

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Thursday, February 16, 2012

TIME: 8:30 —10:15 a.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
Consideration of proposed committee bill:			
1	SPB 7212	Entertainment Industry Financial Incentive Program; Providing that a hurricane does not disqualify certain high-impact television series that are off-season certified productions from eligibility for an additional tax credit; deleting provisions limiting the amount of tax credits for high-impact television series and digital media productions; providing criteria for determining priority for tax credits that have not yet been certified; reducing the required percent of certain production components necessary to qualify for additional credits, etc.	Submitted as Committee Bill
2	SB 2106 Commerce and Tourism	Tipped Employees; Authorizing an employer to elect to guarantee that all tipped employees receive a wage, including tips, equal to a minimum percentage of the state minimum wage; requiring that the employer make the election in writing and prominently display it in the employer's premises; providing that the employer is subject to civil actions and fines if the employer fails to pay a tipped employee the wage guaranteed under the act or engages in any discriminatory or retaliatory action; providing that the act does not affect the employer's obligation to comply with the federal Fair Labor Standards Act, etc. CM 02/16/2012 Favorable RI	Favorable Yeas 5 Nays 1
3	SB 2104 Commerce and Tourism	Notaries Public; Revising the application process and requirements for appointment as a notary public; requiring the Department of State to investigate complaints against a notary public and submit findings to the Executive Office of the Governor; clarifying that the Governor is authorized to suspend a notary's commission; providing that a notary who notarizes the signature of a person who is not in the presence of the notary is subject to suspension; transferring certain responsibilities relating to the administration of notaries public from the Executive Office of the Governor to the Secretary of State, etc. CM 02/16/2012 Favorable BC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Thursday, February 16, 2012, 8:30 —10:15 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 266 Lynn (Identical H 745)	State Symbols/Automobile Racing; Designating the sport of automobile racing as the official state sport, etc. CM 02/16/2012 Favorable GO	Favorable Yeas 6 Nays 0
5	SB 454 Wise (Compare CS/H 249)	Public Lodging Establishments; Revising the definition of the term "public lodging establishment" to exclude certain apartment complexes designated primarily as housing for persons at least 55 years of age, etc. RI 01/19/2012 Favorable CM 02/16/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
6	CS/SB 734 Community Affairs / Bogdanoff (Similar H 581)	Tax Deeds; Authorizing tax collector reimbursement for the cost of electronic deed application services, etc. CA 01/12/2012 Fav/CS CM 02/16/2012 Favorable BC	Favorable Yeas 6 Nays 0
7	CS/SB 1168 Transportation / Ring (Compare H 679, CS/CS/H 1399, CS/S 1866)	Freight Mobility Development; Providing tax credits of a specified amount relating to increased trade activities at port facilities for use against specifically enumerated taxes for a specified number of tax years; providing eligibility criteria, limitations, conditions, requirements, and prohibitions relating to applying for, approving, calculating, claiming, issuing, recapturing, carrying over, and redeeming such tax credits; redesignating the ports to be benefitted by the Florida Seaport Transportation and Economic Development Program; creating the Strategic Port Investment Initiative; requiring a specified minimum amount of annual funding from the State Transportation Trust Fund to the initiative; requiring the Department of Transportation to develop a Statewide Seaport and Waterways System Plan, etc. TR 01/19/2012 Fav/CS CM 02/16/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<p>Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.</p> <p>Board of Directors, Enterprise Florida, Inc.</p>			
8	Keiser, Belinda (Parkland)	09/30/2015	Recommend Confirm Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

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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.

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 7212

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: Entertainment Industry Financial Incentive Program

DATE: February 15, 2012

REVISED: _____

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

I. Summary:

SPB 7212 makes substantial changes to the Entertainment Industry Financial Incentive Program (incentive program), including:

- Removing the limitation on the amount of tax credits available for high-impact television series;
- Creating a new priority order for high-impact television series and high-impact digital media projects;
- Revising and expanding the additional tax credits for off-season productions, productions in underutilized regions, and productions that occur at a qualified production facility or a qualified digital media production facility.

This bill substantially amends s. 288.1254, F.S.

II. Present Situation:

Florida's Entertainment Industry Financial Incentive Program¹

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program (incentive program).² The incentive program's dual purposes are to:

- Promote Florida as a site for filming, creating, or producing movies, television series, commercials, digital media and other types of entertainment productions, and to

¹ Information about the incentive program is also available on OFE's website, available at <http://filminflorida.com/ifi/incentives.asp> (last visited 2/9/2012).

² Section 288.1254, F.S. See ch. 2003-81, L.O.F.

- Sustain and develop the state's entertainment workforce, studios, and other related infrastructure.

The incentive program is administered by the Office of Film and Entertainment (OFE), subject to the policies and oversight of the Department of Economic Opportunity (DEO).³ OFE develops, markets, promotes, and provides services to Florida's entertainment industry, such as serving as a liaison between the industry and government entities and facilitating access to filming locations. Additionally, the Florida Film and Entertainment Advisory Council (council) provides industry insight and expertise to OFE and DEO.⁴

Currently the incentive program is a 5-year program, which began July 1, 2010, and sunsets June 30, 2015.⁵ The incentive program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred one time.

Over the 5 year period, there are a total of \$254 million in available credits. Annual limitations for tax credits were set at:

- \$53.5 million in FY 2010-11;
- \$74.5 million in FY 2011-12; and
- \$42 million in FY 2012-13, FY 2013-14, and FY 2014-15 each.⁶

Already, almost \$219 million tax credits have been awarded to certified productions. The law provides that if the total tax credits applied for in a fiscal year is greater than the amount available for that year, then the excess credits are to be treated as if they had been applied for in the next fiscal year. Thus, most of the tax credits have already been awarded for all 5 years.⁷

Eligibility

Generally, a production company planning on engaging in a production in Florida can apply to OFE prior to beginning production for an award of tax credits based upon estimated qualified expenditures planned for the production (pre-certification). Priority for tax credit awards is made on a first-come, first-served basis within the appropriate "queue."⁸

There are three queues of eligible productions: general production, commercial and music video, and independent and emerging media production. As percentage of funding:

- 94 percent of the state incentive funding is dedicated to the general production queue;
- 3 percent is dedicated to the commercial and music video queue; and
- 3 percent is dedicated to the independent and emerging media production queue.

³ Section 288.1251, F.S.

⁴ The council consists of 17 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. See s. 288.1252, F.S.

⁵ In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.

⁶ Section 288.1254(7), F.S.

⁷ See OFE FY 2010-2011 Annual Report, discussed below under OFE Annual Report for FY 2010-11.

⁸ Section 288.1254(4), F.S.

Further, under the general production queue, no more than 25 percent of the tax credits can be awarded to television series. If less than 20 percent of tax credits are awarded to digital media projects, then any digital media project with qualified expenditures greater than \$4.5 million are allowed first priority for credits not yet awarded.

Characteristics of Production Queues

	General Production	Commercial & Music Video	Independent and Emerging Media Production Queue
Minimum amount of qualified expenditures	\$625,000	\$100,000 per commercial or video <u>and</u> exceeds \$500,000 combined per FY year	At least \$100,000, but not more than \$625,000
Amount of basic incentive	20% of qualified expenditures, up to \$8 million	20% of qualified expenditures, up to \$500,000	20% of qualified expenditures, up to \$125,000

In addition to the amount of basic incentives, there are additional tax credits available for general production queue projects:

- 5 percent additional tax credit for feature films, independent films, or television series or pilots that are “off-season certified,” including those that are not able to complete 75 percent of their principal photography due to a hurricane or tropical storm. Off-season certified means that the production films 75 percent or more of its principal photography from June 1 to November 30.
- 5 percent additional tax credit for productions that incur at least 85 percent of qualified expenditures in an underutilized region. An “underutilized region” is one with a regional tax credit ratio for a fiscal year that is lower than its regional population ratio that year.⁹
- 15 percent additional tax credit for productions that employ students enrolled full-time in a film and entertainment-related or digital media-related course of study or recent graduates of such a course of study. The course of study must have occurred at an institution of higher education in Florida. This additional 15 percent may be applied to any qualified expenditures related to wages, salaries, or other compensation paid to such students or graduates.
- 5 percent additional tax credit for productions which conduct at least 50 percent of their principal photography at a qualified production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.
- 5 percent additional tax credit for qualified digital media projects or digital animation components of productions which have at least 50 percent of their qualified expenditures related to a qualified digital media production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.

⁹ “Underutilized region” is defined in s. 288.1254(1)(o), F.S.

Further, family-friendly certified theatrical or direct-to-video movies and video games are eligible for an additional tax credit of 5 percent of its actual qualified expenditures. The determination for “family-friendly” is made by OFE, with the advice of the council. A family friendly production is one that:

- Has cross-generational appeal;
- Is considered suitable for viewing by children aged 5 years or older;
- Is appropriate in theme, content and language for a broad family audience;
- Responsibly resolves issues raised in the film; and
- Does not include any act of smoking, sex, nudity, or vulgar or profane language.

Current law defines “qualified expenditures” as production expenditures incurred by a qualified production in Florida for:¹⁰

- Goods purchased or leased from, or services provided by, a vendor or supplier in Florida that is registered with the Department of State or the Department of Revenue (DOR) and is doing business in Florida. Eligible production goods and services include:
 - Sound stages, back lots, production editing, digital effects, sound recordings, sets, and set construction;
 - Entertainment-related rental equipment, including cameras and grip or electrical equipment;
 - Newly purchased computer software and hardware, up to \$300,000; and
 - Meals, travel, and accommodations.
- Salary, wages, or other compensation paid to Florida residents, up to a maximum of \$400,000 per resident.

Further, qualified production must meet the requirements in s. 288.1254, F.S., plus two additional criteria:

- Depending on the type of production and period of time in the incentive program, most of the production cast and below-the-line production crew¹¹ are Florida residents, or are students enrolled full-time in a film- and entertainment-related course of study at a Florida university or college.
- The production does not contain obscene content, as defined in s. 847.001(10), F.S.¹²

Additionally, for a qualified production involving an event, such as an awards show, the term “qualified expenditures” excludes expenditures solely associated with the event itself and not directly required by the production. The term also excludes expenditures prior to certification, with the exception of those incurred for a commercial, a music video, or the pickup of additional episodes of a television series within a single season.

¹⁰ See s. 288.1254(1)(g) and (h), F.S.

¹¹ “Below-the-line production crew” excludes actors, directors, producers, and writers.

¹² Pursuant to this section, “‘obscene’ means the status of material which: (a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest; (b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and (c) Taken as a whole, lacks serious literary, artistic, political, or scientific value. A mother’s breastfeeding of her baby is not under any circumstance ‘obscene.’”

Award of Credits

After production ends and all certified expenditures are made in Florida, the production company must have an independent certified public accountant licensed in Florida conduct a compliance audit. OFE is required to review the audit and report to DEO the final verified amount of actual qualified expenditures. DEO then must review and approve the final tax credit award, and notify DOR. Tax credit awards are subject to the limitations discussed above.

Additionally, after production the company must make an irrevocable election to apply the tax credits to the corporate income taxes or sales and use taxes or a stated combination of both. This decision is binding on any distributee, successor, transferee, or purchaser. Tax credits that are unused in any year may be carried forward to the next for a maximum of 5 years.

The production must also include information, such as a logo at the end of the credits or on packing material, that indicates that the production occurred in Florida in order to be eligible for the tax credits.

Tax credits may be relinquished to DOR for 90 percent of the amount of the relinquished tax credit.

Section 288.1254(9), F.S., provides audit authority to DOR related to the tax credits, and for the revocation or forfeiture of tax credits under certain circumstances. Fraudulent applications for tax credits may also result in penalties and other costs in addition to repayment of the tax credits.

OFE Annual Report for FY 2010-11¹³

OFE is directed to submit an annual report each October 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives, that outlines the return on the state's investment of the incentive program, the program's economic benefits to the state, the estimate of full-time equivalent positions (FTE) for each production that received tax credits, and geographic distribution of the credits in Florida.

OFE's annual report for FY 2010-11 reviewed the incentive program for the first year of the 5-year program, as of September 15, 2011. OFE provided updated data as of February 1, 2012:¹⁴

- 381 applications were received and processed;
- Overall, 161 projects have been certified for the 5 years; projected outcomes for these projects include:
 - Over \$1 billion in qualified expenditures in Florida;
 - 195,675 positions with over \$633 million in wages paid;¹⁵
 - 195,675 lodging/room nights; and
 - Almost \$219 million in certified tax credits awarded.

¹³ OFE "FY 2010-2011 Annual Report: The Florida Entertainment Industry Financial Incentive Program" (September 2011), available at http://filminflorida.com/ifi/PDFs/annualReports/FY2010-2011%20Annual%20Entertainment%20Industry%20Financial%20Incentive%20Report_UPDATED.pdf (last visited 2/9/2012).

¹⁴ Updated data on the incentive program obtained from OFE, on file with the Senate Commerce and Tourism Committee.

¹⁵ Positions are individual positions, not FTEs. Positions may be permanent or temporary. Production cast, crew, extras, and stand-ins, etc., may work for multiple productions and fill multiple positions. Based upon the change to the program in the 2011 Regular Session, OFE is currently developing methodology to report the positions as FTEs. See ch. 2011-76, L.O.F.

- Productions include 37 motion pictures, 29 digital media productions, and 97 television productions, television series pilots, telenovelas, award shows, and commercials (5 of which are high-impact television series).
- 58 certified projects were started and completed in FY 2010-11; projected outcomes for these projects include:
 - 2,737 production days;
 - Over \$130 million in qualified expenditures in Florida;
 - 16,066 positions with over \$70 million in wages paid;
 - 24,269 lodging/room nights; and
 - Over \$30 million in final tax credits awarded.

Projected outcomes are based on information supplied with the applications. These outcomes are subject to change as some projects may withdraw or additional projects become certified.¹⁶

III. Effect of Proposed Changes:

SPB 7212 makes substantial changes to the Entertainment Industry Financial Incentive Program (incentive program).

Digital Media

The bill amends the definition of “digital media” to include digital animation and visual effects, including 3-D movie productions and movie conversions.

The bill creates a definition for “high-impact digital media” to mean a digital media project that has qualified expenditures greater than \$4.5 million.

Off-Season Productions

The definition of “off-season certified production” is amended to include a high-impact television series that films principal photography during at least 75 percent of the days from June 1 through November 30.

Production

Sporting event broadcasts, sports news shows, sports recap shows, and any production deemed obscene under ch. 847, F.S., are added to the list of projects that are not included in the definition of the term “production.”

Tax Credits Priority

Under current law within the general production queue, no more than 25 percent of the tax credits can be awarded to television series. If less than 20 percent of tax credits are awarded to digital media projects, then any digital media project with qualified expenditures greater than \$4.5 million are allowed first priority for credits not yet awarded. The bill repeals these distinctions.

¹⁶ For example, the television series “Charlie’s Angels” had been certified, however the series was cancelled in late 2011 and the tax credits awarded to the production became available to be awarded to other qualified productions.

Instead the bill requires first priority in the general production queue for tax credits not yet certified be given to high-impact television series and high-impact digital media projects, in alternating order, depending on the type of the first application received. OFE may certify a project out of order (ex: two high-impact television series productions in a row) if an application by the next appropriate type of production is not received within 5 business days.

Additional Tax Credits

High-impact television series that do not film during at least 75 percent of the days from June 1 through November 30 due to a hurricane or tropical storm are eligible for the additional 5 percent tax credit.

The additional tax credit for incurring qualified expenditures in an underutilized region is changed. Under the bill, the 5 percent additional tax credit will be available for productions that film at least 25 percent of their principal production days in an underutilized region.

The additional tax credits for certain productions that occur at a qualified production facility or a qualified digital media production facility is expanded. Under current law the 5 percent additional tax credit is applied to any qualified expenditures related to production activity at that facility. The bill strikes this language, thereby expanding the 5 percent additional tax credit to apply to all qualified expenditures. Further, the requirement for the amount of activity at the facility is reduced, such that:

- Productions are required to conduct at least 25 percent of their principal photography at a qualified production facility (as opposed to 50 percent), and
- Qualified digital media projects or digital animation components of productions must have at least 25 percent of their qualified expenditures related to a qualified digital media production facility (as opposed to 50 percent).

This bill would be effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. OFE indicated that as of February 14, 2012, about \$27 million in tax credits have not been awarded.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:Other Entertainment Industry Tax Incentives in Florida

Entertainment industry qualified production companies are eligible for several exemptions from the sales and use tax. Qualified production companies may obtain a single certificate of exemption, which allows the companies to benefit from these exemptions by not having to pay tax at the point of sale, rather than by having to seek reimbursement of the tax.¹⁷ Qualified production companies are exempt from paying sales and use tax for the following:

- *Lease or rental of real property*: Exempts from tax the lease or rental of real property that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (including photography, sound and recording, casting, location scouting, and the creation of special and optical effects).¹⁸
- *Fabrication labor*: Exempts fabrication labor from tax when a motion picture producer uses his or her own equipment and personnel to produce a qualified motion picture.¹⁹
- *Production equipment*: Exempts from tax the purchase or lease of motion picture and video equipment, and of sound recording equipment, used in Florida for motion picture or television production or for the production of master tapes or master records.²⁰
- *Master tapes*: Exempts from tax the sale, lease, storage, or use in Florida of master tapes or records for sound recordings, master films, and master video tapes.²¹

The estimated cost of these exemptions is \$64.6 million for FY 2012-13, according to the 2012 Florida Tax Handbook.²²

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

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

None.

¹⁷ Section 288.1258, F.S.

¹⁸ Section 212.031(1)(a)9., F.S.

¹⁹ Section 212.06(1)(b), F.S.

²⁰ Section 212.08(5)(f), F.S.

²¹ Section 212.08(12), F.S.

²² Florida Revenue Estimating Conference, 2012 Florida Tax Handbook.

B. Amendments:

None.

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



471610

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 221 and 222

insert:

(7) ANNUAL ALLOCATION OF TAX CREDITS.—

(a) The aggregate amount of the tax credits that may be certified pursuant to paragraph (3) (d) may not exceed:

1. For fiscal year 2010-2011, \$53.5 million.

2. For fiscal year 2011-2012, \$74.5 million.

3. For fiscal years 2012-2013, 2013-2014, and 2014-2015, \$42 million per fiscal year.

4. For fiscal year 2015-2016, \$53.5 million.



471610

13 5. For fiscal year 2016-2017, \$74.5 million.

14 6. For fiscal years 2017-2018, 2018-2019, and 2019-2020,
15 \$42 million per fiscal year.

16 (11) REPEAL.—This section is repealed July 1, 2020 ~~July 1,~~
17 ~~2015~~, except that:

18 (a) Tax credits certified under paragraph (3) (d) before
19 July 1, 2015, may be awarded under paragraph (3) (f) on or after
20 July 1, 2015, if the other requirements of this section are met.

21 (b) Tax credits for fiscal years 2015-2016 through 2019-
22 2020 may not be certified until July 1, 2015.

23 (c) Tax credits certified under paragraph (3) (d) before
24 July 1, 2020, may be awarded under paragraph (3) (f) on or after
25 July 1, 2020, if the other requirements of this section are met.

26 (d) ~~(b)~~ Tax credits carried forward under paragraph (4) (e)
27 remain valid for the period specified.

28 (e) ~~(e)~~ Subsections (5), (8), and (9) shall remain in effect
29 until July 1, 2025 ~~July 1, 2020~~.

30
31 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

32 And the directory clause is amended as follows:

33 Delete line 20

34 and insert:

35 paragraph (b) of subsection (4), paragraph (a) of subsection
36 (7), and subsection (11) of section 288.1254, Florida

37
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:

40 Delete line 14

41 and insert:

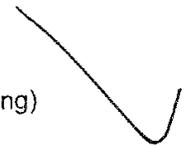


471610

42 additional credits; providing for tax credits for
43 fiscal years 2015-2016 through 2019-2020; providing
44 for applicability of certification of tax credits;
45 providing for repeal; providing for application;

THE FLORIDA SENATE
APPEARANCE RECORD

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



Feb 16 2012
Meeting Date

Topic Entertainment Financial Incentive Bill Number S 7212
(if applicable)

Name Judson C. French, Jr ("Jud") Amendment Barcode _____
(if applicable)

Job Title VP, Film Florida (Industry Association)

Address Dir. Research & Innovation FSU College of Motion Picture Arts Phone 407-252-4404 M
690 Osceola Ave'

Winter Park, FL 32789 E-mail JudFrench@gmail.com
Street City State Zip

Speaking: For Against Information

Representing Film, TV and Digital Media Industry

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16
Meeting Date

Topic Florida Film Production Bill Number F212
Name CHRIS RAWONG Amendment Barcode _____ (if applicable)
Job Title President, IATSE Local 477
Address 403 Shamrock Road Phone 904/806-6369
City St. Augustine, Florida State Florida Zip 32086 E-mail chrissrawong@aol.com

Speaking: For Against Information

Representing Florida's Professional Filmworkers

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

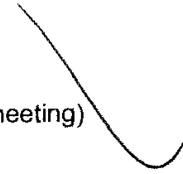
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date



Topic Entertainment Industry

Bill Number 7212
(if applicable)

Name Condree Encks

Amendment Barcode _____
(if applicable)

Job Title _____

Address 205 S. Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 954-648-1204

E-mail _____

Speaking: For Against Information

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/2012
Meeting Date

Topic Film & Entertainment

Bill Number PCB 7212
(if applicable)

Name Ryan West

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 Santa Bronough St
Street
Tallahassee FL 32307
City State Zip

Phone 850 521-1200

E-mail rwest@flchamber.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 2106

INTRODUCER: Commerce and Tourism Committee

SUBJECT: Tipped Employees

DATE: February 8, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	Favorable
2.	_____	_____	RI	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 2106 creates an optional guaranteed wage for tipped employees in Florida. An employer may elect to guarantee tipped employees a certain wage for tipped employees who meet the eligibility requirements for the tip credit under the federal Fair Labor Standards Act. The election must remain in effect for 1 year from the date of the election and until revoked by the employer. An employer who makes such election does not have to pay the Florida minimum wage for tipped employees.

This bill creates general law not contained in a designated section of the Florida Statutes.

II. Present Situation:

Florida Minimum Wage

A constitutional amendment to Florida’s Constitution took effect on May 2, 2005, which established the state minimum wage, including a wage for tipped employees.¹ The Legislature enacted the Florida Minimum Wage Act in 2005 to implement the constitutional provisions.²

The Department of Economic Opportunity (DEO) is required to annually calculate and publish the state minimum wage.³ Current law requires employers to pay employees a minimum wage at an hourly rate published by DEO for all hours worked in Florida. Only those individuals entitled

¹ Section 24, Art. X, of the State Constitution.

² Chapter 2005-353, L.O.F.

³ “To implement s. 24, Art. X of the State Constitution, the Department of Economic Opportunity is designated as the state Agency for Workforce Innovation.” s. 448.110(2), F.S.

to receive the federal minimum wage under the federal Fair Labor Standards Act and its implementing regulations are eligible to receive the state minimum wage.

Florida Minimum Wage Calculation

DEO must calculate an adjusted state minimum wage rate by increasing the state minimum wage by the rate of inflation for the 12 months prior to September 1. In calculating the adjusted state minimum wage, DEO must use the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region.⁴ Neither the statute nor the Constitution specifically addresses deflation in the computation of the minimum wage.

Currently, Florida's minimum wage is \$7.67 per hour.

Employers of *tipped employees*, who meet eligibility requirements for the tip credit under the Fair Labor Standards Act, may count tips actually received as wages under the Florida minimum wage. However, the employer must pay *tipped employees* a direct wage. The direct wage is calculated as equal to the minimum wage (\$7.67) minus the 2003 tip credit (\$3.02), or a direct hourly wage of \$4.65 as of January 1, 2012.⁵

Florida Compliance

Employees who are not paid the minimum wage may bring a civil action against the employer or any person violating Florida's minimum wage law. "Rights protected include, but are not limited to, the right to file a complaint or inform any person of his or her potential rights pursuant to s. 24, Art. X of the State Constitution and to assist him or her in asserting such rights."⁶ However, prior to bringing any claim for unpaid minimum wages, the person aggrieved shall notify the employer in writing of his or her intent to initiate such an action. An employer may ultimately be liable for unpaid wages, liquidated damages, and reasonable attorney's fees and costs to the employee.⁷ Such actions may also be class actions.⁸

The Attorney General may also bring an enforcement action to enforce the minimum wage, and may seek to impose a fine of \$1,000 per violation, payable to the state.⁹

Actions must be brought within 5 years of the date the alleged violation occurred.¹⁰

Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) prescribes standards for minimum wages, overtime pay, recordkeeping, and child labor.¹¹ It is administered by the U.S. Department of Labor, Wage and

⁴ Section 448.110(4)(a), F.S.

⁵ See DEO's "Florida's Minimum Wage," available at http://www.floridajobs.org/minimumwage/Announcement-FL_MinWage2012.pdf (last visited 2/6/2012). Florida does not specifically define "tipped employee," but the federal law definition is provided further in the Present Situation. For a review of other states' laws regarding minimum wage for tipped employees see U.S. Department of Labor, Wage and Hour Division, at <http://www.dol.gov/whd/state/tipped.htm> (last visited 2/8/2012).

⁶ Section 448.110(5), F.S.

⁷ Section 448.110(6), F.S.

⁸ Section 448.110(9), F.S.

⁹ Section 448.110(7), F.S.

¹⁰ Section 448.110(8), F.S.

Hour Division. The current federal minimum wage is \$7.25 per hour. The required minimum cash wage for *tipped employees* is \$2.13 per hour; employers may take a tip credit of up to \$5.12 from the federal minimum wage.¹² There are additional notice requirements that employers must make to *tipped employees* in order to use the tip credit.

Employers electing to use the tip credit provision must be able to show that tipped employees receive at least the minimum wage when direct (or cash) wages and the tip credit amount are combined. If an employee's tips combined with the employer's direct (or cash) wages of at least \$2.13 per hour do not equal the minimum hourly wage of \$7.25 per hour, **the employer must make up the difference.**¹³

It is a violation of FLSA to fire or in any other manner discriminate against an employee for filing a complaint or for participating in a legal proceeding under the FLSA.¹⁴

III. Effect of Proposed Changes:

SB 2106 creates an optional guaranteed wage for tipped employees in Florida. An employer may elect to guarantee tipped employees a certain wage for tipped employees who meet the eligibility requirements for the tip credit under the federal Fair Labor Standards Act (FLSA). Specifically, the wage must equal at least 130 percent of the state minimum wage, rounded up to the next cent.

The election must remain in effect for 1 year from the date of the election and until revoked by the employer. An employer who makes such election is deemed to have met the requirement to pay Florida minimum wage, but must still meet the requirements of the FLSA.

The employer must make the election in writing, and post the dated election on the employer's premises in a conspicuous and accessible place.

An employer who fails to pay an employee the wage guaranteed in the notice or that engages in any discriminatory or retaliatory action against an employee exercising his or her rights under the Florida Constitution is subject to civil actions and fines provided in s. 448.110, F.S. Further, an employer must still meet the requirements of FLSA.

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

¹¹ 29 U.S.C. 201, et seq. See generally U.S. Department of Labor, Wage and Hour Division, "Compliance Assistance – Fair Labor Standards Act (FLSA)," available at <http://www.dol.gov/whd/flsa/index.htm> (last visited 2/6/2012).

¹² Under FLSA, tipped employees are those who customarily and regularly receive more than \$30 per month in tips. 15 U.S.C. 203(t). See also 29 C.F.R. s. 531.50.

¹³ U.S. Department of Labor, Wage and Hour Division, "Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA)" (revised March 2011), available at <http://www.dol.gov/whd/regs/compliance/whdfs15.pdf> (last visited 2/6/2012). Emphasis added.

¹⁴ U.S. Department of Labor, Wage and Hour Division, "Fact Sheet #77A: Prohibiting Retaliation Under the Fair Labor Standards Act (FLSA)" (revised December 2011), available at <http://www.dol.gov/whd/regs/compliance/whdfs77a.pdf> (last visited 2/6/2012).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 24, art. X, of the State Constitution, sets forth Florida's minimum wage. It states in part "[f]or tipped Employees meeting eligibility requirements for the tip credit under the FLSA, Employers may credit towards satisfaction of the Minimum Wage tips up to the amount of the allowable FLSA tip credit in 2003."

The section also states that the provision "shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits."

This bill allows an employer to guarantee a minimum wage for tipped employees that is 130 percent higher than the state minimum wage, and states that an employer making such guarantee is deemed to have met the requirement to pay the Florida minimum wage.

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

None.

B. Private Sector Impact:

Indeterminate. Tipped employees may benefit from a higher guaranteed minimum wage. Restaurant industry advocates believe that employers will benefit by being able to pay a lower direct cash wage to tipped employees. However, employers are required to pay the guaranteed minimum wage, and may be liable to make up the difference.

C. Government Sector Impact:

Indeterminate. The Attorney General could experience additional complaints of wage violations under the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Employers who elect to pay the guaranteed minimum wage to tipped employees will also be required to make the appropriate payroll withholding for federal tax purposes.

The most recent data from the U.S. Department of Labor, Bureau of Labor Statistics (May 2010) estimates average hourly wages for “food preparation and serving related occupations” as \$10.12 per hour for the group; subgroups include bartenders (\$9.94 per hour), waiters and waitresses (\$9.91 per hour), and dining room and cafeteria attendants and bartender helpers (\$8.79 per hour).¹⁵

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.

¹⁵ U.S Department of Labor, Bureau of Labor Statistics, “Occupational Employment Statistics: May 2010 State Occupational Employment and Wage Estimates: Florida,” available at http://www.bls.gov/oes/current/oes_fl.htm#35-0000 (last visited 2/8/2012).

THE FLORIDA SENATE
APPEARANCE RECORD

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



2/16/12
Meeting Date

Topic Minimum Wage

Bill Number SB 2106
(if applicable)

Name Rich Templin

Amendment Barcode _____
(if applicable)

Job Title _____

Address 135 S. Monroe

Phone 820-224-6926

Street
Tallahassee FL 32301
City *State* *Zip*

E-mail _____

Speaking: For Against Information

Representing Florida AFL-CIO

Appearing at request of Chair: Yes No

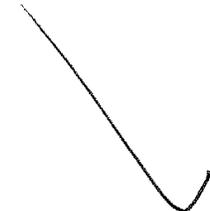
Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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2-16-12
Meeting Date

Topic Tipped Employees Bill Number 2106
(if applicable)

Name CAROL DOVER Amendment Barcode _____
(if applicable)

Job Title CEO FLORIDA REST & LODGING ASSOC

Address 230 S Adams St Phone 850-224-2250
Street

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA REST & LODGING ASSOC

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/16/2012
Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name Ryan West

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 South Bronough St
Street
Tallahassee FL 32301
City State Zip

Phone 850 521-1200

E-mail rwest@flchamber.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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2-16-12

Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name HENRY HOLLIS

Amendment Barcode _____
(if applicable)

Job Title OPERATOR (BUS)

Address 12417 DAWN VISTA DR
Street

Phone (813) 215-5945

RIVERVIEW FL 33578
City State Zip

E-mail _____

Speaking: For Against Information

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic Tipped employees

Bill Number S2106
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title VP - External Relations

Address 516 W. Adams St

Phone 850-224-7173

Street

Tallahassee FL 32301

City

State

Zip

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12

Meeting Date

Topic MINIMUM WAGE

Bill Number SB 2106
(if applicable)

Name Steve Hall

Amendment Barcode _____
(if applicable)

Job Title Business Representative

Address 2619 CORINE DR.

Phone 407-896-9941

Street

Orlando

Fl.

32803

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Painters and Allied Trades

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
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2-16-12

Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name Bevle Craul

Amendment Barcode _____
(if applicable)

Job Title Chairman FRLA

Address 230 S. Adams St

Phone 850-224-2250

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Restaurant & Lodging Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
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2/16/2012
Meeting Date

Topic WAGES

Bill Number 2106
(if applicable)

Name GAIL MARIE PERRY

Amendment Barcode _____
(if applicable)

Job Title CHAIR

Address PO Box 1766

Phone 954 832 4253

Pompano Beach FL 33061
Street City State Zip

E-mail workingspells@hotmail.com

Speaking: For Against Information

COUNCIL of FLORIDA

Representing COMMUNICATIONS WORKERS of AMERICA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

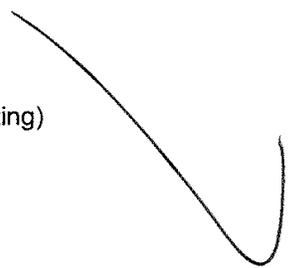
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THE FLORIDA SENATE
APPEARANCE RECORD

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2-16-12
Meeting Date



Topic Tipped Employees

Bill Number 2106
(if applicable)

Name John Schwary

Amendment Barcode _____
(if applicable)

Job Title President

Address 7833 McClure Drive
Street

Phone 850-443-3947

Tallahassee
City State Zip

E-mail Jas at Red Elephant
pizza.com

Speaking: For Against Information

Representing Red Elephant Pizza

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12

Meeting Date

Topic Tipped Employee

Bill Number 2106
(if applicable)

Name Jennifer Kenny

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2700 N. Highway A1A 10-204

Phone 321-277-9385

Street

Indialantic

City

FL

State

32903

Zip

E-mail _____

Speaking: For Against Information

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

16 Feb 2012
Meeting Date

Topic Tipped Employees Wage Reduction

Bill Numbers SB2106
(if applicable)

Name Shawn Patrick Beal

Amendment Barcode _____
(if applicable)

Job Title Electronics Technician

Address 1740 Newtown Harbor DR
Street

Phone 321 759 0757

Merritt Island FL 32952
City State Zip

E-mail bealsp@aol.com

Speaking: For Against Information

Representing My self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic _____

Bill Number 2106
(if applicable)

Name Karen Woodall

Amendment Barcode _____
(if applicable)

Job Title _____

Address 545 E. Tennessee St.
Street
Tallahassee, FL 32308
City State Zip

Phone 850-321-9386

E-mail fcfep@yahoo.com

Speaking: For Against Information

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12

Meeting Date

Topic Tipped employees

Bill Number SB 2106
(if applicable)

Name RAYMOND DAVIS

Amendment Barcode _____
(if applicable)

Job Title _____

Address 643 POINSETTIA DR.
Street

Phone 727-475-8512

LARGO FL 33770
City State Zip

E-mail _____

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12

Meeting Date

Topic Tipped Employees

Bill Number SB 2106
(if applicable)

Name Carolyn Davis

Amendment Barcode _____
(if applicable)

Job Title —

Address 643 Poinsettia Dr.
Street

Phone 727-4758512

Largo FL 33770
City State Zip

E-mail _____

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12
Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name Chavonna Murphy

Amendment Barcode _____
(if applicable)

Job Title Student

Address 4770 NW 65 ave

Phone 954 651 4558

Lauderhill FL 33319
City State Zip

E-mail Chavonna.Murphy@
coakman
edu

Speaking: For Against Information

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 16, 2012

Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name Raven R. Drayton

Amendment Barcode _____
(if applicable)

Job Title student / campus coordinator

Address 600 Jimmy Ann Dr. Apt. 1511

Phone (305) 409-5403

Daytona Beach FL 32114
Street City State Zip

E-mail raven.drayton@gmail.com

Speaking: For Against Information

Representing myself (Raven Drayton)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12

Meeting Date

Topic TIPPED Employees

Bill Number 2106
(if applicable)

Name Eric Pounders

Amendment Barcode _____
(if applicable)

Job Title Server/Bartender

Address 2152 Delta Way

Phone 727 409 2673

Street

Tallahassee FL 32303

E-mail pounderse@gmail.com

City

State

Zip

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12

Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name BRIAN GIBSON

Amendment Barcode _____
(if applicable)

Job Title GM

Address 1619 LAKE ELLA DR.

Phone 813-732-1018

Street

TALLAHASSEE FL 32303

City

State

Zip

E-mail BRIAN.K.GIBSON71@GMAIL.COM

Speaking: For Against Information

Representing RED ELEPHANT PIZZA + GRILL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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2-16-12
Meeting Date

Topic TIPPED Employees

Bill Number 2106
(if applicable)

Name JASON SMITH

Amendment Barcode _____
(if applicable)

Job Title GENERAL MANAGER

Address 2910 KERRY FOREST PARKWAY, SUITE C3

Phone 850-668-7492

Street

TALLAHASSEE FL 32309
City State Zip

E-mail jsmith@redelephantpizza.com

Speaking: For Against Information

Representing THE RED ELEPHANT PIZZA & GRILL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

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2-16-12

Meeting Date

Topic Tipped Employees

Bill Number 2106
(if applicable)

Name BRADFORD R. LEWIS

Amendment Barcode _____
(if applicable)

Job Title CFO RED ELEPHANT PIZZA + GRILL

Address 401 E. VIRGINIA ST
Street

Phone 850-222-9730

TALLAHASSEE FL 32301
City State Zip

E-mail bradford@redelephantpizza.com

Speaking: For Against Information

Representing RED ELEPHANT PIZZA + GRILL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

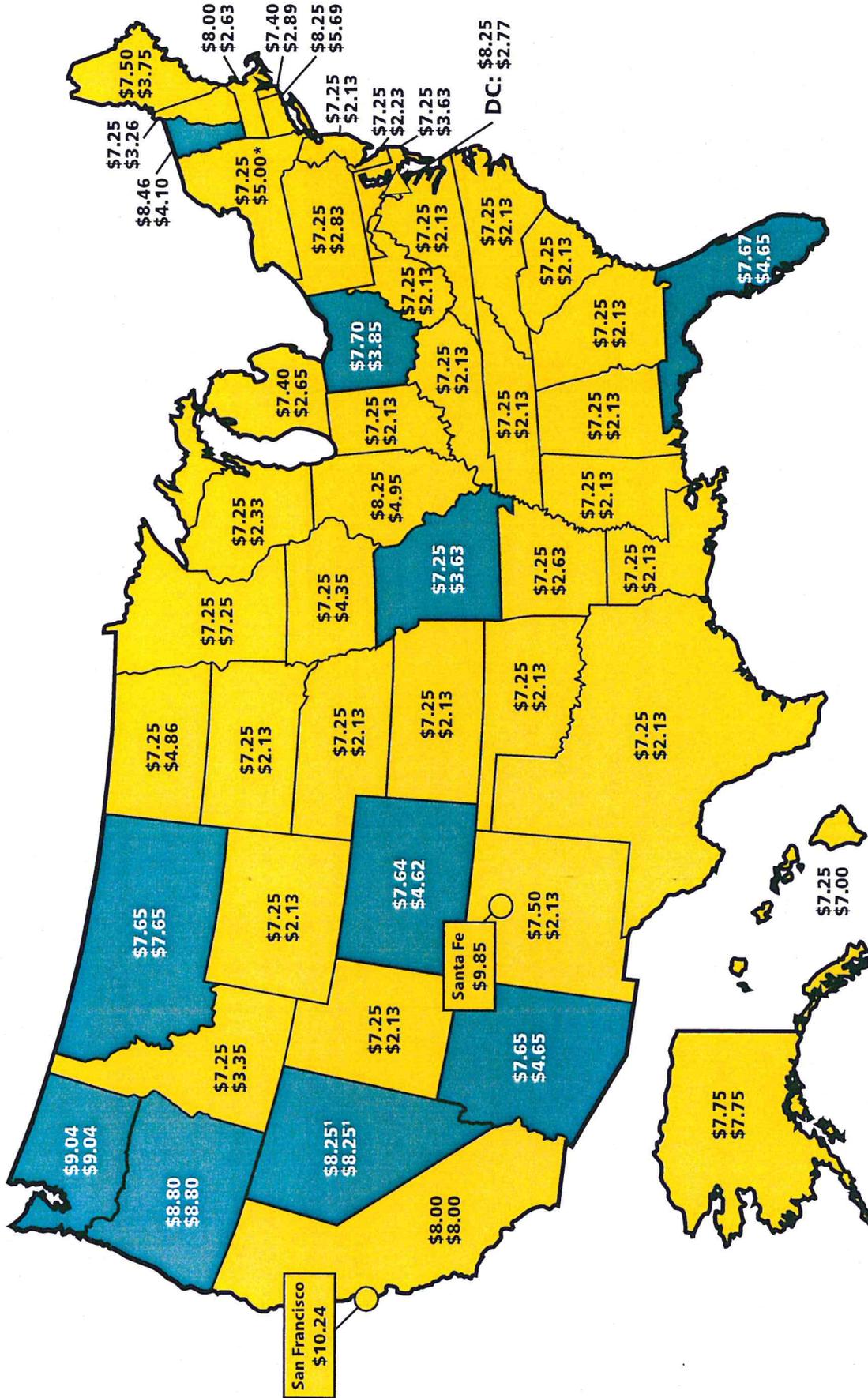
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S-001 (10/20/11)

MINIMUM WAGE RATES

As of January 1, 2012



■ States that index their wage rates yearly

¹ If a Nevada employer offers a qualified health plan, the minimum wage is \$7.25 an hour.
 * Employers should review the Hospitality Wage Order that explains the definitions of a foodservice worker and service worker.

The information stated herein is not intended to be legal advice nor should the reader base any decision on this map without first checking with legal counsel as to its applicability and accuracy. The National Restaurant Association provides this information from its independent research sources.

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 2104

INTRODUCER: Commerce and Tourism Committee

SUBJECT: Notaries Public

DATE: February 15, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	Favorable
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 2104 transfers the current notary administration responsibilities of the Executive Office of the Governor (EOG) that relate to the education and investigation of notaries public to the Department of State (DOS) under a type two transfer, as defined in s. 20.06(2), F.S. To fund these transferred responsibilities, the bill allocates \$2.35 from the \$4 notary public application surcharge to be deposited in DOS's Operating Trust Fund.

In addition, the bill:

- Transfers the notary education requirement from s. 668.50, F.S., to s. 117.01, F.S., and amends the education requirement to eliminate the 3-hour provision.
- Revises notary application requirements.
- Reiterates current law under s. 817.155, F.S., which provides that an applicant who submits an application that he or she knows to contain any false, fictitious, or fraudulent statement commits a felony of the third degree.
- Requires DOS to provide conspicuous notice to applicants on the notary public application form that, if an applicant misrepresents information on the application, he or she commits a felony of the third degree pursuant to s. 817.155, F.S.
- Requires any entity issuing bonds for notaries public to submit an annual report to DOS as to whether any claims were paid and the circumstances under which those claims were paid.
- Requires DOS to inform the EOG of its findings related to any investigation of complaints made against notary publics.
- Makes stylistic changes and deletes two obsolete provisions concerning an increase in the required bond amount on January 1, 1999, and the required use of rubber stamps after January 1, 1992.

This bill substantially amends the following sections of the Florida Statutes: 117.01, 117.021, 117.05, 117.103, 117.107, and 668.50.

II. Present Situation:

Notary Public Administration¹

Notaries public are referenced in the State Constitution as public officers, which are to be commissioned by the Governor.²

A notary public has been defined as a public officer whose function it is to attest and certify, by his or her hand and official seal, certain classes of documents in order to give them credit and authenticity in foreign jurisdictions, to take acknowledgements of and certify deeds and other conveyances, and to perform certain official acts, chiefly in commercial matters.³

Simply stated, a notary public verifies the identities of individuals involved in legal transactions and is the gatekeeper for preventing fraudulent transactions. In Florida, there are two types of notaries: notaries public and civil-law notaries. Chapter 117, F.S., provides for the appointment and commissioning of notaries public and ch. 118, F.S., provides for the appointment of civil-law notaries.⁴ The main distinctions between notaries public and civil-law notaries are that civil-law notaries must be attorneys and may issue “authentic acts,” which are more likely to be legally recognized by a foreign country than notarizations by notaries public.

While different divisions with DOS have administered the notary section, currently notaries are administered by both the Division of Corporations (division) within DOS and the Executive Office of the Governor (EOG).

The EOG’s notary section is responsible for appointing, investigating, and educating notary public applicants. The EOG also has the discretion to suspend notary public commissions. The division is responsible for processing notary public applications, approving and recording a required \$7,500 bond, issuing notary public commissions and certificates of notarial authority, and recording the results of actions taken by the EOG against a notary public. The division notes

¹ Adapted from Senate Bill Analysis and Fiscal Impact Statement for CS/CS/CS/SB 2330 (April 14, 2010).

² See Fla. Const. art. II, s. 5, and art. IV, s. 1. Note: Notaries public differ from other types of public officers (e.g. legislators, law enforcement, clerks of court). For example, notaries are not eligible for the same types of benefits and protections provided for public officers under chs. 111 and 112, F.S.

³ 66 C.J.S. Notaries s. 1 (2011); see also Commercial Union Ins. Co. of New York v. Burt Thomas-Aitken Const. Co., 230 A.2d 498, 499 (N.J. 1967). The dictionary defines a notary public as a “person authorized by a state to administer oaths, certify documents, attest to the authenticity of signatures, and perform official acts in commercial matters, such as protesting negotiable instruments.” Black’s Law Dictionary (8th ed. 2004).

⁴ Section 118.10(3), F.S., authorizes a civil-law notary to “authenticate or certify any document, transaction, event, condition, or occurrence” and s. 118.10(7), F.S., specifies that civil-law notaries have “all the powers of a notary public under any law of this state.”

that “[c]oordination between the [d]ivision and the Governor’s Office is essential in carrying out the duties and responsibilities of the notary public program.”⁵

The division reported that in FY 2010-11 there were 102,517 notary public commissions (including renewals). The division has also reported that as of January 2011, there are 397,129 notary public commissions and 108 civil-law notary appointments active in Florida.⁶

Legal Qualifications for Florida Notaries Public

Section 117.01, F.S., requires notary public applicants to meet certain legal qualifications prior to being commissioned by the Governor. These legal qualifications require an applicant to:

- Be at least 18 years of age;
- Be a legal resident of the state and maintain such residency throughout his or her 4-year term of appointment;
- Be able to read, write, and understand the English language;
- Complete an application form prescribed by DOS;⁷
- Submit to DOS an affidavit of good character from someone unrelated to the applicant and who has known the applicant for 1 year or more;
- Submit to DOS a list of all professional licenses and commissions issued by the state during the previous 10 years and a statement as to whether or not the applicant has had any such license or commission revoked or suspended;
- Submit to DOS a statement as to whether or not the applicant has been convicted of a felony, and if so, the nature of the felony and whether or not the applicant’s civil rights have been restored;
- Take an oath that the application for a commission is true and correct, that he or she has read ch. 117, F.S., that he or she knows the duties, responsibilities, limitations, and powers of a notary public, and that he or she will honestly, diligently, and faithfully discharge the duties of the notary public;⁸
- Obtain a bond for \$7,500, payable to any individual harmed as a result of a breach of duty by the notary public acting in his or her official capacity; and
- Provide any other information the Governor deems necessary for determining whether the applicant is eligible to be commissioned.

In addition, s. 668.50(11)(b), F.S., requires first-time notary public applicants to submit proof that the applicant has, within 1 year prior to the application, completed at least 3 hours of interactive or classroom instruction, which covers electronic notarization and the duties of the notary public.

Civil-law notaries are appointed by the Secretary of State. Pursuant to s. 118.10(1)(b), F.S., applicants must be a Florida Bar member in good standing who has practiced law for at least 5

⁵ Department of State Sunset Review Agency Report to the Legislature, July 2008. Page IV-68.

⁶ Information received from the Department of State on January 26, 2012, on file with the Budget Subcommittee on Transportation, Tourism and Economic Development.

⁷ A person must complete a new application when applying for a new commission, renewal of a commission, or subsequent commission.

⁸ A person taking the oath is subject to the penalty of perjury under s. 837.012, F.S., which is a misdemeanor of the 1st degree.

years.⁹ Additionally, under DOS administrative rule, 1N-6.001, F.A.C., civil-law notary applicants must complete an application form as prescribed by DOS and must successfully complete a civil-law notary examination with a score of 70 percent or higher on the exam. The Secretary of State may adopt rules prescribing procedures for the disciplining of civil-law notaries, including the suspension and revocation of appointments.¹⁰ However, the Secretary of State is prohibited from regulating and disciplining “any civil-law notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, except by agreement with The Florida Bar.”¹¹

Application Fees

Section 117.01(2), F.S., requires notary public applicants, including renewals, to pay a \$25 application fee and a \$10 commission fee.¹² In addition, applicants must pay a \$4 fee, which is appropriated to the EOG to be used to educate and assist notaries.¹³

Civil-law notary applicants, pursuant to 1N-6.001(1)(b)2., F.A.C., must pay a \$50 application processing fee.¹⁴ In addition, applicants may pay up to \$200 to take the civil-law notary examination.¹⁵

Notary Section of the Executive Office of the Governor

Section 117.01, F.S., vests the Governor with the authority to appoint and commission as many notaries public as he deems necessary. The Governor is also responsible for disciplining and providing educational assistance to notaries public.¹⁶

The notary section of the Executive Office of the Governor (EOG) states that it carries out its function by:

publishing and distributing educational materials, particularly the notary laws and the Governor’s Reference Manual for Notaries; by answering telephone inquiries from Notaries; by conducting notary seminars; and maintaining the on-line Notary Education Course. . . . The Notary Section also assists the Governor by reviewing “special review” applications

⁹ Chapter 1N-6.001(1)(b)1., F.A.C., requires civil-law notary applicants to submit a certificate of good standing from the Supreme Court of Florida to DOS within 90 days of the date of application.

¹⁰ Section 118.10(5)(e), F.S. See also, ch. 1N-6.001, F.A.C.

¹¹ Section 118.10(6), F.S.

¹² Because there are approximately 100,000 applications a year, the division collects an estimated \$3.5 million annually, which is deposited into General Revenue. Statistics provided by the Division of Corporations, December, 2012, on file with the Budget Subcommittee on Transportation, Tourism and Economic Development.

¹³ Because there are approximately 100,000 applications a year, the EOG collects an estimated \$400,000 annually, which is deposited in the Grants & Donations Trust Fund. Statistics provided by the notary section of the EOG and by the Division of Corporations, December, 2012, on file with the Budget Subcommittee on Transportation, Tourism and Economic Development.

¹⁴ Civil-law notaries also pay \$50 a year when submitting annual reports. Because the current 95 civil-law notaries retain their appointment as long as they file an annual report, DOS collects approximately \$4,750 annually, which is deposited into General Revenue. Statistics provided by the Division of Corporations, December, 2012, on file with the Budget Subcommittee on Transportation, Tourism and Economic Development.

¹⁵ See ch. 1N-6.001(2)(c), F.A.C.

¹⁶ See s. 117.01, F.S.

related to the applicants' eligibility for appointment and by reviewing complaints against Notaries and recommending disciplinary action when appropriate.¹⁷

The notary section, by and large, fulfills its educational assistance requirement by approving notary education curricula for certain vendors. Applicants can only take the required 3-hour class from a notary education vendor that has a core curriculum approved by the EOG. In Florida there are 17 vendors that provide notary public applicants with the required 3-hour notary public education course.¹⁸ Many of these vendors also offer "one-stop" type services for notary applicants by providing them with the surety bond (directly or in coordination with an underwriter), educational course, application forms, and notary equipment required by statute.

Another important function of the notary section is the investigation of notaries or notary public applicants. Investigations are conducted on applicants under "special review," when their applications have been flagged by a vendor or the division. Under s. 117.01(2), F.S., an applicant is required to self-disclose if he or she has ever been convicted of a felony, which may trigger an investigation. In addition, the notary section may receive complaints by phone or mail, which may lead to the investigation of a commissioned notary public or an applicant. Section 117.01(8), F.S., requires a surety company to notify the Governor when a claim for a bond has been paid and the circumstances under which the claim was paid, which could lead to an investigation of a commissioned notary.

Usually during an investigation a criminal background check is performed, which is not statutorily required for notary public applicants under ch. 117, F.S. The notary section reports that it coordinates investigations with law enforcement and the Florida Bar if the notary is also an attorney.

The notary section of the EOG has no role in the administration, investigation, or appointment of civil-law notaries.

Notary Section of the Division of Corporations

The division serves solely in a ministerial capacity when processing notary public applications, issuing certificates of notarial authority, and recording bonds. The division does not verify application information or investigate notary public applicants or commissioned notaries. If a concern with the application is identified during processing, it is referred to the EOG for review and investigation.

The division reports that it receives all of its notary public applications from vendors that provide a "one-stop" type service for those seeking to become a notary public. These companies provide surety services (directly or through its affiliates) to meet the \$7,500 statutory bond requirement for notaries public, ensure that the educational courses satisfy the 3-hour notary public educational course required by statute, ensure that the application forms meet with the department's approval, and may provide notary equipment, such as stamps and embossers, to

¹⁷ See notary section website, available at http://www.flgov.com/notary_intro (last visited 2/14/2012).

¹⁸ A list of vendors with approved curricula is available at http://www.flgov.com/notary_education (last visited 2/14/2012).

notaries once they have been commissioned. These companies submit their customers' applications, along with proof of attendance of the educational course and the required bond, to DOS. DOS receives the applications and reviews them for completeness to ensure they meet the statutory requirements under ch. 117, F.S., before processing the application and printing a commissioning certificate.

The division reports that complaints concerning notaries public are referred to the notary section of the EOG.

Although the division reports that it operates solely in a ministerial capacity when processing notary public applications, it has a different role with civil-law notaries. Statutorily, the Secretary of State has the authority to develop application processes, prescribe educational requirements, investigate applications, appoint civil-law notaries, and suspend or revoke the appointments of civil-law notaries under ch. 118, F.S.¹⁹ These functions are carried out by the division. However, to date, the division has not deemed it necessary to investigate civil-law notaries or suspend or revoke a civil-law notary's appointment.²⁰

Notary Misconduct

It is reported that notary public misconduct has been a problem in the United States ever since the first notary public was appointed in the American colonies in 1639.²¹ Examples of notary public misconduct include the forgery of signatures, the notarization of signatures of persons not present before the notary, and the notarization of blank documents that are later drafted with fraudulent terms.²² The National Notary Association (NNA) reports that, in Florida, notary public misconduct is especially prevalent in fraudulent real estate transactions where the elderly and those who speak English poorly are targeted.²³ Notary misconduct is punishable as a felony of the third degree or misdemeanor of the second degree.²⁴

¹⁹ See s. 118.10(2), (5)(a)-(g), F.S. See also, ch. 1N-6.001, F.A.C.

²⁰ *Supra* fn. 30.

²¹ Anderson, John C., and Closten, Michael L; A Proposed Code of Ethics for Employers and Customers of Notaries: A Companion to the Notary Public Code of Professional Responsibility; 32 J. Marshall L. Rev. 887 (Summer 1999).

²² See Lilly, Joanna, The Unlawful Notary, which gives an account of various cases of notary fraud, available at <http://www.lastwordedits.com/unlawfulnotary.pdf> (last visited 2/14/2012). Note: This is not an exhaustive list of the types of notary misconduct.

²³ National Notary Association, The Growing Real Estate Problem in Florida: How Requiring a Thumbprint in a Notary Recordbook Can Significantly Diminish Real Property Scams in the State, March 2003, pg. 4, available at <http://www.nationalnotary.org/userimages/reFraudfla.pdf> (last visited 2/14/2012).

²⁴ Section 117.105, F.S., provides that "a notary public who falsely or fraudulently takes an acknowledgment of an instrument as a notary public or who falsely or fraudulently makes a certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on a written instrument is guilty of a felony of the third degree." Pursuant to s. 117.05(1), F.S., a notary public is guilty of a felony of the third degree if the notary uses a commission in other than the notary's real name and if the notary notarizes his or her own signature. In addition, it is unlawful to possess a notary public official seal or any papers or copies relating to notarial acts, impersonate a notary public, or to knowingly act as a notary public after a commission has expired; all are a misdemeanor of the second degree. See s. 117.05, F.S.

Agency Sunset Review of the Department of State

Sections 11.901 – 11.920, F.S., were known as the Florida Government Accountability Act (act).²⁵ Under this act, most state agencies and their respective advisory committees were subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. The review process for DOS began in July of 2008.

The Senate Commerce Committee recommended consolidation of responsibilities related to administration of the notary public commissioning process either within the division or within EOG.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 117.01, F.S., to transfer the current notary administration responsibilities of EOG that relate to the education and investigation of notaries public to DOS. To enable DOS to carry out these responsibilities, this section of the bill allocates \$2.35 from the \$4 notary public application surcharge to be deposited in the department’s Operating Trust Fund. DOS is to use the \$2.35 surcharge to educate and assist notaries public, and to receive and investigate complaints against notaries public. The other \$1.65 from the surcharge is to be deposited into the EOG’s Grants and Donations Trust Fund to continue commissioning and disciplining responsibilities.

The notary education requirement for first-time applicants is transferred from s. 668.50, F.S., to s. 117.01(4), F.S., and education requirement is amended to eliminate the 3-hour provision. DOS is required to approve entities or individuals who offer training courses.

This section of the bill also revises the notary application requirements to:

- Require an applicant to provide his or her “legal” name.
- Require the applicant to provide his or her citizenship status.
- Delete the requirement for applicants to provide an affidavit of good character from an unrelated person who has known the applicant for 1 year or more.
- Require the applicant to state whether he or she has previously been commissioned as a notary public in Florida.
- Require the applicant to state whether he or she has been convicted “or found guilty” of a felony.

This section is amended to reiterate current law under s. 817.155, F.S., by providing that an applicant who submits an application that he or she knows to contain any false, fictitious, or fraudulent statement commits a felony of the third degree. Additionally, DOS is required to provide conspicuous notice to applicants on the notary public application form that, if an

²⁵ Repealed by ch. 2011-34, L.O.F.

²⁶ See Senate Commerce Committee, Issue Brief 2009-308: Agency Sunset Review of the Division of Corporations of the Department of State (October 2008), available at http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-308cm.pdf (last visited 2/14/2012); and Interim Report 2010-212: Agency Sunset Review of the Division of Corporations of the Department of State (December 2009), available at http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-212cm.pdf (last visited 2/14/2012).

applicant misrepresents information on the application, he or she commits a felony of the third degree pursuant to s. 817.155, F.S.

Any person is permitted to file a complaint with DOS alleging a violation of ch. 117, F.S., and requires that DOS conduct a preliminary investigation of the complaint and submit a summary of its investigation to EOG.

Any entity issuing bonds for notaries public to submit an annual report to DOS to report whether any claims were paid and the circumstances under which those claims were paid. To ensure compliance with this provision, DOS may not accept bonding certificates from an entity that has failed to submit the required report until the required report is submitted.

This section of the bill also makes stylistic changes and deletes an outdated provision concerning an increase, on January 1, 1999, of the required bond amount for notaries public.

Section 2 amends s. 117.021, F.S., changing a reference to the Executive Office of the Governor to the Governor.

Section 3 amends s. 117.105, F.S., deleting an obsolete provision concerning rubber stamp type notary seals on documents and making stylistic changes.

Section 4 amends s. 117.103, F.S., making stylistic changes.

Section 5 amends s. 117.107, F.S., adding that notaries who violate this section with the intent to defraud are subject to suspension pursuant to s. 117.01, F.S., and making stylistic changes.

Section 6 amends s. 668.50, F.S., removing the notary education provision and making stylistic changes (this provision is transferred to s. 117.01, F.S.).

Section 7 provides for the type two transfer of powers and responsibilities, from the Executive Office of Governor to the Department of State.

Section 8 provides for a nonrecurring transfer of \$1.35 million from EOG to DOS to fund the processing of notary applications, education and assistance for notaries, and the investigation of complaints against notaries. The funds are transferred from the trust fund in EOG that the \$4 notary public application surcharges are deposited.

Section 9 provides for an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

DOS would incur costs associated with assuming the investigatory and education responsibilities from the EOG. However, these costs will be offset by the \$2.35 per notary application surcharge allocated to DOS. There would likewise be a reduction of revenues received and costs incurred in EOG.

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic _____

Bill Number 2104
(if applicable)

Name Pierce Schuessler

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 500 S Bronough St
Street

Phone 245-6509

Tallahassee FL 32399
City State Zip

E-mail _____

Speaking: For Against Information

Representing Department of State

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 266
 INTRODUCER: Senator Lynn
 SUBJECT: State Symbols/Automobile Racing
 DATE: February 16, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 266 provides for the designation of the sport of automobile racing as the official state sport. This bill creates s. 15.0527, F.S.

II. Present Situation:

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona. News quickly spread, and by March 1903, hundreds of guests, reporters, and race drivers filled the Ormond Hotel for the first official races. These races were sponsored by the American Automobile Association. Interestingly, due to the scarcity of roads in Florida, automobiles from the north were shipped down by Henry Flagler’s railroad line.¹

The 1903-1910 period of racing not only served to boost local spirits, but also provided the Ormond-Daytona area the opportunity to grow its tourism sector. This economic growth from tourism came primarily from racing enthusiast northerners who had come to vacation and view the racing events. During this era, Ormond-Daytona gained a national reputation as “a mecca for motor enthusiasts” because five world speed records were broken within a short 7-year span.²

After 1910, automobile racing reached wide-spread appeal and automobile racing tracks were constructed in other prominent southern cities such as Savannah, Atlanta, New Orleans,

¹ Randall L. Hall, *Automobile Racing in the South*, The Journal of Southern History, (August 2002).

² Alice Strickland, *Florida’s Golden Age of Racing*, Florida Historical Quarterly, Vol 45, No. 3 (January 1967).

Louisville, and Montgomery. However, the Ormond-Daytona strip maintained its established place in the racing world.³

In late 1947, under the leadership of Bill France and Bill Tuthill, a group of racing promoters gathered to meet in Daytona Beach. They sought to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.⁴

Today, NASCAR is automobile racing's largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.⁵

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.⁶

III. Effect of Proposed Changes:

SB 266 designates the sport of automobile racing as the official state sport.

Section 1 creates s. 15.0527, F.S., to designate the sport of automobile racing as the official state sport.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ Hall, *supra* note 1.

⁴ Id.

⁵ Nascar Tracks. available at www.nascar.com/races/tracks/ (Last visited February 16, 2012).

⁶ Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips available at <http://www.racingin.com/track/florida.aspx> (Last visited February 16, 2012).

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.



The Florida Senate

Committee Agenda Request

RECEIVED

OCT 05 2011

COMMERCE

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: October 5, 2011

I respectfully request that **Senate Bill # 266**, relating to State Symbols/Auto Racing, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Evelyn Lynn".

Senator Evelyn J. Lynn
Florida Senate, District 7

posted 10/5/11

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 Committee on Commerce and Tourism

BILL: SB 454

INTRODUCER: Senator Wise

SUBJECT: Public Lodging Establishments

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.	Tell	Hrdlicka	CM	Pre-Meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill exempts from regulation by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation apartment complexes that are inspected by the U.S. Department of Housing and Urban Development (HUD), or other entity acting on its behalf, and that are designated primarily as housing for persons age 55 or older.

The bill would become effective upon becoming law.

This bill substantially amends section 509.013, Florida Statutes.

II. Present Situation:

Public Lodging Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 37,544 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.¹

¹ Division of Hotels and Restaurants, Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2010-2011*, 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2010_11.pdf (last visited Feb. 16, 2012).

The term “public lodging establishments” includes transient and nontransient public lodging establishments.² The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a “nontransient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

A nontransient apartment or roominghouse is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.³ A transient apartment or roominghouse is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.⁴

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

² Section 509.013(4)(a), F.S.

³ Section 509.242(1)(d), F.S.

⁴ Section 509.242(1)(e), F.S.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895, F.S.; and
6. Any establishment inspected by the Department of Health and regulated by ch. 513, F.S.

Public lodging establishments are classified as a hotel, motel, resort condominium, nontransient apartment, transient apartment, roominghouse, bed and breakfast inn, or vacation rental.⁵

There are 37,544 public lodging establishments licensed by the division. For example, there are:⁶

- Hotels - 1,619 licenses;
- Motels - 2,817 license
- Nontransient apartments - 17,498 licenses;
- Transient apartments - 1,002 licenses;
- Nontransient rooming houses - 152 licenses;
- Transient rooming houses - 218 licenses.

Although all public lodging establishments are licensed, the degree of inspections and the applicable fees vary based on the type of establishment. The division is required to inspect public lodging establishments at least three times annually, but nontransient and transient apartments are inspected at least once annually.⁷

Public lodging establishment license fees are required under s. 509.251(1), F.S., to be adopted by rule, based on the number of rental units. The aggregate amount of all license fees may not exceed \$1000.

Transient apartments pay a base fee of \$125, an incremental unit-based fee ranging from \$10 for a single unit to \$190 for more than 500 units, and the \$10 Hospitality Education Program (HEP) fee,⁸ for a total fee ranging from \$145 to \$325.⁹

Non-transient apartments pay a base fee of \$95, an incremental unit-based fee ranging from \$20 to \$190, and the \$10 HEP fee, for a total fee ranging from \$125 to \$295.¹⁰

Housing for Persons Age 55 or Older

The Fair Housing Act¹¹ prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, handicap, or familial status, e.g., families with children under the age of 18 living with parents or legal guardians, pregnant women, and people trying to get custody of

⁵ Section 509.242(1), F.S.

⁶ *Supra*, note 1.

⁷ Rule 61C-1.002(8)(d), F.A.C.

⁸ Section 509.302(2)(a), F.S.

⁹ *See* Rule 61C-1.008, F.A.C.

¹⁰ *Id.*

¹¹ 42 U.S.C. 3601-3619.

children under 18. The Housing for Older Persons Act of 1995¹² provides an exception for housing for older persons, provided that:

- HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a federal, state or local government program, or
- It is occupied solely by persons who are 62 or older, or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Families with children can be legally excluded from housing that satisfies the legal definition of senior housing or housing for older persons.

The U.S. Department of Housing and Urban Development operates programs that designate assisted housing developments for either low-income elderly residents alone, or low-income elderly residents with disabilities.¹³

Inspections of housing for the elderly are conducted on housing that is part of HUD's "Housing Choice Voucher Program," also known as "Section 8 Housing," which provides certain populations, including the elderly, with financial assistance with rent costs.¹⁴ The program regulations provide basic housing quality standards (HQS) which all tenant-based housing must meet. These standards must be met before assistance can be paid on behalf of a resident and at least annually throughout the term of the assisted tenancy.¹⁵ Local public housing agencies inspect the units for health and safety. Certain housing is designated for use by elderly persons, including congregate housing, where tenants share dining spaces and are given food service, and group homes, and must meet additional quality standards.¹⁶

There are three different types of HQS inspections:

Initial Inspections: These occur when a qualified party applies to use a voucher for a specific housing unit prior to the signing of a lease.

Annual inspections: These ensure that housing units currently under lease continue to meet HQS throughout the tenancy of the participant residents.

¹² 42 U.S.C. 3607(b)(2)(C).

¹³ The Section 202 Supportive Housing for the Elderly Program provides housing for low-income elderly households. *See* Section 202 Supportive Housing for the Elderly Program, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/eld202 (last visited Feb. 16, 2012).

¹⁴ *See* U.S. Dept. of Housing and Urban Development, *Housing Choice Vouchers Fact Sheet*, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Feb. 16, 2012).

¹⁵ 24 CFR Part 982.401.

¹⁶ U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook*, , Ch. 17, *Special Housing Types*, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook (last visited Feb. 16, 2012).

Special Inspections: These may be inspections that are prompted by a complaint or are quality control inspections. Quality control inspections examine a sample of housing units within a local public housing association's jurisdiction each year.¹⁷

According to the Department of Business and Professional Regulation, the division does not differentiate between apartments rented primarily to persons age 55 or older and any other rental population. The division does not collect any data to identify apartments inspected by HUD.

The department indicated that HUD lists approximately 298 apartments in Florida as "Elderly." The division estimates it currently licenses nearly all of the apartments listed as "Elderly" by HUD.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 509.013(4)(a), F.S., to provide an exemption from regulation by the division for apartment complexes that are inspected by the U.S. Department of Housing and Urban Development, or other entity acting on its behalf, and that are designated primarily as housing for persons age 55 or older.

The bill would become effective 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.

¹⁷ See U.S. Department of Housing and Urban Development, *Housing Quality Standards (HQS) – Frequently Asked Questions*, available at: <http://www.hud.gov/offices/pih/programs/hcv/hqs/hqsfaq.pdf> (last visited Feb. 16, 2012).

¹⁸ Office of Legislative Affairs, Department of Business and Professional Regulation, *2012 Legislative Analysis for SB 454*, (Jan. 24, 2012). On file with the Senate Committee on Commerce and Tourism.

B. Private Sector Impact:

According to the division, the bill would reduce the regulatory costs for apartment complexes that are designated primarily as housing for persons at least 55 years of age. The division estimates 298 establishments will be affected.¹⁹

C. Government Sector Impact:

According to the division, the bill would reduce license fees collected and deposited into the Division of Hotels and Restaurants Trust Fund. The exact reduction in license fees is indeterminate, but the division estimates an annual fiscal impact of approximately \$43,265. The division anticipates that the bill may also minimally reduce the amount of fines collected.²⁰

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.

¹⁹ Id.

²⁰ Id.



727134

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 66 - 70
and insert:

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf which is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the establishment to attest in writing that the apartment meets the criteria in this subparagraph. The division may adopt rules to implement this exclusion.



727134

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

14

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

16 And the title is amended as follows:

17 Delete line 6

18 and insert:

19 housing for persons at least 62 years of age;

20 providing that the Department of Business and

21 Professional Regulation may require written

22 attestation from the operator of the establishment

23 that the apartment meets specified criteria;

24 authorizing the Division of Hotels and Restaurants to

25 adopt rules;



The Florida Senate

Committee Agenda Request

RECEIVED
NOV 02 2011
COMMERCE

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: November 2, 2011

I respectfully request that **Senate Bill # 454**, relating to Public Lodging Establishments, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Stephen R. Wise".

Senator Stephen R. Wise
Florida Senate, District 5

posted 11/2/11

psb

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/14/12
Meeting Date

Topic Public Ledging

Bill Number SB 454
(if applicable)

Name Casey Stoutamire

Amendment Barcode _____
(if applicable)

Job Title Director of Housing + Membership

Address 1812 Riggins Rd.
Street

Phone 850-~~200~~ 671-3700

Tallahassee FL 32312
City State Zip

E-mail cstoutamire@leading
ageflorida.
org

Speaking: For Against Information

Representing Leading Age Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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: CS/SB 734

INTRODUCER: Community Affairs Committee and Senator Bogdanoff

SUBJECT: Tax Deeds

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.	Tell	Hrdlicka	CM	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This CS authorizes tax collector reimbursement for the cost of electronic deed application services.

This CS substantially amends s. 197.502, F.S.

II. Present Situation:

Tax Collections, Sales and Liens

Chapter 197, F.S., governs tax collections, sales, and liens.

The Florida tax certificate and tax deed processes are administered in the manner explained below:

Notice of tax owed on property

Pursuant to s. 197.322, F.S., the tax collector will send a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls. The notice states the current amount due and advises the taxpayer of discounts provided for early

payment, and that delinquent taxes are outstanding.¹ This normally occurs on November 1. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent.² An additional tax notice is sent, electronically or by postal mail, by April 30 to each taxpayer whose payment has not been received, notifying these taxpayers that a tax certificate on the property will be sold for delinquent taxes that are not paid.³

Tax certificate auction

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes⁴ which “shall be awarded to the person who will pay the taxes, interest, costs, and charges and will demand the lowest rate of interest, not in excess of the maximum rate of interest allowed by this chapter.”⁵ A tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.⁶ Tax certificates that are not sold are issued to the county at the maximum interest rate (18 percent). A tax certificate is a first lien on property which is superior to all other liens. A person who purchases a tax certificate does not acquire any property rights to the property on which the certificate applies.⁷

In 2003, s. 197.432, F.S., was amended to permit tax collectors to conduct tax certificate sales through electronic means.⁸ Since that time, many tax collectors have begun conducting tax certificate sales through Internet websites. To participate in an online tax certificate sale, bidders merely register with the county tax collector. At the time the sale begins, the bidder can use the Internet website to bid on available tax certificates.

Tax certificate redemption

Any person may redeem a tax certificate at any time after the certificate is issued and before a tax deed is issued or the property is placed on the list of lands available for sale.⁹ The person redeeming a tax certificate shall pay the tax collector the face amount plus all interest, costs, and charges as well as a fee of \$6.25 for each tax certificate redeemed.¹⁰

Filing by tax-certificate owner of an application for a tax deed

The holder of a tax certificate, at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation¹¹ of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the

¹ Section 197.322 (1), F.S. *See also* s. 197.222, F.S., for taxpayers who elect to prepay their taxes by installment “based upon the estimated tax equal to the actual taxes levied upon the subject property in the prior year.”

² Section 197.333, F.S.

³ Section 197.343, F.S.

⁴ Section 197.432(1), F.S.

⁵ Section 197.432(6), F.S.

⁶ Section 197.432(5), F.S.

⁷ Section 197.102, F.S.; *see also* s. 197.432(2), F.S.

⁸ Chapter 2003-22 ss. 1-2, L.O.F.; HB 267 (2003).

⁹ “Any person” has been construed to mean land owners or others who have a legal or valid interest in the land which is subject to a tax lien. *See generally Culmer v. Office Realty Co.*, 137 Fla. 675, 189 So. 52 (1939).

¹⁰ Section 197.472, F.S.; *see also* 52 Fla. Jur 2d Taxation s. 1742 *Redemption* (2011).

¹¹ Section 197.482, F.S. “If a tax deed has not been applied for, and no other administrative or legal proceeding, including a bankruptcy, has existed of record, the tax certificate is null and void and shall be canceled.”

property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75.¹²

Tax deed auction

Following the filing of an application for a tax deed, real property which has been advertised for sale may be sold at a public auction by the Clerk of Court of the county where the property is located.¹³

However, the certificate holder, by virtue of filing an application for a tax deed, places the opening bid at the auction. The opening bid is the amount required to redeem the tax certificate, in addition to the amounts paid by the holder to the clerk in charges for costs of sale, redemption of other tax certificates on the same property, and all other costs to the applicant for tax deed, plus interest at the rate of 1.5 percent per month from the month after the date of application for the deed through the month of sale and costs incurred for the service of notice.¹⁴

Any party is able to place a bid at the public auction. If there are no higher bids, the property shall be sold to the certificate holder, who shall pay to the clerk any amounts included in the minimum bid, the documentary stamp tax, and recording fees due.¹⁵

After payment to the Clerk of Court, a tax deed shall be issued and recorded by the Clerk.¹⁶ Anyone that is granted a tax deed is entitled to the immediate possession of the lands described in the deed.¹⁷

County-held certificate for which there are no bidders

On county-held certificates in which the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on a list entitled “lands available for taxes.”¹⁸ Property that is placed on the list of lands available for sale, and is not sold 3 years after the public auction, escheats to the county in which the property is located, free and clear of all liens.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 197.502, F.S., to allow tax collectors to charge for the cost of providing electronic tax deed application services, if applicable.

Section 2 provides that this CS shall take effect upon becoming a law.

¹² Section 197.502, F.S.

¹³ Section 197.542(1), F.S.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Section 197.562, F.S.

¹⁸ Section 197.502(7), F.S.

¹⁹ Section 197.502(8), F.S.

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:

Tax certificate holders that are applying for a tax deed with the county tax collector may be required to pay reimbursement charges for fees paid by the tax collector to vendors providing electronic tax deed application services.

Tax certificate holders that are applying for a tax deed with a county tax collector that offers electronic tax deed applications may be required to use such electronic tax deed application services.

C. Government Sector Impact:

County tax collectors that offer electronic tax deed application services will be able to charge applicants to recover reimbursement for fees paid to vendors providing electronic tax deed application services, and can require tax deed applicants to utilize the electronic tax deed application services that they provide.

The Department of Revenue (DOR) indicated that the original bill does not have a significant fiscal impact on their operations. The passage of this CS may require the DOR to amend Administrative Rule 12D-13.060.²⁰

VI. Technical Deficiencies:

None.

²⁰ Department of Revenue, *Senate Bill 734 Bill Analysis* (Nov. 18, 2011). On file with the Senate Committee on Commerce and Tourism.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012
The CS makes technical changes to the language of the bill.

- B. **Amendments:**

None.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:

Administrative Procedures, *Alternating Chair*

SENATOR ELLYN SETNOR BOGDANOFF

25th District

January 18, 2012

Senator Nancy C. Detert, Chair
Senate Committee on Commerce and Tourism
404 South Monroe Street
310 Knott Building
Tallahassee, FL 32399

RECEIVED

JAN 18 2012

COMMERCE

Re: SB 734-Relating to Tax Deeds

Chair Detert:

I am writing to request that you place **SB 734, Relating to Tax Deeds** on the agenda of your Committee on Commerce and Tourism at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate - District 25

cc: Jennifer Hrdlicka, Staff Director

posted 1/18/12
psb

REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1168

INTRODUCER: Transportation Committee and Senator Ring

SUBJECT: Freight Mobility Development

DATE: February 15, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Fav/CS
2.	Philo	Hrdlicka	CM	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1168 creates a new unnumbered section of the Florida Statutes entitled the “freight and logistics facility credit” which:

- Defines terms;
- Creates a tax credit, which begins on January 1, 2013, and extends through January 1, 2017. The credit can be used against the intangible personal property tax (ch. 199, F.S.), the excise document tax (ch. 201, F.S.), the sales and use tax (ch. 212, F.S.), the corporate income tax (ch. 220, F.S.), or the insurance premium tax (s. 624.509, F.S.);
- States that the tax credit is equal to:
 - **either** \$3000 per “qualified full-time employee” (QFE), as defined in (1)(e), who is hired as a result of increased “qualified trade activities,” as defined in (1)(f);
 - **or**, 5 percent of any “capital investment,” as defined in (1)(a), made by the taxpayer to facilitate increased “qualified trade activities,” as defined in (1)(f);
- States that the taxpayer must elect which tax credit to use and that both credits cannot be used for the same activities in the same calendar year;
- Qualifies that any tax credit claimed for an employee who works for less than a full 12 months must be reduced proportionally to the number of months worked;
- Caps the maximum tax credit per taxpayer at \$500,000 per taxable year;

- States that the Department of Economic Opportunity (DEO) shall issue written certification of tax credits, upon approval, to taxpayers who have applied for the tax credit:
 - up to a yearly maximum of \$10 million;
 - proportionately among all qualified taxpayers;
 - until January 30, 2017;
- Allows tax credits to be carried forward for up to 10-taxable years;
- Restricts the credit from being earned for a QFE under certain enumerated circumstances;
- Allows for the credit to be allocated directly to the partners, shareholders, or members in case the credit is claimed by a partnership, S corporation, or limited liability company;
- Allows for two or more affiliated companies to combine their activities in order to qualify for the credit allowed;
- Calls for the recapture of a credit amount (equal to the decrease in the amount of credit that would have been earned for the lower number of employees) should the company's number of QFEs fall below the average within the taxable year the credit was earned;
- Calls for the recapture of all credits should the average number of QFEs fall below the number employed by the taxpayer before claiming any tax credits within 5-taxable years after the year the credits were earned; and
- Grants DEO rulemaking authority to administer this section, including but not limited to several enumerated provisions.

This bill requests that the Division of Statutory Revision redesignate the title of ch. 311, F.S., as "Seaport Programs and Facilities."

This bill amends s. 311.07, F.S., to:

- Conform the statutes to the current funding practice for the Florida Seaport Transportation and Economic Development (FSTED) Program of \$15 million (instead of \$8 million), at which it has been funded since 2004;
- Require that the FSTED council develop guidelines for project funding and work with the Department of Transportation (DOT) and DEO to review projects and allocate funds as required to include them in DOT's tentative work program;
- Allow funding for updates to seaport master plans or strategic development plans, including the purchase of data;
- Remove caps on funding for each port of \$7 million per year and \$30 million over 5 years; and
- Make permissible, rather than require, that DOT conduct a mandatory audit of any project which receives funds under this section and any project which receives funds under s. 320.20, F.S.

This bill amends s. 311.09, F.S., to:

- Revise the criteria for evaluating port projects;
- Eliminate the requirement that the Department of Community Affairs (which no longer exists) review the list of approved projects;
- Reduce DOT oversight and evaluation of FSTED funded projects;
- Add additional oversight to DEO to determine that projects are consistent with state economic development goals and state, regional, and local plans. If DEO determines they are not, it must notify the FSTED council;

- Restrict the FSTED council from including projects found to be inconsistent by both DOT and DEO; and
- Require DOT to request \$15 million for the FSTED program in its annual budget.

This bill creates s. 311.10, F.S., entitled the “Strategic Port Investment Initiative,” which:

- Allocates \$35 million from the State Transportation Trust Fund (STTF) to fund the initiative;
- Requires DOT and the ports on the FSTED council to annually develop, update and maintain a list of strategic investment projects;
- Creates several criteria for inclusion on the list of projects;
- Requires DOT to hold a public workshop with DEO to take comments and review the proposed projects before finalizing the list; and
- Requires DOT to include the projects on the list in its tentative work program, to the extent feasible.

This bill amends s. 311.14, F.S., to:

- Require that DOT, along with the ports on the FSTED council and other partners, develop a Statewide Seaport and Waterways System Plan; and
- Repeal the requirement for DOT and the FSTED council to develop freight-mobility and trade-corridor plans.

This bill amends ss. 311.22 and 320.20, F.S., to correct cross-references changed by this bill.

This bill substantially amends, creates, or repeals ss. 311.07, 311.09, 311.10, 311.14, 311.22, and 320.20, F.S.

II. Present Situation:

Freight and Logistics Facility Credit:

According to the Florida Ports Council, more than 500,000 Floridians are employed by the trade, logistics, and distribution industries with an average wage nearly 30 percent higher than the average for all industries in the state. Including spinoff jobs in related industries, trade and logistics support about 1.7 million jobs in Florida, nearly 22 percent of employment in the state. To date, six other southeastern states (Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia) have enacted tax incentives to businesses using the state’s ports or developing property adjacent to seaports. These incentives serve to entice industries to locate or expand within the state. Florida currently does not have an incentive program targeted to the freight and logistics sectors.¹

Ch. 311 Revisions:

Section 311.07(2), F.S., currently requires that a minimum of \$8 million per year be made available from the State Transportation Trust Fund (STTF) to partially fund the FSTED Program. These funds are used to fund eligible and approved port projects as provided in s. 311.07(3), F.S. The allocation and programming of funds is determined by DOT. Additionally, there generally

¹ DEO, *Bill Analysis on House Bill #679 by Representative Ray* (Jan. 6, 2012), at 1 (on file with the Senate Committee on Commerce and Tourism).

has been an annual appropriation of \$15 million from license tag fees to the FSTED Program required under s. 320.20, F.S.

The FSTED program has been consistently funded at \$15 million annually since 2004. Other seaport-related DOT funding is currently limited to bond repayment, the Strategic Intermodal System program, and district discretionary funds.

Eligible projects may be funded on a 50/50 basis by FSTED and the deepwater ports. However, projects involving the rehabilitation of wharves, docks, berths, bulkheads, or similar structures require only a 25 percent match.

Program funds may also be used by the FSTED council to develop trade data information products which will assist Florida's seaports and international trade.

III. Effect of Proposed Changes:

Section 1 of this bill creates a new section of law granting a tax credit which begins on January 1, 2013, and extends through January 1, 2017. This credit can be used against the intangible personal property tax (ch. 199, F.S.), the excise document tax (ch. 201, F.S.), the sales and use tax (ch. 212, F.S.), the corporate income tax (ch. 220, F.S.), or the insurance premium tax (s. 624.509, F.S.).

The tax credit is equal to either \$3000 per "qualified full-time employee" (QFE), as defined in (1)(e), who is hired as a result of increased "qualified trade activities," as defined in (1)(f); or 5 percent of any "capital investment," as defined in (1)(a), made by the taxpayer to facilitate increased "qualified trade activities," as defined in (1)(f). The taxpayer must elect which credit to take and may only take one type of credit per year for the same activity. Also, each taxpayer is eligible only up to a maximum of \$500,000 per taxable year in credits and any unused credits may be carried forward for up to 10-taxable years.

DEO is required to administer the tax credit and give written certification of the credit amount to the taxpayer upon approval. The taxpayer must attach the written certification to their tax return in order to claim the credit. DEO may not issue more than \$10 million in credits per year and must issue such credits proportionately among all qualified taxpayers who requested credits. Also, DEO may no longer issue credits after January 30, 2017.

The credit for an employee who works for less than 12 months must be reduced proportionally to the time the employee worked divided by 12. Also, credits may not be earned for employees:

- for whom a credit was already received under this section by a related party or a trade or business under common control (as defined in 267(b) and 52(b), respectively, of the Internal Revenue Code);
 - who were previously employed in the same job function in this state by a related party or trade or business under common control;
 - whose job function was previously performed at a different location in this state by an employee of the taxpayer, by a related party, or by a trade or business under common control;
- or

- whose job function previously qualified for a credit under this section at a different major business facility that constitutes an employing unit (as defined in s. 443.036, F.S.) on behalf of the taxpayer, by a related party or by a trade or business under common control.

Any tax credit which is attributable to a partnership, S corporation, or limited liability company should be allocated directly to the partners, shareholders, or members, respectively. Also, two or more affiliated companies may elect to aggregate their credit generating activities in order to qualify for the credit allowed.

Recapture of the credit is required should the QFEs of the taxpayer receiving the credit ever fall below the average number of QFEs during the taxable year. This recapture should occur by an increase in the tax, over the 5 taxable years after the year the credit was earned, equal to the decrease in the amount of credit that would have been earned for the lower number of employees. Also, recapture of all earned credits is necessary if the average number of QFEs falls below the total number of QFEs employed before the taxpayer claimed any credits within 5-taxable years after the credits were first earned. Credits may not be recaptured twice.

DEO is granted rulemaking authority to implement this section.

Section 2 of this bill requests the Division of Statutory Revision to redesignate the title of ch. 311, F.S., as “Seaport Programs and Facilities.”

Section 3 of this bill amends s. 311.07, F.S., to:

- Increase the funding for the Florida Seaport Transportation and Economic Development (FSTED) Program from \$8 million to \$15 million;
- Require that the FSTED council develop guidelines for project funding and work with the Florida Department of Transportation (DOT) and DEO to review projects and allocate funds as required to include them in DOT’s tentative work program;
- Allow funding for updates to seaport master plans or strategic development plans, including the purchase of data;
- Remove caps on funding for each port of \$7 million per year and \$30 million over 5 years; and
- Make permissible, rather than require, that DOT conduct a mandatory audit of any project which receives funds under this section and any project which receives funds under s. 320.20, F.S.

Section 4 of this bill amends s. 311.09, F.S., to:

- Revise the criteria for evaluating port projects;
- Eliminate the requirement that the Department of Community Affairs review the list of approved projects;
- Reduce DOT oversight and evaluation of FSTED funded projects;
- Add additional oversight to DEO to determine that projects are consistent with state economic development goals and state, regional, and local plans. If DEO determines they are not, it must notify the FSTED council;
- Restrict the FSTED council from including projects found to be inconsistent by both DOT and DEO; and

- Require DOT to request \$15 million for the FSTED program in its annual budget.

Section 5 of this bill creates s. 311.10, F.S., entitled the “Strategic Port Investment Initiative,” which:

- Allocates \$35 million annually from the State Transportation Trust Fund (STTF) to fund the initiative;
- Requires DOT and the ports on the FSTED council to annually develop, update and maintain a list of strategic investment projects;
- Creates several criteria for inclusion on the list of projects;
- Requires DOT to hold a public workshop with DEO to take comments and review the proposed projects before finalizing the list; and
- Requires DOT to include the projects on the list in its tentative work program, to the extent feasible.

Section 6 of this bill amends s. 311.14, F.S., to:

- Require that DOT, along with the ports on the FSTED council and other partners, develop a Statewide Seaport and Waterways System Plan; and
- Repeal the requirement for DOT and the FSTED council to develop freight-mobility and trade-corridor plans.

Sections 7 and 8 of this bill correct cross-references.

Section 9 of this bill establishes an effective date of July 1, 2012.

Department of Revenue Concerns:

DOR submits that it is unclear how the tax credit generated by this bill would be applied toward some of the enumerated taxes in (2)(a) of section 1. DOR also lists several other difficulties in implementation of the tax credit, such as adding the tax credits to various sections of the Florida Statutes which typically hold information about how to use and claim such credits. Also, DOR requests rulemaking authority in order to administer the credit against taxes which they administer.²

Other Concerns:

The language of section 1 of this bill gives rise to several possible outcomes which may or may not be intended:

- First, it is unclear whether or not, by casting a wide-net for potential abuses of the new QFE based tax credit, the provisions in paragraph (d) will disincentivize the rehiring of already trained employees, such as those who may have been laid off due to a slow in business.
 - This concern may be alleviated by clarifying the language in paragraph (d) and possibly adding a time certain for which an employee must off the job to become eligible for a credit as a rehire.
- Second, paragraph (f) raises some concerns about possible tax plays due to the lack of specificity with which companies may aggregate their tax credits.

² DOR, *Bill Analysis of CS/SB 1168: Freight Mobility Development*, at 3 (Feb. 3, 2012) (on file with the Senate Committee on Commerce and Tourism).

- This concern may be alleviated by adding more specific language to paragraph (f), such as language about proportionality of tax credit division, or through the rulemaking authority granted to DEO.
- Third, the language about tax-credit recapture is somewhat unclear as well. For example, some of the language provides that “[i]f the average number of [QFE]s employed at a freight and logistics facility falls below the number employed by the taxpayer before claiming any credits under this section...all credits...must be recaptured.” A reading of this language raises the question of exactly how the number of employees “employed by the taxpayer before claiming any credits” is determined. Is it the number of employees employed immediately before claiming the credit, or, possibly, the average of the number of employees employed by the taxpayer over the time in business before claiming the credit?
 - This concern may be alleviated through more specific language in the bill, or through the rulemaking authority granted to DEO.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the impact of this bill.

This bill creates a new tax credit which may have an annual cost to general revenue of up to \$10 million per year for 4 years, between January 1, 2013, and January 1, 2017, and which may impact revenue for up to 10 additional years due to the carry over provisions.

B. Private Sector Impact:

Companies claiming credits could see a benefit of up to \$500,000 per year in tax credits between January 1, 2013, and January 1, 2017. DEO submits that the location of new businesses and the growth of current ones will generate new jobs and ancillary economic benefit to the area.³

³ DEO Bill Analysis, at 5.

C. Government Sector Impact:

The freight and logistics facility tax credit will generate a one-time cost of \$50,200 in order to implement the provisions in this bill (i.e., to add credit lines to the online Sales and Use Tax Return and accommodate the necessary modifications to the SUNTAX system).⁴ DEO suggests that the incentives may serve to attract new businesses and jobs to the state, thus creating new growth and economic development. DEO further submits that it could probably initiate the program with current staff but, if it is successful, an additional full-time employee may be necessary.⁵ DOT offers that additional impact on revenue is indeterminate because it is not known what amount of credits will be applied for and which tax the recipient will choose to apply them to. The total amount of credits is capped at \$15 million per year.⁶

The bill increases from \$8 million to \$15 million the minimum yearly amount that shall be made available from the State Transportation Trust Fund to fund the FSTED Program—a face-value cost of \$7 million. But DOT advises that it has funded the program at \$15 million for the past several years, and is continuing that level of funding in the current tentative work program.⁷ Based on existing practice, this does not present any additional actual cost.

The bill creates the Strategic Port Investment Initiative within DOT and establishes a minimum annual funding threshold of \$35 million. Total funding for port projects currently proposed in the 5-year work program meet this requirement, with the exception of projects in FY 2015-16. DOT anticipates identifying additional projects for that fiscal year during its annual development of the tentative work program. Should the bill become law, DOT will reevaluate and reprioritize projects to meet the objectives of the initiative. The impact of the work program is indeterminate, but DOT will be better able to assess impacts at the time of development.⁸

The bill also establishes selection criteria for funding in the work program. It may be the case that some of the existing port projects meet the criteria and others may not. However, DOT will review the projects and provide an opportunity for existing project stakeholders to submit additional information which may be needed to support the review process.⁹

DOT anticipates preparing the Statewide Seaport and Waterways System within existing resources.¹⁰

⁴ DOR, *Fiscal Impact Analysis for CS/SB 1168, Freight Mobility Development* (Jan. 30, 2012), at 1-2 (on file with the Senate Committee on Commerce and Tourism).

⁵ DEO Bill Analysis, at 4.

⁶ DOT, *Bill Analysis on SB 1168—Freight Mobility Development* (Jan. 17, 2012), at 2 (on file with the Senate Committee on Commerce and Tourism).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 2-3.

VI. Technical Deficiencies:

Line 380 of the bill states that there are 18 members of the Florida Seaport Transportation and Economic Development Council, but then proceeds to list only 17. The reference to 18 thus needs to be changed to 17.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Transportation on January 19, 2012:

The CS corrects two technical deficiencies by:

- Amending line 350 so the sentence reads “strategic plan development” instead of “strategic development plan”; and
- Correcting the statutory citation in line 512 to “s. 311.07” instead of “s. 377.07.”

- B. **Amendments:**

None.



958768

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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	.	

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

Senate Amendment (with title amendment)

Delete lines 80 - 266.

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

And the title is amended as follows:

Delete lines 3 - 13

and insert:

requesting the Division of



695682

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 280 - 298
and insert:

all ports listed in s. 311.09 ~~located in this state.~~

(2) A minimum of \$15 ~~\$8~~ million per year shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program. The Florida Seaport Transportation and Economic Development Council created in s. 311.09 shall develop guidelines for project funding. Council staff, the Department of Transportation, and the Department of Economic Opportunity shall



695682

13 work in cooperation to review projects and allocate funds in
14 accordance with the schedule required for the Department of
15 Transportation to include these projects in the tentative work
16 program developed pursuant to s. 339.135(4).

17 (3) (a) Program Funds of the Florida Seaport Transportation
18 and Economic Development Program shall be used to fund approved
19 projects on a 50-50 matching basis with any of the deepwater
20 ports, as listed in s. 311.09 and s. 403.021(9), as listed in s.



311058

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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	.	

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

Senate Amendment to Amendment (695682)

Delete line 20
and insert:
ports, as listed in s. 311.09, ~~as listed in s.~~



867024

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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The Committee on Commerce and Tourism (Ring) recommended the following:

Senate Amendment

Delete line 496
and insert:
subsections (6) or (7) ~~(6), (7), and (8)~~ and projects that



397272

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
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The Committee on Commerce and Tourism (Ring) recommended the following:

Senate Amendment

Delete lines 592 - 593
and insert:
ports listed in s. 311.09 to annually develop, update, and



792354

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
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	.	

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

Senate Amendment

Delete lines 602 - 624
and insert:

trade and logistics or in the cruise industry;

(c) Achieving the state's goals for an integrated
intermodal transportation system; and

(d) Demonstrating the feasibility of receiving matching
funds through local or private partners.

(2) Before finalizing the list of strategic investment
projects, the Department of Transportation must hold a public



792354

13 workshop with the Department of Economic Opportunity and the
14 deepwater ports listed in s. 311.09 to review the proposed
15 projects. The Department of Transportation shall finalize the
16 list of projects after considering the comments received during
17 the workshop.

18 (3) The Department of Transportation, to the extent
19 feasible, shall include the projects on the list of strategic
20 investment projects, in the tentative work program developed
21 pursuant to s. 339.135(4).

22 Section 6. Section 311.14, Florida Statutes, is amended to
23 read:

24 311.14 Seaport planning.—

25 (1) The Department of Transportation shall develop, in
26 coordination with the ports listed in s. 311.09 and other



366848

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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	.	

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

Senate Amendment

Delete line 380
and insert:
Transportation. The council consists of the following 17 ~~18~~



444318

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 869 and 870
insert:

Section 9. Subsection (5) is added to section 339.63,
Florida Statutes, to read:

339.63 System facilities designated; additions and
deletions.—

(5) (a) The Secretary of Transportation shall designate a
planned facility as part of the Strategic Intermodal System upon
request of the facility if the facility meets the criteria and
thresholds established in subsection (4), meets the definition



444318

13 of an intermodal logistics center, and has been designated in a
14 local comprehensive plan or local government development order
15 as an intermodal logistics center or an equivalent planning
16 term.

17 (b) As used in this section, the term "intermodal logistics
18 center" means a facility or group of facilities serving as a
19 point of intermodal transfer of freight in a specific area
20 physically separated from a seaport where activities relating to
21 transport, logistics, goods distribution, consolidation, or
22 value-added activities are carried out and whose activities and
23 services are designed to support or be supported by one or more
24 seaports, as provide in s. 311.09.

25 (c) A facility that is designated part of the Strategic
26 Intermodal System and is within the jurisdiction of a local
27 government that maintains a transportation concurrency system
28 shall receive a waiver of transportation concurrency
29 requirements applicable to Strategic Intermodal System
30 facilities in order to accommodate any development at the
31 facility which occurs pursuant to a building permit issued on or
32 before December 31, 2017, but only if such facility is located
33 within:

34 1. An area designated pursuant to s. 288.0656(7) as a rural
35 area of critical economic concern;

36 2. A rural enterprise zone as defined in s. 290.004; or

37 3. Ten miles of the boundary of a rural area of critical
38 economic concern or a rural enterprise zone.

39
40 ===== T I T L E A M E N D M E N T =====

41 And the title is amended as follows:



444318

42
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Delete line 75
and insert:
cross-references to changes made by the act; amending
s. 339.63, F.S.; establishing procedures for
designating a facility as part of the Strategic
Intermodal System; providing for a waiver of
transportation concurrency for such a facility;
providing

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/2012
Meeting Date

Topic Freight Mobility

Bill Number 1168
(if applicable)

Name Ryan West

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 1316 South Bronough St
Street

Phone 850 521-1200

Tallahassee FL 32307
City State Zip

E-mail rwest@flchamber.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic Freight Mobility

Bill Number CS/SB 168
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title VP - External Relations

Address 516 W. Adams St

Phone 850-224-7173

Street

Tallahassee FL 32301

City

State

Zip

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic FREIGHT MOBILITY DEVELOPMENT

Bill Number SB 1168
(if applicable)

Name NANCY STEPHENS

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic SEAPORT Development

Bill Number 1168
(if applicable)

Name MICHAEL RUBIN

Amendment Barcode _____
(if applicable)

Job Title VP GOV AFFAIRS

Address 502 EAST JEFFERSON ST

Phone 352-222-8228

Tal FL
City State Zip

E-mail Mike.Rubin@FLPorts.org

Speaking: For Against Information

Representing FLORIDA PORTS Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12
Meeting Date

Topic _____

Bill Number 1168
(if applicable)

Name Richard Pinsky

Amendment Barcode _____
(if applicable)

Job Title _____

Address 106 E. College #1200
Street
Tallahassee FL 32301
City *State* *Zip*

Phone _____

E-mail _____

Speaking: For Against Information

Representing Port of Palm Beach

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)

2/16/12
Meeting Date

Topic Freight Mobility

Bill Number SB 1168
(if applicable)

Name Ward Blakely

Amendment Barcode _____
(if applicable)

Job Title _____

Address 4495 Roosevelt Blvd.
Street
Jax, FL 32210
City State Zip

Phone 904/910-6847

E-mail _____

Speaking: For Against Information

Representing Jacksonville Port Authority

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

2/16
Meeting Date

Topic Freight Mobility

Bill Number 1168
(if applicable)

Name Candice Erickson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 205 S. Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 954-648-1204

E-mail Candice@ericksonconsultants.com

Speaking: For Against Information

Representing Port Everglades / Broward

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.

720

**STATE OF FLORIDA
DEPARTMENT OF STATE**

Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

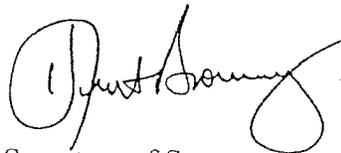
Belinda M. Keiser

is duly appointed a member of the

**Board of Directors,
Enterprise Florida,
Inc.**

for a term beginning on the
Twenty-Fourth day of January, A.D., 2012,
until the Thirtieth day of September, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Third day of February, A.D., 2012.*



Secretary of State



DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida" appears in small letters across the face of this 8 1/2 x 11" document

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Broward

2012 FEB -1 AM 11:15

Division of Elections

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Directors, Enterprise Florida, Inc.
(Title of Office)

on which I am now about to enter, so help me God.

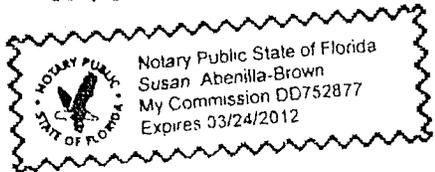
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Susan A. Benilla-Brown
Signature



Sworn to and subscribed before me this 31 day of January, 2012

Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

1900 West Commercial Blvd. #180

Street or Post Office Box

Fort Lauderdale, FL 33309

City, State, Zip Code

BELINDA KEISER

Print name as you desire commission issued

Belinda Keiser
Signature



RICK SCOTT
GOVERNOR

2012 JAN 25 AM 10:45
DIVISION OF ELECTIONS

January 24, 2012

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Section 288.901, Florida Statutes:

Ms. Belinda M. Keiser
1900 West Commercial Boulevard
Suite 100
Fort Lauderdale, Florida 33309

as a member of the Board of Directors, Enterprise Florida, Inc., succeeding Michael A. Hollingsworth, subject to confirmation by the Senate. This appointment is effective January 24, 2012, for a term ending September 30, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/nj

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain
Belinda Lee Mills (maiden name)

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida?

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of registration: Broward B. Current party affiliation: Republican

12. Education

A. High School: Godby High School, Tallahassee, FL Year Graduated: 1975

(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION	DATES ATTENDED	CERTIFICATES/DEGREES RECEIVED
Nova University	1989 - 1991	Master of Business Administration
Florida State University	1976 - 1981	Bachelor of Sciences--Communication
Keiser College of Technology	1986	Certificate in Paralegal Studies

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of service: Not Applicable

B. Branch or component: Not Applicable

C. Date & type of discharge: Not Applicable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) If "Yes" give details:

DATE	PLACE	NATURE	DISPOSITION
None			

15. Concerning your current employer and for all of your employment during the last ten years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS	TYPE OF BUSINESS	OCCUPATION/JOB TITLE	PERIOD OF EMPLOYMENT
Keiser University, Ft. Lauderdale	Education	Vice Chancellor for CRASA	More than 20 yrs
Keiser Career College	Education	Vice Chancellor for CRASA	

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION	EMPLOYING AGENCY	PERIOD OF EMPLOYMENT
Not Applicable		

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.
I have more than 25 years of professional managerial experience in private higher education. I have chaired the state workforce development board, Workforce Florida, and have served on most of the statewide organizations that focus on talent development. I currently serve on the Florida Chamber's Board of Directors and the Chamber Foundation's Board of Trustees--including serving as the chair of the Talent and Education Caucus. Gov. Scott asked me to serve on the Government Efficiency Task Force to bring the management knowledge acquired in the private sector to focus on public issues including enhanced quality systems, creating jobs, and managing efficiencies. In addition, I have substantial media relations experience.

- B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:
Master of Business Administration Degree
Certificate in Paralegal Studies

- C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No
If "Yes", list:
2010 Russell C. Carlisle Advocacy Award from Legal Aid of Broward County for Public Service
2008 Rotary Legends of Education; 2008 American Diabetes Assoc. Valor Award for Community Service
2007 Businesswoman of the year finalist, South Florida Business Journal
2006 Greater Ft. Lauderdale Chamber of Commerce Women's Circle of Excellence Award

D. Identify all association memberships and association offices held by you that relate to this appointment:

Florida Chamber of Commerce Board of Directors

The Florida Chamber Foundation Board of Trustees

Broward Days Board of Directors

Leadership Broward; Leadership America

Legal Aid Services of Broward County Florida

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?
Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
Government Efficiency Taskforce 2011		1 year	State
Florida Technology, Research & Scholarship 2010		2010-2014	State
17th Circuit Judicial Nominating Commission 2008		2008-2012	State
Chair and Member, Workforce Florida, Inc. 2005		2005-2010	State
Florida Bar Citizen's Forum 2002		2002-2006	State (most recent appts.)

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Generally monthly or bi-monthly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE
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Any meetings missed were minute in number and were generally due to conflicts with other state meetings or business meetings requiring travel outside the country. My attendance has been strong.

20. Has probable cause ever been found that you were in violation of the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, F.S.? Yes No If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION
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21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No
 If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No
 If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION DATE

25. A. Have you, or businesses of which you have been an owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY
Keiser University	Co-Owner until 2011	Office of Student Financial Aid
Keiser University	Co-Owner until 2011	Commission in Independent Education
Keiser University	Co-Owner until 2011	Regional Workforce Boards (ITAs)
Keiser Career College	Co-Owner	CIE and Regional Workforce Boards (ITAs)

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY
Keiser University	Dr. Arthur Keiser, husband	Co-owner until 2011	Same as 25A
Keiser Career College	Dr. Arthur Keiser, husband	Co-Owner	Same as 25A

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Mac Stipanovic	F		
Dr. Tony Villamil			
Dr. Zach Zachariah			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
The Florida Chamber of Commerce	P.O. Box 11309, Tall., FL 32302	BOD 1 yr	2010 - present
The Florida Chamber Foudation	P.O. Box 11309, Tall., FL 32302	BOT 3 yrs	2008 - present
Broward Days	512 Northeast Third Ave., Ft. Lauderdale, FL 33301	Chair 2 yrs	2002 - present
Florida Assoc. of Postsecondary Schools and Colleges,	Tallahassee, FL	BOD 1 yr.	Approx. 10 yrs.

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

2012 FEB -1 AM 11:16

FLORIDA STATE
DIVISION OF ELECTIONS

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS, WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC...IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under Public Records Law. Please indicate what section of Florida Statutes provides this in your particular situation.

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0158

CERTIFICATION

2012 FEB -1 AM 11:16

STATE DIVISION OF ELECTIONS

STATE OF FLORIDA, COUNTY OF Broward

Before me, the undersigned Notary Public of Florida, personally appeared _____, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Handwritten Signature]

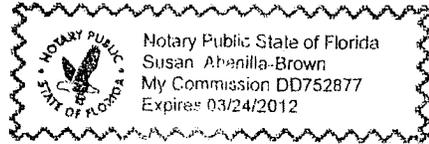
Signature of Applicant-Affiant

Sworn to and subscribed before me

this 31 day of January, 2012

[Handwritten Signature]

Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Belinda Keiser
Board of Directors, Enterprise Florida, Inc.

NOTICE OF HEARING

TO: Ms. Belinda Keiser

YOU ARE HEREBY NOTIFIED that the Committee on Commerce and Tourism of the Florida Senate will conduct a hearing on your executive appointment on Thursday, February 16, 2012, in the James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building, commencing at 8:30 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 14th day of February, 2012

Committee on Commerce and Tourism



Senator Nancy C. Detert
As Chair and by authority of the committee

cc: Members, Committee on Commerce and Tourism
Donald Severance, Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Belinda Keiser

ANSWER: I Do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Commerce and Tourism

DATE: February 16, 2012

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Commerce and Tourism
MEETING DATE: Thursday, February 16, 2012
TIME: 8:30 —10:15 a.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

TO: The Honorable Mike Haridopolos, President

FROM: Commerce and Tourism

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Enterprise Florida, Inc.

Appointee: Keiser, Belinda

Term: 1/24/2012-9/30/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor