the  
 46 Secretary of Community Affairs and functions of  
 47 Department of Community Affairs with respect to  
 48 federal grant-in-aid programs; repealing s. 373.461,  
 49 F.S., relating to the purchase of land for the  
 50 restoration of the Lake Apopka Basin; repealing s.  
 51 379.2353, F.S., relating to the designation of  
 52 enterprise zones in communities suffering adverse  
 53 impacts from the adoption of the constitutional  
 54 amendment limiting the use of nets to harvest marine  
 55 species; providing an effective date.

56  
 57 Be It Enacted by the Legislature of the State of Florida:  
 58

Page 2 of 89

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

577-00918B-12

20127024

59 Section 1. Subsection (1) of section 68.096, Florida  
60 Statutes, is amended to read:

61 68.096 Definitions.—For purposes of this act:

62 (1) "Department" means the Department of Legal Community  
63 Affairs.

64 Section 2. Section 68.105, Florida Statutes, is amended to  
65 read:

66 68.105 Use of funds; reports.—All appropriations made for  
67 the purposes of the Florida Access to Civil Legal Assistance  
68 ~~this Act shall only~~ be used only for legal education or  
69 assistance in family law, juvenile law, entitlement to federal  
70 benefits, protection from domestic violence, elder abuse, child  
71 abuse, or immigration law. These funds may shall not be used in  
72 criminal or postconviction relief matters;~~;~~ for lobbying  
73 activities;~~;~~ to sue the state, its agencies or political  
74 subdivisions, or colleges or universities;~~;~~ for class action  
75 lawsuits, to provide legal assistance with respect to  
76 noncriminal infractions pursuant to chapter 316, chapter 318,  
77 chapter 320, or chapter 322;~~;~~ to contest regulatory decisions of  
78 any municipal, county, or state administrative or legislative  
79 body;~~;~~ or to file or assist in the filing of private causes of  
80 action under federal or state statutes relating to or arising  
81 out of employment or terms or conditions of employment. The  
82 contracting organization shall require pilot projects to provide  
83 data on the number of clients served, the types of cases, the  
84 reasons the cases were closed, and the state dollars saved and  
85 federal dollars brought into the state because of the legal  
86 services provided. The contracting organization shall provide to  
87 the department ~~of Community Affairs~~, within 60 days after

Page 3 of 89

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

577-00918B-12

20127024

88 ~~completing of the completion of~~ the contract, a report on the  
89 legal services provided, the state dollars saved, and the  
90 federal dollars brought into the state.

91 Section 3. Subsection (1) of section 159.81, Florida  
92 Statutes, is amended to read:

93 159.81 Unused allocations; carryforwards.—

94 (1) The division shall, when requested, provide  
95 carryforwards pursuant to s. 146(f) of the Code for written  
96 confirmations for priority projects which qualify for a  
97 carryforward pursuant to s. 146(f) of the Code, if such request  
98 is accompanied by an opinion of bond counsel to that effect. In  
99 addition, in the case of Florida First Business projects, the  
100 division shall, when requested, grant requests for carryforward  
101 only after receipt of a certification from the Department of  
102 Economic Opportunity Office of Tourism, Trade, and Economic  
103 Development that the project has been approved by the such  
104 department office to receive carryforward.

105 Section 4. Paragraph (b) of subsection (6) of section  
106 163.2517, Florida Statutes, is amended to read:

107 163.2517 Designation of urban infill and redevelopment  
108 area.—

109 (6)

110 (b) If the local government fails to implement the urban  
111 infill and redevelopment plan in accordance with the deadlines  
112 set forth in the plan, the state land planning agency Department  
113 ~~of Community Affairs~~ may seek to rescind the economic and  
114 regulatory incentives granted to the urban infill and  
115 redevelopment area, subject to the provisions of chapter 120.  
116 The action to rescind may be initiated 90 days after issuing a

Page 4 of 89

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

577-00918B-12 20127024

117 written letter of warning to the local government.  
 118 Section 5. Subsection (3) of section 163.3178, Florida  
 119 Statutes, is amended to read:  
 120 163.3178 Coastal management.—  
 121 (3) Expansions to port harbors, spoil disposal sites,  
 122 navigation channels, turning basins, harbor berths, and other  
 123 related inwater harbor facilities of ports listed in s.  
 124 403.021(9); port transportation facilities and projects listed  
 125 in s. 311.07(3)(b); intermodal transportation facilities  
 126 identified pursuant to s. 311.09(3); and facilities determined  
 127 by the state land planning agency ~~Department of Community~~  
 128 ~~Affairs~~ and applicable general-purpose local government to be  
 129 port-related industrial or commercial projects located within 3  
 130 miles of or in a port master plan area which rely upon the use  
 131 of port and intermodal transportation facilities may shall not  
 132 be designated as developments of regional impact if such  
 133 expansions, projects, or facilities are consistent with  
 134 comprehensive master plans that are in compliance with this  
 135 section.  
 136 Section 6. Subsection (3) of section 163.3191, Florida  
 137 Statutes, is amended to read:  
 138 163.3191 Evaluation and appraisal of comprehensive plan.—  
 139 (3) Local governments are encouraged to comprehensively  
 140 evaluate and, as necessary, update comprehensive plans to  
 141 reflect changes in local conditions. Plan amendments transmitted  
 142 pursuant to this section shall be reviewed pursuant to ~~in~~  
 143 ~~accordance with~~ s. 163.3184(4).  
 144 Section 7. Section 163.3204, Florida Statutes, is amended  
 145 to read:

577-00918B-12 20127024

146 163.3204 Cooperation by state and regional agencies.—The  
 147 state land planning agency ~~Department of Community Affairs~~ and  
 148 any ad hoc working groups appointed by the department and all  
 149 state and regional agencies involved in the administration and  
 150 implementation of the Community Planning ~~this~~ Act shall  
 151 cooperate and work with units of local government in the  
 152 preparation and adoption of comprehensive plans, or elements or  
 153 portions thereof, and of local land development regulations.  
 154 Section 8. Subsection (14) of section 163.3221, Florida  
 155 Statutes, is amended to read:  
 156 163.3221 Florida Local Government Development Agreement  
 157 Act; definitions.—As used in ss. 163.3220-163.3243:  
 158 (14) "State land planning agency" means the Department of  
 159 Economic Opportunity ~~Community Affairs~~.  
 160 Section 9. Subsection (1) of section 163.3246, Florida  
 161 Statutes, is amended to read:  
 162 163.3246 Local government comprehensive planning  
 163 certification program.—  
 164 (1) There is created the Local Government Comprehensive  
 165 Planning Certification Program to be administered by the state  
 166 land planning agency ~~Department of Community Affairs~~. The  
 167 purpose of the program is to create a certification process for  
 168 local governments who identify a geographic area for  
 169 certification within which they commit to directing growth and  
 170 who, because of a demonstrated record of effectively adopting,  
 171 implementing, and enforcing its comprehensive plan, the level of  
 172 technical planning experience exhibited by the local government,  
 173 and a commitment to implement exemplary planning practices,  
 174 require less state and regional oversight of the comprehensive

577-00918B-12 20127024

175 plan amendment process. The purpose of the certification area is  
 176 to designate areas that are contiguous, compact, and appropriate  
 177 for urban growth and development within a 10-year planning  
 178 timeframe. Municipalities and counties are encouraged to jointly  
 179 establish the certification area, and subsequently enter into  
 180 joint certification agreement with the department.

181 Section 10. Paragraphs (a) and (b) of subsection (5) of  
 182 section 163.3247, Florida Statutes, are amended to read:

183 163.3247 Century Commission for a Sustainable Florida.—

184 (5) EXECUTIVE DIRECTOR; STAFF AND OTHER ASSISTANCE.—

185 (a) The executive director of the state land planning  
 186 agency ~~Secretary of Community Affairs~~ shall select an executive  
 187 director of the commission, and the executive director of the  
 188 commission shall serve at the pleasure of the executive director  
 189 of the state land planning agency ~~secretary~~ under the  
 190 supervision and control of the commission.

191 (b) The state land planning agency ~~Department of Community~~  
 192 ~~Affairs~~ shall provide staff and other resources necessary to  
 193 accomplish the goals of the commission based upon  
 194 recommendations of the Governor.

195 Section 11. Paragraph (c) of subsection (2) of section  
 196 163.336, Florida Statutes, is amended to read:

197 163.336 Coastal resort area redevelopment pilot project.—

198 (2) PILOT PROJECT ADMINISTRATION.—

199 (c) The Office of the Governor, the Department of  
 200 Environmental Protection, and the Department of Economic  
 201 Opportunity ~~Community Affairs~~ are directed to provide technical  
 202 assistance to expedite permitting for redevelopment projects and  
 203 construction activities within the pilot project areas

577-00918B-12 20127024

204 consistent with the principles, processes, and timeframes  
 205 provided in s. 403.973.

206 Section 12. Section 163.458, Florida Statutes, is amended  
 207 to read:

208 163.458 Three-tiered plan.—The Department of Economic  
 209 Opportunity ~~may~~ ~~Community Affairs~~ ~~is authorized to~~ award core  
 210 administrative and operating grants. Administrative and  
 211 operating grants shall be used for staff salaries and  
 212 administrative expenses for eligible community-based development  
 213 organizations selected through a competitive three-tiered  
 214 process for the purpose of housing and economic development  
 215 projects. The department shall adopt by rule a set of criteria  
 216 for three-tiered funding which ~~that~~ shall ensure equitable  
 217 geographic distribution of the funding throughout the state.  
 218 This three-tiered plan shall include emerging, intermediate, and  
 219 mature community-based development organizations recognizing the  
 220 varying needs of the three tiers. Funding shall be provided for  
 221 core administrative and operating grants for all levels of  
 222 community-based development organizations. Priority shall be  
 223 given to those organizations that demonstrate community-based  
 224 productivity and high performance as evidenced by past projects  
 225 developed with stakeholder input that have responded to  
 226 neighborhood needs, and have current projects located in high-  
 227 poverty neighborhoods, and to emerging community-based  
 228 development corporations that demonstrate a positive need  
 229 identified by stakeholders. Persons, equipment, supplies, and  
 230 other resources funded in whole or in part by grant funds shall  
 231 be used ~~utilized~~ to further the purposes of the Community-Based  
 232 Development Organization Assistance ~~this~~ Act, and may be used

577-00918B-12 20127024

233 ~~utilized~~ to further the goals and objectives of the Front Porch  
 234 Florida Initiative. Each community-based development  
 235 organization ~~is shall be~~ eligible to apply for a grant of up to  
 236 \$50,000 per year for a period of 5 years.

237 Section 13. Section 163.460, Florida Statutes, is amended  
 238 to read:

239 163.460 Application requirements.—A community-based  
 240 development organization applying for a core administrative and  
 241 operating grant pursuant to the Community-Based Development  
 242 Organization Assistance ~~this~~ Act must submit a proposal to the  
 243 Department of Economic Opportunity ~~which Community Affairs~~ that  
 244 includes:

245 (1) A map and narrative description of the service areas  
 246 for the community-based development organization.

247 (2) A copy of the documents creating the community-based  
 248 development organization.

249 (3) A listing of the membership of the board of the  
 250 community-based development organization, including individual  
 251 members' terms of office and the number of low-income residents  
 252 on the board.

253 (4) The organization's annual revitalization plan that  
 254 describes the expenditure of the funds, including goals,  
 255 objectives, and expected results, and has a clear relationship  
 256 to the local municipality's comprehensive plan.

257 (5) Other supporting information that may be required by  
 258 the Department of Economic Opportunity ~~Community Affairs~~ to  
 259 determine the organization's capacity and productivity.

260 (6) A description of the location, financing plan, and  
 261 potential impact of the business enterprises on residential,

577-00918B-12 20127024

262 commercial, or industrial development, which ~~that~~ shows a clear  
 263 relationship to the organization's annual revitalization plan  
 264 and demonstrates how the proposed expenditures are directly  
 265 related to the scope of work for the proposed projects in the  
 266 annual revitalization plan.

267 Section 14. Section 163.461, Florida Statutes, is amended  
 268 to read:

269 163.461 Reporting and evaluation requirements.—Community-  
 270 based development organizations that receive funds under the  
 271 Community-Based Development Organization Assistance ~~this~~ Act  
 272 shall provide the following information to the Department of  
 273 Economic Opportunity ~~Community Affairs~~ annually:

274 (1) A listing of business firms and individuals assisted by  
 275 the community-based development organization during the  
 276 reporting period.

277 (2) A listing of the type, source, purpose, and amount of  
 278 each individual grant, loan, or donation received by the  
 279 community-based development organization during the reporting  
 280 period.

281 (3) The number of paid and voluntary positions within the  
 282 community-based development organization.

283 (4) A listing of the salaries and administrative and  
 284 operating expenses of the community-based development  
 285 organization.

286 (5) An identification and explanation of changes in the  
 287 boundaries of the target area.

288 (6) The amount of earned income from projects, programs,  
 289 and development activities.

290 (7) The number and description of projects in

577-00918B-12

20127024

291 predevelopment phase, projects under construction, ongoing  
 292 service programs, construction projects completed, and projects  
 293 at sell-out or lease-up and property management phase, and a  
 294 written explanation of the reasons that caused any projects not  
 295 to be completed for the projected development phase.

296 (8) The impact of the projects, as a result of receiving  
 297 funding under this act, on residents in the target area, and the  
 298 relationship of this impact to expected outcomes listed in the  
 299 organization's annual revitalization plan.

300 (9) The number of housing units rehabilitated or  
 301 constructed at various stages of development, predevelopment  
 302 phase, construction phase, completion and sell-out or lease-up  
 303 phase, and condominium or property management phase by the  
 304 community-based development organization within the service area  
 305 during the reporting period.

306 (10) The number of housing units, number of projects, and  
 307 number of persons served by prior projects developed by the  
 308 organization, the amounts of project financing leverage with  
 309 state funds for each prior and current project, and the  
 310 incremental amounts of local and state real estate tax and sales  
 311 tax revenue generated directly by the projects and programs  
 312 annually.

313 (11) The number of jobs, both permanent and temporary,  
 314 received by individuals who were directly assisted by the  
 315 community-based development organization through assistance to  
 316 the business such as a loan or other credit assistance.

317 (12) An identification and explanation of changes in the  
 318 boundaries of the service area.

319 (13) The impact of completed projects on residents in the

Page 11 of 89

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

577-00918B-12

20127024

320 target area and the relationship of this impact to expected  
 321 outcomes listed in the organization's annual revitalization  
 322 plan.

323 (14) Such other information as the Department of Economic  
 324 Opportunity Community Affairs requires.

325 Section 15. Section 163.462, Florida Statutes, is amended  
 326 to read:

327 163.462 Rulemaking authority.—The Department of Economic  
 328 Opportunity Community Affairs shall adopt rules for the  
 329 administration of the Community-Based Development Organization  
 330 Assistance ~~this~~ Act.

331 Section 16. Subsection (1) of section 163.5055, Florida  
 332 Statutes, is amended to read:

333 163.5055 Registration of district establishment; notice of  
 334 dissolution.—

335 (1) (a) Each neighborhood improvement district authorized  
 336 and established under this part shall within 30 days thereof  
 337 register with both the Department of Economic Opportunity  
 338 Community Affairs and the Department of Legal Affairs by  
 339 providing these departments with the district's name, location,  
 340 size, and type, and such other information as the departments  
 341 may require.

342 (b) Each local governing body ~~that which~~ authorizes the  
 343 dissolution of a district shall notify both the Department of  
 344 Economic Opportunity Community Affairs and the Department of  
 345 Legal Affairs within 30 days after the dissolution of the  
 346 district.

347 Section 17. Paragraph (h) of subsection (1) of section  
 348 163.506, Florida Statutes, is amended to read:

Page 12 of 89

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

577-00918B-12

20127024

349 163.506 Local government neighborhood improvement  
350 districts; creation; advisory council; dissolution.—

351 (1) After a local planning ordinance has been adopted  
352 authorizing the creation of local government neighborhood  
353 improvement districts, the local governing body of a  
354 municipality or county may create local government neighborhood  
355 improvement districts by the enactment of a separate ordinance  
356 for each district, which ordinance:

357 (h) Requires the district to notify the Department of Legal  
358 Affairs and the Department of Economic Opportunity Community  
359 ~~Affairs~~ in writing of its establishment within 30 days thereof  
360 pursuant to s. 163.5055.

361 Section 18. Paragraph (g) of subsection (1) of section  
362 163.508, Florida Statutes, is amended to read:

363 163.508 Property owners' association neighborhood  
364 improvement districts; creation; powers and duties; duration.—

365 (1) After a local planning ordinance has been adopted  
366 authorizing the creation of property owners' association  
367 neighborhood improvement districts, the local governing body of  
368 a municipality or county may create property owners' association  
369 neighborhood improvement districts by the enactment of a  
370 separate ordinance for each district, which ordinance:

371 (g) Requires the district to notify the Department of Legal  
372 Affairs and the Department of Economic Opportunity Community  
373 ~~Affairs~~ in writing of its establishment within 30 days thereof  
374 pursuant to s. 163.5055.

375 Section 19. Paragraph (i) of subsection (1) of section  
376 163.511, Florida Statutes, is amended to read:

377 163.511 Special neighborhood improvement districts;

577-00918B-12

20127024

378 creation; referendum; board of directors; duration; extension.—

379 (1) After a local planning ordinance has been adopted  
380 authorizing the creation of special neighborhood improvement  
381 districts, the governing body of a municipality or county may  
382 declare the need for and create special residential or business  
383 neighborhood improvement districts by the enactment of a  
384 separate ordinance for each district, which ordinance:

385 (i) Requires the district to notify the Department of Legal  
386 Affairs and the Department of Economic Opportunity Community  
387 ~~Affairs~~ in writing of its establishment within 30 days thereof  
388 pursuant to s. 163.5055.

389 Section 20. Paragraph (i) of subsection (1) of section  
390 163.512, Florida Statutes, is amended to read:

391 163.512 Community redevelopment neighborhood improvement  
392 districts; creation; advisory council; dissolution.—

393 (1) Upon the recommendation of the community redevelopment  
394 agency and after a local planning ordinance has been adopted  
395 authorizing the creation of community redevelopment neighborhood  
396 improvement districts, the local governing body of a  
397 municipality or county may create community redevelopment  
398 neighborhood improvement districts by the enactment of a  
399 separate ordinance for each district, which ordinance:

400 (i) Requires the district to notify the Department of Legal  
401 Affairs and the Department of Economic Opportunity Community  
402 ~~Affairs~~ in writing of its establishment within 30 days thereof  
403 pursuant to s. 163.5055.

404 Section 21. Paragraph (d) of subsection (1) of section  
405 212.096, Florida Statutes, is amended to read:

406 212.096 Sales, rental, storage, use tax; enterprise zone

577-00918B-12

20127024\_\_

407 jobs credit against sales tax.-

408 (1) For the purposes of the credit provided in this  
409 section:

410 (d) "Job" means a full-time position, as consistent with  
411 terms used by the Department of Economic Opportunity Agency for  
412 Workforce Innovation and the United States Department of Labor  
413 for purposes of unemployment compensation tax administration and  
414 employment estimation resulting directly from a business  
415 operation in this state. This term does ~~may~~ not include a  
416 temporary construction job involved with the construction of  
417 facilities or any job that has previously been included in any  
418 application for tax credits under s. 220.181(1). The term also  
419 includes employment of an employee leased from an employee  
420 leasing company licensed under chapter 468 if such employee has  
421 been continuously leased to the employer for an average of at  
422 least 36 hours per week for more than 6 months.

423  
424 A person shall be deemed to be employed if the person performs  
425 duties in connection with the operations of the business on a  
426 regular, full-time basis, provided the person is performing such  
427 duties for an average of at least 36 hours per week each month.  
428 The person must be performing such duties at a business site  
429 located in the enterprise zone.

430 Section 22. Paragraphs (k) and (bb) of subsection (8) of  
431 section 213.053, Florida Statutes, are amended, and present  
432 paragraphs (l) through (bb) of that subsection are redesignated  
433 as paragraphs (k) through (aa), respectively, to read:

434 213.053 Confidentiality and information sharing.-

435 (8) Notwithstanding any other provision of this section,

577-00918B-12

20127024\_\_

436 the department may provide:

437 ~~(k) Information relative to single sales factor~~  
438 ~~apportionment used by a taxpayer to the Office of Tourism,~~  
439 ~~Trade, and Economic Development or its employees or agents who~~  
440 ~~are identified in writing by the office to the department for~~  
441 ~~use by the office to administer s. 220.153.~~

442 (aa) ~~(bb)~~ Information relating to tax credits taken under s.  
443 220.194 ~~to the Office of Tourism, Trade, and Economic~~  
444 ~~Development or to Space Florida.~~

445  
446 Disclosure of information under this subsection shall be  
447 pursuant to a written agreement between the executive director  
448 and the agency. Such agencies, governmental or nongovernmental,  
449 shall be bound by the same requirements of confidentiality as  
450 the Department of Revenue. Breach of confidentiality is a  
451 misdemeanor of the first degree, punishable as provided by s.  
452 775.082 or s. 775.083.

453 Section 23. Section 215.55865, Florida Statutes, is amended  
454 to read:

455 215.55865 Uniform home grading scale.-The Financial  
456 Services Commission shall adopt a uniform home grading scale to  
457 grade the ability of a home to withstand the wind load from a  
458 sustained severe tropical storm or hurricane. The commission  
459 shall coordinate with the Office of Insurance Regulation, the  
460 Department of Financial Services, and the Florida Building  
461 Commission ~~Department of Community Affairs~~ in developing the  
462 grading scale, which must be based upon and consistent with the  
463 rating system required by chapter 2006-12, Laws of Florida. ~~The~~  
464 ~~commission shall adopt the uniform grading scale by rule no~~

577-00918B-12

20127024

465 ~~later than June 30, 2007.~~

466 Section 24. Paragraph (c) of subsection (1) of section  
467 218.411, Florida Statutes, is amended to read:

468 218.411 Authorization for state technical and advisory  
469 assistance.—

470 (1) The board is authorized, upon request, to assist local  
471 governments in investing funds that are temporarily in excess of  
472 operating needs by:

473 (c) Providing, in cooperation with the Department of  
474 Economic Opportunity Community Affairs, technical assistance to  
475 local governments in investment of surplus funds.

476 Section 25. Subsections (1), (2), and (3), paragraphs (b)  
477 and (c) of subsection (4), and subsection (5) of section  
478 220.153, Florida Statutes, are amended to read:

479 220.153 Apportionment by sales factor.—

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

481 (a) ~~"Office" means the Office of Tourism, Trade, and~~  
482 ~~Economic Development.~~

483 (b) "qualified capital expenditures" means expenditures in  
484 this state for purposes substantially related to a business's  
485 production or sale of goods or services. The expenditure must  
486 fund the acquisition of additional real property (land,  
487 buildings, including appurtenances, fixtures and fixed  
488 equipment, structures, etc.), including additions, replacements,  
489 major repairs, and renovations to real property which materially  
490 extend its useful life or materially improve or change its  
491 functional use and the furniture and equipment necessary to  
492 furnish and operate a new or improved facility. The term  
493 ~~"qualified capital expenditures"~~ does not include an expenditure

577-00918B-12

20127024

494 for a passive investment or for an investment intended for the  
495 accumulation of reserves or the realization of profit for  
496 distribution to any person holding an ownership interest in the  
497 business. The term ~~"qualified capital expenditures"~~ does not  
498 include expenditures to acquire an existing business or  
499 expenditures in excess of \$125 million to acquire land or  
500 buildings.

501 (2) APPORTIONMENT OF TAXES; ELIGIBILITY.—A taxpayer, not  
502 including a financial organization as defined in s. 220.15(6) or  
503 a bank, savings association, international banking facility, or  
504 banking organization as defined in s. 220.62, doing business  
505 within and without this state, who applies and demonstrates to  
506 the Department of Economic Opportunity office that, within a 2-  
507 year period beginning on or after July 1, 2011, it has made  
508 qualified capital expenditures equal to or exceeding \$250  
509 million may apportion its adjusted federal income solely by the  
510 sales factor set forth in s. 220.15(5), commencing in the  
511 taxable year that the Department of Economic Opportunity office  
512 approves the application, but not before a taxable year that  
513 begins on or after January 1, 2013. Once approved, a taxpayer  
514 may elect to apportion its adjusted federal income for any  
515 taxable year using the method provided under this section or the  
516 method provided under s. 220.15.

517 (3) QUALIFICATION PROCESS.—

518 (a) To qualify as a taxpayer who is eligible to apportion  
519 its adjusted federal income under this section:

520 1. The taxpayer must notify the Department of Economic  
521 Opportunity office of its intent to submit an application to  
522 apportion its adjusted federal income in order to commence the

577-00918B-12

20127024

523 2-year period for measuring qualified capital expenditures.  
 524 2. The taxpayer must submit an application to apportion its  
 525 adjusted federal income under this section to the Department of  
 526 Economic Opportunity ~~office~~ within 2 years after notifying the  
 527 Department of Economic Opportunity ~~office~~ of the taxpayer's  
 528 intent to qualify. The application must be made under oath and  
 529 provide such information as the Department of Economic  
 530 Opportunity ~~office~~ reasonably requires by rule for determining  
 531 the applicant's eligibility to apportion adjusted federal income  
 532 under this section. The taxpayer is responsible for  
 533 affirmatively demonstrating to the satisfaction of the  
 534 Department of Economic Opportunity ~~office~~ that it meets the  
 535 eligibility requirements.

536 (b) The taxpayer notice and application forms shall be  
 537 established by the Department of Economic Opportunity ~~office~~ by  
 538 rule. The Department of Economic Opportunity ~~office~~ shall  
 539 acknowledge receipt of the notice and approve or deny the  
 540 application in writing within 45 days after receipt.

541 (4) REVIEW AUTHORITY; RECAPTURE OF TAX.—  
 542 (b) The Department of Economic Opportunity ~~office~~ may, by  
 543 order, revoke its decision to grant eligibility for  
 544 apportionment pursuant to this section, and may also order the  
 545 recalculation of apportionment factors to those applicable under  
 546 s. 220.15 if, as the result of an audit, investigation, or  
 547 examination, it determines that information provided by the  
 548 taxpayer in the application, or in a statement, representation,  
 549 record, report, plan, or other document provided to the  
 550 Department of Economic Opportunity ~~office~~ to become eligible for  
 551 apportionment, was materially false at the time it was made and

577-00918B-12

20127024

552 that an individual acting on behalf of the taxpayer knew, or  
 553 should have known, that the information submitted was false. The  
 554 taxpayer shall pay such additional taxes and interest as may be  
 555 due pursuant to this chapter computed as the difference between  
 556 the tax that would have been due under the apportionment formula  
 557 provided in s. 220.15 for such years and the tax actually paid.  
 558 In addition, the department shall assess a penalty equal to 100  
 559 percent of the additional tax due.

560 (c) The Department of Economic Opportunity ~~office~~ shall  
 561 immediately notify the department of an order affecting a  
 562 taxpayer's eligibility to apportion tax pursuant to this  
 563 section. A taxpayer who is liable for past tax must file an  
 564 amended return with the department, or such other report as the  
 565 department prescribes by rule, and pay any required tax,  
 566 interest, and penalty within 60 days after the taxpayer receives  
 567 notification from the Department of Economic Opportunity ~~office~~  
 568 that the previously approved credits have been revoked. If the  
 569 revocation is contested, the taxpayer shall file an amended  
 570 return or other report within 30 days after an order becomes  
 571 final. A taxpayer who fails to pay the past tax, interest, and  
 572 penalty by the due date is subject to the penalties provided in  
 573 s. 220.803.

574 (5) RULES.—The Department of Economic Opportunity ~~office~~  
 575 and the department may adopt rules to administer this section.

576 Section 26. Paragraph (b) of subsection (2) of section  
 577 220.183, Florida Statutes, is amended to read:  
 578 220.183 Community contribution tax credit.—  
 579 (2) ELIGIBILITY REQUIREMENTS.—  
 580 (b)1. All community contributions must be reserved

577-00918B-12

20127024

581 exclusively for use in projects as defined in s. 220.03(1)(t).

582 2. If, during the first 10 business days of the state  
 583 fiscal year, eligible tax credit applications for projects that  
 584 provide homeownership opportunities for low-income or very-low-  
 585 income households as defined in s. 420.9071(19) and (28) are  
 586 received for less than the annual tax credits available for  
 587 those projects, the Department of Economic Opportunity shall  
 588 grant tax credits for those applications and shall grant  
 589 remaining tax credits on a first-come, first-served basis for  
 590 any subsequent eligible applications received before the end of  
 591 the state fiscal year. If, during the first 10 business days of  
 592 the state fiscal year, eligible tax credit applications for  
 593 projects that provide homeownership opportunities for low-income  
 594 or very-low-income households as defined in s. 420.9071(19) and  
 595 (28) are received for more than the annual tax credits available  
 596 for those projects, the Department of Economic Opportunity  
 597 ~~office~~ shall grant the tax credits for those applications as  
 598 follows:

599 a. If tax credit applications submitted for approved  
 600 projects of an eligible sponsor do not exceed \$200,000 in total,  
 601 the credit shall be granted in full if the tax credit  
 602 applications are approved.

603 b. If tax credit applications submitted for approved  
 604 projects of an eligible sponsor exceed \$200,000 in total, the  
 605 amount of tax credits granted under sub-subparagraph a. shall be  
 606 subtracted from the amount of available tax credits, and the  
 607 remaining credits shall be granted to each approved tax credit  
 608 application on a pro rata basis.

609 3. If, during the first 10 business days of the state

577-00918B-12

20127024

610 fiscal year, eligible tax credit applications for projects other  
 611 than those that provide homeownership opportunities for low-  
 612 income or very-low-income households as defined in s.  
 613 420.9071(19) and (28) are received for less than the annual tax  
 614 credits available for those projects, the Department of Economic  
 615 Opportunity ~~office~~ shall grant tax credits for those  
 616 applications and shall grant remaining tax credits on a first-  
 617 come, first-served basis for any subsequent eligible  
 618 applications received before the end of the state fiscal year.  
 619 If, during the first 10 business days of the state fiscal year,  
 620 eligible tax credit applications for projects other than those  
 621 that provide homeownership opportunities for low-income or very-  
 622 low-income households as defined in s. 420.9071(19) and (28) are  
 623 received for more than the annual tax credits available for  
 624 those projects, the Department of Economic Opportunity ~~office~~  
 625 shall grant the tax credits for those applications on a pro rata  
 626 basis.

627 Section 27. Paragraphs (b), (d), (e), and (f) of subsection  
 628 (3), paragraphs (a), (c), and (e) of subsection (4), subsection  
 629 (5), paragraph (b) of subsection (6), paragraphs (a), (b), (d),  
 630 and (e) of subsection (7), paragraph (a) of subsection (8), and  
 631 subsection (9) of section 220.194, Florida Statutes, are amended  
 632 to read:

633 220.194 Corporate income tax credits for spaceflight  
 634 projects.—

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

636 (b) "Certified" means that a spaceflight business has been  
 637 certified by the Department of Economic Opportunity ~~office~~ as  
 638 meeting all of the requirements necessary to obtain at least one

577-00918B-12 20127024

639 of the approved tax credits available under this section,  
640 including approval to transfer a credit.

641 (d) "New job" means the full-time employment of an employee  
642 in a manner that is consistent with terms used by the Department  
643 of Economic Opportunity Agency for Workforce Innovation and the  
644 United States Department of Labor for purposes of unemployment  
645 compensation tax administration and employment estimation. In  
646 order to meet the requirement for certification specified in  
647 paragraph (5) (b), a new job must:

648 1. Pay new employees at least 115 percent of the statewide  
649 or countywide average annual private sector wage for the 3  
650 taxable years immediately preceding filing an application for  
651 certification;

652 2. Require a new employee to perform duties on a regular  
653 full-time basis in this state for an average of at least 36  
654 hours per week each month for the 3 taxable years immediately  
655 preceding filing an application for certification; and

656 3. Not be held by a person who has previously been included  
657 as a new employee on an application for any credit authorized  
658 under this section.

659 ~~(e) "Office" means the Office of Tourism, Trade, and~~  
660 ~~Economic Development.~~

661 ~~(e)-(f)~~ "Payload" means an object built or assembled in this  
662 state to be placed into earth's upper atmospheres or space.

663 (4) TAX CREDITS.—

664 (a) If approved and certified pursuant to subsection (5),  
665 the following tax credits may be taken on a return for a taxable  
666 year beginning on or after October 1, 2015:

667 1. A certified spaceflight business may take a

577-00918B-12 20127024

668 nontransferable corporate income tax credit for up to 50 percent  
669 of the business's tax liability under this chapter for the  
670 taxable year in which the credit is taken. The maximum  
671 nontransferable tax credit amount that may be approved per  
672 taxpayer for a taxable year is \$1 million. No more than \$3  
673 million in total tax credits pursuant to this subparagraph may  
674 be certified pursuant to subsection (5). No credit may be  
675 approved after October 1, 2017.

676 2. A certified spaceflight business may transfer, in whole  
677 or in part, its Florida net operating loss that would otherwise  
678 be available to be taken on a return filed under this chapter,  
679 provided that the activity giving rise to such net operating  
680 loss must have occurred after July 1, 2011. The transfer allowed  
681 under this subparagraph will be in the form of a transferable  
682 tax credit equal to the amount of the net operating loss  
683 eligible to be transferred. The maximum transferable tax credit  
684 amount that may be approved per taxpayer for a taxable year is  
685 \$2.5 million. No more than \$7 million in total tax credits  
686 pursuant to this subparagraph may be certified pursuant to  
687 subsection (5). No credit may be approved after October 1, 2017.

688 a. In order to transfer the credit, the business must:

689 (I) Have been approved to transfer the tax credit for the  
690 taxable year in which it is transferred;

691 (II) Have incurred a qualifying net operating loss on  
692 activity in this state after July 1, 2011, directly associated  
693 with one or more spaceflight projects in any of its 3 previous  
694 taxable years;

695 (III) Not be 50 percent or more owned or controlled,  
696 directly or indirectly, by another corporation that has

577-00918B-12

20127024

697 demonstrated positive net income in any of the 3 previous  
698 taxable years of ongoing operations; and

699 (IV) Not be part of a consolidated group of affiliated  
700 corporations, as filed for federal income tax purposes, which in  
701 the aggregate demonstrated positive net income in any of the 3  
702 previous taxable years.

703 b. The credit that may be transferred by a certified  
704 spaceflight business:

705 (I) Is limited to the amount of eligible net operating  
706 losses incurred in the immediate 3 taxable years before the  
707 transfer; and

708 (II) Must be directly associated with a spaceflight project  
709 in this state as verified through an audit or examination by a  
710 certified public accountant licensed to do business in this  
711 state and as verified by the Department of Economic Opportunity  
712 office.

713 (c) Credits approved under subparagraph (a)1. may be taken  
714 only against the corporate income tax liability generated by or  
715 arising out of a spaceflight project in this state, as verified  
716 through an audit or examination by a certified public accountant  
717 licensed to do business in this state and as verified by the  
718 Department of Economic Opportunity office.

719 (e) The certified spaceflight business or transferee must  
720 demonstrate to the satisfaction of the Department of Economic  
721 Opportunity office and the department that it is eligible to  
722 take the credits approved under this section.

723 (5) APPLICATION AND CERTIFICATION.—

724 (a) In order to claim a tax credit under this section, a  
725 spaceflight business must first submit an application to the

577-00918B-12

20127024

726 Department of Economic Opportunity office for approval to earn  
727 tax credits or create transferable tax credits. The application  
728 must be filed by the date established by the Department of  
729 Economic Opportunity office. In addition to any information that  
730 the Department of Economic Opportunity office may require, the  
731 applicant must provide a complete description of the activity in  
732 this state which demonstrates to the Department of Economic  
733 Opportunity office the applicant's likelihood to be certified to  
734 take or transfer a credit. The applicant must also provide a  
735 description of the total amount and type of credits for which  
736 approval is sought. The Department of Economic Opportunity  
737 office may consult with Space Florida regarding the  
738 qualifications of an applicant. The applicant shall provide an  
739 affidavit certifying that all information contained in the  
740 application is true and correct.

741 1. Approval of the credits shall be provided on a first-  
742 come, first-served basis, based on the date the completed  
743 applications are received by the Department of Economic  
744 Opportunity office. A taxpayer may not submit more than one  
745 completed application per state fiscal year. The Department of  
746 Economic Opportunity office may not accept an incomplete  
747 placeholder application, and the submission of such an  
748 application will not secure a place in the first-come, first-  
749 served application line.

750 2. The Department of Economic Opportunity office has 60  
751 days after the receipt of a completed application within which  
752 to issue a notice of intent to deny or approve an application  
753 for credits. The Department of Economic Opportunity office must  
754 ensure that the corporate income tax credits approved for all

577-00918B-12

20127024

755 applicants do not exceed the limits provided in this section.

756 (b) In order to take a tax credit under subparagraph (a)1.  
757 or, if applicable, to transfer an approved credit under  
758 subparagraph (a)2., a spaceflight business must submit an  
759 application for certification to the Department of Economic  
760 Opportunity ~~office~~ along with a nonrefundable \$250 fee.

761 1. The application must include:

762 a. The name and physical in-state address of the taxpayer.  
763 b. Documentation demonstrating to the satisfaction of the  
764 Department of Economic Opportunity ~~office~~ that:

765 (I) The taxpayer is a spaceflight business.

766 (II) The business has engaged in a qualifying spaceflight  
767 project before taking or transferring a credit under this  
768 section.

769 c. In addition to any requirement specific to a credit,  
770 documentation that the business has:

771 (I) Created 35 new jobs in this state directly associated  
772 with spaceflight projects during its immediately preceding 3  
773 taxable years. The business shall be deemed to have created new  
774 jobs if the number of full-time jobs located in this state at  
775 the time of application for certification is greater than the  
776 total number of full-time jobs located in this state at the time  
777 of application for approval to earn credits; and

778 (II) Invested a total of at least \$15 million in this state  
779 on a spaceflight project during its immediately preceding 3  
780 taxable years.

781 d. The total amount and types of credits sought.

782 e. An acknowledgment that a transfer of a tax credit is to  
783 be accomplished pursuant to subsection (5).

577-00918B-12

20127024

784 f. A copy of an audit or audits of the preceding 3 taxable  
785 years, prepared by a certified public accountant licensed to  
786 practice in this state, which identifies that portion of the  
787 business's activities in this state related to spaceflight  
788 projects in this state.

789 g. An acknowledgment that the business must file an annual  
790 report on the spaceflight project's progress with the Department  
791 of Economic Opportunity ~~office~~.

792 h. Any other information necessary to demonstrate that the  
793 applicant meets the job creation, investment, and other  
794 requirements of this section.

795 2. Within 60 days after receipt of the application for  
796 certification, the Department of Economic Opportunity ~~office~~  
797 shall evaluate the application and recommend the business for  
798 certification or denial. The executive director of the  
799 Department of Economic Opportunity ~~office~~ must approve or deny  
800 the application within 30 days after receiving the  
801 recommendation. If approved, the Department of Economic  
802 Opportunity ~~office~~ must provide a letter of certification to the  
803 applicant consistent with any restrictions imposed. If the  
804 Department of Economic Opportunity ~~office~~ denies any part of the  
805 requested credit, the Department of Economic Opportunity ~~office~~  
806 must inform the applicant of the grounds for the denial. A copy  
807 of the certification shall be submitted to the department within  
808 10 days after the executive director's approval.

809 (6) TRANSFERABILITY OF CREDIT.—

810 (b) In order to perfect the transfer, the transferor shall  
811 provide the department with a written transfer statement that  
812 has been approved by the Department of Economic Opportunity

577-00918B-12

20127024

813 ~~office~~ notifying the department of the transferor's intent to  
 814 transfer the tax credits to the transferee; the date that the  
 815 transfer is effective; the transferee's name, address, and  
 816 federal taxpayer identification number; the tax period; and the  
 817 amount of tax credits to be transferred. Upon receipt of the  
 818 approved transfer statement, the department shall provide the  
 819 transferee and the Department of Economic Opportunity ~~office~~  
 820 with a certificate reflecting the tax credit amounts  
 821 transferred. A copy of the certificate must be attached to each  
 822 tax return for which the transferee seeks to apply the credits.

823 (7) AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

824 (a) In addition to its existing audit and investigative  
 825 authority, the department may perform any additional financial  
 826 and technical audits and investigations, including examining the  
 827 accounts, books, and financial records of the tax credit  
 828 applicant, which are necessary for verifying the accuracy of the  
 829 return and to ensure compliance with this section. If requested  
 830 by the department, the Department of Economic Opportunity ~~office~~  
 831 and Space Florida must provide technical assistance for any  
 832 technical audits or examinations performed under this  
 833 subsection.

834 (b) Grounds for forfeiture of previously claimed tax  
 835 credits approved under this section exist if the department  
 836 determines, as a result of an audit or examination, or from  
 837 information received from the Department of Economic Opportunity  
 838 ~~office~~, that a certified spaceflight business, or in the case of  
 839 transferred tax credits, a taxpayer received tax credits for  
 840 which the certified spaceflight business or taxpayer was not  
 841 entitled. The spaceflight business or transferee must file an

577-00918B-12

20127024

842 amended return reflecting the disallowed credits and paying any  
 843 tax due as a result of the amendment.

844 (d) The Department of Economic Opportunity ~~office~~ may  
 845 revoke or modify a certification granting eligibility for tax  
 846 credits if it finds that the certified spaceflight business made  
 847 a false statement or representation in any application, record,  
 848 report, plan, or other document filed in an attempt to receive  
 849 tax credits under this section. The Department of Economic  
 850 Opportunity ~~office~~ shall immediately notify the department of  
 851 any revoked or modified orders affecting previously granted tax  
 852 credits. The certified spaceflight business must also notify the  
 853 department of any change in its claimed tax credit.

854 (e) The certified spaceflight business must file with the  
 855 department an amended return or other report required by the  
 856 department by rule and pay any required tax and interest within  
 857 60 days after the certified business receives notification from  
 858 the Department of Economic Opportunity ~~office~~ that previously  
 859 approved tax credits have been revoked or modified. If the  
 860 revocation or modification order is contested, the spaceflight  
 861 business must file the amended return or other report within 60  
 862 days after a final order is issued.

863 (8) RULES.—

864 (a) The Department of Economic Opportunity ~~office~~, in  
 865 consultation with Space Florida, shall adopt rules to administer  
 866 this section, including rules relating to application forms for  
 867 credit approval and certification, and the application and  
 868 certification procedures, guidelines, and requirements necessary  
 869 to administer this section.

870 (9) ANNUAL REPORT.—Beginning in 2014, the Department of

577-00918B-12

20127024

871 Economic Opportunity ~~office~~, in cooperation with Space Florida  
872 and the department, shall submit an annual report summarizing  
873 activities relating to the Florida Space Business Incentives Act  
874 established under this section to the Governor, the President of  
875 the Senate, and the Speaker of the House of Representatives by  
876 each November 30.

877 Section 28. Paragraph (b) of subsection (3), paragraph (b)  
878 of subsection (4), subsection (6), paragraph (a) of subsection  
879 (7), and paragraph (c) of subsection (9) of section 258.501,  
880 Florida Statutes, are amended to read:

881 258.501 Myakka River; wild and scenic segment.—

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

883 (b) "Agreement" means the interagency operating agreement  
884 between the department, the Department of Economic Opportunity  
885 ~~Community Affairs~~, and Sarasota County or the City of North  
886 Port.

887 (4) DESIGNATION OF WILD AND SCENIC RIVER.—

888 (b) The governments of Sarasota County and the City of  
889 North Port shall manage the Myakka River wild and scenic  
890 protection zone under their existing authorities for  
891 comprehensive planning, the regulation of land development  
892 activities, and other necessary or appropriate ordinances and in  
893 conformance with this section, the management plan required  
894 under subsection (5), and the agreements adopted by the  
895 department and the Department of Economic Opportunity ~~Community~~  
896 ~~Affairs~~ with the city and county pursuant to this section.

897 (6) AMENDMENT OF REGULATIONS AND COMPREHENSIVE PLANS.—

898 (a) Sarasota County and the City of North Port shall amend  
899 their comprehensive plans so that the parts of such plans that

577-00918B-12

20127024

900 affect the wild and scenic protection zone conform to, or are  
901 more stringent than, this section, the river management plan,  
902 and management guidelines and performance standards to be  
903 developed and contained within agreements to be adopted by the  
904 department, the Department of Economic Opportunity ~~Community~~  
905 ~~Affairs~~, and the city and county. The guidelines and performance  
906 standards must be used by the department and the Department of  
907 Economic Opportunity ~~Community Affairs~~ to review and monitor the  
908 regulation of activities by the city and county in the wild and  
909 scenic protection zone. Amendments to those comprehensive plans  
910 must include specific policies and guidelines for minimizing  
911 adverse impacts on resources in the river area and for managing  
912 the wild and scenic protection zone in conformance with this  
913 section, the river management plan, and the agreement. Such  
914 comprehensive plans must be amended within 1 year after the  
915 adoption date of the agreement, and thereafter, within 6 months  
916 following an amendment to this section, the river management  
917 plan, or the agreement, as may be necessary. For the purposes  
918 established in this subsection, such amendments need not conform  
919 to statutory or local ordinance limitations on the frequency of  
920 consideration of amendments to local comprehensive plans.

921 (b) Sarasota County and the City of North Port shall adopt  
922 or amend, within 1 year after the department and the Department  
923 of Economic Opportunity ~~Community Affairs~~ adopt with the city  
924 and with the county agreements for regulating activities in the  
925 wild and scenic protection zone, any necessary ordinances and  
926 land development regulations so that those ordinances and  
927 regulations conform to the purposes of this section, the river  
928 management plan, and the agreement. Thereafter, following any

577-00918B-12

20127024

929 amendment to this section, the river management plan, or the  
 930 agreement, the city and county must amend or adopt, within 1  
 931 year, appropriate ordinances and land development regulations to  
 932 maintain such local ordinances and regulations in conformance  
 933 with this section, the river management plan, and the agreement.  
 934 Those ordinances and regulations must provide that activities  
 935 must be prohibited, or must undergo review and either be denied  
 936 or permitted with or without conditions, so as to minimize  
 937 potential adverse physical and visual impacts on resource values  
 938 in the river area and to minimize adverse impacts on private  
 939 landowners' use of land for residential purposes. The resource  
 940 values of concern are those identified in this section and by  
 941 the coordinating council in the river management plan.  
 942 Activities which may be prohibited, subject to the agreement,  
 943 include, but are not limited to, landfills, clear cuttings,  
 944 major new infrastructure facilities, major activities that would  
 945 alter historic water or flood flows, multifamily residential  
 946 construction, commercial and industrial development, and mining  
 947 and major excavations. However, appurtenant structures for these  
 948 activities may be permitted if such structures do not have  
 949 adverse visual or measurable adverse environmental impacts to  
 950 resource values in the river area.

951 (c) If the Department of Economic Opportunity Community  
 952 ~~Affairs~~ determines that the local comprehensive plan or land  
 953 development regulations, as amended or supplemented by the local  
 954 government, are not in conformance with the purposes of this  
 955 section, the river management plan, and the agreement, the  
 956 Department of Economic Opportunity Community Affairs shall issue  
 957 a notice of intent to find the plan not in compliance and such

577-00918B-12

20127024

958 plan shall be subject to the administrative proceedings in  
 959 accordance with s. 163.3184.

960 (7) MANAGEMENT COORDINATING COUNCIL.—  
 961 (a) Upon designation, the department shall create a  
 962 permanent council to provide interagency and intergovernmental  
 963 coordination in the management of the river. The coordinating  
 964 council shall be composed of one representative appointed from  
 965 each of the following: the department, the Department of  
 966 Transportation, the Fish and Wildlife Conservation Commission,  
 967 the Department of Economic Opportunity Community Affairs, the  
 968 Division of Forestry of the Department of Agriculture and  
 969 Consumer Services, the Division of Historical Resources of the  
 970 Department of State, the Tampa Bay Regional Planning Council,  
 971 the Southwest Florida Water Management District, the Southwest  
 972 Florida Regional Planning Council, Manatee County, Sarasota  
 973 County, Charlotte County, the City of Sarasota, the City of  
 974 North Port, agricultural interests, environmental organizations,  
 975 and any others deemed advisable by the department.

976 (9) RULEMAKING AUTHORITY.—  
 977 (c) The department and the Department of Economic  
 978 Opportunity Community Affairs must enter into agreements with  
 979 the City of North Port and Sarasota County ~~which that~~ provide  
 980 for guiding and monitoring the regulation of activities by the  
 981 city and county, in accordance with subsection (6). Such  
 982 agreements shall include guidelines and performance standards  
 983 for regulating proposed activities so as to minimize adverse  
 984 environmental and visual impacts of such activities on the  
 985 resource values in the river area, and to minimize adverse  
 986 impacts to landowners' use of land for residential purposes.

577-00918B-12

20127024

987 Section 29. Subsection (3) of section 259.042, Florida  
 988 Statutes, is amended to read:  
 989 259.042 Tax increment financing for conservation lands.—  
 990 (3) The governing body of the jurisdiction that will  
 991 administer the separate reserve account shall provide  
 992 documentation to the Department of Economic Opportunity  
 993 ~~Community Affairs~~ identifying the boundary of the tax increment  
 994 area. The department shall determine whether the boundary is  
 995 appropriate in that property owners within the boundary will  
 996 receive a benefit from the proposed purchase of identified  
 997 conservation lands. The department must issue a letter of  
 998 approval stating that the establishment of the tax increment  
 999 area and the proposed purchases would benefit property owners  
 1000 within the boundary and serve a public purpose before any tax  
 1001 increment funds are deposited into the separate reserve account.  
 1002 If the department fails to provide the required letter within 90  
 1003 days after receiving sufficient documentation of the boundary,  
 1004 the establishment of the area and the proposed purchases are  
 1005 deemed to provide such benefit and serve a public purpose.  
 1006 Section 30. Paragraph (c) of subsection (3) of section  
 1007 259.101, Florida Statutes, is amended to read:  
 1008 259.101 Florida Preservation 2000 Act.—  
 1009 (3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.—Less the costs  
 1010 of issuance, the costs of funding reserve accounts, and other  
 1011 costs with respect to the bonds, the proceeds of bonds issued  
 1012 pursuant to this act shall be deposited into the Florida  
 1013 Preservation 2000 Trust Fund created by s. 375.045. In fiscal  
 1014 year 2000-2001, for each Florida Preservation 2000 program  
 1015 described in paragraphs (a)-(g), that portion of each program's

Page 35 of 89

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

577-00918B-12

20127024

1016 total remaining cash balance which, as of June 30, 2000, is in  
 1017 excess of that program's total remaining appropriation balances  
 1018 shall be redistributed by the department and deposited into the  
 1019 Save Our Everglades Trust Fund for land acquisition. For  
 1020 purposes of calculating the total remaining cash balances for  
 1021 this redistribution, the Florida Preservation 2000 Series 2000  
 1022 bond proceeds, including interest thereon, and the fiscal year  
 1023 1999-2000 General Appropriations Act amounts shall be deducted  
 1024 from the remaining cash and appropriation balances,  
 1025 respectively. The remaining proceeds shall be distributed by the  
 1026 Department of Environmental Protection in the following manner:  
 1027 (c) Ten percent to the Department of Environmental  
 1028 Protection ~~Community Affairs~~ to provide land acquisition grants  
 1029 and loans to local governments through the Florida Communities  
 1030 Trust pursuant to part III of chapter 380. From funds allocated  
 1031 to the trust, \$3 million annually shall be used by the Division  
 1032 of State Lands within the Department of Environmental Protection  
 1033 to implement the Green Swamp Land Protection Initiative  
 1034 specifically for the purchase of conservation easements, as  
 1035 defined in s. 380.0677(3), of lands, or severable interests or  
 1036 rights in lands, in the Green Swamp Area of Critical State  
 1037 Concern. From funds allocated to the trust, \$3 million annually  
 1038 shall be used by the Monroe County Comprehensive Plan Land  
 1039 Authority specifically for the purchase of a real property  
 1040 interest in those lands subject to the Rate of Growth Ordinances  
 1041 adopted by local governments in Monroe County or those lands  
 1042 within the boundary of an approved Conservation and Recreation  
 1043 Lands project located within the Florida Keys or Key West Areas  
 1044 of Critical State Concern; however, title to lands acquired

Page 36 of 89

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

577-00918B-12 20127024  
 1045 within the boundary of an approved Conservation and Recreation  
 1046 Lands project may, in accordance with an approved joint  
 1047 acquisition agreement, vest in the Board of Trustees of the  
 1048 Internal Improvement Trust Fund. Of the remaining funds, one-  
 1049 half shall be matched by local governments on a dollar-for-  
 1050 dollar basis. To the extent allowed by federal requirements for  
 1051 the use of bond proceeds, the trust shall expend Preservation  
 1052 2000 funds to carry out the purposes of part III of chapter 380.

1053  
 1054 Local governments may use federal grants or loans, private  
 1055 donations, or environmental mitigation funds, including  
 1056 environmental mitigation funds required pursuant to s. 338.250,  
 1057 for any part or all of any local match required for the purposes  
 1058 described in this subsection. Bond proceeds allocated pursuant  
 1059 to paragraph (c) may be used to purchase lands on the priority  
 1060 lists developed pursuant to s. 259.035. Title to lands purchased  
 1061 pursuant to paragraphs (a), (d), (e), (f), and (g) shall be  
 1062 vested in the Board of Trustees of the Internal Improvement  
 1063 Trust Fund. Title to lands purchased pursuant to paragraph (c)  
 1064 may be vested in the Board of Trustees of the Internal  
 1065 Improvement Trust Fund. The board of trustees shall hold title  
 1066 to land protection agreements and conservation easements that  
 1067 were or will be acquired pursuant to s. 380.0677, and the  
 1068 Southwest Florida Water Management District and the St. Johns  
 1069 River Water Management District shall monitor such agreements  
 1070 and easements within their respective districts until the state  
 1071 assumes this responsibility.

1072 Section 31. Paragraphs (e) and (h) of subsection (4) of  
 1073 section 282.201, Florida Statutes, are amended to read:

577-00918B-12 20127024  
 1074 282.201 State data center system; agency duties and  
 1075 limitations.—A state data center system that includes all  
 1076 primary data centers, other nonprimary data centers, and  
 1077 computing facilities, and that provides an enterprise  
 1078 information technology service as defined in s. 282.0041, is  
 1079 established.

1080 (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—

1081 (e) During the 2012-2013 fiscal year, the following shall  
 1082 be consolidated into the Southwood Shared Resource Center:

1083 1. By September 30, 2012, the Division of Emergency  
 1084 Management ~~and the Department of Community Affairs~~, except for  
 1085 the Emergency Operation Center's management system in  
 1086 Tallahassee and the Camp Blanding Emergency Operations Center in  
 1087 Starke.

1088 2. By September 30, 2012, the Department of Revenue's  
 1089 Carlton Building and Imaging Center locations.

1090 3. By December 31, 2012, the Department of Health's Test  
 1091 and Development Lab and all remaining data center resources  
 1092 located at the Capital Circle Office Complex.

1093 (h) During the 2014-2015 fiscal year, the following  
 1094 agencies shall work with the Agency for Enterprise Information  
 1095 Technology to begin preliminary planning for consolidation into  
 1096 a primary data center:

1097 1. The Department of Health's Jacksonville Lab Data Center.

1098 2. The Department of Transportation's district offices,  
 1099 toll offices, and the District Materials Office.

1100 3. The Department of Military Affairs' Camp Blanding Joint  
 1101 Training Center in Starke.

1102 4. The ~~Department of Community Affairs'~~ Camp Blanding

577-00918B-12

20127024

1103 Emergency Operations Center in Starke.

1104 5. The Department of Education's Division of Blind Services  
1105 disaster recovery site in Daytona Beach.

1106 6. The Department of Education's disaster recovery site at  
1107 Santa Fe College.

1108 7. The Department of the Lottery's Disaster Recovery Backup  
1109 Data Center in Orlando.

1110 8. The Fish and Wildlife Conservation Commission's Fish and  
1111 Wildlife Research Institute in St. Petersburg.

1112 9. The Department of Children and Family Services' Suncoast  
1113 Data Center in Tampa.

1114 10. The Department of Children and Family Services' Florida  
1115 State Hospital in Chattahoochee.

1116 Section 32. Subsection (1) of section 288.021, Florida  
1117 Statutes, is amended to read:

1118 288.021 Economic development liaison.—

1119 (1) The heads of the Department of Transportation, the  
1120 Department of Environmental Protection and an additional member  
1121 appointed by the secretary of the department, ~~the Agency for~~  
1122 ~~Workforce Innovation~~, the Department of Education, the  
1123 Department of Management Services, the Department of Revenue,  
1124 the Fish and Wildlife Conservation Commission, each water  
1125 management district, and each Department of Transportation  
1126 District office shall designate a high-level staff member from  
1127 within such agency to serve as the economic development liaison  
1128 for the agency. This person shall report to the agency head and  
1129 have general knowledge both of the state's permitting and other  
1130 regulatory functions and of the state's economic goals,  
1131 policies, and programs. This person shall also be the primary

577-00918B-12

20127024

1132 point of contact for the agency with the department on issues  
1133 and projects important to the economic development of Florida,  
1134 including its rural areas, to expedite project review, to ensure  
1135 a prompt, effective response to problems arising with regard to  
1136 permitting and regulatory functions, and to work closely with  
1137 the other economic development liaisons to resolve interagency  
1138 conflicts.

1139 Section 33. Paragraph (f) of subsection (2) and paragraph  
1140 (c) of subsection (5) of section 288.1045, Florida Statutes, are  
1141 amended to read:

1142 288.1045 Qualified defense contractor and space flight  
1143 business tax refund program.—

1144 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

1145 (f) After entering into a tax refund agreement pursuant to  
1146 subsection (4), a qualified applicant may:

1147 1. Receive refunds from the account for corporate income  
1148 taxes due and paid pursuant to chapter 220 by that business  
1149 beginning with the first taxable year of the business which  
1150 begins after entering into the agreement.

1151 2. Receive refunds from the account for the following taxes  
1152 due and paid by that business after entering into the agreement:

1153 a. Taxes on sales, use, and other transactions paid  
1154 pursuant to chapter 212.

1155 b. Intangible personal property taxes paid pursuant to  
1156 chapter 199.

1157 c. Excise taxes paid on documents pursuant to chapter 201.

1158 d. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on  
1159 June 1, 1996.

1160 e. State communications services taxes administered under

577-00918B-12 20127024  
 1161 chapter 202. This provision does not apply to the gross receipts  
 1162 tax imposed under chapter 203 and administered under chapter 202  
 1163 or the local communications services tax authorized under s.  
 1164 202.19.

1165  
 1166 However, a qualified applicant may not receive a tax refund  
 1167 pursuant to this section for any amount of credit, refund, or  
 1168 exemption granted such contractor for any of such taxes. If a  
 1169 refund for such taxes is provided by the department, which taxes  
 1170 are subsequently adjusted by the application of any credit,  
 1171 refund, or exemption granted to the qualified applicant other  
 1172 than that provided in this section, the qualified applicant  
 1173 shall reimburse the Economic Development Trust Fund for the  
 1174 amount of such credit, refund, or exemption. A qualified  
 1175 applicant must notify and tender payment to the department  
 1176 office within 20 days after receiving a credit, refund, or  
 1177 exemption, other than that provided in this section.

1178 (5) ANNUAL CLAIM FOR REFUND.—

1179 (c) A tax refund may not be approved for any qualified  
 1180 applicant unless local financial support has been paid to the  
 1181 Economic Development Trust Fund for that refund. If the local  
 1182 financial support is less than 20 percent of the approved tax  
 1183 refund, the tax refund shall be reduced. The tax refund paid may  
 1184 not exceed 5 times the local financial support received. Funding  
 1185 from local sources includes tax abatement under s. 196.1995 or  
 1186 the appraised market value of municipal or county land,  
 1187 including any improvements or structures, conveyed or provided  
 1188 at a discount through a sale or lease to that applicant. The  
 1189 amount of any tax refund for an applicant approved under this

577-00918B-12 20127024  
 1190 section shall be reduced by the amount of any such tax abatement  
 1191 granted or the value of the land granted, including the value of  
 1192 any improvements or structures; and the limitations in  
 1193 subsection (2) shall be reduced by the amount of any such tax  
 1194 abatement or the value of the land granted, including any  
 1195 improvements or structures. A report listing all sources of the  
 1196 local financial support shall be provided to the department  
 1197 office when such support is paid to the Economic Development  
 1198 Trust Fund.

1199 Section 34. Paragraph (f) of subsection (4) and paragraphs  
 1200 (c), (d), and (e) of subsection (6) of section 288.106, Florida  
 1201 Statutes, are amended to read:

1202 288.106 Tax refund program for qualified target industry  
 1203 businesses.—

1204 (4) APPLICATION AND APPROVAL PROCESS.—

1205 (f) ~~Effective July 1, 2011~~, Notwithstanding paragraph  
 1206 ~~(2) (j) (2) (k)~~, the department office may reduce the local  
 1207 financial support requirements of this section by one-half for a  
 1208 qualified target industry business located in Bay County,  
 1209 Escambia County, Franklin County, Gadsden County, Gulf County,  
 1210 Jefferson County, Leon County, Okaloosa County, Santa Rosa  
 1211 County, Wakulla County, or Walton County, if the department  
 1212 office determines that such reduction of the local financial  
 1213 support requirements is in the best interest of the state and  
 1214 facilitates economic development, growth, or new employment  
 1215 opportunities in such county. This paragraph expires June 30,  
 1216 2014.

1217 (6) ANNUAL CLAIM FOR REFUND.—

1218 (c) The department may waive the requirement for proof of

577-00918B-12 20127024

1219 taxes paid in future years for a qualified target industry  
 1220 business that provides the department office with proof that, in  
 1221 a single year, the business has paid an amount of state taxes  
 1222 from the categories in paragraph (3) (d) ~~which that~~ is at least  
 1223 equal to the total amount of tax refunds that the business may  
 1224 receive through successful completion of its tax refund  
 1225 agreement.

1226 (d) A tax refund may not be approved for a qualified target  
 1227 industry business unless the required local financial support  
 1228 has been paid into the account for that refund. If the local  
 1229 financial support provided is less than 20 percent of the  
 1230 approved tax refund, the tax refund must be reduced. In no event  
 1231 may the tax refund exceed an amount that is equal to 5 times the  
 1232 amount of the local financial support received. Further, funding  
 1233 from local sources includes any tax abatement granted to that  
 1234 business under s. 196.1995 or the appraised market value of  
 1235 municipal or county land conveyed or provided at a discount to  
 1236 that business. The amount of any tax refund for such business  
 1237 approved under this section must be reduced by the amount of any  
 1238 such tax abatement granted or the value of the land granted, and  
 1239 the limitations in subsection (3) and paragraph (4) (e) must be  
 1240 reduced by the amount of any such tax abatement or the value of  
 1241 the land granted. A report listing all sources of the local  
 1242 financial support shall be provided to the department office  
 1243 when such support is paid to the account.

1244 (e) A prorated tax refund, less a 5 percent ~~5-percent~~  
 1245 penalty, shall be approved for a qualified target industry  
 1246 business if all other applicable requirements have been  
 1247 satisfied and the business proves to the satisfaction of the

577-00918B-12 20127024

1248 department office that:

1249 1. It has achieved at least 80 percent of its projected  
 1250 employment; and

1251 2. The average wage paid by the business is at least 90  
 1252 percent of the average wage specified in the tax refund  
 1253 agreement, but in no case less than 115 percent of the average  
 1254 private sector wage in the area available at the time of  
 1255 certification, or 150 percent or 200 percent of the average  
 1256 private sector wage if the business requested the additional  
 1257 per-job tax refund authorized in paragraph (3) (b) for wages  
 1258 above those levels. The prorated tax refund shall be calculated  
 1259 by multiplying the tax refund amount for which the qualified  
 1260 target industry business would have been eligible, if all  
 1261 applicable requirements had been satisfied, by the percentage of  
 1262 the average employment specified in the tax refund agreement  
 1263 which was achieved, and by the percentage of the average wages  
 1264 specified in the tax refund agreement which was achieved.

1265 Section 35. Paragraph (a) of subsection (3) of section  
 1266 288.108, Florida Statutes, is amended to read:

1267 288.108 High-impact business.—

1268 (3) HIGH-IMPACT SECTOR PERFORMANCE GRANTS; ELIGIBLE  
 1269 AMOUNTS.—

1270 (a) Upon commencement of operations, a qualified high-  
 1271 impact business is eligible to receive a high-impact business  
 1272 performance grant in the amount as determined by the department  
 1273 office under subsection (5), consistent with eligible amounts as  
 1274 provided in paragraph (b), and specified in the qualified high-  
 1275 impact business agreement. The precise conditions that are  
 1276 considered commencement of operations must be specified in the

577-00918B-12 20127024

1277 qualified high-impact business agreement.

1278 Section 36. Subsection (3) of section 288.1083, Florida  
1279 Statutes, is amended to read:

1280 288.1083 Manufacturing and Spaceport Investment Incentive  
1281 Program.—

1282 (3) Beginning July 1, 2010, and ending June 30, 2011, and  
1283 beginning July 1, 2011, and ending June 30, 2012, sales and use  
1284 tax paid in this state on eligible equipment purchases may  
1285 qualify for a refund as provided in this section. The total  
1286 amount of refunds that may be allocated by the department office  
1287 to all applicants during the period beginning July 1, 2010, and  
1288 ending June 30, 2011, is \$19 million. The total amount of tax  
1289 refunds that may be allocated to all applicants during the  
1290 period beginning July 1, 2011, and ending June 30, 2012, is \$24  
1291 million. An applicant may not be allocated more than \$50,000 in  
1292 refunds under this section for a single year. Preliminary refund  
1293 allocations that are revoked or voluntarily surrendered shall be  
1294 immediately available for reallocation.

1295 Section 37. Paragraph (1) of subsection (2) of section  
1296 288.1089, Florida Statutes, is amended to read:

1297 288.1089 Innovation Incentive Program.—

1298 (2) As used in this section, the term:

1299 (1) "Match" means funding from local sources, public or  
1300 private, which will be paid to the applicant and which is equal  
1301 to 100 percent of an award. Eligible match funding may include  
1302 any tax abatement granted to the applicant under s. 196.1995 or  
1303 the appraised market value of land, buildings, infrastructure,  
1304 or equipment conveyed or provided at a discount to the  
1305 applicant. Complete documentation of a match payment or other

577-00918B-12 20127024

1306 conveyance must be presented to and verified by the department  
1307 ~~office~~ prior to transfer of state funds to an applicant. An  
1308 applicant may not provide, directly or indirectly, more than 5  
1309 percent of match funding in any fiscal year. The sources of such  
1310 funding may not include, directly or indirectly, state funds  
1311 appropriated from the General Revenue Fund or any state trust  
1312 fund, excluding tax revenues shared with local governments  
1313 pursuant to law.

1314 Section 38. Subsection (2) of section 288.1097, Florida  
1315 Statutes, is amended to read:

1316 288.1097 Qualified job training organizations;  
1317 certification; duties.—

1318 (2) To be eligible for funding, an organization must be  
1319 certified by the department Office of Tourism, Trade, and  
1320 ~~Economic Development~~ as meeting the criteria in subsection (1).  
1321 After certification, the department Office of Tourism, Trade,  
1322 ~~and Economic Development~~ may release funds to the qualified job  
1323 training organization pursuant to a contract with the  
1324 organization. The contract must include the performance  
1325 conditions that must be met in order to obtain the award or  
1326 portions of the award, including, but not limited to, net new  
1327 employment in the state, the methodology for validating  
1328 performance, the schedule of payments, and sanctions for failure  
1329 to meet the performance requirements including any provisions  
1330 for repayment of awards. The contract must also require that  
1331 salaries paid to officers and employees of the qualified job  
1332 training organization comply with s. 4958 of the Internal  
1333 Revenue Code of 1986, as amended.

1334 Section 39. Paragraph (c) of subsection (3) of section

577-00918B-12 20127024\_\_

1335 288.11621, Florida Statutes, is amended to read:

1336 288.11621 Spring training baseball franchises.-

1337 (3) USE OF FUNDS.-

1338 (c) The Department of Revenue may not distribute funds to  
 1339 an applicant certified on or after July 1, 2010, until it  
 1340 receives notice from the department office that the certified  
 1341 applicant has encumbered funds under subparagraph (a)2.

1342 Section 40. Subsection (6) of section 288.1168, Florida  
 1343 Statutes, is amended to read:

1344 288.1168 Professional golf hall of fame facility.-

1345 (6) The department Office of Tourism, Trade, and Economic  
 1346 ~~Development~~ must recertify every 10 years that the facility is  
 1347 open, continues to be the only professional golf hall of fame in  
 1348 the United States recognized by the PGA Tour, Inc., and is  
 1349 meeting the minimum projections for attendance or sales tax  
 1350 revenue as required at the time of original certification. If  
 1351 the facility is not certified as meeting the minimum  
 1352 projections, the PGA Tour, Inc., shall increase its required  
 1353 advertising contribution of \$2 million annually to \$2.5 million  
 1354 annually in lieu of reduction of any funds as provided by s.  
 1355 212.20. The additional \$500,000 must be allocated in its  
 1356 entirety for the use and promotion of generic Florida  
 1357 advertising as determined by the department Office of Tourism,  
 1358 ~~Trade, and Economic Development~~. If the facility is not open to  
 1359 the public or is no longer in use as the only professional golf  
 1360 hall of fame in the United States recognized by the PGA Tour,  
 1361 Inc., the entire \$2.5 million for advertising must be used for  
 1362 generic Florida advertising as determined by the department  
 1363 ~~Office of Tourism, Trade, and Economic Development~~.

577-00918B-12 20127024\_\_

1364 Section 41. Subsection (4) of section 288.1171, Florida  
 1365 Statutes, is amended to read:

1366 288.1171 Motorsports entertainment complex; definitions;  
 1367 certification; duties.-

1368 (4) Upon determining that an applicant meets the  
 1369 requirements of subsection (3), the department office shall  
 1370 notify the applicant and the executive director of the  
 1371 Department of Revenue of such certification by means of an  
 1372 official letter granting certification. If the applicant fails  
 1373 to meet the certification requirements of subsection (3), the  
 1374 department office shall notify the applicant not later than 10  
 1375 days following such determination.

1376 Section 42. Paragraph (a) of subsection (8) of section  
 1377 288.1254, Florida Statutes, is amended to read:

1378 288.1254 Entertainment industry financial incentive  
 1379 program.-

1380 (8) RULES, POLICIES, AND PROCEDURES.-

1381 (a) The department Office of Tourism, Trade, and Economic  
 1382 ~~Development~~ may adopt rules pursuant to ss. 120.536(1) and  
 1383 120.54 and develop policies and procedures to implement and  
 1384 administer this section, including, but not limited to, rules  
 1385 specifying requirements for the application and approval  
 1386 process, records required for substantiation for tax credits,  
 1387 procedures for making the election in paragraph (4)(d), the  
 1388 manner and form of documentation required to claim tax credits  
 1389 awarded or transferred under this section, and marketing  
 1390 requirements for tax credit recipients.

1391 Section 43. Subsection (2) of section 288.714, Florida  
 1392 Statutes, is amended to read:

577-00918B-12 20127024\_\_

1393 288.714 Quarterly and annual reports.-  
 1394 (2) The department must compile a summary of all quarterly  
 1395 reports ~~and provide a copy of the summary to the board~~ within 30  
 1396 days after the end of each calendar quarter which ~~that~~ includes  
 1397 a detailed summary of the recipient's performance of the duties  
 1398 imposed by s. 288.7102.

1399 Section 44. Subsection (7) of section 288.7102, Florida  
 1400 Statutes, is amended to read:

1401 288.7102 Black Business Loan Program.-

1402 (7) The department, ~~in consultation with the board,~~ shall  
 1403 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
 1404 this section.

1405 Section 45. Subsections (5) and (7) of section 288.987,  
 1406 Florida Statutes, are amended to read:

1407 288.987 Florida Defense Support Task Force.-

1408 (5) The executive director of the Department of Economic  
 1409 Opportunity Office of Tourism, Trade, and Economic Development  
 1410 ~~within the Executive Office of the Governor,~~ or his or her  
 1411 designee, shall serve as the ex officio, nonvoting executive  
 1412 director of the task force.

1413 (7) The ~~department Office of Tourism, Trade, and Economic~~  
 1414 ~~Development~~ shall contract with the task force for expenditure  
 1415 of appropriated funds, which may be used by the task force for  
 1416 economic and product research and development, joint planning  
 1417 with host communities to accommodate military missions and  
 1418 prevent base encroachment, advocacy on the state's behalf with  
 1419 federal civilian and military officials, assistance to school  
 1420 districts in providing a smooth transition for large numbers of  
 1421 additional military-related students, job training and placement

577-00918B-12 20127024\_\_

1422 for military spouses in communities with high proportions of  
 1423 active duty military personnel, and promotion of the state to  
 1424 military and related contractors and employers. The task force  
 1425 may annually spend up to \$200,000 of funds appropriated to the  
 1426 ~~department Executive Office of the Governor, Office of Tourism,~~  
 1427 ~~Trade, and Economic Development,~~ for the task force for staffing  
 1428 and administrative expenses of the task force, including travel  
 1429 and per diem costs incurred by task force members who are not  
 1430 otherwise eligible for state reimbursement.

1431 Section 46. Paragraph (d) of subsection (6) of section  
 1432 290.0055, Florida Statutes, is amended to read:

1433 290.0055 Local nominating procedure.-

1434 (6)

1435 (d)1. The governing body of a jurisdiction which has  
 1436 nominated an application for an enterprise zone that is no  
 1437 larger than 12 square miles and includes a portion of the state  
 1438 designated as a rural area of critical economic concern under s.  
 1439 288.0656(7) may apply to the department Office of Tourism,  
 1440 Trade, and Economic Development to expand the boundary of the  
 1441 enterprise zone by not more than 3 square miles. An application  
 1442 to expand the boundary of an enterprise zone under this  
 1443 paragraph must be submitted by December 31, 2012.

1444 2. Notwithstanding the area limitations specified in  
 1445 subsection (4), the ~~department Office of Tourism, Trade, and~~  
 1446 ~~Economic Development~~ may approve the request for a boundary  
 1447 amendment if the area continues to satisfy the remaining  
 1448 requirements of this section.

1449 3. The ~~department Office of Tourism, Trade, and Economic~~  
 1450 ~~Development~~ shall establish the initial effective date of an

577-00918B-12

20127024\_\_

1451 enterprise zone designated under this paragraph.

1452 Section 47. Paragraph (a) of subsection (4) of section  
1453 290.0065, Florida Statutes, is amended to read:

1454 290.0065 State designation of enterprise zones.-

1455 (4) (a) Notwithstanding s. 290.0055, the department may  
1456 redesignate any state enterprise zone having an effective date  
1457 on or before January 1, 2005, as a state enterprise zone upon  
1458 completion and submittal to the department ~~office~~ by the  
1459 governing body for an enterprise zone of the following:

1460 1. An updated zone profile for the enterprise zone based on  
1461 the most recent census data that complies with s. 290.0055,  
1462 except that pervasive poverty criteria may be set aside for  
1463 rural enterprise zones.

1464 2. A resolution passed by the governing body for that  
1465 enterprise zone requesting redesignation and explaining the  
1466 reasons the conditions of the zone merit redesignation.

1467 3. Measurable goals for the enterprise zone developed by  
1468 the enterprise zone development agency, which may be the goals  
1469 established in the enterprise zone's strategic plan.

1470

1471 The governing body may also submit a request for a boundary  
1472 change in an enterprise zone in the same application to the  
1473 department as long as the new area complies with the  
1474 requirements of s. 290.0055, except that pervasive poverty  
1475 criteria may be set aside for rural enterprise zones.

1476 Section 48. Section 290.00726, Florida Statutes, is amended  
1477 to read:

1478 290.00726 Enterprise zone designation for Martin County.-  
1479 Martin County may apply to the department ~~Office of Tourism,~~

577-00918B-12

20127024\_\_

1480 ~~Trade, and Economic Development~~ for designation of one  
1481 enterprise zone for an area within Martin County, which zone  
1482 shall encompass an area of up to 10 square miles consisting of  
1483 land within the primary urban services boundary and focusing on  
1484 Indiantown, but excluding property owned by Florida Power and  
1485 Light to the west, two areas to the north designated as estate  
1486 residential, and the county-owned Timer Powers Recreational  
1487 Area. Within the designated enterprise zone, Martin County shall  
1488 exempt residential condominiums from benefiting from state  
1489 enterprise zone incentives, unless prohibited by law. The  
1490 application must have been submitted by December 31, 2011, and  
1491 must comply with the requirements of s. 290.0055.

1492 Notwithstanding s. 290.0065 limiting the total number of  
1493 enterprise zones designated and the number of enterprise zones  
1494 within a population category, the department ~~Office of Tourism,~~  
1495 ~~Trade, and Economic Development~~ may designate one enterprise  
1496 zone under this section. The department ~~Office of Tourism,~~  
1497 ~~Trade, and Economic Development~~ shall establish the initial  
1498 effective date of the enterprise zone designated under this  
1499 section.

1500 Section 49. Section 290.00727, Florida Statutes, is amended  
1501 to read:

1502 290.00727 Enterprise zone designation for the City of Palm  
1503 Bay.-The City of Palm Bay may apply to the department ~~Office of~~  
1504 ~~Tourism, Trade, and Economic Development~~ for designation of one  
1505 enterprise zone for an area within the northeast portion of the  
1506 city, which zone shall encompass an area of up to 5 square  
1507 miles. The application must have been submitted by December 31,  
1508 2011, and must comply with the requirements of s. 290.0055.

577-00918B-12 20127024

1509 Notwithstanding s. 290.0065 limiting the total number of  
 1510 enterprise zones designated and the number of enterprise zones  
 1511 within a population category, the ~~department Office of Tourism,~~  
 1512 ~~Trade, and Economic Development~~ may designate one enterprise  
 1513 zone under this section. The ~~department Office of Tourism,~~  
 1514 ~~Trade, and Economic Development~~ shall establish the initial  
 1515 effective date of the enterprise zone designated under this  
 1516 section.

1517 Section 50. Section 290.00728, Florida Statutes, is amended  
 1518 to read:

1519 290.00728 Enterprise zone designation for Lake County.—Lake  
 1520 County may apply to the ~~department Office of Tourism, Trade, and~~  
 1521 ~~Economic Development~~ for designation of one enterprise zone,  
 1522 which zone shall encompass an area of up to 10 square miles  
 1523 within Lake County. The application must have been submitted by  
 1524 December 31, 2011, and must comply with the requirements of s.  
 1525 290.0055. Notwithstanding s. 290.0065 limiting the total number  
 1526 of enterprise zones designated and the number of enterprise  
 1527 zones within a population category, the ~~department Office of~~  
 1528 ~~Tourism, Trade, and Economic Development~~ may designate one  
 1529 enterprise zone under this section. The ~~department Office of~~  
 1530 ~~Tourism, Trade, and Economic Development~~ shall establish the  
 1531 initial effective date of the enterprise zone designated under  
 1532 this section.

1533 Section 51. Subsections (1) and (6) of section 311.09,  
 1534 Florida Statutes, are amended to read:

1535 311.09 Florida Seaport Transportation and Economic  
 1536 Development Council.—

1537 (1) The Florida Seaport Transportation and Economic

577-00918B-12 20127024

1538 Development Council is created within the Department of  
 1539 Transportation. The council consists of the following 17 ~~18~~  
 1540 members: the port director, or the port director's designee, of  
 1541 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
 1542 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
 1543 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
 1544 West, and Fernandina; the secretary of the Department of  
 1545 Transportation or his or her designee; and the director of the  
 1546 Department of Economic Opportunity or his or her designee.

1547 (6) The Department of Economic Opportunity Community  
 1548 ~~Affairs~~ shall review the list of projects approved by the  
 1549 council to determine consistency with approved local government  
 1550 comprehensive plans of the units of local government in which  
 1551 the port is located and consistency with the port master plan.  
 1552 The Department of Economic Opportunity Community Affairs shall  
 1553 identify and notify the council of those projects that ~~which~~ are  
 1554 not consistent, to the maximum extent feasible, with such  
 1555 comprehensive plans and port master plans.

1556 Section 52. Paragraph (b) of subsection (9), paragraph (a)  
 1557 of subsection (35), and paragraph (b) of subsection (62) of  
 1558 section 320.08058, Florida Statutes, are amended to read:

1559 320.08058 Specialty license plates.—

1560 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

1561 (b) The license plate annual use fees are to be annually  
 1562 distributed as follows:

1563 1. Fifty-five percent of the proceeds from the Florida  
 1564 Professional Sports Team plate must be deposited into the  
 1565 Professional Sports Development Trust Fund within the Department  
 1566 of Economic Opportunity. These funds must be used solely to

577-00918B-12 20127024  
 1567 attract and support major sports events in this state. As used  
 1568 in this subparagraph, the term "major sports events" means, but  
 1569 is not limited to, championship or all-star contests of Major  
 1570 League Baseball, the National Basketball Association, the  
 1571 National Football League, the National Hockey League, the men's  
 1572 and women's National Collegiate Athletic Association Final Four  
 1573 basketball championship, or a horseracing or dogracing Breeders'  
 1574 Cup. All funds must be used to support and promote major  
 1575 sporting events, and the uses must be approved by the Department  
 1576 of Economic Opportunity ~~Florida Sports Foundation~~.

1577 2. The remaining proceeds of the Florida Professional  
 1578 Sports Team license plate must be allocated to Enterprise  
 1579 Florida, Inc. These funds must be deposited into the  
 1580 Professional Sports Development Trust Fund within the Department  
 1581 of Economic Opportunity. These funds must be used by Enterprise  
 1582 Florida, Inc., to promote the economic development of the sports  
 1583 industry; to distribute licensing and royalty fees to  
 1584 participating professional sports teams; to promote education  
 1585 programs in Florida schools that provide an awareness of the  
 1586 benefits of physical activity and nutrition standards; to  
 1587 partner with the Department of Education and the Department of  
 1588 Health to develop a program that recognizes schools whose  
 1589 students demonstrate excellent physical fitness or fitness  
 1590 improvement; to institute a grant program for communities  
 1591 bidding on minor sporting events that create an economic impact  
 1592 for the state; to distribute funds to Florida-based charities  
 1593 designated by Enterprise Florida, Inc., and the participating  
 1594 professional sports teams; and to fulfill the sports promotion  
 1595 responsibilities of the Department of Economic Opportunity.

577-00918B-12 20127024  
 1596 3. Enterprise Florida, Inc., shall provide an annual  
 1597 financial audit in accordance with s. 215.981 of its financial  
 1598 accounts and records by an independent certified public  
 1599 accountant pursuant to the contract established by the  
 1600 Department of Economic Opportunity. The auditor shall submit the  
 1601 audit report to the Department of Economic Opportunity for  
 1602 review and approval. If the audit report is approved, the  
 1603 Department of Economic Opportunity shall certify the audit  
 1604 report to the Auditor General for review.

1605 4. Notwithstanding the provisions of subparagraphs 1. and  
 1606 2., proceeds from the Professional Sports Development Trust Fund  
 1607 may also be used for operational expenses of Enterprise Florida,  
 1608 Inc., and financial support of the Sunshine State Games.

1609 (35) FLORIDA GOLF LICENSE PLATES.—

1610 (a) The Department of Highway Safety and Motor Vehicles  
 1611 shall develop a Florida Golf license plate as provided in this  
 1612 section. The word "Florida" must appear at the bottom of the  
 1613 plate. The Dade Amateur Golf Association, following consultation  
 1614 with the PGA TOUR, Enterprise Florida, Inc., ~~the Florida Sports~~  
 1615 ~~Foundation~~, the LPGA, and the PGA of America, may submit a  
 1616 revised sample plate for consideration by the department.

1617 (62) PROTECT FLORIDA SPRINGS LICENSE PLATES.—

1618 (b) The annual use fees shall be distributed to the  
 1619 Wildlife Foundation of Florida, Inc., a citizen support  
 1620 organization created pursuant to s. 379.223, which shall  
 1621 administer the fees as follows:

1622 1. Wildlife Foundation of Florida, Inc., shall retain the  
 1623 first \$60,000 of the annual use fees as direct reimbursement for  
 1624 administrative costs, startup costs, and costs incurred in the

577-00918B-12 20127024\_\_

1625 development and approval process.

1626 2. Thereafter, a maximum of 10 percent of the fees may be  
1627 used for administrative costs directly associated with education  
1628 programs, conservation, springs research, and grant  
1629 administration of the foundation. A maximum of 15 percent of the  
1630 fees may be used for continuing promotion and marketing of the  
1631 license plate.

1632 3. At least 55 percent of the fees shall be available for  
1633 competitive grants for targeted community-based springs research  
1634 not currently available for state funding. The remaining 20  
1635 percent shall be directed toward community outreach programs  
1636 aimed at implementing such research findings. The competitive  
1637 grants shall be administered and approved by the board of  
1638 directors of the Wildlife Foundation of Florida. The granting  
1639 advisory committee shall be composed of nine members, including  
1640 one representative from the Fish and Wildlife Conservation  
1641 Commission, one representative from the Department of  
1642 Environmental Protection, one representative from the Department  
1643 of Health, one representative from the Department of Economic  
1644 Opportunity Community Affairs, three citizen representatives,  
1645 and two representatives from nonprofit stakeholder groups.

1646 4. The remaining funds shall be distributed with the  
1647 approval of and accountability to the board of directors of the  
1648 Wildlife Foundation of Florida, and shall be used to support  
1649 activities contributing to education, outreach, and springs  
1650 conservation.

1651 Section 53. Paragraph (b) of subsection (5) of section  
1652 339.135, Florida Statutes, is amended to read:

1653 339.135 Work program; legislative budget request;

577-00918B-12 20127024\_\_

1654 definitions; preparation, adoption, execution, and amendment.-

1655 (5) ADOPTION OF THE WORK PROGRAM.-

1656 (b) Notwithstanding paragraph (a), and for the 2011-2012  
1657 fiscal year only, the Department of Transportation shall  
1658 transfer funds to the Department of Economic Opportunity Office  
1659 ~~of Tourism, Trade, and Economic Development~~ in an amount equal  
1660 to \$15 million for the purpose of funding transportation-related  
1661 needs of economic development projects. This transfer does shall  
1662 not reduce, delete, or defer any existing projects funded, as of  
1663 July 1, 2011, in the Department of Transportation's 5-year work  
1664 program. This paragraph expires July 1, 2012.

1665 Section 54. Subsection (1) of section 342.201, Florida  
1666 Statutes, is amended to read:

1667 342.201 Waterfronts Florida Program.-

1668 (1) There is established within the Department of Economic  
1669 Opportunity Environmental Protection the Waterfronts Florida  
1670 Program to provide technical assistance and support to  
1671 communities in revitalizing waterfront areas in this state.

1672 Section 55. Paragraph (h) of subsection (2) of section  
1673 377.703, Florida Statutes, is amended to read:

1674 377.703 Additional functions of the Department of  
1675 Agriculture and Consumer Services.-

1676 (2) DUTIES.-The department shall perform the following  
1677 functions, unless as otherwise provided, consistent with the  
1678 development of a state energy policy:

1679 (h) The department shall promote the development and use of  
1680 renewable energy resources, in conformance with ~~the provisions~~  
1681 ~~of~~ chapter 187 and s. 377.601, by:

1682 1. Establishing goals and strategies for increasing the use

577-00918B-12 20127024\_\_

1683 of solar energy in this state.

1684 2. Aiding and promoting the commercialization of solar  
1685 energy technology, in cooperation with the Florida Solar Energy  
1686 Center, Enterprise Florida, Inc., and any other federal, state,  
1687 or local governmental agency which may seek to promote research,  
1688 development, and demonstration of solar energy equipment and  
1689 technology.

1690 3. Identifying barriers to greater use of solar energy  
1691 systems in this state, and developing specific recommendations  
1692 for overcoming identified barriers, with findings and  
1693 recommendations to be submitted annually in the report to the  
1694 Governor and Legislature required under paragraph (f).

1695 4. In cooperation with the Department of Environmental  
1696 Protection, the Department of Transportation, the Department of  
1697 Economic Opportunity ~~Community Affairs~~, Enterprise Florida,  
1698 Inc., the Florida Solar Energy Center, and the Florida Solar  
1699 Energy Industries Association, investigating opportunities,  
1700 pursuant to the National Energy Policy Act of 1992, the Housing  
1701 and Community Development Act of 1992, and any subsequent  
1702 federal legislation, for solar electric vehicles and other solar  
1703 energy manufacturing, distribution, installation, and financing  
1704 efforts which will enhance this state's position as the leader  
1705 in solar energy research, development, and use.

1706 5. Undertaking other initiatives to advance the development  
1707 and use of renewable energy resources in this state.

1708  
1709 In the exercise of its responsibilities under this paragraph,  
1710 the department shall seek the assistance of the solar energy  
1711 industry in this state and other interested parties and is

577-00918B-12 20127024\_\_

1712 authorized to enter into contracts, retain professional  
1713 consulting services, and expend funds appropriated by the  
1714 Legislature for such purposes.

1715 Section 56. Paragraphs (c) and (d) of subsection (4) of  
1716 section 377.809, Florida Statutes, are amended to read:

1717 377.809 Energy Economic Zone Pilot Program.—

1718 (4)

1719 (c) Upon approving an incentive for an eligible business,  
1720 the governing body that has jurisdiction over the energy  
1721 economic zone shall provide the taxpayer with a certificate  
1722 indicating the name and federal identification number of the  
1723 eligible business, the date the incentive is provided, the name  
1724 of the energy economic zone, the incentive type, and the  
1725 incentive amount. The local governing body shall certify to the  
1726 Department of Revenue or the Department of Economic Opportunity  
1727 ~~Office of Tourism, Trade, and Economic Development~~, whichever is  
1728 applicable, which businesses or properties are eligible to  
1729 receive any or all of the state incentives according to their  
1730 statutory requirements. The governing body that has jurisdiction  
1731 over the energy economic zone shall provide a copy of the  
1732 certificate to the Department of Revenue and the Department of  
1733 Economic Opportunity ~~Office of Tourism, Trade, and Economic~~  
1734 ~~Development~~ as notification that such incentives were approved  
1735 for the specific eligible business or property. For incentives  
1736 to be claimed against the sales and use tax under chapter 212,  
1737 the Department of Revenue shall send, within 14 days after  
1738 receipt, written instructions to an eligible business on how to  
1739 claim the credit on a sales and use tax return initiated through  
1740 an electronic data interchange. Any credit against the sales and

577-00918B-12

20127024

1741 use tax shall be deducted from any sales and use tax remitted by  
 1742 the dealer to the Department of Revenue by electronic funds  
 1743 transfer and may be deducted only on a sales and use tax return  
 1744 initiated through an electronic data interchange. The dealer  
 1745 shall separately state the credit on the electronic return. The  
 1746 net amount of tax due and payable must be remitted by electronic  
 1747 funds transfer. If the credit exceeds the amount owed on the  
 1748 sales and use tax return, such excess amount may be carried  
 1749 forward for a period not to exceed 12 months after the date that  
 1750 the credit is initially claimed.

1751 (d) If all conditions are deemed met, the Department of  
 1752 Economic Opportunity Office of Tourism, Trade, and Economic  
 1753 Development and the Department of Revenue may adopt emergency  
 1754 rules pursuant to ss. 120.536(1) and 120.54 to administer ~~the~~  
 1755 ~~provisions of~~ this subsection. The emergency rules shall remain  
 1756 in effect for 6 months after the rules are adopted, and the  
 1757 rules may be renewed while the procedures to adopt permanent  
 1758 rules addressing the subject of the emergency rules are pending.

1759 Section 57. Paragraph (b) of subsection (6), paragraph (b)  
 1760 of subsection (19), paragraphs (l) and (q) of subsection (24),  
 1761 and paragraphs (b) and (c) of subsection (29) of section 380.06,  
 1762 Florida Statutes, are amended to read:

1763 380.06 Developments of regional impact.—

1764 (6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT  
 1765 PLAN AMENDMENTS.—

1766 (b) Any local government comprehensive plan amendments  
 1767 related to a proposed development of regional impact, including  
 1768 any changes proposed under subsection (19), may be initiated by  
 1769 a local planning agency or the developer and must be considered

577-00918B-12

20127024

1770 by the local governing body at the same time as the application  
 1771 for development approval using the procedures provided for local  
 1772 plan amendment in s. 163.3187 and applicable local ordinances,  
 1773 without regard to local limits on the frequency of consideration  
 1774 of amendments to the local comprehensive plan. This paragraph  
 1775 does not require favorable consideration of a plan amendment  
 1776 solely because it is related to a development of regional  
 1777 impact. The procedure for processing such comprehensive plan  
 1778 amendments is as follows:

1779 1. If a developer seeks a comprehensive plan amendment  
 1780 related to a development of regional impact, the developer must  
 1781 so notify in writing the regional planning agency, the  
 1782 applicable local government, and the state land planning agency  
 1783 no later than the date of preapplication conference or the  
 1784 submission of the proposed change under subsection (19).

1785 2. When filing the application for development approval or  
 1786 the proposed change, the developer must include a written  
 1787 request for comprehensive plan amendments that would be  
 1788 necessitated by the development-of-regional-impact approvals  
 1789 sought. That request must include data and analysis upon which  
 1790 the applicable local government can determine whether to  
 1791 transmit the comprehensive plan amendment pursuant to s.  
 1792 163.3184.

1793 3. The local government must advertise a public hearing on  
 1794 the transmittal within 30 days after filing the application for  
 1795 development approval or the proposed change and must make a  
 1796 determination on the transmittal within 60 days after the  
 1797 initial filing unless that time is extended by the developer.

1798 4. If the local government approves the transmittal,

577-00918B-12

20127024

1799 procedures set forth in s. 163.3184(3)(b) and (c)  
 1800 ~~163.3184(4)(b)-(d)~~ must be followed.

1801 5. Notwithstanding subsection (11) or subsection (19), the  
 1802 local government may not hold a public hearing on the  
 1803 application for development approval or the proposed change or  
 1804 on the comprehensive plan amendments sooner than 30 days after  
 1805 ~~from~~ receipt of the response from the state land planning agency  
 1806 pursuant to s. 163.3184(3)(c)1. ~~163.3184(4)(d).~~

1807 6. The local government must hear both the application for  
 1808 development approval or the proposed change and the  
 1809 comprehensive plan amendments at the same hearing. However, the  
 1810 local government must take action separately on the application  
 1811 for development approval or the proposed change and on the  
 1812 comprehensive plan amendments.

1813 7. Thereafter, the appeal process for the local government  
 1814 development order must follow the provisions of s. 380.07, and  
 1815 the compliance process for the comprehensive plan amendments  
 1816 must follow the provisions of s. 163.3184.

1817 (19) SUBSTANTIAL DEVIATIONS.—

1818 (b) Any proposed change to a previously approved  
 1819 development of regional impact or development order condition  
 1820 which, either individually or cumulatively with other changes,  
 1821 exceeds any of the following criteria shall constitute a  
 1822 substantial deviation and shall cause the development to be  
 1823 subject to further development-of-regional-impact review without  
 1824 the necessity for a finding of same by the local government:

1825 1. An increase in the number of parking spaces at an  
 1826 attraction or recreational facility by 15 percent or 500 spaces,  
 1827 whichever is greater, or an increase in the number of spectators

577-00918B-12

20127024

1828 that may be accommodated at such a facility by 15 percent or  
 1829 1,500 spectators, whichever is greater.

1830 2. A new runway, a new terminal facility, a 25 percent ~~25-~~  
 1831 ~~percent~~ lengthening of an existing runway, or a 25 percent ~~25-~~  
 1832 ~~percent~~ increase in the number of gates of an existing terminal,  
 1833 but only if the increase adds at least three additional gates.

1834 3. An increase in land area for office development by 15  
 1835 percent or an increase of gross floor area of office development  
 1836 by 15 percent or 100,000 gross square feet, whichever is  
 1837 greater.

1838 4. An increase in the number of dwelling units by 10  
 1839 percent or 55 dwelling units, whichever is greater.

1840 5. An increase in the number of dwelling units by 50  
 1841 percent or 200 units, whichever is greater, provided that 15  
 1842 percent of the proposed additional dwelling units are dedicated  
 1843 to affordable workforce housing, subject to a recorded land use  
 1844 restriction that shall be for a period of not less than 20 years  
 1845 and that includes resale provisions to ensure long-term  
 1846 affordability for income-eligible homeowners and renters and  
 1847 provisions for the workforce housing to be commenced prior to  
 1848 the completion of 50 percent of the market rate dwelling. For  
 1849 purposes of this subparagraph, the term "affordable workforce  
 1850 housing" means housing that is affordable to a person who earns  
 1851 less than 120 percent of the area median income, or less than  
 1852 140 percent of the area median income if located in a county in  
 1853 which the median purchase price for a single-family existing  
 1854 home exceeds the statewide median purchase price of a single-  
 1855 family existing home. For purposes of this subparagraph, the  
 1856 term "statewide median purchase price of a single-family

577-00918B-12 20127024  
 1857 existing home" means the statewide purchase price as determined  
 1858 in the Florida Sales Report, Single-Family Existing Homes,  
 1859 released each January by the Florida Association of Realtors and  
 1860 the University of Florida Real Estate Research Center.

1861 6. An increase in commercial development by 60,000 square  
 1862 feet of gross floor area or of parking spaces provided for  
 1863 customers for 425 cars or a 10 percent ~~10-percent~~ increase,  
 1864 whichever is greater.

1865 7. An increase in a recreational vehicle park area by 10  
 1866 percent or 110 vehicle spaces, whichever is less.

1867 8. A decrease in the area set aside for open space of 5  
 1868 percent or 20 acres, whichever is less.

1869 9. A proposed increase to an approved multiuse development  
 1870 of regional impact where the sum of the increases of each land  
 1871 use as a percentage of the applicable substantial deviation  
 1872 criteria is equal to or exceeds 110 percent. The percentage of  
 1873 any decrease in the amount of open space shall be treated as an  
 1874 increase for purposes of determining when 110 percent has been  
 1875 reached or exceeded.

1876 10. A 15 percent ~~15-percent~~ increase in the number of  
 1877 external vehicle trips generated by the development above that  
 1878 which was projected during the original development-of-regional-  
 1879 impact review.

1880 11. Any change ~~that which~~ would result in development of  
 1881 any area which was specifically set aside in the application for  
 1882 development approval or in the development order for  
 1883 preservation or special protection of endangered or threatened  
 1884 plants or animals designated as endangered, threatened, or  
 1885 species of special concern and their habitat, any species

577-00918B-12 20127024  
 1886 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or  
 1887 archaeological and historical sites designated as significant by  
 1888 the Division of Historical Resources of the Department of State.  
 1889 The refinement of the boundaries and configuration of such areas  
 1890 shall be considered under sub-subparagraph (e)2.j.

1891  
 1892 The substantial deviation numerical standards in subparagraphs  
 1893 3., 6., and 9., excluding residential uses, and in subparagraph  
 1894 10., are increased by 100 percent for a project certified under  
 1895 s. 403.973 which creates jobs and meets criteria established by  
 1896 the Department of Economic Opportunity Office of Tourism, Trade,  
 1897 ~~and Economic Development~~ as to its impact on an area's economy,  
 1898 employment, and prevailing wage and skill levels. The  
 1899 substantial deviation numerical standards in subparagraphs 3.,  
 1900 4., 5., 6., 9., and 10. are increased by 50 percent for a  
 1901 project located wholly within an urban infill and redevelopment  
 1902 area designated on the applicable adopted local comprehensive  
 1903 plan future land use map and not located within the coastal high  
 1904 hazard area.

1905 (24) STATUTORY EXEMPTIONS.—

1906 (1) Any proposed development within an urban service  
 1907 boundary established under s. 163.3177(14), Florida Statutes  
 1908 (2010), which is not otherwise exempt pursuant to subsection  
 1909 (29), is exempt from this section if the local government having  
 1910 jurisdiction over the area where the development is proposed has  
 1911 adopted the urban service boundary and has entered into a  
 1912 binding agreement with jurisdictions that would be impacted and  
 1913 with the Department of Transportation regarding the mitigation  
 1914 of impacts on state and regional transportation facilities.

577-00918B-12

20127024

1915 (q) Any development identified in an airport master plan  
1916 and adopted into the comprehensive plan pursuant to s.  
1917 163.3177(6)(k), Florida Statutes (2010) is exempt from this  
1918 section.

1919  
1920 If a use is exempt from review as a development of regional  
1921 impact under paragraphs (a)-(u), but will be part of a larger  
1922 project that is subject to review as a development of regional  
1923 impact, the impact of the exempt use must be included in the  
1924 review of the larger project, unless such exempt use involves a  
1925 development of regional impact that includes a landowner,  
1926 tenant, or user that has entered into a funding agreement with  
1927 the Department of Economic Opportunity under the Innovation  
1928 Incentive Program and the agreement contemplates a state award  
1929 of at least \$50 million.

1930 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

1931 (b) If a municipality that does not qualify as a dense  
1932 urban land area ~~pursuant to s. 163.3164~~ designates any of the  
1933 following areas in its comprehensive plan, any proposed  
1934 development within the designated area is exempt from the  
1935 development-of-regional-impact process:  
1936 1. Urban infill as defined in s. 163.3164;  
1937 2. Community redevelopment areas as defined in s. 163.340;  
1938 3. Downtown revitalization areas as defined in s. 163.3164;  
1939 4. Urban infill and redevelopment under s. 163.2517; or  
1940 5. Urban service areas as defined in s. 163.3164 or areas  
1941 within a designated urban service boundary under s.  
1942 163.3177(14).

1943 (c) If a county that does not qualify as a dense urban land

Page 67 of 89

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

577-00918B-12

20127024

1944 area ~~pursuant to s. 163.3164~~ designates any of the following  
1945 areas in its comprehensive plan, any proposed development within  
1946 the designated area is exempt from the development-of-regional-  
1947 impact process:

- 1948 1. Urban infill as defined in s. 163.3164;
- 1949 2. Urban infill and redevelopment under s. 163.2517; or
- 1950 3. Urban service areas as defined in s. 163.3164.

1951 Section 58. Paragraph (a) of subsection (4) of section  
1952 402.56, Florida Statutes, is amended to read:

1953 402.56 Children's cabinet; organization; responsibilities;  
1954 annual report.—

1955 (4) MEMBERS.—The cabinet shall consist of 14 members  
1956 including the Governor and the following persons:

- 1957 (a)1. The Secretary of Children and Family Services;
- 1958 2. The Secretary of Juvenile Justice;
- 1959 3. The director of the Agency for Persons with  
1960 Disabilities;
- 1961 4. The director of the Office ~~Division~~ of Early Learning;
- 1962 5. The State Surgeon General;
- 1963 6. The Secretary of Health Care Administration;
- 1964 7. The Commissioner of Education;
- 1965 8. The director of the Statewide Guardian Ad Litem Office;
- 1966 9. The director of the Office of Child Abuse Prevention;

1967 and  
1968 10. Five members representing children and youth advocacy  
1969 organizations, who are not service providers and who are  
1970 appointed by the Governor.

1971 Section 59. Subsection (6) of section 403.0891, Florida  
1972 Statutes, is amended to read:

Page 68 of 89

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

577-00918B-12

20127024

1973 403.0891 State, regional, and local stormwater management  
 1974 plans and programs.—The department, the water management  
 1975 districts, and local governments shall have the responsibility  
 1976 for the development of mutually compatible stormwater management  
 1977 programs.

1978 (6) The department and the Department of Economic  
 1979 Opportunity Community Affairs, in cooperation with local  
 1980 governments in the coastal zone, shall develop a model  
 1981 stormwater management program that could be adopted by local  
 1982 governments. The model program shall contain dedicated funding  
 1983 options, including a stormwater utility fee system based upon an  
 1984 equitable unit cost approach. Funding options shall be designed  
 1985 to generate capital to retrofit existing stormwater management  
 1986 systems, build new treatment systems, operate facilities, and  
 1987 maintain and service debt.

1988 Section 60. Subsection (8) of section 420.503, Florida  
 1989 Statutes, is amended to read:

1990 420.503 Definitions.—As used in this part, the term:

1991 (8) "Contract" means the contract between the executive  
 1992 director ~~secretary~~ of the department and the corporation for  
 1993 provision of housing services referenced in s. 420.0006.

1994 Section 61. Subsection (30) of section 420.507, Florida  
 1995 Statutes, is amended to read:

1996 420.507 Powers of the corporation.—The corporation shall  
 1997 have all the powers necessary or convenient to carry out and  
 1998 effectuate the purposes and provisions of this part, including  
 1999 the following powers which are in addition to all other powers  
 2000 granted by other provisions of this part:

2001 (30) To prepare and submit to the executive director

577-00918B-12

20127024

2002 ~~secretary~~ of the department a budget request for purposes of the  
 2003 corporation, which request shall, notwithstanding the provisions  
 2004 of chapter 216 and in accordance with s. 216.351, contain a  
 2005 request for operational expenditures and separate requests for  
 2006 other authorized corporation programs. The request need shall  
 2007 ~~not be required to~~ contain information on the number of  
 2008 employees, salaries, or any classification thereof, and the  
 2009 approved operating budget therefor need not comply with s.  
 2010 216.181(8)-(10). The executive director may ~~secretary is~~  
 2011 ~~authorized to~~ include within the department's budget request the  
 2012 corporation's budget request in the form as authorized by this  
 2013 section.

2014 Section 62. Paragraph (d) of subsection (1) of section  
 2015 420.101, Florida Statutes, is amended to read:

2016 420.101 Housing Development Corporation of Florida;  
 2017 creation, membership, and purposes.—

2018 (1) Twenty-five or more persons, a majority of whom shall  
 2019 be residents of this state, who may desire to create a housing  
 2020 development corporation under the provisions of this part for  
 2021 the purpose of promoting and developing housing and advancing  
 2022 the prosperity and economic welfare of the state and, to that  
 2023 end, to exercise the powers and privileges hereinafter provided,  
 2024 may be incorporated by filing in the Department of State, as  
 2025 hereinafter provided, articles of incorporation. The articles of  
 2026 incorporation shall contain:

2027 (d) The names and post office addresses of the members of  
 2028 the first board of directors. The first board of directors shall  
 2029 be elected by and from the stockholders of the corporation and  
 2030 shall consist of 21 members. However, five of such members shall

577-00918B-12 20127024

2031 consist of the following persons, who shall be nonvoting  
 2032 members: the executive director ~~secretary~~ of the Department of  
 2033 Economic Opportunity or her or his designee; the head of the  
 2034 Department of Financial Services or her or his designee with  
 2035 expertise in banking matters; a designee of the head of the  
 2036 Department of Financial Services with expertise in insurance  
 2037 matters; one state senator appointed by the President of the  
 2038 Senate; and one representative appointed by the Speaker of the  
 2039 House of Representatives.

2040 Section 63. Section 420.0005, Florida Statutes, is amended  
 2041 to read:

2042 420.0005 State Housing Trust Fund; State Housing Fund.-  
 2043 There is ~~hereby~~ established in the State Treasury a separate  
 2044 trust fund to be named the "State Housing Trust Fund." There  
 2045 shall be deposited in the fund all moneys appropriated by the  
 2046 Legislature, or moneys received from any other source, for the  
 2047 purpose of this chapter, and all proceeds derived from the use  
 2048 of such moneys. The fund shall be administered by the Florida  
 2049 Housing Finance Corporation on behalf of the department, as  
 2050 specified in this chapter. Money deposited to the fund and  
 2051 appropriated by the Legislature must, notwithstanding the  
 2052 provisions of chapter 216 or s. 420.504(3), be transferred  
 2053 quarterly in advance, to the extent available, or, if not so  
 2054 available, as soon as received into the State Housing Trust  
 2055 Fund, and subject to the provisions of s. 420.5092(6)(a) and (b)  
 2056 by the Chief Financial Officer to the corporation upon  
 2057 certification by the executive director of the Department of  
 2058 Economic Opportunity that the corporation is in compliance with  
 2059 the requirements of s. 420.0006. The certification made by the

577-00918B-12 20127024

2060 executive director ~~secretary~~ shall also include the split of  
 2061 funds among programs administered by the corporation and the  
 2062 department as specified in chapter 92-317, Laws of Florida, as  
 2063 amended. Moneys advanced by the Chief Financial Officer must be  
 2064 deposited by the corporation into a separate fund established  
 2065 with a qualified public depository meeting the requirements of  
 2066 chapter 280 to be named the "State Housing Fund" and used for  
 2067 the purposes of this chapter. Administrative and personnel costs  
 2068 incurred in implementing this chapter may be paid from the State  
 2069 Housing Fund, but such costs may not exceed 5 percent of the  
 2070 moneys deposited into such fund. To the State Housing Fund shall  
 2071 be credited all loan repayments, penalties, and other fees and  
 2072 charges accruing to such fund under this chapter. It is the  
 2073 intent of this chapter that all loan repayments, penalties, and  
 2074 other fees and charges collected be credited in full to the  
 2075 program account from which the loan originated. Moneys in the  
 2076 State Housing Fund which are not currently needed for the  
 2077 purposes of this chapter shall be invested in such manner as is  
 2078 provided for by statute. The interest received on any such  
 2079 investment shall be credited to the State Housing Fund.

2080 Section 64. Section 420.0006, Florida Statutes, is amended  
 2081 to read:

2082 420.0006 Authority to contract with corporation; contract  
 2083 requirements; nonperformance.-The executive director ~~secretary~~  
 2084 of the department shall contract, notwithstanding ~~the provisions~~  
 2085 ~~of~~ part I of chapter 287, with the Florida Housing Finance  
 2086 Corporation on a multiyear basis to stimulate, provide, and  
 2087 foster affordable housing in the state. The contract must  
 2088 incorporate the performance measures required by s. 420.511 and

577-00918B-12

20127024

2089 must be consistent with the provisions of the corporation's  
 2090 strategic plan prepared in accordance with s. 420.511. The  
 2091 contract must provide that, in the event the corporation fails  
 2092 to comply with any of the performance measures required by s.  
 2093 420.511, the executive director ~~secretary~~ shall notify the  
 2094 Governor and shall refer the nonperformance to the department's  
 2095 inspector general for review and determination as to whether  
 2096 such failure is due to forces beyond the corporation's control  
 2097 or whether such failure is due to inadequate management of the  
 2098 corporation's resources. Advances shall continue to be made  
 2099 pursuant to s. 420.0005 during the pendency of the review by the  
 2100 department's inspector general. If such failure is due to  
 2101 outside forces, it shall not be deemed a violation of the  
 2102 contract. If such failure is due to inadequate management, the  
 2103 department's inspector general shall provide recommendations  
 2104 regarding solutions. The Governor is authorized to resolve any  
 2105 differences of opinion with respect to performance under the  
 2106 contract and may request that advances continue in the event of  
 2107 a failure under the contract due to inadequate management. The  
 2108 Chief Financial Officer shall approve the request absent a  
 2109 finding by the Chief Financial Officer that continuing such  
 2110 advances would adversely impact the state; however, in any event  
 2111 the Chief Financial Officer shall provide advances sufficient to  
 2112 meet the debt service requirements of the corporation and  
 2113 sufficient to fund contracts committing funds from the State  
 2114 Housing Trust Fund so long as such contracts are in accordance  
 2115 with the laws of this state.

2116 Section 65. Subsection (26) of section 443.036, Florida  
 2117 Statutes, is amended to read:

Page 73 of 89

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

577-00918B-12

20127024

2118 443.036 Definitions.—As used in this chapter, the term:  
 2119 (26) "Initial skills review" means an online education or  
 2120 training program, such as that established under s. 1004.99,  
 2121 ~~which that~~ is approved by the Department of Economic Opportunity  
 2122 ~~Agency for Workforce Innovation~~ and designed to measure an  
 2123 individual's mastery level of workplace skills.

2124 Section 66. Paragraphs (c) and (d) of subsection (1) of  
 2125 section 443.091, Florida Statutes, are amended to read:

2126 443.091 Benefit eligibility conditions.—

2127 (1) An unemployed individual is eligible to receive  
 2128 benefits for any week only if the Department of Economic  
 2129 Opportunity finds that:

2130 (c) To make continued claims for benefits, she or he is  
 2131 reporting to the department in accordance with this paragraph  
 2132 and ~~department agency~~ rules, and participating in an initial  
 2133 skills review as directed by the department agency. Department  
 2134 ~~Agency~~ rules may not conflict with s. 443.111(1)(b), which  
 2135 requires that each claimant continue to report regardless of any  
 2136 pending appeal relating to her or his eligibility or  
 2137 disqualification for benefits.

2138 1. For each week of unemployment claimed, each report must,  
 2139 at a minimum, include the name, address, and telephone number of  
 2140 each prospective employer contacted, or the date the claimant  
 2141 reported to a one-stop career center, pursuant to paragraph (d).

2142 2. The administrator or operator of the initial skills  
 2143 review shall notify the department agency when the individual  
 2144 completes the initial skills review and report the results of  
 2145 the review to the regional workforce board or the one-stop  
 2146 career center as directed by the workforce board. The workforce

Page 74 of 89

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

577-00918B-12 20127024

2147 board shall use the initial skills review to develop a plan for  
 2148 referring individuals to training and employment opportunities.  
 2149 The failure of the individual to comply with this requirement  
 2150 will result in the individual being determined ineligible for  
 2151 benefits for the week in which the noncompliance occurred and  
 2152 for any subsequent week of unemployment until the requirement is  
 2153 satisfied. However, this requirement does not apply if the  
 2154 individual is able to affirmatively attest to being unable to  
 2155 complete such review due to illiteracy or a language impediment.  
 2156 (d) She or he is able to work and is available for work. In  
 2157 order to assess eligibility for a claimed week of unemployment,  
 2158 the department shall develop criteria to determine a claimant's  
 2159 ability to work and availability for work. A claimant must be  
 2160 actively seeking work in order to be considered available for  
 2161 work. This means engaging in systematic and sustained efforts to  
 2162 find work, including contacting at least five prospective  
 2163 employers for each week of unemployment claimed. The department  
 2164 ~~agency~~ may require the claimant to provide proof of such efforts  
 2165 to the one-stop career center as part of reemployment services.  
 2166 The department ~~agency~~ shall conduct random reviews of work  
 2167 search information provided by claimants. As an alternative to  
 2168 contacting at least five prospective employers for any week of  
 2169 unemployment claimed, a claimant may, for that same week, report  
 2170 in person to a one-stop career center to meet with a  
 2171 representative of the center and access reemployment services of  
 2172 the center. The center shall keep a record of the services or  
 2173 information provided to the claimant and shall provide the  
 2174 records to the department ~~agency~~ upon request by the department  
 2175 ~~agency~~. However:

Page 75 of 89

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

577-00918B-12 20127024

2176 1. Notwithstanding any other provision of this paragraph or  
 2177 paragraphs (b) and (e), an otherwise eligible individual may not  
 2178 be denied benefits for any week because she or he is in training  
 2179 with the approval of the department, or by reason of s.  
 2180 443.101(2) relating to failure to apply for, or refusal to  
 2181 accept, suitable work. Training may be approved by the  
 2182 department in accordance with criteria prescribed by rule. A  
 2183 claimant's eligibility during approved training is contingent  
 2184 upon satisfying eligibility conditions prescribed by rule.  
 2185 2. Notwithstanding any other provision of this chapter, an  
 2186 otherwise eligible individual who is in training approved under  
 2187 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
 2188 determined ineligible or disqualified for benefits due to  
 2189 enrollment in such training or because of leaving work that is  
 2190 not suitable employment to enter such training. As used in this  
 2191 subparagraph, the term "suitable employment" means work of a  
 2192 substantially equal or higher skill level than the worker's past  
 2193 adversely affected employment, as defined for purposes of the  
 2194 Trade Act of 1974, as amended, the wages for which are at least  
 2195 80 percent of the worker's average weekly wage as determined for  
 2196 purposes of the Trade Act of 1974, as amended.  
 2197 3. Notwithstanding any other provision of this section, an  
 2198 otherwise eligible individual may not be denied benefits for any  
 2199 week because she or he is before any state or federal court  
 2200 pursuant to a lawfully issued summons to appear for jury duty.  
 2201 Section 67. Paragraph (a) of subsection (5) of section  
 2202 443.111, Florida Statutes, is amended to read:  
 2203 443.111 Payment of benefits.—  
 2204 (5) DURATION OF BENEFITS.—

Page 76 of 89

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

577-00918B-12

20127024

2205 (a) As used in this section, the term "Florida average  
2206 unemployment rate" means the average of the 3 months for the  
2207 most recent third calendar year quarter of the seasonally  
2208 adjusted statewide unemployment rates as published by the  
2209 Department of Economic Opportunity Agency for Workforce  
2210 Innovation.

2211 Section 68. Paragraph (b) of subsection (1) of section  
2212 443.141, Florida Statutes, is amended to read:

2213 443.141 Collection of contributions and reimbursements.—

2214 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
2215 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

2216 (b) *Penalty for delinquent, erroneous, incomplete, or*  
2217 *insufficient reports.*—

2218 1. An employing unit that fails to file any report required  
2219 by the Department of Economic Opportunity or its tax collection  
2220 service provider, in accordance with rules for administering  
2221 this chapter, shall pay to the service provider for each  
2222 delinquent report the sum of \$25 for each 30 days or fraction  
2223 thereof that the employing unit is delinquent, unless the  
2224 department agency or its service provider, whichever required  
2225 the report, finds that the employing unit has good reason for  
2226 failing to file the report. The department or its service  
2227 provider may assess penalties only through the date of the  
2228 issuance of the final assessment notice. However, additional  
2229 penalties accrue if the delinquent report is subsequently filed.

2230 2.a. An employing unit that files an erroneous, incomplete,  
2231 or insufficient report with the department or its tax collection  
2232 service provider shall pay a penalty. The amount of the penalty  
2233 is \$50 or 10 percent of any tax due, whichever is greater, but

577-00918B-12

20127024

2234 no more than \$300 per report. The penalty shall be added to any  
2235 tax, penalty, or interest otherwise due.

2236 b. The department or its tax collection service provider  
2237 shall waive the penalty if the employing unit files an accurate,  
2238 complete, and sufficient report within 30 days after a penalty  
2239 notice is issued to the employing unit. The penalty may not be  
2240 waived pursuant to this subparagraph more than one time during a  
2241 12-month period.

2242 c. As used in this subsection, the term "erroneous,  
2243 incomplete, or insufficient report" means a report so lacking in  
2244 information, completeness, or arrangement that the report cannot  
2245 be readily understood, verified, or reviewed. Such reports  
2246 include, but are not limited to, reports having missing wage or  
2247 employee information, missing or incorrect social security  
2248 numbers, or illegible entries; reports submitted in a format  
2249 that is not approved by the department or its tax collection  
2250 service provider; and reports showing gross wages that do not  
2251 equal the total of the wages of each employee. However, the term  
2252 does not include a report that merely contains inaccurate data  
2253 that was supplied to the employer by the employee, if the  
2254 employer was unaware of the inaccuracy.

2255 3. Penalties imposed pursuant to this paragraph shall be  
2256 deposited in the Special Employment Security Administration  
2257 Trust Fund.

2258 4. The penalty and interest for a delinquent, erroneous,  
2259 incomplete, or insufficient report may be waived if the penalty  
2260 or interest is inequitable. The provisions of s. 213.24(1) apply  
2261 to any penalty or interest that is imposed under this section.

2262 Section 69. Paragraph (b) of subsection (2) of section

577-00918B-12

20127024

2263 443.1715, Florida Statutes, is amended to read:

2264 443.1715 Disclosure of information; confidentiality.—

2265 (2) DISCLOSURE OF INFORMATION.—

2266 (b) The employer or the employer's workers' compensation  
2267 carrier against whom a claim for benefits under chapter 440 has  
2268 been made, or a representative of either, may request from the  
2269 department records of wages of the employee reported to the  
2270 department by any employer for the quarter that includes the  
2271 date of the accident that is the subject of such claim and for  
2272 subsequent quarters.

2273 1. The request must be made with the authorization or  
2274 consent of the employee or any employer who paid wages to the  
2275 employee after the date of the accident.

2276 2. The employer or carrier shall make the request on a form  
2277 prescribed by rule for such purpose by the department ~~agency~~.  
2278 Such form shall contain a certification by the requesting party  
2279 that it is a party entitled to the information requested.

2280 3. The department shall provide the most current  
2281 information readily available within 15 days after receiving the  
2282 request.

2283 Section 70. Subsections (1), (2), (4), (5), (6), and (7) of  
2284 section 443.17161, Florida Statutes, are amended to read:

2285 443.17161 Authorized electronic access to employer  
2286 information.—

2287 (1) Notwithstanding any other provision of this chapter,  
2288 the Department of Economic Opportunity Agency for Workforce  
2289 ~~Innovation~~ shall contract with one or more consumer reporting  
2290 agencies to provide users with secured electronic access to  
2291 employer-provided information relating to the quarterly wages

577-00918B-12

20127024

2292 report submitted in accordance with the state's unemployment  
2293 compensation law. The access is limited to the wage reports for  
2294 the appropriate amount of time for the purpose the information  
2295 is requested.

2296 (2) Users must obtain consent in writing or by electronic  
2297 signature from an applicant for credit, employment, or other  
2298 permitted purposes. Any written or electronic signature consent  
2299 from an applicant must be signed and must include the following:

2300 (a) Specific notice that information concerning the  
2301 applicant's wage and employment history will be released to a  
2302 consumer reporting agency;

2303 (b) Notice that the release is made for the sole purpose of  
2304 reviewing the specific application for credit, employment, or  
2305 other permitted purpose made by the applicant;

2306 (c) Notice that the files of the Department of Economic  
2307 Opportunity Agency for Workforce Innovation or its tax  
2308 collection service provider containing information concerning  
2309 wage and employment history which is submitted by the applicant  
2310 or his or her employers may be accessed; and

2311 (d) A listing of the parties authorized to receive the  
2312 released information.

2313 (4) If a consumer reporting agency or user violates this  
2314 section, the Department of Economic Opportunity Agency for  
2315 ~~Workforce Innovation~~ shall, upon 30 days' written notice to the  
2316 consumer reporting agency, terminate the contract established  
2317 between the Department of Economic Opportunity Agency for  
2318 ~~Workforce Innovation~~ and the consumer reporting agency or  
2319 require the consumer reporting agency to terminate the contract  
2320 established between the consumer reporting agency and the user

577-00918B-12

20127024

2321 under this section.

2322 (5) The Department of Economic Opportunity Agency for  
 2323 ~~Workforce Innovation~~ shall establish minimum audit, security,  
 2324 net worth, and liability insurance standards, technical  
 2325 requirements, and any other terms and conditions considered  
 2326 necessary in the discretion of the state agency to safeguard the  
 2327 confidentiality of the information released under this section  
 2328 and to otherwise serve the public interest. The Department of  
 2329 Economic Opportunity Agency for Workforce Innovation shall also  
 2330 include, in coordination with any necessary state agencies,  
 2331 necessary audit procedures to ensure that these rules are  
 2332 followed.

2333 (6) In contracting with one or more consumer reporting  
 2334 agencies under this section, any revenues generated by the  
 2335 contract must be used to pay the entire cost of providing access  
 2336 to the information. Further, in accordance with federal  
 2337 regulations, any additional revenues generated by the Department  
 2338 of Economic Opportunity Agency for Workforce Innovation or the  
 2339 state under this section must be paid into the Administrative  
 2340 Trust Fund of the Department of Economic Opportunity Agency for  
 2341 ~~Workforce Innovation~~ for the administration of the unemployment  
 2342 compensation system or be used as program income.

2343 (7) The Department of Economic Opportunity Agency for  
 2344 ~~Workforce Innovation~~ may not provide wage and employment history  
 2345 information to any consumer reporting agency before the consumer  
 2346 reporting agency or agencies under contract with the Department  
 2347 of Economic Opportunity Agency for Workforce Innovation pay all  
 2348 development and other startup costs incurred by the state in  
 2349 connection with the design, installation, and administration of

577-00918B-12

20127024

2350 technological systems and procedures for the electronic access  
 2351 program.

2352 Section 71. Subsection (2) of section 446.50, Florida  
 2353 Statutes, is amended to read:

2354 446.50 Displaced homemakers; multiservice programs; report  
 2355 to the Legislature; Displaced Homemaker Trust Fund created.—

2356 (2) DEFINITION.—For the purposes of this section, the term  
 2357 “displaced homemaker” means an individual who:

2358 (a) Is 35 years of age or older;

2359 (b) Has worked in the home, providing unpaid household  
 2360 services for family members;

2361 (c) Is not adequately employed, as defined by rule of the  
 2362 department agency;

2363 (d) Has had, or would have, difficulty in securing adequate  
 2364 employment; and

2365 (e) Has been dependent on the income of another family  
 2366 member but is no longer supported by such income, or has been  
 2367 dependent on federal assistance.

2368 Section 72. Section 450.261, Florida Statutes, is amended  
 2369 to read:

2370 450.261 Interstate Migrant Labor Commission; Florida  
 2371 membership.—In selecting the Florida membership of the  
 2372 Interstate Migrant Labor Commission, the Governor may designate  
 2373 the executive director secretary of the Department of Economic  
 2374 Opportunity as his or her representative.

2375 Section 73. Paragraph (c) of subsection (7) of section  
 2376 509.032, Florida Statutes, is amended to read:

2377 509.032 Duties.—

2378 (7) PREEMPTION AUTHORITY.—

577-00918B-12

20127024

2379 (c) Paragraph (b) does not apply to any local law,  
 2380 ordinance, or regulation exclusively relating to property  
 2381 valuation as a criterion for vacation rental if the local law,  
 2382 ordinance, or regulation is required to be approved by the state  
 2383 land planning agency ~~Department of Community Affairs~~ pursuant to  
 2384 an area of critical state concern designation.

2385 Section 74. Subsection (3) of section 624.5105, Florida  
 2386 Statutes, is amended to read:

2387 624.5105 Community contribution tax credit; authorization;  
 2388 limitations; eligibility and application requirements;  
 2389 administration; definitions; expiration.-

2390 (3) APPLICATION REQUIREMENTS.-

2391 (a) Any eligible sponsor wishing to participate in this  
 2392 program must submit a proposal to the Department of Economic  
 2393 Opportunity Office of Tourism, Trade, and Economic Development  
 2394 which sets forth the sponsor, the project, the area in which the  
 2395 project is located, and such supporting information as may be  
 2396 prescribed by rule. The proposal shall also contain a resolution  
 2397 from the local governmental unit in which the proposed project  
 2398 is located certifying that the project is consistent with local  
 2399 plans and regulations.

2400 (b)1. Any insurer wishing to participate in this program  
 2401 must submit an application for tax credit to the Department of  
 2402 Economic Opportunity office which sets forth the sponsor; the  
 2403 project; and the type, value, and purpose of the contribution.  
 2404 The sponsor must verify, in writing, the terms of the  
 2405 application and indicate its willingness to receive the  
 2406 contribution, which verification must accompany the application  
 2407 for tax credit.

577-00918B-12

20127024

2408 2. The insurer must submit a separate application for tax  
 2409 credit for each individual contribution which it proposes to  
 2410 contribute to each individual project.

2411 Section 75. Subsection (4) of section 1002.75, Florida  
 2412 Statutes, is amended to read:

2413 1002.75 Office of Early Learning; powers and duties;  
 2414 operational requirements.-

2415 (4) The Office of Early Learning shall also adopt  
 2416 procedures for the ~~agency's~~ distribution of funds to early  
 2417 learning coalitions under s. 1002.71.

2418 Section 76. Subsection (2) of section 1002.79, Florida  
 2419 Statutes, is amended to read:

2420 1002.79 Rulemaking authority.-

2421 (2) The Office of Early Learning shall adopt rules under  
 2422 ss. 120.536(1) and 120.54 to administer the provisions of this  
 2423 part conferring duties upon the office ~~agency~~.

2424 Section 77. Paragraph (a) of subsection (1) of section  
 2425 259.035, Florida Statutes, is amended to read:

2426 259.035 Acquisition and Restoration Council.-

2427 (1) There is created the Acquisition and Restoration  
 2428 Council.

2429 (a) The council shall be composed of 10 ~~eleven~~ voting  
 2430 members, four of whom shall be appointed by the Governor. Of  
 2431 these four appointees, three shall be from scientific  
 2432 disciplines related to land, water, or environmental sciences  
 2433 and the fourth shall have at least 5 years of experience in  
 2434 managing lands for both active and passive types of recreation.  
 2435 They shall serve 4-year terms, except that, initially, to  
 2436 provide for staggered terms, two of the appointees shall serve

577-00918B-12 20127024

2437 2-year terms. All subsequent appointments shall be for 4-year  
 2438 terms. ~~An~~ ~~no~~ appointee ~~may not~~ ~~shall~~ serve more than 6 years.  
 2439 The Governor may at any time fill a vacancy for the unexpired  
 2440 term of a member appointed under this paragraph.

2441 Section 78. Subsection (2) of section 288.12265, Florida  
 2442 Statutes, is amended to read:

2443 288.12265 Welcome centers.—

2444 (2) Enterprise Florida, Inc., shall administer and operate  
 2445 the welcome centers. Pursuant to a contract with the Department  
 2446 of Transportation, Enterprise Florida, Inc., shall be  
 2447 responsible for routine repair, replacement, or improvement and  
 2448 the day-to-day management of interior areas occupied by the  
 2449 welcome centers. All other repairs, replacements, or  
 2450 improvements to the welcome centers shall be the responsibility  
 2451 of the Department of Transportation. Enterprise Florida, Inc.,  
 2452 may contract with the Florida Tourism Industry Marketing  
 2453 Corporation for the management and operation of the welcome  
 2454 centers.

2455 Section 79. Paragraph (a) of subsection (5) of section  
 2456 288.901, Florida Statutes, is amended to read:

2457 288.901 Enterprise Florida, Inc.—

2458 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

2459 (a) In addition to the Governor or the Governor's designee,  
 2460 the board of directors shall consist of the following appointed  
 2461 members:

- 2462 1. The Commissioner of Education or the commissioner's
- 2463 designee.
- 2464 2. The Chief Financial Officer or his or her designee.
- 2465 3. The chairperson of the board of directors of Workforce

577-00918B-12 20127024

2466 Florida, Inc.

2467 4. The Secretary of State or the secretary's designee.

2468 5. Twelve members from the private sector, six of whom  
 2469 shall be appointed by the Governor, three of whom shall be  
 2470 appointed by the President of the Senate, and three of whom  
 2471 shall be appointed by the Speaker of the House of  
 2472 Representatives. Members appointed by the Governor ~~All~~  
 2473 ~~appointees~~ are subject to Senate confirmation.

2474 Section 80. Paragraph (d) of subsection (2) and subsection  
 2475 (3) of section 288.980, Florida Statutes, are amended to read:

2476 288.980 Military base retention; legislative intent; grants  
 2477 program.—

2478 (2)

2479 (d) In making grant awards the department office shall  
 2480 consider, at a minimum, the following factors:

2481 1. The relative value of the particular military  
 2482 installation in terms of its importance to the local and state  
 2483 economy relative to other military installations vulnerable to  
 2484 closure.

2485 2. The potential job displacement within the local  
 2486 community should the military installation be closed.

2487 3. The potential adverse impact on industries and  
 2488 technologies which service the military installation.

2489 (3) The Florida Economic Reinvestment Initiative is  
 2490 established to respond to the need for this state and defense-  
 2491 dependent communities in this state to develop alternative  
 2492 economic diversification strategies to lessen reliance on  
 2493 national defense dollars in the wake of base closures and  
 2494 reduced federal defense expenditures and the need to formulate

577-00918B-12 20127024\_\_

2495 specific base reuse plans and identify any specific  
 2496 infrastructure needed to facilitate reuse. The initiative shall  
 2497 consist of the following three ~~two~~ distinct grant programs to be  
 2498 administered by the department:

2499 (a) The Florida Defense Planning Grant Program, through  
 2500 which funds shall be used to analyze the extent to which the  
 2501 state is dependent on defense dollars and defense infrastructure  
 2502 and prepare alternative economic development strategies. The  
 2503 state shall work in conjunction with defense-dependent  
 2504 communities in developing strategies and approaches that will  
 2505 help communities make the transition from a defense economy to a  
 2506 nondefense economy. Grant awards may not exceed \$250,000 per  
 2507 applicant and shall be available on a competitive basis.

2508 (b) The Florida Defense Implementation Grant Program,  
 2509 through which funds shall be made available to defense-dependent  
 2510 communities to implement the diversification strategies  
 2511 developed pursuant to paragraph (a). Eligible applicants include  
 2512 defense-dependent counties and cities, and local economic  
 2513 development councils located within such communities. Grant  
 2514 awards may not exceed \$100,000 per applicant and shall be  
 2515 available on a competitive basis. Awards shall be matched on a  
 2516 one-to-one basis.

2517 (c) The Florida Military Installation Reuse Planning and  
 2518 Marketing Grant Program, through which funds shall be used to  
 2519 help counties, cities, and local economic development councils  
 2520 develop and implement plans for the reuse of closed or realigned  
 2521 military installations, including any necessary infrastructure  
 2522 improvements needed to facilitate reuse and related marketing  
 2523 activities.

577-00918B-12 20127024\_\_

2524  
 2525 Applications for grants under this subsection must include a  
 2526 coordinated program of work or plan of action delineating how  
 2527 the eligible project will be administered and accomplished,  
 2528 which must include a plan for ensuring close cooperation between  
 2529 civilian and military authorities in the conduct of the funded  
 2530 activities and a plan for public involvement.

2531 Section 81. Subsections (1), (3), and (5) of section  
 2532 331.3081, Florida Statutes, are amended to read:

2533 331.3081 Board of directors; advisory board.—

2534 (1) Space Florida shall be governed by a 13-member ~~12-~~  
 2535 ~~member~~ independent board of directors that consists of the  
 2536 members appointed to the board of directors of Enterprise  
 2537 Florida, Inc., by the Governor, the President of the Senate, and  
 2538 the Speaker of the House of Representatives pursuant to s.  
 2539 288.901(5) (a)5. The Governor or the Lieutenant Governor as the  
 2540 Governor's designee shall be an ex officio voting member and  
 2541 shall serve as the chair of the board.

2542 (3) The advisory council shall make recommendations to the  
 2543 board of directors ~~of Enterprise Florida, Inc.,~~ on the operation  
 2544 of Space Florida, including matters pertaining to ways to  
 2545 improve or enhance Florida's efforts to expand its existing  
 2546 space and aerospace industry, to improve management and use of  
 2547 Florida's state-owned real property assets related to space and  
 2548 aerospace, how best to retain and, if necessary, retrain  
 2549 Florida's highly skilled space and aerospace workforce, and how  
 2550 to strengthen bonds between this state, NASA, the Department of  
 2551 Defense, and private space and aerospace industries.

2552 (5) Advisory council members shall serve without

577-00918B-12

20127024\_\_

2553 compensation but may be reimbursed for all reasonable,  
2554 necessary, and actual expenses as determined by the board of  
2555 directors of ~~Enterprise Florida, Inc.~~

2556 Section 82. Section 163.03, Florida Statutes, is repealed.

2557 Section 83. Section 373.461, Florida Statutes, is repealed.

2558 Section 84. Section 379.2353, Florida Statutes, is  
2559 repealed.

2560 Section 85. This act shall take effect upon becoming a law.



# The Florida Senate

*Interim Report 2012-112*

*October 2011*

---

Committee on Commerce and Tourism

---

## **IDENTIFICATION, REVIEW, AND RECOMMENDATION RELATING TO STATUTORY CHANGES NECESSARY TO IMPLEMENT THE GOVERNMENTAL REORGANIZATION REQUIRED BY CH. 2011-142, L.O.F.**

### **Issue Description**

Chapter 2011-142, L.O.F., reorganized the land planning and community development, workforce development, and economic development functions of state government. Many of the functions and responsibilities of the Department of Community Affairs, the Agency for Workforce Innovation, and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor were transferred into a new state agency called the Department of Economic Opportunity. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc.; the Florida Commission on Tourism was abolished, and the Florida Tourism Industry Marketing Corporation was directed to contract with Enterprise Florida, Inc. Additionally, the law reorganized a portion of the state's energy policy, by abolishing the Florida Energy and Climate Commission and transferring the majority of its functions and responsibilities to the Department of Agriculture and Consumer Services.

The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve the clarity and facilitate the correct and proper interpretation of the statutes. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes, showing the changes made and the reason for such recommended change.

While ch. 2011-142, L.O.F., sought to amend as many references and programs as possible in order to update the Florida Statutes with the governmental reorganization, there are likely to be additional changes necessary. This interim report will examine the reorganization, verify the application or status of current law, and review the Florida Statutes for obsolete references, inconsistencies, or statutory notes by the Division of Statutory Revision related to the reorganization. Recommendations for solutions to update the statutes will be made based upon this examination.

### **Background**

#### **Agencies and Entities Affected by the Governmental Reorganization**

The Department of Community Affairs, the Agency for Workforce Innovation, the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor, and the Florida Energy and Climate Commission were abolished by ch. 2011-142, L.O.F.<sup>1</sup> The functions and responsibilities of these state agencies were either transferred or repealed; some functions and responsibilities were also modified as part of the transfer.

---

<sup>1</sup> Portions of this background were adapted from the Bill Analysis and Fiscal Impact Statement on SB 2156 by the Budget Committee (April 2, 2011), available at <http://www.flsenate.gov/Session/Bill/2011/2156> (last visited 7/20/2011).

### *Department of Community Affairs<sup>2</sup>*

The Department of Community Affairs (DCA) was the state's land planning and community development agency. DCA had several divisions and programs that it administered. The following list describes the various divisions and programs of DCA and the transfer of such divisions or programs as a result of the governmental reorganization:

- The Division of Community Planning administered Florida's growth management programs and worked closely with local governments and other state agencies to ensure high quality growth and sustainable patterns of development across the state. This division was transferred to the Department of Economic Opportunity (DEO), Division of Community Development.
- The Division of Housing and Community Development administered state and federal programs designed to provide community and economic development assistance to local agencies. The division provided grants to eligible local governments for infrastructure, revitalization, disaster recovery, housing rehabilitation, and economic development, and assisted citizens with meeting critical needs such as housing, transportation, and emergency utility payments. This division was transferred to DEO, Division of Community Development.
  - The division also staffed the Florida Building Code Commission, which implements and regulates the unified statewide code for all buildings and structures in Florida. The Florida Building Code Commission was transferred to the Department of Business and Professional Regulation.
- The Division of Emergency Management (DEM) was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. DEM directs and coordinates state, federal, and local efforts to deal with natural disasters, such as tornadoes and hurricanes, as well as man-made disasters and accidents. DEM was transferred to the Executive Office of the Governor, while retaining its status as a separate budget entity.<sup>3</sup>
- DCA administered the Florida Communities Trust, which administered two state land acquisition grant programs. The Parks and Open Space Florida Forever Grant Program provides funding to local governments and eligible non-profit environmental organizations for the acquisition of community-based parks, open space and greenways that further both the outdoor recreation and natural resource protection needs identified in local government comprehensive plans. The Stan Mayfield Working Waterfronts Florida Forever Grant Program uses grant funds to acquire parcels of land either directly used for commercial harvest of marine organisms or saltwater products, or used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about economic, cultural, and historic heritage of Florida's traditional working waterfronts. The Florida Communities Trust and these programs were transferred to the Department of Environmental Protection.<sup>4</sup>
- The Florida Housing Finance Corporation was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. The corporation is a public entity that works to assist Floridians in obtaining safe, affordable housing. The corporation was transferred to DEO, while retaining its status as a separate budget entity.

### *Agency for Workforce Innovation<sup>5</sup>*

The Agency for Workforce Innovation (AWI) was Florida's lead state workforce agency and administered the state's unemployment compensation program and early learning services. The following list describes the various offices of AWI and the transfer of such offices as a result of the governmental reorganization:

- The Office of Workforce Services managed the performance-based contract with Workforce Florida, Inc., for the statewide administration and coordination of workforce services; disbursed federal workforce funds; and provided One-Stop Program Support services (workforce program information, guidance, and

---

<sup>2</sup> Abolished by s. 3, ch. 2011-142, L.O.F. See also s. 478, ch. 2011-142, L.O.F., which repeals the statutory authority for DCA.

<sup>3</sup> See s. 11, ch. 2011-142, L.O.F., and s. 14.2016, F.S. (2011).

<sup>4</sup> See Florida Communities Trust website, available at <http://www.floridacommunitiestrust.org/> (last visited 9/8/2011).

<sup>5</sup> Abolished by s.1, ch. 2011-142, L.O.F. See also s. 479, ch. 2011-142, L.O.F., which repeals the statutory authority for AWI.

technical assistance) to the Regional Workforce Boards. This office was transferred to DEO, Division of Workforce Services.

- The Unemployment Compensation Program administered the state's unemployment compensation programs. This unit was transferred to DEO, Division of Workforce Services.
  - The Unemployment Appeals Commission was administratively housed within AWI. The commission is a quasi-judicial administrative appellate body. The commission was transferred to be administratively housed with DEO.
- The Office of Early Learning implemented early learning services for the state, including the state's Child Care Resource and Referral, School Readiness, and Voluntary Prekindergarten Programs.<sup>6</sup> This office was transferred to the Department of Education as a separate budget entity and is not subject to control, supervision, or direction by the department.<sup>7</sup>

### ***Other Components of Florida's Workforce System***

Florida's workforce system was designed to create partnerships among economic development, workforce development, and businesses. Workforce Florida, Inc. (WFI), a not-for-profit corporation, is the principal workforce policy organization for the state. The Governor appoints WFI's board of directors, a majority of which must be representatives from the business community.<sup>8</sup> WFI's "purpose is to develop the state business climate by designing and implementing strategies that help Floridians enter, remain and advance in the workforce, becoming more highly skilled and successful, benefiting Florida businesses and the entire state."<sup>9</sup> WFI was administratively housed within AWI, but was not subject to control, supervision, or direction by AWI; WFI contracted with AWI for the administration and coordination of workforce services. WFI was transferred to DEO, while retaining its status, and contracts with DEO for workforce services.<sup>10</sup>

Twenty-four Regional Workforce Boards (boards) serve as the local planning and workforce service delivery systems. The boards' service delivery areas are closely aligned with the Florida College System. The setup of Florida's workforce system allows each board to implement the policies based upon the economic development, business, and workforce needs of its particular region of the state.<sup>11</sup> The boards operate under a charter approved by WFI and implement the policies developed by WFI, consistent with the parameters set by the U.S. Department of Labor and federal law.<sup>12</sup> AWI provided program support services to the boards through a performance based memorandum of understanding for the delivery of employment services authorized by federal law. Program support services are now provided by DEO.<sup>13</sup>

---

<sup>6</sup> The early learning program was designed as a two-tier program with AWI and the Department of Education (DOE) at the state level and early learning coalitions at the local level. AWI was responsible for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all early learning programs (now the Office of Early Learning within DOE has these responsibilities). DOE is responsible for establishing readiness standards and guidelines for VPK program content. The early learning coalitions plan, coordinate, and implement the early learning programs, following the standards and guidelines established by the state agencies. There are 31 early learning coalitions. In addition, the Department of Children and Families is responsible for the licensing and credentialing of early learning providers.

<sup>7</sup> See s. 12, ch. 2011-142, L.O.F., and s. 20.15(3)(h), F.S.

<sup>8</sup> Other board members represent organized labor, private staffing firms, private colleges and universities, the Department of Education, and workforce services customers. "Special Examination: Review of the Workforce Development System," Office of Program Policy and Government Accountability. Report No. 03-10, January 2003, p. 4, available at <http://www.oppaga.state.fl.us/Reports/pdf/0310rpt.pdf> (last visited 9/12/2011). See also 29 U.S.C. 2821.

<sup>9</sup> WFI Annual Report 2009-2010, October 1, 2010, available at <http://www.workforceflorida.com/Publications/docs/2010AnnualReportSubmissionCompressed.pdf> (last visited 9/12/2011).

<sup>10</sup> Section 445.004, F.S.

<sup>11</sup> WFI Annual Report 2009-2010, pp. 9, 47.

<sup>12</sup> Section 445.007, F.S.

<sup>13</sup> Section 445.009, F.S.

### *Office of Tourism, Trade, and Economic Development and Public/Private Partnerships*<sup>14</sup>

The Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor assisted the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. OTTED provided executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure. The responsibilities and functions of OTTED were transferred to DEO, mainly to the Division of Strategic Business Development.

OTTED administered a number of economic development incentive programs, including the Qualified Target Industry Refund Program and the Quick Action Closing Fund, which were implemented by public/private partnerships under OTTED's oversight.

The following list describes the various public/private partnerships under OTTED's oversight and the effect of the governmental reorganization on the partnerships:<sup>15</sup>

- Enterprise Florida, Inc. (EFI), serves as Florida's statewide economic development organization. EFI is now required to contract with DEO.<sup>16</sup> Other significant changes to EFI include:
  - The organizational structure of EFI has changed: previously EFI had created its own internal organizational structure of units and councils. Now, while EFI may still create and dissolve divisions, it must have divisions related to international trade and business development; business retention and recruitment; tourism marketing; minority business development; and sports industry development.<sup>17</sup>
  - The president of EFI is now also known as the "secretary of commerce," and will serve as the Governor's chief negotiator for business recruitment and business expansion.<sup>18</sup>
  - More specific information is now required in EFI's annual incentives report. The report must include certain information about incentives programs and projects, including the economic benefits<sup>19</sup> of each incentive program, a description of trends regarding the types and location of businesses using state incentives, an identification of incentives programs not utilized, and the number of businesses that withdrew or were terminated from the incentive programs.<sup>20</sup>
- Florida Black Business Investment Board, Inc. (BBIB), assisted in developing and expanding black business enterprises and advised OTTED in the oversight of the Black Business Loan Program. The functions and responsibilities of BBIB were transferred to EFI; EFI is required to have a division related to minority business development.<sup>21</sup>
- Florida Sports Foundation, Incorporated served as the official sports promotion and development organization for the State of Florida. The functions and responsibilities of the Florida Sports Foundation were transferred to EFI; EFI is required to have a division related to sports industry development.<sup>22</sup>
- Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation d/b/a Visit Florida oversaw the state's tourism efforts and marketed and facilitated travel to and within Florida for the benefit of its residents, economy, and travel and tourism industries. The functions and responsibilities

<sup>14</sup> Abolished by s. 4, ch. 2011-142, L.O.F. See also s. 477, ch. 2011-142, L.O.F., which repeals the statutory authority for OTTED.

<sup>15</sup> See s. 7, ch. 2011-142, L.O.F.

<sup>16</sup> EFI's statutes were significantly rewritten. See ss. 22-32, ch. 2011-142, L.O.F.

<sup>17</sup> Section 288.92, F.S.

<sup>18</sup> Section 288.905(1), F.S.

<sup>19</sup> "Economic benefits" is defined in s. 288.005(1), F.S., as the "direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives."

<sup>20</sup> See s. 288.907, F.S., for more specificity on the annual incentives report; see also s. 288.095(3)(c), F.S. The report had been solely required by s. 288.095(3)(c), F.S. (2010).

<sup>21</sup> See s. 30, ch. 2011-142, L.O.F. and s. 288.92, F.S. See also s. 487, ch. 2011-142, L.O.F., which repeals the statutory authority for BBIB.

<sup>22</sup> See s. 30, ch. 2011-142, L.O.F. and s. 288.92, F.S. See also ss. 485 and 488, ch. 2011-142, L.O.F., which repeals the statutory authority for the Florida Sports Foundation.

of the Florida Commission on Tourism were transferred to EFI, specifically the Division of Tourism Marketing. The Florida Tourism Industry Marketing Corporation is now required to contract with EFI.<sup>23</sup>

- Space Florida promotes and develops space-related economic development and education in Florida. The board of directors of Space Florida is now made up of a portion of the board of directors of EFI. Space Florida is still an independent special district.<sup>24</sup>
- Office of Film and Entertainment develops and expands the state's motion picture and entertainment industry sectors and promotes and markets Florida as a production and filming location. The office is a special unit that operated within OTTED. The office is now housed within DEO.<sup>25</sup>

### ***Florida Energy and Climate Commission***<sup>26</sup>

The Florida Energy and Climate Commission (FECC) was created in 2008 by the Legislature to provide a single entity that would develop, coordinate, and implement energy policies for the state. It was housed within the Executive Office of the Governor. FECC administered the Florida Renewable Energy and Energy-Efficient Technologies Grants Program, the Florida Green Government Grants Act, the Florida Energy and Climate Protection Act. FECC also had reporting and planning responsibilities under ch. 377, F.S.<sup>27</sup> The functions and responsibilities of FECC were transferred to the Department of Agriculture and Consumer Services (DACs), which created an Office of Energy.<sup>28</sup> Additionally, FECC's emergency management responsibilities were transferred to the Division of Emergency Management and administration of the Coastal Energy Impact Program was transferred to the Department of Environmental Protection.

### ***Florida Ready to Work***

Florida Ready to Work is an employee credentialing program that is funded by the state.<sup>29</sup> The program allows participants to take a skills test and credentialing classes online to earn a "career readiness certificate." Floridians may use this program for free. The program was administered by the Department of Education; administration of the program was transferred to DEO to implement in coordination with the Department of Education.<sup>30</sup>

### **Department of Economic Opportunity**

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of Florida's government into one state agency. As discussed above, many of the functions and responsibilities of former state agencies were transferred to the newly created Department of Economic Opportunity.<sup>31</sup>

The purpose of the Department of Economic Opportunity (DEO) is "to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians."<sup>32</sup>

<sup>23</sup> See ss. 30 and 31, ch. 2011-142, L.O.F., and ss. 288.92 and 288.923, F.S. See also s. 485, ch. 2011-142, L.O.F., which repeals the statutory authority for the Florida Commission on Tourism.

<sup>24</sup> See s. 236, ch. 2011-142, L.O.F., and s. 331.3081, F.S.

<sup>25</sup> See s. 167, ch. 2011-142, L.O.F., and s. 288.1251, F.S.

<sup>26</sup> Abolished by s. 500, ch. 2011-142, L.O.F. See also s. 505, ch. 2011-142, L.O.F., amending s. 377.6015, F.S. (2010).

<sup>27</sup> See Bill Analysis and Fiscal Impact Statement on SB 2106 by the Budget Committee (April 4, 2011), available at <http://www.flsenate.gov/Session/Bill/2011/2106> (last visited 9/8/2011).

<sup>28</sup> See s. 524, ch. 2011-142, L.O.F., and s. 570.074, F.S. See also the Office of Energy website, which includes a history of state entities dealing with Florida energy policy, available at <http://www.freshfromflorida.com/offices/energy/> (last visited 9/8/2011).

<sup>29</sup> Website available at <http://floridareadytowork.com/> (last visited 9/8/2011).

<sup>30</sup> See s. 5, 2011-142, L.O.F., and s. 445.06, F.S.

<sup>31</sup> For more information see also the Office of Program Policy Analysis and Government Accountability's Government Program Summaries on DEO, available at <http://www.oppaga.state.fl.us/profiles/6101/> (last visited 9/9/2011).

<sup>31</sup> See ch. 163, Part II, F.S.

<sup>32</sup> Section 20.60(4), F.S.

DEO must “ensure that the state’s goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.”<sup>33</sup> The department also is directed to manage the activities of public/private partnerships and state agencies to avoid duplication and promote coordinated and consistent implementation of programs.

The law provided for a transition period between July 1, 2011, and October 1, 2011, to complete the governmental reorganization and establish DEO.<sup>34</sup> A private consulting firm was hired by the Executive Office of the Governor to assist in the structuring of the new agency. The firm was charged with reviewing best practices for state economic development agencies and recommending an organizational structure for DEO. The firm articulated several guidelines for developing the agency, including:<sup>35</sup>

- Assuring DEO establishes a single point of contact for economic and job growth initiatives;
- Reducing the response time of state and local governments to businesses; and
- Involving all relevant state agencies and economic players (“such as seaports, airports, rail lines, regional and local economic development organizations, business associations, etc.”) in forming DEO’s strategic plan.

DEO is required by statute to have four divisions:<sup>36</sup>

1. The Division of Community Development;
2. The Division of Workforce Services;
3. The Division of Strategic Business Development; and
4. The Division of Finance and Administration.

As of the time of this report, DEO is still in a transition period. While the functions and responsibilities of each division are set forth in statute generally, as the department is developed and organized the specific responsibilities of each division and how the divisions interact will become evident. For example, the private consulting firm recommended including an information systems unit that would manage technology-related projects and data systems for the agency.<sup>37</sup>

In general:

- The Division of Community Development includes former DCA responsibilities and functions. Generally, the division assists local governments and communities in planning functions and administers state and federal community development and project planning grant programs.<sup>38</sup>
- The Division of Workforce Services includes former AWI responsibilities and functions. The division administers the plans and policies of Workforce Florida, Inc., and federal and state workforce funding. The division also administers the state’s unemployment compensation program.<sup>39</sup>
- The Division of Strategic Business Development includes former OTTED responsibilities and functions. The division analyzes and evaluates business prospects and administers tax refund, tax credit, and grant programs. The division is responsible for developing measurements for the state incentives programs and public/private partnerships, which will be used to determine their performance and competitive value to Florida. The division is also responsible for development of the 5-year strategic plan.<sup>40</sup>

---

<sup>33</sup> Section 26.60(4)(d), F.S.

<sup>34</sup> A transition report was required by August 15, 2011. s. 6(4), ch. 2011-142, L.O.F. A Joint Progress Report was submitted, and is available at <http://www.dca.state.fl.us/downloads/JointProgressReportDEO.pdf> (last visited 9/8/2011).

<sup>35</sup> “Organization Structure for the Department of Economic Opportunity, State of Florida, Final Report,” by MGT of America, Inc., August 19, 2011, on file with the Commerce and Tourism Committee.

<sup>36</sup> Section 20.60(3), F.S. Specific responsibilities for each division are set forth in s. 20.60(5), F.S.

<sup>37</sup> See Appendix for DEO organization charts.

<sup>38</sup> Section 26.60(5)(b), F.S.

<sup>39</sup> Section 20.60(5)(c), F.S.

<sup>40</sup> Section 20.60(5)(a), F.S.

- The Division of Finance and Administration is responsible for accounting, budgeting, grants management, and other financial related activities and human resources.

The law required DEO to prepare a business plan in conjunction with EFI and Workforce Florida, Inc., by September 1, 2011.<sup>41</sup> The plan is required to discuss the use of economic development incentive funds and plans for attracting out-of-state businesses, promoting the expansion of existing Florida businesses, and encouraging the creation of new businesses. The law also required the business plan to include certain benchmarks and the tools and time-frames necessary to achieve those benchmarks. While a business plan was submitted by DEO on September 1, as required by the law, the plan will be further developed in part due to the continuing transition of the reorganization. The September 1<sup>st</sup> business plan sets forth three goals for DEO:

1. Increase Florida's global competitiveness as a destination for business, capital, talent, innovation, and entrepreneurship.
2. Promote Florida as the global destination of choice for business and industry.
3. Facilitate business development through delivery of world-class customer service.

DEO, specifically the Division of Strategic Business Development, is required to develop a 5-year strategic plan, which must be updated every 5 years.<sup>42</sup> All divisions are required to participate in the development of the 5-year strategic plan, and DEO is directed to involve EFI, local and regional economic development organizations, Workforce Florida, Inc., other local, state, and federal economic, international, and workforce development entities, local governments, the general public, the business community, and educational institutions to assist with the plan. The plan must include:<sup>43</sup>

- Strategies for the promotion of business formation, expansion, recruitment, and retention through marketing, international development, and export assistance;
- Plans for long-term economic development in Florida with increased emphasis in market research and information;
- Policies and programs to further the economic diversity of the state, its regions, and their associated industrial clusters;
- Specific provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state, including strategies for rural marketing and the development of infrastructure in rural areas;
- Plans for the generation of foreign investment in Florida;
- Identification of business sectors that are of current or future importance to the state's economy and to the state's global business image, and development of specific strategies to promote the development of such sectors; and
- Strategies for talent development necessary in the state to encourage economic development growth.

As DEO completes the transition period and begins to develop the 5-year strategic plan and further develop the business plan, the law also requires DEO to submit recommendations to the Governor and the Legislature for further reorganization and streamlining.<sup>44</sup> Specifically the law requires recommendations for economic development and workforce functions that improve the effectiveness and operation of those programs. Such recommendations are due January 1, 2012.

Section 20.601, F.S., requires an agency review of DEO and EFI no later than July 1, 2016. The statute sets forth specific information and measures DEO must include in its review. Additionally, the Office of Program Policy Analysis and Government Accountability is required to review DEO and EFI and submit a report to the Legislature, with recommendations, by December 31, 2016.

---

<sup>41</sup> Section 8, ch. 2011-142, L.O.F. "State of Florida Job Creation Plan: A Business Plan Developed by the Department of Economic Opportunity" is on file with the Commerce and Tourism Committee.

<sup>42</sup> There is no statutory due date for the strategic plan.

<sup>43</sup> Section 20.60(5)(a)4., F.S.

<sup>44</sup> Section 8(2), ch. 2011-142, L.O.F.

## Findings and/or Conclusions

In ch. 2011-142, L.O.F., the Legislature recognized the need to conform the Florida Statutes to the policy decisions reflected in the law and resolve apparent conflicts between any other legislation passed during the 2011 Regular Session and the transfer of duties made by the law.<sup>45</sup>

### Methodology

The professional staff of the Senate Commerce and Tourism Committee worked with the Division of Statutory Revision to identify various issues in the Florida Statutes due to the governmental reorganization. Staff searched the Florida Statutes for terms related to the former agencies and public/private partnerships. Additionally, staff contacted the transition coordinators for the various affected agencies for input.

### Findings

Generally, staff found several references remaining in statute to DCA, AWI, and OTTED. Some of these references exist due to other laws passed in the 2011 Regular Session. Additionally, staff discovered some idiosyncrasies due to multiple revisions of the original bill. Some agencies also directed staff to inappropriate changes in references.

## Options and/or Recommendations

Based upon review of the Florida Statutes, it is the recommendation of the professional staff of the Senate Commerce and Tourism Committee that draft legislation be developed to:

- Update references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation;
- Update provisions or references which were enacted by other chapter laws;
- Revise provisions or references which were drafting errors; and
- Repeal any remaining outdated provisions.

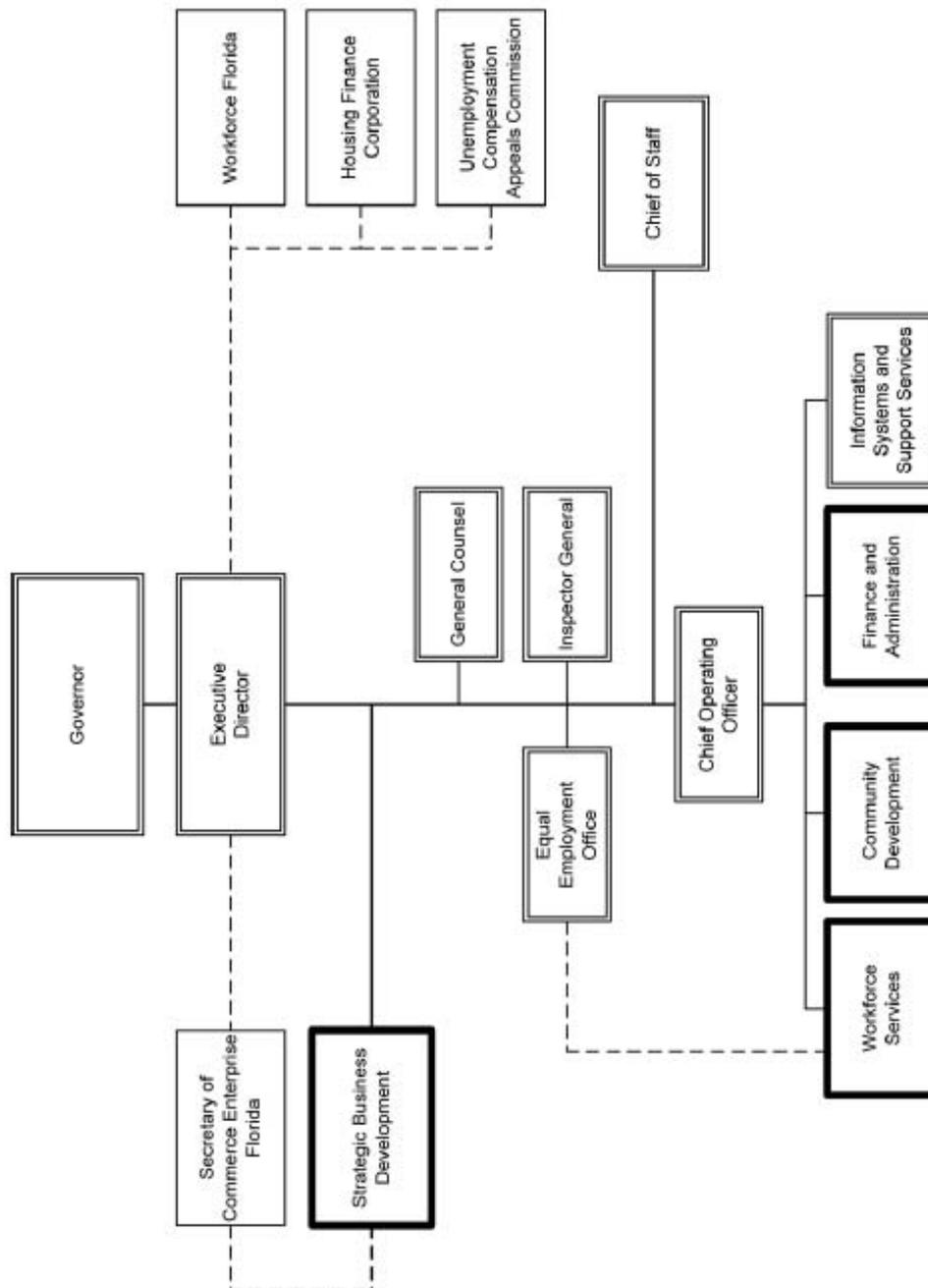
The committee may want to include additional revisions, including those recommended by the entities affected by the governmental reorganization. For example, the requirement for the development of a business plan could be put into statute with added specificity for the plan and requirements for periodic review. The committee may also want to consider any recommendations presented by DEO as required by ch. 2011-142, L.O.F., that will be presented to the Legislature by January 1, 2012.

---

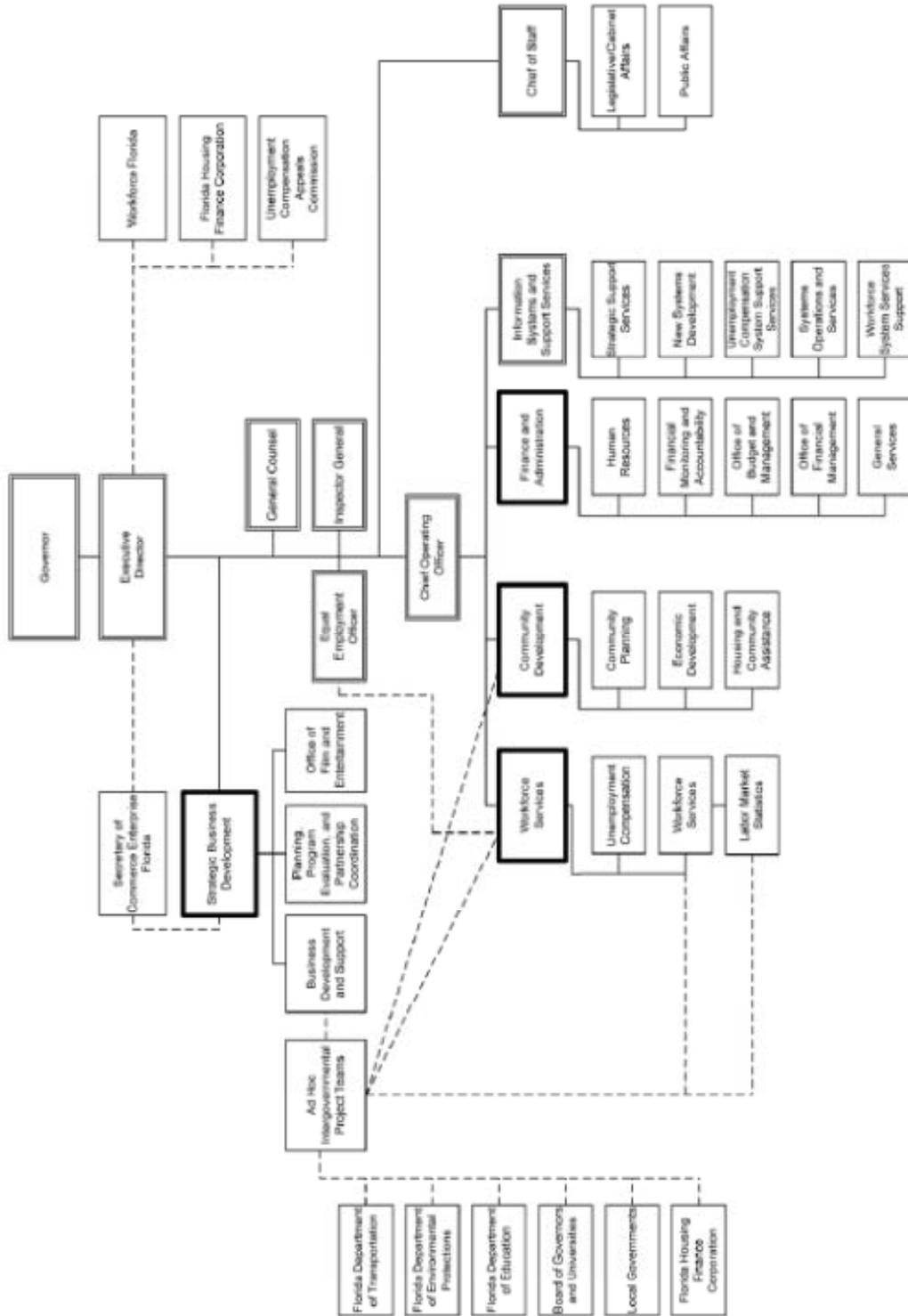
<sup>45</sup> Section 10, ch. 2011-142, L.O.F., also directs the Division of Statutory Revision to assist substantive committees to identify issues.

Appendix: Department of Economic Opportunity Organization Charts

ORGANIZATIONAL STRUCTURE - DEPARTMENT OF ECONOMIC OPPORTUNITY

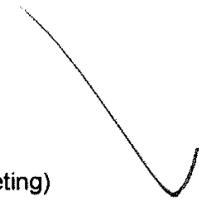


ORGANIZATIONAL STRUCTURE - DEPARTMENT OF ECONOMIC OPPORTUNITY DETAIL



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



12/7/2011  
Meeting Date

Topic Government

Bill Number 7024  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**The Florida Senate**  
**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 Commerce and Tourism Committee

BILL: SB 486

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Jurisdiction of Courts

DATE: December 6, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 486 proposes to amend Florida’s long-arm, choice-of-law, and forum-selection statutes, as well as provisions of the Florida Enforcement of Foreign Judgment Act and Florida International Commercial Arbitration Act.

Specifically, the bill amends s. 48.193, F.S., commonly referred to as the long-arm statute, by including language that extends the court’s jurisdiction to individuals entering into a contract that complies with Florida’s forum-selection statute. The bill also amends s. 685.101, F.S., by removing statutory language that prevents the enforcement of choice-of-law provisions found in contracts where each party is a nonresident. Sections 685.101 and 685.102, F.S., stipulate that the newly amended provisions would apply to contracts entered into on or after July 1, 2012.

Additionally, the term “foreign judgment” found in s. 55.502, F.S., of the Florida Enforcement of Foreign Judgment Act is amended to mean “any judgment, decree, or order of a court which is entitled to full faith and credit in this state.”

Lastly, provisions from the Florida International Commercial Arbitration Act, ch. 689, F.S., are amended to correct cross-references within the act in order to conform exactly to the UNCITRAL Model Law on Commercial Arbitration.

This bill amends ss. 48.193, 55.502, 684.0019, 684.0026, 685.101, and 685.102, F.S.

## II. Present Situation:

### Jurisdiction

The ability of a court to assert personal jurisdiction over a nonresident is subject to the constitutional requirements of the Due Process Clause of the Fourteenth Amendment.<sup>1</sup> The test for determining whether a court is able to assert personal jurisdiction over a nonresident is whether the nonresident has “minimum contacts” in the forum such that the commencement of a proceeding against that individual “would not offend traditional notions of fair play and justice.”<sup>2</sup> Foreseeability is key; thus, the principal inquiry is whether the nonresident’s conduct and connection with the forum state would lead him or her to believe that they could “reasonably anticipate being haled into court.”<sup>3</sup>

### *Florida Long-Arm Statute*

The second limitation on a court’s ability to assert personal jurisdiction is derived from a state’s long-arm statute. Such statutes can be drafted broadly<sup>4</sup> to reach the maximum bounds of the Due Process Clause or narrowly by enumerating specific acts or activities that would allow for a court to assume personal jurisdiction in a particular case. Florida’s statute falls in the latter category.

In *Venetian Salami Co. v. J.S. Parthenais*, the Florida Supreme Court described the interplay between Florida’s long-arm statute and the due process requirements of the Fourteenth Amendment as follows:

By enacting section 48.193, the legislature has determined the requisite basis for obtaining jurisdiction over nonresident defendants as far as Florida is concerned. It has not specifically addressed whether the federal constitutional requirement of minimum contacts has been met. As a practical matter, it could not do so because each case will depend upon the facts.<sup>5</sup>

Therefore, two inquiries must be satisfied. The first is whether there is a jurisdictional basis under the Florida long-arm statute to assert personal jurisdiction; and if so, whether the necessary minimum contacts exist.<sup>6</sup>

---

<sup>1</sup> U.S. Const. amend. XIV, s. 2 (“No state shall . . . deprive any person of life, liberty, or property without due process of law.”); See, *International Shoe Co. v. Washington, Office of Unemployment Comp. & Placement*, 326 U.S. 310, 316 (1945).

<sup>2</sup> *Id.*

<sup>3</sup> *Burger King Co. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (citing *World-Wide Volkswagen Co. v. Woodson*, 444 U.S. 286, 297 (1980)).

<sup>4</sup> Cal. Civil Code s. 410.10 (2011) (“A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.”).

<sup>5</sup> *Venetian Salami Co. v. J.S. Parthenais*, 554 So. 2d 499, 500 (1989).

<sup>6</sup> *Jetbroadband WV, LLC v. Mastec North America, Inc.* 13 So. 3d 159, 161 (2009) (quoting *Unger v. Publisher Entry Serv., Inc.*, 513 So. 2d 674, 675 (Fla. 5th DCA 1986)).

### **Important Court Rulings**

The Florida Third District Court of Appeal recently held in *Jetbroadband WV, LC v. Mastec North America, Inc.*, that by promulgating ss. 685.101 and 685.102, F.S., the Legislature created a separate jurisdictional basis for asserting personal jurisdiction over a nonresident that was outside the ambit of the long-arm statute. In that case, the court declared that the nonresident defendant was subject to the jurisdiction of Florida's courts by virtue of the forum-selection clause that designated Florida as the appropriate venue to commence an action or proceeding regarding a dispute arising from the parties' agreement.<sup>7</sup>

The court distinguished its ruling from an earlier Florida Supreme Court case, *McRae v. J.D./M.D., Inc.*, that was decided 12 years earlier. There, the court refused to enforce a forum-selection clause and denied jurisdiction on the grounds that there was no jurisdictional basis for doing so under the 1987 version of the Florida long-arm statute.<sup>8</sup> At the time of that court's decision, ss. 685.101 and 685.102, F.S., had not been enacted; rather, those statutes would be passed 2 years following the Court's decision in *McRae*.<sup>9</sup> As such, the Third District Court of Appeal reasoned in *Jetbroadband* that Florida courts were now equipped with the jurisdictional authority to hear cases involving forum-selection clauses that designated Florida as the venue of choice for the commencement of a proceeding by the legislature's subsequent passage of ss. 685.101 and 685.102, F.S.

### ***Florida Choice-of-Law Statute***

Florida's choice-of-law statute, s. 685.101, F.S., was adopted in 1989 and provides that a contract will be enforced by the courts of this state where Florida law has been designated as the governing law in the agreement and the transaction is valued at no less than \$250,000.<sup>10</sup> In its current form, the statute provides that such contracts will only be enforced if the "1) the contract bears a substantial or reasonable relation to Florida or 2) at least one of the parties is either a resident or citizen of Florida (if a person), or is incorporated or organized under the laws of Florida or maintains a place of business in Florida."<sup>11</sup>

The American Law Institute has promulgated the Restatement (2d) of Conflict of Laws.<sup>12</sup> Section 187 begins with the presumption that a contract's choice-of-law provision will be valid, but then states:

That such clauses will not be enforced if the chosen jurisdiction "bears no substantial relationship to the parties or transaction or if the application of the chosen law would offend the fundamental policy of a state with an interest in the transaction materially greater than that of the chosen

---

<sup>7</sup> *Jetbroadband*, 13 So. 3d at 162-163.

<sup>8</sup> *McRae v. J.D./M.D., Inc.* 511 So. 2d 540, 542 (1987).

<sup>9</sup> *Id.* at 543 ("Conspicuously absent from the long-arm statute is any provision for submission to in personam jurisdiction merely by contractual agreement.").

<sup>10</sup> *Id.*

<sup>11</sup> *Jetbroadband*, 13 So. 3d at 162.

<sup>12</sup> Restatement Second of Conflict of Laws (1971).

jurisdiction and whose law would apply in the absence of an effective choice-of-law by the parties.<sup>13,14</sup>

Although persuasive and instructive, it should be noted that a Restatement is not considered to be a primary source of law, but serves as general resource for understanding and researching a specific area of the law. As such, several jurisdictions, including New York, Delaware, California, and Illinois, have elected to remove the substantial relationship requirement from their choice-of-law statutes.<sup>15</sup>

As presently drafted, Florida's statute is confusing as it relates to whether a substantial relationship is required between the agreement, parties, and Florida. In subsection (1) it provides ". . . that any contract, agreement or undertaking . . . may, to the extent permitted under the United States Constitution, agree that the law of this state will govern such contract, agreement or undertaking . . . whether or not [it] bears any relation to this state."<sup>16</sup> Yet, in subsection (2), the statute later provides, "that this section does not apply to any contract, agreement, or undertaking regarding any transaction which does not bear a substantial or reasonable relation to the state in which every party is either or a combination of [a nonresident of this state or incorporated or organized under the laws of another state.]" In short, Florida appears to require no substantial connection between the subject matter of the agreement and Florida in subsection (1), but then later requires a connection between the parties and Florida in subsection (2).

### **Modern Trend**

In an effort to promote predictability and certainty in commercial relation disputes, the utilization of choice-of-law provisions in contracts has increased significantly. As such, the judicial enforcement of choice-of-law clauses has now become the norm.<sup>17</sup> As one writer comments, there is evidence that states do compete for law business by enforcing contractual choice-of-law.<sup>18</sup> His findings are summarized below:

First, there is evidence of the existence of a market for contractual choice. Many relatively large companies use choice-of-law clauses, thereby suggesting that there is a significant demand for enforcement. The University of Missouri's Contracting and Organizations Research Institute (CORI) has collected such contracts from publicly traded companies that disclose contracts in filings with the Securities and Exchange Commission . . . A search of CORI's web database indicates that 4,407 or 8,483 contracts of various types had choice- of-law clauses.

<sup>13</sup> *Id.* at s. 187.

<sup>14</sup> Language taken from Richard T. Franch, et. al., *Choice of law and choice of forum are both crucial: Parties to international agreement should give careful thought to each*, *The Nat'l Law J.*, Feb. 2002.

<sup>15</sup> N.Y. Gen. Oblig. Law ss. 5-1401, 1402 (McKinney 2011); Del. Code Ann. Tit. 6, s. 2708(a) (2011), Cal. Civil Code s. 1646.5 (West Supp.2011), 735 IL Comp. Stat. Ann. 105/5-5 (West 2011).

<sup>16</sup> Section 685.101(1), F.S. (2011).

<sup>17</sup> Larry E. Ribstein, *From Efficiency to Politics in Contractual Choice of Law*, 37 *Ga. L. Rev.* 363, 382.

<sup>18</sup> *Id.* at 431.

Second, a further indication of the existence of a choice-of-law market is that parties often contract for the law of one of a relatively small group of states, indicating that they are not choosing a party's domicile or the jurisdiction where the particular transaction is based. Eighty-nine percent of the contracts with choice-of-law clauses select the law of only ten states, seventy-two percent select the law of four states, and twenty-six percent select the law of Delaware, one of the smaller states.

....

Fourth, and most importantly for present purposes, the parties tend to choose states that have signaled their intent to compete in the choice-of-law market. The top five states, with a combined eighty percent market share - Delaware, New York, California, Texas, and Illinois - have all adopted statutes providing for enforcement of contractual choice-of-law in relatively large contracts, with the remaining statute state, Florida, in eighth place. . .<sup>19</sup>

In addition, the cited benefits enjoyed by jurisdictions who have adopted statutes that authorize the enforcement of choice-of-law provisions found in contracts include the attraction of business activity into the forum state, as well as increased tourism.<sup>20, 21</sup> Moreover, it has also been proposed that choice-of-law clauses reduce parties' litigation costs seeing that fewer resources will be devoted to presenting conflict-of-law arguments before the courts in an effort to determine which state law is applicable in the absence of a choice-of-law provision that designates the governing law.<sup>22</sup>

### ***Florida Forum-Selection Statute***

The forum-selection statute, s. 685.102, F.S., was also adopted in 1989 along with its counterpart, the Florida choice-of-law statute. This particular statute grants Florida courts jurisdiction to hear cases relating to any contracts that have been made pursuant to s. 685.101, F.S.

---

<sup>19</sup> *Id.* at 432-435.

<sup>20</sup> Garrett L. Pendleton & Michael A. Tessitore, *Foreign Litigants Seek Forum to Litigate – Is Florida Open for Business?*, Fla. Bar J., March 2005, at 24.

<sup>21</sup> *But see, supra* note 17, at 429. (“States have incentives not only to avoid repelling firms, but also to encourage them to establish significant local contacts, such as headquarters. The relevance of this factor depends on whether the rule regarding enforcement of contractual choice requires significant contacts in a state as a prerequisite to enforcing a contract applying that state’s law. This depends on states’ willingness not only to apply their own law where it is designated in the contract, but also to apply another state’s law where it is designated and the state has contacts with the contracting parties, and to refuse to apply their own state’s law where it is designated in the contract but where the state lacks significant contacts with the parties.”).

<sup>22</sup> *Id.* at 403.

As to the extent of their enforceability, the United States Supreme Court has held that such clauses should be upheld, unless it can be shown that its enforcement would be unreasonable or unjust, or that the clause was invalid as a result of fraud or overreaching.<sup>23</sup> As it relates to personal jurisdiction and the minimum contacts analysis, the United States Supreme Court has also held that the minimum contacts standard is met if a forum-selection clause exists that is “freely negotiated and is not unreasonable and unjust.”<sup>24</sup>

### **Florida Enforcement of Foreign Judgments Act**

Article IV, clause 1 of the United States Constitution provides that “full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. . .”<sup>25</sup> Accordingly, under the Florida Enforcement of Foreign Judgments Act (act), ss. 55.501-55.509, F.S., foreign judgments from sister jurisdictions may be enforced in Florida upon being recorded in the office of the clerk of the circuit court of any county.<sup>26</sup>

In its current statutory form, the foreign judgments that may be enforced under the act include “*any judgment, decree, or order of a court of any other State or of the United States if such judgment, decree, or order is entitled to full faith and credit in this State.*”<sup>27</sup> Absent from this definition is any reference to territories or possessions of the United States who are also entitled to full faith and credit under federal law.<sup>28</sup>

In *Rodriguez v. Nasrallah*,<sup>29</sup> a Florida court held that “[j]udgments of courts in Puerto Rico are entitled to full faith and credit in the same manner as judgments from courts of sister states.” As a result, the court permitted the enforcement of a Puerto Rican judgment in Florida. However, taken literally, a judgment from a Puerto Rican court would not qualify as a judgment from a *state court* as currently stipulated under s. 55.502(1), F.S.

### **Florida International Commercial Arbitration Act**

Chapter 2010-60, L.O.F., repealed the then current law relating to international commercial arbitration and adopted instead the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration (Model Law) as amended in 2006 by the General Assembly.

Chapter 684, F.S., in accordance with the UNCITRAL Model Law on International Commercial Arbitration, applies to any international commercial arbitration subject to an agreement between the United States of America and any other country. The law provides definitions, principles

<sup>23</sup> *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 15 (1972).

<sup>24</sup> *Burger King*, 471 U.S. at 473 n. 14.

<sup>25</sup> U.S. Const. art. IV, cl.1.

<sup>26</sup> Section 55.503, F.S. (2011).

<sup>27</sup> Section 55.502(1), F.S. (2011).

<sup>28</sup> See 28 U.S.C. s. 1738 (2006) (“ . . . The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form . . .”).

<sup>29</sup> See 659 So. 2d 437, 439 (Fla. 1st DCA 1995).

under which the law is to be interpreted, procedural requirements, discovery and evidentiary requirements, as well as arbitral tribunal powers and immunity.

Presently, two of the statutes contain inadvertent clerical errors as they relate to cross-references. As such, in its current form, the statute does not conform exactly to the Model Law.

### III. Effect of Proposed Changes:

#### Jurisdiction

**Section 1** amends s. 48.193, F.S., (Florida’s long-arm statute) to now provide an explicit jurisdictional basis for Florida courts to assert personal jurisdiction over a nonresident when he or she enters into a contract that complies with s. 685.102, F.S.<sup>30, 31</sup> Under the proposed changes, courts would have personal jurisdiction over nonresidents when they enter into a contract where the parties agree to both designate Florida law as governing under the requirements of s. 685.101, F.S., and commence an action in Florida under s. 685.102, F.S. As has already been noted, the Florida Third District Court of Appeal has *implicitly* found that the Legislature has already granted Florida courts the authority to hear such cases by reading ss. 685.101 and 685.102, F.S., in tandem. Thus, the addition of this language to Florida’s long-arm statute would codify that court’s interpretation of the statute.

**Section 5** amends s. 685.101, F.S., by removing the following italicized language from the statute:

- (2) This section does not apply to any contract, agreement, or undertaking:
  - (a) *Regardless of any transaction which does not bear a substantial relation to this state in which every party is either or a combination of:*
    - 1. *A resident and citizen of the United States, but not of this state, or*
    - 2. *Incorporated or organized under the laws of another state and does not maintain a place of business in this state.*<sup>32</sup>

The effect of this change is to expand the court’s jurisdiction to hear cases concerning a commercial dispute that has arisen from the parties’ contract where Florida law is designated as governing, regardless of whether or not the parties have any substantial or reasonable connection to Florida. This change aligns Florida’s choice-of-law statute with that of New York, which also authorizes its state courts to enforce provisions found in agreements that designate New York law as governing irrespective of whether or not the parties to the dispute have any reasonable or

<sup>30</sup> Several other jurisdictions have similar language in their respective long-arm statutes. *See* Mich. Comp. Laws s. 600.705 (2011); Mont. Code Ann s. 25-20-4(b)(1)(E) (2011); S.D. Codified Laws s. 15-7-2(5) (2011); Tenn Code Ann. s. 20-2-214 (2011) (“Entering entering into a contract for services to be rendered or for materials to be furnished in [this state] by such person.”).

<sup>31</sup> Recall that statutory reference to s. 685.102, F.S., is to the forum-selection statute.

<sup>32</sup> Section 685.101(2)(a), F.S. (2011).

substantial connection to New York.<sup>33</sup> Finally, this section provides that the statute would apply to contracts entered into on or after July 1, 2012.

**Section 6** amends s. 685.102, F.S., to provide that the statute would apply to contracts entered into on or after July 1, 2012.

#### **Florida Enforcement of Foreign Judgments Act**

**Section 2** amends s. 55.502, F.S., to more succinctly define a foreign judgment as any “*judgment, decree, or order of a court which is entitled to full faith and credit.*” Accordingly, by removing from the definition of “foreign judgment” any reference to only those orders from the 50 states that compromise the Union, it would allow for the judgments, orders, and decrees from U.S. territories, such as Puerto Rico, to be recognized.

#### **Florida International Commercial Arbitration Act**

**Section 3** amends s. 684.0019, F.S., to correct a cross-reference.

**Section 4** amends s. 684.0026, F.S., to correct a cross-reference.

These changes would make the Florida International Commercial Arbitration Act conform exactly to the UNCITRAL Model Law on Commercial Arbitration.

#### **Enactment Date**

**Section 7** provides that this act shall take effect on July 1, 2012.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

---

<sup>33</sup> See N.Y. Gen Oblig. Law ss. 5-1401 (McKinney 2011); *See also, supra* note 17.

## D. Other Constitutional Issues<sup>34</sup>

With respect to choice-of-law conflicts, the United States Supreme Court, in *Hague v. Allstate Insurance Company*, held that “for a State’s substantive law to be selected in a constitutionally permissible manner, the State must have significant contact or a significant aggregation of contacts, creating state interests, such that choice of its law is neither arbitrary nor fundamentally unfair.”<sup>35</sup> Accordingly, the removal of the requirement of “significant contacts” or “reasonable relationship” from a state’s choice-of-law statute could potentially trigger a due process challenge under the Fourteenth Amendment. However, it should be noted that when the Supreme Court rendered its holding in *Hague*, the facts presented in that case did not include a contract whereby the parties agreed to be governed by a specific state’s law. Instead, the question before the Court was which state law applied in the absence of an agreement that designated any state’s law as governing.

To date, there are no known constitutional challenges to the New York choice-of-law statute,<sup>36</sup> which is the very same statute that the amendments in SB 486 seek to pattern Florida’s statute after. In any event, ss. 685.101 and 685.102, F.S., would continue to preserve existing language that limits the application of the statutes “to the extent permitted under the United States Constitution.”<sup>37</sup>

Furthermore, it has been stated that the “choice of the law of an unrelated jurisdiction will often stand the best chance of being honored if it is reinforced with a forum-selection clause designating the same jurisdiction.”<sup>38</sup> A reading of both ss. 685.101 and 685.102, F.S., as amended by this bill, reveals that the statutes would accomplish that very effect, allowing it to stand on stronger constitutional ground.

Lastly, the United States Supreme Court has already stated that in the commercial context the minimum contacts standard is met if a forum-selection clause exists that is “freely negotiated and is not unreasonable and unjust.”<sup>39</sup>

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

<sup>34</sup> The constitutional analysis was adapted, in part, from Pendleton, *supra* note 20.

<sup>35</sup> *Allstate Ins. Co. v. Hague*, 499 U.S. 302, 308 (1981).

<sup>36</sup> Pendleton, *supra*, note 20.

<sup>37</sup> Section 685.101, F.S. (2011); s. 685.102, F.S. (2011).

<sup>38</sup> Franch, *supra*, note 14 (“This is especially true in jurisdictions such as New York where the courts give substantial recognition to the parties’ freedom to contract.”).

<sup>39</sup> *Burger King*, 471 U.S. at 473 n. 14; *See also, Elandia International, Inc. v. Koy, et al.*, 690 F. Supp. 2d 1317, 1340 (S.D. Fla. 2010).

**B. Private Sector Impact:**

According to The Florida Bar, International Law Section, the bill enhances the business climate in Florida by clarifying and streamlining existing legislation related to international law matters in order to increase Florida's attractiveness as a business friendly state.<sup>40</sup>

**C. Government Sector Impact:**

According to the Office of the State Courts Administrator's 2012 Judicial Impact Statement, SB 486 would not fiscally impact or cause changes to court rules. With respect to workload impact, the office noted that the bill could increase the number of contract actions filed in circuit court but was unable to quantify to what extent.<sup>41</sup>

**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.

---

<sup>40</sup> Memorandum to Senate Committee on Commerce and Tourism from International Law Section, Florida Bar. (November 17, 2011) (on file with the Senate Committee on Commerce and Tourism).

<sup>41</sup> Memorandum to Committee on Commerce and Tourism from Office of the State Court Administrator (November 17, 2011) (on file with the Senate Committee on Commerce and Tourism).

By Senator Diaz de la Portilla

36-00020A-12

2012486\_\_

1 A bill to be entitled  
 2 An act relating to the jurisdiction of the courts;  
 3 amending s. 48.193, F.S.; including as an additional  
 4 basis for subjecting a person to the jurisdiction of  
 5 the courts of this state provisions which state that a  
 6 person submits to the jurisdiction of the courts of  
 7 this state by entering into a contract that designates  
 8 the law of this state as the law governing the  
 9 contract and that contains a provision by which such  
 10 person agrees to submit to the jurisdiction of the  
 11 courts of this state; amending s. 55.502, F.S.;  
 12 revising the definition of the term "foreign judgment"  
 13 for purposes of the Florida Enforcement of Foreign  
 14 Judgments Act; amending s. 684.0019, F.S.; clarifying  
 15 that an arbitral tribunal receiving a request for an  
 16 interim measure to preserve evidence in a dispute  
 17 governed by the Florida International Commercial  
 18 Arbitration Act need consider only to the extent  
 19 appropriate the potential harm that may occur if the  
 20 measure is not awarded or the possibility that the  
 21 requesting party will succeed on the merits of the  
 22 claim; amending s. 684.0026, F.S.; correcting a cross-  
 23 reference in the Florida International Commercial  
 24 Arbitration Act; amending s. 685.101, F.S.; deleting a  
 25 restriction on the jurisdiction of the courts of this  
 26 state to transactions bearing a substantial relation  
 27 to this state; revising application dates of  
 28 provisions relating to the jurisdiction of the courts;  
 29 amending s. 685.102, F.S.; revising application dates

Page 1 of 7

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

36-00020A-12

2012486\_\_

30 of provisions relating to the jurisdiction of the  
 31 courts; providing an effective date.  
 32  
 33 Be It Enacted by the Legislature of the State of Florida:  
 34  
 35 Section 1. Subsection (1) of section 48.193, Florida  
 36 Statutes, is amended to read:  
 37 48.193 Acts subjecting person to jurisdiction of courts of  
 38 state.-  
 39 (1) Any person, whether or not a citizen or resident of  
 40 this state, who personally or through an agent does any of the  
 41 acts enumerated in this subsection thereby submits himself or  
 42 herself and, if he or she is a natural person, his or her  
 43 personal representative to the jurisdiction of the courts of  
 44 this state for any cause of action arising from ~~the doing of~~ any  
 45 of the following acts:  
 46 (a) Operating, conducting, engaging in, or carrying on a  
 47 business or business venture in this state or having an office  
 48 or agency in this state.  
 49 (b) Committing a tortious act within this state.  
 50 (c) Owning, using, possessing, or holding a mortgage or  
 51 other lien on any real property within this state.  
 52 (d) Contracting to insure any person, property, or risk  
 53 located within this state at the time of contracting.  
 54 (e) With respect to a proceeding for alimony, child  
 55 support, or division of property in connection with an action to  
 56 dissolve a marriage or with respect to an independent action for  
 57 support of dependents, maintaining a matrimonial domicile in  
 58 this state at the time of the commencement of this action or, if

Page 2 of 7

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

36-00020A-12 2012486\_\_

59 the defendant resided in this state preceding the commencement  
60 of the action, whether cohabiting during that time or not. This  
61 paragraph does not change the residency requirement for filing  
62 an action for dissolution of marriage.

63 (f) Causing injury to persons or property within this state  
64 arising out of an act or omission by the defendant outside this  
65 state, if, at or about the time of the injury, either:

66 1. The defendant was engaged in solicitation or service  
67 activities within this state; or

68 2. Products, materials, or things processed, serviced, or  
69 manufactured by the defendant anywhere were used or consumed  
70 within this state in the ordinary course of commerce, trade, or  
71 use.

72 (g) Breaching a contract in this state by failing to  
73 perform acts required by the contract to be performed in this  
74 state.

75 (h) With respect to a proceeding for paternity, engaging in  
76 the act of sexual intercourse within this state with respect to  
77 which a child may have been conceived.

78 (i) Entering into a contract that complies with s. 685.102.

79 Section 2. Subsection (1) of section 55.502, Florida  
80 Statutes, is amended to read:

81 55.502 Construction of act.—

82 (1) As used in ss. 55.501-55.509, the term "foreign  
83 judgment" means any judgment, decree, or order of a court which  
84 ~~of any other state or of the United States if such judgment,~~  
85 ~~decree, or order~~ is entitled to full faith and credit in this  
86 state.

87 Section 3. Section 684.0019, Florida Statutes, is amended

36-00020A-12 2012486\_\_

88 to read:

89 684.0019 Conditions for granting interim measures.—

90 (1) The party requesting an interim measure under s.  
91 684.0018 must satisfy the arbitral tribunal that:

92 (a) Harm not adequately reparable by an award of damages is  
93 likely to result if the measure is not ordered, and such harm  
94 substantially outweighs the harm that is likely to result to the  
95 party against whom the measure is directed if the measure is  
96 granted; and

97 (b) A reasonable possibility exists that the requesting  
98 party will succeed on the merits of the claim. The determination  
99 on this possibility does not affect the discretion of the  
100 arbitral tribunal in making any subsequent determination.

101 (2) With regard to a request for an interim measure under  
102 s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1)  
103 apply only to the extent the arbitral tribunal considers  
104 appropriate.

105 Section 4. Section 684.0026, Florida Statutes, is amended  
106 to read:

107 684.0026 Recognition and enforcement.—

108 (1) An interim measure issued by an arbitral tribunal shall  
109 be recognized as binding and, unless otherwise provided by the  
110 arbitral tribunal, enforced upon application to the competent  
111 court, irrespective of the country in which it was issued,  
112 subject to s. 684.0027 ~~s. 684.0019(1)~~.

113 (2) The party who is seeking or has obtained recognition or  
114 enforcement of an interim measure shall promptly inform the  
115 court of the termination, suspension, or modification of the  
116 interim measure.

36-00020A-12

2012486

117 (3) The court where recognition or enforcement is sought  
 118 may, if it considers it proper, order the requesting party to  
 119 provide appropriate security if the arbitral tribunal has not  
 120 already made a determination with respect to security or if such  
 121 a decision is necessary to protect the rights of third parties.

122 Section 5. Section 685.101, Florida Statutes, is amended to  
 123 read:

124 685.101 Choice of law.—

125 (1) The parties to any contract, agreement, or undertaking,  
 126 contingent or otherwise, in consideration of or relating to any  
 127 obligation arising out of a transaction involving in the  
 128 aggregate at least not less than \$250,000, the equivalent  
 129 thereof in any foreign currency, or services or tangible or  
 130 intangible property, or both, of equivalent value, including a  
 131 transaction otherwise covered by s. 671.105(1), may, to the  
 132 extent permitted under the United States Constitution, agree  
 133 that the law of this state will govern such contract, agreement,  
 134 or undertaking, the effect thereof and their rights and duties  
 135 thereunder, in whole or in part, whether or not such contract,  
 136 agreement, or undertaking bears any relation to this state.

137 (2) This section does not apply to any contract, agreement,  
 138 or undertaking:

139 ~~(a) Regarding any transaction which does not bear a~~  
 140 ~~substantial or reasonable relation to this state in which every~~  
 141 ~~party is either or a combination of:~~

142 ~~1. A resident and citizen of the United States, but not of~~  
 143 ~~this state; or~~

144 ~~2. Incorporated or organized under the laws of another~~  
 145 ~~state and does not maintain a place of business in this state;~~

36-00020A-12

2012486

146 ~~(a) (b)~~ For labor or employment;

147 ~~(b) (e)~~ Relating to any transaction for personal, family, or  
 148 household purposes, unless such contract, agreement, or  
 149 undertaking concerns a trust at least one trustee of which  
 150 resides or transacts business as a trustee in this state, in  
 151 which case this section applies;

152 ~~(c) (d)~~ To the extent provided to the contrary in s.  
 153 671.105(2); or

154 ~~(d) (e)~~ To the extent such contract, agreement, or  
 155 undertaking is otherwise covered or affected by s. 655.55.

156 (3) This section does not limit or deny the enforcement of  
 157 any provision respecting choice of law in any other contract,  
 158 agreement, or undertaking.

159 (4) This section applies to+

160 ~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~  
 161 ~~27, 1989;~~ and

162 ~~(b) Contracts entered into prior to June 27, 1989, if an~~  
 163 ~~action or proceeding relating to such contract is commenced on~~  
 164 ~~or after June 27, 1989.~~

165 Section 6. Section 685.102, Florida Statutes, is amended to  
 166 read:

167 685.102 Jurisdiction.—

168 (1) Notwithstanding any law that limits the right of a  
 169 person to maintain an action or proceeding, any person may, to  
 170 the extent permitted under the United States Constitution,  
 171 maintain in this state an action or proceeding against any  
 172 person or other entity residing or located outside this state,  
 173 if the action or proceeding arises out of or relates to any  
 174 contract, agreement, or undertaking for which a choice of the

36-00020A-12

2012486

175 law of this state, in whole or in part, has been made consistent  
176 ~~with pursuant to~~ s. 685.101 and which contains a provision by  
177 which such person or other entity residing or located outside  
178 this state agrees to submit to the jurisdiction of the courts of  
179 this state.

180 (2) This section does not affect the jurisdiction of the  
181 courts of this state over any action or proceeding arising out  
182 of or relating to any other contract, agreement, or undertaking.

183 (3) This section applies to+

184 ~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~  
185 ~~27, 1989~~; and

186 ~~(b) Contracts entered into prior to June 27, 1989, if an~~  
187 ~~action or proceeding relating to such contract is commenced on~~  
188 ~~or after June 27, 1989.~~

189 Section 7. This act shall take effect July 1, 2012.



**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

November 3, 2011

**RECEIVED**

NOV 03 2011

**COMMERCE**

The Honorable Nancy Detert  
Chair  
Committee on Commerce and Tourism

Via email

Dear Chair Detert:

Senate Bill 486, which I sponsor, has been referred to the Committee on Commerce and Tourism. I would appreciate it if you would agenda the bill at your next opportunity.

Thank you for our consideration.

Sincerely,

Miguel Diaz de la Portilla  
State Senator, District 36

Cc: Jennifer Hrdlicka, Staff Director  
Patty Blackburn, Committee Administrative Assistant  
Charlie Anderson, Legislative Assistant

*posted 11/3/11  
psb*

**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](http://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)

12/7/2011

*Meeting Date*

Topic Courts

Bill Number 486  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG                      FLORIDA                      33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

12/7/2011  
Meeting Date

Topic Jurisdiction of Courts Bill Number 486  
*(if applicable)*

Name Ryan West Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Policy Director for Education & Economic Development

Address 136 South Bronough Street Phone 850 521-1251  
*Street*

Tallahassee FL 32301 E-mail rwest@flchamber.com  
*City State Zip*

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic International Jurisdiction Bill Number 486  
*(if applicable)*

Name Todd Keournek Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title President/CEO

Address 1351 N. Garden

Street

Phone \_\_\_\_\_

City TLH

State

Zip

E-mail todd@attglobal.net

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.**

**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 Commerce and Tourism Committee

---

BILL: SB 238

INTRODUCER: Senator Evers and Gaetz

SUBJECT: Florida Renewable Fuel Standard Act

DATE: December 6, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Willar	Carter	CU	<b>Favorable</b>
2.	Tell	Hrdlicka	CM	<b>Pre-meeting</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 238 repeals the Florida Renewable Fuel Standard Act (FRFSA). The FRFSA requires, with certain exemptions, that all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, and wholesaler must contain a minimum of 9 percent of agriculturally-derived, denatured ethanol fuel by volume.

This bill amends s. 206.43, F.S., and repeals the following sections of the Florida Statutes: 526.201, 526.202, 526.203, 526.204, 526.205, 526.206, and 526.207.

**II. Present Situation:**

The State Legislature in 2008, determined that it is vital to the public interest and to the state's economy to establish a market and the necessary infrastructure for renewable fuels in this state by requiring that all gasoline offered for sale in this state include a percentage of agriculturally-derived, denatured ethanol. The Legislature further found that the use of renewable fuel reduces greenhouse gas emissions and dependence on imports of foreign oil, improves the health and quality of life for Floridians, and stimulates economic development and the creation of a sustainable industry that combines agricultural production with state-of-the-art technology.<sup>1</sup>

The Florida Renewable Fuel Standard Act (act) was passed in 2008<sup>2</sup> requiring all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler to contain 9

---

<sup>1</sup> Section 526.202, F.S.

<sup>2</sup> See HB 7135 (2008).

to 10 percent of agriculturally-derived, denatured ethanol fuel by volume.<sup>3</sup> It also provided a list of fuel sold or used for specified purposes that is exempt from the requirements.<sup>4</sup> The Department of Agriculture and Consumer Services (DACS) is authorized to enforce the provisions of the act.

According to a 2008 St. Petersburg Times article, between 2006 and 2008 Florida had spent \$50 million on ethanol production and research. Of the \$50 million, at least \$13 million was allocated for projects that would use waste such as tree trimmings and citrus peels to produce ethanol. Another \$20 million was disbursed to a University of Florida project with Florida Crystals to make ethanol from sugar bagasse. The article found that the projects have yet to produce a drop.<sup>5</sup>

The first ethanol plant proposed in Florida, the U.S. EnviroFuels plant in Highlands County in 2008, drew opposition when the construction firm building the plant requested 400,000 gallons a day of city water. If approved, this would have made the facility one of the city's top ten water consumers overnight at a time when Florida was suffering from a prolonged drought and rivers and lakes were at record lows.<sup>6</sup> Today, the plant is seeking a permit to draw 200,000 gallons per day.<sup>7</sup>

Since then, plans for several Florida ethanol plants have been announced. In February 2011, the first ethanol plant broke ground in Indian River County. The plant is a joint venture between INEOS Bio and New Planet Energy. This plant is expected to be the first advanced waste-to-fuel bio-refinery in the U.S. The plant operators expect annual ethanol production up to 8 million gallons and more than 6 megawatts of power from local yard, vegetative and household waste. Federal and state grants are funding the project. The joint venture received a \$2.5 million Florida Farm-to-Fuel grant and a \$50 million federal grant in 2009. Additionally, the venture recently received a conditional commitment for a \$75 million loan guarantee from the U.S. Department of Agriculture.<sup>8</sup>

Other Florida ethanol projects currently underway are:

- BP-Verenium Partnership, plans to build in Highlands County;<sup>9</sup> and
- Southeast Renewable Fuels, LLC, plans to build three sweet-sorghum-to-ethanol plants. The first plant has been permitted and will break ground in late 2011 in Clewiston, Hendry County.<sup>10</sup>

---

<sup>3</sup> Section 526.203(1)(b), F.S.

<sup>4</sup> Section 526.203(3)(a)-(j), F.S.

<sup>5</sup> Asjlyln Loder, *Are Florida Ethanol Plants Worth it?* (Mar. 2008).

[http://www.sptimes.com/2008/03/02/Business/Are\\_Florida\\_ethanol\\_p.shtml](http://www.sptimes.com/2008/03/02/Business/Are_Florida_ethanol_p.shtml) (last visited November 14, 2011).

<sup>6</sup> The Economist, *Ethanol and Water: Don't Mix*, (Feb. 2008). <http://www.economist.com/node/10766882> (last visited November 14, 2011).

<sup>7</sup> Highlands Today, <http://www2.highlandstoday.com/news/news/2011/oct/05/ethanol-plant-touts-60-new-jobs-ar-262978/> (last visited November 14, 2011).

<sup>8</sup> The Palm Beach Post, *The First Ethanol Production Plant comes to Florida*, <http://www.palmbeachpost.com/money/biofuel-plant-work-begins-near-vero-1244067.html> (last visited November 14, 2011).

<sup>9</sup> Highlands Today, <http://www2.highlandstoday.com/news/highlands-news/2009/feb/20/la-bp-joins-verenium-on-new-ethanol-plant-ar-305306/> (last visited November 14, 2011).

<sup>10</sup> E-mail correspondence with Southeast Renewable Fuels, LLC. On file with the Senate Commerce & Tourism Committee.

Since 2010, the U.S. annual ethanol production has accounted for 13.23 billion gallons, representing 36 million gallons a day.<sup>11</sup> Florida currently produces none of its ethanol used in the state's blended fuel. The Florida Department of Revenue (DOR) reported wholesaler sales of 505 million gallons of gasohol (fuel & ethanol blend) in July 2011.<sup>12</sup> In FY 2010-2011, 8.2 billion gallons of gasoline and 1.4 billion gallons of diesel fuel were sold in Florida.<sup>13</sup> DOR estimates that of the 8.2 billion gallons of gasoline sold nearly 100 percent was actually gasohol. DOR bases its conclusion on the fact that taxpayers typically report sales as gasoline sales, not gasohol sales.<sup>14</sup>

### III. Effect of Proposed Changes:

#### Section 1

This bill repeals the Florida Renewable Fuel Standard Act, including the following:

- s. 526.201, F.S., which is the act title;
- s. 526.202, F.S., which deals with the legislative findings regarding renewable fuel;
- s. 526.203, F.S., which deals with the renewable fuel standard exemptions, including definitions regarding "blended gasoline" requirements as a mixture of 90 to 91 percent gasoline and 9 to 10 percent ethanol by volume;
- s. 526.204, F.S., which discusses the waivers and suspensions;
- s. 526.205, F.S., which deals with the enforcement on terminal suppliers, importers, blenders, or wholesalers that sell or distribute, or offer for sale or distribution of gasoline which fails to meet the requirements of the act;
- s. 526.206, F.S., which are the provisions authorizing DOR and DACS to adopt rules in implementing provisions of this act; and
- s. 527.207, F.S., which is the requirement that DACS conduct a study to evaluate and recommend the life-cycle greenhouse gas emissions associated with all renewable fuels.

#### Section 2

This section amends s. 206.43(2), F.S., to make a conforming change, deleting from this section the language "Each terminal supplier, importer, blender, and wholesaler shall also include in the report to the department the number of gallons of blended and unblended gasoline, as defined in s. 526.203, sold."

#### Section 3

This section provides an effective date of July 1, 2012.

---

<sup>11</sup>Renewable Fuels Association, *2010 Annual Ethanol Production=13.23 Billion Gallons* (Feb. 2011). <http://www.ethanolrfa.org/news/entry/2010-annual-ethanol-production-13.23-billion-gallons/> (last visited November 14, 2011).

<sup>12</sup>E-mail correspondence with Department of Revenue staff. On file with the Senate Commerce & Tourism Committee.

<sup>13</sup>Department of Revenue, *Fuel Tax*, <http://dor.myflorida.com/dor/taxes/fuel/> (last visited November 14, 2011).

<sup>14</sup>E-mail correspondence with Department of Revenue staff. On file with the Senate Commerce & Tourism Committee.

**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:

Currently there are no working ethanol production plants in Florida, but there are plants under construction. The private sector could see a loss in market production if mandates are removed. This is, however, uncertain. According to DACS, the practical impact of the bill is uncertain because the 2007 Energy Independence and Security Act (EISA) requirements remain in place and effectively increase the use of ethanol.<sup>15</sup> The 2007 EISA Renewable Fuel Standards required 9 billion gallons in 2008 with a rise to 36 billion gallons by 2022, which in turn could constitute a bigger market for ethanol resulting in higher demand for the product in the long run.<sup>16</sup> Federal Environmental Protection Agency (EPA) emissions control requirements also may encourage expanded use of ethanol. The EPA requires reduced exhaust emissions of carbon monoxide, which can be accomplished by the addition of ethanol, which contains 35 percent oxygen by weight and promotes more complete combustion of the fuel.<sup>17</sup>

## C. Government Sector Impact:

DACS does not anticipate any appreciable effect to state revenues if the bill were to pass.<sup>18</sup>

---

<sup>15</sup> E-mail correspondence with DACS Staff. On file with the Senate Committee on Communications, Energy, and Public Utilities.

<sup>16</sup> Congressional Research Service, *Energy Independence and Security Act of 2007: A Summary of Major Provisions* (Dec. 2007). [http://energy.senate.gov/public/\\_files/RL342941.pdf](http://energy.senate.gov/public/_files/RL342941.pdf) (last visited November 14, 2011).

<sup>17</sup> E-mail correspondence with DACS Staff. On file with the Senate Committee on Communications, Energy, and Public Utilities.

<sup>18</sup> E-mail correspondence with DACS Staff. On file with the Senate Commerce & Tourism Committee.

**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 Evers

2-00359-12

2012238\_\_

1 A bill to be entitled  
 2 An act relating to the Florida Renewable Fuel Standard  
 3 Act; repealing ss. 526.201-526.207, F.S., the Florida  
 4 Renewable Fuel Standard Act, to remove the requirement  
 5 that all gasoline offered for sale in this state  
 6 include a percentage of ethanol, subject to specified  
 7 exemptions, waivers, suspensions, extensions,  
 8 enforcement, and reporting; amending s. 206.43, F.S.;  
 9 conforming a cross-reference; providing an effective  
 10 date.

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

14 Section 1. Sections 526.201, 526.202, 526.203, 526.204,  
 15 526.205, 526.206, and 526.207, Florida Statutes, are repealed.

16 Section 2. Subsection (2) of section 206.43, Florida  
 17 Statutes, is amended to read:

18 206.43 Terminal supplier, importer, exporter, blender, and  
 19 wholesaler to report to department monthly; deduction.—The taxes  
 20 levied and assessed as provided in this part shall be paid to  
 21 the department monthly in the following manner:

22 (2) ~~(a)~~ Such report may show in detail the number of gallons  
 23 so sold and delivered by the terminal supplier, importer,  
 24 exporter, blender, or wholesaler in the state, and the  
 25 destination as to the county in the state to which the motor  
 26 fuel was delivered for resale at retail or use shall be  
 27 specified in the report. The total taxable gallons sold shall  
 28 agree with the total gallons reported to the county destinations  
 29 for resale at retail or use. All gallons of motor fuel sold

Page 1 of 2

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

2-00359-12

2012238\_\_

30 shall be invoiced and shall name the county of destination for  
 31 resale at retail or use.

32 ~~(b) Each terminal supplier, importer, blender, and~~  
 33 ~~wholesaler shall also include in the report to the department~~  
 34 ~~the number of gallons of blended and unblended gasoline, as~~  
 35 ~~defined in s. 526.203, sold.~~

36 Section 3. This act shall take effect July 1, 2012.

Page 2 of 2

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



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

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

**SENATOR GREG EVERS**  
2nd District

RECEIVED

NOV 16 2011

COMMERCE

November 14, 2011

The Honorable Nancy Detert  
318 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Detert,

I respectfully request SB 238, pertaining to the Florida Renewable Fuel Standard Act, be placed on your next available agenda for review by the Commerce and Tourism Committee.

Thank you in advance for your favorable consideration on this request.

Sincerely,

Greg Evers

Cc: Jennifer Hrdlicka, Staff Director

posted 11/16/11  
psb

REPLY TO:

- 598 North Ferdon Boulevard, Crestview, Florida 32536 (850) 689-0556
- 5224 Willing Street, Milton, Florida 32570 (850) 983-5550
- 24 North Tarragona, Pensacola, Florida 32502 (850) 595-0213
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5000

Senate's Website: [www.flsenate.gov](http://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)

12/7/2011

Meeting Date

Topic Fuel

Bill Number 238  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

12-7-11  
Meeting Date

Topic Evers - FL Renewable Fuels Act <sup>Standard</sup>

Bill Number SB 238  
(if applicable)

Name Bradley Krohn

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Manager

Address 10027 Water Works Lane  
Street

Phone 813-425-5478

Riverview FL 33578  
City State Zip

E-mail bkrohn@usenvirofuels.com

Speaking:  For  Against  Information

Representing Highlands EnviroFuels, LLC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

12-07-2011

Meeting Date

Topic Evers Florida Renewable Fuels Bill Number ~~153~~ SB 238  
Standard Act (if applicable)  
Name JEFF KROHN Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title Managing Member - Highlands EnviroFuels  
Address 10027 Water Works Lane Phone 813-425-5478  
Riverview, FL 33578 E-mail J Krohn at usenviroFuels  
City State Zip .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)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

12/7

Meeting Date

Topic Repealing Renewable Fuels Std

Bill Number SB 238  
*(if applicable)*

Name Dan Cummings

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Vice President

Address 925 74<sup>th</sup> ST SW

Phone 772-562-9573

Street

Vero Beach FL 32968

City

State

Zip

E-mail dan.cummings@ineos.com

Speaking:  For  Against  Information

Representing Ineos Bio

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)

Dec 7, 2011

*Meeting Date*

Topic Repeal of the E-10 Mandate

Bill Number SB 238  
*(if applicable)*

Name David B. Walker

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Process Engineer

Address 2155 N McMalleen Booth Rd  
*Street*  
Clearwater FL 33759  
*City State Zip*

Phone 727-669-7036

E-mail benchmark@attglobal.net

Speaking:  For  Against  Information

Representing Benchmark Design LLC

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)

12/7/11

Meeting Date

Topic Florida Renewable Fuel Standard

Bill Number SB 238  
(if applicable)

Name Jeremy Susac

Amendment Barcode —  
(if applicable)

Job Title Executive Director

Address P.O. Box 38070

Phone 850-559-0929

Street

Tallahassee, FL 32315

City

State

Zip

E-mail jeremy@realsg.com

Speaking:  For  Against  Information

Representing Florida BioEnergy Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

12/7/11  
Meeting Date

Topic School

Bill Number SB 238  
*(if applicable)*

Name Donnie BASHANI

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 133 Oak St #15  
Street

Phone \_\_\_\_\_

IRH \_\_\_\_\_  
City State Zip

E-mail Capital. Ideas At Det

Speaking:  For  Against  Information

Representing Boys vs - \$1, Inwood 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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

December 7, 2011  
Meeting Date

Topic Repeal the Ethanol Mandate

Bill Number S. 238  
*(if applicable)*

Name Richard Harrison

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title farmer

Address 635 Dowling Rd  
Street  
Marianna FL 32448  
City State Zip

Phone 850-762-3366

E-mail rharrison922@yahoo.com

Speaking:  For  Against  Information

Representing myself as a consumer

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)