SB 338 by **Simpson**; (Identical to H 0191) Theft of Utility Services

SB 422 by **Benacquisto (CO-INTRODUCERS) Hays, Bradley, Simpson, Bullard, Soto, Gibson, Detert, Ring, Clemens, Negron, Evers, Margolis, Abruzzo, Stargel, Thompson, Flores, Sobel, Hukill, Altman, Smith, Diaz de la Portilla, Braynon, Garcia, Montford**; (Similar to CS/H 0301) Cancer Treatment

355038	A	S	WD	AP, Benacquisto	Delete L.61 - 65:	03/21 05:35 PM
122406	A	S	RS	AP, Benacquisto	btw L.109 - 110:	03/21 05:35 PM
597066	SA	S	RCS	AP, Benacquisto	btw L.109 - 110:	03/21 05:35 PM

CS/SB 278 by **HP, Richter (CO-INTRODUCERS) Grimsley**; (Compare to CS/CS/H 0239) Practice of Optometry

507672	PCS	S	RCS	AP		03/21 06:01 PM
155938	PCS:D	S	RCS	AP, Richter	Delete everything after	03/21 06:01 PM

SB 294 by **Bradley**; (Identical to CS/H 0619) Controlled Substances

292376	A	S	RCS	AP, Bradley	btw L.351 - 352:	03/21 05:41 PM
351690	A	S	RCS	AP, Bradley	Delete L.352 - 367:	03/21 05:41 PM

SB 318 by **Grimsley**; (Similar to H 0021) Background Screening for Noninstructional Contractors on School Grounds

SB 326 by **Hays**; (Identical to CS/H 4007) Powers and Duties of the Department of Environmental Protection

SB 342 by **Thrasher**; (Similar to CS/H 0279) Rental of Homestead Property

587286	PCS	S		AP		03/18 05:36 PM
871142	PCS:A	S		AP, Margolis	Delete L.22 - 23:	03/20 01:49 PM

SB 354 by **Thrasher**; (Compare to CS/H 0531) Ad Valorem Tax Exemptions

122984	PCS	S	RCS	AP		03/21 04:06 PM

CS/SB 364 by **CA, Hays**; (Similar to CS/H 0109) Consumptive Use Permits for Development of Alternative Water Supplies

CS/SB 372 by **RI, Latvala**; (Similar to CS/H 0045) Vehicle Permits

405880	D	S	RCS	AP, Latvala	Delete everything after	03/21 05:59 PM

SB 406 by **Gardiner (CO-INTRODUCERS) Benacquisto**; (Identical to H 0641) Economic Development

227254	PCS	S	RCS	AP		03/21 06:09 PM
364048	PCS:A	S	RCS	AP, Gardiner	Delete L.516 - 517:	03/21 06:09 PM
598762	PCS:A	S	RCS	AP, Gardiner	Delete L.1185 - 1188:	03/21 06:09 PM

SB 746 by **Stargel**; (Identical to H 7017) Terms of Courts

SPB 7038 by **AP**; Health Care

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Negron, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, March 21, 2013
TIME: 2:00 —5:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Negron, Chair; Senator Benacquisto, Vice Chair; Senators Bean, Bradley, Galvano, Gardiner, Grimsley, Hays, Hukill, Joyner, Latvala, Lee, Margolis, Montford, Richter, Ring, Smith, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 338** Simpson (Identical H 191)	Theft of Utility Services; Providing additional criminal penalties for utility services wrongfully taken; providing that the person who unlawfully took utility services is liable to the utility for an increased civil penalty subject to the amount of the utility services unlawfully obtained, etc. CU 02/05/2013 Favorable CJ 02/19/2013 Favorable ACJ 03/06/2013 Favorable AP 03/21/2013 Favorable	Favorable Yeas 19 Nays 0
	With subcommittee recommendation - Criminal and Civil Justice		
2	**SB 422** Benacquisto (Similar CS/H 301)	Cancer Treatment; Citing this act as the "Cancer Treatment Fairness Act"; requiring that an individual or group insurance policy or contract or a health maintenance contract that provides coverage for cancer treatment medications provide coverage for orally administered cancer treatment medications on a basis no less favorable than that required by the policy or contract for intravenously administered or injected cancer treatment medications; prohibiting insurers, health maintenance organizations, and certain other entities from engaging in specified actions to avoid compliance with this act, etc. HP 03/07/2013 Favorable BI 03/14/2013 Favorable AP 03/21/2013 Fav/CS	Fav/CS Yeas 19 Nays 0

A proposed committee substitute for the following bill (CS/SB 278) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 278** Health Policy / Richter (Compare CS/CS/H 239)	Practice of Optometry; Requiring a licensed practitioner who is not a certified optometrist to display a specifically worded sign; requiring a certified optometrist to complete a course and examination on general and ocular pharmaceutical agents before administering or prescribing oral ocular pharmaceutical agents; authorizing a certified optometrist to perform certain eye examinations; prohibiting a certified optometrist from administering or prescribing pharmaceutical agents listed in Schedule I or Schedule II of the Florida Comprehensive Drug Abuse Prevention and Control Act, etc. HP 02/21/2013 Fav/CS AHS 03/06/2013 Fav/CS AP 03/21/2013 Fav/CS	Fav/CS Yeas 19 Nays 0
	With subcommittee recommendation - Health and Human Services		
4	**SB 294** Bradley (Identical H 619)	Controlled Substances; Adding to the list of Schedule I controlled substances certain specified materials, compounds, mixtures, or preparations that contain hallucinogenic substances, or any of their salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation; providing reduced penalties for possession of 3 grams or less of specified controlled substances; providing criminal penalties for a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, a specified quantity of specified controlled substances, etc. CJ 02/05/2013 Favorable JU 03/06/2013 Favorable ACJ 03/13/2013 Favorable AP 03/21/2013 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation - Criminal and Civil Justice Appropriations		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SB 318** Grimsley (Similar H 21)	Background Screening for Noninstructional Contractors on School Grounds; Requiring the Department of Education to create a uniform, statewide identification badge to be worn by noninstructional contractors signifying that a contractor has met specified requirements; providing that the identification badge shall be recognized by all school districts; requiring the department to determine a uniform cost a school district may charge a contractor for receipt of the identification badge, which shall be borne by the contractor; providing an exception for certain contractors, etc. ED 03/06/2013 Favorable AED 03/13/2013 Favorable AP 03/21/2013 Favorable	Favorable Yeas 17 Nays 0
	With subcommittee recommendation - Education		
6	**SB 326** Hays (Identical CS/H 4007)	Powers and Duties of the Department of Environmental Protection; Removing an obsolete reference for purposes of calculating the reimbursement for transportation and utility crossings of greenways lands in Marion County; repealing a specified provision relating to additional powers and duties of the Department of Environmental Protection to dispose of surplus lands that were for the construction, operation, or promotion of a canal across the peninsula of the state and refund payments to counties, etc. EP 02/06/2013 Favorable CU 03/06/2013 Favorable AGG 03/13/2013 Favorable AP 03/21/2013 Favorable	Favorable Yeas 17 Nays 0
	With subcommittee recommendation - General Government		
	A proposed committee substitute for the following bill (SB 342) is available:		
7	**SB 342** Thrasher (Identical H 279)	Rental of Homestead Property; Revising criteria under which rental of homestead property is allowed for tax exemption purposes and not considered abandoned, etc. CA 02/21/2013 Favorable AFT 03/13/2013 Fav/CS AP 03/21/2013 Favorable	Favorable Yeas 16 Nays 0
	With subcommittee recommendation - Finance and Tax		
	A proposed committee substitute for the following bill (SB 354) is available:		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**SB 354** Thrasher (Compare CS/H 531)	Ad Valorem Tax Exemptions; Providing that certain leasehold interests and improvements to land owned by the United States, a branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States are exempt from ad valorem taxation under specified circumstances; providing that such leasehold interests and improvements are entitled to an exemption from ad valorem taxation without an application being filed for the exemption or the property appraiser approving the exemption, etc. CA 02/21/2013 Favorable MS 03/07/2013 Favorable AFT 03/13/2013 Fav/CS AP 03/21/2013 Fav/CS	Fav/CS Yeas 15 Nays 0
	With subcommittee recommendation - Finance and Tax		
9	**CS/SB 364** Community Affairs / Hays (Similar CS/H 109)	Consumptive Use Permits for Development of Alternative Water Supplies; Revising conditions for issuance of permits; providing for the issuance, extension, and review of permits approved on or after a certain date, etc. EP 02/06/2013 Favorable CA 02/21/2013 Fav/CS AGG 03/06/2013 Favorable AP 03/21/2013 Favorable	Favorable Yeas 16 Nays 0
	With subcommittee recommendation - General Government		
10	**CS/SB 372** Regulated Industries / Latvala (Similar CS/H 45)	Vehicle Permits; Authorizing a licensed vendor to transport alcoholic beverages from a distributor's place of business to the vendor's licensed premises in a vehicle owned or leased by a person identified on a license application filed by the vendor and approved by the division; requiring each operator to sign the application; revising permit requirements for such vehicles, including a specified fee per vehicle; authorizing the inspection and search of such vehicles without a search warrant, etc. RI 02/21/2013 Fav/CS TR 03/07/2013 Favorable AGG 03/13/2013 Favorable AP 03/21/2013 Fav/CS	Fav/CS Yeas 16 Nays 0
	With subcommittee recommendation - General Government		

A proposed committee substitute for the following bill (SB 406) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 406** Gardiner (Identical H 641, Compare CS/H 563, CS/H 7007, CS/S 572, CS/S 1024)	Economic Development; Establishing the Economic Development Programs Evaluation; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to present the evaluation; requiring the offices to provide an analysis of certain economic development programs and specifying a schedule; limiting the office's evaluation for the purposes of tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs; revising the date on which the Department of Economic Opportunity and Enterprise Florida, Inc., are required to report on the business climate and economic development in the state, etc. CM 02/05/2013 Favorable ATD 02/12/2013 Temporarily Postponed ATD 03/13/2013 Fav/CS AP 03/21/2013 Fav/CS	Fav/CS Yeas 15 Nays 1
	With subcommittee recommendation - Transportation, Tourism, and Economic Development		
12	**SB 746** Stargel (Identical H 7017)	Terms of Courts; Repealing provisions relating to regular terms of the Supreme Court; repealing provisions relating to requiring a judge to attend the first day of each term of the circuit court; repealing provisions relating to a requirement for a judge to state a reason for nonattendance; allowing the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts; authorizing appellate courts to withdraw a mandate within 120 days after its issuance, etc. JU 03/06/2013 Favorable ACJ 03/13/2013 Favorable AP 03/21/2013 Favorable	Favorable Yeas 15 Nays 0
	With subcommittee recommendation - Criminal and Civil Justice		
13	**SPB 7038**	Health Care; Revising the components of the Florida Kidcare program; revising the eligibility of the Medikids program component; revising eligibility requirements for the Florida Kidcare program; revising the minimum health benefits coverage under the Florida Kidcare Act; revising the duties of the Department of Children and Families and the Agency for Health Care Administration with regard to the Florida Kidcare Act; deleting the duties of the Department of Health and the Office of Insurance Regulation with regard to the Florida Kidcare Act; creating the Healthy Florida program, etc.	Submitted as Committee Bill

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee

BILL: SB 338

INTRODUCER: Senator Simpson

SUBJECT: Theft of Utility Services

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable**
2.	Erickson	Cannon	CJ	**Favorable**
3.	Cantral	Sadberry	ACJ	**Favorable**
4.	Cantral	Hansen	AP	**Favorable**
5.				
6.				

I. Summary:

SB 338 amends s. 812.14, F.S., to provide that thefts of utility services are punishable as theft under s. 812.014, F.S., the general theft statute. As a result of this change, a person who commits theft of utility services will not necessarily commit a first degree misdemeanor (the current degree of offenses under s. 812.14, F.S.). Under s. 812.014, F.S., the offense degree and penalties relevant to a theft depend upon the value of the property (which includes services) stolen and other factors, if relevant, such as whether the theft is a first offense (relevant to petit theft).

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current three times the amount of services stolen or $1,000, whichever is greater, to three times the amount stolen or $3,000, whichever is greater.

SB 338 will have an insignificant fiscal impact because it will have an insignificant prison bed impact.

The bill takes effect October 1, 2013.

This bill substantially amends section 812.14, Florida Statutes.

II. Present Situation:

Utility Theft

Section 812.14, F.S., prohibits and punishes theft of utility services. The term "utility" is defined to include any person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, telephone service, telegraph service, radio service, or telecommunication service.

Section 812.14, F.S., provides that it is unlawful to:

- Willfully alter, tamper with, injure, or knowingly suffer to be injured any meter, meter seal, pipe, conduit, wire, line, cable, transformer, amplifier, or other apparatus or device belonging to a utility line service in such a manner as to cause loss or damage or to prevent any meter installed for registering electricity, gas, or water from registering the quantity which otherwise would pass through the same; to alter the index or break the seal of any such meter; in any way hinder or interfere with the proper action or just registration of any such meter or device; or knowingly use, waste, or suffer the waste, by any means, of electricity or gas or water passing through any such meter, wire, pipe, or fitting, or other appliance or appurtenance connected with or belonging to any such utility, after such meter, wire, pipe or fitting, or other appliance or appurtenance has been tampered with, injured, or altered.
- Make or cause to be made any connection with any wire, main, service pipe or other pipes, appliance, or appurtenance in such manner as to use, without the consent of the utility, any service or any electricity, gas, or water, or to cause to be supplied any service or electricity, gas, or water from a utility to any person, firm, or corporation or any lamp, burner, orifice, faucet, or other outlet whatsoever, without such service being reported for payment or such electricity, gas, or water passing through a meter provided by the utility and used for measuring and registering the quantity of electricity, gas, or water passing through the same.
- Use or receive the direct benefit from the use of a utility knowing, or under such circumstances as would induce a reasonable person to believe, that such direct benefits have resulted from any tampering with, altering of, or injury to any connection, wire, conductor, meter, pipe, conduit, line, cable, transformer, amplifier, or other apparatus or device owned, operated, or controlled by such utility, for the purpose of avoiding payment. [1]

Section 812.14(4), F.S., provides that a willful violation of s. 812.14(2)(a), (b), or (c), F.S., is a first degree misdemeanor.

[1] Section 812.14(4), F.S. A first degree misdemeanor is punishable by up to a year in jail, a fine of up to $1,000, or both. Sections 775.082 and 775.083, F.S.

Section 812.14(5), F.S., provides that it is unlawful for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected in violation of s. 812.14(2)(a), (b), or (c), F.S. A willful violation of s. 812.14(5), F.S., is a first degree misdemeanor.[2] Prosecution for a violation of s. 812.14(5), F.S., does not preclude prosecution for theft under s. 812.14(8), F.S. (described, *supra*) or s. 812.014, F.S.:

- A first degree misdemeanor to commit theft of utility services for the purpose of facilitating the manufacture of a controlled substance.
- Any person found in a civil action to have violated the provisions of s. 812.14, F.S., is liable to the utility involved in an amount equal to three times the amount of services unlawfully obtained or $1,000, whichever is greater.[3]

General Theft

Section 812.014, F.S., is the general theft statute. The offense degree of theft depends upon the value of the property (which includes services) stolen and other factors, if relevant, such as whether the theft is a first offense (relevant to petit theft). As offense degree increases, so do the range and severity of penalties. The statute provides, in part, that it is:

- A first degree felony if the property stolen is valued at $100,000 or more (grand theft in the first degree).[4]
- A second degree felony if the property stolen is valued at $20,000 or more, but less than $100,000 (grand theft in the second degree).[5]
- A third degree felony if the property stolen is valued at $300 or more, but less than $20,000 (grand theft of the first degree).[6]
- A third degree felony if the property stolen is valued at $100 or more, but less than $300, and is taken from a dwelling or from the unenclosed curtilage of a dwelling (grand theft of the third degree).[7]
- Excluding third degree felony theft involving a dwelling, a first degree misdemeanor if the property stolen is valued at $100 or more, but less than $300 (petit theft of the first degree).[8]
- A second degree misdemeanor if theft of property does not involve any of the other thefts described (petit theft of the second degree).[9]

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[2] Section 812.14(7), F.S.
[3] Section 812.14(10), F.S.
[4] Section 812.014(2)(a)1., F.S. A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to $10,000, or both. Sections 775.082 and 775.083, F.S.
[5] Section 812.014(2)(b)1., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to $10,000, or both. Sections 775.082 and 775.083, F.S.
[6] Section 812.014(2)(c)1.-3., F.S. Theft is a third degree felony if the property stolen is valued at $3000 or more, but less than $5,000; 5,000 or more, but less than $10,000; or $10,000 or more but less than $20,000. What distinguishes these thefts is not their offense degree but their ranking in the offense severity ranking chart of the Criminal Punishment Code (s. 921.0022, F.S.). A third degree felony is punishable by up to 5 years in state prison, a fine of up to $5,000, or both. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.
[7] Section 812.014(2)(d), F.S.
[8] Section 812.014(2)(e), F.S.

- A first degree misdemeanor if a person who commits petit theft has previously been convicted of any theft.[10]
- A first degree misdemeanor if a person who commits petit theft has previously been convicted two or more times of any theft.[11]
- A second degree felony if a person individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing theft under s. 812.014, F.S., where the stolen property has a value in excess of $3,000.[12]

III. Effect of Proposed Changes:

The bill amends s. 812.14, F.S., to provide that thefts of utility services are punishable as theft under s. 812.014, F.S., the general theft statute. As a result of this change, a person who commits theft of utility services will not necessarily commit a first degree misdemeanor (the current degree of offenses under s. 812.14, F.S.) By providing that utility theft is punishable under s. 812.014, F.S., the general theft statute, the offense degree and penalties relevant to the theft depend upon the value of the property (which includes services) stolen and other factors, if relevant, such as whether the theft is a first offense (relevant to petit theft.)

For those utility theft cases that constitute a felony, repeat offender sanctions under ss. 775.082 and 775.084, F.S., may be available if the offender has a qualifying prior conviction or convictions.

The bill does not amend s. 812.14 (5) and (7), F.S. Section 812.14(5), F.S., provides that it is unlawful for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected in violation of s. 812.14(2)(a), (b), or (c), F.S.

Section 812.14(7), F.S., provides that a willful violation of s. 812.14(5), F.S., is a first degree misdemeanor. Prosecution for a violation of s. 812.14(5), F.S., does not preclude prosecution for theft under s. 812.14(8), F.S. (which the bill provides is punishable under s. 812.014, F.S.) or s. 812.014, F.S. Consequently, under the bill, if a person is convicted of a violation of s. 812.014(5), F.S., the person commits a first degree misdemeanor but prosecution under this subsection does not preclude prosecution under s. 812.14(8), F.S., or s. 812.014, F.S., which has the potential for greater punishment.

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current three times the amount of services stolen or $1,000, whichever is greater, to three times the amount stolen or $3,000, whichever is greater.

The bill takes effect October 1, 2013.

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[9] Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail, a fine of up to $500, or both. Sections 775.082 and 775.083, F.S.
[10] Section 812.014(3)(b), F.S.
[11] Section 812.014(3)(c), F.S.
[12] Section 812.014(6), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not impact municipalities and counties under the requirements of Article VII, Section 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill does not raise public records or open meetings issues under the requirements of Article I, Section 24(a) and (b), of the Florida Constitution.

C. Trust Funds Restrictions:

The bill does not impact trust fund restrictions under the requirements of Article III, Section 19(f), of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By linking utility theft under s. 812.14, F.S., to the punishments provided for theft under s. 812.014, F.S., the punishment for the utility theft may be greater than provided under s. 812.14, F.S. (first degree misdemeanor), depending upon the facts and circumstances of the case (most importantly, the value of the property stolen.) This change to the law may dissuade some persons from engaging in theft of utility services from private utility service providers. Also, the increased civil penalty should better compensate these providers and their customers for the losses to theft than the current civil penalty.

C. Government Sector Impact:

The changes the bill makes to punish utility theft may dissuade some persons from engaging in theft of utility services from government-owned utility service providers. Also, the increased civil penalty should better compensate these providers and their customers for the losses to theft than the current civil penalty.

The Criminal Justice Impact Conference (CJIC) determined on February 27, 2013, that the prison bed impact of the bill is insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Simpson

18-00219-13 2013338__

A bill to be entitled

An act relating to theft of utility services; amending s. 812.14, F.S.; providing additional criminal penalties for utility services wrongfully taken; providing that the person who unlawfully took utility services is liable to the utility for an increased civil penalty subject to the amount of the utility services unlawfully obtained; providing an effective date.

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

Section 1. Subsections (4), (7), (8), and (10) of section 812.14, Florida Statutes, are amended to read:

812.14 Trespass and larceny with relation to utility fixtures; theft of utility services.—

(4) A ~~Any~~ person who willfully violates paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) commits theft ~~a misdemeanor of the first degree~~, punishable as provided in s. 812.014 ~~s. 775.082 or s. 775.083~~.

(7) A person who willfully violates subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (5) does not preclude prosecution for theft pursuant to ~~under~~ subsection (8) or s. 812.014.

(8) Theft of utility services for the purpose of facilitating the manufacture of a controlled substance is theft ~~a misdemeanor of the first degree~~, punishable as provided in s. 812.014 ~~s. 775.082 or s. 775.083~~.

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

18-00219-13 2013338__

(10) Whoever is found in a civil action to have violated ~~the provisions of~~ this section is liable to the utility involved in an amount equal to 3 times the amount of services unlawfully obtained or $3,000 ~~$1,000~~, whichever is greater.

Section 2. This act shall take effect October 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Theft of Utility Services

Bill Number: SB 338 (if applicable)

Name: Suzanne Goss

Amendment Barcode: (if applicable)

Job Title: Government Relations Specialist

Address: 21 W. Church St.
Street

Jacksonville FL 32202
City State Zip

Phone: 904 665-8331

E-mail: gossSE@jea.com

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

Representing: JEA

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

21 MARCH
Meeting Date

Topic: THEFT OF UTILITY SERVICE

Bill Number: 338 *(if applicable)*

Name: MIKE BJORKLUND

Amendment Barcode: _____ *(if applicable)*

Job Title: DIR. OF LEGISLATIVE AFFAIRS

Address: 2916 APALACHEE PKWY
Street

TALL, FL 32301
City, State, Zip

Phone: 877-6166

E-mail: _____

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

Representing: FECA

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Utility Theft

Bill Number: SB 338 (if applicable)

Name: Amy Zubaly

Amendment Barcode: (if applicable)

Job Title: Director of Public Affairs

Address: 417 E. College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-3314

E-mail: azubaly@publicpower.com

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

Representing: Florida Municipal Electric Association

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Theft of Utility Services

Bill Number: SB 338 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: Senior Vice President

Address: 516 N. Adams St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-7173

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)

3/21/13
Meeting Date

Topic: Theft of Utility Services

Bill Number: 338 (if applicable)

Name: Cameron Cooper

Amendment Barcode: (if applicable)

Job Title: Dir. of External Affairs

Address: 106 E. College Ave #800
Street

Tallanassee, FL 32301
City State Zip

Phone: 850-222-8738

E-mail: cameroncooper@pgnmail.co

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

Representing: Progress Energy Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Theft of Utility Services

Bill Number: 338 *(if applicable)*

Name: Lee Killinger

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 324 E. Virginia St.
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-322-8907

E-mail: lee@anfieldflorida.com

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

Representing: Florida Section American Water Works Association

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

March 6, 2013

Senator Joe Negron, Chairman
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Senator Negron,

Please place Senate Bill 338, relating to theft of utility services on the next Appropriations Committee agenda. This legislation has passed its first three committees unanimously.

Please contact my office with any questions.
Regards,

Senator Wilton Simpson, 18th District

REPLY TO:
❒ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
❒ Post Office Box 938, Brooksville, Florida 34605
❒ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

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

DON GAETZ
President of the Senate

GARRETT RICHTER
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 Committee on Appropriations

BILL: CS/SB 422

INTRODUCER: Appropriations Committee; and Senator Benacquisto and others

SUBJECT: Cancer Treatment

DATE: March 22, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Favorable**
2.	Johnson	Burgess	BI	**Favorable**
3.	McSwain/Shettle	Hansen	AP	**Fav/CS**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes

B. AMENDMENTS..... [ ] Technical amendments were recommended

[ ] Amendments were recommended

[ ] Significant amendments were recommended

I. Summary:

CS/SB 422 creates the Cancer Treatment Fairness Act. The bill requires individual and group health insurance policies or health maintenance contracts that provide coverage for cancer treatment medications to provide coverage for oral medications in a manner no less favorable than those provided intravenously or infused.

The bill also prohibits insurers and health maintenance organizations (HMOs) from increasing or varying the cost sharing for intravenous or injectable medications in order to comply with the changes in this legislation. Insurers and HMOs are also prohibited from providing any incentive, recommending a service, or changing the classification of any medication in order to meet the requirements of this bill.

The bill includes a directive to the Division of Law Revision and Information to replace references in the bill to the effective date to the actual date the bill becomes effective. The bill provides a specific effective date of July 1, 2013.

The Division of State Group Insurance (DSGI) estimates that the bill will have a negative fiscal impact to the State Group Employees' Health Insurance Trust Fund in the four fiscal years from

Fiscal Year 2013-2014 through Fiscal Year 2016-2017 of approximately $420,000 per year, based on 2012 claims data.

The bill creates sections 627.42391 and 641.313, Florida Statutes.

II. Present Situation:

Cancer is the general name for a group of more than 100 unique diseases, but they share a common thread in that all cancers start because abnormal cells grow out of control.[1] Half of all men and one-third of all women in the United States will develop some form of cancer during their lifetime.[2] The National Cancer Institute estimates that approximately 13.7 million Americans with a history of cancer were alive on January 1, 2012, and about 1,660,290 new cancer cases are expected in 2013.[3] In Florida, the number of new cases in 2013 is expected to be 118,320.[4]

After diagnosis, a cancer treatment plan is developed based on a number of factors, including the type of cancer, the stage of the disease, the patient's age, and overall health.[5] Treatment options include surgery, radiation therapy, or anticancer drug therapy; some plans may also include stem cell transplantation.[6] Anticancer drug therapy is further broken down into three types: cytotoxic agents (chemotherapy), biologic agents and hormonal agents.[7] These agents can include oral and intravenous or injectable products.[8]

Chemotherapy is a specific type of cancer treatment that uses drugs to kill cancer cells. It works by stopping or slowing the growth of cancer cells.[9] Historically, intravenous therapies have been the most common method for administering anticancer drug therapies.[10]

A 2010 Texas Department of Insurance report found that 28 percent of the oral anticancer medications approved by the Food and Drug Administration had intravenous/injected substitutes and 23 percent had generic equivalents.[11] However, treatment delivery systems are changing and

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[1] American Cancer Society, *What is Cancer?*, *http://www.cancer.org/cancer/cancerbasics/what-is-cancer* (last visited Feb. 6, 2013).
[2] American Cancer Society, *How Common is Cancer?*, *http://www.cancer.org/cancer/cancerbasics/what-is-cancer*, (last visited Feb. 6, 2013).
[3] American Cancer Society, *Cancer Facts & Figures, 2013, (*1), *http://www.cancer.org/acs/groups/content/@epidemiologysurveilance/documents/document/acspc-036845.pdf* (last visited Feb. 6, 2013).
[4] American Cancer Society, *Cancer Facts & Figures, supra* note 3 at 5.
[5] National Cancer Institute at the National Institutes of Health, *What You Need to Know About Cancer: Treatment,* http://www.cancer.gov/cancertopics/wyntk/cancer/page8, (last visited Feb.8, 2013).
[6] Ibid.
[7] Milliman, NY, Kathryn Fitch et al., *Parity for Oral and Intravenous/Injected Cancer Drug*, 3, (Jan. 25, 2010), *http://publications.milliman.com/research/health-rr/pdfs/parity-oral-intravenous-injected.pdf* (last visited Feb. 6, 2013).
[8] Ibid.
[9] Washington State Department of Health, Oral Chemotherapy Drug Coverage Mandated Benefit Sunrise Review, 7 (Publication Number 631-014) (December 2010), *http://www.doh.wa.gov/portals/1/Documents/Pubs/631014.pdf* (last visited Feb.6, 2013).
[10] National Cancer Institute at the National Institutes of Health, *Oral Chemotherapy: Potentials and Misconceptions*, http://www.nccn.com/understanding-cancer/233-oral-chemotherapy.html, (last visited Feb.15, 2013).
[11] Texas Department of Insurance, *Patient Cost Disparity between Orally and Intravenously Administered Chemotherapies*, Report on Senate Bill 1143, Section 3, (12), 81st Legislature, Regular Session, 2009, August 2010.

pills are quickly becoming a more prevalent option.[12] At least 25 percent of the drugs in the oncology development phase are oral medications.[13] Not all oral medications have an injectable or IV equivalent.

Intravenous medications are usually administered in a physician's office or outpatient hospital setting, but an oral medication is typically dispensed as a prescription and most often provided through a pharmacy.[14] The intravenous or injectable medication is usually covered as a medical benefit as an office or hospital outpatient service.[15]

In contrast, coverage for an oral cancer drug generally falls under a plan's prescription drug benefit.[16] The patient's out of pocket cost for an office visit or outpatient hospital visit compared to the copayment, coinsurance, or deductible for a prescription can differ by thousands of dollars, depending most frequently on the cost of the drug.[17] Unlike the medical portion of many health plans, the prescription drug benefit may not include a maximum out of pocket limit.[18] In addition, when the prescription costs reach a certain level, patient compliance drops and prescriptions remain unfilled.[19] Beginning in January 2014, federal law prescribes out of pocket limits for individual and small group health insurance plans under the federal Patient Protection and Affordable Care Act.[20]

As of January 2013, 21 states plus the District of Columbia have passed oral oncology parity laws.[21] Parity laws generally require that insurance coverage for orally administered chemotherapy medication be provided on a basis no less favorable than coverage for intravenous or injected medications.[22]

The National Comprehensive Cancer Network (NCCN) notes that oral chemotherapy is a more attractive option for those patients for whom cancer is a chronic disease.[23] Moreover, oral medications can be less costly to administer since they are taken at home and not in a physician's office or hospital setting.[24] While a physician or the physician's nursing staff may not be present for the dosing of the oral medication, there can still be a significant investment made in education and support of the patient to ensure appropriate use of the medication.[25]

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[12] Michelle Andrews, *Some States Mandate Better Coverage of Oral Cancer Drugs*, Kaiser Health News, May 14, 2012, *http://www.kaiserhealthnews.org/features/insuring-your-health/2012/cancer-drugs-by-pill-instead-of-iv-michelle-andrews-051512.aspx*, (last visited on Feb.6, 2013).
[13] Ibid.
[14] Milliman, s*upra* note 7 at 7.
[15] Ibid.
[16] Milliman, s*upra* note 7 at 1.
[17] Milliman, s*upra* note7 at 12.
[18] Milliman, s*upra* note *7* at 4.
[19] Andrews, s*upra* note 12.
[20] *See infra* note 30.
[21] Alliance for Access to Cancer Care, *Fact Sheet* (February 2013); On file in the Senate Health Policy Committee.
[22] Milliman, s*upra* note 7 at 12.
[23] National Comprehensive Cancer Network, *Oral Chemotherapy: Potentials and Misconceptions*, *http://www.nccn.com/understanding-cancer/233-oral-chemotherapy.html* (last visited: Feb. 7, 2013).
[24] Texas Department of Insurance, *Patient Cost Disparity between Orally and Intravenously Administered Chemotherapies*, Report on Senate Bill 1143, Section 3, (11-12) , 81st Legislature, Regular Session, 2009, Aug. 2010.
[25]Ibid.

The NCCN website includes a list of misconceptions about the use of oral chemotherapy drugs.[26] The NCCN notes that oral chemotherapy is not for everyone and patients should be aware that oral chemotherapy is not simple to administer nor does it automatically have fewer side effects than intravenous treatment.[27]

Patient advocacy groups for oral chemotherapy parity argue that oral medications reduce the amount of time that family members and caregivers miss work for appointments as well as provide the patient with a sense of empowerment.[28,29] More than a quarter of employees are acting as caregivers to family members who are experiencing an illness, including cancer.[30]

Federal Patient Protection and Affordable Care Act

In March 2010, the Congress passed and the President signed the Patient Protection and Affordable Care Act (PPACA).[31] Under the PPACA, qualified health plans (QHP) would be available from the state or federal Exchange beginning January 1, 2014. The PPACA required the Secretary of Health and Human Services to establish a minimum package of essential health benefits (EHB) for individual and small group health insurance.[32] The EHB package must cover benefits across ten general categories from preventive services, maternity care, and hospital services to prescription drugs.[33]

Section 1311(d)(3)(B) of the PPACA allows a state to require QHPs to cover additional benefits above those required under the EHB; however, the law also directs the state or the issuer to offset the costs of those supplemental benefits to the enrollee.[34] Under the final rule released on February 25, 2013, a distinction in the rule's preamble is made between changes in benefits versus changes in cost sharing. The rule limits the offset requirement only to state-required benefits that include "care, treatment and services that an issuer must provide to its enrollees," thereby excluding a state's obligations to defray costs relating to changes in provider types and benefit delivery method. [35] The exchange is charged with making the determination as to whether a benefit constitutes a mandate thus requiring a state to fund the additional costs.

In addition to these provisions, certain plans under the PPACA received "grandfather status." A grandfathered health plan is a plan that existed on March 23, 2010, the date that the PPACA was

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[26] National Comprehensive Cancer Network, *Oral Chemotherapy: Potentials and Misconceptions*, *http://www.nccn.com/understanding-cancer/233-oral-chemotherapy.html* (last visited: Feb. 7, 2013).
[27] Ibid.
[28] Patients Equal Access Coalition, *White Paper: Cost Effectiveness of Oral Chemotherapy*, http://www.readbag.com/myeloma-pdfs-advocacy-peac-cost-effectiveness-oral-chemo (last visited Feb. 15, 2013).
[29] Texas Department of Insurance, s*upra* note 24 at 12.
[30] National Business Group on Health and National Comprehensive Cancer Network, *An Employer's Guide to Cancer Treatment and Prevention*, 1, (2011).
[31] Pub. Law No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).
[32] Ibid.
[33] Center for Consumer Information and Insurance Oversight, *Essential Health Benefits Coverage Bulletin*, (1), Dec. 16, 2011, available at: http://cciio.cms.gov/resources/files/Files2/12162011/essential_health_benefits_bulletin.pdf (last visited: Feb. 18, 2012).
[34] 78 Fed. Reg. 12838, 12865 (February 25, 2013), available at: http://www.gpo.gov/fdsys/pkg/FR-2013-02-25/pdf/2013-04084.pdf (last visited March 11, 2013).
[35] Ibid.

enacted, and that at least one person had been continuously covered for one year.[36] Some consumer protection elements do not apply to grandfathered plans that were part of the PPACA but others are applicable, regardless of the type of plan.[37] Providing the essential health benefits are also not required of grandfathered health plans.[38] A grandfathered plan can lose its status if significant changes to benefits or cost sharing changes are made to the plan since attaining its grandfathered status.[39] Grandfathered plans are required to disclose their status to their enrollees every time plan materials are distributed and to identify the consumer protections that are not available as a grandfathered plan.[40] Even though exempt from the EHB, a grandfathered plan could still be required to meet a new requirement under state law if otherwise required under state requirements.[41]

The provisions of the PPACA include annual limitations on cost sharing in section 1302(c)(1) and an annual limitation on small group plan deductibles in section 1302(c)(2) of the Affordable Care Act effective January 1, 2014. The type of plan an individual is enrolled in and the level of benefits selected will determine the amount of out of pocket costs that an individual may incur; however, out of pocket costs must remain within certain guidelines. The annual limitation on cost sharing for 2014 has not been released. However, in 2013, the annual limitation on cost sharing for self-only coverage is $6,250 and $12,500 for family coverage. The annual limitation on deductibles for small group market plans is $2,000 for self-only coverage and $4,000 for family coverage.

The federal law further prohibits the imposition of annual and lifetime benefit limits, except for certain grandfathered plans, effective January 1, 2014. These protections went into effect for children earlier, September 23, 2010, and apply to grandfathered group health insurance plans. These restrictions would limit any out of pocket costs applied to prescription drug coverage whether delivered as an oral or an injectable medication.

Florida Mandates

A "mandate" is usually defined as required health coverage for specific type of treatments, benefits, providers or categories of dependants.[42] In Florida, health insurance coverage mandates are spread throughout the insurance statutes depending on the coverage type and insurance product. In addition, some types of health insurance coverage are exempt from state mandates,

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[36] Healthcare.gov, *Grandfathered Health Plans*, *http://www.healthcare.gov/law/features/rights/grandfathered-plans/index.html* (last visited Feb.11, 2013).
[37] Healthcare.gov., http://www.healthcare.gov/news/factsheets/2012/11/ehb11202012a.html, (last visited Feb. 11, 2013).
[38] Sarah Barr, *FAQ: Grandfathered Health Plans* (Dec. 2012), http://www.kaiserhealthnews.org/stories/2012/december/17/grandfathered-plans-faq.aspx (last visited Feb. 12, 2013).
[39] Healthcare.gov, *Keeping the Health Plan You Have: The Affordable Care Act and "Grandfathered Health Plans* (June 14, 2010), http://www.healthcare.gov/news/factsheets/2010/06/keeping-the-health-plan-you-have-grandfathered.html (last visited Feb. 12, 2013).
[40] Ibid.
[41] 75 Fed. Reg. 34, 538, 34,540 (June 17, 2010)
[42] National Conference of State Legislatures, *Mandated Health Insurance Benefits and State Laws*, http://www.ncsl.org/issues-research/health/mandated-health-insurance-benefits-and-state-laws.aspx (last visited Feb. 20, 2013).

such as self-funded or ERISA plans.[43] [44] As a result, specific mandates may not be applicable to all insured persons as not all benefits are applicable to all insurance coverage types.[45] Florida has at least 52 different "mandates" falling across the small group, individual or large group health insurance market, including health maintenance organizations (HMOs).[46]

Under current state law, s. 627.4239, F.S, coverage for the use of drugs in the treatment of cancer is mandated under any individual or group policy that covers cancer if that drug is recognized for treatment of that indication in a standard reference compendium or recommended in the medical literature.[47] Coverage is also required for the administration of the medically necessary services to administer those drugs.[48] Current state law does not specifically address coverage under HMOs or parity for any co-insurance, deductible, or copayment that may be related to how cancer treatment medicine is delivered.

Required Study by Advocates

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal that would mandate specific health coverage to submit to the Agency for Health Care Administration and the appropriate legislative committee a report reviewing the social and financial impacts of the proposed coverage. The statute lists twelve components for assessment, if available:

- To what extent is the treatment or service generally used by a significant portion of the population?
- To what extent is the insurance coverage generally available?
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment?
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship?
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- To what extent will the coverage increase or decrease the cost of the treatment or service?
- To what extent will the coverage increase the appropriate uses of the treatment or service?
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders?
- The impact of this coverage on the total cost of health care.

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[43] Florida Department of Financial Services, *Insurance Library, available at:* *http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L_and_H/Health_Care/Self-Funded_Medical_Plans/Self-Funded_-_Regulation.htm* (last visited Feb. 20, 2013).
[44] Federal Employee Retirement Income Act of 1974 (ERISA) governs self-insured health plans.
[45] Florida Department of Financial Services, *Insurance Library, available at:* http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L_and_H/Health_General/MandatedHealthInsAndHMOBenefits.pdf (last visited Feb. 20, 2013).
[46] Ibid.
[47] *See* s. 627.4239(2)(a), F.S.
[48] *See* s. 627.4236(2)(b), F.S..

The International Myeloma Foundation (Foundation) delivered a report to the Senate Health Policy Committee on February 21, 2013, assessing SB 422 and HB 301 against the criteria of s. 624.215, F.S., while specifically not admitting that the bill's directives mandate any specific health coverage.[49]

According to the Foundation, insurance coverage of oral cancer medications is not the precise issue. The issue is the out of pocket cost differential to patients between intravenous or injectables and oral treatments as most insurance plans already cover the medication.[50] The report states that there is a direct correlation between the levels of out of pocket costs and the number of prescriptions left abandoned. For example, claims with patient cost sharing over $500 had more than four times the likelihood of abandonment as opposed to those that cost less than $100.[51] In addition, one in five persons use all or most of their savings to pay for cancer treatment.[52]

The report indicates that for some cancers, oral treatment is the only standard treatment.[53] More treatments are being approved as over 40 oral medications have been approved for 54 different types of cancer.[54] The report argues that oral medications are less costly to administer at home, may have fewer side effects, provide patient empowerment and are more convenient for the patient and the patient's caregivers.[55]

With reduced copayments, the report points out that fewer prescriptions would be abandoned or unfilled leading to greater medication compliance.[56] The Foundation argues that by keeping these out of pocket costs affordable and making prescription drug compliance easier that the overall costs of cancer will decrease.[57]

As to the potential for increased costs, the report notes that minor increases in administrative expenses may be incurred by insurance companies, but that administrative expenses saved from fewer office visits may offset those costs.[58] Citing the Milliman study, the Foundation report re-states an estimate of not more than $0.50 per member per month for the cost of implementing cancer treatment parity. The Foundation report also notes that in a survey of nine other states plus the District of Columbia with a similar parity provision, the legislation's impact on premiums was zero to negligible.[59]

Division of State Group Insurance

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[49] International Myeloma Foundation, Health Insurance Mandate Report, *Parity for Oral and Intravenous Cancer Medications*, 1, (February 2013) (on file with the Senate Committee on Health Policy).
[50] International Myeloma Foundation, *supra* note 48 at 2.
[51] International Myeloma Foundation, *supra* note 48 at 3.
[52] International Myeloma Foundation, *supra* note 48 at 3.
[53] International Myeloma Foundation, *supra* note 48 at 1.
[54] International Myeloma Foundation, *supra* note 48 at 1.
[55] Ibid.
[56] International Myeloma Foundation, *supra* note 48 at 5.
[57] Ibid.
[58] International Myeloma Foundation, *supra* note 48 at 6.
[59] Ibid.

The Division of State Group Insurance of the Department of Management Services administers the State Group Insurance Program, which offers preferred provider organization (PPO), HMO, and prescription drug coverage to active and retired state employees and their dependents. The PPO and prescription drug coverage are self-insured, meaning the State is responsible for paying all claims incurred by members. Four of the six HMOs are also self-insured. Self-insured claims are paid from the State Group Employees' Health Insurance Trust Fund.

III. Effect of Proposed Changes:

Section 1 of the bill names the act the "Cancer Treatment Fairness Act."

Sections 2 and 3 of the bill create new sections of law, ss. 627.42391 and 641.313, F.S., to address cancer treatment parity for orally administered medications under individual and group insurance and HMO insurance policies, respectively. Under these sections, the bill adds definitions for "cancer treatment medication" and "cost sharing."

In addition, the bill provides that for any individual, group, or HMO policy that is delivered, issued, renewed or amended in Florida that includes major medical or other comprehensive coverage that also provides cancer treatment, such policy must also provide coverage for orally prescribed cancer medications. The bill provides that cost sharing provisions for those orally prescribed medication, may not be less favorable than any cost sharing required for intravenous or injected cost sharing medications. Insurers are prohibited from taking certain actions to thwart the intent of this bill, specifically:

- Varying the terms of their policies as they exist on the effective date of this act in order to comply with this requirement. In effect, insurers may not increase cost sharing on intravenous medications or injections rather than reduce cost sharing on orally prescribed cancer treatments to meet this requirement.
- Offering an incentive that would encourage any person to accept less than the minimum protections offered under this act.
- Penalizing a health care practitioner through a reduction in compensation for recommending or providing services to a person covered under this section of law.
- Incentivizing a health care provider to not comply with this act.
- Changing the classification of any intravenous or injected cancer treatment medication.
- Increasing the cost sharing for any intravenous or injectable medications to comply with this act.

Section 4 amends s. 627.6515(2), F.S., to add a cross-reference to s. 627.42391, F.S., which is created by the bill.

Section 5 provides a directive to the Division of Law and Information to replace any instances of "the effective date of this act" with the final effective date once this act becomes law.

Section 6 specifies the effective date of the act is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides an effective date of July 1, 2013, without an exemption for contracts or plans in existence prior to the effective date. As a result, impairment of contract claims may arise. The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.[60] "[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear."[61] If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.[62] The factors that a court will consider when balancing the impairment of contracts with the public purpose include:

- Whether the law was enacted to deal with a broad, generalized economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and
- Whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.[63]

A law that is deemed to be an impairment of contract will be deemed to be invalid as it applies to any contracts entered into prior to the effective date of the act.

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[60] U.S. Const. art. I, § 10; art. I, s. 10, Fla. Const.
[61] *Susan Cohn v. The Grand Condominium Association, Inc., et al;* 62 So. 3d. 1120 (Fla. 2011). *See also Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979). *See also General Motors Corp. v. Romein,* 503 U.S. 181 (1992).
[62] *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So. 2d 681 (Fla. 1980); *Yellow Cab C. v. Dade County, 412 So. 2d 395* (Fla. 3rd DCA 1982). *See also Exxon Corp. v Eagerton,* 462 U.S. 176 (1983).
[63] *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals covered by an individual, small or large group policy or contract will experience a decrease in the amount of out of pocket cost sharing associated with oral cancer treatment medication. Self-insured or ERISA plans would not be subject to the provisions of this bill since they are regulated by the federal government. Approximately 60 percent of employees are in ERISA plans.

SB 422 may affect the cost of health insurance coverage provided in the private sector. A 2010 report by Milliman estimated that for most commercial benefit plans, the cost for oral cancer treatment parity would be under $0.50 per member per month. Milliman notes that parity for some plan designs with very high cost sharing for oral specialty drugs and low cost sharing for medical benefits could cost about $1.00 per member per month, or, in unusual circumstances, more. Parity for other plan designs that have low overall cost sharing could cost as little as $0.05 to $0.10 per member per month.[64] Milliman notes that there are thousands of benefit design variations, and plan design features that could affect these parity costs. The actual cost of parity would vary based on the benefit design of a specific plan and the level of cost sharing required of the insured.[65] The report did not address administrative costs associated with implementation of parity.

C. Government Sector Impact:

According to the Division of State Group Insurance (DSGI), the projected negative fiscal impact to the State Group Employees' Health Insurance Trust Fund for the four fiscal years from Fiscal Years 2013-2014 through Fiscal Years 2016-2017 is approximately $420,000 per year, based on 2012 claims data. This estimate assumes that the state establishes parity of the costs of treatment for cancer drugs regardless of the method of delivery.

The bill would require that DSGI lower the oral cancer prescription drug cost to $0 for the Standard HMO plan because members in the Standard HMO plan do not pay a copayment if infused treatment is received in an outpatient setting in the network. According to DSGI, the bill's requirement that costs may not be allowed to increase in order to comply would have the effect of not allowing the State to increase the medical services copayment to offset the increased cost of lowering the prescription drug copayments. In addition, the DSGI noted that the bill did not provide guidance regarding how a plan would compare the pharmacy copayment to the outpatient coinsurance for infusion/injection therapy.

---

[64] Milliman, *supra* note 7 at 1.
[65] Ibid.

In calendar year 2012, the state paid $17.1 million in prescription drug claims for oral cancer medications; members paid $291,848. The PPO and HMO standard plan members pay copayments ($50) for prescription drugs; Health Investor Health Plan (HIHP) members pay coinsurance.[66] Coinsurance for the HIHP members varies from 30 -50 percent, contingent upon the type of drug. The copayments and coinsurance for drugs are depicted below:

State Employees' Prescription Drug Plan	Retail (up to a 30-day supply)		Mail Order (up to a 90-day supply)	
	Standard	HIHP	Standard	HIHP
Generic Drugs	$7	30%	$14	30%
Preferred-Brand Drugs	$30	30%	$60	30%
Nonpreferred-Brand Drugs	$50	50%	$100	50%

Members enrolled in the standard PPO plan are subject to coinsurance and deductibles for medical services. For example, members in the standard PPO and HMO pay a $250 fee per hospital admission if infused treatment is received in an inpatient setting in the network. If the infused treatment is provided in an outpatient setting in the network, a member in the standard PPO is subject to a calendar year deductible and coinsurance. Currently, the lowest standard plan copayment for cancer treatment is for outpatient services in the HMO plan; members pay $0.

The July 1, 2013 effective date of the bill would result in a fiscal impact to DSGI since the seven plans operate on calendar year basis. There will be costs associated with necessary changes to the benefit documents as well as any systems changes necessary in a very short timeframe that would be incurred by the State for the current contracted plan year. Changing the effective date of the legislation to January 1, 2014, would allow more time for the appropriate documents and system changes to be made and for information to be provided to state group health insurance members during open enrollment scheduled for October 2013.

The impact of the bill on local government plans is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill includes a directive to add an effective date once the act takes effect; however, the bill already includes an effective date in Section 5. It is unclear why Section 4 is necessary when an effective date has been provided and no conflicting effective dates are included in the bill.

[66] All member cost share amounts reported assumed to be in-network.

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 Appropriations on March 22, 2013:
The committee substitute adds a cross-reference to conform to the changes made by 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.

355038

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Benacquisto) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 61 - 65
4 and insert:
5 (e) Change the classification of an intravenous or injected
6 cancer treatment medication, increase the amount of an injected
7 cancer treatment medication, or increase the amount of cost
8 sharing applicable to an intravenous or injected cancer
9 treatment medication, in effect on the effective date of this
10 act.
11 Delete lines 105 - 109
12 and insert:

355038

13 (e) Change the classification of an intravenous or injected
14 cancer treatment medication, increase the amount of an injected
15 cancer treatment medication, or increase the amount of cost
16 sharing applicable to an intravenous or injected cancer
17 treatment medication, in effect on the effective date of this
18 act.

122406

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Benacquisto) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 109 and 110
4 insert:
5 Section 4. Subsection (2) of section 627.6515, Florida
6 Statutes, is amended to read:
7 627.6515 Out-of-state groups.—
8 (2) Except as otherwise provided in this part, this part
9 does not apply to a group health insurance policy issued or
10 delivered outside this state under which a resident of this
11 state is provided coverage if:
12 (a) The policy is issued to an employee group the

122406

13 composition of which is substantially as described in s.
14 627.653; a labor union group or association group the
15 composition of which is substantially as described in s.
16 627.654; an additional group the composition of which is
17 substantially as described in s. 627.656; a group insured under
18 a blanket health policy when the composition of the group is
19 substantially in compliance with s. 627.659; a group insured
20 under a franchise health policy when the composition of the
21 group is substantially in compliance with s. 627.663; an
22 association group to cover persons associated in any other
23 common group, which common group is formed primarily for
24 purposes other than providing insurance; a group that is
25 established primarily for the purpose of providing group
26 insurance, provided the benefits are reasonable in relation to
27 the premiums charged thereunder and the issuance of the group
28 policy has resulted, or will result, in economies of
29 administration; or a group of insurance agents of an insurer,
30 which insurer is the policyholder;
31 (b) Certificates evidencing coverage under the policy are
32 issued to residents of this state and contain in contrasting
33 color and not less than 10-point type the following statement:
34 “The benefits of the policy providing your coverage are governed
35 primarily by the law of a state other than Florida”; and
36 (c) The policy provides the benefits specified in ss.
37 627.419, 627.42391, 627.6574, 627.6575, 627.6579, 627.6612,
38 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and
39 627.66911, and complies with the requirements of s. 627.66996.
40 (d) Applications for certificates of coverage offered to
41 residents of this state must contain, in contrasting color and

122406

42 not less than 12-point type, the following statement on the same
43 page as the applicant's signature:
44
45 "This policy is primarily governed by the laws of
46 ...insert state where the master policy if filed....
47 As a result, all of the rating laws applicable to
48 policies filed in this state do not apply to this
49 coverage, which may result in increases in your
50 premium at renewal that would not be permissible under
51 a Florida-approved policy. Any purchase of individual
52 health insurance should be considered carefully, as
53 future medical conditions may make it impossible to
54 qualify for another individual health policy. For
55 information concerning individual health coverage
56 under a Florida-approved policy, consult your agent or
57 the Florida Department of Financial Services."
58
59 This paragraph applies only to group certificates providing
60 health insurance coverage which require individualized
61 underwriting to determine coverage eligibility for an individual
62 or premium rates to be charged to an individual except for the
63 following:
64 1. Policies issued to provide coverage to groups of persons
65 all of whom are in the same or functionally related licensed
66 professions, and providing coverage only to such licensed
67 professionals, their employees, or their dependents;
68 2. Policies providing coverage to small employers as
69 defined by s. 627.6699. Such policies shall be subject to, and
70 governed by, the provisions of s. 627.6699;

122406

71 3. Policies issued to a bona fide association, as defined
72 by s. 627.6571(5), if ~~provided~~ that there is a person or board
73 acting as a fiduciary for the benefit of the members, and such
74 association is not owned, controlled by, or otherwise associated
75 with the insurance company; or
76 4. Any accidental death, accidental death and
77 dismemberment, accident-only, vision-only, dental-only, hospital
78 indemnity-only, hospital accident-only, cancer, specified
79 disease, Medicare supplement, products that supplement Medicare,
80 long-term care, or disability income insurance, or similar
81 supplemental plans provided under a separate policy,
82 certificate, or contract of insurance, which cannot duplicate
83 coverage under an underlying health plan, coinsurance, or
84 deductibles or coverage issued as a supplement to workers'
85 compensation or similar insurance, or automobile medical-payment
86 insurance.
87
88 ========== T I T L E A M E N D M E N T ==========
89 And the title is amended as follows:
90 Delete line 14
91 and insert:
92 compliance with this act; amending s. 627.6515, F.S.;
93 adding a cross-reference to conform to changes made by
94 the act; providing a directive to the

597066

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Benacquisto) recommended the following:

1 **Senate Substitute for Amendment (122406) (with title**
2 **amendment)**
3
4 Between lines 109 and 110
5 insert:
6 Section 4. Subsection (2) of section 627.6515, Florida
7 Statutes, is amended to read:
8 627.6515 Out-of-state groups.—
9 (2) Except as otherwise provided in this part, this part
10 does not apply to a group health insurance policy issued or
11 delivered outside this state under which a resident of this
12 state is provided coverage if:

597066

13 (a) The policy is issued to an employee group the
14 composition of which is substantially as described in s.
15 627.653; a labor union group or association group the
16 composition of which is substantially as described in s.
17 627.654; an additional group the composition of which is
18 substantially as described in s. 627.656; a group insured under
19 a blanket health policy when the composition of the group is
20 substantially in compliance with s. 627.659; a group insured
21 under a franchise health policy when the composition of the
22 group is substantially in compliance with s. 627.663; an
23 association group to cover persons associated in any other
24 common group, which common group is formed primarily for
25 purposes other than providing insurance; a group that is
26 established primarily for the purpose of providing group
27 insurance, provided the benefits are reasonable in relation to
28 the premiums charged thereunder and the issuance of the group
29 policy has resulted, or will result, in economies of
30 administration; or a group of insurance agents of an insurer,
31 which insurer is the policyholder;
32 (b) Certificates evidencing coverage under the policy are
33 issued to residents of this state and contain in contrasting
34 color and not less than 10-point type the following statement:
35 “The benefits of the policy providing your coverage are governed
36 primarily by the law of a state other than Florida”; and
37 (c) The policy provides the benefits specified in ss.
38 627.419, 627.42391, 627.6574, 627.6575, 627.6579, 627.6612,
39 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and
40 627.66911, and complies with the requirements of s. 627.66996.
41 (d) Applications for certificates of coverage offered to

597066

42 residents of this state must contain, in contrasting color and
43 not less than 12-point type, the following statement on the same
44 page as the applicant's signature:
45
46 "This policy is primarily governed by the laws of
47 ...insert state where the master policy if filed....
48 As a result, all of the rating laws applicable to
49 policies filed in this state do not apply to this
50 coverage, which may result in increases in your
51 premium at renewal that would not be permissible under
52 a Florida-approved policy. Any purchase of individual
53 health insurance should be considered carefully, as
54 future medical conditions may make it impossible to
55 qualify for another individual health policy. For
56 information concerning individual health coverage
57 under a Florida-approved policy, consult your agent or
58 the Florida Department of Financial Services."
59
60 This paragraph applies only to group certificates providing
61 health insurance coverage which require individualized
62 underwriting to determine coverage eligibility for an individual
63 or premium rates to be charged to an individual except for the
64 following:
65 1. Policies issued to provide coverage to groups of persons
66 all of whom are in the same or functionally related licensed
67 professions, and providing coverage only to such licensed
68 professionals, their employees, or their dependents;
69 2. Policies providing coverage to small employers as
70 defined by s. 627.6699. Such policies shall be subject to, and

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71 governed by, the provisions of s. 627.6699;
72 3. Policies issued to a bona fide association, as defined
73 by s. 627.6571(5), provided that there is a person or board
74 acting as a fiduciary for the benefit of the members, and such
75 association is not owned, controlled by, or otherwise associated
76 with the insurance company; or
77 4. Any accidental death, accidental death and
78 dismemberment, accident-only, vision-only, dental-only, hospital
79 indemnity-only, hospital accident-only, cancer, specified
80 disease, Medicare supplement, products that supplement Medicare,
81 long-term care, or disability income insurance, or similar
82 supplemental plans provided under a separate policy,
83 certificate, or contract of insurance, which cannot duplicate
84 coverage under an underlying health plan, coinsurance, or
85 deductibles or coverage issued as a supplement to workers'
86 compensation or similar insurance, or automobile medical-payment
87 insurance.
88
89 ========== T I T L E A M E N D M E N T ==========
90 And the title is amended as follows:
91 Delete line 14
92 and insert:
93 compliance with this act; amending s. 627.6515, F.S.;
94 adding a cross-reference to conform to changes made by
95 the act; providing a directive to the

By Senator Benacquisto

30-00169A-13 2013422__

A bill to be entitled

An act relating to cancer treatment; providing a short title; creating ss. 627.42391 and 641.313, F.S.; providing definitions; requiring that an individual or group insurance policy or contract or a health maintenance contract that provides coverage for cancer treatment medications provide coverage for orally administered cancer treatment medications on a basis no less favorable than that required by the policy or contract for intravenously administered or injected cancer treatment medications; prohibiting insurers, health maintenance organizations, and certain other entities from engaging in specified actions to avoid compliance with this act; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. This act may be cited as the "Cancer Treatment Fairness Act."

Section 2. Section 627.42391, Florida Statutes, is created to read:

627.42391 Insurance policies; cancer treatment parity; orally administered cancer treatment medications.—

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

(a) "Cancer treatment medication" means medication prescribed by a treating physician who determines that the medication is medically necessary to kill or slow the growth of

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

30-00169A-13 2013422__

cancerous cells in a manner consistent with nationally accepted standards of practice.

(b) "Cost sharing" includes copayments, coinsurance, dollar limits, and deductibles imposed on the covered person.

(2) An individual or group insurance policy delivered, issued for delivery, renewed, amended, or continued in this state that provides medical, major medical, or similar comprehensive coverage and includes coverage for cancer treatment medications must also cover prescribed, orally administered cancer treatment medications and may not apply cost-sharing requirements for orally administered cancer treatment medications that are less favorable to the covered person than cost-sharing requirements for intravenous or injected cancer treatment medications covered under the policy or contract.

(3) An insurer providing a policy or contract described in subsection (2) and any participating entity through which the insurer offers health services may not:

(a) Vary the terms of the policy in effect on the effective date of this act to avoid compliance with this section.

(b) Provide any incentive, including, but not limited to, a monetary incentive, or impose treatment limitations to encourage a covered person to accept less than the minimum protections available under this section.

(c) Penalize a health care practitioner or reduce or limit the compensation of a health care practitioner for recommending or providing services or care to a covered person as required under this section.

(d) Provide any incentive, including, but not limited to, a

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

59 monetary incentive, to induce a health care practitioner to
60 provide care or services that do not comply with this section.
61 (e) Change the classification of any intravenous or
62 injected cancer treatment medication or increase the amount of
63 cost sharing applicable to any intravenous or injected cancer
64 treatment medication in effect on the effective date of this act
65 in order to achieve compliance with this section.
66 Section 3. Section 641.313, Florida Statutes, is created to
67 read:
68 641.313 Health maintenance contracts; cancer treatment
69 parity; orally administered cancer treatment medications.—
70 (1) As used in this section, the term:
71 (a) "Cancer treatment medication" means medication
72 prescribed by a treating physician who determines that the
73 medication is medically necessary to kill or slow the growth of
74 cancerous cells in a manner consistent with nationally accepted
75 standards of practice.
76 (b) "Cost sharing" includes copayments, coinsurance, dollar
77 limits, and deductibles imposed on the covered person.
78 (2) A health maintenance contract delivered, issued for
79 delivery, renewed, amended, or continued in this state that
80 provides medical, major medical, or similar comprehensive
81 coverage and includes coverage for cancer treatment medications
82 must also cover prescribed, orally administered cancer treatment
83 medications and may not apply cost-sharing requirements for
84 orally administered cancer treatment medications that are less
85 favorable to the covered person than cost-sharing requirements
86 for intravenous or injected cancer treatment medications covered
87 under the contract.

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

88 (3) A health maintenance organization providing a contract
89 described in subsection (2) and any participating entity through
90 which the health maintenance organization offers health services
91 may not:
92 (a) Vary the terms of the policy in effect on the effective
93 date of this act to avoid compliance with this section.
94 (b) Provide any incentive, including, but not limited to, a
95 monetary incentive, or impose treatment limitations to encourage
96 a covered person to accept less than the minimum protections
97 available under this section.
98 (c) Penalize a health care practitioner or reduce or limit
99 the compensation of a health care practitioner for recommending
100 or providing services or care to a covered person as required
101 under this section.
102 (d) Provide any incentive, including, but not limited to, a
103 monetary incentive, to induce a health care practitioner to
104 provide care or services that do not comply with this section.
105 (e) Change the classification of any intravenous or
106 injected cancer treatment medication or increase the amount of
107 cost sharing applicable to any intravenous or injected cancer
108 treatment medication in effect on the effective date of this act
109 in order to achieve compliance with this section.
110 Section 4. The Division of Law Revision and Information is
111 directed to replace the phrase "the effective date of this act"
112 wherever it occurs in this act with the date this act takes
113 effect.
114 Section 5. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Cancer Treatment Fairness Act

Bill Number: SB422 *(if applicable)*

Name: Wayne Taylor, MD

Amendment Barcode: *(if applicable)*

Job Title: Volunteer - Alliance for Access to Cancer Care

Address: 18126 Branch Road
Street

Hudson FL 34667
City *State* *Zip*

Phone: 727-992-2000

E-mail: twayne43@hotmail.com

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

Representing: Leukemia + Lymphoma Society

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/21/2013
Meeting Date

Topic: Cancer Treatment

Bill Number: SB 422 (if applicable)

Name: Michael Garner

Amendment Barcode: (if applicable)

Job Title: Pres + CEO

Address: 200 W. College Ave., Suite 104
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-386-2904

E-mail: michael@fahp.net

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida Association of Health Plans

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic _____

Bill Number 422 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Education
Ethics and Elections
Gaming
Governmental Oversight and Accountability
Rules

SENATOR LIZBETH BENACQUISTO
Majority Leader
30th District

March 14, 2013

The Honorable Joe Negron
Senate Appropriations, Chair
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 422 – Relating to Cancer Treatment

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda SB 422, Cancer Treatment Fairness Act, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto
Senate District 30

Cc: Steve Burgess

REPLY TO:
❒ 1926 Victoria Ave, 2nd Floor, Fort Myers, Florida 33901 (239) 338-2570
❒ 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

155938

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraph (b) of subsection (3) and subsection
6 (4) of section 463.002, Florida Statutes, are amended,
7 subsection (5) is renumbered as subsection (7) and amended,
8 present subsections (6) through (10) are renumbered as
9 subsections (8) through (12), respectively, and new subsections
10 (5) and (6) are added to that section, to read:
11 463.002 Definitions.—As used in this chapter, the term:
12 (3)

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13 (b) A licensed practitioner who is not a certified
14 optometrist shall be required to display at her or his place of
15 practice a sign which states, "I am a Licensed Practitioner, not
16 a Certified Optometrist, and I am not able to prescribe ~~topical~~
17 ocular pharmaceutical agents."
18 (4) "Certified optometrist" means a licensed practitioner
19 authorized by the board to administer and prescribe ~~topical~~
20 ocular pharmaceutical agents.
21 (5) "Ocular pharmaceutical agent" means a pharmaceutical
22 agent that is administered topically or orally for the diagnosis
23 or treatment of ocular conditions of the human eye and its
24 appendages without the use of surgery or other invasive
25 techniques.
26 (6) "Surgery" means a procedure using an instrument,
27 including a laser, scalpel, or needle, in which human tissue is
28 cut, burned, scraped except as provided in s. 463.014(4), or
29 vaporized, by incision, injection, ultrasound, laser, infusion,
30 cryotherapy, or radiation. The term includes a procedure using
31 an instrument which requires the closure of human tissue by
32 suture, clamp, or other such device.
33 (7) ~~(5)~~ "Optometry" means the diagnosis of conditions of the
34 human eye and its appendages; the employment of any objective or
35 subjective means or methods, including the administration of
36 ~~topical~~ ocular pharmaceutical agents, for the purpose of
37 determining the refractive powers of the human eyes, or any
38 visual, muscular, neurological, or anatomic anomalies of the
39 human eyes and their appendages; and the prescribing and
40 employment of lenses, prisms, frames, mountings, contact lenses,
41 orthoptic exercises, light frequencies, and any other means or

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42 methods, including ~~topical~~ ocular pharmaceutical agents, for the
43 correction, remedy, or relief of any insufficiencies or abnormal
44 conditions of the human eyes and their appendages.
45 Section 2. Paragraph (g) of subsection (1) of section
46 463.005, Florida Statutes, is amended to read:
47 463.005 Authority of the board.—
48 (1) The Board of Optometry has authority to adopt rules
49 pursuant to ss. 120.536 (1) and 120.54 to implement the
50 provisions of this chapter conferring duties upon it. Such rules
51 shall include, but not be limited to, rules relating to:
52 (g) Administration and prescription of ~~topical~~ ocular
53 pharmaceutical agents.
54 Section 3. Section 463.0055, Florida Statutes, is amended
55 to read:
56 463.0055 Administration and prescription of ~~topical~~ ocular
57 pharmaceutical agents~~; committee~~.—
58 (1)(a) Certified optometrists may administer and prescribe
59 ~~topical~~ ocular pharmaceutical agents as provided in this section
60 for the diagnosis and treatment of ocular conditions of the
61 human eye and its appendages without the use of surgery or other
62 invasive techniques. However, a licensed practitioner who is not
63 certified may use topically applied anesthetics solely for the
64 purpose of glaucoma examinations, but is otherwise prohibited
65 from administering or prescribing ~~topical~~ ocular pharmaceutical
66 agents.
67 (b) Before a certified optometrist may administer or
68 prescribe oral ocular pharmaceutical agents, the certified
69 optometrist must provide proof to the department of successful
70 completion of a course and subsequent examination, approved by

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71 the board, on general and ocular pharmaceutical agents and the
72 side effects of those agents. The course shall consist of 20
73 contact hours, all of which may be web-based. The first course
74 and examination shall be presented by October 1, 2013, and shall
75 be administered at least annually thereafter. The course and
76 examination shall be developed and offered jointly by a
77 statewide professional association of physicians in this state
78 accredited to provide educational activities designated for the
79 American Medical Association Physician's Recognition Award (AMA
80 PRA) Category 1 credit and a statewide professional association
81 of licensed practitioners which provides board-approved
82 continuing education on an annual basis. The board shall review
83 and approve the content of the initial course and examination if
84 the board determines that the course and examination adequately
85 and reliably satisfy the criteria set forth in this section. The
86 board shall thereafter annually review and approve the course
87 and examination if the board determines that the content
88 continues to adequately and reliably satisfy the criteria set
89 forth in this section. Successful completion of the board-
90 approved course and examination may be used by a certified
91 optometrist to satisfy 20 hours of the continuing education
92 requirements in s. 463.007(3), only for the biennial period in
93 which the board-approved course and examination are taken. If a
94 certified optometrist does not complete a board-approved course
95 and examination under this section, the certified optometrist is
96 only authorized to administer and prescribe topical ocular
97 pharmaceutical agents.
98 (2)(a) The board shall establish a formulary of topical
99 ocular pharmaceutical agents that may be prescribed and

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100 administered by a certified optometrist. ~~There is hereby created~~
101 ~~a committee composed of two optometrists licensed pursuant to~~
102 ~~this chapter, appointed by the Board of Optometry, two board-~~
103 ~~certified ophthalmologists licensed pursuant to chapter 458 or~~
104 ~~chapter 459, appointed by the Board of Medicine, and one~~
105 ~~additional person with a doctorate degree in pharmacology who is~~
106 ~~not licensed pursuant to chapter 458, chapter 459, or this~~
107 ~~chapter, appointed by the State Surgeon General. The committee~~
108 ~~shall review requests for additions to, deletions from, or~~
109 ~~modifications of a formulary of topical ocular pharmaceutical~~
110 ~~agents for administration and prescription by certified~~
111 ~~optometrists and shall provide to the board advisory opinions~~
112 ~~and recommendations on such requests.~~ The formulary shall
113 consist of those topical ocular pharmaceutical agents that are
114 appropriate to treat or diagnose ocular diseases and disorders
115 and that ~~which~~ the certified optometrist is qualified to use in
116 the practice of optometry. The board shall establish, add to,
117 delete from, or modify the topical formulary by rule.
118 Notwithstanding any provision of chapter 120 to the contrary,
119 the topical formulary rule becomes ~~shall become~~ effective 60
120 days from the date it is filed with the Secretary of State.
121 (b) The formulary may be added to, deleted from, or
122 modified according to the procedure described in paragraph (a).
123 Any person who requests an addition, deletion, or modification
124 of an authorized topical ocular pharmaceutical agent shall have
125 the burden of proof to show cause why such addition, deletion,
126 or modification should be made.
127 (c) The State Surgeon General shall have standing to
128 challenge any rule or proposed rule of the board pursuant to s.

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129 120.56. In addition to challenges for any invalid exercise of
130 delegated legislative authority, the administrative law judge,
131 upon such a challenge by the State Surgeon General, may declare
132 all or part of a rule or proposed rule invalid if it:
133 1. Does not protect the public from any significant and
134 discernible harm or damages;
135 2. Unreasonably restricts competition or the availability
136 of professional services in the state or in a significant part
137 of the state; or
138 3. Unnecessarily increases the cost of professional
139 services without a corresponding or equivalent public benefit.
140
141 However, there shall not be created a presumption of the
142 existence of any of the conditions cited in this subsection in
143 the event that the rule or proposed rule is challenged.
144 (d) Upon adoption of the formulary required by this
145 section, and upon each addition, deletion, or modification to
146 the formulary, the board shall mail a copy of the amended
147 formulary to each certified optometrist and to each pharmacy
148 licensed by the state.
149 (3) In addition to the formulary of topical ocular
150 pharmaceutical agents established by rule of the board, there is
151 created a statutory formulary of oral ocular pharmaceutical
152 agents, which includes the following agents:
153 (a) The following analgesics or their generic or
154 therapeutic equivalents, which may not be administered or
155 prescribed for more than 72 hours without consultation with a
156 physician licensed under chapter 458 or chapter 459 who is
157 skilled in diseases of the eye:

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158 1. Tramadol hydrochloride.
159 2. Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
160 (b) The following antibiotics or their generic or
161 therapeutic equivalents:
162 1. Amoxicillin with or without clavulanic acid.
163 2. Azithromycin.
164 3. Erythromycin.
165 4. Dicloxacillin.
166 5. Doxycycline/Tetracycline.
167 6. Keflex.
168 7. Minocycline.
169 (c) The following antivirals or their generic or
170 therapeutic equivalents:
171 1. Acyclovir.
172 2. Famciclovir.
173 3. Valacyclovir.
174 (d) The following oral anti-glaucoma agents or their
175 generic or therapeutic equivalents, which may not be
176 administered or prescribed for more than 72 hours:
177 1. Acetazolamide.
178 2. Methazolamide.
179
180 Any oral ocular pharmaceutical agent that is listed in the
181 statutory formulary set forth in this subsection and that is
182 subsequently determined by the United States Food and Drug
183 Administration to be unsafe for administration or prescription
184 shall be considered to have been deleted from the formulary of
185 oral ocular pharmaceutical agents. The oral ocular
186 pharmaceutical agents on the statutory formulary set forth in

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187 this subsection may not otherwise be deleted by the board, the
188 department, or the State Surgeon General.
189 (4) ~~(3)~~ A certified optometrist shall be issued a prescriber
190 number by the board. Any prescription written by a certified
191 optometrist for an ~~a topical~~ ocular pharmaceutical agent
192 pursuant to this section shall have the prescriber number
193 printed thereon. A certified optometrist may not administer or
194 prescribe:
195 (a) A controlled substance listed in Schedule III, Schedule
196 IV, or Schedule V of s. 893.03, except for an oral analgesic
197 placed on the formulary pursuant to this section for the relief
198 of pain due to ocular conditions of the eye and its appendages.
199 (b) A controlled substance for the treatment of chronic
200 nonmalignant pain as defined in s. 456.44(1)(e).
201 Section 4. Subsection (3) of section 463.0057, Florida
202 Statutes, is amended to read:
203 463.0057 Optometric faculty certificate.—
204 (3) The holder of a faculty certificate may engage in the
205 practice of optometry as permitted by this section~~,~~ but may not
206 administer or prescribe topical ocular pharmaceutical agents
207 unless the certificateholder has satisfied the requirements of
208 s. 463.006(1)(b)4. and 5. If a certificateholder wishes to
209 administer or prescribe oral ocular pharmaceutical agents, the
210 certificateholder must also satisfy the requirements of s.
211 463.0055(1)(b).
212 Section 5. Subsections (2) and (3) of section 463.006,
213 Florida Statutes, are amended to read:
214 463.006 Licensure and certification by examination.—
215 (2) The examination shall consist of the appropriate

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216 subjects, including applicable state laws and rules and general
217 and ocular pharmacology with emphasis on the use ~~topical~~
218 ~~application~~ and side effects of ocular pharmaceutical agents.
219 The board may by rule substitute a national examination as part
220 or all of the examination and may by rule offer a practical
221 examination in addition to the written examination.
222 (3) Each applicant who successfully passes the examination
223 and otherwise meets the requirements of this chapter is entitled
224 to be licensed as a practitioner and to be certified to
225 administer and prescribe ~~topical~~ ocular pharmaceutical agents in
226 the diagnosis and treatment of ocular conditions.
227 Section 6. Subsections (10) and (11) are added to section
228 463.0135, Florida Statutes, to read:
229 463.0135 Standards of practice.—
230 (10) A certified optometrist is authorized to perform any
231 eye examination, including a dilated examination, required or
232 authorized by chapter 548 or by rules adopted to implement that
233 chapter.
234 (11) Co-management of postoperative care shall be conducted
235 pursuant to the requirements of this section and a patient-
236 specific transfer of care letter that governs the relationship
237 between the physician who performed the surgery and the licensed
238 practitioner. The patient must be fully informed of, and consent
239 in writing to, the co-management relationship for his or her
240 care. The transfer of care letter shall confirm that it is not
241 medically necessary for the physician who performed the surgery
242 to provide such postoperative care to the patient and that it is
243 clinically appropriate for the licensed practitioner to provide
244 such postoperative care. Before co-management of postoperative

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245 care commences, the patient shall be informed in writing that he
246 or she has the right to be seen during the entire postoperative
247 period by the physician who performed the surgery. In addition,
248 the patient must be informed of the fees, if any, to be charged
249 by the licensed practitioner and the physician performing the
250 surgery, and must be provided with an accurate and comprehensive
251 itemized statement of the specific postoperative care services
252 that the physician performing the surgery and the licensed
253 practitioner render, along with the charge for each service.
254 Section 7. Subsections (3) and (4) of section 463.014,
255 Florida Statutes, are amended to read:
256 463.014 Certain acts prohibited.—
257 (3) Prescribing, ordering, dispensing, administering,
258 supplying, selling, or giving any drug for the purpose of
259 treating a systemic disease ~~systemic drugs~~ by a licensed
260 practitioner is prohibited. However, a certified optometrist is
261 permitted to use commonly accepted means or methods to
262 immediately address incidents of anaphylaxis.
263 (4) Surgery of any kind~~, including the use of lasers,~~ is
264 expressly prohibited. Certified optometrists may remove
265 superficial foreign bodies. For the purposes of this subsection,
266 the term “superficial foreign bodies” means any foreign matter
267 that is embedded in the conjunctiva or cornea but that ~~which~~ has
268 not penetrated the globe. Notwithstanding the definition of
269 surgery as provided in s. 463.002(6), a certified optometrist is
270 not prohibited from providing any optometric care within the
271 practice of optometry as defined in s. 463.002(7), such as
272 removing an eyelash by epilation, probing an uninflamed tear
273 duct in a patient 18 years of age or older, blocking the puncta

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274 by plug, or superficial scraping for the purpose of removing
275 damaged epithelial tissue or superficial foreign bodies or
276 taking a culture of the surface of the cornea or conjunctiva.
277 Section 8. Section 463.0141, Florida Statutes, is created
278 to read:
279 463.0141 Reports of adverse incidents in the practice of
280 optometry.—
281 (1) Effective January 1, 2014, an adverse incident
282 occurring in the practice of optometry must be reported to the
283 department in accordance with this section.
284 (2) The required notification must be in writing and
285 submitted to the department by certified mail. The required
286 notification must be postmarked within 15 days after the adverse
287 incident if the adverse incident occurs when the patient is at
288 the office of the licensed practitioner. If the adverse incident
289 occurs when the patient is not at the office of the licensed
290 practitioner, the required notification must be postmarked
291 within 15 days after the licensed practitioner discovers, or
292 reasonably should have discovered, the occurrence of the adverse
293 incident.
294 (3) For purposes of notification to the department, the
295 term "adverse incident," as used in this section, means any of
296 the following events when it is reasonable to believe that the
297 event is attributable to the prescription of an oral ocular
298 pharmaceutical agent by the licensed practitioner:
299 (a) Any condition that requires the transfer of a patient
300 to a hospital licensed under chapter 395.
301 (b) Any condition that requires the patient to obtain care
302 from a physician licensed under chapter 458 or chapter 459,

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303 other than a referral or a consultation required under this
304 chapter.
305 (c) Permanent physical injury to the patient.
306 (d) Partial or complete permanent loss of sight by the
307 patient.
308 (e) Death of the patient.
309 (4) The department shall review each incident and determine
310 whether it potentially involved conduct by the licensed
311 practitioner who may be subject to disciplinary action, in which
312 event s. 456.073 applies. Disciplinary action, if any, shall be
313 taken by the board.
314 Section 9. Subsection (1) of section 483.035, Florida
315 Statutes, is amended to read:
316 483.035 Clinical laboratories operated by practitioners for
317 exclusive use; licensure and regulation.—
318 (1) A clinical laboratory operated by one or more
319 practitioners licensed under chapter 458, chapter 459, chapter
320 460, chapter 461, chapter 462, chapter 463, or chapter 466,
321 exclusively in connection with the diagnosis and treatment of
322 their own patients, must be licensed under this part and must
323 comply with the provisions of this part, except that the agency
324 shall adopt rules for staffing, for personnel, including
325 education and training of personnel, for proficiency testing,
326 and for construction standards relating to the licensure and
327 operation of the laboratory based upon and not exceeding the
328 same standards contained in the federal Clinical Laboratory
329 Improvement Amendments of 1988 and the federal regulations
330 adopted thereunder.
331 Section 10. Subsection (7) of section 483.041, Florida

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332 Statutes, is amended to read:
333 483.041 Definitions.—As used in this part, the term:
334 (7) "Licensed practitioner" means a physician licensed
335 under chapter 458, chapter 459, chapter 460, or chapter 461; a
336 certified optometrist licensed under chapter 463; a dentist
337 licensed under chapter 466; a person licensed under chapter 462;
338 or an advanced registered nurse practitioner licensed under part
339 I of chapter 464; or a duly licensed practitioner from another
340 state licensed under similar statutes who orders examinations on
341 materials or specimens for nonresidents of the State of Florida,
342 but who reside in the same state as the requesting licensed
343 practitioner.
344 Section 11. Subsection (5) of section 483.181, Florida
345 Statutes, is amended to read:
346 483.181 Acceptance, collection, identification, and
347 examination of specimens.—
348 (5) A clinical laboratory licensed under this part must
349 accept a human specimen submitted for examination by a
350 practitioner licensed under chapter 458, chapter 459, chapter
351 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
352 chapter 466, if the specimen and test are the type performed by
353 the clinical laboratory. A clinical laboratory may only refuse a
354 specimen based upon a history of nonpayment for services by the
355 practitioner. A clinical laboratory shall not charge different
356 prices for tests based upon the chapter under which a
357 practitioner submitting a specimen for testing is licensed.
358 Section 12. Subsection (21) of section 893.02, Florida
359 Statutes, is amended to read:
360 893.02 Definitions.—The following words and phrases as used

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361 in this chapter shall have the following meanings, unless the
362 context otherwise requires:
363 (21) "Practitioner" means a physician licensed pursuant to
364 chapter 458, a dentist licensed pursuant to chapter 466, a
365 veterinarian licensed pursuant to chapter 474, an osteopathic
366 physician licensed pursuant to chapter 459, a naturopath
367 licensed pursuant to chapter 462, a certified optometrist
368 licensed pursuant to chapter 463, or a podiatric physician
369 licensed pursuant to chapter 461, provided such practitioner
370 holds a valid federal controlled substance registry number.
371 Section 13. Subsection (1) of section 893.05, Florida
372 Statutes, is amended to read:
373 893.05 Practitioners and persons administering controlled
374 substances in their absence.—
375 (1) A practitioner, in good faith and in the course of his
376 or her professional practice only, may prescribe, administer,
377 dispense, mix, or otherwise prepare a controlled substance, or
378 the practitioner may cause the same to be administered by a
379 licensed nurse or an intern practitioner under his or her
380 direction and supervision only. A veterinarian may so prescribe,
381 administer, dispense, mix, or prepare a controlled substance for
382 use on animals only, and may cause it to be administered by an
383 assistant or orderly under the veterinarian's direction and
384 supervision only. A certified optometrist licensed under chapter
385 463 may not administer or prescribe a controlled substance
386 listed in Schedule I or Schedule II of s. 893.03.
387 Section 14. Paragraph (d) of subsection (1) of section
388 893.055, Florida Statutes, is amended to read:
389 893.055 Prescription drug monitoring program.—

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390 (1) As used in this section, the term:
391 (d) “Health care practitioner” or “practitioner” means any
392 practitioner who is subject to licensure or regulation by the
393 department under chapter 458, chapter 459, chapter 461, chapter
394 462, chapter 463, chapter 464, chapter 465, or chapter 466.
395 Section 15. Section 463.009, Florida Statutes, is amended
396 to read:
397 463.009 Supportive personnel.—No person other than a
398 licensed practitioner may engage in the practice of optometry as
399 defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this
400 section, under no circumstances shall nonlicensed supportive
401 personnel be delegated diagnosis or treatment duties; however,
402 such personnel may perform data gathering, preliminary testing,
403 prescribed visual therapy, and related duties under the direct
404 supervision of the licensed practitioner. Nonlicensed personnel,
405 who need not be employees of the licensed practitioner, may
406 perform ministerial duties, tasks, and functions assigned to
407 them by and performed under the general supervision of a
408 licensed practitioner, including obtaining information from
409 consumers for the purpose of making appointments for the
410 licensed practitioner. The licensed practitioner shall be
411 responsible for all delegated acts performed by persons under
412 her or his direct and general supervision.
413 Section 16. Subsection (19) of section 641.31, Florida
414 Statutes, is amended to read:
415 641.31 Health maintenance contracts.—
416 (19) Notwithstanding any other provision of law, health
417 maintenance policies or contracts which provide coverage,
418 benefits, or services as described in s. 463.002(7) ~~463.002(5)~~,

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419 shall offer to the subscriber the services of an optometrist
420 licensed pursuant to chapter 463.
421 Section 17. This act shall take effect July 1, 2013.
422
423 ========== T I T L E A M E N D M E N T ==========
424 And the title is amended as follows:
425 Delete everything before the enacting clause
426 and insert:
427 A bill to be entitled
428 An act relating to the practice of optometry; amending
429 s. 463.002, F.S.; revising and providing definitions;
430 authorizing a certified optometrist to administer and
431 prescribe ocular pharmaceutical agents; amending s.
432 463.005, F.S.; authorizing the Board of Optometry to
433 adopt rules relating to the administration and
434 prescription of ocular pharmaceutical agents; amending
435 s. 463.0055, F.S.; requiring a certified optometrist
436 to complete a board-approved course and examination on
437 general and ocular pharmaceutical agents before
438 administering or prescribing those agents; requiring
439 the certified optometrist to provide proof to the
440 department of successful completion of the course and
441 examination; authorizing that successful completion of
442 the course and examination be used to satisfy certain
443 continuing education requirements; requiring the board
444 to establish a formulary of topical ocular
445 pharmaceutical agents that may be prescribed and
446 administered by certified optometrists; deleting
447 provisions with respect to a committee; establishing a

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448 statutory formulary of oral ocular pharmaceutical
449 agents; prohibiting a certified optometrist from
450 administering or prescribing certain controlled
451 substances; amending s. 463.0057, F.S.; providing
452 conditions under which the holder of an optometric
453 faculty certificate may administer and prescribe oral
454 ocular pharmaceutical agents; amending s. 463.006,
455 F.S.; revising provisions relating to licensure and
456 certification of optometrists, to conform; amending s.
457 463.0135, F.S.; authorizing a certified optometrist to
458 perform certain eye examinations; requiring a transfer
459 of care letter for the co-management of postoperative
460 care; requiring patient consent; requiring the patient
461 to be informed of the fees and provided an itemized
462 statement of services; amending s. 463.014, F.S.;
463 prohibiting a licensed practitioner of optometry from
464 providing any drug for the purpose of treating a
465 systemic disease; specifying procedures that a
466 certified optometrist is authorized to perform;
467 creating s. 463.0141, F.S.; requiring the reporting of
468 adverse incidents in the practice of optometry to the
469 department according to specified procedures;
470 providing a definition; requiring the department to
471 review the conduct of licensed practitioners with
472 respect to adverse incidents, to which disciplinary
473 action may apply; amending s. 483.035, F.S.; requiring
474 a clinical laboratory operated by a licensed
475 practitioner of optometry to be licensed under
476 Optometry Practice Act; amending s. 483.041, F.S.;

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477 revising the definition of the term “licensed
478 practitioner” to include certified optometrists;
479 amending s. 483.181, F.S.; providing for an
480 optometrist to accept a human specimen for
481 examination, under certain conditions; amending s.
482 893.02, F.S.; redefining the term “practitioner” to
483 include certified optometrists; amending s. 893.05,
484 F.S.; prohibiting a certified optometrist from
485 administering or prescribing certain controlled
486 substances; amending s. 893.055, F.S.; revising the
487 term “health care practitioner” to include certified
488 optometrists for purposes of the prescription drug
489 monitoring program; amending ss. 463.009 and 641.31,
490 F.S.; conforming cross-references; providing an
491 effective date.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the practice of optometry; amending s. 456.44, F.S.; requiring a certified optometrist who prescribes a controlled substance for a specified purpose to meet certain requirements; amending s. 463.002, F.S.; requiring a licensed practitioner who is not a certified optometrist to display a specifically worded sign; revising definitions; defining the term "ocular pharmaceutical agent"; amending s. 463.005, F.S.; authorizing the Board of Optometry to adopt rules relating to the administration and prescription of ocular pharmaceutical agents; amending s. 463.0055, F.S.; requiring a certified optometrist to complete a course and examination on general and ocular pharmaceutical agents before administering or prescribing oral ocular pharmaceutical agents; specifying the number of required course hours based on the date of licensure; requiring the Florida Medical Association and the Florida Optometric Association to jointly develop and administer the course and examination; revising provisions relating to the development of a formulary of pharmaceutical agents; amending s. 463.0057, F.S.; prohibiting the holder of an optometric faculty certificate from administering or prescribing oral ocular pharmaceutical agents unless the certificate holder meets certain requirements; amending s.

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463.006, F.S.; revising provisions relating to licensure and certification of optometrists; amending s. 463.0135, F.S.; authorizing a certified optometrist to perform certain eye examinations; amending s. 463.014, F.S.; prohibiting a licensed practitioner of optometry from providing any drug for the purpose of treating a systemic disease; amending s. 483.035, F.S.; requiring a clinical laboratory operated by a licensed practitioner of optometry to be licensed under ch. 463, F.S.; amending s. 483.041, F.S.; revising the definition of the term "licensed practitioner" to include certified optometrists; amending s. 483.181, F.S.; providing for an optometrist to accept a human specimen for examination, under certain conditions; amending s. 893.02, F.S.; redefining the term "practitioner" to include certified optometrists; amending s. 893.05, F.S.; prohibiting a certified optometrist from administering or prescribing pharmaceutical agents listed in Schedule I or Schedule II of the Florida Comprehensive Drug Abuse Prevention and Control Act; authorizing certain certified optometrists to administer certain oral analgesics; providing an effective date.

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

Section 1. Subsection (2) of section 456.44, Florida Statutes, is amended to read:

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456.44 Controlled substance prescribing.—

(2) REGISTRATION.—

(a) ~~Effective January 1, 2012,~~ A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

1.~~(a)~~ Designate himself or herself as a controlled substance prescribing practitioner on the physician's practitioner profile.

2.~~(b)~~ Comply with the requirements of this section and applicable board rules.

(b) A certified optometrist licensed under chapter 463 who prescribes any controlled substance listed in Schedule III or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must comply with the requirements of this section and applicable board rules.

Section 2. Paragraph (b) of subsection (3) and subsections (4) and (5) of section 463.002, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

463.002 Definitions.—As used in this chapter, the term:

(3)

(b) A licensed practitioner who is not a certified optometrist is ~~shall be~~ required to display at her or his place of practice a sign that ~~which~~ states, "I am a licensed practitioner, not a certified optometrist, and I am not able to prescribe ~~topical ocular~~ pharmaceutical agents."

(4) "Certified optometrist" means a licensed practitioner authorized by the board to administer and prescribe ~~topical~~

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ocular pharmaceutical agents.

(5) "Optometry" means the diagnosis of conditions of the human eye and its appendages; the employment of ~~any~~ objective or subjective means or methods, including the administration of ~~topical~~ ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or ~~any~~ visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and ~~any~~ other means or methods, including ~~topical~~ ocular pharmaceutical agents, for the correction, remedy, or relief of ~~any~~ insufficiencies or abnormal conditions of the human eyes and their appendages.

(11) "Ocular pharmaceutical agent" means a pharmaceutical agent that is administered topically or orally for the diagnosis or treatment of ocular conditions of the human eye and its appendages without the use of surgery or other invasive techniques.

Section 3. Paragraph (g) of subsection (1) of section 463.005, Florida Statutes, is amended to read:

463.005 Authority of the board.—

(1) The Board of Optometry may ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it. Such rules ~~shall~~ include, but are not ~~be~~ limited to, rules relating to:

(g) Administration and prescription of ~~topical~~ ocular pharmaceutical agents.

Section 4. Section 463.0055, Florida Statutes, is amended to read:

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115 463.0055 Administration and prescription of ~~topical~~ ocular
116 pharmaceutical agents; committee.—
117 (1)(a) Certified optometrists may administer and prescribe
118 ~~topical~~ ocular pharmaceutical agents as provided in this section
119 for the diagnosis and treatment of ocular conditions of the
120 human eye and its appendages without the use of surgery or other
121 invasive techniques. However, a licensed practitioner who is not
122 certified may use topically applied anesthetics solely for the
123 purpose of glaucoma examinations, but is otherwise prohibited
124 from administering or prescribing ~~topical ocular~~ pharmaceutical
125 agents.
126 (b) Before a certified optometrist may administer or
127 prescribe oral ocular pharmaceutical agents, the certified
128 optometrist must complete a course and subsequent examination on
129 general and ocular pharmaceutical agents and the side effects of
130 those agents. For certified optometrists licensed before January
131 1, 1990, the course consists of 50 contact hours, with 25 of
132 those hours web-based. For certified optometrists licensed on or
133 after January 1, 1990, the course consists of 20 contact hours,
134 with 10 of those hours web-based. The first course and
135 examination shall be presented by July 1, 2013, and shall be
136 administered at least annually thereafter. The Florida Medical
137 Association and the Florida Optometric Association shall jointly
138 develop and administer a course and examination for such purpose
139 and jointly determine the site or sites for the course and
140 examination. If a certified optometrist does not complete a
141 course and subsequent examination under this paragraph, the
142 certified optometrist is only authorized to administer and
143 prescribe ocular pharmaceutical agents by topical application.

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144 (2)(a) There is ~~hereby~~ created a committee composed of two
145 certified optometrists licensed pursuant to this chapter,
146 appointed by the Board of Optometry, two board-certified
147 ophthalmologists licensed pursuant to chapter 458 or chapter
148 459, appointed by the Board of Medicine, and one additional
149 person with a doctorate degree in pharmacology who is not
150 licensed pursuant to chapter 458, chapter 459, or this chapter,
151 appointed by the State Surgeon General. The committee shall
152 review requests for additions to, deletions from, or
153 modifications of a formulary of ~~topical~~ ocular pharmaceutical
154 agents for administration and prescription by certified
155 optometrists and shall provide to the board advisory opinions
156 and recommendations on such requests. The committee's opinions
157 and recommendations must state specific findings of fact and
158 grounds for its recommendation. The committee's findings,
159 opinions, and recommendations are not subject to review pursuant
160 to ss. 120.569 and 120.57. The formulary shall consist of those
161 ~~topical~~ ocular pharmaceutical agents that ~~which~~ are appropriate
162 to treat and diagnose ocular diseases and disorders and which
163 the certified optometrist is qualified to use in the practice of
164 optometry. The board shall establish, add to, delete from, or
165 modify the formulary by rule. The board is bound by the
166 committee's recommendations on oral ocular pharmaceutical agents
167 unless competent substantial evidence is presented to the board
168 sufficient to rebut the committee's recommendation.
169 Notwithstanding any provision of chapter 120 to the contrary,
170 the formulary rule becomes ~~shall become~~ effective 60 days from
171 the date it is filed with the Secretary of State.
172 (b) The formulary may be added to, deleted from, or

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173 modified according to the procedure described in paragraph (a).
174 A ~~Any~~ person who requests an addition, deletion, or modification
175 of an authorized ~~topical~~ ocular pharmaceutical agent has ~~shall~~
176 ~~have~~ the burden of proof to show cause why such addition,
177 deletion, or modification should be made.
178 (c) The State Surgeon General has ~~shall have~~ standing to
179 challenge a ~~any~~ rule or proposed rule of the board pursuant to
180 s. 120.56. In addition to challenges to an ~~for any~~ invalid
181 exercise of delegated legislative authority, the administrative
182 law judge, upon such a challenge by the State Surgeon General,
183 may declare all or part of a rule or proposed rule invalid if
184 it:
185 1. Does not protect the public from ~~any~~ significant and
186 discernible harm or damages;
187 2. Unreasonably restricts competition or the availability
188 of professional services in the state or in a significant part
189 of the state; or
190 3. Unnecessarily increases the cost of professional
191 services without a corresponding or equivalent public benefit.
192
193 However, ~~there shall not be created~~ a presumption of the
194 existence of ~~any of~~ the conditions cited in this subsection is
195 not created in the event that the rule or proposed rule is
196 challenged.
197 (d) Upon adoption of the formulary required by this
198 section, and upon each addition, deletion, or modification to
199 the formulary, the board shall mail a copy of the amended
200 formulary to each certified optometrist and to each pharmacy
201 licensed by the state.

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202 (3) A certified optometrist shall be issued a prescriber
203 number by the board. Any prescription written by a certified
204 optometrist for an ~~a topical~~ ocular pharmaceutical agent
205 pursuant to this section must include ~~shall have~~ the prescriber
206 number ~~printed thereon~~.
207 Section 5. Subsection (3) of section 463.0057, Florida
208 Statutes, is amended to read:
209 463.0057 Optometric faculty certificate.—
210 (3) The holder of a faculty certificate may engage in the
211 practice of optometry as permitted by this section~~,~~ but may not
212 administer or prescribe topical ocular pharmaceutical agents
213 unless the certificateholder has satisfied the requirements of
214 s. 463.006(1)(b)4. and 5. A certificateholder may not administer
215 or prescribe oral ocular pharmaceutical agents unless the
216 certificateholder has satisfied the requirements of ss.
217 463.0055(1)(b) and 463.006(1)(b)4. and 5.
218 Section 6. Subsections (2) and (3) of section 463.006,
219 Florida Statutes, are amended to read:
220 463.006 Licensure and certification by examination.—
221 (2) The examination consists ~~shall consist~~ of the
222 appropriate subjects, including applicable state laws and rules
223 and general and ocular pharmacology with emphasis on the use
224 ~~topical application~~ and side effects of ~~ocular~~ pharmaceutical
225 agents. The board may by rule substitute a national examination
226 as part or all of the examination and may by rule offer a
227 practical examination in addition to the written examination.
228 (3) Each applicant who successfully passes the examination
229 and otherwise meets the requirements of this chapter is entitled
230 to be licensed as a practitioner and to be certified to

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231 administer and prescribe ~~topical ocular~~ pharmaceutical agents in
232 the diagnosis and treatment of ocular conditions.
233 Section 7. Subsection (10) is added to section 463.0135,
234 Florida Statutes, to read:
235 463.0135 Standards of practice.—
236 (10) A certified optometrist may perform any eye
237 examination, including a dilated examination, required or
238 authorized by chapter 548 or by rules adopted to implement that
239 chapter.
240 Section 8. Subsection (3) of section 463.014, Florida
241 Statutes, is amended to read:
242 463.014 Certain acts prohibited.—
243 (3) Prescribing, ordering, dispensing, administering,
244 supplying, selling, or giving any drug for the purpose of
245 treating a systemic disease ~~systemic drugs~~ by a licensed
246 practitioner is prohibited.
247 Section 9. Subsection (1) of section 483.035, Florida
248 Statutes, is amended to read:
249 483.035 Clinical laboratories operated by practitioners for
250 exclusive use; licensure and regulation.—
251 (1) A clinical laboratory operated by one or more
252 practitioners licensed under chapter 458, chapter 459, chapter
253 460, chapter 461, chapter 462, chapter 463, or chapter 466,
254 exclusively in connection with the diagnosis and treatment of
255 their own patients, must be licensed under this part and must
256 comply with the provisions of this part, except that the agency
257 shall adopt rules for staffing, for personnel, including
258 education and training of personnel, for proficiency testing,
259 and for construction standards relating to the licensure and

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260 operation of the laboratory based upon and not exceeding the
261 same standards contained in the federal Clinical Laboratory
262 Improvement Amendments of 1988 and the federal regulations
263 adopted thereunder.
264 Section 10. Subsection (7) of section 483.041, Florida
265 Statutes, is amended to read:
266 483.041 Definitions.—As used in this part, the term:
267 (7) "Licensed practitioner" means a physician licensed
268 under chapter 458, chapter 459, chapter 460, or chapter 461; a
269 certified optometrist licensed under chapter 463; a dentist
270 licensed under chapter 466; a person licensed under chapter 462;
271 or an advanced registered nurse practitioner licensed under part
272 I of chapter 464; or a duly licensed practitioner from another
273 state licensed under similar statutes who orders examinations on
274 materials or specimens for nonresidents of the State of Florida,
275 but who reside in the same state as the requesting licensed
276 practitioner.
277 Section 11. Subsection (5) of section 483.181, Florida
278 Statutes, is amended to read:
279 483.181 Acceptance, collection, identification, and
280 examination of specimens.—
281 (5) A clinical laboratory licensed under this part must
282 accept a human specimen submitted for examination by a
283 practitioner licensed under chapter 458, chapter 459, chapter
284 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
285 chapter 466, if the specimen and test are the type performed by
286 the clinical laboratory. A clinical laboratory may only refuse a
287 specimen based upon a history of nonpayment for services by the
288 practitioner. A clinical laboratory may ~~shall~~ not charge

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289 different prices for tests based upon the chapter under which a
290 practitioner submitting a specimen for testing is licensed.
291 Section 12. Subsection (21) of section 893.02, Florida
292 Statutes, is amended to read:
293 893.02 Definitions.—The following words and phrases as used
294 in this chapter shall have the following meanings, unless the
295 context otherwise requires:
296 (21) "Practitioner" means a physician licensed pursuant to
297 chapter 458, a dentist licensed pursuant to chapter 466, a
298 veterinarian licensed pursuant to chapter 474, an osteopathic
299 physician licensed pursuant to chapter 459, a naturopath
300 licensed pursuant to chapter 462, a certified optometrist
301 licensed pursuant to chapter 463, or a podiatric physician
302 licensed pursuant to chapter 461, provided such practitioner
303 holds a valid federal controlled substance registry number.
304 Section 13. Subsection (1) of section 893.05, Florida
305 Statutes, is amended to read:
306 893.05 Practitioners and persons administering controlled
307 substances in their absence.—
308 (1) A practitioner, in good faith and in the course of his
309 or her professional practice only, may prescribe, administer,
310 dispense, mix, or otherwise prepare a controlled substance, or
311 the practitioner may cause the same to be administered by a
312 licensed nurse or an intern practitioner under his or her
313 direction and supervision only. A veterinarian may so prescribe,
314 administer, dispense, mix, or prepare a controlled substance for
315 use on animals only, and may cause it to be administered by an
316 assistant or orderly under the veterinarian's direction and
317 supervision only. A certified optometrist licensed under chapter

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318 463 may not administer or prescribe pharmaceutical agents listed
319 in Schedule I or Schedule II of s. 893.03. A certified
320 optometrist who has complied with the provisions of section
321 463.0055(1)(b) may administer oral analgesics listed in Schedule
322 III, Schedule IV, or Schedule V for the relief of pain due to
323 ocular conditions of the eye and its appendages.
324 Section 14. This act shall take effect July 1, 2013.

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 Appropriations

BILL: CS/CS/SB 278

INTRODUCER: Committee on Appropriations (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Richter

SUBJECT: Optometry

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	**Fav/CS**
2.	Brown	Pigott	AHS	**Fav/CS**
3.	Brown	Hansen	AP	**Fav/CS**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 278 authorizes licensed certified optometrists to administer or prescribe oral ocular pharmaceutical agents, including statutorily specified analgesics which are controlled substances, for the relief of pain due to ocular conditions of the eye and its appendages. The 14 oral ocular pharmaceutical agents that may be administered or prescribed by a certified optometrist are identified in a statutory formulary. The bill repeals the formulary committee and authorizes the Board of Optometry (board) to establish and update the formulary for topical ocular pharmaceutical agents.

The bill is expected to result in a small savings for the Medicaid program; create a need for three full-time equivalent positions (FTEs) in the Agency for Health Care Administration (AHCA); generate a small amount of new trust fund revenue due to an increase in laboratory licensing fees; and create workload demands within the Department of Health (DOH) that can be absorbed within existing resources.

Before administering or prescribing oral ocular pharmaceutical agents, the certified optometrist must provide proof to the Department of Health (DOH) of successful completion of a course and

examination on general and ocular pharmaceutical agents and the side effects of those agents. The first course and examination must be presented by October 1, 2013. The 20-hour course and examination may satisfy 20 hours of continuing education for the optometrist.

The bill provides a definition of surgery and specifies that certain procedures under the practice of optometry are excluded from this definition. Any adverse incident identified in this law that is attributable to the prescription of an oral ocular pharmaceutical agent by a certified optometrist must be reported to the DOH.

The bill prohibits an optometrist from prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug for the purpose of treating a systemic disease. A certified optometrist is authorized to perform eye examinations, including a dilated examination, related to pugilistic exhibitions (boxing, kickboxing, or mixed martial arts matches). The bill also authorizes an optometrist to operate a clinical laboratory to treat his or her own patients and requires other clinical laboratories to accept specimens submitted for examination by an optometrist.

The bill is effective July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 463.002, 463.005, 463.0055, 463.0057, 463.006, 463.009, 463.0135, 463.014, 483.035, 483.041, 483.181, 641.31, 893.02, 893.05, and 893.055.

The bill creates section 463.0141, Florida Statutes.

II. Present Situation:

Optometry is the diagnosis of conditions of the human eye and its appendages (eyelids, eyebrows, the conjunctiva, and the lacrimal apparatus).[1] An optometrist is a primary health care provider licensed to engage in the practice of optometry.[2]

In Florida, certified optometrists may administer topical ocular pharmaceutical agents to assist in determining refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages. Certified optometrists may prescribe vision therapy, corrective lenses, and topical pharmaceutical agents for the eyes and appendages, but may not perform surgical procedures in Florida.[3] A certified optometrist may remove superficial foreign bodes (foreign matter that is embedded in the conjunctiva or cornea but which has not penetrated the globe).[4]

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[1] *See* s. 463.002(5), F.S.
[2] As of January 30, 2013, there were 3,137 active licenses in Florida. 3,019 were certified optometrists and 118 were optometrists according to the Department of Health, *2013 Bill Analysis, Economic Statement, and Fiscal Note for SB 278*, dated February 1, 2013. A copy is on file with the Senate Health Policy Committee
[3] *See* s. 463.014(4), F.S.
[4] *Ibid.*

To be licensed as a certified optometrist[5] in Florida, the applicant must:[6]

- Be at least 18 years of age.
- Submit satisfactory proof that the applicant is of good moral character.
- Have graduated from a 4-year program at an accredited school or college of optometry.
- Have completed at least 110 hours of transcript-quality coursework and clinical training in general and ocular pharmacology at an institution that:
  - has facilities for both didactic and clinical instructions in pharmacology; and
  - is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission of Postsecondary Accreditation of the U.S. Department of Education.
- Have completed at least one year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.
- Pass the Florida Examination, which consists of
  - Part I – a written examination on applicable Florida laws and rules governing the practice of optometry;
  - Part II – a practical examination containing a clinical portion and a pharmacology/ocular disease portion;
  - Part III – the Applied Basic Science portion of the examination developed by the National Board of Examiners in Optometry (NBEO); and
  - Part IV – the Clinical Science portion of the examination developed by the NBEO.
- Complete a two-hour course relating to prevention of medical errors.

Ophthalmologists are medical physicians[7] who specialize in diseases of the eye. Ophthalmologists provide a full spectrum of eye care, from prescribing corrective lenses and medications to performing eye surgery. In addition, ophthalmologists care for patients with more advanced and complicated diseases than do optometrists. The training for ophthalmologists involves an undergraduate degree, four years of medical school, completion of one year of an internship, and at least three years of residency training in ophthalmology.[8]

Florida law requires optometrists who diagnose patients with certain diseases to refer such patients to ophthalmologists for further treatment.[9] Optometrists are also required to maintain the names of at least three physicians, clinics, or hospitals to which they may refer patients who experience adverse drug reactions.[10]

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[5] All practitioners initially licensed after July 1, 1993. must be certified optometrists. *See* s. 463.002(3)(c), F.S.
[6] *See* Rule 64B13-4.004, F.A.C.
[7] Ophthalmologists are licensed under ch. 458, F.S., relating to Medical Practice or ch. 459, F.S., relating to Osteopathic Medicine.
[8] American Academy of Ophthalmology, *About Ophthalmology and Eye M.D.s*., *available at:* http://www.aao.org/about/eyemds.cfm (last visited Feb. 17, 2013).
[9] Diagnoses which mandate a referral to an ophthalmologist include acute angle glaucoma, congenital or infantile glaucoma, infectious corneal diseases refractory to standard treatment, and retinal detachment. *See* s. 463.0135(2), F.S.
[10] *See* s. 463.0135, F.S.

Administration of Medications by Optometrists

Licensed certified optometrists may administer and prescribe topical ocular pharmaceutical agents that are included in a formulary adopted by rule[11] by the board. Such pharmaceuticals must be related to the diagnosis and treatment of ocular conditions and must not require surgery or other invasive techniques for administration.

To be certified for prescribing privileges, an optometrist must:[12]

- Complete at least 110 hours of board-approved coursework and clinical training in general and ocular pharmacology at an accredited institution. Such training may have been part of an optometry training program;
- Complete at least one year of supervised experience in differential diagnosis of eye disorders, which may occur during training or clinical practice;
- Pass part II of the National Board of Examiners in Optometry examination;[13] and
- Pay a $500 fee.[14]

Certification for prescribing privileges is a required component of the general licensure process for optometrists and has been so for over 25 years.[15] Optometrists who are not certified may use topical anesthetics solely for glaucoma examinations.[16]

Formulary Committee and Formulary

A committee of five members reviews requests for additions to, deletions from, or modifications to a formulary of topical ocular pharmaceutical agents (TOPA) for administration and prescription by certified optometrists. The formulary committee provides to the board advisory opinions and recommendations on such requests. The formulary committee is comprised of two optometrists, appointed by the board; two ophthalmologists, appointed by the Board of Medicine; and one person with a doctorate degree in pharmacology, appointed by the state surgeon general.[17] Currently, the two optometrists on the formulary committee are certified optometrists.[18]

The board adopts the TOPA by rule. The state surgeon general may challenge any rule or proposed rule for the TOPA formulary on the grounds that it:[19]

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[11] The formulary is listed in Rule 64B13-18.002, F.A.C., and includes agents to dilate and constrict pupils, local anesthetics, antibiotics, anti-inflammatory agents, antihistamines, anti-viral medications, and anti-glaucoma medications. All medications are for topical ocular use only.
[12] Rule 64B13-10.001, F.A.C.
[13] This examination consists of 60 simulated patient cases to assess the examinee's performance in clinical practice situations *available at: http://www.optometry.org/part_2_pam.cfm* (last visited Feb. 17, 2013).
[14] Rule 64B13-6.001(9), F.A.C.
[15] *See* s. 463.006, F.S.; and Department of Health, *2013 Bill Analysis, Economic Statement, and Fiscal Note for SB 278,* dated February 1, 2013. A copy is on file with the Senate Health Policy Committee.
[16] *See* s. 463.0055(1), F.S.
[17] *See* s. 463.0055, F.S.
[18] *Supra* 14.
[19] *See* s. 463.0055(4)(c), F.S.

- Is an invalid exercise of delegated legislative authority.
- Does not protect the public from any significant and discernible harm or damage.
- Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state.
- Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

Prescribing Controlled Substances

The Drug Enforcement Administration (DEA) within the U.S. Department of Justice is tasked with monitoring controlled substances and preventing their abuse. Controlled substances fall into five categories, or schedules, depending on their addictive potential. Drug schedules are specified by the United States Department of Justice Drug Enforcement Administration in 21 C.F.R. §§ 1308.11-15 and in s. 893.03, F.S.

- Schedule I controlled substances currently have no accepted medical use in treatment in the United States and therefore may not be prescribed, administered, or dispensed for medical use. These substances have a high potential for abuse and include heroin, lysergic acid diethylamide (LSD), and marijuana.
- Schedule II controlled substances have a high potential for abuse which may lead to severe psychological or physical dependence, including morphine and its derivatives, amphetamines, cocaine, and pentobarbital.
- Schedule III controlled substances have lower abuse potential than Schedule II substances but may still cause psychological or physical dependence. Schedule III substances include products containing less than 15 milligrams (mg) of hydrocodone (such as Vicodin) or less than 90 mg of codeine per dose (such as Tylenol #3), ketamine, and anabolic steroids.
- Schedule IV substances have a low potential for abuse and include propoxyphene (Darvocet), alprazolam (Xanax), and lorazepam (Ativan).
- Schedule V controlled substances have an extremely low potential for abuse and primarily consist of preparations containing limited quantities of certain narcotics, such as cough syrup.[20]

Any health care professional wishing to prescribe controlled substances must apply for a prescribing number from the DEA. Prescribing numbers are linked to state licenses and may be suspended or revoked upon any disciplinary action taken against a licensee. The DEA will grant prescribing numbers to a wide range of health care professionals, including physicians, nurse practitioners, physician assistants, optometrists, dentists, and veterinarians, but such professionals may only prescribe controlled substances that have been authorized to them under state law. The DEA prescribing numbers must be renewed every three years.[21]

[20] DEA, Office of Diversion Control, *Controlled Substance Schedules, available at*: http://www.deadiversion.usdoj.gov/schedules/index.html (last visited Feb. 17, 2013).
[21] DEA, *Questions and Answers available at*: http://www.deadiversion.usdoj.gov/drugreg/faq.htm#3 (last visited Feb. 17, 2013).

In Florida, only licensed physicians, dentists, veterinarians, naturopaths, and podiatrists are currently permitted to prescribe controlled substances, and they may only prescribe medications within the scope of their own practices.[22]

Clinical Laboratories

A clinical laboratory is a location in which body fluids or tissues are analyzed for purposes of the diagnosis, assessment, or prevention of a medical condition. Clinical laboratories may be free-standing facilities, may be part of a hospital, or may be part of a private practitioner's office.[23] Practitioners authorized to operate their own clinical laboratories exclusively to diagnose and treat their own patients are physicians, chiropractors, podiatrists, naturopaths, and dentists. Laboratories must be biennially licensed and inspected by the AHCA to ensure quality standards in examination of specimens, equipment, sanitation, staffing, and other measures.[24]

A clinical laboratory may examine human specimens at the request of the following licensed practitioners:[25]

- Physicians
- Physician assistants
- Medical assistants
- Chiropractors
- Chiropractic assistants
- Chiropractic physician's assistants
- Podiatrists
- Naturopaths
- Dentists
- Nurse practitioners

Results of laboratory tests must be reported directly to the requesting practitioner. The same price must be charged regardless of what type of practitioner requests the testing.

III. Effect of Proposed Changes:

The bill authorizes licensed certified optometrists to administer or prescribe certain oral ocular pharmaceutical agents in addition to the topical ocular pharmaceutical agents that optometrists are currently authorized to administer or prescribe.

Section 1 amends s. 463.002, F.S., to remove the limiting reference to *topical* ocular pharmaceutical agents in the definition of optometry and defines the term "ocular pharmaceutical agent." Under the bill, this term means a pharmaceutical agent that is administered topically or orally for the diagnosis or treatment of ocular conditions of the human eye and its appendages without the use of surgery or other invasive techniques.

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[22] *See* ss. 893.02(21) and 893.05, F.S.
[23] *See* s. 483.041, F.S.
[24] *See* s. 483.051, F.S.
[25] *See* s. 483.181, F.S.

A definition for surgery is added to mean a procedure using an instrument, including a laser, scalpel, or needle, in which human tissue is cut, burned, scraped except as provided in s. 463.014(4), F.S., [which authorizes superficial scraping for the purpose of removing damaged epithelial tissue or superficial foreign bodies or taking a culture of the surface of the cornea or conjunctiva] , or vaporized, by incision, injection, ultrasound, laser, infusion, cryotherapy, or radiation. The term includes a procedure using an instrument which requires the closure of human tissue by suture, clamp, or other such device.

A licensed practitioner who is not a certified optometrist is required to display at his or her practice a sign that states, "I am a licensed practitioner, not a certified optometrist, and I am not able to prescribe ocular pharmaceutical agents." A similar disclosure is currently required; however, it refers to not being able to prescribe *topical* ocular pharmaceutical agents.

Section 2 amends s. 463.005, F.S., to remove the limiting reference to *topical* with respect to authority for the board to adopt rules relating to the administration and prescription of ocular pharmaceutical agents.

Section 3 amends s. 463.0055, F.S., to authorize certified optometrists to administer and prescribe oral ocular pharmaceutical agents in addition to topical ocular pharmaceutical agents. A licensed practitioner who is not a certified optometrist is authorized under existing law to use topically applied anesthetics solely for glaucoma examination and prohibited from administering or prescribing ocular pharmaceutical agents.

The bill requires a certified optometrist to provide proof to the DOH of successful completion of a course and subsequent examination on general and ocular pharmaceutical agents and the side effects of those agents prior to administering or prescribing the oral ocular pharmaceutical agents authorized in law. The course must consist of 20 contact hours, all of which may be web-based. These 20 hours may be used to satisfy 20 hours of the continuing education requirements in the licensure cycle in which the course and examination are completed.

A statewide professional association of physicians accredited to provide a certain level of educational activities and a statewide professional association of licensed practitioners which provides board-approved continuing education are required to jointly develop and administer the course and examination. The first course and examination must be presented by October 1, 2013. The board must review and approve the content of the initial course and examination to determine that they adequately and reliably satisfy the criteria set forth in this section. The criteria are that the course and examination must cover general and ocular pharmaceutical agents and the side effects of those agents. Annually thereafter, the board must review and approve the course and examination for ongoing adherence to these criteria.

The bill specifies that if a certified optometrist does not complete the coursework and examination required for prescribing and administering oral ocular pharmaceutical agents, then he or she is authorized only to administer and prescribe topical ocular pharmaceutical agents.

The bill repeals the formulary committee and authorizes the board to establish and update, by rule, a formulary of topical ocular pharmaceutical agents that a certified optometrist may

administer and prescribe. The topical ocular pharmaceutical agents included on the formulary must be limited to those that are appropriate to treat or diagnose ocular diseases and disorders, in addition to those that the certified optometrist is qualified to use in the practice of optometry.

The bill creates a statutory formulary of 14 oral ocular pharmaceutical agents composed of:

- Analgesics or their generic or therapeutic equivalents, which may be administered or prescribed only for period of up to 72 hours without consultation with an allopathic physician or osteopathic physician who is skilled in diseases of the eye (ophthalmologist):
  - Tramadol hydrochloride
  - Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
- Antibiotics or their generic or therapeutic equivalents:
  - Amoxicillin with or without clavulanic acid
  - Arithromycin
  - Erythromycin
  - Dicloxacillin
  - Doxycycline/Tetracycline
  - Keflex
  - Minocycline
- Antivirals or their generic or therapeutic equivalents:
  - Acyclovir
  - Famciclovir
  - Valacyclovir
- Anti-glaucoma agents or their generic or therapeutic equivalents, which may be administered or prescribed only for a period of up to 72 hours:
  - Acetazolamide
  - Methazolamide.

If the U.S. Food and Drug Administration removes approval of any drug identified above, i.e., the drug is determined to be unsafe for administration or prescription, then the oral ocular pharmaceutical agent is deleted by law from the formulary. The board, the DOH, and the state surgeon general are expressly prohibited from otherwise deleting pharmaceuticals from this formulary.

The bill conforms the requirement for a certified optometrist to have a prescriber number and include that number on a prescription to include all authorized ocular pharmaceutical agents. A certified optometrist is prohibited from prescribing a Schedule III, Schedule IV, or Schedule V controlled substance except for an oral analgesic placed on the statutory formulary for the relief of pain due to ocular conditions of the eye and its appendages. A certified optometrist is also prohibited from prescribing a controlled substance for the treatment of chronic nonmalignant pain.[26]

Section 4 amends s. 463.0057, F.S., to require the holder of a faculty certificate to satisfy the additional coursework and examination requirements, in addition to the existing requirements for

[26] Chronic nonmalignant pain is defined in s. 456.44(1)(e), F.S., to mean pain unrelated to cancer which persists beyond the usual course of disease or injury that is the cause of the pain or more than 90 days after surgery.

administering and prescribing topical ocular pharmaceutical agents, prior to administering or prescribing oral ocular pharmaceutical agents.

Section 5 amends s. 463.006, F.S., to require the examination for licensure and certification as a certified optometrist in Florida to include the use and side effects of ocular pharmaceutical agents. This is a change from current law that requires the examination to emphasize the topical application and side effects of ocular pharmaceutical agents.

Section 6 amends s. 463.0135, F.S., relating to the standards of practice of an optometrist. The bill authorizes a certified optometrist to perform any eye examination, including a dilated examination required or authorized for pugilistic exhibitions (boxing, kickboxing, or mixed martial arts matches).

The bill provides for a process for the co-management of a surgical patient's postoperative care. A patient-specific transfer of care letter must govern the relationship between the physician who performed the surgery and the optometrist. This letter must confirm that it is not medically necessary for the physician to provide the postoperative care to the patient and that it is clinically appropriate for the optometrist to provide the postoperative care.

Before the postoperative care begins, the patient must be informed in writing that he or she has the right to be seen during the entire postoperative period by the physician who performed the surgery and the patient must consent in writing to the co-management relationship for his or her care. The patient must also be informed of any fees to be charged by the optometrist or the physicians and provided with an accurate and comprehensive itemized statement of the specific postoperative care services that each practitioner rendered and the corresponding charge for each service.

Section 7 amends s. 463.014, F.S., to prohibit a licensed practitioner from prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug to treat a systemic disease. Current law prohibits a licensed practitioner from performing any of these activities with a systemic drug. A certified optometrist is, however, authorized to use commonly accepted means or methods to immediately address incidents of anaphylaxis, such as the use of epinephrine or an epi-pen.

The bill provides that notwithstanding the definition of surgery, a certified optometrist may provide any optometric care within the practice of optometry, and specifically lists certain procedures. These procedures include:

- Removing an eyelash by epilation,
- Probing an uninflamed tear duct in a patient at least 18 years of age,
- Blocking the puncta by plug, or
- Superficial scraping for the purpose of removing damaged epithelial tissue or superficial foreign bodies or taking a culture of the surface of the cornea or conjunctiva.

Section 8 creates s. 463.0141, F.S., which is effective January 1, 2014, to require the reporting of an adverse incident occurring in the practice of optometry in relation to the prescription of an oral ocular pharmaceutical agent.

An adverse incident is defined to mean any of the following events when it is reasonable to believe that the event is attributable to the prescription of an oral ocular pharmaceutical agent by the licensed practitioner:

- A condition that requires the transfer of a patient to a hospital.
- A condition that requires the patient to obtain care from a physician other than a referral or a consultation required under the practice of optometry.
- Permanent physical injury to the patient.
- Partial or complete permanent loss of sight by the patient.
- Death of the patient.

The report must be submitted in writing to the DOH by certified mail. It must be postmarked within 15 days after the adverse incident if the incident occurs when the patient is at the optometrist's office. If the patient is not at the optometrist's office when the incident occurs, the notification must be postmarked within 15 days after the optometrist discovers, or reasonably should have discovered, the occurrence of the adverse incident.

The DOH is required to review each incident to determine whether it potentially involved conduct by the optometrist who may be subject to disciplinary action. If it does, the board must proceed with disciplinary procedures as set forth in the general provisions pertaining to the regulation of health care practitioners in s. 456.073, F.S.

Sections 9, 10, and 11 amend ss. 483.035, 483.041, and 483.181, F.S., respectively, to authorize an optometrist to operate a clinical laboratory to treat his or her own patients, subject the optometrist to applicable regulations for the operation of a clinical laboratory, and require other clinical laboratories to accept specimens submitted for examination by an optometrist.

Section 12 amends s. 893.02, F.S., to add certified optometrists to the list of practitioners who may prescribe or administer controlled substances if licensed by the federal DEA.

Section 13 amends s. 893.05, F.S., to prohibit a certified optometrist from administering or prescribing a Schedule I or Schedule II controlled substance.

Section 14 amends s. 893.055, F.S., to include optometrists in the definition of a health care practitioner for purposes of complying with the requirements of the prescription drug monitoring program.

Sections 15 and 16 amend ss. 463.009 and 641.31, F.S., to make conforming changes to statutory references.

Section 17 provides that the act is effective July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certified optometrists who complete the additional coursework and successfully pass the examination will be able to provide a broader range of services for their patients by administering and prescribing oral pharmaceutical agents. Although a fee for the coursework and examination is not specified in the bill, it is reasonable to assume that optometrists would incur a fee. However, this fee will likely be offset by the applicability of the 20 hours to the currently mandated continuing education requirement.

If licensed optometrists seek to establish clinical laboratories as allowed under the bill, they will incur licensure fees for an accredited laboratory of $100 for a two-year licensure period; or, for a laboratory performing less than 2,000 non-waived tests per year, a fee of $400 for a two-year licensure period.

C. Government Sector Impact:

The Department of Health (DOH) indicates additional workload and costs will be incurred for rulemaking, modifications to the licensure system, tracking of certified optometrists who have completed the coursework and examination, potential complaints related to enactment of the bill's provisions, and managing adverse incident reports. However, the DOH indicates that current resources are adequate to absorb the workload and costs.

The Agency for Health Care Administration (AHCA) estimates the following fiscal impacts in terms of potential savings, revenues, and expenditures:

The bill allows Medicaid recipients to receive prescriptions for ocular medications from an optometrist, thereby saving the recipient from the need to see a physician to get a prescription for a condition diagnosed by the optometrist. The additional billing by the

physician to Florida Medicaid would not then be necessary. The total number of recipients during FY 2011-12 seeing a physician within two months of an optometrist visit was 150,033, with an expenditure total of $20,577,279. Assuming that one-half of one percent of those recipients were seeing a physician for an ocular pharmaceutical agent prescription, then a total of 750 recipient visits and total expenditures of $102,889 in the Medicaid program could have been avoided under the bill. The savings for the state share of Medicaid costs are estimated to be $42,524 for FY 2013-14 and $42,257 for FY 2014-15.

If Section 9 of the bill is implemented, some percentage of the 3,089 currently licensed optometrists seeking to establish clinical laboratories would begin submitting initial clinical laboratory licensure applications beginning July 1, 2013. Should as many as 13.1 percent (the percentage of all physicians currently opting to offer clinical laboratory services) of these licensed optometrists seek to establish a clinical laboratory, AHCA would need to process an additional 405 initial applicants in FY 2013-14. Several elements of the clinical laboratory licensure application are technical in nature and necessitate review and processing by professional staff. AHCA estimates that, in order to review and process this increase in application volume, one additional professional full-time equivalent (FTE) would be required.

An on-site inspection would be required both prior to initial licensure and biennially thereafter. AHCA field office staff currently perform on-site inspections on 1,267 (51 percent) of the 2,484 licensed laboratories. If inspections are required by this same percentage of the 405 optometry-based laboratory applicants, the bill would require AHCA staff to perform an additional 207 on-site inspections during SFY 2012-13 and biennially thereafter. AHCA estimates that, in order to perform this number of inspections, an additional two FTEs for survey staff would be required. One of these additional FTEs would be needed in the Miami field office.

The fiscal impact for the three FTE positions is $168,329 for year one and each recurring year; this includes a request for 10 percent above minimum salary for the two FTE survey staff due to recruitment challenges. There is an additional recurring expense of $22,020 for travel for the two FTE survey staff. Two tablet computers are also required at a nonrecurring expense of $2,830 in year one for the survey staff to use in the field while on inspections.

The total estimated fiscal impact to AHCA's Health Care Trust Fund for three FTE positions and the two tablets for year one is $222,339. The estimated total recurring fiscal impact for the three FTE positions is $209,078.

Licensure fees in the amount of $102,600, to be deposited into the Health Care Trust Fund, are expected during FY 2013-14 with initial applicants and recurring biennially thereafter upon renewal. This number is based on 198 applicants seeking licensure as an accredited laboratory and 207 applicants seeking licensure to perform less than 2,000 non-waived tests per year. The licensure fee for an accredited laboratory is $100 per two-year licensure period, and the fee for a laboratory performing less than 2,000 non-waived tests per year is $400 per two-year licensure fee.

	FY 2013-14 General Revenue	FY 2013-14 Health Care Trust Fund	FY 2014-15 General Revenue	FY 2014-15 Health Care Trust Fund
Recurring Medicaid savings, state share	$42,524		$42,257	
Nonrecurring expenditures		($13,261)		
Recurring expenditures		($209,078)		($209,078)
Recurring revenue		$102,600		$102,600
Total Savings/Revenue (Costs)	**$42,524**	**($119,739)**	**$42,257**	**($106,478)**

VI. Technical Deficiencies:

Section 8 of the bill requires the reporting of adverse incidents in the practice of optometry; however, it does not specify who is required to report.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on March 21, 2013:

- Includes a definition of surgery;
- Education hours are changed to 20 for everyone, all of which may be web-based;
- Changes who develops the education / examination;
- Board approves content of initial course and examination, then reviews and approves annually thereafter;
- Postpones the initial date for presentation of the course and examination to October 1, 2013;
- Passage of training/ examination offsets 20 hours of continuing education for that cycle;
- Repeals formulary committee; the Board establishes topical formulary;
- Statutory formulary established for 14 oral ocular pharmaceuticals which may only be modified statutorily (unless FDA removes approval status of a drug);
- Oral analgesics and anti-glaucoma agents may not be administered or prescribed for more than 72-hours;
- Prohibits the administration or prescribing for chronic nonmalignant pain;
- Requires a co-management process including a patient-specific transfer of care letter, written consent of patient and certain disclosures to the patient;

- Further defines optometric care that may be provided and which is not considered surgery;
- Requires reporting of adverse incidents to the DOH; within 15 days if it occurs in-office or within 15 days upon discovery of incident or should have discovered incident otherwise; and
- Adds certified optometrist to the definition of a practitioner under s. 893.02 (general definitions for chapter) and s. 893.055 relating to the Prescription Drug Monitoring Program.

CS by Health Policy on February 21, 2013:
The committee substitute defines ocular pharmaceutical agent; requires the first course and examination to be available on or before July 1, 2013; requires the formulary committee to submit specific findings of fact and grounds for recommendations which the board must follow when the board adopts the formulary by rule unless it has competent substantial evidence to rebut the recommendation; expands the subject matter of the examination for licensure as a certified optometrist to emphasize the use and side effects of [all] pharmaceutical agents, not just ocular pharmaceutical agents; and authorizes certified optometrists who have completed the coursework and examination to administer (Schedule III, IV, or V) oral analgesics for relief of pain due to ocular conditions.

B. Amendments:

None.

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

By the Committee on Health Policy; and Senator Richter

588-01737-13 2013278c1

A bill to be entitled

An act relating to the practice of optometry; amending s. 463.002, F.S.; requiring a licensed practitioner who is not a certified optometrist to display a specifically worded sign; revising definitions; defining the term "ocular pharmaceutical agent"; amending s. 463.005, F.S.; authorizing the Board of Optometry to adopt rules relating to the administration and prescription of ocular pharmaceutical agents; amending s. 463.0055, F.S.; requiring a certified optometrist to complete a course and examination on general and ocular pharmaceutical agents before administering or prescribing oral ocular pharmaceutical agents; specifying the number of required course hours based on the date of licensure; requiring the Florida Medical Association and the Florida Optometric Association to jointly develop and administer the course and examination; revising provisions relating to the development of a formulary of pharmaceutical agents; amending s. 463.0057, F.S.; prohibiting the holder of an optometric faculty certificate from administering or prescribing pharmaceutical agents; amending s. 463.006, F.S.; revising provisions relating to licensure and certification of optometrists; amending s. 463.0135, F.S.; authorizing a certified optometrist to perform certain eye examinations; amending s. 463.014, F.S.; prohibiting a licensed practitioner of optometry from providing any drug for the purpose of treating a

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588-01737-13 2013278c1

systemic disease; amending s. 483.035, F.S.; requiring a clinical laboratory operated by a licensed practitioner of optometry to be licensed under ch. 463, F.S.; amending s. 483.041, F.S.; revising the definition of the term "licensed practitioner" to include certified optometrists; amending s. 483.181, F.S.; providing for an optometrist to accept a human specimen for examination, under certain conditions; amending s. 893.02, F.S.; redefining the term "practitioner" to include certified optometrists; amending s. 893.05, F.S.; prohibiting a certified optometrist from administering or prescribing pharmaceutical agents listed in Schedule I or Schedule II of the Florida Comprehensive Drug Abuse Prevention and Control Act; authorizing certain certified optometrists to administer certain oral analgesics; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) and subsections (4) and (5) of section 463.002, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

463.002 Definitions.—As used in this chapter, the term:

(3)

(b) A licensed practitioner who is not a certified optometrist <u>is</u> ~~shall be~~ required to display at her or his place of practice a sign <u>that</u> ~~which~~ states, "I am a licensed practitioner, not a certified optometrist, and I am not able to

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59 prescribe ~~topical ocular~~ pharmaceutical agents."
60 (4) "Certified optometrist" means a licensed practitioner
61 authorized by the board to administer and prescribe ~~topical~~
62 ocular pharmaceutical agents.
63 (5) "Optometry" means the diagnosis of conditions of the
64 human eye and its appendages; the employment of ~~any~~ objective or
65 subjective means or methods, including the administration of
66 ~~topical~~ ocular pharmaceutical agents, for the purpose of
67 determining the refractive powers of the human eyes, or ~~any~~
68 visual, muscular, neurological, or anatomic anomalies of the
69 human eyes and their appendages; and the prescribing and
70 employment of lenses, prisms, frames, mountings, contact lenses,
71 orthoptic exercises, light frequencies, and ~~any~~ other means or
72 methods, including ~~topical~~ ocular pharmaceutical agents, for the
73 correction, remedy, or relief of ~~any~~ insufficiencies or abnormal
74 conditions of the human eyes and their appendages.
75 (11) "Ocular pharmaceutical agent" means a pharmaceutical
76 agent that is administered topically or orally for the diagnosis
77 or treatment of ocular conditions of the human eye and its
78 appendages without the use of surgery or other invasive
79 techniques.
80 Section 2. Paragraph (g) of subsection (1) of section
81 463.005, Florida Statutes, is amended to read:
82 463.005 Authority of the board.—
83 (1) The Board of Optometry may ~~has authority to~~ adopt rules
84 pursuant to ss. 120.536(1) and 120.54 to implement the
85 provisions of this chapter conferring duties upon it. Such rules
86 ~~shall~~ include, but are not ~~be~~ limited to, rules relating to:
87 (g) Administration and prescription of ~~topical~~ ocular

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88 pharmaceutical agents.
89 Section 3. Section 463.0055, Florida Statutes, is amended
90 to read:
91 463.0055 Administration and prescription of ~~topical~~ ocular
92 pharmaceutical agents; committee.—
93 (1)(a) Certified optometrists may administer and prescribe
94 ~~topical~~ ocular pharmaceutical agents as provided in this section
95 for the diagnosis and treatment of ocular conditions of the
96 human eye and its appendages without the use of surgery or other
97 invasive techniques. However, a licensed practitioner who is not
98 certified may use topically applied anesthetics solely for the
99 purpose of glaucoma examinations, but is otherwise prohibited
100 from administering or prescribing ~~topical ocular~~ pharmaceutical
101 agents.
102 (b) Before a certified optometrist may administer or
103 prescribe oral ocular pharmaceutical agents, the certified
104 optometrist must complete a course and subsequent examination on
105 general and ocular pharmaceutical agents and the side effects of
106 those agents. For certified optometrists licensed before January
107 1, 1990, the course consists of 50 contact hours, with 25 of
108 those hours web-based. For certified optometrists licensed on or
109 after January 1, 1990, the course consists of 20 contact hours,
110 with 10 of those hours web-based. The first course and
111 examination shall be presented by July 1, 2013, and shall be
112 administered at least annually thereafter. The Florida Medical
113 Association and the Florida Optometric Association shall jointly
114 develop and administer a course and examination for such purpose
115 and jointly determine the site or sites for the course and
116 examination.

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(2)(a) There is ~~hereby~~ created a committee composed of two certified optometrists licensed pursuant to this chapter, appointed by the Board of Optometry, two board-certified ophthalmologists licensed pursuant to chapter 458 or chapter 459, appointed by the Board of Medicine, and one additional person with a doctorate degree in pharmacology who is not licensed pursuant to chapter 458, chapter 459, or this chapter, appointed by the State Surgeon General. The committee shall review requests for additions to, deletions from, or modifications of a formulary of ~~topical~~ ocular pharmaceutical agents for administration and prescription by certified optometrists and shall provide to the board advisory opinions and recommendations on such requests. The committee's opinions and recommendations must state specific findings of fact and grounds for its recommendation. The committee's findings, opinions, and recommendations are not subject to review pursuant to ss. 120.569 and 120.57. The formulary shall consist of those ~~topical~~ ocular pharmaceutical agents that ~~which~~ are appropriate to treat and diagnose ocular diseases and disorders and which the certified optometrist is qualified to use in the practice of optometry. The board shall establish, add to, delete from, or modify the formulary by rule. The board is bound by the committee's recommendations on oral ocular pharmaceutical agents unless competent substantial evidence is presented to the board sufficient to rebut the committee's recommendation. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule becomes ~~shall become~~ effective 60 days from the date it is filed with the Secretary of State.

(b) The formulary may be added to, deleted from, or

modified according to the procedure described in paragraph (a). A ~~Any~~ person who requests an addition, deletion, or modification of an authorized ~~topical~~ ocular pharmaceutical agent has ~~shall have~~ the burden of proof to show cause why such addition, deletion, or modification should be made.

(c) The State Surgeon General has ~~shall have~~ standing to challenge a ~~any~~ rule or proposed rule of the board pursuant to s. 120.56. In addition to challenges to an ~~for any~~ invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the State Surgeon General, may declare all or part of a rule or proposed rule invalid if it:

1. Does not protect the public from ~~any~~ significant and discernible harm or damages;

2. Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

3. Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, ~~there shall not be created~~ a presumption of the existence of ~~any of~~ the conditions cited in this subsection is not created in the event that the rule or proposed rule is challenged.

(d) Upon adoption of the formulary required by this section, and upon each addition, deletion, or modification to the formulary, the board shall mail a copy of the amended formulary to each certified optometrist and to each pharmacy licensed by the state.

175 (3) A certified optometrist shall be issued a prescriber
176 number by the board. Any prescription written by a certified
177 optometrist for an ~~a topical~~ ocular pharmaceutical agent
178 pursuant to this section must include ~~shall have~~ the prescriber
179 number ~~printed thereon~~.
180 Section 4. Subsection (3) of section 463.0057, Florida
181 Statutes, is amended to read:
182 463.0057 Optometric faculty certificate.—
183 (3) The holder of a faculty certificate may engage in the
184 practice of optometry as permitted by this section~~,~~ but may not
185 administer or prescribe ~~topical~~ ocular pharmaceutical agents
186 unless the certificateholder has satisfied the requirements of
187 ss. 463.0055(1)(b) and ~~s.~~ 463.006(1)(b)4. and 5.
188 Section 5. Subsections (2) and (3) of section 463.006,
189 Florida Statutes, are amended to read:
190 463.006 Licensure and certification by examination.—
191 (2) The examination consists ~~shall consist~~ of the
192 appropriate subjects, including applicable state laws and rules
193 and general and ocular pharmacology with emphasis on the use
194 ~~topical application~~ and side effects of ~~ocular~~ pharmaceutical
195 agents. The board may by rule substitute a national examination
196 as part or all of the examination and may by rule offer a
197 practical examination in addition to the written examination.
198 (3) Each applicant who successfully passes the examination
199 and otherwise meets the requirements of this chapter is entitled
200 to be licensed as a practitioner and to be certified to
201 administer and prescribe ~~topical ocular~~ pharmaceutical agents in
202 the diagnosis and treatment of ocular conditions.
203 Section 6. Subsection (10) is added to section 463.0135,

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204 Florida Statutes, to read:
205 463.0135 Standards of practice.—
206 (10) A certified optometrist may perform any eye
207 examination, including a dilated examination, required or
208 authorized by chapter 548 or by rules adopted to implement that
209 chapter.
210 Section 7. Subsection (3) of section 463.014, Florida
211 Statutes, is amended to read:
212 463.014 Certain acts prohibited.—
213 (3) Prescribing, ordering, dispensing, administering,
214 supplying, selling, or giving any drug for the purpose of
215 treating a systemic disease ~~systemic drugs~~ by a licensed
216 practitioner is prohibited.
217 Section 8. Subsection (1) of section 483.035, Florida
218 Statutes, is amended to read:
219 483.035 Clinical laboratories operated by practitioners for
220 exclusive use; licensure and regulation.—
221 (1) A clinical laboratory operated by one or more
222 practitioners licensed under chapter 458, chapter 459, chapter
223 460, chapter 461, chapter 462, chapter 463, or chapter 466,
224 exclusively in connection with the diagnosis and treatment of
225 their own patients, must be licensed under this part and must
226 comply with the provisions of this part, except that the agency
227 shall adopt rules for staffing, for personnel, including
228 education and training of personnel, for proficiency testing,
229 and for construction standards relating to the licensure and
230 operation of the laboratory based upon and not exceeding the
231 same standards contained in the federal Clinical Laboratory
232 Improvement Amendments of 1988 and the federal regulations

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233 adopted thereunder.
234 Section 9. Subsection (7) of section 483.041, Florida
235 Statutes, is amended to read:
236 483.041 Definitions.—As used in this part, the term:
237 (7) "Licensed practitioner" means a physician licensed
238 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or
239 chapter 463; a dentist licensed under chapter 466; a person
240 licensed under chapter 462; or an advanced registered nurse
241 practitioner licensed under part I of chapter 464; or a duly
242 licensed practitioner from another state licensed under similar
243 statutes who orders examinations on materials or specimens for
244 nonresidents of the State of Florida, but who reside in the same
245 state as the requesting licensed practitioner.
246 Section 10. Subsection (5) of section 483.181, Florida
247 Statutes, is amended to read:
248 483.181 Acceptance, collection, identification, and
249 examination of specimens.—
250 (5) A clinical laboratory licensed under this part must
251 accept a human specimen submitted for examination by a
252 practitioner licensed under chapter 458, chapter 459, chapter
253 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
254 chapter 466, if the specimen and test are the type performed by
255 the clinical laboratory. A clinical laboratory may only refuse a
256 specimen based upon a history of nonpayment for services by the
257 practitioner. A clinical laboratory may ~~shall~~ not charge
258 different prices for tests based upon the chapter under which a
259 practitioner submitting a specimen for testing is licensed.
260 Section 11. Subsection (21) of section 893.02, Florida
261 Statutes, is amended to read:

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262 893.02 Definitions.—The following words and phrases as used
263 in this chapter shall have the following meanings, unless the
264 context otherwise requires:
265 (21) "Practitioner" means a physician licensed pursuant to
266 chapter 458, a dentist licensed pursuant to chapter 466, a
267 veterinarian licensed pursuant to chapter 474, an osteopathic
268 physician licensed pursuant to chapter 459, a naturopath
269 licensed pursuant to chapter 462, a certified optometrist
270 licensed pursuant to chapter 463, or a podiatric physician
271 licensed pursuant to chapter 461, provided such practitioner
272 holds a valid federal controlled substance registry number.
273 Section 12. Subsection (1) of section 893.05, Florida
274 Statutes, is amended to read:
275 893.05 Practitioners and persons administering controlled
276 substances in their absence.—
277 (1) A practitioner, in good faith and in the course of his
278 or her professional practice only, may prescribe, administer,
279 dispense, mix, or otherwise prepare a controlled substance, or
280 the practitioner may cause the same to be administered by a
281 licensed nurse or an intern practitioner under his or her
282 direction and supervision only. A veterinarian may so prescribe,
283 administer, dispense, mix, or prepare a controlled substance for
284 use on animals only, and may cause it to be administered by an
285 assistant or orderly under the veterinarian's direction and
286 supervision only. A certified optometrist licensed under chapter
287 463 may not administer or prescribe pharmaceutical agents listed
288 in Schedule I or Schedule II of s. 893.03. A certified
289 optometrist who has complied with the provisions of section
290 463.0055(1)(b) may administer oral analgesics listed in Schedule

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291 III, IV, or V for the relief of pain due to ocular conditions of
292 the eye and its appendages.
293 Section 13. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic _____

Bill Number 278 (if applicable)

Name Chris Nland

Amendment Barcode _____ (if applicable)

Job Title _____

Address 1000 Riverside Ave #115
Street

Jacksonville, FL 32204
City State Zip

Phone 904-355-1555

E-mail nlandlawead.com

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida Chapter, American College of Surgeons

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 /21 /2013
Meeting Date

Topic _____ Bill Number 278 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Citizen

Bill Number: SB278 (if applicable)

Name: Jerrod Holton

Amendment Barcode: _____ (if applicable)

Job Title: City Councilman (Midway)

Address: 1539 Rustling Pines Blvd
Street

Phone: _____

Midway, FL 32343
City, State, Zip

E-mail: _____

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

Representing: _____

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic: OPTOMETRY

Bill Number: 278 *(if applicable)*

Name: DR. KEN LAWSON

Amendment Barcode: *(if applicable)*

Job Title: LEGISLATIVE CHAIR

Address: 120 S. MONROE ST.
Street

TALLAHASSEE, FL 32301
City, State, Zip

Phone:

E-mail:

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

Representing: FLORIDA OPTOMETRIC ASSOCIATION

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/13
Meeting Date

Topic: Optometry

Bill Number: 278 (if applicable)

Name: Charles Slonim, MD.

Amendment Barcode: ✓ (if applicable)

Job Title: Pres. Florida Society of Ophthalmology

Address: 2409 S. Dundee St.
Street

Tampa FL 33629
City State Zip

Phone:

E-mail:

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

Representing: Florida Society of Ophthalmology

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Practice of Optometry

Bill Number: 278 *(if applicable)*

Name: Leslie Dughi

Amendment Barcode: _____ *(if applicable)*

Job Title: Asst. Dir

Address: 516 N Adams St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 521-8571

E-mail: dughiLegtlaw.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

Tallahassee, Florida 32399-1100

COMMITTEES:
Gaming, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

March 6, 2013

The Honorable Joe Negron, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Mr. Chairman:

CS/CS/Senate Bill 278, Optometry, has been reported favorably out of the subcommittee on Health and Human Services Appropriations. It is now in the Committee on Appropriations.

I would appreciate the placing of this bill on the committee's agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Mike Hansen, Staff Director

REPLY TO:
❒ 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
❒ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
❒ 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

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

DON GAETZ
President of the Senate

GARRETT RICHTER
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 Appropriations Committee

BILL: CS/SB 294

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice Appropriations) and Senator Bradley

SUBJECT: Controlled Substances

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Favorable**
2.	Shankle	Cibula	JU	**Favorable**
3.	Cantral	Sadberry	ACJ	**Favorable**
4.	Cantral	Hansen	AP	**Fav/CS**
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 294 codifies the Schedule I scheduling of the substances listed in the Attorney General's emergency rule issued on December 11, 2012, that scheduled several new synthetic cannabinoids, cathinones, and phenethylamines as Schedule I controlled substances.[1] The Attorney General filed this emergency rule to address the public safety risk of new synthetic substances being sold and abused in Florida. This rule is temporary and scheduling will lapse when the rule expires on June 30, 2012, unless the scheduling is codified in statute by the Legislature.

Under the bill, persons who engage in certain unlawful acts involving these substances will be subject to arrest and prosecution.

[1] Office of the Attorney General, *2ER 12-1*, (December 11, 2012) *available at* http://myfloridalegal.com/webfiles.nsf/WF/MMFD-92VKZ8/$file/ER+RuleOAGRuleCertification12-11-2012.pdf. (further cited in this analysis as "2ER 12-1").

The bill will have an insignificant fiscal impact due to the small number of expected additional, new prison commitments.

This bill is effective upon becoming a law.

This bill substantially amends sections 893.03, 893.13, and 893.135, Florida Statutes.

The bill reenacts sections 893.13(1)-(6) and 921.0022(3)(b)-(e), Florida Statutes.

II. Present Situation:

Schedule I Controlled Substances

A substance is a "controlled substance" if it is listed in any of five schedules in s. 893.03, F.S. The particular scheduling determines penalties that may be imposed for unlawful possession, sale, etc., and the conditions under which the substance can be legally possessed, prescribed, sold, etc. A substance in Schedule I is considered to have a high potential for abuse and no currently accepted medical use in treatment in the United States and, in its use under medical supervision, does not meet accepted safety standards.[2]

As a result of legislation that became law in 2011 and 2012, there are several synthetic cannabinoids, cathinones, and phenethylamines included as Schedule I controlled substances at s. 893.03(1)(c), F.S. [3]

Synthetic Cannabinoids, Cathinones, and Phenethylamines

"Synthetic Cannabinoids are chemicals that act as cannabinoid receptor agonists. Chemically they are not similar to cannabinoids but the term "Synthetic Cannabinoids" or "Cannabinomimetics" is widely used to refer to them as they are cannabinoid-like in their activity."[4] In findings relevant to the synthetic cannabinoids scheduled by emergency rule (2ER 12-1), the Attorney General states that the substances are known to produce side effects that include: headaches; agitation; vomiting; dangerous hallucinations; loss of consciousness; elevated blood pressure; seizures; increased heart rate; increased anxiety; convulsions; unresponsiveness; and suicidal thoughts.[5]

Cathinone is a Schedule I controlled substance.[6] Cathinone is an alkaloid found in the shrub *Catha edulis* (khat) and is chemically similar to amphetamines and other substances.[7] The "molecular architecture" of cathinone "can be altered to produce a series of different compounds

[2] Section 893.03(1), F.S.
[3] Chapters 2011-73, 2011-90, and 2012-23, L.O.F.
[4] Redwood Toxicology Laboratory, *Synthetic Cannabinoid Drug Information*, http://www.redwoodtoxicology.com/resources/drug_info/synthetic_cannabinoids.html (last visited Feb. 27, 2013).
[5] All information under this subtitle is from 2ER 12-1 unless otherwise indicated.
[6] Section 893.03(1)(c)8., F.S.
[7] Advisory Council on the Misuse of Drugs, United Kingdom, *Consideration of the cathinones* (March 2010), *available at* http://www.homeoffice.gov.uk/publications/drugs/acmd1/acmd-cathinodes-report-2010?view=Binary.

which are closely structurally related to cathinone."[8] In findings in 2ER 12-1 relevant to the synthetic cathinones scheduled by the emergency rule, the Attorney General describes the cathinones as

> stimulants that affect neurotransmitters in the brain and cause a sensation to the user similar to cocaine and amphetamines. They have been known to cause intense cravings for the substances and users have been reported to go on multiday binges that cause medical problems necessitating medical intervention.

The Attorney General states that some of the short-term side effects of the cathinones include: increased heart rate; agitation; diminished requirement for sleep; lack of appetite; increased alertness and awareness; anxiety fits and delusions; and nosebleeds. More serious side effects include: muscle spasms; blood circulation problems (including increased blood pressure); kidney failure; seizures; muscle damage; loss of bowel control; hallucinations; aggression; severe paranoia; panic attacks; sharp increase in body temperature; risk of renal failure; and cardiac arrest.

"Phenethylamines" is a 'broad' category "of psychoactive substances[.]"[9] In findings in 2ER 12-1 relevant to the synthetic phenethylamines scheduled by the emergency rule, the Attorney General states: "Users ingest phenethylamines for their stimulant and hallucinogenic effects." The Attorney General states that some of the dangers or side effects of these substances include: overdosing;[10] hallucinations; breathing difficulties; uncontrollable muscle spasms; cardiac arrest; and Hallucinogen Persisting Perception Disorder (HPPD).[11]

According to the Florida Department of Law Enforcement (FDLE), the synthetic substances scheduled by the bill "have no legitimate medical use and have a high potential for abuse."[12]

Penalties for Unlawful Acts Involving Controlled Substances

The Attorney General's emergency rule (2ER 12-1) schedules the new synthetic substances (listed in the "Effect of Proposed Changes" section of this analysis) in Schedule I at

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[8] *Id.*

[9] Sanders B., Lankenau S.E., Bloom J.J., Hathazi D. *"Research chemicals": Tryptamine and Phenethylamine Use Among High Risk Youth*, Substance Use & Misuse 2008, Vol. 43, No. 3-4, Pages 389-402, *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/.

[10] Because there is a delay in the drug taking effect, some users of the drug, believing the dosage they have taken is insufficient, may increase the dosage. 2ER 12-1.

[11] According to the Attorney General, one category of phenethylamines, the "2C derivatives," "bind to certain serotonin receptors as a psychedelic compound…" 2ER 12-1. HPPD is the "reexperiencing, following cessation of use of a hallucinogen, of one or more of the perceptual symptoms that were experienced while intoxicated with the hallucinogen.…"These symptoms "cause clinically significant distress or impairment in social, occupational, or other important areas of functioning" and "are not due to a general medical condition.... and are not better accounted for by another mental disorder…." Psychiatry Online, *Diagnostic criteria for 292.89 Hallucinogen Persisting Perception Disorder (Flashbacks)*, http://dsm.psychiatryonline.org/content.aspx?bookid=22&sectionid=1889808 (last visited Feb 27, 2013).

[12] Revised Analysis of SB 294, Florida Department of Law Enforcement, dated January 29, 2013 (on file with the Senate Committee on Judiciary). The analysis is cited further in this analysis as "Revised FDLE Analysis."

s. 893.03(1)(c), F.S. Persons who engage in certain unlawful acts under chapter 893, F.S., involving substances listed in s. 893.03(1)(c), F.S., are subject to arrest and prosecution.[13]

Selling, manufacturing, or delivering, or possessing with intent to sell, manufacture or deliver, a controlled substance listed in s. 893.03(1)(c), F.S., is a third degree felony.[14] However, if any of these acts are committed within 1,000 feet of certain designated places, the felony degree and penalties are greater.[15] For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., within 1,000 feet of the real property of a K-12 public or private school is a second degree felony.[16]

Purchasing, or possessing with intent to purchase, a controlled substance listed in s. 893.13(1)(c), F.S., is a third degree felony.[17]

Possessing 3 grams or less of a substance described in s. 893.03(1)(c)46.-50. and 114.-442., F.S., (synthetic cannabinoids) is a first degree misdemeanor.[18] Possessing more than 3 grams of any of these synthetic cannabinoids or any amount of any other substance listed in s. 893.03(1)(c), F.S., is a third degree felony.[19]

The synthetic cannabinoids, cathinones, and phenethylamines scheduled as controlled substances are not listed in any provision of s. 893.135, F.S., the drug trafficking statute. Consequently, drug trafficking offenses do not apply.

The Attorney General's Emergency Rule Regarding Specific Synthetic Substances

Pursuant to s. 893.035, F.S., if the Attorney General finds that the scheduling of a substance in Schedule I of s. 893.03, F.S., on a temporary basis is necessary to avoid an imminent hazard to the public safety, she or he may by rule, and without regard to requirements in s. 893.035(5), F.S., regarding medical and scientific evaluation, schedule the substance in Schedule I if it is not listed in any other schedule in s. 893.03, F.S.[20] The Attorney General may use emergency rulemaking provisions under s. 120.54(4), F.S., in making this scheduling.[21]

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[13] Section 893.13(9), F.S., provides an exception to the unlawful acts specified in s. 893.13(1)-(8), F.S., for delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by, persons included in classes specified in this subsection, or the agents or employees of those persons, for use in the usual course of their business or profession or in the performance of their official duties.

[14] Section 893.13(1)(a)2., F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to $5,000, or both. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

[15] Section 893.13(1)(c)-(f) and (h), F.S.

[16] Section 893.13(1)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to $10,000, or both. Sections 775.082 and 775.083, F.S.

[17] Section 893.13(2)(a)2., F.S.

[18] Section 893.13(6)(b), F.S. A first degree misdemeanor is punishable by up to a year in jail, a fine of up to $1,000, or both. Sections 775.082 and 775.083, F.S.

[19] Section 893.13(6)(a), F.S.

[20] Section 893.035(7)(a), F.S.

[21] Section 893.035(7)(b), F.S.

The Attorney General must consider, with respect to her or his finding of imminent hazard to the public safety, the following: potential for abuse[22] of the substance; history and current pattern of abuse of the substance; scope, duration, and significance of abuse of the substance; and what, if any, risk there is to the public health.[23] These findings include consideration of actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.[24]

The Attorney General must report to the Legislature by March 1 of each year concerning rules adopted under s. 893.035, F.S., during the previous year. Each rule so reported expires the following June 30 unless the Legislature adopts the provisions of the rule as an amendment to chapter 893, F.S.[25]

On December 11, 2012, Attorney General Pam Bondi filed an emergency rule (2ER 12-1)[26] that temporarily schedules several synthetic cannabinoids, cathinones, and phenethylamines in Schedule I at s. 893.03(1)(c), F.S.

Findings in 2ER 12-1 regarding the new synthetic substances state, in part:

> Attorney General Pam Bondi finds that there are currently dangerous psychoactive substances that are not scheduled as controlled substances and are being marketed in Florida. Subsequent to the most recent revisions to Section 893.03(1)(c), Florida Statutes, which became effective in March 2012, Florida law enforcement has noted the emergence of new chemical variants of several recently scheduled substances. Although technically different from currently scheduled substances, these substances are generally classifiable as Synthetic Cannabinoids, Cathinones, and Synthetic Phenethylamines. These substances are being abused because they are ostensibly legal and often times perceived as a safer alternative to illegal drugs such as marijuana, MDMA ("ecstasy"), cocaine, and amphetamines. But, in many cases, they are more dangerous. Due to their chemical design, they are commonly available for purchase in specialty smoke shops, over the internet, in convenience stores and from other retailers, making them easily obtained for abuse by Florida's children and young adults. Such abuse present severe health risks, and an immediate danger and imminent hazard to the health, safety, and welfare of Floridians ....

Findings in 2ER 12-1 regarding the potential for and significance of abuse and risk to public health of the new synthetic substances state:

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[22] "Potential for abuse" is defined in s. 893.035(3)(a) as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.
[23] Section 893.035(3)(a), (4)(d)-(f), and (7)(a), F.S.
[24] Section 893.035(7)(a), F.S.
[25] Section 893.035(9), F.S. Section 120.54(4)(c), F.S., which addresses the expiration of an emergency rule under s. 120.54(4), F.S., does not apply. Section 893.03(7)(b), F.S.
[26] All information under this subheading is from this emergency rule unless otherwise indicated.

> The Attorney General and the Florida Department of Law Enforcement has [sic] received intelligence from the Florida Department of Business and Professional regulation indicating that ... [the substances referenced in the rule] are being labeled inaccurately and marketed as a variety of legitimate household products in a thinly veiled effort to mask their true use as abused psychoactive substances. All of ... [the substances referenced in the rule] are marketed under a variety of pseudo brand names. They usually contain the disclaimer "not for human consumption," but are sold in specialty smoke shops, over the internet,[27] and in convenience stores for prices that are disproportionally high for the household product they purport to be, such as up to $30.00 for 500 mg packets. Furthermore, a pattern has emerged in which the distributors of these substances respond to scheduling of additional controlled substances by the Florida Legislature by introducing new variants with labels on the packaging claiming to conform to the new laws. These actions further emphasize the true purpose of these substances as chemicals of abuse.

According to the FDLE, 2ER 12-1 "expires on June 30 (or sooner if supplanted by a superseding statutory amendment)."[28]

III. Effect of Proposed Changes:

The bill codifies the Schedule I scheduling of the substances listed in the Attorney General's emergency rule, which are the same substances listed in the bill. Persons who engage in certain unlawful acts involving these substances will be subject to arrest and prosecution.

Specifically, the bill does the following:

- Removes the current listing of 3, 4-Methylenedioxymethamphetamine (MDMA) in Schedule I at s. 893.03(1)(a). F.S., and lists this substance in Schedule I at s. 893.03(1)(c), F.S.
- Specifies that isomers of substances listed in Schedule I at s. 893.03(1)(c), F.S., include optical, positional, or geometric isomers.[29]
- Lists the following synthetic cannabinoids in Schedule I at s. 893.03(1)(c), F.S.:
  - UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-327 tetramethylcyclopropyl) methanone).
  - XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-329 tetramethylcyclopropyl) methanone).
  - (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-331 tetramethylcyclopropyl) methanone.
  - AKB48 (1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-333 indazole-3-carboxamide).

[27] The Attorney General states that the new synthetic phenethylamines "are widely available online" but less prevalent in "local smoke shops since they are obscure research substances; however, with the popularity of synthetic cannabinoids and cathinones on the rise and their respective availability being diminished due to legislation and enforcement actions, these drugs and their presence in Florida are a concern." 2ER 12-1.
[28] Revised FDLE Analysis.
[29] The FDLE states that "the current language in F.S 893.03(1)(c) does not specifically include optical, positional, or geometric isomers of the listed chemical substances." *Id.*

  - AM-2233((2-iodophenyl)[1-[(1-methyl-2-335 piperidinyl) methyl]-1H-indol-3-yl]-methanone).
  - STS-135 (1-(5-fluoropentyl)-N-tricyclo[3.3.1.13,7]dec-337 1-yl-1H-indole-3-carboxamide).
  - URB-597 ((3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)- 339 cyclohexylcarbamate).
  - URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid, 341 cyclohexyl ester).
  - URB-754 (6-methyl-2-[(4-methylphenyl) amino]-1-343 benzoxazin-4-one).
  - PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid).
  - 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid).
  - BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid).
  - 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide).
- Lists the following synthetic cathinones in Schedule I at s. 893.03(1)(c), F.S.:
  - Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).
  - Fluoroamphetamine.
  - Methoxetamine.
  - Methiopropamine.
  - 4-Methylbuphedrone (2-Methylamino-1-(4-323 methylphenyl) butan-1-one).
  - APB ((2-aminopropyl) benzofuran).
  - APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).
- Lists the following synthetic phenethylamines in Schedule I at s. 893.03(1)(c), F.S.:
  - 2C-D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine).
  - 2C-H (2-(2,5-Dimethoxyphenyl) ethanamine).
  - 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl) ethanamine)
  - 2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine).
  - 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-349 methoxyphenyl) methyl]-benzeneethanamine).
- Amends s. 893.035, F.S., to clarify that the entire rulemaking process under the Florida Administrative Procedure Act (ch. 120, F.S.) is not automatically triggered when a petition to schedule a drug is denied by the Department of Legal Affairs.
- Consistent with the listing of MDMA in Schedule I at s. 893.03(1)(c), F.S., amends s. 893.135(1)(k)1. and 3., F.S., to correct a statutory reference so that those paragraphs accurately reflect that substances listed in those paragraphs are substances listed in Schedule I at s. 893.03(1)(c), F.S.[30]
- Reenacts ss. 893.13(1)-(6), F.S., and 921.0022(3)(b)-(e), F.S., relating to prohibited acts involving controlled substances and the offense severity ranking chart of the Criminal Punishment Code, respectively, to incorporate the amendments made to s. 893.03, F.S., by the bill.
- Provides that the effective date of the bill is upon becoming a law.

[30] The FDLE states that "[t]his re-designation is in keeping with the nature of MDMA's effects on the abuser and consistent with the Drug Enforcement Administration's scheduling of MDMA as a hallucinogenic substance in 21 C.F.R. §1308.11." *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not impact municipalities and counties under the requirements of Article VII, Section 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill does not raise public records or open meetings issues under the requirements of Article I, Section 24(a) and (b), of the Florida Constitution.

C. Trust Funds Restrictions:

The bill does not impact trust fund restrictions under the requirements of Article III, Section 19(f), of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the FDLE, the bill "should have little impact on the private sector and would only affect those retailers who are currently profiting on the sale of chemical substances known to be abused by those seeking an altered mental state or 'high.'"[31]

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact of legislation, found that the bill will have an insignificant prison bed impact due to the small number of additional new commitments expected.[32]

The bill is expected to have a minimal fiscal impact on the FDLE. The FDLE states:

> The passage of SB 294 would add additional chemical substances to Florida's controlled substances list. These additions could potentially increase the number of evidence submissions into FDLE's Crime Laboratory System as well as local law enforcement crime laboratories. The laboratory system will be required to purchase all of the required standards necessary to test the proposed chemical substances.

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[31] *Id.*

[32] Criminal Justice Impact Conference, *2013 Session Bills and Links to Backup Materials*, http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CJIC_13.xls (last visited Feb 27, 2013).

> The bill will have minimal fiscal impact to FDLE. Any resulting increase in volume of evidence submissions to FDLE's Crime Laboratory system, as well as costs to acquire and maintain additional required chemical standards, will be assimilated as part of the laboratories' cost of doing business. Florida Department of Law Enforcement will monitor submissions to the crime laboratories and if necessary, request an appropriation through a future Legislative Budget Request.[33]

The bill may have an impact on some local law enforcement agencies. The FDLE states:

> Local agencies which fund and maintain their own crime lab with a chemistry section would potentially be facing a similar rise in submissions associated with the additions of the proposed chemical substances.[34]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations on March 21, 2013:
The committee substitute:

- Clarifies, under s. 893.0355(4), F.S., the complete rulemaking process is not automatically triggered when a petition to reschedule a drug is denied by the Department of Legal Affairs.
- Adds four additional synthetic drugs to the list of controlled substances in the bill.

B. Amendments:

None.

[33] Revised FDLE Analysis.
[34] *Id*.

292376

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 351 and 352
4 insert:
5 Section 2. Subsection (4) of section 893.0355, Florida
6 Statutes, is amended to read:
7 893.0355 Control of scheduled substances; delegation of
8 authority to Attorney General to reschedule substance, or delete
9 substance, by rule.—
10 (4) Rulemaking under this section shall be in accordance
11 with the procedural requirements of chapter 120, including the
12 emergency rule provisions found in s. 120.54, except that s.

292376

13 120.54(7) does not apply. ~~The Attorney General may initiate~~
14 ~~proceedings for adoption, amendment, or repeal of any rule on~~
15 ~~his or her own motion or upon the petition of any interested~~
16 ~~party.~~
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete line 10
21 and insert:
22
23 within the specific chemical designation; amending s.
24 893.0355, F.S.; revising provisions relating to
25 rulemaking; amending s.

351690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment

Delete lines 352 - 367
and insert:
166. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid).
167. 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid).
168. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid).
169. 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide).

351690

13 Section 2. Paragraph (b) of subsection (6) of section
14 893.13, Florida Statutes, is amended to read:
15 893.13 Prohibited acts; penalties.—
16 (6)
17 (b) If the offense is the possession of not more than 20
18 grams of cannabis, as defined in this chapter, or 3 grams or
19 less of a controlled substance described in s. 893.03(1)(c)46.-
20 50., ~~and~~ 114.-142., 151.-159., or 166.-169., the person commits
21 a misdemeanor of the first degree, punishable as provided in s.
22 775.082 or s. 775.083. For the purposes of this subsection,
23 "cannabis" does not include the resin extracted from the plants
24 of the genus *Cannabis*, or any compound manufacture, salt,
25 derivative, mixture, or preparation of such resin, and a
26 controlled substance described in s. 893.03(1)(c)46.-50., ~~and~~
27 114.-142., 151.-159., or 166.-169., does not include the
28 substance in a powdered form.

By Senator Bradley

A bill to be entitled

An act relating to controlled substances; amending s. 893.03, F.S.; adding to the list of Schedule I controlled substances certain specified materials, compounds, mixtures, or preparations that contain hallucinogenic substances, or any of their salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation; amending s. 893.13, F.S.; providing reduced penalties for possession of 3 grams or less of specified controlled substances; amending s. 893.135, F.S.; providing criminal penalties for a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, a specified quantity of specified controlled substances; reenacting ss. 893.13(1)-(6) and 921.0022(3)(b)-(e), F.S., relating to prohibited acts involving controlled substances and the Criminal Punishment Code, respectively, to incorporate the amendments made to s. 893.03, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (1) of section 893.03, Florida Statutes, are amended to read:

893.03 Standards and schedules.—The substances enumerated

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

in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.

2. Acetylmethadol.

3. Allylprodine.

4. Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

5. Alphamethadol.

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

6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).

7. Alpha-methylthiofentanyl.

8. Alphameprodine.

9. Benzethidine.

10. Benzylfentanyl.

11. Betacetylmethadol.

12. Beta-hydroxyfentanyl.

13. Beta-hydroxy-3-methylfentanyl.

14. Betameprodine.

15. Betamethadol.

16. Betaprodine.

17. Clonitazene.

18. Dextromoramide.

19. Diampromide.

20. Diethylthiambutene.

21. Difenoxin.

22. Dimenoxadol.

23. Dimepheptanol.

24. Dimethylthiambutene.

25. Dioxaphetyl butyrate.

26. Dipipanone.

27. Ethylmethylthiambutene.

28. Etonitazene.

29. Etoxeridine.

30. Flunitrazepam.

31. Furethidine.

32. Hydroxypethidine.

33. Ketobemidone.

34. Levomoramide.

35. Levophenacylmorphan.

36. 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).

37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).

38. 3-Methylthiofentanyl.

~~39. 3, 4-Methylenedioxymethamphetamine (MDMA).~~

39.~~40.~~ Morpheridine.

40.~~41.~~ Noracymethadol.

41.~~42.~~ Norlevorphanol.

42.~~43.~~ Normethadone.

43.~~44.~~ Norpipanone.

44.~~45.~~ Para-Fluorofentanyl.

45.~~46.~~ Phenadoxone.

46.~~47.~~ Phenampromide.

47.~~48.~~ Phenomorphan.

48.~~49.~~ Phenoperidine.

49.~~50.~~ 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

50.~~51.~~ Piritramide.

51.~~52.~~ Proheptazine.

52.~~53.~~ Properidine.

53.~~54.~~ Propiram.

54.~~55.~~ Racemoramide.

55.~~56.~~ Thenylfentanyl.

56.~~57.~~ Thiofentanyl.

57.~~58.~~ Tilidine.

58.~~59.~~ Trimeperidine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of their salts, isomers, including optical, positional, or geometric isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.
2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).
3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
4. 4-Bromo-2,5-dimethoxyamphetamine.
5. 4-Bromo-2,5-dimethoxyphenethylamine.
6. Bufotenine.
7. Cannabis.
8. Cathinone.
9. Diethyltryptamine.
10. 2,5-Dimethoxyamphetamine.
11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
12. Dimethyltryptamine.
13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).
14. N-Ethyl-3-piperidyl benzilate.
15. N-ethylamphetamine.
16. Fenethylline.
17. N-Hydroxy-3,4-methylenedioxyamphetamine.
18. Ibogaine.

19. Lysergic acid diethylamide (LSD).
20. Mescaline.
21. Methcathinone.
22. 5-Methoxy-3,4-methylenedioxyamphetamine.
23. 4-methoxyamphetamine.
24. 4-methoxymethamphetamine.
25. 4-Methyl-2,5-dimethoxyamphetamine.
26. 3,4-Methylenedioxy-N-ethylamphetamine.
27. 3,4-Methylenedioxyamphetamine.
28. N-Methyl-3-piperidyl benzilate.
29. N,N-dimethylamphetamine.
30. Parahexyl.
31. Peyote.
32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).
33. Psilocybin.
34. Psilocyn.
35. *Salvia divinorum*, except for any drug product approved by the United States Food and Drug Administration which contains *Salvia divinorum* or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.
36. Salvinorin A, except for any drug product approved by the United States Food and Drug Administration which contains Salvinorin A or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

175 37. Tetrahydrocannabinols.
176 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
177 (Thiophene analog of phencyclidine).
178 39. 3,4,5-Trimethoxyamphetamine.
179 40. 3,4-Methylenedioxymethcathinone.
180 41. 3,4-Methylenedioxypyrovalerone (MDPV).
181 42. Methylmethcathinone.
182 43. Methoxymethcathinone.
183 44. Fluoromethcathinone.
184 45. Methylethcathinone.
185 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
186 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
187 homologue.
188 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
189 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
190 also known as HU-210.
191 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
192 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
193 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole, also
194 known as JWH-200.
195 51. BZP (Benzylpiperazine).
196 52. Fluorophenylpiperazine.
197 53. Methylphenylpiperazine.
198 54. Chlorophenylpiperazine.
199 55. Methoxyphenylpiperazine.
200 56. DBZP (1,4-dibenzylpiperazine).
201 57. TFMPP (3-Trifluoromethylphenylpiperazine).
202 58. MBDB (Methylbenzodioxolylbutanamine).
203 59. 5-Hydroxy-alpha-methyltryptamine.

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204 60. 5-Hydroxy-N-methyltryptamine.
205 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
206 62. 5-Methoxy-alpha-methyltryptamine.
207 63. Methyltryptamine.
208 64. 5-Methoxy-N,N-dimethyltryptamine.
209 65. 5-Methyl-N,N-dimethyltryptamine.
210 66. Tyramine (4-Hydroxyphenethylamine).
211 67. 5-Methoxy-N,N-Diisopropyltryptamine.
212 68. DiPT (N,N-Diisopropyltryptamine).
213 69. DPT (N,N-Dipropyltryptamine).
214 70. 4-Hydroxy-N,N-diisopropyltryptamine.
215 71. N,N-Diallyl-5-Methoxytryptamine.
216 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
217 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
218 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
219 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
220 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
221 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
222 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
223 79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
224 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
225 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
226 82. Ethcathinone.
227 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
228 84. Naphyrone (naphthylpyrovalerone).
229 85. N-N-Dimethyl-3,4-methylenedioxycathinone.
230 86. N-N-Diethyl-3,4-methylenedioxycathinone.
231 87. 3,4-methylenedioxy-propiophenone.
232 88. 2-Bromo-3,4-Methylenedioxypropiophenone.

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233 89. 3,4-methylenedioxy-propiophenone-2-oxime.
234 90. N-Acetyl-3,4-methylenedioxycathinone.
235 91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.
236 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone.
237 93. Bromomethcathinone.
238 94. Buphedrone (alpha-methylamino-butyrophenone).
239 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
240 96. Dimethylcathinone.
241 97. Dimethylmethcathinone.
242 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
243 99. (MDPPP) 3,4-Methylenedioxy-alpha-
244 pyrrolidinopropiophenone.
245 100. (MDPBP) 3,4-Methylenedioxy-alpha-
246 pyrrolidinobutiophenone.
247 101. Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
248 102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
249 103. Benocyclidine (BCP) or
250 benzothiophenylcyclohexylpiperidine (BTCP).
251 104. Fluoromethylaminobutyrophenone (F-MABP).
252 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
253 106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
254 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
255 108. Methylethylaminobutyrophenone (Me-EABP).
256 109. Methylamino-butyrophenone (MABP).
257 110. Pyrrolidinopropiophenone (PPP).
258 111. Pyrrolidinobutiophenone (PBP).
259 112. Pyrrolidinovalerophenone (PVP).
260 113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
261 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).

262 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
263 naphthalenylmethanone).
264 116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-
265 yl)methanone).
266 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
267 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
268 yl)methanone).
269 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
270 yl)methanone).
271 120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
272 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-
273 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
274 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
275 indole).
276 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
277 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
278 yl)ethanone).
279 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
280 yl)methanone).
281 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
282 yl)ethanone).
283 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
284 yl)ethanone).
285 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
286 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
287 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
288 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
289 ol).
290 131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-

2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).

132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione).

133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone).

134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecanamide).

135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecanamide).

136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).

137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone).

138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone).

139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone).

140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenylethanone).

141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).

144. Fluoroamphetamine.

145. Fluoromethamphetamine.

146. Methoxetamine.

147. Methiopropamine.

148. 4-Methylbuphedrone (2-Methylamino-1-(4-methylphenyl)butan-1-one).

149. APB ((2-aminopropyl)benzofuran).

150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).

151. UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone).

152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone).

153. (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone.

154. AKB48 (1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide).

155. AM-2233((2-iodophenyl)[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-methanone).

156. STS-135 (1-(5-fluoropentyl)-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indole-3-carboxamide).

157. URB-597 ((3’-(aminocarbonyl)[1,1’-biphenyl]-3-yl)-cyclohexylcarbamate).

158. URB-602 ([1,1’-biphenyl]-3-yl-carbamic acid, cyclohexyl ester).

159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-benzoxazin-4-one).

160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).

161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).

162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).

163. 2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine).

349 164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-
350 methoxyphenyl)methyl]-benzeneethanamine).
351 165. 3,4-Methylenedioxymethamphetamine (MDMA).
352 Section 2. Paragraph (b) of subsection (6) of section
353 893.13, Florida Statutes, is amended to read:
354 893.13 Prohibited acts; penalties.—
355 (6)
356 (b) If the offense is the possession of not more than 20
357 grams of cannabis, as defined in this chapter, or 3 grams or
358 less of a controlled substance described in s. 893.03(1)(c)46.-
359 50., ~~and~~ 114.-142., or 151.-159., the person commits a
360 misdemeanor of the first degree, punishable as provided in s.
361 775.082 or s. 775.083. For the purposes of this subsection,
362 "cannabis" does not include the resin extracted from the plants
363 of the genus *Cannabis*, or any compound manufacture, salt,
364 derivative, mixture, or preparation of such resin, and a
365 controlled substance described in s. 893.03(1)(c)46.-50., ~~and~~
366 114.-142., or 151.-159., does not include the substance in a
367 powdered form.
368 Section 3. Paragraph (k) of subsection (1) of section
369 893.135, Florida Statutes, is amended to read:
370 893.135 Trafficking; mandatory sentences; suspension or
371 reduction of sentences; conspiracy to engage in trafficking.—
372 (1) Except as authorized in this chapter or in chapter 499
373 and notwithstanding the provisions of s. 893.13:
374 (k)1. Any person who knowingly sells, purchases,
375 manufactures, delivers, or brings into this state, or who is
376 knowingly in actual or constructive possession of, 10 grams or
377 more of any of the following substances described in s.

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378 893.03(1)(c) ~~s. 893.03(1)(a) or (c)~~:
379 a. 3,4-Methylenedioxymethamphetamine (MDMA);
380 b. 4-Bromo-2,5-dimethoxyamphetamine;
381 c. 4-Bromo-2,5-dimethoxyphenethylamine;
382 d. 2,5-Dimethoxyamphetamine;
383 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
384 f. N-ethylamphetamine;
385 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
386 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
387 i. 4-methoxyamphetamine;
388 j. 4-methoxymethamphetamine;
389 k. 4-Methyl-2,5-dimethoxyamphetamine;
390 l. 3,4-Methylenedioxy-N-ethylamphetamine;
391 m. 3,4-Methylenedioxyamphetamine;
392 n. N,N-dimethylamphetamine; or
393 o. 3,4,5-Trimethoxyamphetamine,
394
395 individually or in any combination of or any mixture containing
396 any substance listed in sub-subparagraphs a.-o., commits a
397 felony of the first degree, which felony shall be known as
398 "trafficking in Phenethylamines," punishable as provided in s.
399 775.082, s. 775.083, or s. 775.084.
400 2. If the quantity involved:
401 a. Is 10 grams or more but less than 200 grams, such person
402 shall be sentenced to a mandatory minimum term of imprisonment
403 of 3 years, and the defendant shall be ordered to pay a fine of
404 $50,000.
405 b. Is 200 grams or more, but less than 400 grams, such
406 person shall be sentenced to a mandatory minimum term of

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407 imprisonment of 7 years, and the defendant shall be ordered to
408 pay a fine of $100,000.
409 c. Is 400 grams or more, such person shall be sentenced to
410 a mandatory minimum term of imprisonment of 15 calendar years
411 and pay a fine of $250,000.
412 3. Any person who knowingly manufactures or brings into
413 this state 30 kilograms or more of any of the following
414 substances described in s. 893.03(1)(c) ~~s. 893.03(1)(a) or (c)~~:
415 a. 3,4-Methylenedioxymethamphetamine (MDMA);
416 b. 4-Bromo-2,5-dimethoxyamphetamine;
417 c. 4-Bromo-2,5-dimethoxyphenethylamine;
418 d. 2,5-Dimethoxyamphetamine;
419 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
420 f. N-ethylamphetamine;
421 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
422 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
423 i. 4-methoxyamphetamine;
424 j. 4-methoxymethamphetamine;
425 k. 4-Methyl-2,5-dimethoxyamphetamine;
426 l. 3,4-Methylenedioxy-N-ethylamphetamine;
427 m. 3,4-Methylenedioxyamphetamine;
428 n. N,N-dimethylamphetamine; or
429 o. 3,4,5-Trimethoxyamphetamine,
430
431 individually or in any combination of or any mixture containing
432 any substance listed in sub-subparagraphs a.-o., and who knows
433 that the probable result of such manufacture or importation
434 would be the death of any person commits capital manufacture or
435 importation of Phenethylamines, a capital felony punishable as

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436 provided in ss. 775.082 and 921.142. Any person sentenced for a
437 capital felony under this paragraph shall also be sentenced to
438 pay the maximum fine provided under subparagraph 1.
439 Section 4. For the purpose of incorporating the amendment
440 made by this act to section 893.03, Florida Statutes, in a
441 reference thereto, subsections (1) through (6) of section
442 893.13, Florida Statutes, are reenacted to read:
443 893.13 Prohibited acts; penalties.—
444 (1)(a) Except as authorized by this chapter and chapter
445 499, it is unlawful for any person to sell, manufacture, or
446 deliver, or possess with intent to sell, manufacture, or
447 deliver, a controlled substance. Any person who violates this
448 provision with respect to:
449 1. A controlled substance named or described in s.
450 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
451 commits a felony of the second degree, punishable as provided in
452 s. 775.082, s. 775.083, or s. 775.084.
453 2. A controlled substance named or described in s.
454 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
455 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
456 the third degree, punishable as provided in s. 775.082, s.
457 775.083, or s. 775.084.
458 3. A controlled substance named or described in s.
459 893.03(5) commits a misdemeanor of the first degree, punishable
460 as provided in s. 775.082 or s. 775.083.
461 (b) Except as provided in this chapter, it is unlawful to
462 sell or deliver in excess of 10 grams of any substance named or
463 described in s. 893.03(1)(a) or (1)(b), or any combination
464 thereof, or any mixture containing any such substance. Any

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465 person who violates this paragraph commits a felony of the first
466 degree, punishable as provided in s. 775.082, s. 775.083, or s.
467 775.084.
468 (c) Except as authorized by this chapter, it is unlawful
469 for any person to sell, manufacture, or deliver, or possess with
470 intent to sell, manufacture, or deliver, a controlled substance
471 in, on, or within 1,000 feet of the real property comprising a
472 child care facility as defined in s. 402.302 or a public or
473 private elementary, middle, or secondary school between the
474 hours of 6 a.m. and 12 midnight, or at any time in, on, or
475 within 1,000 feet of real property comprising a state, county,
476 or municipal park, a community center, or a publicly owned
477 recreational facility. For the purposes of this paragraph, the
478 term "community center" means a facility operated by a nonprofit
479 community-based organization for the provision of recreational,
480 social, or educational services to the public. Any person who
481 violates this paragraph with respect to:
482 1. A controlled substance named or described in s.
483 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
484 commits a felony of the first degree, punishable as provided in
485 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
486 sentenced to a minimum term of imprisonment of 3 calendar years
487 unless the offense was committed within 1,000 feet of the real
488 property comprising a child care facility as defined in s.
489 402.302.
490 2. A controlled substance named or described in s.
491 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
492 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
493 the second degree, punishable as provided in s. 775.082, s.

494 775.083, or s. 775.084.
495 3. Any other controlled substance, except as lawfully sold,
496 manufactured, or delivered, must be sentenced to pay a $500 fine
497 and to serve 100 hours of public service in addition to any
498 other penalty prescribed by law.
499
500 This paragraph does not apply to a child care facility unless
501 the owner or operator of the facility posts a sign that is not
502 less than 2 square feet in size with a word legend identifying
503 the facility as a licensed child care facility and that is
504 posted on the property of the child care facility in a
505 conspicuous place where the sign is reasonably visible to the
506 public.
507 (d) Except as authorized by this chapter, it is unlawful
508 for any person to sell, manufacture, or deliver, or possess with
509 intent to sell, manufacture, or deliver, a controlled substance
510 in, on, or within 1,000 feet of the real property comprising a
511 public or private college, university, or other postsecondary
512 educational institution. Any person who violates this paragraph
513 with respect to:
514 1. A controlled substance named or described in s.
515 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
516 commits a felony of the first degree, punishable as provided in
517 s. 775.082, s. 775.083, or s. 775.084.
518 2. A controlled substance named or described in s.
519 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
520 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
521 the second degree, punishable as provided in s. 775.082, s.
522 775.083, or s. 775.084.

523 3. Any other controlled substance, except as lawfully sold,
524 manufactured, or delivered, must be sentenced to pay a $500 fine
525 and to serve 100 hours of public service in addition to any
526 other penalty prescribed by law.
527 (e) Except as authorized by this chapter, it is unlawful
528 for any person to sell, manufacture, or deliver, or possess with
529 intent to sell, manufacture, or deliver, a controlled substance
530 not authorized by law in, on, or within 1,000 feet of a physical
531 place for worship at which a church or religious organization
532 regularly conducts religious services or within 1,000 feet of a
533 convenience business as defined in s. 812.171. Any person who
534 violates this paragraph with respect to:
535 1. A controlled substance named or described in s.
536 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
537 commits a felony of the first degree, punishable as provided in
538 s. 775.082, s. 775.083, or s. 775.084.
539 2. A controlled substance named or described in s.
540 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
541 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
542 the second degree, punishable as provided in s. 775.082, s.
543 775.083, or s. 775.084.
544 3. Any other controlled substance, except as lawfully sold,
545 manufactured, or delivered, must be sentenced to pay a $500 fine
546 and to serve 100 hours of public service in addition to any
547 other penalty prescribed by law.
548 (f) Except as authorized by this chapter, it is unlawful
549 for any person to sell, manufacture, or deliver, or possess with
550 intent to sell, manufacture, or deliver, a controlled substance
551 in, on, or within 1,000 feet of the real property comprising a

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552 public housing facility at any time. For purposes of this
553 section, the term "real property comprising a public housing
554 facility" means real property, as defined in s. 421.03(12), of a
555 public corporation created as a housing authority pursuant to
556 part I of chapter 421. Any person who violates this paragraph
557 with respect to:
558 1. A controlled substance named or described in s.
559 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
560 commits a felony of the first degree, punishable as provided in
561 s. 775.082, s. 775.083, or s. 775.084.
562 2. A controlled substance named or described in s.
563 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
564 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
565 the second degree, punishable as provided in s. 775.082, s.
566 775.083, or s. 775.084.
567 3. Any other controlled substance, except as lawfully sold,
568 manufactured, or delivered, must be sentenced to pay a $500 fine
569 and to serve 100 hours of public service in addition to any
570 other penalty prescribed by law.
571 (g) Except as authorized by this chapter, it is unlawful
572 for any person to manufacture methamphetamine or phencyclidine,
573 or possess any listed chemical as defined in s. 893.033 in
574 violation of s. 893.149 and with intent to manufacture
575 methamphetamine or phencyclidine. If any person violates this
576 paragraph and:
577 1. The commission or attempted commission of the crime
578 occurs in a structure or conveyance where any child under 16
579 years of age is present, the person commits a felony of the
580 first degree, punishable as provided in s. 775.082, s. 775.083,

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581 or s. 775.084. In addition, the defendant must be sentenced to a
582 minimum term of imprisonment of 5 calendar years.
583 2. The commission of the crime causes any child under 16
584 years of age to suffer great bodily harm, the person commits a
585 felony of the first degree, punishable as provided in s.
586 775.082, s. 775.083, or s. 775.084. In addition, the defendant
587 must be sentenced to a minimum term of imprisonment of 10
588 calendar years.
589 (h) Except as authorized by this chapter, it is unlawful
590 for any person to sell, manufacture, or deliver, or possess with
591 intent to sell, manufacture, or deliver, a controlled substance
592 in, on, or within 1,000 feet of the real property comprising an
593 assisted living facility, as that term is used in chapter 429.
594 Any person who violates this paragraph with respect to:
595 1. A controlled substance named or described in s.
596 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
597 commits a felony of the first degree, punishable as provided in
598 s. 775.082, s. 775.083, or s. 775.084.
599 2. A controlled substance named or described in s.
600 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
601 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
602 the second degree, punishable as provided in s. 775.082, s.
603 775.083, or s. 775.084.
604 (2)(a) Except as authorized by this chapter and chapter
605 499, it is unlawful for any person to purchase, or possess with
606 intent to purchase, a controlled substance. Any person who
607 violates this provision with respect to:
608 1. A controlled substance named or described in s.
609 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,

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610 commits a felony of the second degree, punishable as provided in
611 s. 775.082, s. 775.083, or s. 775.084.
612 2. A controlled substance named or described in s.
613 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
614 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
615 the third degree, punishable as provided in s. 775.082, s.
616 775.083, or s. 775.084.
617 3. A controlled substance named or described in s.
618 893.03(5) commits a misdemeanor of the first degree, punishable
619 as provided in s. 775.082 or s. 775.083.
620 (b) Except as provided in this chapter, it is unlawful to
621 purchase in excess of 10 grams of any substance named or
622 described in s. 893.03(1)(a) or (1)(b), or any combination
623 thereof, or any mixture containing any such substance. Any
624 person who violates this paragraph commits a felony of the first
625 degree, punishable as provided in s. 775.082, s. 775.083, or s.
626 775.084.
627 (3) Any person who delivers, without consideration, not
628 more than 20 grams of cannabis, as defined in this chapter,
629 commits a misdemeanor of the first degree, punishable as
630 provided in s. 775.082 or s. 775.083. For the purposes of this
631 paragraph, "cannabis" does not include the resin extracted from
632 the plants of the genus *Cannabis* or any compound manufacture,
633 salt, derivative, mixture, or preparation of such resin.
634 (4) Except as authorized by this chapter, it is unlawful
635 for any person 18 years of age or older to deliver any
636 controlled substance to a person under the age of 18 years, or
637 to use or hire a person under the age of 18 years as an agent or
638 employee in the sale or delivery of such a substance, or to use

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639 such person to assist in avoiding detection or apprehension for
640 a violation of this chapter. Any person who violates this
641 provision with respect to:
642 (a) A controlled substance named or described in s.
643 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
644 commits a felony of the first degree, punishable as provided in
645 s. 775.082, s. 775.083, or s. 775.084.
646 (b) A controlled substance named or described in s.
647 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
648 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
649 the second degree, punishable as provided in s. 775.082, s.
650 775.083, or s. 775.084.
651
652 Imposition of sentence may not be suspended or deferred, nor
653 shall the person so convicted be placed on probation.
654 (5) It is unlawful for any person to bring into this state
655 any controlled substance unless the possession of such
656 controlled substance is authorized by this chapter or unless
657 such person is licensed to do so by the appropriate federal
658 agency. Any person who violates this provision with respect to:
659 (a) A controlled substance named or described in s.
660 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
661 commits a felony of the second degree, punishable as provided in
662 s. 775.082, s. 775.083, or s. 775.084.
663 (b) A controlled substance named or described in s.
664 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
665 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
666 the third degree, punishable as provided in s. 775.082, s.
667 775.083, or s. 775.084.

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668 (c) A controlled substance named or described in s.
669 893.03(5) commits a misdemeanor of the first degree, punishable
670 as provided in s. 775.082 or s. 775.083.
671 (6)(a) It is unlawful for any person to be in actual or
672 constructive possession of a controlled substance unless such
673 controlled substance was lawfully obtained from a practitioner
674 or pursuant to a valid prescription or order of a practitioner
675 while acting in the course of his or her professional practice
676 or to be in actual or constructive possession of a controlled
677 substance except as otherwise authorized by this chapter. Any
678 person who violates this provision commits a felony of the third
679 degree, punishable as provided in s. 775.082, s. 775.083, or s.
680 775.084.
681 (b) If the offense is the possession of not more than 20
682 grams of cannabis, as defined in this chapter, or 3 grams or
683 less of a controlled substance described in s. 893.03(1)(c)46.-
684 50. and 114.-142., the person commits a misdemeanor of the first
685 degree, punishable as provided in s. 775.082 or s. 775.083. For
686 the purposes of this subsection, “cannabis” does not include the
687 resin extracted from the plants of the genus *Cannabis*, or any
688 compound manufacture, salt, derivative, mixture, or preparation
689 of such resin, and a controlled substance described in s.
690 893.03(1)(c)46.-50. and 114.-142. does not include the substance
691 in a powdered form.
692 (c) Except as provided in this chapter, it is unlawful to
693 possess in excess of 10 grams of any substance named or
694 described in s. 893.03(1)(a) or (1)(b), or any combination
695 thereof, or any mixture containing any such substance. Any
696 person who violates this paragraph commits a felony of the first

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697 degree, punishable as provided in s. 775.082, s. 775.083, or s.
698 775.084.
699 (d) Notwithstanding any provision to the contrary of the
700 laws of this state relating to arrest, a law enforcement officer
701 may arrest without warrant any person who the officer has
702 probable cause to believe is violating the provisions of this
703 chapter relating to possession of cannabis.
704 Section 5. For the purpose of incorporating the amendment
705 made by this act to section 893.03, Florida Statutes, in a
706 reference thereto, paragraphs (b), (c), (d), and (e) of
707 subsection (3) of section 921.0022, Florida Statutes, are
708 reenacted to read:
709 921.0022 Criminal Punishment Code; offense severity ranking
710 chart.—
711 (3) OFFENSE SEVERITY RANKING CHART
712 (b) LEVEL 2
713

Florida Statute	Felony Degree	Description
714		
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
715		
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
716		
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
717		
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
718		
590.28(1)	3rd	Intentional burning of lands.
719		
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
720		
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
721		
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
722		
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
723		
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
724		
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.

725
812.014(2)(d) 3rd Grand theft, 3rd degree; $100 or more but less than $300, taken from unenclosed curtilage of dwelling.
726
812.015(7) 3rd Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
727
817.234(1)(a)2. 3rd False statement in support of insurance claim.
728
817.481(3)(a) 3rd Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
729
817.52(3) 3rd Failure to redeliver hired vehicle.
730
817.54 3rd With intent to defraud, obtain mortgage note, etc., by false representation.
731
817.60(5) 3rd Dealing in credit cards of another.
732
817.60(6)(a) 3rd Forgery; purchase goods, services with false card.
733
817.61 3rd Fraudulent use of credit cards over $100 or more within 6 months.
734

826.04 3rd Knowingly marries or has sexual intercourse with person to whom related.
735
831.01 3rd Forgery.
736
831.02 3rd Uttering forged instrument; utters or publishes alteration with intent to defraud.
737
831.07 3rd Forging bank bills, checks, drafts, or promissory notes.
738
831.08 3rd Possessing 10 or more forged notes, bills, checks, or drafts.
739
831.09 3rd Uttering forged notes, bills, checks, drafts, or promissory notes.
740
831.11 3rd Bringing into the state forged bank bills, checks, drafts, or notes.
741
832.05(3)(a) 3rd Cashing or depositing item with intent to defraud.
742
843.08 3rd Falsely impersonating an officer.
743
893.13(2)(a)2. 3rd Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,

(3), or (4) drugs other than cannabis.

744

893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

745

746 (c) LEVEL 3

747

Florida Statute	Felony Degree	Description

748

119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.

749

316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.

750

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.

751

316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

752

319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.

753

319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

754

319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

755

319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

756

327.35(2)(b)	3rd	Felony BUI.

757

328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

758

328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

759

376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

760

379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

761

379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle

		Protection Act.
400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.

796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.

817.234 (8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods as new.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.

838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.

893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an

		animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
499.0051(2)	3rd	Failure to authenticate pedigree papers.
499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.

784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.

810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in

		official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a),

		(2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.3671(2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than

		$100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

884

812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.

885

812.015(8)	3rd	Retail theft; property stolen is valued at $300 or more and one or more specified acts.

886

812.019(1)	2nd	Stolen property; dealing in or trafficking in.

887

812.131(2)(b)	3rd	Robbery by sudden snatching.

888

812.16(2)	3rd	Owning, operating, or conducting a chop shop.

889

817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.

890

817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.

891

817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

892

817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more individuals.

893

817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.

894

825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

895

827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

896

827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

897

839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

898

843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly

		owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.1351(1)	3rd	Ownership, lease, or rental for

trafficking in or manufacturing of controlled substance.

910

911 Section 6. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic: Controlled Substances

Bill Number: SB 0294 *(if applicable)*

Name: Ken Vickery - Volusia County S.O.

Amendment Barcode: _____ *(if applicable)*

Job Title: Patrol Supervisor / Sergeant

Address: 123 W. Indiana Ave.
Street

DeLand, FL 32725
City, State, Zip

Phone: 386-248-1777

E-mail: _____

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

Representing: Florida Sheriffs Association

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic: Controlled Substances

Bill Number: 294 Sen Bradley (if applicable)

Name: Beth Labasky

Amendment Barcode: (if applicable)

Job Title: Consultant

Address: 13211 Bonney Rd. (Street)

Jacksonville Fla 32226 (City, State, Zip)

Phone: 8503227335

E-mail: bethlabasky@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Informed Families of Florida / Mrs Pat Barton

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Controlled Substance

Bill Number: SB 294 *(if applicable)*

Name: David Cruz

Amendment Barcode: *(if applicable)*

Job Title: Legislative Advocate

Address: P. O. Box 1757
Street

Tally FL 32302
City *State* *Zip*

Phone: 701-3676

E-mail:

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

Representing: FL League of Cities

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Controlled Substances

Bill Number: SB 294 *(if applicable)*

Name: MARK FONTAINE

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 2868 Mahan Drive
Street

TLH, FL 32308
City, State, Zip

Phone: 878-2196

E-mail:

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

Representing: FLORIDA Alcohol + Drug Abuse Assoc.

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

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 14, 2013

I respectfully request that **Senate Bill # 294**, relating to Controlled Substances, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 318

INTRODUCER: Senator Grimsley

SUBJECT: Background Screening for Noninstructional Contractors on School Grounds

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	**Favorable**
2.	Armstrong	Elwell	AED	**Favorable**
3.	Elwell	Hansen	AP	**Favorable**
4.				
5.				
6.				

I. Summary:

SB 318 requires the Department of Education (DOE) to create a uniform, statewide photo identification badge to signify that a noninstructional contractor meets background screening and other requirements. The badge must be worn and visible at all times when a noninstructional contractor is on school grounds. All school districts are required to recognize the badge.

The bill will have a minimal fiscal impact on the DOE and school districts; no appropriation is required.

The effective date of this bill is July 1, 2013.

The bill substantially amends section 1012.467, Florida Statutes.

II. Present Situation:

Initial Background Screening

A noninstructional contractor is defined as any vendor, person, or entity under school or school board contract who is compensated for services performed for the school or school district, but who is not otherwise considered an employee of the school district.[1] Noninstructional contractors

[1] Section 1012.467(1)(a), F.S. This bill does not address other classifications of personnel who must undergo background screening, such as instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel. See also, ss. 1012.32, 1012.465, 1012.467, F.S.

also include employees of contractors, subcontractors, and employees of subcontractors.[2] A criminal history background check is required of each noninstructional contractor:

- Who is granted access to school grounds when students are present;
- Whose performance of the contract is not anticipated to result in direct contact with students; and
- For whom any unanticipated contact is infrequent or incidental.[3]

Unless otherwise exempt, noninstructional contractors are required to undergo background screening before being permitted to access school grounds.[4,5] School districts must compare the results of the background screening against a statutorily prescribed list of the following nine disqualifying offenses:

- Offenses regarding registration as a sexual offender;
- Sexual misconduct with certain developmentally disabled clients;
- Sexual misconduct with certain mental health patients;
- Terrorism;
- Murder;
- Kidnapping;
- Offenses related to lewdness and indecent exposure;
- Incest; and
- Child abuse, aggravated child abuse, or neglect of a child.[6]

A school district that has reasonable cause to believe that grounds exist for denial of access to school grounds is required to notify the contractor in writing and identify the specific conviction that the school district believes is a disqualifying offense.[7] The contractor may only contest on the grounds of mistaken identity or that the specified conviction is not a disqualifying offense.[8]

Subsequent Disqualifying Arrests and Inter-District Background Screening

Noninstructional contractors are under a standing duty to self-report to an employer any arrests involving disqualifying offenses within 48 hours or be subject to third-degree felony charges.[9,10]

---

[2] *Id.*
[3] Section 1012.467(2)(a), F.S.
[4] Section 1012.468, F.S. These exemptions are for noninstructional contractors who are: under direct supervision of a school district employee; required by law to undergo a level 2 background screening; a law enforcement officer; an employee or medical director of an ambulance provider; separated from students by a 6 foot high chain-link fence; providing pick-up or delivery services; and an investigator for the Florida High School Athletic Association.
[5] Section 1012.476(2), F.S. Additionally, noninstructional personnel must be rescreened every five years. *Id.*
[6] *See* ss. 1012.467(2)(a) and (g), F.S.
[7] Section 1012.467(5), F.S.
[8] *Id.*
[9] Section 1012.467(6), F.S.
[10] *Id*. A third degree felony is punishable by a term of imprisonment not exceeding 5 years or fine not exceeding $5000. *See* ss. 775.082, and 775.083, F.S.

Additionally, the Florida Department of Law Enforcement (FDLE) must search all new arrests against the statewide automated fingerprint identification system.[11] The FDLE must notify a school district if its noninstructional contractor has been arrested.[12]

A noninstructional contractor who works in multiple districts must notify a school district if he or she has completed a background check in another school district within the last five years.[13] School districts use a shared system to verify the background check, commonly known as the Florida Shared School Results system (FSSR).[14] A school district may not charge the noninstructional contractor a fee for verifying the results of the background check.[15] In the previous five years, 34,557 of the 243,223 records in the FSSR were viewed by more than one school district.[16]

District Identification Badge

Generally, a school district issues its own identification badge.[17] School districts do not accept badges issued by other school districts.[18] The badge's appearance, expiration date, and information presented varies among school districts.[19] Each school district charges a fee for issuing the badge which varies among school districts. [20] Thus, a noninstructional contractor who works for several school districts may be required to obtain and pay for multiple identification badges.[21]

III. Effect of Proposed Changes:

This bill requires the DOE to create a uniform, statewide photo identification badge signifying that a contractor meets certain requirements.

The DOE determines a uniform cost that a school district may charge for a badge. Under this bill, a school district that does not originate the background screening and issue the badge would no longer be able to issue its own badge and charge a corresponding fee.

The bill requires a school district to issue the badge if a noninstructional contractor:

- Is a resident and citizen, or a permanent resident alien of the U.S.;
- Is at least 18 years old; and

[11] *See* ss. 1012.467(2)(a) and (e), F.S.; Rule 11C-6.010(7), F.A.C. Noninstructional contractor fingerprints are maintained in this system for 5 years, when a new background check may be performed that resets the 5 year period. Id.
[12] *See* ss. 1012.467(2)(c) and (d), F.S.; Rule 11C-6.010(4), F.A.C.
[13] Section 1012.467(2)(f), F.S.
[14] *See* ss. 1012.467(2)(d) and (f), and (7)(a), F.S.
[15] Section 1012.467(2)(f), F.S.
[16] E-mail correspondence with FDLE on March 8, 2012. On file with the Senate Committee on Education.
[17] Department of Education *Agency Legislative Analysis for Senate Bill 318* (January 31, 2013). On file with the Senate Committee on Education.; E-mail from the Department of Education (March 1, 2013). On file with the Senate Committee on Education.
[18] *Id*.
[19] *Id*.
[20] *Id*.
[21] *Id*.

- Meets the background screening standards in s. 1012.467, F.S.

The bill requires a badge to be worn and visible at all times when a noninstructional contractor is on school grounds. All school districts are required to recognize the badge. Thus, noninstructional contractors who work for multiple districts would no longer have to obtain and pay for multiple identification badges.

A badge would be valid for five years. However, a noninstructional contractor is required to return the badge to the school district within 48 hours of self-reporting an arrest for any disqualifying offense. The 48 hours is cumulative to the initial 48 hour period for self-reporting required in s. 1012.467(6), F.S., which would allow up to 96 hours from the arrest to return the badge.

According to the DOE, many school districts have adopted their own screening standards that identify disqualifying offenses in addition to the statutorily prescribed disqualifying offenses in s. 1012.467(2)(g), F.S.[22] Because all school districts would be required to accept a uniform, statewide photo identification badge issued by another school district, the bill appears to prevent a school district from disqualifying a noninstructional contractor for offenses that are not currently listed as disqualifying offenses in s. 1012.467(2)(g), F.S.

The bill does not apply to noninstructional contractors who are exempt from background screening requirements in s. 1012.468, 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.

[22] Department of Education, *Agency Legislative Analysis for Senate Bill 318* (January 31, 2013). On file with the Senate Committee on Education. School districts view the disqualifying offenses identified in s. 1012.467(2)(g), F.S. as being the "floor," not the "ceiling" for a noninstructional contractor. *Id.*

B. Private Sector Impact:

Currently, school districts that issue their own badges determine their own badge fee. The bill requires the DOE to set a single fee, which can be charged only by the school district that issues the badge. Noninstructional contractors who work in multiple school districts would be required to obtain and pay for only one identification badge, rather than obtaining a badge and paying a fee in each individual district.

C. Government Sector Impact:

A badge fee will be assessed once for a noninstructional contractor, by the school district that originates the background screening and issues the badge.

The school district's cost for production of badges for noninstructional contractors will be minimal and may be offset with the badge fee.

The cost for DOE to establish a standard badge design would be minimal.

This bill does not require an appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Grimsley

21-00241-13 2013318__

A bill to be entitled

An act relating to background screening for noninstructional contractors on school grounds; amending s. 1012.467, F.S.; requiring the Department of Education to create a uniform, statewide identification badge to be worn by noninstructional contractors signifying that a contractor has met specified requirements; requiring school districts to issue the identification badge to a qualified contractor; providing that the identification badge shall be recognized by all school districts; providing that the identification badge is valid for 5 years; establishing conditions for return of an identification badge; requiring the department to determine a uniform cost a school district may charge a contractor for receipt of the identification badge, which shall be borne by the contractor; providing an exception for certain contractors; providing an effective date.

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

Section 1. Subsection (8) is added to section 1012.467, Florida Statutes, to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

(8)(a) The Department of Education shall create a uniform, statewide identification badge to be worn by noninstructional

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

21-00241-13 2013318__

contractors signifying that a contractor has met the requirements of this section. The school district shall issue an identification badge to the contractor, which must bear a photograph of the contractor. An identification badge shall be issued if the contractor:

1. Is a resident and citizen of the United States or a permanent resident alien of the United States as determined by the United States Bureau of Citizenship and Immigration Services;

2. Is 18 years of age or older; and

3. Meets the background screening requirements under this section.

(b) The uniform, statewide identification badge shall be recognized by all school districts and must be visible at all times a noninstructional contractor is on school grounds.

(c) The identification badge shall be valid for a period of 5 years. If a noninstructional contractor provides notification pursuant to subsection (6), the contractor shall, within 48 hours, return the identification badge to the school district that issued the badge.

(d) The Department of Education shall determine a uniform cost that a school district may charge a noninstructional contractor for receipt of the identification badge, which shall be borne by the recipient of the badge.

(e) This subsection does not apply to noninstructional contractors who are exempt from background screening requirements pursuant to s. 1012.468.

Section 2. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Background Screening

Bill Number: SB 318 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: Senior Vice President

Address: 516 N. Adams St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-7173

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)

3/21/13
Meeting Date

Topic: Background Screening

Bill Number: 318 *(if applicable)*

Name: Richard Watson

Amendment Barcode: *(if applicable)*

Job Title: Legislative Counsel

Address: P.O. Box 10038
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 850 222 0060

E-mail: rick@rwatsonandassociates.com

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

Representing: Associated Builders and Contractors

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: BACK GROUND SCREENING

Bill Number: 318 (if applicable)

Name: GAIL MARIE FERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR, COUNCIL of FLORIDA

Address: PO BOX 1766
Street

POMPANO BEACH FL 33061
City State Zip

Phone: 954 850 4055

E-mail: workingfolk@yahoo.com

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

Representing: COMMUNICATIONS WORKERS of AMERICA

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic _____

Bill Number 318 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic _____

Bill Number 0318 *(if applicable)*

Name Amy Datz

Amendment Barcode _____ *(if applicable)*

Job Title Self

Address 1130 Crestview Ave
Street

Tallahassee, FL. 32303
City *State* *Zip*

Phone 850 322-7599

E-mail amadicdatz@mac.com

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

Representing Self.

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

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

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

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S-001 (10/20/11)

The Florida Senate

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 Appropriations

BILL: SB 326

INTRODUCER: Senator Hays

SUBJECT: Powers and Duties of the Department of Environmental Protection

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Favorable**
2.	Wiehle	Caldwell	CU	**Favorable**
3.	Howard	DeLoach	AGG	**Favorable**
4.	Howard	Hansen	AP	**Favorable**
5.				
6.				

I. Summary:

SB 326 removes an obsolete reference relating to right-of-way access in Marion County across portions of the Cross Florida Greenway (CFG) and repeals the sale and exchange procedures specific to surplus CFG lands. The repeal makes the procedures for the sale and exchange of surplus former CFG lands consistent with the current Board of Trustees of the Internal Improvement Trust Funds' procedures for the disposal of surplus state conservation lands.

By eliminating the separate procedure for the surplus and exchange of CFG lands, efficiency savings may be realized. In addition, the sale and exchange of surplus CFG lands could increase state revenues. The savings and increased revenues are indeterminate at this time.

The bill amends section 253.7827, Florida Statutes.

The bill repeals section 253.783(2), Florida Statutes.

II. Present Situation:

Cross Florida Greenway

The Cross Florida Barge Canal Project was begun in 1933 with the goal of creating a deep-water shipping canal across the state. Construction began in 1935 with federal funding as part of the New Deal, but work was suspended in 1936 when both President Franklin D. Roosevelt's

support and funding decreased.[1] With German U-boats off the Florida coast in 1942, Congress passed a bill authorizing construction of another canal following the same route, this one a barge canal. No funding was provided and no work was done.[2]

In 1964, federal money was provided and construction was begun anew.[3] Environmentalists opposed the canal, led by Marjorie Carr, and, in 1971, President Richard Nixon signed an executive order suspending work on the canal.[4] During this time, thousands of acres of land were acquired.

In 1990, Congress officially de-authorized the project in the Water Resources Development Act of 1990 (Act). All federal canal lands and structures were transferred to the state to be managed as a conservation and recreation area, provided that the state:

- Holds the federal government harmless for claims arising from operation of federal lands and facilities;
- Maintains the corridor as a public greenway for compatible recreation purposes, including specified areas;
- Agrees to preserve, enhance, interpret, and manage the natural and cultural resources contained in specified areas;
- Pays Citrus, Clay, Duval, Levy, Marion, and Putnam Counties a minimum aggregate sum of $32 million, or at the option of the counties, payment by conveyance of surplus barge canal lands selected by the state at current appraised values; and
- Uses any remaining funds generated from the sale of surplus CFG lands to acquire fee title or easements to other lands along the project route. Funds generated from the sale of surplus CFG lands *must* be used for the improvement and management of the greenway corridor. The Act does not dictate the procedures the state must use to surplus CFG lands, only how the funds from the sale of surplus land are to be used.[5]

If the state fails to comply with the above requirements, the Act provides legal remedies. These include: injunctive relief, specific performance, declaratory judgment, or monetary damages. Courts are also authorized to award costs of litigation to prevailing parties.

The former canal land, officially known as the Marjorie Harris Carr Cross Florida Greenway (CFG), is managed by the Office of Greenways and Trails. The CFG is a multi-use area and provides natural resource-based recreation including fishing, camping, hunting, boating, bicycling, and horseback riding.[6]

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[1] Florida Trend, *Lessons from the Cross Florida Barge Canal Project*, (Feb. 1, 2010), http://www.floridatrend.com/article/4509/lessons-from-the-cross-florida-barge-canal-project (last visited Feb. 28, 2013).
[2] *Id*.
[3] *Id*.
[4] *Id*.
[5] *See* Sec. 1114(d) of the Water Resource Development Act of 1986 as amended by Sec. 402 of the Water Resource Development Act of 1990, *available at* http://www.fws.gov/habitatconservation/Omnibus/WRDA1990.pdf (last visited Feb. 5, 2013).
[6] DEP, *Marjorie Harris Carr Cross Florida Greenway Management Plan*, (June 15, 2007), http://www.dep.state.fl.us/gwt/cfg/Plan_PDF/CFG_LMP_Final.pdf (last visited Feb. 4, 2013).

Right of Way Access in Marion County

The CFG extends through portions of Marion County. Section 253.7827, F.S., requires that the county receive right-of-way access across portions of the CFG at the land's fair market value, or that the value of the right-of-way be subtracted from the amount of reimbursement due to the county, pursuant to s. 253.783, F.S. The requirement that the market value be subtracted from the reimbursement due Marion County is obsolete; the county has already received the required reimbursement.[7]

Cross Florida Greenway Surplus Procedures

The CFG lands are subject to specific procedures for the sale of surplus land which were created to generate funds to reimburse counties for the ad valorem taxes that they paid to the Cross Florida Canal Navigation District.[8] Section 253.783(2), F.S., provides the following CFG-specific procedures for the sale of surplus land:

- The county where the surplus land is located has the first right of refusal to acquire the land at current appraised value by buying it or subtracting the value from its reimbursement;
- The original owner of the land or the original owner's heirs have second right of refusal to acquire the land at current appraised value;
- Any person having a leasehold interest in the land has the third right of refusal to acquire the land at current appraised value;
- Surplus land that is not acquired as stated above is offered in a public sale to the highest bidder. The minimum acceptable bid is the current appraised value;
- Proceeds from the sale of CFG land are refunded to the counties for ad valorem taxes paid by the counties to the Cross Florida Canal Navigation District;
- Interest refunded to the counties is compounded annually at rates specified in s. 253.0783(2)(f), F.S.; and
- Any excess funds from the sale of surplus lands *may* be used for the maintenance of the greenway corridor. However, this requirement conflicts with the Act because the Act requires any excess funds be used to maintain the greenway.

All counties within the CFG corridor have been fully reimbursed; therefore, the reimbursement procedures contained in this section are obsolete.[9]

Conservation Land Surplus Procedures

Generally (and except for surplus CFG land), the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) has the authority to sell or exchange surplus conservation land if it is determined that the land is no longer needed for conservation purposes. Section 253.034(6), F.S., outlines the procedures for selling surplus conservation lands which include:

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[7] Email from Pierce Schuessler, Legislative Affairs Director, DEP, (Feb. 4, 2013)(on file with the Senate Committee on Environmental Preservation and Conservation).
[8] *Id*.
[9] *Id*.

- The Acquisition and Restoration Council must first confirm that the request to declare conservation land as surplus is consistent with the resource values and management objectives of the land;
- The Board of Trustees must approve declaring land to be surplus by a vote of at least three members;
- State agencies, colleges, and universities are given priority to lease the surplus land;
- State, county, or local governments are offered second right of refusal to purchase the surplus land;
- If governmental agencies, colleges, and universities elect not to lease or purchase the surplus land, then the land is available for sale on the private market;
- The sale price is negotiated or competitively bid (determined by market value) pursuant to s. 253.034(6)(g), F.S., and Rule 18-2.020, F.A.C.; and
- Proceeds from the sale of surplus land are deposited into the fund from which the lands were acquired. If the trust fund from which the lands were acquired no longer exists, the funds are deposited into an appropriate account to be used for land management.

III. Effect of Proposed Changes:

Section 1 amends s. 253.7827(3), F.S., to delete the option for Marion County to subtract the fair market value of lands or right-of-ways needed to expand 60th Avenue from the reimbursement funds due to the county. This provision is obsolete; all reimbursement funds due Marion County have been paid.

Section 2 repeals s. 253.783(2), F.S., to make the procedures used for disposing of surplus CFG lands consistent with current Board of Trustees procedures for disposing of other surplus conservation lands. This will provide for better management of CFG lands and will close ownership gaps within the CFG boundary.

Section 3 provides an effective date of July 1, 2013.

Other Potential Implications:

The current procedures for disposal of surplus CFG lands outlined in s. 253.783(2), F.S., may violate the Act . The Act specifies any funds remaining from the sale of surplus CFG lands, after acquisition of fee title or easements, must be used for maintenance of the greenway. Section 253.783(2)(e), F.S., is permissive as to the uses allowed for those funds. Repeal of s. 753.783(2), F.S., remedies that possible problem.

However, the bill does not require that the funds generated from the sale of surplus former federal CFG lands specifically be used to maintain the greenway, as required by the Act. Section 253.034(6), F.S., does not specify the use of funds generated from the sale of surplus conservation lands; instead that section specifies the fund into which those funds must be deposited. As indicated in the Act, the state may be subject to legal remedies if it fails to comply with the Act.

The repeal of s. 253.0783(2), F.S., implies that the sale and exchange of surplus CFG lands may continue under the existing process for conservation lands titled in the Board of Trustees as outlined in s. 253.034(6), F.S.; however, the bill does not explicitly state this.

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:

By eliminating a separate procedure for the sale and exchange and surplus CFG lands, the DEP may realize cost savings in the future. The sale and exchange of surplus CFG lands could increase state revenues. The amounts of these savings and increased revenues are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Hays

11-00106A-13 2013326__

A bill to be entitled

An act relating to the powers and duties of the Department of Environmental Protection; amending s. 253.7827, F.S.; removing an obsolete reference for purposes of calculating the reimbursement for transportation and utility crossings of greenways lands in Marion County; repealing s. 253.783(2), F.S., relating to additional powers and duties of the department to dispose of surplus lands that were for the construction, operation, or promotion of a canal across the peninsula of the state and refund payments to counties; providing an effective date.

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

Section 1. Subsection (3) of section 253.7827, Florida Statutes, is amended to read:

253.7827 Transportation and utility crossings of greenways lands.—

(3) Furthermore, the Legislature recognizes the needs expressed by Marion County to provide for the southerly extension of Sixtieth Avenue between State Road 200 and Interstate 75 and for the extension to cross the greenways lands to allow for the orderly growth and development of Marion County. Right-of-way for this extension across greenways lands shall be designed to mitigate the impacts to the extent practical, and the value of such lands shall be paid based on fair market value ~~or, at the option of Marion County, the value can be subtracted from the amount of reimbursement due the~~

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11-00106A-13 2013326__

~~county pursuant to s. 253.783~~.

Section 2. Subsection (2) of section 253.783, Florida Statutes, is repealed.

Section 3. This act shall take effect July 1, 2013.

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

The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Appropriations

CC: Mike Hansen, Staff Director
Alicia Weiss, Administrative Assistant

Subject: Committee Agenda Request

Date: March 13, 2013

I respectfully request that **Senate Bill #326**, relating to Powers and Duties of the Department of Environmental Protection, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

File signed original with committee office

871142

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Margolis) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 22 - 23
4 and insert:
5 consecutive years. ~~The provisions of~~

587286

576-02359-13

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to the rental of homestead property; amending s. 196.061, F.S.; revising criteria under which rental of such property is allowed for tax exemption purposes and not considered abandoned; providing an effective date.

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

Section 1. Section 196.061, Florida Statutes, is amended to read:

196.061 Rental of homestead to constitute abandonment.—

(1) The rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of such dwelling as a homestead, and the abandonment continues ~~shall continue~~ until the ~~such~~ dwelling is physically occupied by the owner. However, such abandonment of the ~~such~~ homestead after January 1 of any year does not affect the homestead exemption for tax purposes for that particular year unless the property is rented for more than 30 days per calendar year ~~if this provision is not used~~ for 2 consecutive years. Any such rental is subject to the state sales tax. ~~The provisions of~~

(2) This section does ~~do~~ not apply to a member of the Armed Forces of the United States whose service ~~in such forces~~ is the result of a mandatory obligation imposed by the federal Selective Service Act or who volunteers for service as a member

587286

576-02359-13

of the Armed Forces of the United States. Moreover, valid military orders transferring such member are sufficient to maintain permanent residence~~,~~ for the purpose of s. 196.015~~,~~ for the member and his or her spouse.

Section 2. This act shall take effect July 1, 2013.

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 Appropriations

BILL: SB 342

INTRODUCER: Senator Thrasher

SUBJECT: Rental of Homestead Property

DATE: March 21, 2013 REVISED:

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

I. Summary:

SB 342 allows the rental of homestead property for up to 30 days per calendar year without the property being considered abandoned as a homestead or otherwise negatively affecting the homestead status of the property. However, if homestead property is rented for more than 30 days for two consecutive years, the property is considered abandoned as a homestead.

The Revenue Estimating Conference estimates that this bill will reduce local government property tax revenues by at least $0.11 million annually.

This bill substantially amends section 196.061, Florida Statutes.

II. Present Situation:

Exemptions and Property Classifications

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.[1] However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.[2] Available exemptions include homestead exemptions and exemptions for property used for education, religious, or charitable purposes.[3]

[1] Fla. Const. Art. VII, s. 4.
[2] See s. 196.031, F.S.
[3] Fla. Const. Art. VII, ss. 3 and 6.

Homestead Exemption

Every person who maintains his or her permanent residence[4] on property to which he or she holds legal and equitable title is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies, including school districts.[5] An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding ad valorem taxes levied by schools.[6]

Homestead Assessment Limitation: Save Our Homes

In 1992, Florida voters approved an amendment to s. 4, Art.VII of the State Constitution which is popularly known as the Save Our Homes amendment. This amendment limited the increase in assessment of homestead property to the change in the Consumer Price Index or 3 percent, whichever is lower.

Changes Affecting Save Our Homes

After any change in ownership, as provided by general law, homestead property must be assessed at just value as of January 1 of the following year. Changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after the initial assessment, these items are subject to the Save Our Homes assessment limitation. If the homestead use of the property is terminated, the property is assessed at just value.

Loss of Homestead through Rental

Section 196.061, F.S., provides guidance on homestead status, rentals of the homestead and its abandonment as follows:

- Rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes constitutes abandonment of the dwelling as a homestead.[7]
- Abandonment continues until the dwelling is physically occupied by the owner.
- The abandonment of the homestead after January 1 of any year shall not affect the homestead exemption for tax purposes for that particular year so long as the property is not rented in two consecutive years.
- The provisions of s. 196.061, F.S., do not apply to a member of the Armed Forces of the United States whose service in such forces is the result of a mandatory obligation imposed by the federal Selective Service Act, or who volunteers for service as a member of the Armed Forces of the United States.

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[4] Pursuant to s. 196.012(18), F.S., "permanent residence" means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. Intention to establish a permanent residence in Florida is a factual determination to be made, in the first instance, by the property appraiser.
[5] Fla. Const. Art. VII, s. 6.
[6] *Ibid.*
[7] Ch. 2012-193, s. 18, Laws of Fla., introduced the "all or substantially all of a" dwelling language. Owners sometimes rented the majority of a dwelling but retained possession of a closet or similar limited space in an effort to retain a homestead exemption.

Florida courts have traditionally emphasized that a determination of homestead abandonment is made on a case-by-case basis.[8] In particular, courts conduct a factual inquiry as to whether the owner's rental activity constituted abandonment of the homestead.[9]

A 2010 Florida Bar Journal article summarized many of the issues related to homesteads and rentals.[10] The authors trace the historical understanding that property owners who rent their entire dwelling for long periods of time forfeit the homestead tax exemption.

> The underlying rationale for the termination of homestead due to long-term rentals is that the owner's long-term rental activity, coupled with his or her implied absence from the property, signifies the owner's intent to reside elsewhere. Therefore, the owner's departure and residence elsewhere, coupled with the conversion of his or her home into a commercially oriented use (a rental), reveals an "intent" to abandon the homestead.[11]

The Bar Journal article continues on to contemplate an alternative rental circumstance:

> By contrast, there are occasions when property owners do not intend to abandon their residence through rental. For example, numerous Floridians rent out their homes for short periods of time and may even remain on the premises during the course of these rentals.[12]

Examples of these types of short term rentals include those associated with annual sporting events, arts festivals, college graduations, or business-related symposiums and conventions.

Tax Liens Imposed for Persons Improperly Claiming a Homestead Exemption

If a property appraiser determines that a person who was not entitled to a homestead exemption was granted the exemption for any year within the prior 10 years, the property appraiser is required to serve a notice of tax lien against property owned by the person.[13] The tax lien subjects the property to back taxes, a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year. However, if the exemption was granted as the result of a clerical error, the person receiving the exemption is not assessed penalties or interest. Before a lien is filed, the owner is given 30 days to pay the taxes, penalties, and interest.[14]

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[8] Mark A. Rothberg and Kara L. Cannizzaro, *The Loss of Homestead Through Rental,* The Florida Bar (January, 2010, Volume 84, No.1) *available at* *http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/bd15816cc01b9b018525769b00679e0a!OpenDocument*.

[9] *See generally Poppell v. Padrick*, 117 So. 2d 435 (Fla. 2d DCA 1959); *Jacksonville v. Bailey*, 30 So. 2d 529 (Fla. 1947).

[10] Mark A. Rothberg and Kara L. Cannizzaro, *The Loss of Homestead Through Rental,* The Florida Bar Journal (January, 2010, Volume 84, No.1) *available at* *http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/bd15816cc01b9b018525769b00679e0a!OpenDocument*.

[11] *Ibid.* Section 196.012(13), F.S., defines "real estate used and owned as a homestead" to mean real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion used for commercial purposes. Property rented for more than 6 months is presumed to be used for commercial purposes.

[12] *Ibid.*

[13] Section 196.161(1)(b), F.S.

[14] See s. 196.161(1)(b), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 196.061, F.S., to allow the rental of homestead property for up to 30 days per calendar year without the property being considered abandoned or affecting the homestead status of the property. If the property is rented for more than 30 days for two consecutive years, the property is considered abandoned as a homestead.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The Legislature may not enact, amend, or repeal a general law if the anticipated effect of doing so would be to reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989, except by a two-thirds vote of the membership of each chamber.[15] However, laws that have an "insignificant fiscal impact," which for fiscal year 2012-13 is $1.9 million, do not need a two-thirds vote.[16]

The Revenue Estimating Conference estimates that this bill will reduce local government property tax revenues by at least $0.11 million annually. Since the bill is expected to reduce local revenues by less than $1.9 million, a two-thirds vote is not required.

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:

Property owners who have a homestead exemption will be able to rent their dwellings for up to 30 days a year and retain the homestead status of their property and any applicable Save our Homes assessment limitation. As a result, an indeterminate number of additional short-term rental opportunities may become available to homestead owners who decide to rent their properties up to 30 days.

[15] Fla. Const. Art. VII, s. 18(b)
[16] Fla. Const. Art. VII, s. 18(d)

C. Government Sector Impact:

The Revenue Estimating Conference estimates that this bill will reduce local government property tax revenues by at least $0.11 million annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Thrasher

6-00301C-13 2013342__

A bill to be entitled

An act relating to the rental of homestead property; amending s. 196.061, F.S.; revising criteria under which rental of such property is allowed for tax exemption purposes and not considered abandoned; providing an effective date.

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

Section 1. Section 196.061, Florida Statutes, is amended to read:

196.061 Rental of homestead to constitute abandonment.—

(1) The rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of such dwelling as a homestead, and the abandonment continues ~~shall continue~~ until the ~~such~~ dwelling is physically occupied by the owner. However, such abandonment of the ~~such~~ homestead after January 1 of any year does not affect the homestead exemption for tax purposes for that particular year unless the property is rented for more than 30 days per calendar year ~~if this provision is not used~~ for 2 consecutive years. ~~The provisions of~~

(2) This section does ~~do~~ not apply to a member of the Armed Forces of the United States whose service ~~in such forces~~ is the result of a mandatory obligation imposed by the federal Selective Service Act or who volunteers for service as a member of the Armed Forces of the United States. Moreover, valid military orders transferring such member are sufficient to maintain permanent residence~~,~~ for the purpose of s. 196.015~~,~~ for

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6-00301C-13 2013342__

the member and his or her spouse.

Section 2. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic _____

Bill Number 342 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

122984

576-02360-13

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to ad valorem tax exemptions; amending s. 196.199, F.S.; providing that certain leasehold interests and improvements to land owned by the United States, a branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States are exempt from ad valorem taxation under specified circumstances; providing that such leasehold interests and improvements are entitled to an exemption from ad valorem taxation without an application being filed for the exemption or the property appraiser approving the exemption; providing for retroactive application; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a)1. All property of the United States is ~~shall be~~ exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

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2. Notwithstanding any other provision of law, for purposes of the exemption from ad valorem taxation provided in subparagraph 1., property of the United States includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States if the leasehold interest and improvements are acquired or constructed and used pursuant to the federal Military Housing Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As used in this subparagraph, the term “improvements” includes, but is not limited to, actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities. Any leasehold interest and improvements described in this subparagraph shall be construed as being owned by the United States, the applicable branch of the United States Armed Forces, or the applicable agency or quasi-governmental agency of the United States and are exempt from ad valorem taxation without the necessity of an application for exemption being filed or approved by the property appraiser. This subparagraph does not apply to a transient public lodging establishment as that term is defined in s. 509.013.

Section 2. This act shall take effect upon becoming a law and shall apply retroactively to January 1, 2007.

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 Appropriations

BILL: CS/SB 354

INTRODUCER: Committee on Appropriations and Senator Thrasher

SUBJECT: Ad Valorem Tax Exemptions

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.	Spaulding	Ryon	MS	**Favorable**
3.	Babin	Diez-Arguelles	AFT	**Fav/CS**
4.	Babin	Hansen	AP	**Fav/CS**
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 354 revises and clarifies Florida's ad valorem tax exemption for government-owned property to address federal lands leased pursuant to the U.S. Military Housing Privatization Initiative of 1996. The tax exemption for government-owned property is amended to clarify that it includes leases of – and improvements to – land owned by the United States, various branches of United States Armed Forces and agencies of the federal government. The term "improvements" includes, but is not limited to, actual housing units and related facilities.

The Revenue Estimating Conference estimates that this bill will have an insignificant fiscal impact on local government revenues.

The bill substantially amends section 196.199, Florida Statutes.

II. Present Situation:

Military Housing Privatization Initiative

The U.S. Military Housing Privatization Initiative (MHPI) was enacted as part of the National Defense Authorization Act for fiscal year 1996 in an effort to address the poor condition of Department of Defense (DOD) housing and the shortage of affordable private sector housing for military families.[1] At the beginning of the program, the DOD owned approximately 257,000 family housing units worldwide both on and off-base; more than 50 percent of the units were deemed to be in need of renovation or replacement.[2] Under the MHPI, the DOD works with the private sector to revitalize military family housing by employing a variety of financial tools including: direct loans, loan guarantees, equity investments, and conveyance or leasing of property or facilities.[3]

In standard MHPI projects, a branch of the United States Armed Forces enters into a long-term (fifty years) ground lease of the land under the housing areas with a private developer. Title to the housing units is conveyed to the developer by quitclaim deed. Within a time schedule set by contract, the developer rehabilitates or constructs a target level of housing units and is responsible for the leasing, management and maintenance of the units. At the end of the long-term ground lease, the federal government negotiates an extension of the lease or elects to acquire the improvements from the developer or its successor at no charge.

There are currently MHPI developments at the following military installations in Florida:

- Tyndall Air Force Base,
- MacDill Air Force Base,
- Patrick Air Force Base,
- Navy Southeast: Duval,
- Navy Southeast: Monroe,
- Navy Southeast: Duval(2),
- Navy Southeast: Escambia, and
- Navy Southeast: Santa Rosa.

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.[4] However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.[5]

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[1] National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 2801, *et. seq*. (1996).
[2] The Office of the Deputy Undersecretary of Defense Installations and Environment, *Military Housing Privatization*, *available at* http://www.acq.osd.mil/housing/overview.htm (last visited March 07, 2013).
[3] *Id.*
[4] Fla. Const. Art. VII, s. 4.
[5] See s. 196.031, F.S.

Government Property Exemption in Florida

Florida law generally exempts government property from ad valorem taxation.[6] Subject to certain conditions, property of the United States, State of Florida and political subdivisions and municipalities of the state are exempt from ad valorem taxation.

Governmental property is sometimes leased to private parties. When government property is leased to a private party, the resulting "governmental leasehold" is subject to tax as "intangible personal property."[7]

Taxation of Federal Property

Generally, the federal government and property owned by the federal government are immune from state and local taxation.[8] The federal government's immunity from taxation extends to its agents and its instrumentalities.[9] Congress has the exclusive authority to determine whether and to what extent its instrumentalities are immune from state and local taxes.[10]

Congress has waived federal immunity for ad valorem taxation of some leasehold interests on federal lands.[11] However, the MHPI expressly provides that this waiver of immunity does not apply to MHPI leases or conveyances.[12]

Southeast Housing LLC v. Borglum in Monroe County

The eight MHPI projects in Florida have not been subject to ad valorem tax until recently. In 2012, the Monroe County property appraiser determined that the project at Naval Air Station Key West was not immune or exempt from ad valorem taxation retroactive to 2008. Litigation is pending over that issue.[13]

III. Effect of Proposed Changes:

Section 1 amends s. 196.199, F.S., to revise the definition of "property of the United States" for the purposes of an exemption from ad valorem taxation. The revised definition includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States. The exemption applies if the leasehold interest and improvements are acquired or constructed and used to provide housing pursuant to the MHPI. "Improvements," as used in the

[6] See s. 196.199, F.S.
[7] See s. 196.199(2)(b), F.S. Section 192.001 (11)(b), F.S., defines "intangible personal property" as money, all evidences of debt owed to the taxpayer, all evidences of ownership in a corporation or other business organization having multiple owners, and all other forms of property where value is based upon that which the property represents rather than its own intrinsic value.
[8] *McCullough v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819).
[9] *Kern-Limerick, Inc. v. Scurlock*, 347 U.S. 110 (1954).
[10] *Maricopa County v. Valley Bank*, 318 U.S. 357 (1943).
[11] See Title 10 U.S.C. § 2667
[12] Title 10 U.S.C. § 2878(e)(1). In addition, sections 2781-2885 of the MHPI generally repealed prior Congressional consent to ad valorem state taxation.
[13] *See Southeast Housing LLC, v. Borglum*, No. 2012-CA-000831-K (Fla. 16th Cir. Ct. 2012).

exemption, include, but is not limited to, "actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities." Under the bill, any such leasehold interest or improvement is to be construed as owned by the United States without the necessity of an exemption application being filed or approved by the property appraiser.

The bill provides that the changes made by the bill do not apply to a transient public lodging establishment as that term is defined in s. 509.013, F.S. Transient public lodging establishments generally are places rented to guests more than 3 times per year for periods less than 30 days or held out to the public as a place regularly rented to guests.

Section 2 provides for an effective date of upon becoming law and that applies retroactively to January 1, 2007.

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:

Private entities operating housing facilities pursuant to the MHPI will have certainty as to the ad valorem tax liabilities associated with United States property.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) has determined that this bill will have an insignificant fiscal impact on local government revenues.[14]

[14] Revenue Estimating Conference, *Military Housing Ad Valorem Tax HB531/SB354* (Feb. 04, 2013) *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page11-13.pdf. According to the REC, the total amount in dispute in the Monroe County litigation is $11.5 million including penalty and interest. The 2012 value of the property in question is $167,851,781.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue asserts that the federal government has equitable ownership of the improvements constructed pursuant to the MHPI, and therefore, such improvements are not taxable under the current law; however, no Florida court has ruled on the taxability of MHPI projects under this state law principle.[15]

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 Appropriations on March 21, 2013:

- Adopted CS Recommended by Appropriations Subcommittee on Finance and Tax on March 13, 2013.

Recommended CS by Appropriations Subcommittee on Finance and Tax on March 13, 2013:

- The CS provides the changes made by the bill do not apply to transient public lodging establishments.

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] Florida Department of Revenue, Senate Bill 354 Analysis (Feb. 7, 2013) *available at* http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=504 Also *see Leon County Education Facilities Authority v. Hartsfield*, 698 So.2d 526 (Fla. 1997); *First Union National Bank of Florida v. Ford*, 636 So.2d 523 (Fla. 5th DCA 1993).

By Senator Thrasher

6-00543B-13 2013354__

A bill to be entitled

An act relating to ad valorem tax exemptions; amending s. 196.199, F.S.; providing that certain leasehold interests and improvements to land owned by the United States, a branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States are exempt from ad valorem taxation under specified circumstances; providing that such leasehold interests and improvements are entitled to an exemption from ad valorem taxation without an application being filed for the exemption or the property appraiser approving the exemption; providing for retroactive application; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a)1. All property of the United States is ~~shall be~~ exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

2. Notwithstanding any other provision of law, for purposes of the exemption from ad valorem taxation provided in

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

6-00543B-13 2013354__

subparagraph 1., property of the United States includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States if the leasehold interest and improvements are acquired or constructed and used pursuant to the federal Military Housing Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As used in this subparagraph, the term “improvements” includes, but is not limited to, actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities. Any leasehold interest and improvements described in this subparagraph shall be construed as being owned by the United States, the applicable branch of the United States Armed Forces, or the applicable agency or quasi-governmental agency of the United States and are exempt from ad valorem taxation without the necessity of an application for exemption being filed or approved by the property appraiser.

Section 2. This act shall take effect upon becoming a law and shall apply retroactively to January 1, 2007.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic _____ Bill Number 354 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

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 Appropriations

BILL: CS/SB 364

INTRODUCER: Community Affairs Committee and Senator Hays

SUBJECT: Consumptive Use Permits for Development of Alternative Water Supplies

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Favorable**
2.	Biehl	Yeatman	CA	**Fav/CS**
3.	Howard	DeLoach	AGG	**Favorable**
4.	Howard	Hansen	AP	**Favorable**
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 364 directs that alternative water supply (AWS) development projects approved on or after July 1, 2013, are eligible for an extended consumptive use permit (CUP) of at least 30 years. Permits are subject to compliance reports and water management district (WMD) water shortage orders. The bill provides that the quantity of water allocated to such AWS permits may be reduced to prevent harm to water resources or existing legal uses. Under the bill, extended permits may not authorize the use of non-brackish groundwater supplies or non-alternative water supplies. Finally, the bill clarifies that if sufficient data exists to provide reasonable assurance the conditions for permit issuance will be met, permits for at least 20-years or 30-years may be approved.

The availability of extended permits, if utilized, may reduce permit fees collected by Water Management Districts. The fiscal impact of that reduction is indeterminate.

This bill substantially amends section 373.236, Florida Statutes.

II. Present Situation:

Consumptive Use Permitting

Section 373.236(5), F.S., authorizes CUPs for the development of AWS projects. Each CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn. A WMD or the DEP may impose reasonable conditions, as necessary, to assure that such use is consistent with the overall objectives of the issuing WMD or the DEP and is not harmful to the water resources of the area.[1]

To obtain a CUP, an applicant must establish that the proposed use of water satisfies a statutorily established test, (commonly referred to as "the three-prong test"). Specifically, the proposed water use must:

- Be a "reasonable-beneficial use" as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.[2]

The Three-Prong Test

"Reasonable-beneficial use," the first prong of the test, is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest."[3] The Legislature has declared water a public resource. Therefore, wasteful uses of water are not allowed even if there are sufficient resources to meet all other demands.

To that end, the DEP has promulgated the Water Resource Implementation Rule that incorporates interpretive criteria for implementing the reasonable-beneficial use standard based on common law and water management needs.[4] These criteria include consideration of the quantity of water requested; the need, purpose, and value of the use; and the suitability of the source. The criteria also consider the extent and amount of harm caused, whether that harm extends to other lands, and the practicality of mitigating that harm by adjusting the quantity or method of use. Particular consideration is given to the use or reuse of lower quality water, and the long-term ability of the source to supply water without sustaining harm to the surrounding environment and natural resources.[5]

The second element of the three-prong test protects the rights of existing legal uses of water for the duration of their permits.[6] New CUPs cannot be issued if they would conflict with an existing

[1] Section 373.219, F.S.
[2] Section 373.223(1)(a-c), F.S.
[3] Section 373.019(16), F.S.
[4] *See* Rule 62-40, F.A.C.
[5] *Southwest Florida Water Management District v. Charlotte County*, 774 So. 2d 903, 911 (Fla. 2d DCA 2001) (upholding the WMD's use of criteria for implementing the reasonable-beneficial use standard).
[6] Section 373.223(1)(b), F.S.

legal use. This criterion is only protective of water users that actually withdraw water, not passive users of water resources.[7]

The final element of the three-prong test requires water use be consistent with the "public interest." While the DEP's Water Resource Implementation Rule provides criteria for determining the "public interest," the determination of a public interest is made on a case-by-case basis during the permitting process.[8] However, the WMDs and the DEP have broad authority to determine which uses best serve the public interest, if there are not sufficient resources to fulfill all applicants' CUPs. In the event that two or more competing applications are deemed to be equally in the public interest, the particular WMD or the DEP gives preference to renewal applications.[9]

Duration of Permits and Compliance Reviews

Pursuant to s. 373.236(1), F.S., CUPs must be granted for 20 years if requested by the applicant and there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. If either of these requirements is not met, a CUP with a shorter duration may be issued to reflect the period for which reasonable assurances can be provided. The WMDs and the DEP may determine the duration of permits based upon a reasonable system of classification according to the water source, the type of use, or both.

Pursuant to s. 373.236(4), F.S., when necessary to maintain "reasonable assurance" that initial conditions for issuance of a 20-year CUP can continue to be met, a WMD or the DEP may require a permittee to produce a compliance report every 10 years.[10] A compliance report must contain sufficient data to maintain reasonable assurance that the initial permit conditions are met, including original demand projections. After reviewing a compliance report, a WMD or the DEP may modify the permit, including reductions or changes in the initial allocations of water to ensure the water use comports with initial conditions for issuance of the CUP. Permit modifications made by a WMD or the DEP during a compliance review are not subject to competing applications for water use unless the permittee is seeking additional water allocations or changes in water sources.

Consumptive Use Permits for the Development of Alternative Water Supplies

Section 373.019(1), F.S., defines "alternative water supplies" as:

> [S]alt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that

[7] *See Harloff v. City of Sarasota*, 575 So. 2d 1324 (Fla. 2d DCA 1991) (holding a municipal wellfield was an existing legal user and should be afforded protection). In contrast, *see West Coast Regional Water Supply Authority v. Southwest Florida Water Management District*, 89 ER F.A.L.R. 166 (Final Order, Aug. 30, 1989) (holding a farmer who passively relied on a higher water table to grow nonirrigated crops and standing surface water bodies to water cattle was not an existing legal user).
[8] *Supra* note 4.
[9] *See* s. 373.233, F.S.
[10] In limited instances, the statute authorizes more frequent "look backs." For example, the Suwannee River WMD may require a compliance report every 5 years through July 1, 2015, after which the "look-back" period returns to 10 years.

> has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.

CUPs issued pursuant to s 373.236(5), F.S., for the development of AWS must be issued for at least 20 years. If the permittee issues bonds to finance construction of the AWS project, the permit must be extended to expire upon retirement of the bonds if the permittee requests an extension during the term of the permit and the issuing WMD's governing board determines the use will continue to meet the CUP's conditions. Compliance reports may also be required every 10 years for CUPs issued for AWS projects. WMDs generally issue CUPs with a maximum term of 20 years for the development of AWS, although some 30-year CUPs for AWS projects have been issued.

III. Effect of Proposed Changes:

Section 1 amends s. 373.236, F.S., clarifying that AWS permits issued for at least 20 years are subject to the reasonable assurance provisions currently required by the DEP and WMDs.

It directs the DEP or the WMDs to issue permits for the development of AWS projects for at least 30 years for permits issued on or after July 1, 2013, if the proper reasonable assurance is provided. If, within seven years from the issuance of the permit, the permitee issues bonds to finance the project, completes the project, and requests an extension of the CUP duration, the CUP must be extended for a maximum of seven years. This will allow the entity that develops the AWS project to operate the AWS project for 30 years after construction in order to repay 30-year bonds.

CUPs issued pursuant to this bill are subject to compliance reports; however, the quantity of alternative water allocated under the permit cannot be reduced during the compliance review if bonds that financed the project are outstanding. This provision does not apply to adopted districtwide water shortage orders or when an AWS permit results in harm to water resources or existing legal uses.

The bill clarifies that CUPs cannot be issued for AWS projects for nonbrackish groundwater supplies (i.e., fresh water) or nonalternative water supplies. It also clarifies that entities may apply for an AWS permit under either s. 373.236(5)(a) or (b), F.S.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Most bonds issued to fund the capital construction costs of an AWS project are 30-year bonds; however, most AWS CUPs are only issued for 20 years. This discrepancy may affect the interest rate the AWS developer has to pay to issue the bonds. The impact of this is indeterminate but may be significant if the uncertainty in renewing a 20-year CUP for a 30-year bond has significant weight in the rating agencies' models. For example, an A-rated $100 million bond may cost $7-10 million more over the life of the bond as compared to an AAA-rated bond. Also, by allowing an up to seven-year extension under certain circumstances, AWS developers will be able to operate the AWS project without having to reapply for a CUP at the end of the initial 30-year duration. This will ensure operation of the AWS project for a full 30-year term.

C. Government Sector Impact:

The availability of extended permits, if utilized, may result in a reduction in permit fees collected by WMDs. This revenue reduction is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The amendments to s. 373.236, F.S., in this bill to explicitly require reasonable assurance that conditions for permit issuance be met for both 20-year and 30-year AWS CUP may lead a court to conclude that the Legislature did not intend that similar reasonable assurance apply to 50-year permits for certain public or government works. As a result of these amendments, 50-year permits will be the only permit category excluded from the statutorily required reasonable assurance requirements of s. 373.236, F.S. Currently, that requirement is implicit and the WMDs require reasonable assurance for the up to 50-year permit.

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 February 21, 2013:
Clarifies that the quantity of water allocated to an AWS permit may be reduced to prevent harm, whether unanticipated or not, to water resources or existing legal uses.

B. Amendments:

None.

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

By the Committee on Community Affairs; and Senator Hays

578-01731-13 2013364c1

A bill to be entitled

An act relating to consumptive use permits for development of alternative water supplies; amending s. 373.236, F.S.; revising conditions for issuance of permits; providing for the issuance, extension, and review of permits approved on or after a certain date; providing for applicability; providing an effective date.

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

Section 1. Subsection (5) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(5)(a) A permit ~~Permits~~ approved for the development of alternative water supplies shall be granted for a term of at least 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. However, if the permittee issues bonds for the construction of the project, upon request of the permittee before ~~prior to~~ the expiration of the permit, the ~~that~~ permit shall be extended for such additional time as is required for the retirement of bonds, not including any refunding or refinancing of such bonds, if ~~provided that~~ the governing board determines that the use will continue to meet the conditions for the issuance of the permit. The ~~Such a~~ permit is subject to compliance reports under subsection (4).

(b)1. A permit approved on or after July 1, 2013, for the development of alternative water supplies shall be granted for a

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

578-01731-13 2013364c1

term of at least 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. If, within 7 years after a permit is granted, the permittee issues bonds to finance the project, completes construction of the project, and requests an extension of the permit duration, the permit shall be extended to expire upon the retirement of such bonds or 30 years after the date that construction of the project is complete, whichever occurs later. However, a permit's duration may not be extended by more than 7 years beyond the permit's original expiration date.

2. A permit issued under this paragraph is subject to compliance reports under subsection (4). If the permittee demonstrates that bonds issued to finance the project are outstanding, the quantity of alternative water allocated in the permit may not be reduced during a compliance report review unless a reduction is needed to address harm to water resources or to existing legal uses present when the permit was issued. A reduction required by an applicable water shortage order applies to a permit issued under this paragraph.

3. A permit issued under this paragraph may not authorize the use of nonbrackish groundwater supplies or nonalternative water supplies.

(c) An entity that wishes to develop alternative water supplies may apply for a permit under paragraph (a) or paragraph (b).

Section 2. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Consumptive Use Permits

Bill Number: SB 364 *(if applicable)*

Name: Richard Gentry

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 2305 BRAEBURN CIRCLE
Street

Tall. FL. 32309
City *State* *Zip*

Phone: 850-251-1837

E-mail: _____

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

Representing: Palm Bch Economic Council

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Consumptive Use Permits

Bill Number: SB 364 *(if applicable)*

Name: David Cruz

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Advocate

Address: P.O. Box 1757
Street

Tally, FL 32302
City *State* *Zip*

Phone: 701-3676

E-mail: _____

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

Representing: FL League of Cities

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic _____

Bill Number 364 *(if applicable)*

Name David Christian

Amendment Barcode _____ *(if applicable)*

Job Title VP - Government Affairs

Address 136 S. Bronough St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850/521-1211

E-mail dchristian@flchamber.com

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

Representing Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

Waive in Support

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Water Use Permits

Bill Number: CS/SB 364 *(if applicable)*

Name: Diane Salz

Amendment Barcode: *(if applicable)*

Job Title: Gov'l Affairs Consult.

Address: *Street*

Phone: 850.339.8550

Talla 32308
City *State* *Zip*

E-mail: disalz@yahoo.com

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

Representing: Peace River Water 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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Consumptive Use Permits

Bill Number: SB 364 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: _____ *(if applicable)*

Job Title: Senior VP

Address: 516 N Adams St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 224-7173

E-mail: bbevis@aifl.com

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

Representing: Associated Industries of Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-21-13
Meeting Date

Topic: Alternative Water Supply

Bill Number: 364 *(if applicable)*

Name: Lee Killinger

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 324 E. Virginia St.
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-322-8907

E-mail: lee@anfield florida.com

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

Representing: Fla. Section, American Water Works Association

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

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

CC: Mike Hansen, Staff Director
Alicia Weiss, Administrative Assistant

Subject: Committee Agenda Request

Date: March 7, 2013

I respectfully request that **Senate Bill #364**, relating to Consumptive Use Permits for Development of Alternative Water Supplies, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

File signed original with committee office

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 Appropriations

BILL: CS/CS/SB 372

INTRODUCER: Committee on Appropriations, Regulated Industries Committee and Senator Latvala

SUBJECT: Beverage Law

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.	Everette	Eichin	TR	**Favorable**
3.	Davis	DeLoach	AGG	**Favorable**
4.	Davis	Hansen	AP	**Fav/CS**
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 372 expands the authority of licensed retail vendors to transport alcoholic beverages in vehicles which are owned or leased by the vendor to include vehicles owned or leased by a person disclosed on a license application (authorized person) filed by a vendor. The license application must be approved by the Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (DBPR). In addition, the vehicle must have been issued a permit from the division for that purpose. Permitted vehicles must be operated by the vendor or by the authorized person when transporting alcoholic beverage from a distributor's place of business to the vendor's licensed premises or off-premises storage. A permit expires when the authorized person disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or revoked by the division, whichever occurs first. In addition, a vehicle permit may be canceled at request of the vendor or the authorized person.

The bill will have a minimal, but indeterminate, positive impact on state revenue due to the anticipated increase in the number of $5 vehicle permits issued.

An authorized person with a vehicle permit would be subject to the same conditions regarding inspection and search as is a licensee under current law. The bill requires the invoices or sales tickets for the purchased alcoholic beverages must be carried in a vehicle used by the vendor or the authorized person when the alcoholic beverages are being transported.

In addition, the bill deletes the requirement that the division must have decals ready for issuance. This would permit the division to issue only paper permits.

The effective date of the bill is July 1, 2013.

This bill substantially amends sections 561.57 and 562.07, Florida Statutes.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law.[1] That law regulates the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.[2] The division within the DBPR administers and enforces the Beverage Law.[3]

Three Tier System

In the United States, the regulation of alcohol has traditionally been through what is termed the "three-tier system." The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers must buy their products from distributors who in turn buy their products from the manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is deeply rooted in the perceived evils of the "tied house" in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.[4]

There are some exceptions to this regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,[5] allowing individuals to bring small quantities of alcohol back from trips out-of-state,[6] and allowing in-state wineries to manufacture and sell directly to consumers.[7]

In a three-tier system, each license classification has clearly delineated functions. For example, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers

[1] The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S. *See* s. 561.01(6), F.S.
[2] *See* s. 561.14, F.S.
[3] Section 561.02, F.S.
[4] Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf (Last visited February 14, 2013).
[5] *See s* 561.221(2), F.S., which permits the limited manufacture of beer by vendors (brew pubs).
[6] *See* s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.
[7] *See* s. 561.221, F.S.

at retail.[8] Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturer, or bottler.[9]

Deliveries by Licensees

Section 561.57(3), F.S., provides that deliveries of alcoholic beverages by manufacturers, distributors and vendors may only be made in vehicles that are owned or leased by the vendor. According to the division, most retail vendor licensees are a corporate entity. Therefore, retail vendors who own their vehicles as individuals are prohibited from making deliveries away from their places of business and from transporting alcoholic beverage purchases from a distributor's place of business in their personal vehicles, i.e., vehicles that are not registered in the name of the licensed vendor.

Section 561.57(4), F.S., requires the division to prepare permits or decals suitable to be attached to vendor's vehicles upon payment of a $5 fee. According to the division, it prints vehicle permits on paper and does not issue decals for attachment to the vehicle. Vehicle permit holders keep the paper permits in their vehicles and produce them upon request. The permit expires when the vendor disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division, whichever occurs first.

Section 561.57(4), F.S., also provides that, by acceptance of a vehicle permit, the licensee agrees the vehicle may be inspected and searched without a search warrant, for the purpose of ascertaining compliance with provisions of the Beverage Law. Authorized employees of the division, sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages may conduct such inspections and searches.

Deliveries that are made at a manufacturer's or distributor's warehouse to a vendor or his authorized agent must be made to a vehicle with a vehicle permit which was issued to the purchasing licensee. The invoice or sales ticket covering all such purchases and deliveries must show, in addition to the information required by other rules, the permit number and the fact that the delivery was made at the manufacturer's or distributor's warehouse.[10]

Section 562.07, F.S., prohibits transporting more than 12 bottles of alcoholic beverages. However, alcoholic beverage may be transported in vehicles owned or leased by licensed vendors. The exception applies when alcoholic beverages are moved from the distributor's place of business to the vendor's licensed place of business or off-premises storage facility. The vehicles used must have a permit or decal issued pursuant to the Beverage Law.

[8] Section 561.14(3), F.S. However, see discussion regarding the exception for certified Florida Farm Wineries in s. 561.221, F.S.
[9] Section 561.14(3), F.S. Vendors may buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.
[10] Rule 61A-4.030, F.A.C.

III. Effect of Proposed Changes:

The bill amends s. 561.57, F.S., to continue to allow licensed retail vendors to transport alcoholic beverages in vehicles which are owned or leased by the vendor, and expands the delivery authority to include vehicles owned or leased by a person disclosed on the vendor's license application and approved by the division. Each such vehicle must obtain a permit from the division for that purpose and be operated by the vendor or by the authorized person when transporting alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage. The bill requires the signature of the authorized person on the vehicle permit application.

As with a vendor's vehicle permit, an authorized person's permit would expire when the employee disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or revoked. In addition, a vehicle permit may be canceled by the division at the vendor's or authorized person's request.

An authorized person who accepts a vehicle permit would be subject to the same conditions regarding inspection and search as is a licensee under current law.

The bill requires that the invoices or sales tickets for the purchased alcoholic beverages must be carried in the vehicle used by the vendor or the authorized person when the alcoholic beverages are being transported. The bill continues to require the payment of the $5 vehicle permit fee.

The bill also amends s. 561.57(4), F.S., to delete the requirement that the division must have decals ready for issuance. The division no longer uses decals. This would permit the division to issue only paper permits.

The bill amends s. 562.07, F.S., which prohibits the transporting of more than 12 bottles of alcoholic beverages, to revise the exception in s. 562.07(2), F.S., to allow the transportation of alcoholic beverages in vehicles which are owned or leased by persons authorized under s. 561.57, F.S.

The effective date of the bill is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Alcoholic beverage vendors and other authorized persons would pay a $5 fee for a vehicle permit to transport alcoholic beverages.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DBPR, the bill may cause a minimal, but indeterminate, increase in state revenue due to the anticipated increase in the number of $5 vehicle permits issued.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on March 21, 2013:
The committee substitute makes technical changes to conform sentence structure and grammar to the House companion.

CS by Regulated Industries on February 21, 2013:
The committee substitute:

- Deletes language that would have permitted licensed retail vendors to transport alcoholic beverages in vehicles owned or leased by authorized employees of the vendor.
- Permits licensed retail vendors to transport alcoholic beverages in vehicles which are owned or leased by any person disclosed on a license application filed by a vendor and approved by the division.
- Requires the authorized person sign the vehicle permit application.
- Requires a vehicle permit and the invoices or sales tickets for the purchased alcoholic beverages must be attached to, or carried in, the vehicle used by the vendor or an authorized person when the alcoholic beverages are transported or delivered.
- Deletes language requiring a vehicle permit remain on the vendor's licensed premises when the vehicle is not being used to transport or deliver alcoholic beverages.

- Expands the exception to the prohibition against the transporting of more than 12 bottles of alcoholic beverages to include the transportation of alcoholic beverages in vehicles owned or leased by a person disclosed on a license application filed by a vendor and approved by the division.

B. Amendments:

None.

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

405880

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (3) and (4) of section 561.57, Florida Statutes, are amended to read:

561.57 Deliveries by licensees.—

(3) A licensed ~~Any~~ vendor may transport alcoholic beverage purchases from a distributor's place of business to the vendor's licensed premises or off-premises storage, if the ~~provided that a~~ vehicle used to transport the alcoholic beverages is owned or leased by the vendor or any person who has been disclosed on a

405880

13 license application filed by the vendor and approved by the
14 division and a valid vehicle permit has been ~~or decal is~~ issued
15 for such ~~attached to the vendor's owned or leased~~ vehicle. A
16 vehicle owned or leased by a person disclosed on a license
17 application filed by the vendor and approved by the division
18 under this subsection must be operated by such person when
19 transporting alcoholic beverage purchases from a distributor's
20 place of business to the vendor's licensed premises or off-
21 premises storage.
22 (4) A vehicle permit ~~The division shall have prepared for~~
23 ~~issuance vehicle permits or decals suitable to be attached to~~
24 ~~such vehicles, with the words, "Beverage Vehicle No. ....,"~~
25 ~~which~~ may be obtained by a licensed ~~any~~ vendor or any person
26 authorized in subsection (3) upon application and payment of a
27 fee of $5 per vehicle to the division. The signature of the
28 person authorized in subsection (3) must be included on the
29 vehicle permit application. Such permit remains ~~permits shall be~~
30 valid and does ~~will~~ not expire unless the vendor or any person
31 authorized in subsection (3) disposes of his or her vehicle, or
32 the vendor's alcoholic beverage license is transferred,
33 canceled, not renewed, or is revoked by the division, whichever
34 occurs first. The division shall cancel a vehicle permit issued
35 to a vendor upon request from the vendor. The division shall
36 cancel a vehicle permit issued to any person authorized in
37 subsection (3) upon request from that person or the vendor. By
38 acceptance of a vehicle permit, the vendor or any person
39 authorized in subsection (3) ~~licensee~~ agrees that such vehicle
40 is ~~shall~~ always ~~be~~ subject to inspection and search ~~be inspected~~
41 ~~and searched~~ without a search warrant, for the purpose of

405880

42 ascertaining that all provisions of the alcoholic beverage laws
43 are complied with, by authorized employees of the division and
44 also by sheriffs, deputy sheriffs, and police officers during
45 business hours or other times that the vehicle is being used to
46 transport or deliver alcoholic beverages. A vehicle permit
47 issued under this subsection and invoices or sales tickets for
48 alcoholic beverages purchased and transported must be carried in
49 the vehicle used by the vendor or any person authorized in
50 subsection (3) when the vendor's alcoholic beverages are being
51 transported or delivered.
52 Section 2. Subsection (2) of section 562.07, Florida
53 Statutes, is amended to read:
54 562.07 Illegal transportation of beverages.—It is unlawful
55 for alcoholic beverages to be transported in quantities of more
56 than 12 bottles except as follows:
57 (2) In the owned or leased vehicles of licensed vendors or
58 any persons authorized in s. 561.57(3) transporting alcoholic
59 beverage purchases from the distributor's place of business to
60 the vendor's licensed place of business or off-premises storage
61 and to which said vehicles are carrying ~~attached~~ a permit and
62 invoices or sales tickets for alcoholic beverages purchased and
63 transported ~~or decal~~ as provided for in the alcoholic beverage
64 law;
65 Section 3. This act shall take effect July 1, 2013.
66
67 ========== T I T L E A M E N D M E N T ==========
68 And the title is amended as follows:
69 Delete everything before the enacting clause
70 and insert:

405880

71 A bill to be entitled
72 An act relating to vehicle permits for the
73 transportation of alcoholic beverages; amending s.
74 561.57, F.S.; authorizing a licensed vendor to
75 transport alcoholic beverages from a distributor's
76 place of business in vehicles owned or leased by any
77 person who has been disclosed on a license application
78 filed by the vendor and approved by the Division of
79 Alcoholic Beverages and Tobacco of the Department and
80 Business and Professional Regulation; revising permit
81 requirements for such vehicles; providing for
82 cancellation of vehicle permits; authorizing the
83 inspection and search of such vehicles without a
84 search warrant; providing requirements for the use and
85 storage of vehicle permits; amending s. 562.07, F.S.;
86 revising an exception to the illegal transportation of
87 beverages; providing an effective date.

By the Committee on Regulated Industries; and Senator Latvala

580-01745-13 2013372c1

A bill to be entitled

An act relating to vehicle permits; amending ss. 561.57 and 562.07, F.S.; authorizing a licensed vendor to transport alcoholic beverages from a distributor's place of business to the vendor's licensed premises in a vehicle owned or leased by a person identified on a license application filed by the vendor and approved by the division; requiring each operator to sign the application; revising permit requirements for such vehicles, including a specified fee per vehicle; providing for the cancellation of vehicle permits; authorizing the inspection and search of such vehicles without a search warrant; providing requirements for the use and storage of vehicle permits; providing an effective date.

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

Section 1. Subsections (3) and (4) of section 561.57, Florida Statutes, are amended to read:

561.57 Deliveries by licensees.—

(3) A licensed ~~Any~~ vendor may transport alcoholic beverage purchases from a distributor's place of business to the vendor's licensed premises or off-premises storage if the~~, provided that a~~ vehicle used to transport the alcoholic beverages is owned or leased by the vendor or a person identified in a license application filed by the vendor and approved by the division and a valid vehicle permit has been issued for such ~~or decal is attached to the vendor's owned or leased~~ vehicle. Vehicles owned

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

580-01745-13 2013372c1

or leased by a person authorized under this subsection must be operated by such persons when transporting alcoholic beverage purchases from a distributor's place of business to the vendor's licensed premises or off-premises storage.

(4) A vehicle permit ~~The division shall have prepared for issuance vehicle permits or decals suitable to be attached to such vehicles, with the words, "Beverage Vehicle No.," which~~ may be obtained by a licensed ~~any~~ vendor or other person authorized under subsection (3) upon application and payment of a fee of $5 per vehicle to the division. The signature of a person authorized under subsection (3) is required on the vehicle permit application. Such permit remains ~~permits shall be~~ valid and does ~~will~~ not expire unless the vendor or other person authorized under subsection (3) disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division, whichever occurs first. The division shall cancel a vehicle permit issued to a vendor upon request from the vendor. The division shall cancel a vehicle permit issued to other persons authorized under subsection (3) upon request from that person or the vendor. By acceptance of a vehicle permit, the vendor or other person authorized under subsection (3) ~~licensee~~ agrees that such vehicle is ~~shall~~ always ~~be~~ subject to inspection and search ~~be inspected and searched~~ without a search warrant, for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times that the vehicle is being used to transport or deliver alcoholic beverages. A vehicle

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

59 permit issued under this subsection and invoices or sales
60 tickets for alcoholic beverages purchased and transported must
61 be attached to or carried in the vehicle used by the vendor or
62 other person authorized under subsection (3) when the vendor's
63 alcoholic beverages are being transported or delivered.
64 Section 2. Subsection (2) of section 562.07, Florida
65 Statutes, is amended to read:
66 562.07 Illegal transportation of beverages.—It is unlawful
67 for alcoholic beverages to be transported in quantities of more
68 than 12 bottles except as follows:
69 (2) In the owned or leased vehicles of licensed vendors or
70 other persons authorized under s. 561.57(3) transporting
71 alcoholic beverage purchases from the distributor's place of
72 business to the vendor's licensed place of business or off-
73 premises storage and to which said vehicles are attached a
74 permit or decal as provided for in the alcoholic beverage law;
75 Section 3. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Vehicle Permits

Bill Number: CS/SB 372 *(if applicable)*

Name: Chris Hansen

Amendment Barcode: *(if applicable)*

Job Title: Gray Robinson

Address: *Street*

City: Tallahassee *State*: FL *Zip*: 32301

Phone: 850/577-9090

E-mail: Chansen@gray-robinson.com

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

Representing: Restaurant Depot

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JACK LATVALA
20th District

COMMITTEES:
Ethics and Elections, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Community Affairs
Environmental Preservation and Conservation
Rules
Judiciary
Appropriations
Select Committee on Gaming

March 14, 2013

The Honorable Senator Joe Negron, Chair
Senate Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Negron:

I respectfully request consideration of Senate Bill 372 regarding the Beverage Law at your earliest convenience.

I have filed this bill at the request of a food and beverage retailer located in my district, and I would greatly appreciate the opportunity to present this legislation to the Committee on Appropriations as soon as possible.

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

Sincerely,

Jack Latvala

Jack Latvala
State Senator
District 20

REPLY TO:
❒ 26133 U.S. Highway 19 North, Suite 201, Clearwater, FL 33763 (727) 793-2797
❒ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

364048

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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	.	
	.	

The Committee on Appropriations (Gardiner) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 516 - 517
4 and insert:
5 franchise. Monthly distributions begin 60 days after such
6 certification or July 1, 2016, whichever is later, and continue
7 for not more than 30 years, except as otherwise

598762

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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	.	

The Committee on Appropriations (Gardiner) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 1185 - 1188
4 and insert:
5 (c) The Department of Revenue may not distribute funds
6 under 212.20(6)(d)6.e. until July 1, 2016. Further, the
7 Department of Revenue may not distribute funds to an applicant
8 certified on or after July 1, 2013, until it receives notice
9 from the department that:
10 1. The certified applicant has encumbered funds under
11 either subparagraph (a)1. or 2.; and
12 2. If applicable, any existing agreement with a spring

598762

13 training franchise for the use of a facility has expired.

227254

576-02335-13

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Transportation, Tourism, and Economic Development)

A bill to be entitled

An act relating to economic development; establishing the Economic Development Programs Evaluation; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to present the evaluation; requiring the offices to develop and submit a work plan for completing the evaluation by a certain date; requiring the offices to provide an analysis of certain economic development programs and specifying a schedule; requiring the Office of Economic and Demographic Research to make certain evaluations in its analysis; limiting the office's evaluation for the purposes of tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs; requiring the office to use a certain model to evaluate each program; requiring the Office of Program Policy Analysis and Government Accountability to make certain evaluations in its analysis; providing the offices access to all data necessary to complete the evaluation; amending s. 20.60, F.S.; revising the date on which the Department of Economic Opportunity and Enterprise Florida, Inc., are required to report on the business climate and economic development in the state; specifying reports and information that must be included; amending s. 212.08, F.S.; revising

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576-02335-13

definitions; clarifying the application of certain amendments; contingently amending s. 212.20, F.S.; requiring the Department of Revenue to distribute a specified amount of money to certain applicants if a spring training franchise uses the applicant's facility; specifying time periods and limitations on distributions; amending s. 213.053, F.S.; authorizing the Department of Revenue to make certain information available to the director of the Office of Program Policy Analysis and Government Accountability and the coordinator of the Office of Economic and Demographic Research; authorizing the offices to share certain information; amending s. 220.194, F.S.; requiring the annual report for the Florida Space Business Incentives Act to be included in the annual incentives report; deleting certain reporting requirements; amending s. 288.005, F.S.; providing a definition; amending s. 288.012, F.S.; requiring each State of Florida international office to submit a report to Enterprise Florida, Inc., for inclusion in its annual report; deleting a reporting date; amending s. 288.061, F.S.; requiring the Department of Economic Opportunity to analyze each economic development incentive application; prohibiting the executive director from approving an economic development incentive application unless a specified written declaration is received; amending s. 288.0656, F.S.; requiring the Rural Economic Development Initiative to submit a report to supplement the Department of

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576-02335-13

Economic Opportunity's annual report; deleting certain reporting requirements; creating s. 288.076, F.S.; providing definitions; requiring the department to publish on a website specified information concerning state investment in economic development programs; requiring the department to use methodology and formulas established by the Office of Economic and Demographic Research for specified calculations; requiring the Office of Economic and Demographic Research to provide a description of specified methodology and formulas to the department and requiring the department to publish this description on its website within a specified period; providing procedures and requirements for reviewing, updating, and supplementing specified published information; requiring the department to annually publish information relating to the progress of Quick Action Closing Fund projects; requiring the department to publish certain confidential information pertaining to participant businesses upon expiration of a specified confidentiality period; requiring the department to publish certain reports concerning businesses that fail to complete tax refund agreements under the tax refund program for qualified target industry businesses; providing for construction and legislative intent; authorizing the department to adopt rules; repealing s. 288.095(3)(c), F.S., relating to the annual report by Enterprise Florida, Inc., of programs funded by the Economic Development Incentives Account;

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576-02335-13

amending s. 288.106, F.S.; deleting and adding provisions relating to the application and approval process of the tax refund program for qualified target industry businesses; requiring the Department of Economic Opportunity to include information on qualified target industry businesses in the annual incentives report; deleting certain reporting requirements; amending 288.107, F.S.; revising definitions; revising provisions to conform to changes made by the act; revising the minimum criteria for participation in the brownfield redevelopment bonus refund; amending s. 288.1081, F.S.; requiring the use of loan funds from the Economic Gardening Business Loan Pilot Program to be included in the department's annual report; deleting certain reporting requirements; amending s. 288.1082, F.S.; requiring the progress of the Economic Gardening Technical Assistance Pilot Program to be included in the department's annual report; deleting certain reporting requirements; amending s. 288.1088, F.S.; requiring the department to validate contractor performance for the Quick Action Closing Fund and include the performance validation in the annual incentives report; deleting certain reporting requirements; amending s. 288.1089, F.S.; requiring that certain projects in the Innovation Incentive Program provide a cumulative break-even economic benefit; requiring the department to report information relating to the Innovation Incentive Program in the annual incentives

227254

576-02335-13

report; deleting certain reporting requirements; deleting provisions that require the Office of Program Policy Analysis and Government Accountability and the Auditor General's Office to report on the Innovation Incentive Program; contingently creating s. 288.11631, F.S.; providing definitions; establishing a certification process to retain spring training baseball franchises; authorizing and prohibiting certain uses of the awarded funds; requiring a certified applicant to submit an annual report and requiring the Department of Economic Opportunity to publish such information; providing for decertification of a certified applicant; requiring the department to adopt rules; authorizing the Auditor General to conduct audits; amending s. 288.1253, F.S.; revising a reporting date; requiring expenditures of the Office of Film and Entertainment to be included in the annual entertainment industry financial incentive program report; amending s. 288.1254, F.S.; revising a reporting date; requiring the annual entertainment industry financial incentive program report to include certain information; amending s. 288.1258, F.S.; revising a reporting date; requiring the report detailing the relationship between tax exemptions and incentives to industry growth to be included in the annual entertainment industry financial incentive program report; amending s. 288.714, F.S.; requiring the Department of Economic Opportunity's annual report to include a report on the Black Business Loan

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576-02335-13

Program; deleting certain reporting requirements; amending s. 288.7771, F.S.; requiring the Florida Export Finance Corporation to submit a report to Enterprise Florida, Inc.; amending s. 288.903, F.S.; requiring Enterprise Florida, Inc., with the Department of Economic Opportunity, to prepare an annual incentives report; repealing s. 288.904(6), F.S., relating to Enterprise Florida, Inc., which requires the department to report the return on the public's investment; amending s. 288.906, F.S.; requiring certain reports to be included in the Enterprise Florida, Inc., annual report; amending s. 288.907, F.S.; requiring Enterprise Florida, Inc., with the Department of Economic Opportunity, to prepare the annual incentives report; requiring the annual incentives report to include certain information; deleting a provision requiring the Division of Strategic Business Development to assist Enterprise Florida, Inc., with the report; amending s. 288.92, F.S.; requiring each division of Enterprise Florida, Inc., to submit a report; amending s. 288.95155, F.S.; requiring the financial status of the Florida Small Business Technology Growth Program to be included in the annual incentives report; amending s. 290.0056, F.S.; revising a reporting date; requiring the enterprise zone development agency to submit certain information for the Department of Economic Opportunity's annual report; amending s. 290.014, F.S.; revising a reporting date; requiring certain

172 reports on enterprise zones to be included in the
173 Department of Economic Opportunity's annual report;
174 amending s. 331.3051, F.S.; revising a reporting date;
175 requiring Space Florida's annual report to include
176 certain information; amending s. 331.310, F.S.;
177 requiring the Board of Directors of Space Florida to
178 supplement Space Florida's annual report with
179 operations information; deleting certain reporting
180 requirements; amending s. 446.50, F.S.; requiring the
181 Department of Economic Opportunity's annual report to
182 include a plan for the displaced homemaker program;
183 deleting certain reporting requirements; providing an
184 effective date.
185
186 Be It Enacted by the Legislature of the State of Florida:
187
188 Section 1. Economic Development Programs Evaluation.—The
189 Office of Economic and Demographic Research and the Office of
190 Program Policy Analysis and Government Accountability (OPPAGA)
191 shall develop and present to the Governor, the President of the
192 Senate, the Speaker of the House of Representatives, and the
193 chairs of the legislative appropriations committees the Economic
194 Development Programs Evaluation.
195 (1) The Office of Economic and Demographic Research and
196 OPPAGA shall coordinate the development of a work plan for
197 completing the Economic Development Programs Evaluation and
198 shall submit the work plan to the President of the Senate and
199 the Speaker of the House of Representatives by July 1, 2013.
200 (2) The Office of Economic and Demographic Research and

201 OPPAGA shall provide a detailed analysis of economic development
202 programs as provided in the following schedule:
203 (a) By January 1, 2014, and every 3 years thereafter, an
204 analysis of the following:
205 1. The capital investment tax credit established under s.
206 220.191, Florida Statutes.
207 2. The qualified target industry tax refund established
208 under s. 288.106, Florida Statutes.
209 3. The brownfield redevelopment bonus refund established
210 under s. 288.107, Florida Statutes.
211 4. High-impact business performance grants established
212 under s. 288.108, Florida Statutes.
213 5. The Quick Action Closing Fund established under s.
214 288.1088, Florida Statutes.
215 6. The Innovation Incentive Program established under s.
216 288.1089, Florida Statutes.
217 7. Enterprise Zone Program incentives established under ss.
218 212.08(5), 212.08(15), 212.096, 220.181, and 220.182, Florida
219 Statutes.
220 (b) By January 1, 2015, and every 3 years thereafter, an
221 analysis of the following:
222 1. The entertainment industry financial incentive program
223 established under s. 288.1254, Florida Statutes.
224 2. The entertainment industry sales tax exemption program
225 established under s. 288.1258, Florida Statutes.
226 3. VISIT Florida and its programs established or funded
227 under ss. 288.122, 288.1226, 288.12265, and 288.124, Florida
228 Statutes.
229 4. The Florida Sports Foundation and related programs

230 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
231 288.1168, 288.1169, and 288.1171, Florida Statutes.
232 (c) By January 1, 2016, and every 3 years thereafter, an
233 analysis of the following:
234 1. The qualified defense contractor and space flight
235 business tax refund program established under s. 288.1045,
236 Florida Statutes.
237 2. The tax exemption for semiconductor, defense, or space
238 technology sales established under s. 212.08(5)(j), Florida
239 Statutes.
240 3. The Military Base Protection Program established under
241 s. 288.980, Florida Statutes.
242 4. The Manufacturing and Spaceport Investment Incentive
243 Program established under s. 288.1083, Florida Statutes.
244 5. The Quick Response Training Program established under s.
245 288.047, Florida Statutes.
246 6. The Incumbent Worker Training Program established under
247 s. 445.003, Florida Statutes.
248 7. International trade and business development programs
249 established or funded under s. 288.826, Florida Statutes.
250 (3) Pursuant to the schedule established in subsection (2),
251 the Office of Economic and Demographic Research shall evaluate
252 and determine the economic benefits, as defined in s. 288.005,
253 Florida Statutes, of each program over the previous 3 years. The
254 analysis must also evaluate the number of jobs created, the
255 increase or decrease in personal income, and the impact on state
256 gross domestic product from the direct, indirect, and induced
257 effects of the state's investment in each program over the
258 previous 3 years.

259 (a) For the purpose of evaluating tax credits, tax refunds,
260 sales tax exemptions, cash grants, and similar programs, the
261 Office of Economic and Demographic Research shall evaluate data
262 only from those projects in which businesses received state
263 funds during the evaluation period. Such projects may be fully
264 completed, partially completed with future fund disbursal
265 possible pending performance measures, or partially completed
266 with no future fund disbursal possible as a result of a
267 business's inability to meet performance measures.
268 (b) The analysis must use the model developed by the Office
269 of Economic and Demographic Research, as required in s. 216.138,
270 Florida Statutes, to evaluate each program. The office shall
271 provide a written explanation of the key assumptions of the
272 model and how it is used. If the office finds that another
273 evaluation model is more appropriate to evaluate a program, it
274 may use another model, but it must provide an explanation as to
275 why the selected model was more appropriate.
276 (4) Pursuant to the schedule established in subsection (2),
277 OPPAGA shall evaluate each program over the previous 3 years for
278 its effectiveness and value to the taxpayers of this state and
279 include recommendations on each program for consideration by the
280 Legislature. The analysis may include relevant economic
281 development reports or analyses prepared by the Department of
282 Economic Opportunity, Enterprise Florida, Inc., or local or
283 regional economic development organizations; interviews with the
284 parties involved; or any other relevant data.
285 (5) The Office of Economic and Demographic Research and
286 OPPAGA must be given access to all data necessary to complete
287 the Economic Development Programs Evaluation, including any

288 confidential data. The offices may collaborate on data
289 collection and analysis.
290 Section 2. Subsection (10) of section 20.60, Florida
291 Statutes, is amended to read:
292 20.60 Department of Economic Opportunity; creation; powers
293 and duties.—
294 (10) The department, with assistance from Enterprise
295 Florida, Inc., shall, by November 1 ~~January 1~~ of each year,
296 submit an annual report to the Governor, the President of the
297 Senate, and the Speaker of the House of Representatives on the
298 condition of the business climate and economic development in
299 the state.
300 (a) The report must ~~shall~~ include the identification of
301 problems and a prioritized list of recommendations.
302 (b) The report must incorporate annual reports of other
303 programs, including:
304 1. The displaced homemaker program established under s.
305 446.50.
306 2. Information provided by the Department of Revenue under
307 s. 290.014.
308 3. Information provided by enterprise zone development
309 agencies under s. 290.0056 and an analysis of the activities and
310 accomplishments of each enterprise zone.
311 4. The Economic Gardening Business Loan Pilot Program
312 established under s. 288.1081 and the Economic Gardening
313 Technical Assistance Pilot Program established under s.
314 288.1082.
315 5. A detailed report of the performance of the Black
316 Business Loan Program and a cumulative summary of quarterly

317 report data required under s. 288.714.
318 6. The Rural Economic Development Initiative established
319 under s. 288.0656.
320 Section 3. Paragraph (o) of subsection (5) of section
321 212.08, Florida Statutes, is amended to read:
322 212.08 Sales, rental, use, consumption, distribution, and
323 storage tax; specified exemptions.—The sale at retail, the
324 rental, the use, the consumption, the distribution, and the
325 storage to be used or consumed in this state of the following
326 are hereby specifically exempt from the tax imposed by this
327 chapter.
328 (5) EXEMPTIONS; ACCOUNT OF USE.—
329 (o) *Building materials in redevelopment projects.*—
330 1. As used in this paragraph, the term:
331 a. "Building materials" means tangible personal property
332 that becomes a component part of a housing project or a mixed-
333 use project.
334 b. "Housing project" means the conversion of an existing
335 manufacturing or industrial building to a housing unit which is
336 ~~units~~ in an urban high-crime area, an enterprise zone, an
337 empowerment zone, a Front Porch Community, a designated
338 brownfield site for which a rehabilitation agreement with the
339 Department of Environmental Protection or a local government
340 delegated by the Department of Environmental Protection has been
341 executed under s. 376.80 and any abutting real property parcel
342 within a brownfield area, or an urban infill area; and in which
343 the developer agrees to set aside at least 20 percent of the
344 housing units in the project for low-income and moderate-income
345 persons or the construction in a designated brownfield area of

346 affordable housing for persons described in s. 420.0004(9),
347 (11), (12), or (17) or in s. 159.603(7).
348 c. "Mixed-use project" means the conversion of an existing
349 manufacturing or industrial building to mixed-use units that
350 include artists' studios, art and entertainment services, or
351 other compatible uses. A mixed-use project must be located in an
352 urban high-crime area, an enterprise zone, an empowerment zone,
353 a Front Porch Community, a designated brownfield site for which
354 a rehabilitation agreement with the Department of Environmental
355 Protection or a local government delegated by the Department of
356 Environmental Protection has been executed under s. 376.80 and
357 any abutting real property parcel within a brownfield area, or
358 an urban infill area;~~,~~ and the developer must agree to set aside
359 at least 20 percent of the square footage of the project for
360 low-income and moderate-income housing.
361 d. "Substantially completed" has the same meaning as
362 provided in s. 192.042(1).
363 2. Building materials used in the construction of a housing
364 project or mixed-use project are exempt from the tax imposed by
365 this chapter upon an affirmative showing to the satisfaction of
366 the department that the requirements of this paragraph have been
367 met. This exemption inures to the owner through a refund of
368 previously paid taxes. To receive this refund, the owner must
369 file an application under oath with the department which
370 includes:
371 a. The name and address of the owner.
372 b. The address and assessment roll parcel number of the
373 project for which a refund is sought.
374 c. A copy of the building permit issued for the project.

375 d. A certification by the local building code inspector
376 that the project is substantially completed.
377 e. A sworn statement, under penalty of perjury, from the
378 general contractor licensed in this state with whom the owner
379 contracted to construct the project, which statement lists the
380 building materials used in the construction of the project and
381 the actual cost thereof, and the amount of sales tax paid on
382 these materials. If a general contractor was not used, the owner
383 shall provide this information in a sworn statement, under
384 penalty of perjury. Copies of invoices evidencing payment of
385 sales tax must be attached to the sworn statement.
386 3. An application for a refund under this paragraph must be
387 submitted to the department within 6 months after the date the
388 project is deemed to be substantially completed by the local
389 building code inspector. Within 30 working days after receipt of
390 the application, the department shall determine if it meets the
391 requirements of this paragraph. A refund approved pursuant to
392 this paragraph shall be made within 30 days after formal
393 approval of the application by the department.
394 4. The department shall establish by rule an application
395 form and criteria for establishing eligibility for exemption
396 under this paragraph.
397 5. The exemption shall apply to purchases of materials on
398 or after July 1, 2000.
399 Section 4. The amendments to sections 212.08 and 288.107,
400 Florida Statutes, made by this act do not apply to building
401 materials purchased before the effective date of this act or to
402 contracts for brownfield redevelopment bonus refunds executed by
403 the Department of Economic Opportunity or Enterprise Florida,

404 Inc., before the effective date of this act.
405 Section 5. Contingent upon the repeal of s. 220.63(5),
406 Florida Statutes, by the enactment of SB 306 or similar
407 legislation, paragraph (d) of subsection (6) of section 212.20,
408 Florida Statutes, is amended to read:
409 212.20 Funds collected, disposition; additional powers of
410 department; operational expense; refund of taxes adjudicated
411 unconstitutionally collected.—
412 (6) Distribution of all proceeds under this chapter and s.
413 202.18(1)(b) and (2)(b) shall be as follows:
414 (d) The proceeds of all other taxes and fees imposed
415 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
416 and (2)(b) shall be distributed as follows:
417 1. In any fiscal year, the greater of $500 million, minus
418 an amount equal to 4.6 percent of the proceeds of the taxes
419 collected pursuant to chapter 201, or 5.2 percent of all other
420 taxes and fees imposed pursuant to this chapter or remitted
421 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
422 monthly installments into the General Revenue Fund.
423 2. After the distribution under subparagraph 1., 8.814
424 percent of the amount remitted by a sales tax dealer located
425 within a participating county pursuant to s. 218.61 shall be
426 transferred into the Local Government Half-cent Sales Tax
427 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
428 transferred shall be reduced by 0.1 percent, and the department
429 shall distribute this amount to the Public Employees Relations
430 Commission Trust Fund less $5,000 each month, which shall be
431 added to the amount calculated in subparagraph 3. and
432 distributed accordingly.

433 3. After the distribution under subparagraphs 1. and 2.,
434 0.095 percent shall be transferred to the Local Government Half-
435 cent Sales Tax Clearing Trust Fund and distributed pursuant to
436 s. 218.65.
437 4. After the distributions under subparagraphs 1., 2., and
438 3., 2.0440 percent of the available proceeds shall be
439 transferred monthly to the Revenue Sharing Trust Fund for
440 Counties pursuant to s. 218.215.
441 5. After the distributions under subparagraphs 1., 2., and
442 3., 1.3409 percent of the available proceeds shall be
443 transferred monthly to the Revenue Sharing Trust Fund for
444 Municipalities pursuant to s. 218.215. If the total revenue to
445 be distributed pursuant to this subparagraph is at least as
446 great as the amount due from the Revenue Sharing Trust Fund for
447 Municipalities and the former Municipal Financial Assistance
448 Trust Fund in state fiscal year 1999-2000, no municipality shall
449 receive less than the amount due from the Revenue Sharing Trust
450 Fund for Municipalities and the former Municipal Financial
451 Assistance Trust Fund in state fiscal year 1999-2000. If the
452 total proceeds to be distributed are less than the amount
453 received in combination from the Revenue Sharing Trust Fund for
454 Municipalities and the former Municipal Financial Assistance
455 Trust Fund in state fiscal year 1999-2000, each municipality
456 shall receive an amount proportionate to the amount it was due
457 in state fiscal year 1999-2000.
458 6. Of the remaining proceeds:
459 a. In each fiscal year, the sum of $29,915,500 shall be
460 divided into as many equal parts as there are counties in the
461 state, and one part shall be distributed to each county. The

462 distribution among the several counties must begin each fiscal
463 year on or before January 5th and continue monthly for a total
464 of 4 months. If a local or special law required that any moneys
465 accruing to a county in fiscal year 1999-2000 under the then-
466 existing provisions of s. 550.135 be paid directly to the
467 district school board, special district, or a municipal
468 government, such payment must continue until the local or
469 special law is amended or repealed. The state covenants with
470 holders of bonds or other instruments of indebtedness issued by
471 local governments, special districts, or district school boards
472 before July 1, 2000, that it is not the intent of this
473 subparagraph to adversely affect the rights of those holders or
474 relieve local governments, special districts, or district school
475 boards of the duty to meet their obligations as a result of
476 previous pledges or assignments or trusts entered into which
477 obligated funds received from the distribution to county
478 governments under then-existing s. 550.135. This distribution
479 specifically is in lieu of funds distributed under s. 550.135
480 before July 1, 2000.
481 b. The department shall distribute $166,667 monthly
482 pursuant to s. 288.1162 to each applicant certified as a
483 facility for a new or retained professional sports franchise
484 pursuant to s. 288.1162. Up to $41,667 shall be distributed
485 monthly by the department to each certified applicant as defined
486 in s. 288.11621 for a facility for a spring training franchise.
487 However, not more than $416,670 may be distributed monthly in
488 the aggregate to all certified applicants for facilities for
489 spring training franchises. Distributions begin 60 days after
490 such certification and continue for not more than 30 years,

491 except as otherwise provided in s. 288.11621. A certified
492 applicant identified in this sub-subparagraph may not receive
493 more in distributions than expended by the applicant for the
494 public purposes provided for in s. 288.1162(5) or s.
495 288.11621(3).
496 c. Beginning 30 days after notice by the Department of
497 Economic Opportunity to the Department of Revenue that an
498 applicant has been certified as the professional golf hall of
499 fame pursuant to s. 288.1168 and is open to the public, $166,667
500 shall be distributed monthly, for up to 300 months, to the
501 applicant.
502 d. Beginning 30 days after notice by the Department of
503 Economic Opportunity to the Department of Revenue that the
504 applicant has been certified as the International Game Fish
505 Association World Center facility pursuant to s. 288.1169, and
506 the facility is open to the public, $83,333 shall be distributed
507 monthly, for up to 168 months, to the applicant. This
508 distribution is subject to reduction pursuant to s. 288.1169. A
509 lump sum payment of $999,996 shall be made, after certification
510 and before July 1, 2000.
511 e. The department shall distribute up to $55,555 monthly to
512 each certified applicant as defined in s. 288.11631 for a
513 facility used by a single spring training franchise, or up to
514 $111,110 monthly to each certified applicant as defined in s.
515 288.11631 for a facility used by more than one spring training
516 franchise. Distributions begin 60 days after such certification
517 and continue for not more than 30 years, except as otherwise
518 provided in s. 288.11631. A certified applicant identified in
519 this sub-subparagraph may not receive more in distributions than

expended by the applicant for the public purposes provided in s. 288.11631(3).

7. All other proceeds must remain in the General Revenue Fund.

Section 6. Paragraph (bb) is added to subsection (8) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

(bb) Information to the director of the Office of Program Policy Analysis and Government Accountability or his or her authorized agent, and to the coordinator of the Office of Economic and Demographic Research or his or her authorized agent, for purposes of completing the Economic Development Programs Evaluation. Information obtained from the department pursuant to this paragraph may be shared by the director and the coordinator, or the director's or coordinator's authorized agent, for purposes of completing the Economic Development Programs Evaluation.

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

Section 7. Subsection (9) of section 220.194, Florida Statutes, is amended to read:

220.194 Corporate income tax credits for spaceflight projects.—

(9) ANNUAL REPORT.—Beginning in 2014, the Department of Economic Opportunity, in cooperation with Space Florida and the department, shall include in the ~~submit an~~ annual incentives report required under s. 288.907 a summary of ~~summarizing~~ activities relating to the Florida Space Business Incentives Act established under this section ~~to the Governor, the President of the Senate, and the Speaker of the House of Representatives by each November 30~~.

Section 8. Subsection (4) is added to section 288.005, Florida Statutes, to read:

288.005 Definitions.—As used in this chapter, the term:

(4) "Jobs" means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, which result directly from a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project.

Section 9. Subsection (3) of section 288.012, Florida Statutes, is amended to read:

288.012 State of Florida international offices; state protocol officer; protocol manual.—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for

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businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida international offices. The Legislature further finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between private businesses and state, local, and international governmental entities.

(3) ~~By October 1 of each year,~~ Each international office shall submit to Enterprise Florida, Inc., ~~the department~~ a complete and detailed report on its activities and accomplishments during the preceding fiscal year for inclusion in the annual report required under s. 288.906. In a format provided by Enterprise Florida, Inc., the report must set forth information on:

(a) The number of Florida companies assisted.

(b) The number of inquiries received about investment opportunities in this state.

(c) The number of trade leads generated.

(d) The number of investment projects announced.

(e) The estimated U.S. dollar value of sales confirmations.

(f) The number of representation agreements.

(g) The number of company consultations.

(h) Barriers or other issues affecting the effective operation of the office.

(i) Changes in office operations which are planned for the current fiscal year.

(j) Marketing activities conducted.

(k) Strategic alliances formed with organizations in the country in which the office is located.

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(l) Activities conducted with Florida's other international offices.

(m) Any other information that the office believes would contribute to an understanding of its activities.

Section 10. Present subsections (2) and (3) of section 288.061, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and a new subsection (2) and subsection (5) are added to that section, to read:

288.061 Economic development incentive application process.—

(2) Beginning July 1, 2013, the department shall review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives proposed for the project. The term "economic benefits" has the same meaning as in s. 288.005. The Office of Economic and Demographic Research shall review and evaluate the methodology and model used to calculate the economic benefits. For purposes of this requirement, an amended definition of economic benefits may be developed in conjunction with the Office of Economic and Demographic Research. The Office of Economic and Demographic Research shall report on the methodology and model by September 1, 2013, and every third year thereafter, to the President of the Senate and the Speaker of the House of Representatives.

(5)(a) The executive director may not approve an economic development incentive application unless the application includes a signed written declaration by the applicant which states that the applicant has read the information in the application and that the information is true, correct, and complete to the best of the applicant's knowledge and belief.

(b) After an economic development incentive application is approved, the awardee shall provide, in each year that the department is required to validate contractor performance, a signed written declaration. The written declaration must state that the awardee has reviewed the information and that the information is true, correct, and complete to the best of the awardee's knowledge and belief.

Section 11. Subsection (8) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(8) REDI shall submit a report ~~to the Governor, the President of the Senate, and the Speaker of the House of Representatives each year on or before September 1~~ on all REDI activities for the prior fiscal year as a supplement to the annual report required under s. 20.60. This report must ~~shall~~ include a status report on all projects currently being coordinated through REDI, the number of preferential awards and allowances made pursuant to this section, the dollar amount of such awards, and the names of the recipients. The report must ~~shall~~ also include a description of all waivers of program requirements granted. The report must ~~shall~~ also include information as to the economic impact of the projects coordinated by REDI, and recommendations based on the review and evaluation of statutes and rules having an adverse impact on rural communities, and proposals to mitigate such adverse impacts.

Section 12. Section 288.076, Florida Statutes, is created to read:

288.076 Return on investment reporting for economic

development programs.—

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

(a) "Jobs" has the same meaning as provided in s. 288.106.

(b) "Participant business" means an employing unit, as defined in s. 443.036, that has entered into an agreement with the department to receive a state investment.

(c) "Project" has the same meaning as provided in s. 288.106.

(d) "Project award date" means the date a participant business enters into an agreement with the department to receive a state investment.

(e) "State investment" means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by the department, including the capital investment tax credit under s. 220.191.

(2) The department shall maintain a website for the purpose of publishing the information described in this section. The information required to be published under this section must be provided in a format accessible to the public which enables users to search for and sort specific data and to easily view and retrieve all data at once.

(3) Within 48 hours after expiration of the period of confidentiality for project information deemed confidential and exempt pursuant to s. 288.075, the department shall publish the following information pertaining to each project:

(a) Projected economic benefits.—The projected economic benefits at the time of the initial project award date.

(b) Project information.—

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694 1. The program or programs through which state investment
695 is being made.
696 2. The maximum potential cumulative state investment in the
697 project.
698 3. The target industry or industries, and any high impact
699 sectors implicated by the project.
700 4. The county or counties that will be impacted by the
701 project.
702 5. The total cumulative local financial commitment and in-
703 kind support for the project.
704 (c) Participant business information.—
705 1. The location of the headquarters of the participant
706 business or, if a subsidiary, the headquarters of the parent
707 company.
708 2. The firm size class of the participant business, or
709 where owned by a parent company the firm size class of the
710 participant business's parent company, using the firm size
711 classes established by the United States Department of Labor
712 Bureau of Labor Statistics, and whether the participant business
713 qualifies as a small business as defined in s. 288.703.
714 3. The date of the project award.
715 4. The expected duration of the contract.
716 5. The anticipated dates when the participant business will
717 claim the last state investment.
718 (d) Project evaluation criteria.—
719 1. Economic benefits generated by the project.
720 2. The net indirect and induced incremental jobs to be
721 generated by the project.
722 3. The net indirect and induced incremental capital

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723 investment to be generated by the project.
724 4. The net indirect and induced incremental tax revenue
725 paid to the state to be generated by the project.
726 (e) Project performance goals.—
727 1. The incremental direct jobs attributable to the project,
728 identifying the number of jobs generated and the number of jobs
729 retained.
730 2. The number of jobs generated and the number of jobs
731 retained by the project, and for projects commencing after
732 October 1, 2013, the median annual wage of persons holding such
733 jobs.
734 3. The incremental direct capital investment in the state
735 generated by the project.
736 4. The incremental projected tax revenue to the state paid
737 by the participant business for the project.
738 (f) Total state investment to date.—The total amount of
739 state investment disbursed to the participant business to date
740 under the terms of the contract, itemized by incentive program.
741 (4) The department shall use methodology and formulas
742 established by the Office of Economic and Demographic Research
743 to calculate the economic benefits of each project. The
744 department shall calculate and publish on its website the
745 economic benefits of each project within 48 hours after the
746 conclusion of the agreement between each participant business
747 and the department. The Office of Economic and Demographic
748 Research shall provide a description of the methodology and
749 formulas used to calculate the economic benefits of a project to
750 the department, and the department must publish the information
751 on its website within 48 hours after receiving such information.

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752 (5) At least annually, from the project award date, the
753 department shall:
754 (a) Publish verified results to update the information
755 described in paragraphs (3)(b)-(f) to accurately reflect any
756 changes in the published information since the project award
757 date.
758 (b) Publish on its website the date on which the
759 information collected and published for each project was last
760 updated.
761 (6) Annually, the department shall publish information
762 relating to the progress of Quick Action Closing Fund projects,
763 including the average number of days between the date the
764 department receives a completed application and the date on
765 which the application is approved.
766 (7) The department shall publish the following documents at
767 the times specified herein:
768 (a) Within 48 hours after expiration of the period of
769 confidentiality provided under s. 288.075, the department shall
770 publish the contract or agreement described in s. 288.061. The
771 contract or agreement must be redacted to protect the
772 participant business from disclosure of information that remains
773 confidential or exempt by law.
774 (b) Within 48 hours after submitting any report of findings
775 and recommendations made pursuant to s. 288.106(7)(d) concerning
776 a business's failure to complete a tax refund agreement pursuant
777 to the tax refund program for qualified target industry
778 businesses, the department shall publish such report.
779 (8) For projects completed before October 1, 2013, the
780 department shall compile and, by October 1, 2014, shall publish

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781 the information described in subsections (3), (4), and (5), to
782 the extent such information is available and applicable.
783 (9) The provisions of this section that restrict the
784 department's publication of information are intended only to
785 limit the information that the department may publish on its
786 website and shall not be construed to create an exemption from
787 public records requirements under s. 119.07(1) or s. 24(a), Art.
788 I of the State Constitution.
789 (10) The department may adopt rules to administer this
790 section.
791 Section 13. Paragraph (c) of subsection (3) of section
792 288.095, Florida Statutes, is repealed.
793 Section 14. Paragraph (c) of subsection (4) and paragraph
794 (d) of subsection (7) of section 288.106, Florida Statutes, are
795 amended to read:
796 288.106 Tax refund program for qualified target industry
797 businesses.—
798 (4) APPLICATION AND APPROVAL PROCESS.—
799 (c) Each application meeting the requirements of paragraph
800 (b) must be submitted to the department for determination of
801 eligibility. The department shall review and evaluate each
802 application based on, but not limited to, the following
803 criteria:
804 1. Expected contributions to the state's economy,
805 consistent with the state strategic economic development plan
806 prepared by the department.
807 2. The economic benefits of the proposed award of tax
808 refunds under this section ~~and the economic benefits of state~~
809 ~~incentives proposed for the project~~. ~~The term "economic~~

~~benefits" has the same meaning as in s. 288.005. The Office of Economic and Demographic Research shall review and evaluate the methodology and model used to calculate the economic benefits and shall report its findings by September 1 of every 3rd year, to the President of the Senate and the Speaker of the House of Representatives.~~

3. The amount of capital investment to be made by the applicant in this state.

4. The local financial commitment and support for the project.

5. The expected effect of the project on the unemployed and underemployed ~~unemployment rate~~ in the county where the project will be located.

6. The expected effect of the award on the viability of the project and the probability that the project would be undertaken in this state if such tax refunds are granted to the applicant.

~~7. The expected long-term commitment of the applicant to economic growth and employment in this state resulting from the project.~~

7.~~8.~~ A review of the business's past activities in this state or other states, including whether the ~~such~~ business has been subjected to criminal or civil fines and penalties and whether the business received economic development incentives in other states and the results of such incentive agreements. This subparagraph does not require the disclosure of confidential information.

(7) ADMINISTRATION.—

(d) Beginning with tax refund agreements signed after July 1, 2010, the department shall attempt to ascertain the causes

for any business's failure to complete its agreement and ~~shall report~~ its findings and recommendations must be included in the annual incentives report under s. 288.907 ~~to the Governor, the President of the Senate, and the Speaker of the House of Representatives~~. ~~The report shall be submitted by December 1 of each year beginning in 2011.~~

Section 15. Paragraphs (c) and (d) of subsection (1), subsections (2) and (3), and paragraphs (a), (b), and (f) of subsection (4) of section 288.107, Florida Statutes, are amended to read:

288.107 Brownfield redevelopment bonus refunds.—

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

(c) "Brownfield area eligible for bonus refunds" means a brownfield site for which a rehabilitation agreement with the Department of Environmental Protection or a local government delegated by the Department of Environmental Protection has been executed under s. 376.80 and any abutting real property parcel within a brownfield ~~contiguous~~ area ~~of one or more brownfield sites, some of which may not be contaminated, and~~ which has been designated by a local government by resolution under s. 376.80. ~~Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.~~

(d) "Eligible business" means:

1. A qualified target industry business as defined in s. 288.106(2); or

2. A business that can demonstrate a fixed capital

868 investment of at least $2 million in mixed-use business
869 activities, including multiunit housing, commercial, retail, and
870 industrial in brownfield areas eligible for bonus refunds, ~~or at~~
871 ~~least $500,000 in brownfield areas that do not require site~~
872 ~~cleanup,~~ and that provides benefits to its employees.
873 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds
874 shall be approved by the department as specified in the final
875 order and allowed from the account as follows:
876 (a) A bonus refund of $2,500 shall be allowed to any
877 qualified target industry business as defined in s. 288.106 for
878 each new Florida job created in a brownfield area eligible for
879 bonus refunds which ~~that~~ is claimed on the qualified target
880 industry business's annual refund claim authorized in s.
881 288.106(6).
882 (b) A bonus refund of up to $2,500 shall be allowed to any
883 other eligible business as defined in subparagraph (1)(d)2. for
884 each new Florida job created in a brownfield area eligible for
885 bonus refunds which ~~that~~ is claimed under an annual claim
886 procedure similar to the annual refund claim authorized in s.
887 288.106(6). The amount of the refund shall be equal to 20
888 percent of the average annual wage for the jobs created.
889 (3) CRITERIA.—The minimum criteria for participation in the
890 brownfield redevelopment bonus refund are:
891 (a) The creation of at least 10 new full-time permanent
892 jobs. Such jobs shall not include construction or site
893 rehabilitation jobs associated with the implementation of a
894 brownfield site agreement as described in s. 376.80(5).
895 (b) The completion of a fixed capital investment of at
896 least $2 million in mixed-use business activities, including

897 multiunit housing, commercial, retail, and industrial in
898 brownfield areas eligible for bonus refunds, ~~or at least~~
899 ~~$500,000 in brownfield areas that do not require site cleanup,~~
900 by an eligible business applying for a refund under paragraph
901 (2)(b) which provides benefits to its employees.
902 ~~(c) That the designation as a brownfield will diversify and~~
903 ~~strengthen the economy of the area surrounding the site.~~
904 ~~(d) That the designation as a brownfield will promote~~
905 ~~capital investment in the area beyond that contemplated for the~~
906 ~~rehabilitation of the site.~~
907 ~~(e) A resolution adopted by the governing board of the~~
908 ~~county or municipality in which the project will be located that~~
909 ~~recommends that certain types of businesses be approved.~~
910 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—
911 (a) To be eligible to receive a bonus refund for new
912 Florida jobs created in a brownfield area eligible for bonus
913 refunds, a business must have been certified as a qualified
914 target industry business under s. 288.106 or eligible business
915 as defined in paragraph (1)(d) and must have indicated on the
916 qualified target industry business tax refund application form
917 submitted in accordance with s. 288.106(4) or other similar
918 agreement for other eligible business as defined in paragraph
919 (1)(d) that the project for which the application is submitted
920 is or will be located in a brownfield area eligible for bonus
921 refunds and that the business is applying for certification as a
922 qualified brownfield business under this section, and must have
923 signed a qualified target industry business tax refund agreement
924 with the department that indicates that the business has been
925 certified as a qualified target industry business located in a

926 brownfield area eligible for bonus refunds and specifies the
927 schedule of brownfield redevelopment bonus refunds that the
928 business may be eligible to receive in each fiscal year.
929 (b) To be considered to receive an eligible brownfield
930 redevelopment bonus refund payment, the business meeting the
931 requirements of paragraph (a) must submit a claim once each
932 fiscal year on a claim form approved by the department which
933 indicates the location of the brownfield site for which a
934 rehabilitation agreement with the Department of Environmental
935 Protection or a local government delegated by the Department of
936 Environmental Protection has been executed under s. 376.80, the
937 address of the business facility's brownfield location, the name
938 of the brownfield in which it is located, the number of jobs
939 created, and the average wage of the jobs created by the
940 business within the brownfield as defined in s. 288.106 or other
941 eligible business as defined in paragraph (1)(d) and the
942 administrative rules and policies for that section.
943 (f) Applications shall be reviewed and certified pursuant
944 to s. 288.061. The department shall review all applications
945 submitted under s. 288.106 or other similar application forms
946 for other eligible businesses as defined in paragraph (1)(d)
947 which indicate that the proposed project will be located in a
948 brownfield area eligible for bonus refunds and determine, with
949 the assistance of the Department of Environmental Protection,
950 that the project location is within a brownfield area eligible
951 for bonus refunds as provided in this act.
952 Section 16. Subsection (8) of section 288.1081, Florida
953 Statutes, is amended to read:
954 288.1081 Economic Gardening Business Loan Pilot Program.—

955 (8) The annual report required under s. 20.60 must describe
956 ~~On June 30 and December 31 of each year, the department shall~~
957 ~~submit a report to the Governor, the President of the Senate,~~
958 ~~and the Speaker of the House of Representatives which describes~~
959 in detail the use of the loan funds. The report must include, at
960 a minimum, the number of businesses receiving loans, the number
961 of full-time equivalent jobs created as a result of the loans,
962 the amount of wages paid to employees in the newly created jobs,
963 the locations and types of economic activity undertaken by the
964 borrowers, the amounts of loan repayments made to date, and the
965 default rate of borrowers.
966 Section 17. Subsection (8) of section 288.1082, Florida
967 Statutes, is amended to read:
968 288.1082 Economic Gardening Technical Assistance Pilot
969 Program.—
970 (8) The annual report required under s. 20.60 must describe
971 ~~On December 31 of each year, the department shall submit a~~
972 ~~report to the Governor, the President of the Senate, and the~~
973 ~~Speaker of the House of Representatives which describes~~ in
974 detail the progress of the pilot program. The report must
975 include, at a minimum, the number of businesses receiving
976 assistance, the number of full-time equivalent jobs created as a
977 result of the assistance, if any, the amount of wages paid to
978 employees in the newly created jobs, and the locations and types
979 of economic activity undertaken by the businesses.
980 Section 18. Paragraph (e) of subsection (3) of section
981 288.1088, Florida Statutes, is amended to read:
982 288.1088 Quick Action Closing Fund.—
983 (3)

984 (e) The department ~~Enterprise Florida, Inc.,~~ shall validate
985 contractor performance. Such validation shall be reported in the
986 annual incentives report required under s. 288.907 ~~within 6~~
987 ~~months after completion of the contract to the Governor,~~
988 ~~President of the Senate, and the Speaker of the House of~~
989 ~~Representatives~~.
990 Section 19. Paragraphs (b) and (d) of subsection (4), and
991 subsections (9) and (11) of section 288.1089, Florida Statutes,
992 are amended to read:
993 288.1089 Innovation Incentive Program.—
994 (4) To qualify for review by the department, the applicant
995 must, at a minimum, establish the following to the satisfaction
996 of the department:
997 (b) A research and development project must:
998 1. Serve as a catalyst for an emerging or evolving
999 technology cluster.
1000 2. Demonstrate a plan for significant higher education
1001 collaboration.
1002 3. Provide the state, at a minimum, a cumulative break-even
1003 economic benefit ~~return on investment~~ within a 20-year period.
1004 4. Be provided with a one-to-one match from the local
1005 community. The match requirement may be reduced or waived in
1006 rural areas of critical economic concern or reduced in rural
1007 areas, brownfield areas, and enterprise zones.
1008 (d) For an alternative and renewable energy project in this
1009 state, the project must:
1010 1. Demonstrate a plan for significant collaboration with an
1011 institution of higher education;
1012 2. Provide the state, at a minimum, a cumulative break-even

1013 economic benefit ~~return on investment~~ within a 20-year period;
1014 3. Include matching funds provided by the applicant or
1015 other available sources. The match requirement may be reduced or
1016 waived in rural areas of critical economic concern or reduced in
1017 rural areas, brownfield areas, and enterprise zones;
1018 4. Be located in this state; and
1019 5. Provide at least 35 direct, new jobs that pay an
1020 estimated annual average wage that equals at least 130 percent
1021 of the average private sector wage.
1022 (9) The department shall validate the performance of an
1023 innovation business, a research and development facility, or an
1024 alternative and renewable energy business that has received an
1025 award. At the conclusion of the innovation incentive award
1026 agreement, or its earlier termination, the department shall~~,~~
1027 ~~within 90 days,~~ submit, as part of the annual incentives report
1028 required under s. 288.907, a report ~~to the Governor, the~~
1029 ~~President of the Senate, and the Speaker of the House of~~
1030 ~~Representatives~~ detailing whether the recipient of the
1031 innovation incentive grant achieved its specified outcomes.
1032 (11)~~(a)~~ The department shall submit ~~to the Governor, the~~
1033 ~~President of the Senate, and the Speaker of the House of~~
1034 ~~Representatives~~, as part of the annual incentives report
1035 required under s. 288.907, a report summarizing the activities
1036 and accomplishments of the recipients of grants from the
1037 Innovation Incentive Program during the previous 12 months and
1038 an evaluation of whether the recipients are catalysts for
1039 additional direct and indirect economic development in Florida.
1040 ~~(b) Beginning March 1, 2010, and every third year~~
1041 ~~thereafter, the Office of Program Policy Analysis and Government~~

1042 ~~Accountability, in consultation with the Auditor General's~~
1043 ~~Office, shall release a report evaluating the Innovation~~
1044 ~~Incentive Program's progress toward creating clusters of high-~~
1045 ~~wage, high-skilled, complementary industries that serve as~~
1046 ~~catalysts for economic growth specifically in the regions in~~
1047 ~~which they are located, and generally for the state as a whole.~~
1048 ~~Such report should include critical analyses of quarterly and~~
1049 ~~annual reports, annual audits, and other documents prepared by~~
1050 ~~the Innovation Incentive Program awardees; relevant economic~~
1051 ~~development reports prepared by the department, Enterprise~~
1052 ~~Florida, Inc., and local or regional economic development~~
1053 ~~organizations; interviews with the parties involved; and any~~
1054 ~~other relevant data. Such report should also include legislative~~
1055 ~~recommendations, if necessary, on how to improve the Innovation~~
1056 ~~Incentive Program so that the program reaches its anticipated~~
1057 ~~potential as a catalyst for direct and indirect economic~~
1058 ~~development in this state.~~
1059 Section 20. Contingent upon the repeal of s. 220.63(5),
1060 Florida Statutes, by the enactment of SB 306 or similar
1061 legislation, section 288.11631, Florida Statutes, is created to
1062 read:
1063 288.11631 Retention of Major League Baseball spring
1064 training baseball franchises.—
1065 (1) DEFINITIONS.—As used in this section, the term:
1066 (a) "Agreement" means a certified, signed lease between an
1067 applicant that applies for certification on or after July 1,
1068 2013, and a spring training franchise for the use of a facility.
1069 (b) "Applicant" means a unit of local government as defined
1070 in s. 218.369, including a local government located in the same

1071 county, which has partnered with a certified applicant before
1072 the effective date of this section or with an applicant for a
1073 new certification, for purposes of sharing in the
1074 responsibilities of a facility.
1075 (c) "Certified applicant" means a facility for a spring
1076 training franchise or a unit of local government that is
1077 certified under this section.
1078 (d) "Facility" means a spring training stadium, playing
1079 fields, and appurtenances intended to support spring training
1080 activities.
1081 (e) "Local funds" and "local matching funds" mean funds
1082 provided by a county, municipality, or other local government.
1083 (2) CERTIFICATION PROCESS.—
1084 (a) Before certifying an applicant to receive state funding
1085 for a facility for a spring training franchise, the department
1086 must verify that:
1087 1. The applicant is responsible for the construction or
1088 renovation of the facility for a spring training franchise or
1089 holds title to the property on which the facility for a spring
1090 training franchise is located.
1091 2. The applicant has a certified copy of a signed agreement
1092 with a spring training franchise. The signed agreement with a
1093 spring training franchise for the use of a facility must, at a
1094 minimum, be equal to the length of the term of the bonds issued
1095 for the public purpose of constructing or renovating a facility
1096 for a spring training franchise. If no such bonds are issued for
1097 the public purpose of constructing or renovating a facility for
1098 a spring training franchise, the signed agreement with a spring
1099 training franchise for the use of a facility must be for at

1100 least 20 years. Any such agreement with a spring training
1101 franchise for the use of a facility cannot be signed more than 3
1102 years before the expiration of any existing agreement with a
1103 spring training franchise for the use of a facility. The
1104 agreement must also require the franchise to reimburse the state
1105 for state funds expended by an applicant under this section if
1106 the franchise relocates before the agreement expires. The
1107 agreement may be contingent on an award of funds under this
1108 section and other conditions precedent.
1109 3. The applicant has made a financial commitment to provide
1110 50 percent or more of the funds required by an agreement for the
1111 construction or renovation of the facility for a spring training
1112 franchise. The commitment may be contingent upon an award of
1113 funds under this section and other conditions precedent.
1114 4. The applicant demonstrates that the facility for a
1115 spring training franchise will attract a paid attendance of at
1116 least 50,000 persons annually to the spring training games.
1117 5. The facility for a spring training franchise is located
1118 in a county that levies a tourist development tax under s.
1119 125.0104.
1120 (b) The department shall evaluate applications for state
1121 funding of the construction or renovation of the facility for a
1122 spring training franchise. The evaluation criteria must include
1123 the following items:
1124 1. The anticipated effect on the economy of the local
1125 community where the facility is to be constructed or renovated,
1126 including projections on paid attendance, local and state tax
1127 collections generated by spring training games, and direct and
1128 indirect job creation resulting from the spring training

1129 activities.
1130 2. The amount of the local matching funds committed to a
1131 facility relative to the amount of state funding sought.
1132 3. The potential for the facility to be used as a multiple
1133 purpose, year-round facility.
1134 4. The intended use of the funds by the applicant.
1135 5. The length of time that a spring training franchise has
1136 been under an agreement to conduct spring training activities
1137 within an applicant's geographic location or jurisdiction.
1138 6. The length of time that an applicant's facility has been
1139 used by one or more spring training franchises, including
1140 continuous use as facilities for spring training.
1141 7. The term remaining on a lease between an applicant and a
1142 spring training franchise for a facility.
1143 8. The length of time that a spring training franchise
1144 agrees to use an applicant's facility if an application is
1145 granted under this section.
1146 9. The location of the facility in a brownfield, an
1147 enterprise zone, a community redevelopment area, or other area
1148 of targeted development or revitalization included in an urban
1149 infill redevelopment plan.
1150 (c) Each applicant certified on or after July 1, 2013,
1151 shall enter into an agreement with the department which:
1152 1. Specifies the amount of the state incentive funding to
1153 be distributed. The amount of state incentive funding per
1154 certified applicant may not exceed $20 million. However, if a
1155 certified applicant has more than one spring training franchise,
1156 the maximum amount may not exceed $40 million.
1157 2. States the criteria that the certified applicant must

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1158 meet in order to remain certified. These criteria must include a
1159 provision stating that the spring training franchise must
1160 reimburse the state for any funds received if the franchise does
1161 not comply with the terms of the contract.
1162 3. States that the certified applicant is subject to
1163 decertification if the certified applicant fails to comply with
1164 this section or the agreement.
1165 4. States that the department may recover state incentive
1166 funds if the certified applicant is decertified.
1167 5. Specifies the information that the certified applicant
1168 must report to the department.
1169 6. Includes any provision deemed prudent by the department.
1170 (3) USE OF FUNDS.—
1171 (a) A certified applicant may use funds provided under s.
1172 212.20(6)(d)6.e. only to:
1173 1. Serve the public purpose of constructing or renovating a
1174 facility for a spring training franchise.
1175 2. Pay or pledge for the payment of debt service on, or to
1176 fund debt service reserve funds, arbitrage rebate obligations,
1177 or other amounts payable with respect thereto, bonds issued for
1178 the construction or renovation of such facility, or for the
1179 reimbursement of such costs or the refinancing of bonds issued
1180 for such purposes.
1181 (b) State funds awarded to a certified applicant for a
1182 facility for a spring training franchise may not be used to
1183 subsidize facilities that are privately owned by, maintained by,
1184 and used exclusively by a spring training franchise.
1185 (c) The Department of Revenue may not distribute funds to
1186 an applicant certified on or after July 1, 2013, until it

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1187 receives notice from the department that the certified applicant
1188 has encumbered funds under subparagraph (a)2.
1189 (d)1. All certified applicants shall place unexpended state
1190 funds received pursuant to s. 212.20(6)(d)6.e. in a trust fund
1191 or separate account for use only as authorized in this section.
1192 2. A certified applicant may request that the Department of
1193 Revenue suspend further distributions of state funds made
1194 available under s. 212.20(6)(d)6.e. for 12 months after
1195 expiration of an existing agreement with a spring training
1196 franchise to provide the certified applicant with an opportunity
1197 to enter into a new agreement with a spring training franchise,
1198 at which time the distributions shall resume.
1199 3. The expenditure of state funds distributed to an
1200 applicant certified after July 1, 2013, must begin within 48
1201 months after the initial receipt of the state funds. In
1202 addition, the construction or renovation of a spring training
1203 facility must be completed within 24 months after the project's
1204 commencement.
1205 (4) ANNUAL REPORTS.—
1206 (a) On or before September 1 of each year, a certified
1207 applicant shall submit to the department a report that includes,
1208 but is not limited to:
1209 1. A detailed accounting of all local and state funds
1210 expended to date on the project financed under this section.
1211 2. A copy of the contract between the certified local
1212 governmental entity and the spring training franchise.
1213 3. A cost-benefit analysis of the team's impact on the
1214 community.
1215 4. Evidence that the certified applicant continues to meet

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1216 the criteria in effect when the applicant was certified.
1217 (b) The department shall compile the information received
1218 from each certified applicant and publish the information
1219 annually by November 1.
1220 (5) DECERTIFICATION.—
1221 (a) The department shall decertify a certified applicant
1222 upon the request of the certified applicant.
1223 (b) The department shall decertify a certified applicant if
1224 the certified applicant does not:
1225 1. Have a valid agreement with a spring training franchise;
1226 or
1227 2. Satisfy its commitment to provide local matching funds
1228 to the facility.
1229
1230 However, decertification proceedings against a local government
1231 certified after July 1, 2013, shall be delayed until 12 months
1232 after the expiration of the local government's existing
1233 agreement with a spring training franchise, and without a new
1234 agreement being signed, if the certified local government can
1235 demonstrate to the department that it is in active negotiations
1236 with a major league spring training franchise, other than the
1237 franchise that was the basis for the original certification.
1238 (c) A certified applicant has 60 days after it receives a
1239 notice of intent to decertify from the department to petition
1240 for review of the decertification. Within 45 days after receipt
1241 of the request for review, the department must notify a
1242 certified applicant of the outcome of the review.
1243 (d) The department shall notify the Department of Revenue
1244 that a certified applicant has been decertified within 10 days

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1245 after the order of decertification becomes final. The Department
1246 of Revenue shall immediately stop the payment of any funds under
1247 this section which were not encumbered by the certified
1248 applicant under subparagraph (3)(a)2.
1249 (e) The department shall order a decertified applicant to
1250 repay all of the unencumbered state funds that the applicant
1251 received under this section and any interest that accrued on
1252 those funds. The repayment must be made within 60 days after the
1253 decertification order becomes final. These funds shall be
1254 deposited into the General Revenue Fund.
1255 (f) A local government as defined in s. 218.369 may not be
1256 decertified by the department if it has paid or pledged for the
1257 payment of debt service on, or to fund debt service reserve
1258 funds, arbitrage rebate obligations, or other amounts payable
1259 with respect thereto, bonds issued for the construction or
1260 renovation of the facility for which the local government was
1261 certified, or for the reimbursement of such costs or the
1262 refinancing of bonds issued for the construction or renovation
1263 of the facility for which the local government was certified, or
1264 for the reimbursement of such costs or the refinancing of bonds
1265 issued for such purpose. This subsection does not preclude or
1266 restrict the ability of a certified local government to
1267 refinance, refund, or defease such bonds.
1268 (6) RULEMAKING.—The department shall adopt rules to
1269 implement the certification, decertification, and
1270 decertification review processes required by this section.
1271 (7) AUDITS.—The Auditor General may conduct audits as
1272 provided in s. 11.45 to verify that the distributions under this
1273 section are expended as required in this section. If the Auditor

1274 General determines that the distributions under this section are
1275 not expended as required by this section, the Auditor General
1276 shall notify the Department of Revenue, which may pursue
1277 recovery of the funds under the laws and rules governing the
1278 assessment of taxes.
1279 Section 21. Subsection (3) of section 288.1253, Florida
1280 Statutes, is amended to read:
1281 288.1253 Travel and entertainment expenses.—
1282 (3) The department shall prepare an annual report of the
1283 expenditures of the previous fiscal year of the Office of Film
1284 and Entertainment and provide such report to the Legislature on
1285 November 1 ~~no later than December 30~~ of each year as part of the
1286 report required under s. 288.1254(10) ~~for the expenditures of~~
1287 ~~the previous fiscal year~~. The report shall consist of a summary
1288 of all travel, entertainment, and incidental expenses incurred
1289 within the United States and all travel, entertainment, and
1290 incidental expenses incurred outside the United States, as well
1291 as a summary of all successful projects that developed from such
1292 travel.
1293 Section 22. Subsection (10) of section 288.1254, Florida
1294 Statutes, is amended to read:
1295 288.1254 Entertainment industry financial incentive
1296 program.—
1297 (10) ANNUAL REPORT.—Each November 1 ~~October 1~~, the Office
1298 of Film and Entertainment shall provide an annual report for the
1299 previous fiscal year to the Governor, the President of the
1300 Senate, and the Speaker of the House of Representatives which
1301 outlines the return on investment and economic benefits to the
1302 state. The report must ~~shall also~~ include an estimate of the

1303 full-time equivalent positions created by each production that
1304 received tax credits under this section and information relating
1305 to the distribution of productions receiving credits by
1306 geographic region and type of production. The report must also
1307 include the expenditures report required under s. 288.1253(3)
1308 and the report detailing the relationship between tax exemptions
1309 and incentives to industry growth required under s. 288.1258(5).
1310 Section 23. Subsection (5) of section 288.1258, Florida
1311 Statutes, is amended to read:
1312 288.1258 Entertainment industry qualified production
1313 companies; application procedure; categories; duties of the
1314 Department of Revenue; records and reports.—
1315 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
1316 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The Office of Film
1317 and Entertainment shall keep annual records from the information
1318 provided on taxpayer applications for tax exemption certificates
1319 beginning January 1, 2001. These records also must ~~shall~~ reflect
1320 a ratio of the annual amount of sales and use tax exemptions
1321 under this section, plus the incentives awarded pursuant to s.
1322 288.1254 to the estimated amount of funds expended by certified
1323 productions. In addition, the office shall maintain data showing
1324 annual growth in Florida-based entertainment industry companies
1325 and entertainment industry employment and wages. The employment
1326 information must ~~shall~~ include an estimate of the full-time
1327 equivalent positions created by each production that received
1328 tax credits pursuant to s. 288.1254. The Office of Film and
1329 Entertainment shall report this information to the Legislature
1330 no later than November 1 ~~December 1~~ of each year as part of the
1331 report required under s. 288.1254(10).

1332 Section 24. Subsection (3) of section 288.714, Florida
1333 Statutes, is amended to read:
1334 288.714 Quarterly and annual reports.—
1335 (3) The annual review and report required under s. 20.60
1336 must include ~~By August 31 of each year, the department shall~~
1337 ~~provide to the Governor, the President of the Senate, and the~~
1338 ~~Speaker of the House of Representatives~~ a detailed report of the
1339 performance of the Black Business Loan Program. The report must
1340 include a cumulative summary of quarterly report data required
1341 by subsection (1).
1342 Section 25. Section 288.7771, Florida Statutes, is amended
1343 to read:
1344 288.7771 Annual report of Florida Export Finance
1345 Corporation.—The corporation shall annually prepare and submit
1346 to Enterprise Florida, Inc., ~~the department~~ for inclusion in its
1347 annual report required by s. 288.906, ~~s. 288.095~~ a complete and
1348 detailed report setting forth:
1349 (1) The report required in s. 288.776(3).
1350 (2) Its assets and liabilities at the end of its most
1351 recent fiscal year.
1352 Section 26. Section 288.903, Florida Statutes, is amended
1353 to read:
1354 288.903 Duties of Enterprise Florida, Inc.—Enterprise
1355 Florida, Inc., shall have the following duties:
1356 (1) Responsibly and prudently manage all public and private
1357 funds received, and ensure that the use of such funds is in
1358 accordance with all applicable laws, bylaws, or contractual
1359 requirements.
1360 (2) Administer the entities or programs created pursuant to

1361 part IX of this chapter; ss. 288.9622-288.9624; ss. 288.95155
1362 and 288.9519; and chapter 95-429, Laws of Florida, line 1680Y.
1363 (3) Prepare an annual report pursuant to s. 288.906.
1364 (4) Prepare, in conjunction with the department, ~~and~~ an
1365 annual incentives report pursuant to s. 288.907.
1366 (5) ~~(4)~~ Assist the department with the development of an
1367 annual and a long-range strategic business blueprint for
1368 economic development required in s. 20.60.
1369 (6) ~~(5)~~ In coordination with Workforce Florida, Inc.,
1370 identify education and training programs that will ensure
1371 Florida businesses have access to a skilled and competent
1372 workforce necessary to compete successfully in the domestic and
1373 global marketplace.
1374 Section 27. Subsection (6) of section 288.904, Florida
1375 Statutes, is repealed.
1376 Section 28. Subsection (3) is added to section 288.906,
1377 Florida Statutes, to read:
1378 288.906 Annual report of Enterprise Florida, Inc., and its
1379 divisions; audits.—
1380 (3) The following reports must be included as supplements
1381 to the detailed report required by this section:
1382 (a) The annual report of the Florida Export Finance
1383 Corporation required under s. 288.7771.
1384 (b) The report on international offices required under s.
1385 288.012.
1386 Section 29. Section 288.907, Florida Statutes, is amended
1387 to read:
1388 288.907 Annual incentives report.—
1389 ~~(1)~~ By December 30 of each year, ~~In addition to the annual~~

1390 ~~report required under s. 288.906,~~ Enterprise Florida, Inc., in
1391 conjunction with the department, ~~by December 30 of each year,~~
1392 shall provide the Governor, the President of the Senate, and the
1393 Speaker of the House of Representatives a detailed incentives
1394 report quantifying the economic benefits for all of the economic
1395 development incentive programs marketed by Enterprise Florida,
1396 Inc.
1397 ~~(a)~~ The annual incentives report must include:
1398 (1) For each incentive program:
1399 (a)~~1.~~ A brief description of the incentive program.
1400 (b)~~2.~~ The amount of awards granted, by year, since
1401 inception and the annual amount actually transferred from the
1402 state treasury to businesses or for the benefit of businesses
1403 for each of the previous 3 years.
1404 ~~3. The economic benefits, as defined in s. 288.005, based~~
1405 ~~on the actual amount of private capital invested, actual number~~
1406 ~~of jobs created, and actual wages paid for incentive agreements~~
1407 ~~completed during the previous 3 years.~~
1408 (c)~~4.~~ ~~The report shall also include~~ The actual amount of
1409 private capital invested, actual number of jobs created, and
1410 actual wages paid for incentive agreements completed during the
1411 previous 3 years for each target industry sector.
1412 (2)~~(b)~~ For projects completed during the previous state
1413 fiscal year~~, the report must include~~:
1414 (a)~~1.~~ The number of economic development incentive
1415 applications received.
1416 (b)~~2.~~ The number of recommendations made to the department
1417 by Enterprise Florida, Inc., including the number recommended
1418 for approval and the number recommended for denial.

1419 (c)~~3.~~ The number of final decisions issued by the
1420 department for approval and for denial.
1421 (d)~~4.~~ The projects for which a tax refund, tax credit, or
1422 cash grant agreement was executed, identifying for each project:
1423 1.~~a.~~ The number of jobs committed to be created.
1424 2.~~b.~~ The amount of capital investments committed to be
1425 made.
1426 3.~~c.~~ The annual average wage committed to be paid.
1427 4.~~d.~~ The amount of state economic development incentives
1428 committed to the project from each incentive program under the
1429 project's terms of agreement with the Department of Economic
1430 Opportunity.
1431 5.~~e.~~ The amount and type of local matching funds committed
1432 to the project.
1433 (e) Tax refunds paid or other payments made funded out of
1434 the Economic Development Incentives Account for each project.
1435 (f) The types of projects supported.
1436 (3)~~(c)~~ For economic development projects that received tax
1437 refunds, tax credits, or cash grants under the terms of an
1438 agreement for incentives~~, the report must identify~~:
1439 (a)~~1.~~ The number of jobs actually created.
1440 (b)~~2.~~ The amount of capital investments actually made.
1441 (c)~~3.~~ The annual average wage paid.
1442 (4)~~(d)~~ For a project receiving economic development
1443 incentives approved by the department and receiving federal or
1444 local incentives, ~~the report must include~~ a description of the
1445 federal or local incentives, if available.
1446 (5)~~(e)~~ The ~~report must state the~~ number of withdrawn or
1447 terminated projects that did not fulfill the terms of their

1448 agreements with the department and, consequently, are not
1449 receiving incentives.
1450 (6) For any agreements signed after July 1, 2010, findings
1451 and recommendations on the efforts of the department to
1452 ascertain the causes of any business's inability to complete its
1453 agreement made under s. 288.106.
1454 (7) ~~(f)~~ The amount ~~report must include an analysis of the~~
1455 ~~economic benefits, as defined in s. 288.005,~~ of tax refunds, tax
1456 credits, or other payments made to projects locating or
1457 expanding in state enterprise zones, rural communities,
1458 brownfield areas, or distressed urban communities. The report
1459 must include a separate analysis of the impact of such tax
1460 refunds on state enterprise zones designated under s. 290.0065,
1461 rural communities, brownfield areas, and distressed urban
1462 communities.
1463 (8) The name of and tax refund amount for each business
1464 that has received a tax refund under s. 288.1045 or s. 288.106
1465 during the preceding fiscal year.
1466 (9) ~~(g)~~ An identification of ~~The report must identify~~ the
1467 target industry businesses and high-impact businesses.
1468 (10) ~~(h)~~ A description of ~~The report must describe~~ the
1469 trends relating to business interest in, and usage of, the
1470 various incentives, and the number of minority-owned or woman-
1471 owned businesses receiving incentives.
1472 (11) ~~(i)~~ An identification of ~~The report must identify~~
1473 incentive programs not used and recommendations for program
1474 changes or program elimination ~~utilized~~.
1475 (12) Information related to the validation of contractor
1476 performance required under s. 288.061.

1477 (13) Beginning in 2014, a summation of the activities
1478 related to the Florida Space Business Incentives Act.
1479 ~~(2) The Division of Strategic Business Development within~~
1480 ~~the department shall assist Enterprise Florida, Inc., in the~~
1481 ~~preparation of the annual incentives report.~~
1482 Section 30. Subsection (3) of section 288.92, Florida
1483 Statutes, is amended to read:
1484 288.92 Divisions of Enterprise Florida, Inc.—
1485 (3) By October 15 each year, each division shall draft and
1486 submit an annual report that ~~which~~ details the division's
1487 activities during the prior fiscal year and includes any
1488 recommendations for improving current statutes related to the
1489 division's related area. These annual reports shall be included
1490 in the report required under s. 288.906.
1491 Section 31. Subsection (5) of section 288.95155, Florida
1492 Statutes, is amended to read:
1493 288.95155 Florida Small Business Technology Growth
1494 Program.—
1495 (5) Enterprise Florida, Inc., shall prepare for inclusion
1496 in the annual report ~~of the department~~ required under s. 288.907
1497 ~~by s. 288.095~~ a report on the financial status of the program.
1498 The report must specify the assets and liabilities of the
1499 program within the current fiscal year and must include a
1500 portfolio update that lists all of the businesses assisted, the
1501 private dollars leveraged by each business assisted, and the
1502 growth in sales and in employment of each business assisted.
1503 Section 32. Subsection (11) of section 290.0056, Florida
1504 Statutes, is amended to read:
1505 290.0056 Enterprise zone development agency.—

1506 (11) Before October 1 ~~December 1~~ of each year, the agency
1507 shall submit to the department for inclusion in the annual
1508 report required under s. 20.60 a complete and detailed written
1509 report setting forth:
1510 (a) Its operations and accomplishments during the fiscal
1511 year.
1512 (b) The accomplishments and progress concerning the
1513 implementation of the strategic plan or measurable goals, and
1514 any updates to the strategic plan or measurable goals.
1515 (c) The number and type of businesses assisted by the
1516 agency during the fiscal year.
1517 (d) The number of jobs created within the enterprise zone
1518 during the fiscal year.
1519 (e) The usage and revenue impact of state and local
1520 incentives granted during the calendar year.
1521 (f) Any other information required by the department.
1522 Section 33. Section 290.014, Florida Statutes, is amended
1523 to read:
1524 290.014 Annual reports on enterprise zones.—
1525 (1) By October 1 ~~February 1~~ of each year, the Department of
1526 Revenue shall submit an annual report to the department
1527 detailing the usage and revenue impact by county of the state
1528 incentives listed in s. 290.007.
1529 (2) ~~By March 1 of each year, the department shall submit an~~
1530 ~~annual report to the Governor, the Speaker of the House of~~
1531 ~~Representatives, and the President of the Senate.~~ The annual
1532 report required under s. 20.60 shall include the information
1533 provided by the Department of Revenue pursuant to subsection (1)
1534 and the information provided by enterprise zone development

1535 agencies pursuant to s. 290.0056. In addition, the report shall
1536 include an analysis of the activities and accomplishments of
1537 each enterprise zone.
1538 Section 34. Subsection (11) of section 331.3051, Florida
1539 Statutes, is amended to read:
1540 331.3051 Duties of Space Florida.—Space Florida shall:
1541 (11) Annually report on its performance with respect to its
1542 business plan, to include finance, spaceport operations,
1543 research and development, workforce development, and education.
1544 The report shall be submitted to the Governor, the President of
1545 the Senate, and the Speaker of the House of Representatives no
1546 later than November 30 ~~September 1~~ for the prior fiscal year.
1547 The annual report must include operations information as
1548 required under s. 331.310(2)(e).
1549 Section 35. Paragraph (e) of subsection (2) of section
1550 331.310, Florida Statutes, is amended to read:
1551 331.310 Powers and duties of the board of directors.—
1552 (2) The board of directors shall:
1553 (e) Prepare an annual report of operations as a supplement
1554 to the annual report required under s. 331.3051(11). The report
1555 must ~~shall~~ include, but not be limited to, a balance sheet, an
1556 income statement, a statement of changes in financial position,
1557 a reconciliation of changes in equity accounts, a summary of
1558 significant accounting principles, the auditor's report, a
1559 summary of the status of existing and proposed bonding projects,
1560 comments from management about the year's business, and
1561 prospects for the next year~~, which shall be submitted each year~~
1562 ~~by November 30 to the Governor, the President of the Senate, the~~
1563 ~~Speaker of the House of Representatives, the minority leader of~~

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1564 ~~the Senate, and the minority leader of the House of~~
1565 ~~Representatives~~.
1566 Section 36. Subsection (4) of section 446.50, Florida
1567 Statutes, is amended to read:
1568 446.50 Displaced homemakers; multiservice programs; report
1569 to the Legislature; Displaced Homemaker Trust Fund created.—
1570 (4) STATE PLAN.—
1571 (a) The Department of Economic Opportunity shall include in
1572 the annual report required under s. 20.60 a ~~develop a 3-year~~
1573 ~~state~~ plan for the displaced homemaker program ~~which shall be~~
1574 ~~updated annually~~. The plan must address, at a minimum, the need
1575 for programs specifically designed to serve displaced
1576 homemakers, any necessary service components for such programs
1577 in addition to those enumerated in this section, goals of the
1578 displaced homemaker program with an analysis of the extent to
1579 which those goals are being met, and recommendations for ways to
1580 address any unmet program goals. Any request for funds for
1581 program expansion must be based on the ~~state~~ plan.
1582 (b) The annual review and report required under s. 20.60
1583 ~~Each annual update must address any changes in the components of~~
1584 ~~the 3-year state plan and a report that~~ must include, but need
1585 not be limited to, the following:
1586 1. The scope of the incidence of displaced homemakers;
1587 2. A compilation and report, by program, of data submitted
1588 to the department pursuant to subparagraph 3. by funded
1589 displaced homemaker service programs;
1590 3. An identification and description of the programs in the
1591 state which receive funding from the department, including
1592 funding information; and

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1593 4. An assessment of the effectiveness of each displaced
1594 homemaker service program based on outcome criteria established
1595 by rule of the department.
1596 ~~(c) The 3-year state plan must be submitted to the~~
1597 ~~President of the Senate, the Speaker of the House of~~
1598 ~~Representatives, and the Governor on or before January 1, 2001,~~
1599 ~~and annual updates of the plan must be submitted by January 1 of~~
1600 ~~each subsequent year.~~
1601 Section 37. This act shall take effect upon becoming a law.

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 Appropriations

BILL: CS/SB 406

INTRODUCER: Committee on Appropriations, (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development)and Senators Gardiner and Benacquisto

SUBJECT: Economic Development

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	**Favorable**
2.	Pingree	Martin	ATD	**Fav/CS**
3.	Pingree	Hansen	AP	**Fav/CS**
4.				
5.				
6.				

I. Summary:

CS/SB 406 revises and creates various statutory provisions relating to economic development. The bill has a fiscal impact on both state revenues and expenditures.

For Fiscal Year 2013-14, recurring receipts for General Revenue will be decreased and nonrecurring General Revenue funds will be correspondingly increased by anywhere from $2.7 million to $4 million, depending on the estimate that may be adopted by the Revenue Estimating Conference. Fiscal Year 2013-14 state expenditures will also be increased by $912,887. Of the $912,887 expenditures, $734,724 would need to be appropriated in the General Appropriations Act for EDR and the DEO, and $178,163 can be absorbed by the OPPAGA within existing resources. The DEO can absorb within existing resources the impact associated with the implementation of the bill's provisions related to baseball spring training facilities. The bill also commits future state revenues that will be used to make payments for baseball spring training facilities, while making such revenue decreases contingent upon increased revenues associated with the repeal of the international banking facility income tax deduction. See Section V.

The bill:

- Streamlines the process by which all incentive program applicants are evaluated by requiring that all applicants be evaluated for the "economic benefits" of the proposed project.
- Creates a rotating, 3-year review schedule for specified incentives and programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).

- Consolidates required reports and reporting dates for various economic development program reports by the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.
- Requires the DEO to publish project-based information on economic development programs provided to businesses on its website in a user-friendly format.
- Creates a new certification process for local governments to receive state funds for the construction and renovation of spring training facilities, contingent upon passage of SB 306, or similar legislation, which repeals section 220.63(5), Florida Statutes, the corporate income tax deduction for an international banking facility.
- Specifies the meaning of the term "brownfield" for purposes of the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

The bill is effective upon becoming a law.

This bill creates sections 288.076 and 288.11631, Florida Statutes.

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

This bill substantially amends the following sections of the Florida Statutes: 20.60, 212.08, 212.20, 220.194, 288.005, 288.012, 288.061, 288.0656, 288.106, 288.107, 288.1081, 288.1082, 288.1088, 288.1089, 288.1253, 288.1254, 288.1258, 288.714, 288.7771, 288.903, 288.906, 288.907, 288.92, 288.95155, 290.0056, 290.014, 331.3051, 331.310, and 446.50.

This bill repeals sections 288.095(3)(c) and 288.904(6), Florida Statutes.

II. Present Situation:

Economic Development Incentives Application and Review

Under Florida's current economic development framework, Enterprise Florida, Inc. (EFI), serves as the state's economic development organization, operating under a contract with the Department of Economic Opportunity (DEO).[1] EFI is a public-private partnership that serves as the state's primary contact for businesses interested in pursuing relocation, expansion, or retention possibilities. EFI works with businesses to match business needs with state and local resources, including developing an economic development incentive proposal for the prospective business in order to "sell the State as a place to do business."[2]

After EFI has worked with businesses and offered an incentives proposal, EFI submits incentives applications to the DEO, which in turn evaluates incentive applications based on statutorily-defined requirements. The DEO makes the final determination of incentive eligibility, executes incentives contracts, and is responsible for contract monitoring and compliance.[3]

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[1] Section 288.901, F.S.
[2] Enterprise Florida, Inc., *2012 Annual Incentives Report*, (2012), available at: http://www.floridajobs.org/about%20awi/open_government/2012_IncentivesReport.pdf, (last visited on January 17, 2013).
[3] Section 288.061, F.S.

EFI performs a prospective impact analysis on each potential project. Presently, the qualified target industry tax refund program,[4] quick action closing fund,[5] qualified defense contractor and space flight business tax refund program,[6] and the brownfield redevelopment bonus refund program[7] have statutory provisions that require any application for the incentive be evaluated prospectively for "economic benefits." EFI currently performs a similar prospective impact analysis for the high-impact sector performance grants[8] and the capital investment tax credit program,[9] but there is no statutory requirement for such an evaluation.[10]

Section 288.005(1), F.S., defines the term "economic benefits" to mean "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives." Direct economic effects are those resulting directly from the economic event, in this case the state's expenditure on the incentive to the applicant business. Indirect effects are the secondary effects of the economic event on suppliers, services, labor, and taxes. Induced effects are one step further removed from the event and measure the effects on the economy as a result of spending from indirect effects as the money spent continues to cycle through the economy.[11]

According to the Office of Economic and Demographic Research (EDR), EFI prospectively evaluates applications for each of the incentives and programs mentioned above using RIMS II multipliers,[12] a model developed by the U.S. Department of Commerce's Bureau of Economic Analysis. The EDR is required to evaluate the model used by EFI for the prospective impact analysis of all qualified target industry refund projects, and to report such findings every 3 years.[13] The model evaluated by the EDR and used by EFI for the qualified target industry tax refund program is also used across the programs previously mentioned except for the Innovation Incentive Program.[14]

In 2010, the EDR produced its first report on the model used by EFI to evaluate qualified target industry refund projects. In their report, the EDR concluded that the model being utilized by EFI was not fully in compliance with statutory requirements that EFI's model evaluate "return on investment" (ROI), defined as the gain in state revenues as a percentage of the state's investment. The EDR determined that the model, which EFI terms a "payback ratio," needed changes to move incrementally closer to a true ROI. EFI and the EDR worked to redefine certain

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[4] Section 288.106, F.S.
[5] Section 288.1088, F.S.
[6] Section 288.1045, F.S.
[7] Section 288.107, F.S.
[8] Section 288.108, F.S.
[9] Section 220.191, F.S.
[10] Office of Economic and Demographic Research, *Tax Refund Program for Qualified Target Industry Businesses: A review of the methodology and model used in determining the state's return on investment*, (9/1/2010), available at: http://edr.state.fl.us/Content/special-research-projects/economic/ROI.pdf, (last visited on January 29, 2013).
[11] Adapted from "What is IMPLAN?" by MIG. Available at: http://implan.com/v4/index.php?option=com_content&view=article&id=282:what-is-implan&catid=152:implan-appliance-&Itemid=2, (last visited on January 4, 2013).
[12] For more information on RIMS II multipliers and their application, see U.S. Department of Commerce, *Regional Multipliers: A User Handbook for the Regional input-Output Modeling System (RIMS II)*, (March, 1997), available at: http://www.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf, (last visited on January 4, 2013).
[13] Section 288.106(4)(c)2., F.S.
[14] *Supra* note 10 at page 20.

variables for the impact analysis in the interim period. In the report, the EDR noted that recommendations and changes to the model used by EFI "should be viewed as interim measures, pending completion of the new ROI model that will be ultimately required."[15] The next report is due September 1, 2013.

The Innovation Incentive Program is not required by law to be evaluated for "economic benefits," but any potential project is required to have a break-even "return on investment" within a 20-year period, with certain exceptions.[16] Return on investment as it relates to the Innovation Incentive Program is not defined under current law. EFI evaluates the Innovation Incentive Program using the REMI model.[17] EFI's modeling evaluation of the Innovation Incentive Program is not currently evaluated by the EDR.[18]

Incentive and Program Reporting

In addition to conducting an up-front impact analysis of each potential economic development project, EFI is also required to produce an Annual Incentives Report[19] that requires, among other things, an analysis of the economic benefits that actually occurred based on actual private investment, jobs created, and wages paid over the previous 3 years. The Annual Incentives Report compares the projected impacts of each incentive program over the previous 3 years to the confirmed, realized results. The Division of Strategic Business Development within the DEO is required to assist EFI in the preparation of the Annual Incentives Report.[20]

The Annual Incentives Report also requires certain information such as the amount of awards given, jobs created, amount of capital investment, and wages paid. This information is organized by incentive program and by project. The Annual Incentives Report also requires information on incentive projects that occurred over the previous fiscal year, including the number of incentive applications received, recommendations from EFI to the DEO, the number of final decisions issued by the DEO for approval or denial, and the projects for which incentive agreements were executed.

Other required information in the Annual Incentives Report includes:

- A description of federal or local incentives received, organized by project.
- The number of withdrawn or terminated projects that did not receive incentives due to not fulfilling the terms of their incentives agreement.

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[15] *Supra* note 10 at pages 3 and 4.
[16] Section 288.1089, F.S., requires any potential business qualifying for the Innovation Incentive Program be a high-value research and development, innovation business, or an alternative and renewable energy project. Research and development and alternative and renewable energy projects are required to meet the break-even 20-year return on investment requirement, but applicants qualifying as "innovation business projects" are not required to demonstrate the return on investment requirements.
[17] The REMI model is a proprietary model developed by Regional Economic Models, Inc. The model evaluates linkages in an economy and how economic impacts can impact the larger regional economy. For more information see "The REMI Model," available at: http://www.remi.com/the-remi-model, (last visited on January 7, 2013).
[18] *Supra* note 10.
[19] Section 288.907, F.S.
[20] Section 288.907(2), F.S.

- An analysis of the economic benefits of incentives made to projects locating in state enterprise zones, rural communities, brownfield areas, or distressed urban communities.
- Identification of target industry businesses and high-impact businesses.
- Trends relating to business interest in and usage of the state's incentives programs, including the number of minority-owned and woman-owned businesses receiving incentives.
- Identification of incentive programs not utilized.

Section 288.095(3)(c), F.S., requires information similar to the Annual Incentives Report to be reported by the DEO related to programs funded through the Economic Development Incentives Account in the Economic Development Trust Fund.

Section 288.906, F.S., requires EFI to produce an annual report, separate from the Annual Incentives Report. The annual report includes broad organizational information including:

- A description of EFI's operations and accomplishments, including its divisions and the interactions with local and private economic development organizations.
- An evaluation of progress toward achieving organizational goals and specific performance outcomes.
- Methods for implementing and funding EFI's operations.
- An assessment of direct job creation benefits for welfare transition program participants or other programs designed to assist the long-term unemployed in finding work.
- The results of a customer satisfaction survey of businesses served.
- Annual compliance and financial audit information.

EFI's annual report is also required to include an analysis of the return on the public's investment in EFI. Section 288.904, F.S., requires EFI to consult with EDR to hire an economic analysis firm to develop the model to report on the public's return on investment (ROI) in EFI. The EDR is directed to review the model and to offer feedback before its implementation. EFI has hired Ernst & Young to perform an ROI analysis of EFI.[21] Ernst & Young estimated EFI's 2011 return on investment to be 2.66:1, or an estimation that for every dollar invested in EFI and the incentive programs it markets to businesses, the state will receive $2.66 in state and local taxes.

The DEO also produces an annual report, which is required to include information on the state's business climate and economic development, as well as an identification of problems and recommendations.[22]

Florida presently has multiple reporting requirements for its various economic development programs. These reports are required separately from the information included in EFI annual report, the Annual Incentives Report, and the DEO annual report. Reporting due dates and reporting periods are not uniform, and are due at various dates throughout the year. The reporting due dates for Florida's economic development incentives and programs are as follows:

[21] Enterprise Florida, *2011 Annual Report*, (2011), available at: http://www.eflorida.com/IntelligenceCenter/download/AU/AR_2011.pdf, (last visited on January 7, 2013).
[22] Section 20.60(10), F.S.

Date	Report
January 1	• The DEO's Annual Report (s. 20.60, F.S.) • Displaced Homemaker plan and report (s. 446.50, F.S.)
February 1	• Annual reports on enterprise zones (s. 290.014, F.S.)
August 31	• Black Business Loan Program Annual Report (s. 288.714, F.S.)
September 1	• Rural Economic Development Initiative (s. 288.0656, F.S.) • Space Florida annual performance report (s. 331.3051, F.S.)
October 1	• State of Florida International Offices (s. 288.012, F.S.) • Entertainment Financial Incentive Annual Report (s. 288.1254, F.S.)
October 15	• Reports on each division of EFI (s. 288.92, F.S.)
November 30	• Florida Space Business Incentive Act annual report, beginning in 2014 (s. 220.194, F.S.) • Space Florida annual operations report (s. 331.310, F.S.)
December 1	• Report on information on the causes of business' failures to complete qualified target industry tax refund program agreements (s. 288.106, F.S.) • Report detailing the relationship between tax exemptions and film industry growth (s. 288.1258, F.S.) • Enterprise Zone Development Agency report to the DEO (s. 290.0056, F.S.) • EFI's Annual Report, due *before* this date (s. 288.906, F.S.)

December 30	• EFI's Annual Incentives Report (s. 288.907, F.S.) • Annual report on the Economic Development Trust Fund (s. 288.095, F.S.) • Florida Export Finance Corporation, report due as part of the DEO report on the Economic Development Trust Fund (s. 288.7771, F.S.) • Office of Film and Entertainment annual travel and expenses report (s. 288.1253, F.S) • Florida Small Business Technology Growth Program report on the financial status of the program (s. 288.95155, F.S.)
December 31	• Economic Gardening Technical Assistance Pilot Program (s. 288.1082, F.S.)
Miscellaneous or multiple dates	• Quick Action Closing Fund, reported within 6 months of validation of contract performance. (s. 288.1088, F.S.) • Innovation Incentive Fund, reported within 90 days of the conclusion or termination of an award (s. 288.1089, F.S.) • Economic Gardening Business Loan Pilot Program, reports are due June 30th and December 31st (s. 288.1081, F.S.)

The Legislature also requires periodic review and analysis of several economic development programs by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Economic development program reports by the OPPAGA typically focus on areas such as program administration and whether the program is meeting its statutory goals and direction. A sample of recent OPPAGA reports evaluating economic development programs includes:

- Economic Development Technical Assistance Program (GrowFL);[23]
- Research Commercialization Matching Grant Program;[24] and

[23] OPPAGA, *Report No. 12-14: GrowFL Participants that Received Multiple Services and Met Eligibility Requirements Experienced Higher Growth*, (December 2012), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1214rpt.pdf, (last visited on January 16, 2013).

- Enterprise Zone Program.[25]

Section 20.601, F.S., requires the OPPAGA to review the DEO and EFI by July 1, 2016, detailing several aspects of the operations, performance, and effectiveness of both.

Information on local economic development incentives is collected by EDR. EDR is required to collect information relating to each county or municipality that granted local economic development incentives in excess of $25,000 during a fiscal year.[26] Counties and municipalities may complete their reporting requirements by completing a survey either online or by hard copy and returning it to EDR, who compiles the information into a single report.[27]

DEO Incentives Portal

On August 2, 2012, the DEO launched an online portal for the public to view economic development projects receiving state funds.[28] The portal allows the public to view:

- Completed projects approved from January 1996 through May 2012;
- Inactive or terminated projects that were approved from January 1996 through December 1998; and
- Quick Action Closing Fund projects approved from program inception (1999) through December 2011, which are not confidential.

The portal's website states that DEO expects to have all non-confidential projects available on the portal by March of 2013.[29] The portal website allows users to view projects by incentive program, by the county of the project's location, by the date of the project, and by the recipient business's name. Information provided includes the total state incentive awarded, payments to date, job requirements, and capital investment requirements.

Economic Development Confidentiality Requirements

Section 288.075, F.S., specifies confidentiality of records requirements relating to a business's plans to locate, relocate, or expand business activities in Florida. Currently, certain business

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[24] OPPAGA, *Report No. 11-20: Research Commercialization Matching Grant Program Underway, Additional Performance Data Needed*, (November 2011), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1120rpt.pdf, (last visited on January 16, 2013).
[25] OPPAGA, *Report No. 11-01: Few Businesses Take Advantage of Enterprise Zone Benefits; The Legislature Could Consider Several Options to Modify the Program*, (January, 2011), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf, (last visited on January 16, 2013).
[26] Section 125.045, F.S., requires counties to report economic development incentives of $25,000 or more that were granted in the fiscal year. Section 166.021, F.S., requires municipalities with revenues and expenditures over $250,000 to report economic development incentives of $25,000 or more granted in the fiscal year.
[27] More information on the report and survey can be accessed by visiting http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm, (last visited on January 16, 2013).
[28] DEO press release, "DEO Launches Public Economic Development Incentives Portal, (August 02, 2012), available at: http://www.floridajobs.org/news-center/news-feed/2012/08/02/deo-launches-public-economic-development-incentives-portal, (last visited on February 15, 2013).
[29] DEO Economic Development Incentives Portal website, available at: http://www.floridajobs.org/office-directory/division-of-strategic-business-development/economic-development-incentives-portal, (last visited on February 15, 2013).

records are confidential and exempt[30] from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), and public economic development agencies of local governments.

The following information is confidential and exempt from public records requirements for the duration specified:

- Upon written request, information relating to a business's plans, intentions, and interests to locate, relocate, or expand its business activities in Florida. This information remains confidential and exempt for 12 months and may be extended an additional 12 months. If a final project order is issued, the information becomes public the earlier of: 180 days after the final project order for a signed economic development incentive award agreement is issued, a date specified in the final project order, or when the information is otherwise disclosed.
- Proprietary confidential business information and trade secrets are always confidential and exempt.
- Information on a business's federal employer identification number, reemployment assistance account number, or Florida sales tax registration number is always confidential and exempt.
- Certain information pertaining to economic development incentive agreements. Specific sales, employee wage, and tax information remains confidential and exempt for the duration of the incentive agreement. Information including a business's name, expected number of jobs created or retained, total jobs, the amount of incentives awarded, and the committed total annual wages remain confidential and exempt until the earlier of: 180 days after a final project order is issued for a signed economic development incentives agreement, a date specified in the final project order, or when the information is otherwise disclosed.

Florida's Grapefruit League

Florida hosts 15 Major League Baseball (MLB) franchises each February and March as part of MLB's annual Spring Training. The 15 teams constitute the Grapefruit League. The teams and their locations are below:

Team	Host Location	Facility Name	Average Per-game Attendance in 2012[31]	Team's Lease Expires[32]

[30] There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).
[31] Florida Sports, *Press Release: Florida Spring Training Baseball Tops 1.6 Million Total Attendance for 2012 Season*, (April 13, 2012), (on file with the Commerce and Tourism Committee).
[32] Florida Sports, *Florida Spring Training Stadium Lease Dates*, (on file with the Commerce and Tourism Committee).

Team	Host Location	Facility Name	Average Per-game Attendance in 2012[31]	Team's Lease Expires[32]
Atlanta Braves	Walt Disney World Resort (Lake Buena Vista)	Disney's Wide World of Sports[33]	7,489	2017
Baltimore Orioles	Sarasota	Ed Smith Stadium	7,093	2039
Boston Red Sox	Fort Myers	JetBlue Park	7,469	2042
Detroit Tigers	Lakeland	Joker Marchant Stadium	7,935	2016
Houston Astros	Kissimmee	Osceola County Stadium	4,027	2016
Miami Marlins	Jupiter	Roger Dean Stadium	7,935	2027
Minnesota Twins	Fort Myers	Hammond Stadium	7,344	2045
New York Mets	Port St. Lucie	Digital Domain Park	5,358	2023
New York Yankees	Tampa	Steinbrenner Field	10,855	2027
Philadelphia Phillies	Clearwater	Bright House Field	9,593	2023
Pittsburgh Pirates	Bradenton	McKechnie Field	5,493	2037
St. Louis Cardinals	Jupiter	Roger Dean Stadium	6,604	2027
Tampa Bay Rays	Port Charlotte	Charlotte Sports Park	5,495	2028
Toronto Blue Jays	Dunedin	Florida Auto Exchange Stadium	4,751	2016
Washington Nationals	Viera	Space Coast Stadium	4,880	2017

The Washington Capitals (now defunct) were the first professional team to come to Florida for spring training in 1888, spending three weeks in Jacksonville to prepare for the upcoming regular season. In the modern era, Florida's Grapefruit League (league) has been the spring-training home to as many as 20 of the 30 Major League Baseball teams.[34] The Grapefruit League saw a total attendance of 1.6 million fans during the 2012 MLB spring training season and set a per-game average attendance record, with an average of 6,965 fans attending games during the

[33] The Braves play at the only privately-owned stadium in the Grapefruit League.
[34] More information about the league is available at: http://www.floridagrapefruitleague.com/, (last visited on March 11, 2013).

month of March 2012.[35] The league results in approximately $752.3 million in total economic impacts on the Florida economy, creating or supporting 9,205 full-time and part-time jobs.[36]

Competition from Arizona
Since the late 1990s, the league has lost several teams to Arizona's Cactus League,[37] which has a 60-year history of its own with Major League Baseball spring training. A 2012 economic impact study indicated that the Cactus League generated approximately $632 million annually to Arizona's economy.[38]

The impetus for Arizona's emergence as a spring-training competitor to Florida was passage of legislation in 2000 creating the "Arizona Sports and Tourism Authority." The authority was authorized to levy and collect certain taxes (such as car-rental fees), and to bond them as debt service for certain specified sports facilities.[39] These revenue sources, coupled with local bed-tax and other funds, have enabled the construction of new spring-training ballparks, some of which are shared.

Aside from the availability of large, new facilities, baseball teams are drawn to Arizona due to the close proximity of the spring training stadiums, which are located within two adjacent counties: Maricopa and Pima. Florida's spring training facilities, on the other hand, are scattered along the state's two coasts and its central regions, making travel between stadiums time-consuming.

Since 1998, the following six teams have left the Grapefruit League for the Cactus League: the Texas Rangers, the Kansas City Royals, the Chicago White Sox, the Los Angeles Dodgers, the Cleveland Indians, and the Cincinnati Reds.

State Incentives for Spring Training Facilities

Section 288.11621, F.S., provides the procedures by which local governments may be certified to receive state funding for the purposes of acquiring, constructing, reconstructing, or renovating a MLB spring training facility. Only local governments may apply for certification

Eligibility Criteria
The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. The DEO must screen each applicant to confirm that the county where the facility is located levies a tourist development tax under s. 125.0104, F.S., and that the local government:

[35] *Supra* note 31.
[36] Florida Sports Foundation & The Bonn Marketing Research Group, Inc., *2009 Major League Baseball Florida Spring Training Economic Impact Study*, (June 2009), (on file with the Senate Commerce and Tourism Committee).
[37] The Cactus League began in 1947 with two teams, and now has 15 teams.
[38] Cactus League press release: *Two New Studies Credit Cactus League Industry with $632 Million Annual Economic Impact*, (December 17, 2012), available at: http://www.cactusleague.com/about.php, (last visited on March 11, 2013).
[39] *See* A.R.S. T.5, Ch.8 at: http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=5. The relevant statewide legislation was ch. 372, Laws 2000, and the implementing local referendum was Proposition 302, which Maricopa County voters approved by a vote of 52 percent to 48 percent, authorizing new tourism taxes.

- Is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property where the facility is located;
- Has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement must require the franchise to reimburse the state for state funds expended by the local government if the franchise relocates before the agreement expires;
- Has made a financial commitment to provide 50 percent or more of the funds required for the acquisition, construction, management, or operation of the spring training franchise facility (such commitment may be contingent upon award of state funds);
- Demonstrates that the spring training franchise facility will attract an annual paid attendance of at least 50,000 patrons.

Evaluation Criteria
DEO is directed to competitively evaluate applications for state funding. DEO must evaluate applicants based on the following criteria, prioritized in descending order of importance:

- The anticipated effect on the local economy where the spring training facility will be located, with priority given to applicants with the largest projected economic impact;
- The amount of local matching funds committed to a facility relative to total state funding sought, with priority to local governments committing larger amounts;
- The potential for the facility to serve multiple uses;
- The intended use of state funds, with priority given to local governments planning to use funds to acquire, construct, or renovate a facility;
- The length of time a local government has been under agreement with a franchise to hold spring training activities within its jurisdiction, with priority given to the longest-standing agreements;
- The length of time a local government's facility has been used by one or more franchises, with priority given to local governments whose facility has been in continuous use by the franchise the longest;
- The remaining term on a lease between a local government and a franchise, with priority given to local governments with the shortest lease terms remaining;
- The length of time that a franchise agrees to use a local government's facility if the local government is certified, with priority given to agreements with the longest future use;
- The net increase of total active recreation space owned by the local government after acquisition of land for the facility, with priority given to local governments having the largest percentage increase in total active recreations space available for public use; and
- If the facility is located in a brownfield, enterprise zone, community redevelopment area, or other targeted economic development area or revitalization included in an urban infill redevelopment plan, with priority given to local governments having facilities located in such areas.

Local governments must enter into an agreement with DEO that specifies:

- The amount of state incentive funding to be distributed;
- The criteria the local government must meet to remain certified;

- That the local government is subject to decertification if it fails to comply with the agreement or other requirements of certification;
- That DEO may recover state funds if the local government is decertified; and
- Any other provisions deemed prudent by DEO.

Sales Tax Distribution Payments
Any applicant local government meeting the above mentioned eligibility criteria and competitively evaluated by DEO is eligible to receive monthly sales tax distribution payments from the state of $41,667 for not more than 30 years,[40] for an annual payment totaling $500,004. The Department of Revenue (DOR) disburses the payments. DOR may not distribute payments until it receives notice from DEO that the local government has encumbered funds.

Sales tax distribution payments may only be used for the public purposes of:

- Acquiring, constructing, reconstructing, or renovating a facility for a new or retained professional sports franchise;
- Paying or pledging payments of debt service on bonds issued for such activities;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities;
- Refinancing such bonds;
- Reimbursing associated costs for such activities; or
- Assisting in the relocation of a spring training franchise from one local government to another, but only if the governing board of the current host local government agrees to relocation by majority vote.

State funds may not be awarded to a local government to subsidize a privately owned facility, exclusively used by the franchise.

Any funds received by a local government that are not expended must be placed in a separate account or trust fund, and may only be used for authorized uses outlined above. Local governments may request that DOR suspend further distribution of state funds for 12 months after an existing agreement with a franchise expires in order to give the local government an opportunity to enter into a new agreement with a franchise. If the local government is able to enter into a new agreement, DOR will continue distributions. Local governments must begin expending state funds distributed within 48 months after initial receipt, and the construction or capital improvements to a spring training facility must be completed within 2 years after the project begins.

Decertification Process
DEO must decertify any local government who requests decertification. Any local government that does not have a valid agreement with a franchise or satisfy its commitment to provide local matching funds is also subject to decertification by DEO. Decertification is delayed for 12 months after an agreement between a local government and a franchise expires if the local government can demonstrate it is actively negotiating with a franchise other than the franchise

[40] Section 212.20(6)(d)6.b., F.S.

that was the basis for the original certification. A local government who receives notice of intent to decertify has 60 days to petition for a review of the decision, and DEO has 45 days from the date of the request to notify the local government of the review's outcome. DOR must immediately stop payments to a decertified applicant for any funds that are not encumbered. A decertified local government has 60 days from final notice of decertification to repay all unencumbered state funds received, plus any interest accrued. A local government *may not* be decertified if it has encumbered funds to pay or pledge for the payment of debt service or other associated debt financing or bonding related to the acquisition, construction, or renovation of a spring training facility.

If a local government is decertified, DEO may accept applications for additional certifications, however a local government may only be certified once.

Strategic Planning
DEO is required to seek assistance from Enterprise Florida, Inc., and the Florida Grapefruit League Association to develop a comprehensive strategic plan. The strategic plan was published in 2010.[41] The strategic plan is required to include recommendations and strategies to:

- Finance spring training facilities;
- Monitor and oversee the use of state funds awarded to recipients;
- Identify spring training's impact on the state and ways to improve the impact;
- Identify opportunities for public-private partnerships to engage in marketing and advertising;
- Identify efforts of other states to maintain or develop partnerships with spring training franchises; and
- Develop recommendations for the Legislature to consider for sustaining or improving the state's spring training tradition.

Current Certified Teams
Total certifications may not exceed 10 at any time. As of January 8, 2013, there were 10 certified local governments. The local governments and the payment distribution for each are listed below:[42]

Certified Local Government	Franchise	Facility	First Payment	Final Payment	Total Payments to Date
City of Clearwater	Phillies	Bright House Field	February 2001	February 2031	$5,958,381
City of Dunedin	Blue Jays	Dunedin Stadium	February 2001	February 2023	$5,958,381

[41] Governor's Office of Tourism, Trade, and Economic Development, The Florida Sports Foundation, and the Florida Grapefruit League Association, *The State of Florida's Major League Baseball Spring Training Strategic Plan*, (December 2010), (on file with the Commerce and Tourism Committee).
[42] Department of Economic Opportunity, *Spring Training Baseball*, (2013), on file with the Commerce and Tourism Committee.

Certified Local Government	Franchise	Facility	First Payment	Final Payment	Total Payments to Date
Indian River County	Dodgers[43]	Holman Stadium (Dodgertown)	February 2001	February 2031	$5,958,381
Osceola County	Astros	Osceola County Stadium	February 2001	February 2016	$5,958,381
City of Lakeland	Tigers	Joker Marchant Stadium	February 2001	February 2016	$5,561,127
Charlotte County	Rays	Charlotte County Stadium	March 2007	March 2037	$2,958,357
City of Bradenton	Pirates	McKechnie Field	March 2007	March 2037	$2,958,357
City of Fort Lauderdale[44]	N/A	N/A	March 2007	March 2037	$2,291,685
City of Sarasota[45]	Baltimore Orioles	Ed Smith Stadium	March 2007	March 2037	$2,958,357
St. Lucie County	Mets	Digital Domain Park	March 2007	March 2037	$1,560,967

Certification of Lee County[46]
On April 6, 2012, a notice was published in the Florida Administrative Register announcing the application period for the Spring Training Baseball Facilities program, based on an opening that resulted from the decertification of the City of Fort Lauderdale and the return of funds. Lee County was the only applicant, on behalf of the Minnesota Twins for $15 million over 30 years. On August 9, 2012, Lee County received notice that it had been certified. Lee County is now required to enter into a contract with DEO, at which point it will begin receiving state funding.

Reporting and Audits
Each certified local government must submit an annual report to DEO by September 1 with information including a copy of its most recent audit, information on the use of state and local funds expended, a copy of the contract between the local government and the franchise, a cost-benefit analysis of the team's impact on the community, and evidence the local government continues to meet eligibility criteria.

[43] The L.A. Dodgers relocated their spring training operations to Arizona in 2008.
[44] The City of Ft. Lauderdale was unable to find a suitable home for the Baltimore Orioles. In 2011, OTTED requested the city return the unspent funds to the state. The city submitted a check to the state for the full amount, plus interest, as required by statute. The funds were returned to the state's General Revenue Fund.
[45] Sarasota was unable to use state funds due to its loss of the Cincinnati Reds to Arizona in 2009. Sarasota petitioned the then Director of OTTED, and was granted permission to use the state funds to help pay debt service on bonds to be issued and entered into a long-term agreement with the Baltimore Orioles.
[46] *Supra* note 43 at pages 3 and 4.

The Auditor General may conduct audits to verify state funds distributed to local governments for the program are properly spent. If the Auditor General finds that funds have been spent improperly, the Auditor General must notify the Department of Revenue, who may pursue recovery of state funds.

The Brownfields Redevelopment Act

The term "brownfield" came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."[47] In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities around the country access to federal funds that have been allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.[48]

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).[49] The act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.[50] The Act required the Department of Environmental Protection (DEP) to adopt rules to determine site-specific investigation methods, clean-up methods, and clean-up target levels by incorporating risk based corrective action principles.[51]

The act also created the Brownfield Redevelopment Bonus Refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.[52] The act identifies specific procedures and criteria for the designation of a brownfield area by local governments,[53] counties,[54] and municipalities.[55] Brownfield areas are also eligible for a number of other incentives created throughout the years. For example, building materials used in redevelopment projects in designated brownfield areas are eligible for an exemption from sales tax.[56]

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[47] Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, (Sept. 2010), *available at* http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf (last visited Feb. 15, 2013).
[48] The Florida Brownfields Association, *Brownfields 101, available at* http://floridabrownfields.org/associations/11916/files/Brownfields101.pdf (last visited Feb. 15, 2013).
[49] Chapter 97-277, Laws of Fla.
[50] DEP, *Florida Brownfields Redevelopment Act-1998 Annual Report, available at* http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Feb. 15, 2013).
[51] ASTM International defines "risk based corrective action principles" as consistent decision-making processes for assessment and response to chemical releases. *See* http://www.astm.org/Standards/E2081.htm (last visited Feb. 22, 2013).
[52] Section 288.107, F.S.
[53] Section 376.80, F.S.
[54] Section 125.66, F.S.
[55] Section 166.041, F.S.
[56] See s. 212.08(5)(o), F.S.

A "brownfield site" is defined as "real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination." A "brownfield area" means "a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects."[57]

As of January 23, 2013, local governments have adopted 330 resolutions to officially designate brownfield areas and 183 brownfield site rehabilitation agreements have been executed.[58]

III. Effect of Proposed Changes:

CS/SB 406 revises and creates various statutory provisions relating to economic development. The bill:

- Streamlines the process by which all incentive program applicants are evaluated by requiring that all applicants be evaluated for the "economic benefits" of the proposed project.
- Creates a rotating, 3-year review schedule for specified incentives and programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Consolidates required reports and reporting dates for various economic development program reports by the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.
- Requires the DEO to publish project-based information on economic development programs provided to businesses on its website in a user-friendly format.
- Creates a new certification process for local governments to receive state funds for the construction and renovation of spring training facilities, contingent upon passage of SB 306, or similar legislation, which repeals section 220.63(5), Florida Statutes, the corporate income tax deduction for an international banking facility.
- Specifies the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

Evaluation of Incentive Program Applicants

This bill requires that the DEO evaluate all incentives applications for "economic benefits" using a model that will be developed and reviewed by the EDR. The DEO and the EDR are permitted to develop an amended definition of "economic benefits" from the one defined by s. 288.005, F.S., for the up-front evaluation. The EDR is required to report on the methodology and model by September 1, 2013, and every third year thereafter to the President of the Senate and the Speaker of the House of Representatives. The executive director of the DEO may not approve an incentives application unless the applicant signs a written declaration stating that the applicant has read the information in the application and that such information is true, correct,

[57] Section 376.79(3) and (4), F.S.
[58] DEP, *Senate Bill 554 Agency Analysis* (Feb. 2013) (on file with the Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

and complete to the best of the applicant's knowledge. If an incentives award is approved, the awardee is required to sign a written declaration in each year the DEO validates contract performance. The declaration must state that the awardee has reviewed the information and that the information is true, correct, and complete to the best of the awardee's knowledge and belief. (**Section 10, amends s. 288.061, F.S.**)

Similar language requiring an up-front analysis of "economic benefits" for an application for a qualified target industry tax refund (QTI) application is removed. Applications for a QTI incentive are required by the bill to be evaluated to determine if an applicant has previously received economic development incentives in other states, and the outcome of any such previous agreements. The bill also requires all QTI applications to be evaluated for the expected effect on the unemployed and underemployed in the county where a project will be located. Current law states that applications are evaluated for their effect on the unemployment *rate* in the county where a project will be located. The existing requirement that a QTI application be evaluated for the expected long-term commitment to economic growth and employment in Florida is removed by the bill. (**Section 14, amends s. 288.106, F.S.**)

The bill changes requirements that a project qualifying for the Innovation Incentive Program as a research and development program or as an alternative and renewable energy project demonstrate a break-even "return on investment" over a 20-year period, and instead requires the projects to demonstrate a *cumulative* break-even "economic benefit" over a 20-year period. The term "return on investment" as it related to the Innovation Incentive Program is not defined under current law. This change creates consistent terminology and ensures applicants for the Innovation Incentive Program will be evaluated similarly to other incentive programs. (**Section 19, amends s. 288.1089, F.S.**)

Evaluation of Economic Development Programs

The bill creates the Economic Development Programs Evaluation (evaluation). (**Section 1**) EDR and the OPPAGA are required to jointly present the evaluation to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees. The offices are required to evaluate the state's economic development programs according to a rotating schedule every 3 years. Programs are grouped together based on general program type. The evaluation schedule is as follows:

YEAR 1 (January 1, 2014) and every 3rd year	
Program	**Florida Statute(s)**
Quick Action Closing Fund	s. 288.1088
Brownfield Redevelopment Bonus Tax Refund	s. 288.107
High Impact Sector Performance Grants	s. 288.108
Capital Investment Tax Credit	s. 220.191
Qualified Target Industry Tax Refund	s. 288.106
Innovation Incentive Program	s. 288.1089
Enterprise Zone Programs	ss. 220.181-182, 212.08(5), 212.096, 212.08(15)

YEAR 2 (January 1, 2015) and every 3rd year	
Program	**Florida Statute(s)**
Entertainment Industry Financial Incentive Program	s. 288.1254
Entertainment Industry Sales Tax Exemption Program	s. 288.1258
The Florida Commission on Tourism/VISIT Florida	ss. 288.122-124
Florida Sports Foundation	ss. 288.1162-1171

YEAR 3 (January 1, 2016) and every 3rd year	
Program	**Florida Statute(s)**
Qualified Defense Contractor and Space Flight Business Tax Refund Program	s. 288.1045
Semiconductor, Defense, or Space Technology Sales Tax Exemption	s. 212.08(5)(j)
Military Base Protection	s. 288.980
Manufacturing & Spaceport Investment Incentive Program	s. 288.1083
Quick Response Training	s. 288.047
Incumbent Worker Training	s. 445.003
International Trade & Business Development	s. 288.826

EDR and the OPPAGA are required to coordinate and submit a work plan for the evaluation to the President of the Senate and the Speaker of the House of Representatives by July 1, 2013.

The bill requires EDR to use specialized modeling techniques to evaluate the economic development programs listed above. EDR is required to evaluate each program for "economic benefits," as well as jobs created, the increase or decrease in personal income, and the impact on state GDP of each program using data from the previous 3 years. The data used to evaluate any tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs is specified as being data from projects that are either fully complete, partially complete with future fund disbursal possible pending performance measures, or partially completed with no future fund disbursal possible as a result of a business's inability to meet performance measures. EDR is required to provide an explanation of the model used in its analysis, and the model's key assumptions. EDR is permitted to use another model if it explains why another model is more appropriate.

The OPPAGA is required to evaluate each program for effectiveness and value to Florida taxpayers, and to provide recommendations to the Legislature based on its evaluation of each program. The OPPAGA's analysis is required to include information from interviews, reviews of relevant reports, or other data.

The bill gives EDR and the OPPAGA access to all data necessary to complete the Economic Development Programs Evaluation, including confidential data. The offices may coordinate data collection and analysis.

Any information shared by the DOR with EDR and the OPPAGA may be shared by the director of OPPAGA and the coordinator of EDR or the director or coordinator's authorized agent, for purposes of completing the Economic Development Programs Evaluation. (**Section 6, amends s. 212.053, F.S.)**

The bill updates requirements for the Annual Incentives Report currently produced by EFI (**Section 29, amends s. 288.907, F.S.**) and requires the report to be a joint report by the DEO and EFI. The agencies no longer will be required to report on the "economic benefit" of each project or program in the Annual Incentives Report. The evaluation of "economic benefits" will now be conducted as part of the Economic Development Programs Evaluation, conducted jointly by the EDR and the OPPAGA. See above.

"Jobs" is defined to ensure that all jobs data is reported and evaluated in the same manner across programs. The term means only full-time equivalent positions, and excludes any temporary construction jobs involved with the construction of facilities for a project. (**Section 8, amends s. 288.005, F.S.**)

The bill repeals a required the OPPAGA report on the Innovation Incentive Program. (**Section 19, amends s. 288.1089, F.S.**) This report is duplicative as a result of the evaluation of the Innovation Incentive Program required as part of the Economic Development Programs Evaluation created in Section 1 of the bill.

A duplicative analysis of EFI's return on the public's investment is repealed. (**Section 27, amends s. 288.904, F.S.**) Current law requires the analysis to be included as part of EFI Annual Report. Current s. 20.601(3), F.S., requires OPPAGA to conduct a similar analysis in 2016.

Agency Reporting Consolidation

The bill consolidates several independent program reports and reporting dates.

The DEO Annual Report

The bill makes several changes to the DEO annual report. (**Section 2, amends s. 20.60, F.S.**) The report's annual due date is changed from January 1st to November 1st. The DEO is directed to include supplements to its annual report on several programs. As a result, the independent due dates for each of the reports are removed. The programs to be included in the DEO annual report are:

- Displaced Homemaker program (**Section 36, amends s. 446.50, F.S.**).
- Enterprise Zone program (**Sections 32 and 33**).
  - Changes the due date of each enterprise zone development agency's report to the DEO from December 1st to October 1st. (**Section 32, amends s. 290.0056, F.S.**)

- Changes the due date of the Department of Revenue's report on the usage and revenue impacts, by county, of state incentives relating to enterprise zones from February 1st to October 1st. (**Section 33, amends s. 290.014, F.S.**)

- Economic Gardening Business Loan Pilot Program (**Section 16, amends s. 288.1081, F.S.**).
- Economic Gardening Technical Assistance Pilot Program (**Section 17, amends s. 288.1082, F.S.**).
- Black business loan program (**Section 24, amends s. 288.714, F.S.**).
- Rural Economic Development Initiative (**Section 11, amends s. 288.0656, F.S.**).

EFI Annual Report

The bill (**Section 28, amends s. 288.906, F.S.**) requires EFI to include as a supplement in its annual report information on:

- State of Florida International Offices (**Section 9, amends s. 288.012, F.S**).
- Florida Export Finance Corporation annual report (**Section 25, amends s. 288.7771, F.S.**).

Additionally, under current law EFI division reports are due independently on October 1st, for inclusion in EFI annual report. The bill repeals this independent due date. (**Section 30, amends s. 288.92, F.S.**).

Annual Incentives Report

The bill revises the duties of EFI to require the Annual Incentives Report to be a joint report by EFI and DEO. (**Section 26, amends s. 288.903, F.S.**) The report is currently produced by EFI alone using data supplied by the DEO. The report would still be due annually on December 30th.

Information on the Economic Development Trust Fund is required to be included in the Annual Incentives Report. The information is currently required under s. 288.095(3)(c), F.S. The bill repeals this paragraph (**Section 13**) and incorporates the information into the Annual Incentives Report. (**Section 29, amends s. 288.907, F.S.**) The information includes:

- The types of projects supported;
- Tax refunds or other payments made out of the Economic Development Incentives Account for each project supported;
- A separate analysis of the impact of tax refunds on Enterprise Zones, rural communities, brownfield areas, and distressed urban communities; and
- The name and tax refund amounts for each business receiving a QTI or qualified defense space contractor and space flight business tax refund.

Several other stand-alone program reports are incorporated as supplements to the Annual Incentives Report. As a result, the independent due dates for the reports are removed. The reports required to be included as supplements to the Annual Incentives Report include:

- Florida Space Business Incentives Act annual report (**Section 7, amends s. 220.194, F.S.**), beginning in 2014.

- Information on the causes of a business's failure to complete its QTI incentive agreement (**Section 14, amends s. 288.106, F.S.**). The term *failure* is also changed to *inability* by the bill.
- Information relating to Innovation Incentive Program recipients, including the evaluation as to whether the recipients were catalysts for additional economic development (**Section 19, amends s. 288.1089, F.S.**).
- Florida Small Business Technology Growth Program annual report (**Section 31, amends s. 288.95155, F.S.**).

Validation of contractor performance for all incentive programs is currently required as part of the Annual Incentives Report. The bill adds a cross-reference to s. 288.061(3), F.S., clarifying that validation of contractor performance is to be included in the Annual Incentives Report. (**Section 29, amends s. 288.907)**

The bill clarifies that the DEO rather than EFI is responsible for validating contractor performance for the Quick Action Closing Fund incentives and that such information is to be included in the Annual Incentives Report. Current law requires the contractor performance validation to be reported within 6 months of completion of a contract with a business. This requirement is deleted by the bill. (**Section 18, amends s. 288.1088, F.S.**)

Validation of contractor performance for the Innovation Incentive Program recipients is required to be included in the Annual Incentives Report. The current law requirement that a report on contractor performance be submitted within 90 days of an agreement's conclusion is repealed. (**Section 19, amends s. 288.1089, F.S.**)

Office of Film and Entertainment Annual Report

The bill changes the due date of the Office of Film and Entertainment's (OFE) Annual Report on the entertainment industry financial incentive program from October 1st to November 1st. (**Section 22, amends s. 288.1254, F.S.**) The OFE Annual Report is also required to include the OFE expenditures report (**Section 21, amends s. 288.1253, F.S.**) and the report detailing the relationship between tax exemptions and incentives to industry. (**Section 23, amends s. 288.1258, F.S.**)

Space Florida Annual Report

The bill changes the due date for the Space Florida annual performance report from September 1st to November 30th (**Section 34, amends s. 331.3051, F.S.**), and requires the Space Florida annual operations report to be included in the performance report. (**Section 35, amends s. 331.310, F.S.**)

Return on Investment Reporting for Economic Development Programs

The bill establishes an economic development incentive review and online publication process to be implemented by DEO. **Section 12** creates s. 288.076, F.S., relating to reporting for economic development programs, requiring the DEO to maintain a website that publishes information on economic development incentive awards to businesses. Information must be made available in an

easy to use format that allows users to view and retrieve all required information at once. The DEO has 48 hours after the expiration of the period of confidentiality to publish the following information on each project:

Projected Economic Benefits

- The economic benefits *projected* to occur for each project at the time of the initial project award date.

Project Information

- The program or programs through which state investment is being made. "State investment" is defined by the bill as any state grants, tax exemptions, tax refunds, tax credits, or other state incentives awarded to a business under a program administered by the DEO, including the capital investment tax credit.
- The maximum potential cumulative value of the state investment in a project.
- The target industries[59] or high-impact sectors[60] that the project may fall under.
- The county or counties that may be affected by the project.
- The total cumulative value of any local financial commitment and in-kind support for the project.

Participant Business Information

- The location of the participant business's headquarters or the headquarters of the parent company if it is a subsidiary. "Participant business" is defined by the bill to mean an employing unit, as defined in s. 443.036, F.S., that has entered into an agreement with DEO to receive a state investment.
- The firm size class of the participant business, or where owned by a parent company, the firm size class of the participant business's parent company, using firm size classes established by the U.S. Department of Labor's Bureau of Labor Statistics. This information must also note whether the participant business qualifies as a small business under s. 288.703, F.S.
- The date of the project award.
- The expected duration of the contract.
- The anticipated date when the participant business will claim its last state investment.

Project Evaluation Criteria

- The economic benefits generated by the project.
- The net indirect and induced incremental jobs to be generated by the project. The bill states that "jobs" has the same meaning as in s. 288.106(2)(i), F.S., which means full-time equivalent positions, including positions obtained from a temporary employment agency or employee leasing company, or through a union agreement or coemployment under a

[59] Section 288.106(2)(q), F.S.
[60] Section 288.108(6)(a), F.S.

professional employer organization agreement. Temporary construction jobs are not included in the definition.
- The net indirect and induced incremental capital investment to be generated by the project.
- The net indirect and induced incremental tax revenue paid to the state to be generated by the project.

Project Performance Goals

- The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.
- The number of jobs generated and the number of jobs retained by the project. For projects that begin after the bill's effective date, DEO must report the median annual wage of persons holding such jobs.
- The incremental direct capital investment in the state generated by the project.
- The incremental projected tax revenue to the state paid by the participant business for the project.

Total State Investment to Date

- The total amount of state investment disbursed to the participant business to date, itemized by incentive program.

The DEO is required to use the methodology and formulas developed by the EDR to determine each project's economic benefits. Each project's economic benefits must be published on the DEO website within 48 hours after the conclusion of an agreement between a participant business and the DEO. This ensures a project's total economic benefits that actually occurred are published, allowing visitors of the website to view and compare the information with projected economic benefits at the time of the project's award date. The DEO is directed to publish a description of the methodology and formulas developed by the EDR to calculate economic benefits of a project, and must publish the information on its website within 48 hours after receiving it from the EDR.

The bill requires the DEO to update information on its website for each project annually from its award date. Verified results must be updated for each project, including information on Project Information, Participant Business Information, Project Evaluation Criteria, Project Performance Goals, and Total State Investment discussed above. The DEO must publish the date on which the information was last updated on the website.

Within 48 hours after the expiration of the period of confidentiality, the DEO must publish the contract or award agreement with the participant business on its website. The agreement may be redacted to protect a participant business from disclosure of any information that remains confidential or exempt by law.

The bill requires the DEO to publish all information required above for all projects completed prior to the bill's effective date of October 1, 2013. The DEO has until October 1, 2014, to compile and publish the information.

The bill clarifies that provisions restricting the publication of any information on the DEO's website is limited to that purpose, and is not to be construed as creating a public records exemption.

The DEO may adopt rules to administer the provisions included in **section 12** of the bill.

Qualified Target Industry Tax Refund Reports

DEO must publish on the website any reports of findings and recommendations concerning a business's failure to complete its qualified target industry tax refund program agreement within 48 hours after submitting the report.

Quick Action Closing Fund Timeline

The bill requires DEO to publish information on its website relating to Quick Action Closing Fund[61] (QACF) incentive projects, including the average number of days between the date DEO receives a completed QACF application and the date on which the application was approved.

Retention of Spring Training Franchises

Section 5 amends s. 212.20, F.S., to authorize the Department of Revenue to distribute up to $55,555 per month to each applicant certified to receive state funds for a spring training facility, or up to $111,110 per month for certified applicants who use a spring training facility for more than one spring training franchise. Distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for no more than 30 years, except as otherwise provided under s. 288.11631, F.S. No certified applicants may receive more in distribution payments than it expends. This is a new distribution for a new designation created in **Section 20**. This section is contingent upon repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for international banking facilities.

Section 20 creates s. 288.11631, F.S., relating to retention of Major League Baseball (MLB) spring training baseball franchises. The bill creates a new certification process to allow local governments to receive additional state funds after July 1, 2016, for the public purpose of constructing or renovating a spring training facility.

Eligibility Criteria

The bill specifies the certification process for local governments to be certified under the retention program. Before certifying a local government, the DEO must verify that the local government:

- Is responsible for the construction or renovation of a spring training facility for a MLB franchise, or holds title to the property where the facility is located;

[61] Section 288.1088, F.S.

- Has a certified copy of a signed agreement with a MLB franchise for use of the facility that is, at a minimum, equal to the length of the term of any bonds issued to construct or renovate the spring training facility, or for a term of 20 years in instances where bonds will not be issued. The agreement for the MLB franchise to use the facility may not be signed more than 3 years before the expiration of any existing agreement between the franchise and the local government. The agreement must require the franchise to reimburse the state for any state funds expended for retention if the franchise relocates before the agreement expires. The agreement may be contingent upon award of state funds;
- Has committed to provide a 50 percent minimum match to state funds. The agreement may be contingent upon award of state funds;
- Demonstrates the spring training facility will attract at least 50,000 paying guests per year; and
- Is a county or is a municipality within a county that levies a tourist development tax under s. 125.0104, F.S.

Evaluation Criteria
The DEO evaluates applications for state funds based on the following criteria:

- The anticipated effect on the local economy where the spring training facility is or will be located;
- The amount of local matching funds committed to a facility relative to total state funding sought;
- The potential for the facility to serve multiple uses year-round;
- The intended use of state funds by the local government;
- The length of time an MLB franchise has been under agreement to conduct spring training activities within the local government's geographic location or jurisdiction;
- The length of time the local government's spring training facility has been used by one or more spring training franchises, including continuous use as a facility for spring training;
- The remaining term on a lease between a local government and a MLB franchise for use of the facility;
- The length of time that a MLB franchise agrees to use the facility if the application is granted; and
- Whether the facility is located in a brownfield, enterprise zone, community redevelopment area, or other targeted economic development area or revitalization included in an urban infill redevelopment plan.

If a local government is certified by the DEO on or after July 1, 2013, it must enter into an agreement with the DEO specifying certain terms relating to the use of state funds. The agreement must:

- Specify the amount of state funding to be distributed;
- State the provisions the local government must meet in order to remain certified;
- State that the local government may be decertified if it fails to comply with the agreement;
- State that the DEO may recover state funds if the local government is decertified;
- Specify required reporting information; and
- Include any other provisions the DEO deems prudent.

Payments
The bill limits payments to a local government certified by the DEO to no more than $20 million, or $40 million if the local government hosts more than one MLB franchise. Such funds may only be used for the public purpose of constructing or renovating a spring training franchise; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; refinancing such bonds; or reimbursing associated costs for such activities. State funds may not be used to subsidize a privately-owned facility that is maintained and used exclusively by a MLB franchise for spring training activities.

The Department of Revenue (DOR) may not distribute funds until July 1, 2016. The DOR begins distributions once the DEO has notified it that a local government has encumbered funds and, if applicable, any existing agreement with a spring training franchise for the use of a facility has expired. Certified local governments must place funds that are not expended in a separate account or trust fund, and may only be used for authorized uses outlined above. Local governments may request that the DOR suspend further distribution of state funds for 12 months after an existing agreement with a franchise expires in order to provide the local government with an opportunity to enter into a new agreement with a new MLB franchise. If the local government is able to enter into a new agreement, the DOR will continue distributions. Local governments must begin expending state funds distributed within 48 months after initial receipt, and the construction or capital improvements to a spring training facility must be completed within 2 years after the project starts.

Decertification Process
The DEO must decertify any local government who requests decertification. Any local government that does not have a valid agreement with a MLB franchise or satisfy its commitment to provide local matching funds is also subject to decertification by the DEO. Decertification is delayed for 12 months after an agreement between a local government and a franchise expires if the local government can demonstrate it is actively negotiating with a franchise other than the franchise that was the basis for the original certification. A local government who receives notice of intent to decertify has 60 days to petition for a review of the decision, and the DEO has 45 days from the date of the request to notify the local government of the review's outcome. The DOR must immediately stop payments to a decertified applicant for any funds that are not encumbered. A decertified local government has 60 days from final notice of decertification to repay all unencumbered state funds received, plus any interest accrued. A local government *may not* be decertified if it has encumbered funds to pay or pledge for the payment of debt service or other associated debt financing or bonding related to the construction or renovation of a spring training facility.

Reports and Auditing
The bill requires each certified local government must submit an annual report to the DEO by September 1 with certain information, including information on the use of state and local funds expended, a copy of the contract between the local government and the MLB franchise, a cost-benefit analysis of the team's impact on the community, and evidence the local government continues to meet eligibility criteria. The DEO must compile the information received and publish the information by November 1 each year.

The Auditor General may conduct audits to verify state funds distributed to local governments for the program are properly spent. If it is found that funds are spent improperly, the Auditor General must notify the DOR, who may pursue recovery of such state funds.

Provision Contingent Upon Repeal of Corporate Income Tax Deduction
Section 20 is contingent upon the repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for "international banking facilities".

Brownfields

Section 3 amends s. 212.08, F.S., to specify that a redevelopment project located in a brownfield site for which a rehabilitation agreement with the Department of Environmental Protection (DEP) or a local government delegated by the DEP has been executed under s. 376.80, F.S., or any abutting real property parcel within a brownfield area designated by the local government, is eligible for the sales tax exemption.

Section 15 amends s. 288.107, to specify that in order to be eligible for the brownfield redevelopment bonus refund for a qualified target industry agreement, the jobs must be created in a brownfield area eligible for bonus refunds. The term "brownfield area eligible for bonus refunds" is defined as a brownfield site for which a rehabilitation agreement with the DEP or a local government delegated by the DEP has been executed under s. 376.80 or any abutting real property parcel within a brownfield area designated by the local government.

Section 4 provides that amendments to ss. 212.08 and 288.107, F.S., do not apply to building materials purchased before the effective date of the bill, or to contracts for brownfield redevelopment bonus refunds executed by the DEO or EFI prior to the bill's effective date.

Effective Date - the bill takes effect upon becoming law. **(Section 37)**

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:

This bill is projected to have a fiscal impact to the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability, as follows:

- Office of Economic and Demographic Research (EDR)
  - Economic Development Program Evaluation Workload - three positions and $302,324 to cover salaries, benefits and expenses associated with the new positions ($37,002 of the expenses are nonrecurring).
  - Modifications to Statewide Model - $34,400 to design and develop an employment module for the statewide model.

  Funding for the EDR would need to be appropriated in the General Appropriations Act.

- Office of Program Policy Analysis and Government Accountability (OPPAGA) Economic Development Program Evaluation Workload - two positions and a part-time intern - $178,163 for salaries and benefits. The OPPAGA has indicated that they can absorb the additional workload within existing resources.

These estimates assume that the EDR and the OPPAGA will obtain access to all information related to economic development programs that is needed to complete the Economic Development Program Evaluations without cost to the EDR or the OPPAGA.

The provisions of the bill that streamline reporting requirements, delete duplicative reports, and consolidate reporting due dates may improve efficiencies and are not expected to have a fiscal impact to the Department of Economic Opportunity, Enterprise Florida, Inc., the Office of Film and Entertainment, or Space Florida.

The provisions of the bill that authorize the DEO to adopt rules to implement the certification, decertification, and decertification review processes of local governments to disburse state funds for spring training franchises will have an indeterminate fiscal impact to the department. This impact will be absorbed by the DEO within existing resources.

The DEO projects that the provisions of the bill that require “return on investment” reporting for economic development programs will require two full-time positions and $398,000 of additional state funds to implement. Currently, information regarding

economic development incentives available on the DEO's Economic Development Incentives Portal includes the following:

- Quick Action Closing Fund
- Innovation Incentive Program
- Qualified Target Industry Tax Refund Program
- Qualified Defense Contractor and Space Flight Business Tax Refund Program
- Brownfield Redevelopment Bonus Tax Refund
- Semiconductor, Defense, or Space Technology Sales Tax Exemption
- Capital Investment Tax Credit
- Manufacturing & Spaceport Investment Incentive Program
- High Impact Sector Performance Grants.

The bill requires the DEO to provide additional information for the programs listed above and to expand the enhanced reporting to all economic development "projects" (defined as the creation of a new business or expansion of an existing business) that receive state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under an economic development program administered by the DEO. The department projects that it will need an additional $398,000 from state funding sources in Fiscal Year 2013-14 and two full-time positions to implement these requirements, as follows:

	Total	Nonrecurring
Process Mapping	$75,000	$75,000
Sales Force and portal development	$85,000	$85,000
Data Migration	$50,000	$50,000
Training	$ 6,000	$ 6,000
Cloud Storage	$12,000	
Additional Software Licenses	$10,000	
FTE – Technical Administrator	$80,000	
FTE – Substantive Administrator	$80,000	
Total Projected Costs	$398,000	$216,000

The provisions of the bill that revise the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund have not yet been reviewed by the Revenue Estimating Conference (REC). It is likely that state expenditures related to the brownfield redevelopment bonus refunds and refunds for the brownfield sales tax exemption for building materials will decrease in future fiscal years by indeterminate amounts due to the application of more restrictive criteria.

With respect to the provisions of the bill that create sales tax distribution payments for local governments responsible for Major League Baseball (MLS) spring training facilities, current leases for the 15 MLB teams in Florida will begin to expire in 2016. State distributions under this bill would begin in Fiscal Year 2015-16. The following

table shows projected distributions for the existing Florida teams through Fiscal Year 2035-36 based on the expiration dates for current facility leases:

State Fiscal Year	Number Of Teams/Payments	Total Funds Distributed Annually
2013-14	0	$0
2014-15	0	$0
2015-16	3	$666,600
2016-17	4	$2,222,200
2017-18	4	$2,666,640
2018-19	4	$2,666,640
2019-20	4	$2,666,640
2020-21	4	$2,666,640
2021-22	4	$2,666,640
2022-23	6	$3,111,080
2023-24	6	$3,999,960
2024-25	6	$3,999,960
2025-26	6	$3,999,960
2026-27	10	$4,666,620
2027-28	11	$6,222,160
2028-29	11	$6,666,600
2029-30	11	$6,666,600
2030-31	11	$6,666,600
2031-32	11	$6,666,600
2032-33	11	$6,666,600
2033-34	11	$6,666,600
2034-35	11	$6,666,600
2035-36	11	$6,666,600

The REC has not yet estimated the impact of the future spring training sales tax distribution payments. While there is no cash fiscal impact for the first two fiscal years, it is likely that the REC will reduce the available recurring General Revenue by an amount ranging from $2.7 million to $4 million for Fiscal Year 2013-14, and increase the available nonrecurring General Revenue for that fiscal year by the same amount. This assumes that no new MLB teams would come to Florida and be certified for the payments authorized in the bill. This fiscal impact is offset by the contingency included in the bill that provides that the new spring training sales tax distribution payments are effective only if the corporate income tax deduction currently provided for international banking facilities is repealed. While the REC has not yet estimated the impact of repealing this tax deduction, staff of the Senate Appropriations Subcommittee on Finance and Tax has informally estimated that the annual impact would be an increase of $10.8 million in recurring General Revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DEO to adopt rules to implement the certification, decertification, and decertification review processes of local governments as it relates to disbursal of state funds for spring training franchises.

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 Appropriations on March 21, 2013:

- Clarifies that spring training distributions begin July 1, 2016, or 60 days after a spring training applicant is certified, whichever is later.
- Clarifies that the new distributions for existing certified teams do not begin until after July, 1, 2016, and a local government's existing agreement with a team has expired.
- Adopted Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 13, 2013.

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 13, 2013:

- Clarifies that the coordinator of the Office of Economic and Demographic Research and the Director of the Office of Program Policy Analysis and Government Accountability, or his or her authorized agent, may share confidential information for the purposes of completing the Economic Development Programs Evaluation.
- Adds a requirement that DEO publish certain project-specific information on each economic development program awarded to businesses on its website in an easy-to-use format.
- Adds a requirement that the DEO executive director not approve an incentives application unless the applicant signs a written declaration that the applicant has read the application and that the information is true, correct, and complete to their knowledge. Also adds a requirement that in each year after an incentives agreement is approved and DEO validates contractor performance, the awardee must sign a written declaration stating that the awardee has reviewed the information and that the information is true, correct, and complete to their knowledge and belief.
- Creates s. 288.11631, F.S., to provide a new process for local governments to apply for and receive certification to receive state funds to construct or renovate spring training facilities, contingent upon repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for international banking facilities.
- Creates a process for certified local governments to receive a distribution of $55,555 per month to construct or renovate a spring training facility, or a distribution of

$111,110 per month if a certified local government's facility is used by more than one professional baseball franchise by amending s. 212.20, F.S.

- Specifies the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

B. Amendments:

None.

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

By Senator Gardiner

13-00419B-13 2013406__

A bill to be entitled

An act relating to economic development; establishing the Economic Development Programs Evaluation; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to present the evaluation; requiring the offices to develop and submit a work plan for completing the evaluation by a certain date; requiring the offices to provide an analysis of certain economic development programs and specifying a schedule; requiring the Office of Economic and Demographic Research to make certain evaluations in its analysis; limiting the office's evaluation for the purposes of tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs; requiring the office to use a certain model to evaluate each program; requiring the Office of Program Policy Analysis and Government Accountability to make certain evaluations in its analysis; providing the offices access to all data necessary to complete the evaluation; amending s. 20.60, F.S.; revising the date on which the Department of Economic Opportunity and Enterprise Florida, Inc., are required to report on the business climate and economic development in the state; specifying reports and information that must be included; amending s. 220.194, F.S.; requiring the annual report for the Florida Space Business Incentives Act to be included in the annual incentives report; deleting certain reporting requirements;

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amending s. 288.005, F.S.; providing a definition; amending s. 288.012, F.S.; requiring each State of Florida international office to submit a report to Enterprise Florida, Inc., for inclusion in its annual report; deleting a reporting date; amending s. 288.061, F.S.; requiring the Department of Economic Opportunity to analyze each economic development incentive application; amending s. 288.0656, F.S.; requiring the Rural Economic Development Initiative to submit a report to supplement the Department of Economic Opportunity's annual report; deleting certain reporting requirements; repealing s. 288.095(3)(c), F.S., relating to the annual report by Enterprise Florida, Inc., of programs funded by the Economic Development Incentives Account; amending s. 288.106, F.S.; deleting and adding provisions relating to the application and approval process of the tax refund program for qualified target industry businesses; requiring the Department of Economic Opportunity to include information on qualified target industry businesses in the annual incentives report; deleting certain reporting requirements; amending s. 288.1081, F.S.; requiring the use of loan funds from the Economic Gardening Business Loan Pilot Program to be included in the department's annual report; deleting certain reporting requirements; amending s. 288.1082, F.S.; requiring the progress of the Economic Gardening Technical Assistance Pilot Program to be included in the department's annual report; deleting certain

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59 reporting requirements; amending s. 288.1088, F.S.;
60 requiring the department to validate contractor
61 performance for the Quick Action Closing Fund and
62 include the performance validation in the annual
63 incentives report; deleting certain reporting
64 requirements; amending s. 288.1089, F.S.; requiring
65 that certain projects in the Innovation Incentive
66 Program provide a cumulative break-even economic
67 benefit; requiring the department to report
68 information relating to the Innovation Incentive
69 Program in the annual incentives report; deleting
70 certain reporting requirements; deleting provisions
71 that require the Office of Program Policy Analysis and
72 Government Accountability and the Auditor General's
73 Office to report on the Innovation Incentive Program;
74 amending s. 288.1253, F.S.; revising a reporting date;
75 requiring expenditures of the Office of Film and
76 Entertainment to be included in the annual
77 entertainment industry financial incentive program
78 report; amending s. 288.1254, F.S.; revising a
79 reporting date; requiring the annual entertainment
80 industry financial incentive program report to include
81 certain information; amending s. 288.1258, F.S.;
82 revising a reporting date; requiring the report
83 detailing the relationship between tax exemptions and
84 incentives to industry growth to be included in the
85 annual entertainment industry financial incentive
86 program report; amending s. 288.714, F.S.; requiring
87 the Department of Economic Opportunity's annual report

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88 to include a report on the Black Business Loan
89 Program; deleting certain reporting requirements;
90 amending s. 288.7771, F.S.; requiring the Florida
91 Export Finance Corporation to submit a report to
92 Enterprise Florida, Inc.; amending s. 288.903, F.S.;
93 requiring Enterprise Florida, Inc., with the
94 Department of Economic Opportunity, to prepare an
95 annual incentives report; repealing s. 288.904(6),
96 F.S., relating to Enterprise Florida, Inc., which
97 requires the department to report the return on the
98 public's investment; amending s. 288.906, F.S.;
99 requiring certain reports to be included in the
100 Enterprise Florida, Inc., annual report; amending s.
101 288.907, F.S.; requiring Enterprise Florida, Inc.,
102 with the Department of Economic Opportunity, to
103 prepare the annual incentives report; requiring the
104 annual incentives report to include certain
105 information; deleting a provision requiring the
106 Division of Strategic Business Development to assist
107 Enterprise Florida, Inc., with the report; amending s.
108 288.92, F.S.; requiring each division of Enterprise
109 Florida, Inc., to submit a report; amending s.
110 288.95155, F.S.; requiring the financial status of the
111 Florida Small Business Technology Growth Program to be
112 included in the annual incentives report; amending s.
113 290.0056, F.S.; revising a reporting date; requiring
114 the enterprise zone development agency to submit
115 certain information for the Department of Economic
116 Opportunity's annual report; amending s. 290.014,

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117 F.S.; revising a reporting date; requiring certain
118 reports on enterprise zones to be included in the
119 Department of Economic Opportunity's annual report;
120 amending s. 331.3051, F.S.; revising a reporting date;
121 requiring Space Florida's annual report to include
122 certain information; amending s. 331.310, F.S.;
123 requiring the Board of Directors of Space Florida to
124 supplement Space Florida's annual report with
125 operations information; deleting certain reporting
126 requirements; amending s. 446.50, F.S.; requiring the
127 Department of Economic Opportunity's annual report to
128 include a plan for the displaced homemaker program;
129 deleting certain reporting requirements; providing an
130 effective date.
131
132 Be It Enacted by the Legislature of the State of Florida:
133
134 Section 1. Economic Development Programs Evaluation.—The
135 Office of Economic and Demographic Research and the Office of
136 Program Policy Analysis and Government Accountability (OPPAGA)
137 shall develop and present to the Governor, the President of the
138 Senate, the Speaker of the House of Representatives, and the
139 chairs of the legislative appropriations committees the Economic
140 Development Programs Evaluation.
141 (1) The Office of Economic and Demographic Research and
142 OPPAGA shall coordinate the development of a work plan for
143 completing the Economic Development Programs Evaluation and
144 shall submit the work plan to the President of the Senate and
145 the Speaker of the House of Representatives by July 1, 2013.

146 (2) The Office of Economic and Demographic Research and
147 OPPAGA shall provide a detailed analysis of economic development
148 programs as provided in the following schedule:
149 (a) By January 1, 2014, and every 3 years thereafter, an
150 analysis of the following programs:
151 1. The Capital Investment Tax Credit established under s.
152 220.191, Florida Statutes.
153 2. The Qualified Target Industry Tax Refund established
154 under s. 288.106, Florida Statutes.
155 3. The Brownfield Redevelopment Bonus Tax Refund
156 established under s. 288.107, Florida Statutes.
157 4. High-Impact Sector Performance Grants established under
158 s. 288.108, Florida Statutes.
159 5. The Quick Action Closing Fund established under s.
160 288.1088, Florida Statutes.
161 6. The Innovation Incentive Program established under s.
162 288.1089, Florida Statutes.
163 7. Enterprise Zone Program incentives established under ss.
164 212.0805, 212.0815, 212.096, 220.181, and 220.182, Florida
165 Statutes.
166 (b) By January 1, 2015, and every 3 years thereafter, an
167 analysis of the following programs:
168 1. The Entertainment Industry Financial Incentive Program
169 established under s. 288.1254, Florida Statutes.
170 2. The Entertainment Industry Sales Tax Exemption Program
171 established under s. 288.1258, Florida Statutes.
172 3. VISIT Florida and its programs established under ss.
173 288.122, 288.1226, 288.12265, and 288.124, Florida Statutes.
174 4. The Florida Sports Foundation and its programs

175 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
176 288.1168, 288.1169, and 288.1171, Florida Statutes.
177 (c) By January 1, 2016, and every 3 years thereafter, an
178 analysis of the following programs:
179 1. The qualified defense contractor and space flight
180 business tax refund program established under s. 288.1045,
181 Florida Statutes.
182 2. The tax exemption for semiconductor, defense, or space
183 technology sales established under s. 212.08(5)(j), Florida
184 Statutes.
185 3. The Military Base Protection Program established under
186 s. 288.980, Florida Statutes.
187 4. The Manufacturing and Spaceport Investment Incentive
188 Program established under s. 288.1083, Florida Statutes.
189 5. The Quick Response Training Program established under s.
190 288.047, Florida Statutes.
191 6. The Incumbent Worker Training Program established under
192 s. 445.003, Florida Statutes.
193 7. International trade and business development programs
194 established under s. 288.826, Florida Statutes.
195 (3) Pursuant to the schedule established in subsection (2),
196 the Office of Economic and Demographic Research shall evaluate
197 and determine the economic benefits, as defined in s. 288.005,
198 Florida Statutes, of each program over the previous 3 years. The
199 analysis must also evaluate the number of jobs created, the
200 increase or decrease in personal income, and the impact on state
201 gross domestic product from the direct, indirect, and induced
202 effects of the state's investment in each program over the
203 previous 3 years.

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204 (a) For the purpose of evaluating tax credits, tax refunds,
205 sales tax exemptions, cash grants, and similar programs, the
206 Office of Economic and Demographic Research shall evaluate data
207 only from those projects in which businesses received state
208 funds during the evaluation period. Such projects may be either
209 fully complete, partially completed with future fund disbursal
210 possible pending performance measures, or partially completed
211 with no future fund disbursal possible as a result of a
212 business's inability to meet performance measures.
213 (b) The analysis must use the model developed by the Office
214 of Economic and Demographic Research, as required in s. 216.138,
215 Florida Statutes, to evaluate each program. The office shall
216 provide a written explanation of the key assumptions of the
217 model and how it is used. If the office finds that another
218 evaluation model is more appropriate to evaluate a program, it
219 may use another model, but it must provide an explanation as to
220 why the selected model was more appropriate.
221 (4) Pursuant to the schedule established in subsection (2),
222 OPPAGA shall evaluate each program over the previous 3 years for
223 its effectiveness and value to the taxpayers of this state and
224 include recommendations on each program for consideration by the
225 Legislature. The analysis may include relevant economic
226 development reports or analyses prepared by the Department of
227 Economic Opportunity, Enterprise Florida, Inc., or local or
228 regional economic development organizations; interviews with the
229 parties involved; or any other relevant data.
230 (5) The Office of Economic and Demographic Research and
231 OPPAGA have access to all data necessary to complete the
232 Economic Development Programs Evaluation, including any

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233 confidential data, notwithstanding s. 213.053, Florida Statutes.
234 The offices may collaborate on data collection and analysis.
235 Section 2. Subsection (10) of section 20.60, Florida
236 Statutes, is amended to read:
237 20.60 Department of Economic Opportunity; creation; powers
238 and duties.—
239 (10) The department, with assistance from Enterprise
240 Florida, Inc., shall, by November 1 ~~January 1~~ of each year,
241 submit an annual report to the Governor, the President of the
242 Senate, and the Speaker of the House of Representatives on the
243 condition of the business climate and economic development in
244 the state.
245 (a) The report must ~~shall~~ include the identification of
246 problems and a prioritized list of recommendations.
247 (b) The report must incorporate annual reports of other
248 programs, including:
249 1. The displaced homemaker program established under s.
250 446.50.
251 2. Information provided by the Department of Revenue under
252 s. 290.014.
253 3. Information provided by enterprise zone development
254 agencies under s. 290.0056 and an analysis of the activities and
255 accomplishments of each enterprise zone.
256 4. The Economic Gardening Business Loan Pilot Program
257 established under s. 288.1081 and the Economic Gardening
258 Technical Assistance Pilot Program established under s.
259 288.1082.
260 5. A detailed report of the performance of the Black
261 Business Loan Program and a cumulative summary of quarterly

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262 report data required under s. 288.714.
263 6. The Rural Economic Development Initiative established
264 under s. 288.0656.
265 Section 3. Subsection (9) of section 220.194, Florida
266 Statutes, is amended to read:
267 220.194 Corporate income tax credits for spaceflight
268 projects.—
269 (9) ANNUAL REPORT.—Beginning in 2014, the Department of
270 Economic Opportunity, in cooperation with Space Florida and the
271 department, shall include in the ~~submit an~~ annual incentives
272 report required under s. 288.907 a summary of ~~summarizing~~
273 activities relating to the Florida Space Business Incentives Act
274 established under this section ~~to the Governor, the President of~~
275 ~~the Senate, and the Speaker of the House of Representatives by~~
276 ~~each November 30~~.
277 Section 4. Subsection (4) is added to section 288.005,
278 Florida Statutes, to read:
279 288.005 Definitions.—As used in this chapter, the term:
280 (4) "Jobs" means full-time equivalent positions, including,
281 but not limited to, positions obtained from a temporary
282 employment agency or employee leasing company or through a union
283 agreement or coemployment under a professional employer
284 organization agreement, which result directly from a project in
285 this state. This number does not include temporary construction
286 jobs involved with the construction of facilities for the
287 project.
288 Section 5. Subsection (3) of section 288.012, Florida
289 Statutes, is amended to read:
290 288.012 State of Florida international offices; state

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291 protocol officer; protocol manual.—The Legislature finds that
292 the expansion of international trade and tourism is vital to the
293 overall health and growth of the economy of this state. This
294 expansion is hampered by the lack of technical and business
295 assistance, financial assistance, and information services for
296 businesses in this state. The Legislature finds that these
297 businesses could be assisted by providing these services at
298 State of Florida international offices. The Legislature further
299 finds that the accessibility and provision of services at these
300 offices can be enhanced through cooperative agreements or
301 strategic alliances between private businesses and state, local,
302 and international governmental entities.
303 (3) ~~By October 1 of each year,~~ Each international office
304 shall submit to Enterprise Florida, Inc., ~~the department~~ a
305 complete and detailed report on its activities and
306 accomplishments during the preceding fiscal year for inclusion
307 in the annual report required under s. 288.906. In a format
308 provided by Enterprise Florida, Inc., the report must set forth
309 information on:
310 (a) The number of Florida companies assisted.
311 (b) The number of inquiries received about investment
312 opportunities in this state.
313 (c) The number of trade leads generated.
314 (d) The number of investment projects announced.
315 (e) The estimated U.S. dollar value of sales confirmations.
316 (f) The number of representation agreements.
317 (g) The number of company consultations.
318 (h) Barriers or other issues affecting the effective
319 operation of the office.

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320 (i) Changes in office operations which are planned for the
321 current fiscal year.
322 (j) Marketing activities conducted.
323 (k) Strategic alliances formed with organizations in the
324 country in which the office is located.
325 (l) Activities conducted with Florida's other international
326 offices.
327 (m) Any other information that the office believes would
328 contribute to an understanding of its activities.
329 Section 6. Present subsections (2) and (3) of section
330 288.061, Florida Statutes, are redesignated as subsections (3)
331 and (4), respectively, and a new subsection (2) is added to that
332 section, to read:
333 288.061 Economic development incentive application
334 process.—
335 (2) Beginning July 1, 2013, the department shall review and
336 evaluate each economic development incentive application for the
337 economic benefits of the proposed award of state incentives
338 proposed for the project. The term "economic benefits" has the
339 same meaning as in s. 288.005. The Office of Economic and
340 Demographic Research shall review and evaluate the methodology
341 and model used to calculate the economic benefits. For purposes
342 of this requirement, an amended definition of economic benefits
343 may be developed in conjunction with the Office of Economic and
344 Demographic Research. The Office of Economic and Demographic
345 Research shall report on the methodology and model by September
346 1, 2013, and every third year thereafter, to the President of
347 the Senate and the Speaker of the House of Representatives.
348 Section 7. Subsection (8) of section 288.0656, Florida

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349 Statutes, is amended to read:
350 288.0656 Rural Economic Development Initiative.—
351 (8) REDI shall submit a report ~~to the Governor, the~~
352 ~~President of the Senate, and the Speaker of the House of~~
353 ~~Representatives each year on or before September 1~~ on all REDI
354 activities for the prior fiscal year as a supplement to the
355 annual report required under s. 20.60. This report must ~~shall~~
356 include a status report on all projects currently being
357 coordinated through REDI, the number of preferential awards and
358 allowances made pursuant to this section, the dollar amount of
359 such awards, and the names of the recipients. The report must
360 ~~shall~~ also include a description of all waivers of program
361 requirements granted. The report must ~~shall~~ also include
362 information as to the economic impact of the projects
363 coordinated by REDI, and recommendations based on the review and
364 evaluation of statutes and rules having an adverse impact on
365 rural communities, and proposals to mitigate such adverse
366 impacts.
367 Section 8. Paragraph (c) of subsection (3) of section
368 288.095, Florida Statutes, is repealed.
369 Section 9. Paragraph (c) of subsection (4) and paragraph
370 (d) of subsection (7) of section 288.106, Florida Statutes, are
371 amended to read:
372 288.106 Tax refund program for qualified target industry
373 businesses.—
374 (4) APPLICATION AND APPROVAL PROCESS.—
375 (c) Each application meeting the requirements of paragraph
376 (b) must be submitted to the department for determination of
377 eligibility. The department shall review and evaluate each

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378 application based on, but not limited to, the following
379 criteria:
380 1. Expected contributions to the state's economy,
381 consistent with the state strategic economic development plan
382 prepared by the department.
383 2. The economic benefits of the proposed award of tax
384 refunds under this section ~~and the economic benefits of state~~
385 ~~incentives proposed for the project~~. ~~The term "economic~~
386 ~~benefits" has the same meaning as in s. 288.005. The Office of~~
387 ~~Economic and Demographic Research shall review and evaluate the~~
388 ~~methodology and model used to calculate the economic benefits~~
389 ~~and shall report its findings by September 1 of every 3rd year,~~
390 ~~to the President of the Senate and the Speaker of the House of~~
391 ~~Representatives.~~
392 3. The amount of capital investment to be made by the
393 applicant in this state.
394 4. The local financial commitment and support for the
395 project.
396 5. The expected effect of the project on the unemployed and
397 underemployed ~~unemployment rate~~ in the county where the project
398 will be located.
399 6. The expected effect of the award on the viability of the
400 project and the probability that the project would be undertaken
401 in this state if such tax refunds are granted to the applicant.
402 ~~7. The expected long-term commitment of the applicant to~~
403 ~~economic growth and employment in this state resulting from the~~
404 ~~project.~~
405 7.~~8.~~ A review of the business's past activities in this
406 state or other states, including whether the ~~such~~ business has

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been subjected to criminal or civil fines and penalties and whether the business received economic development incentives in other states and the results of such incentive agreements. This subparagraph does not require the disclosure of confidential information.

(7) ADMINISTRATION.—

(d) Beginning with tax refund agreements signed after July 1, 2010, the department shall attempt to ascertain the causes for any business's failure to complete its agreement and ~~shall report~~ its findings and recommendations must be included in the annual incentives report under s. 288.907 ~~to the Governor, the President of the Senate, and the Speaker of the House of Representatives~~. ~~The report shall be submitted by December 1 of each year beginning in 2011.~~

Section 10. Subsection (8) of section 288.1081, Florida Statutes, is amended to read:

288.1081 Economic Gardening Business Loan Pilot Program.—

(8) The annual report required under s. 20.60 must describe ~~On June 30 and December 31 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which describes~~ in detail the use of the loan funds. The report must include, at a minimum, the number of businesses receiving loans, the number of full-time equivalent jobs created as a result of the loans, the amount of wages paid to employees in the newly created jobs, the locations and types of economic activity undertaken by the borrowers, the amounts of loan repayments made to date, and the default rate of borrowers.

Section 11. Subsection (8) of section 288.1082, Florida

Statutes, is amended to read:

288.1082 Economic Gardening Technical Assistance Pilot Program.—

(8) The annual report required under s. 20.60 must describe ~~On December 31 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which describes~~ in detail the progress of the pilot program. The report must include, at a minimum, the number of businesses receiving assistance, the number of full-time equivalent jobs created as a result of the assistance, if any, the amount of wages paid to employees in the newly created jobs, and the locations and types of economic activity undertaken by the businesses.

Section 12. Paragraph (e) of subsection (3) of section 288.1088, Florida Statutes, is amended to read:

288.1088 Quick Action Closing Fund.—

(3)

(e) The department ~~Enterprise Florida, Inc.,~~ shall validate contractor performance. Such validation shall be reported in the annual incentives report required under s. 288.907 ~~within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives~~.

Section 13. Paragraphs (b) and (d) of subsection (4), and subsections (9) and (11) of section 288.1089, Florida Statutes, are amended to read:

288.1089 Innovation Incentive Program.—

(4) To qualify for review by the department, the applicant must, at a minimum, establish the following to the satisfaction

465 of the department:
466 (b) A research and development project must:
467 1. Serve as a catalyst for an emerging or evolving
468 technology cluster.
469 2. Demonstrate a plan for significant higher education
470 collaboration.
471 3. Provide the state, at a minimum, a cumulative break-even
472 economic benefit ~~return on investment~~ within a 20-year period.
473 4. Be provided with a one-to-one match from the local
474 community. The match requirement may be reduced or waived in
475 rural areas of critical economic concern or reduced in rural
476 areas, brownfield areas, and enterprise zones.
477 (d) For an alternative and renewable energy project in this
478 state, the project must:
479 1. Demonstrate a plan for significant collaboration with an
480 institution of higher education;
481 2. Provide the state, at a minimum, a cumulative break-even
482 economic benefit ~~return on investment~~ within a 20-year period;
483 3. Include matching funds provided by the applicant or
484 other available sources. The match requirement may be reduced or
485 waived in rural areas of critical economic concern or reduced in
486 rural areas, brownfield areas, and enterprise zones;
487 4. Be located in this state; and
488 5. Provide at least 35 direct, new jobs that pay an
489 estimated annual average wage that equals at least 130 percent
490 of the average private sector wage.
491 (9) The department shall validate the performance of an
492 innovation business, a research and development facility, or an
493 alternative and renewable energy business that has received an

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494 award. At the conclusion of the innovation incentive award
495 agreement, or its earlier termination, the department shall~~,~~
496 ~~within 90 days,~~ submit, as part of the annual incentives report
497 required under s. 288.907, a report ~~to the Governor, the~~
498 ~~President of the Senate, and the Speaker of the House of~~
499 ~~Representatives~~ detailing whether the recipient of the
500 innovation incentive grant achieved its specified outcomes.
501 (11)~~(a)~~ The department shall submit ~~to the Governor, the~~
502 ~~President of the Senate, and the Speaker of the House of~~
503 ~~Representatives~~, as part of the annual incentives report
504 required under s. 288.907, a report summarizing the activities
505 and accomplishments of the recipients of grants from the
506 Innovation Incentive Program during the previous 12 months and
507 an evaluation of whether the recipients are catalysts for
508 additional direct and indirect economic development in Florida.
509 ~~(b) Beginning March 1, 2010, and every third year~~
510 ~~thereafter, the Office of Program Policy Analysis and Government~~
511 ~~Accountability, in consultation with the Auditor General's~~
512 ~~Office, shall release a report evaluating the Innovation~~
513 ~~Incentive Program's progress toward creating clusters of high-~~
514 ~~wage, high-skilled, complementary industries that serve as~~
515 ~~catalysts for economic growth specifically in the regions in~~
516 ~~which they are located, and generally for the state as a whole.~~
517 ~~Such report should include critical analyses of quarterly and~~
518 ~~annual reports, annual audits, and other documents prepared by~~
519 ~~the Innovation Incentive Program awardees; relevant economic~~
520 ~~development reports prepared by the department, Enterprise~~
521 ~~Florida, Inc., and local or regional economic development~~
522 ~~organizations; interviews with the parties involved; and any~~

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523 ~~other relevant data. Such report should also include legislative~~
524 ~~recommendations, if necessary, on how to improve the Innovation~~
525 ~~Incentive Program so that the program reaches its anticipated~~
526 ~~potential as a catalyst for direct and indirect economic~~
527 ~~development in this state.~~
528 Section 14. Subsection (3) of section 288.1253, Florida
529 Statutes, is amended to read:
530 288.1253 Travel and entertainment expenses.—
531 (3) The department shall prepare an annual report of the
532 expenditures of the previous fiscal year of the Office of Film
533 and Entertainment and provide such report to the Legislature on
534 November 1 ~~no later than December 30~~ of each year as part of the
535 report required under s. 288.1254(10) ~~for the expenditures of~~
536 ~~the previous fiscal year~~. The report shall consist of a summary
537 of all travel, entertainment, and incidental expenses incurred
538 within the United States and all travel, entertainment, and
539 incidental expenses incurred outside the United States, as well
540 as a summary of all successful projects that developed from such
541 travel.
542 Section 15. Subsection (10) of section 288.1254, Florida
543 Statutes, is amended to read:
544 288.1254 Entertainment industry financial incentive
545 program.—
546 (10) ANNUAL REPORT.—Each November 1 ~~October 1~~, the Office
547 of Film and Entertainment shall provide an annual report for the
548 previous fiscal year to the Governor, the President of the
549 Senate, and the Speaker of the House of Representatives which
550 outlines the return on investment and economic benefits to the
551 state. The report must ~~shall also~~ include an estimate of the

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552 full-time equivalent positions created by each production that
553 received tax credits under this section and information relating
554 to the distribution of productions receiving credits by
555 geographic region and type of production. The report must also
556 include the expenditures report required under s. 288.1253(3)
557 and the report detailing the relationship between tax exemptions
558 and incentives to industry growth required under s. 288.1258(5).
559 Section 16. Subsection (5) of section 288.1258, Florida
560 Statutes, is amended to read:
561 288.1258 Entertainment industry qualified production
562 companies; application procedure; categories; duties of the
563 Department of Revenue; records and reports.—
564 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
565 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The Office of Film
566 and Entertainment shall keep annual records from the information
567 provided on taxpayer applications for tax exemption certificates
568 beginning January 1, 2001. These records also must ~~shall~~ reflect
569 a ratio of the annual amount of sales and use tax exemptions
570 under this section, plus the incentives awarded pursuant to s.
571 288.1254 to the estimated amount of funds expended by certified
572 productions. In addition, the office shall maintain data showing
573 annual growth in Florida-based entertainment industry companies
574 and entertainment industry employment and wages. The employment
575 information must ~~shall~~ include an estimate of the full-time
576 equivalent positions created by each production that received
577 tax credits pursuant to s. 288.1254. The Office of Film and
578 Entertainment shall report this information to the Legislature
579 no later than November 1 ~~December 1~~ of each year as part of the
580 report required under s. 288.1254(10).

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581 Section 17. Subsection (3) of section 288.714, Florida
582 Statutes, is amended to read:
583 288.714 Quarterly and annual reports.—
584 (3) The annual review and report required under s. 20.60
585 must include ~~By August 31 of each year, the department shall~~
586 ~~provide to the Governor, the President of the Senate, and the~~
587 ~~Speaker of the House of Representatives~~ a detailed report of the
588 performance of the Black Business Loan Program. The report must
589 include a cumulative summary of quarterly report data required
590 by subsection (1).
591 Section 18. Section 288.7771, Florida Statutes, is amended
592 to read:
593 288.7771 Annual report of Florida Export Finance
594 Corporation.—The corporation shall annually prepare and submit
595 to Enterprise Florida, Inc., ~~the department~~ for inclusion in its
596 annual report required by s. 288.906, ~~s. 288.095~~ a complete and
597 detailed report setting forth:
598 (1) The report required in s. 288.776(3).
599 (2) Its assets and liabilities at the end of its most
600 recent fiscal year.
601 Section 19. Section 288.903, Florida Statutes, is amended
602 to read:
603 288.903 Duties of Enterprise Florida, Inc.—Enterprise
604 Florida, Inc., shall have the following duties:
605 (1) Responsibly and prudently manage all public and private
606 funds received, and ensure that the use of such funds is in
607 accordance with all applicable laws, bylaws, or contractual
608 requirements.
609 (2) Administer the entities or programs created pursuant to

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610 part IX of this chapter; ss. 288.9622-288.9624; ss. 288.95155
611 and 288.9519; and chapter 95-429, Laws of Florida, line 1680Y.
612 (3) Prepare an annual report pursuant to s. 288.906.
613 (4) Prepare, in conjunction with the department, ~~and~~ an
614 annual incentives report pursuant to s. 288.907.
615 (5) ~~(4)~~ Assist the department with the development of an
616 annual and a long-range strategic business blueprint for
617 economic development required in s. 20.60.
618 (6) ~~(5)~~ In coordination with Workforce Florida, Inc.,
619 identify education and training programs that will ensure
620 Florida businesses have access to a skilled and competent
621 workforce necessary to compete successfully in the domestic and
622 global marketplace.
623 Section 20. Subsection (6) of section 288.904, Florida
624 Statutes, is repealed.
625 Section 21. Subsection (3) is added to section 288.906,
626 Florida Statutes, to read:
627 288.906 Annual report of Enterprise Florida, Inc., and its
628 divisions; audits.—
629 (3) The following reports must be included as supplements
630 to the detailed report required by this section:
631 (a) The annual report of the Florida Export Finance
632 Corporation required under s. 288.7771.
633 (b) The report on international offices required under s.
634 288.012.
635 Section 22. Section 288.907, Florida Statutes, is amended
636 to read:
637 288.907 Annual incentives report.—
638 ~~(1)~~ By December 30 of each year, ~~In addition to the annual~~

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~~report required under s. 288.906,~~ Enterprise Florida, Inc., in conjunction with the department, ~~by December 30 of each year,~~ shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs marketed by Enterprise Florida, Inc.

~~(a)~~ The annual incentives report must include:

(1) For each incentive program:

(a)~~1.~~ A brief description of the incentive program.

(b)~~2.~~ The amount of awards granted, by year, since inception and the annual amount actually transferred from the state treasury to businesses or for the benefit of businesses for each of the previous 3 years.

~~3. The economic benefits, as defined in s. 288.005, based on the actual amount of private capital invested, actual number of jobs created, and actual wages paid for incentive agreements completed during the previous 3 years.~~

(c)~~4.~~ ~~The report shall also include~~ The actual amount of private capital invested, actual number of jobs created, and actual wages paid for incentive agreements completed during the previous 3 years for each target industry sector.

(2)~~(b)~~ For projects completed during the previous state fiscal year~~, the report must include~~:

(a)~~1.~~ The number of economic development incentive applications received.

(b)~~2.~~ The number of recommendations made to the department by Enterprise Florida, Inc., including the number recommended for approval and the number recommended for denial.

(c)~~3.~~ The number of final decisions issued by the department for approval and for denial.

(d)~~4.~~ The projects for which a tax refund, tax credit, or cash grant agreement was executed, identifying for each project:

1.~~a.~~ The number of jobs committed to be created.

2.~~b.~~ The amount of capital investments committed to be made.

3.~~c.~~ The annual average wage committed to be paid.

4.~~d.~~ The amount of state economic development incentives committed to the project from each incentive program under the project's terms of agreement with the Department of Economic Opportunity.

5.~~e.~~ The amount and type of local matching funds committed to the project.

(e) Tax refunds paid or other payments made funded out of the Economic Development Incentives Account for each project.

(f) The types of projects supported.

(3)~~(c)~~ For economic development projects that received tax refunds, tax credits, or cash grants under the terms of an agreement for incentives~~, the report must identify~~:

(a)~~1.~~ The number of jobs actually created.

(b)~~2.~~ The amount of capital investments actually made.

(c)~~3.~~ The annual average wage paid.

(4)~~(d)~~ For a project receiving economic development incentives approved by the department and receiving federal or local incentives, ~~the report must include~~ a description of the federal or local incentives, if available.

(5)~~(e)~~ The ~~report must state the~~ number of withdrawn or terminated projects that did not fulfill the terms of their

697 agreements with the department and, consequently, are not
698 receiving incentives.
699 (6) For any agreements signed after July 1, 2010, findings
700 and recommendations on the efforts of the department to
701 ascertain the causes of any business's inability to complete its
702 agreement made under s. 288.106.
703 (7) ~~(f)~~ The amount ~~report must include an analysis of the~~
704 ~~economic benefits, as defined in s. 288.005,~~ of tax refunds, tax
705 credits, or other payments made to projects locating or
706 expanding in state enterprise zones, rural communities,
707 brownfield areas, or distressed urban communities. The report
708 must include a separate analysis of the impact of such tax
709 refunds on state enterprise zones designated under s. 290.0065,
710 rural communities, brownfield areas, and distressed urban
711 communities.
712 (8) The name of and tax refund amount for each business
713 that has received a tax refund under s. 288.1045 or s. 288.106
714 during the preceding fiscal year.
715 (9) ~~(g)~~ An identification of ~~The report must identify~~ the
716 target industry businesses and high-impact businesses.
717 (10) ~~(h)~~ A description of ~~The report must describe~~ the
718 trends relating to business interest in, and usage of, the
719 various incentives, and the number of minority-owned or woman-
720 owned businesses receiving incentives.
721 (11) ~~(i)~~ An identification of ~~The report must identify~~
722 incentive programs not used and recommendations for program
723 changes or program elimination ~~utilized~~.
724 (12) Information related to the validation of contractor
725 performance required under s. 288.061.

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

726 (13) Beginning in 2014, a summation of the activities
727 related to the Florida Space Business Incentives Act.
728 ~~(2) The Division of Strategic Business Development within~~
729 ~~the department shall assist Enterprise Florida, Inc., in the~~
730 ~~preparation of the annual incentives report.~~
731 Section 23. Subsection (3) of section 288.92, Florida
732 Statutes, is amended to read:
733 288.92 Divisions of Enterprise Florida, Inc.—
734 (3) By October 15 each year, each division shall draft and
735 submit an annual report that ~~which~~ details the division's
736 activities during the prior fiscal year and includes any
737 recommendations for improving current statutes related to the
738 division's related area. These annual reports shall be included
739 in the report required under s. 288.906.
740 Section 24. Subsection (5) of section 288.95155, Florida
741 Statutes, is amended to read:
742 288.95155 Florida Small Business Technology Growth
743 Program.—
744 (5) Enterprise Florida, Inc., shall prepare for inclusion
745 in the annual report ~~of the department~~ required under s. 288.907
746 ~~by s. 288.095~~ a report on the financial status of the program.
747 The report must specify the assets and liabilities of the
748 program within the current fiscal year and must include a
749 portfolio update that lists all of the businesses assisted, the
750 private dollars leveraged by each business assisted, and the
751 growth in sales and in employment of each business assisted.
752 Section 25. Subsection (11) of section 290.0056, Florida
753 Statutes, is amended to read:
754 290.0056 Enterprise zone development agency.—

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

755 (11) Before October 1 ~~December 1~~ of each year, the agency
756 shall submit to the department for inclusion in the annual
757 report required under s. 20.60 a complete and detailed written
758 report setting forth:
759 (a) Its operations and accomplishments during the fiscal
760 year.
761 (b) The accomplishments and progress concerning the
762 implementation of the strategic plan or measurable goals, and
763 any updates to the strategic plan or measurable goals.
764 (c) The number and type of businesses assisted by the
765 agency during the fiscal year.
766 (d) The number of jobs created within the enterprise zone
767 during the fiscal year.
768 (e) The usage and revenue impact of state and local
769 incentives granted during the calendar year.
770 (f) Any other information required by the department.
771 Section 26. Section 290.014, Florida Statutes, is amended
772 to read:
773 290.014 Annual reports on enterprise zones.—
774 (1) By October 1 ~~February 1~~ of each year, the Department of
775 Revenue shall submit an annual report to the department
776 detailing the usage and revenue impact by county of the state
777 incentives listed in s. 290.007.
778 (2) ~~By March 1 of each year, the department shall submit an~~
779 ~~annual report to the Governor, the Speaker of the House of~~
780 ~~Representatives, and the President of the Senate.~~ The annual
781 report required under s. 20.60 shall include the information
782 provided by the Department of Revenue pursuant to subsection (1)
783 and the information provided by enterprise zone development

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784 agencies pursuant to s. 290.0056. In addition, the report shall
785 include an analysis of the activities and accomplishments of
786 each enterprise zone.
787 Section 27. Subsection (11) of section 331.3051, Florida
788 Statutes, is amended to read:
789 331.3051 Duties of Space Florida.—Space Florida shall:
790 (11) Annually report on its performance with respect to its
791 business plan, to include finance, spaceport operations,
792 research and development, workforce development, and education.
793 The report shall be submitted to the Governor, the President of
794 the Senate, and the Speaker of the House of Representatives no
795 later than November 30 ~~September 1~~ for the prior fiscal year.
796 The annual report must include operations information as
797 required under s. 331.310(2)(e).
798 Section 28. Paragraph (e) of subsection (2) of section
799 331.310, Florida Statutes, is amended to read:
800 331.310 Powers and duties of the board of directors.—
801 (2) The board of directors shall:
802 (e) Prepare an annual report of operations as a supplement
803 to the annual report required under s. 331.3051(11). The report
804 must ~~shall~~ include, but not be limited to, a balance sheet, an
805 income statement, a statement of changes in financial position,
806 a reconciliation of changes in equity accounts, a summary of
807 significant accounting principles, the auditor's report, a
808 summary of the status of existing and proposed bonding projects,
809 comments from management about the year's business, and
810 prospects for the next year~~, which shall be submitted each year~~
811 ~~by November 30 to the Governor, the President of the Senate, the~~
812 ~~Speaker of the House of Representatives, the minority leader of~~

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

813 ~~the Senate, and the minority leader of the House of~~
814 ~~Representatives~~.
815 Section 29. Subsection (4) of section 446.50, Florida
816 Statutes, is amended to read:
817 446.50 Displaced homemakers; multiservice programs; report
818 to the Legislature; Displaced Homemaker Trust Fund created.—
819 (4) STATE PLAN.—
820 (a) The Department of Economic Opportunity shall include in
821 the annual report required under s. 20.60 a ~~develop a 3-year~~
822 ~~state~~ plan for the displaced homemaker program ~~which shall be~~
823 ~~updated annually~~. The plan must address, at a minimum, the need
824 for programs specifically designed to serve displaced
825 homemakers, any necessary service components for such programs
826 in addition to those enumerated in this section, goals of the
827 displaced homemaker program with an analysis of the extent to
828 which those goals are being met, and recommendations for ways to
829 address any unmet program goals. Any request for funds for
830 program expansion must be based on the ~~state~~ plan.
831 (b) The annual review and report required under s. 20.60
832 ~~Each annual update must address any changes in the components of~~
833 ~~the 3-year state plan and a report that~~ must include, but need
834 not be limited to, the following:
835 1. The scope of the incidence of displaced homemakers;
836 2. A compilation and report, by program, of data submitted
837 to the department pursuant to subparagraph 3. by funded
838 displaced homemaker service programs;
839 3. An identification and description of the programs in the
840 state which receive funding from the department, including
841 funding information; and

842 4. An assessment of the effectiveness of each displaced
843 homemaker service program based on outcome criteria established
844 by rule of the department.
845 ~~(c) The 3-year state plan must be submitted to the~~
846 ~~President of the Senate, the Speaker of the House of~~
847 ~~Representatives, and the Governor on or before January 1, 2001,~~
848 ~~and annual updates of the plan must be submitted by January 1 of~~
849 ~~each subsequent year.~~
850 Section 30. This act shall take effect upon becoming a law.

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 Appropriations

BILL: PCS/SB 406

INTRODUCER: Committee on Appropriations, (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development)and Senators Gardiner and Benacquisto

SUBJECT: Economic Development

DATE: March 15, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	**Favorable**
2.	Pingree	Martin	ATD	**Fav/CS**
3.	Pingree	Hansen	AP	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

CS/SB 406 revises and creates various statutory provisions relating to economic development. The bill has a fiscal impact on both state revenues and expenditures. For Fiscal Year 2013-14, recurring receipts for General Revenue will be decreased and nonrecurring General Revenue funds will be correspondingly increased by anywhere from $2.7 million to $4 million, depending on the estimate that may be adopted by the Revenue Estimating Conference. Fiscal Year 2013-14 state expenditures will also be increased by $912,887. Of the $912,887 expenditures, $734,724 would need to be appropriated in the General Appropriations Act for EDR and the DEO, and $178,163 can be absorbed by the OPPAGA within existing resources. The bill also commits future state revenues that will be used to make payments for baseball spring training facilities, while making such revenue decreases contingent upon increased revenues associated with the repeal of the international banking facility income tax deduction. See Section V.

The bill:

- Streamlines the process by which all incentive program applicants are evaluated by requiring that all applicants be evaluated for the "economic benefits" of the proposed project.
- Creates a rotating, 3-year review schedule for specified incentives and programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Consolidates required reports and reporting dates for various economic development program reports by the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.

- Requires the DEO to publish project-based information on economic development programs provided to businesses on its website in a user-friendly format.
- Creates a new certification process for local governments to receive state funds for the construction and renovation of spring training facilities, contingent upon passage of SB 306, or similar legislation, which repeals section 220.63(5), Florida Statutes, the corporate income tax deduction for an international banking facility.
- Specifies the meaning of the term "brownfield" for purposes of the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

The bill is effective upon becoming a law.

This bill creates sections 288.076 and 288.11631, Florida Statutes.

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

This bill substantially amends the following sections of the Florida Statutes: 20.60, 212.08, 212.20, 220.194, 288.005, 288.012, 288.061, 288.0656, 288.106, 288.107, 288.1081, 288.1082, 288.1088, 288.1089, 288.1253, 288.1254, 288.1258, 288.714, 288.7771, 288.903, 288.906, 288.907, 288.92, 288.95155, 290.0056, 290.014, 331.3051, 331.310, and 446.50.

This bill repeals sections 288.095(3)(c) and 288.904(6), Florida Statutes.

II. Present Situation:

Economic Development Incentives Application and Review

Under Florida's current economic development framework, Enterprise Florida, Inc. (EFI), serves as the state's economic development organization, operating under a contract with the Department of Economic Opportunity (DEO).[1] EFI is a public-private partnership that serves as the state's primary contact for businesses interested in pursuing relocation, expansion, or retention possibilities. EFI works with businesses to match business needs with state and local resources, including developing an economic development incentive proposal for the prospective business in order to "sell the State as a place to do business."[2]

After EFI has worked with businesses and offered an incentives proposal, EFI submits incentives applications to the DEO, which in turn evaluates incentive applications based on statutorily-defined requirements. The DEO makes the final determination of incentive eligibility, executes incentives contracts, and is responsible for contract monitoring and compliance.[3]

EFI performs a prospective impact analysis on each potential project. Presently, the qualified target industry tax refund program,[4] quick action closing fund,[5] qualified defense contractor and

[1] Section 288.901, F.S.
[2] Enterprise Florida, Inc., *2012 Annual Incentives Report*, (2012), available at: http://www.floridajobs.org/about%20awi/open_government/2012_IncentivesReport.pdf, (last visited on January 17, 2013).
[3] Section 288.061, F.S.
[4] Section 288.106, F.S.

space flight business tax refund program,[6] and the brownfield redevelopment bonus refund program[7] have statutory provisions that require any application for the incentive be evaluated prospectively for "economic benefits." EFI currently performs a similar prospective impact analysis for the high-impact sector performance grants[8] and the capital investment tax credit program,[9] but there is no statutory requirement for such an evaluation.[10]

Section 288.005(1), F.S., defines the term "economic benefits" to mean "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives." Direct economic effects are those resulting directly from the economic event, in this case the state's expenditure on the incentive to the applicant business. Indirect effects are the secondary effects of the economic event on suppliers, services, labor, and taxes. Induced effects are one step further removed from the event and measure the effects on the economy as a result of spending from indirect effects as the money spent continues to cycle through the economy.[11]

According to the Office of Economic and Demographic Research (EDR), EFI prospectively evaluates applications for each of the incentives and programs mentioned above using RIMS II multipliers,[12] a model developed by the U.S. Department of Commerce's Bureau of Economic Analysis. The EDR is required to evaluate the model used by EFI for the prospective impact analysis of all qualified target industry refund projects, and to report such findings every 3 years.[13] The model evaluated by the EDR and used by EFI for the qualified target industry tax refund program is also used across the programs previously mentioned except for the Innovation Incentive Program.[14]

In 2010, the EDR produced its first report on the model used by EFI to evaluate qualified target industry refund projects. In their report, the EDR concluded that the model being utilized by EFI was not fully in compliance with statutory requirements that EFI's model evaluate "return on investment" (ROI), defined as the gain in state revenues as a percentage of the state's investment. The EDR determined that the model, which EFI terms a "payback ratio," needed changes to move incrementally closer to a true ROI. EFI and the EDR worked to redefine certain variables for the impact analysis in the interim period. In the report, the EDR noted that recommendations and changes to the model used by EFI "should be viewed as interim measures,

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[5] Section 288.1088, F.S.
[6] Section 288.1045, F.S.
[7] Section 288.107, F.S.
[8] Section 288.108, F.S.
[9] Section 220.191, F.S.
[10] Office of Economic and Demographic Research, *Tax Refund Program for Qualified Target Industry Businesses: A review of the methodology and model used in determining the state's return on investment*, (9/1/2010), available at: http://edr.state.fl.us/Content/special-research-projects/economic/ROI.pdf, (last visited on January 29, 2013).
[11] Adapted from "What is IMPLAN?" by MIG. Available at: http://implan.com/v4/index.php?option=com_content&view=article&id=282:what-is-implan&catid=152:implan-appliance-&Itemid=2, (last visited on January 4, 2013).
[12] For more information on RIMS II multipliers and their application, see U.S. Department of Commerce, *Regional Multipliers: A User Handbook for the Regional input-Output Modeling System (RIMS II)*, (March, 1997), available at: http://www.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf, (last visited on January 4, 2013).
[13] Section 288.106(4)(c)2., F.S.
[14] *Supra* note 10 at page 20.

pending completion of the new ROI model that will be ultimately required."[15] The next report is due September 1, 2013.

The Innovation Incentive Program is not required by law to be evaluated for "economic benefits," but any potential project is required to have a break-even "return on investment" within a 20-year period, with certain exceptions.[16] Return on investment as it relates to the Innovation Incentive Program is not defined under current law. EFI evaluates the Innovation Incentive Program using the REMI model.[17] EFI's modeling evaluation of the Innovation Incentive Program is not currently evaluated by the EDR.[18]

Incentive and Program Reporting

In addition to conducting an up-front impact analysis of each potential economic development project, EFI is also required to produce an Annual Incentives Report[19] that requires, among other things, an analysis of the economic benefits that actually occurred based on actual private investment, jobs created, and wages paid over the previous 3 years. The Annual Incentives Report compares the projected impacts of each incentive program over the previous 3 years to the confirmed, realized results. The Division of Strategic Business Development within the DEO is required to assist EFI in the preparation of the Annual Incentives Report.[20]

The Annual Incentives Report also requires certain information such as the amount of awards given, jobs created, amount of capital investment, and wages paid. This information is organized by incentive program and by project. The Annual Incentives Report also requires information on incentive projects that occurred over the previous fiscal year, including the number of incentive applications received, recommendations from EFI to the DEO, the number of final decisions issued by the DEO for approval or denial, and the projects for which incentive agreements were executed.

Other required information in the Annual Incentives Report includes:

- A description of federal or local incentives received, organized by project.
- The number of withdrawn or terminated projects that did not receive incentives due to not fulfilling the terms of their incentives agreement.
- An analysis of the economic benefits of incentives made to projects locating in state enterprise zones, rural communities, brownfield areas, or distressed urban communities.
- Identification of target industry businesses and high-impact businesses.

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[15] *Supra* note 10 at pages 3 and 4.
[16] Section 288.1089, F.S., requires any potential business qualifying for the Innovation Incentive Program be a high-value research and development, innovation business, or an alternative and renewable energy project. Research and development and alternative and renewable energy projects are required to meet the break-even 20-year return on investment requirement, but applicants qualifying as "innovation business projects" are not required to demonstrate the return on investment requirements.
[17] The REMI model is a proprietary model developed by Regional Economic Models, Inc. The model evaluates linkages in an economy and how economic impacts can impact the larger regional economy. For more information see "The REMI Model," available at: http://www.remi.com/the-remi-model, (last visited on January 7, 2013).
[18] *Supra* note 10.
[19] Section 288.907, F.S.
[20] Section 288.907(2), F.S.

- Trends relating to business interest in and usage of the state's incentives programs, including the number of minority-owned and woman-owned businesses receiving incentives.
- Identification of incentive programs not utilized.

Section 288.095(3)(c), F.S., requires information similar to the Annual Incentives Report to be reported by the DEO related to programs funded through the Economic Development Incentives Account in the Economic Development Trust Fund.

Section 288.906, F.S., requires EFI to produce an annual report, separate from the Annual Incentives Report. The annual report includes broad organizational information including:

- A description of EFI's operations and accomplishments, including its divisions and the interactions with local and private economic development organizations.
- An evaluation of progress toward achieving organizational goals and specific performance outcomes.
- Methods for implementing and funding EFI's operations.
- An assessment of direct job creation benefits for welfare transition program participants or other programs designed to assist the long-term unemployed in finding work.
- The results of a customer satisfaction survey of businesses served.
- Annual compliance and financial audit information.

EFI's annual report is also required to include an analysis of the return on the public's investment in EFI. Section 288.904, F.S., requires EFI to consult with EDR to hire an economic analysis firm to develop the model to report on the public's return on investment (ROI) in EFI. The EDR is directed to review the model and to offer feedback before its implementation. EFI has hired Ernst & Young to perform an ROI analysis of EFI.[21] Ernst & Young estimated EFI's 2011 return on investment to be 2.66:1, or an estimation that for every dollar invested in EFI and the incentive programs it markets to businesses, the state will receive $2.66 in state and local taxes.

The DEO also produces an annual report, which is required to include information on the state's business climate and economic development, as well as an identification of problems and recommendations. [22]

Florida presently has multiple reporting requirements for its various economic development programs. These reports are required separately from the information included in EFI annual report, the Annual Incentives Report, and the DEO annual report. Reporting due dates and reporting periods are not uniform, and are due at various dates throughout the year. The reporting due dates for Florida's economic development incentives and programs are as follows:

[21] Enterprise Florida, *2011 Annual Report*, (2011), available at: http://www.eflorida.com/IntelligenceCenter/download/AU/AR_2011.pdf, (last visited on January 7, 2013).
[22] Section 20.60(10), F.S.

Date	Report
January 1	• The DEO's Annual Report (s. 20.60, F.S.) • Displaced Homemaker plan and report (s. 446.50, F.S.)
February 1	• Annual reports on enterprise zones (s. 290.014, F.S.)
August 31	• Black Business Loan Program Annual Report (s. 288.714, F.S.)
September 1	• Rural Economic Development Initiative (s. 288.0656, F.S.) • Space Florida annual performance report (s. 331.3051, F.S.)
October 1	• State of Florida International Offices (s. 288.012, F.S.) • Entertainment Financial Incentive Annual Report (s. 288.1254, F.S.)
October 15	• Reports on each division of EFI (s. 288.92, F.S.)
November 30	• Florida Space Business Incentive Act annual report, beginning in 2014 (s. 220.194, F.S.) • Space Florida annual operations report (s. 331.310, F.S.)
December 1	• Report on information on the causes of business' failures to complete qualified target industry tax refund program agreements (s. 288.106, F.S.) • Report detailing the relationship between tax exemptions and film industry growth (s. 288.1258, F.S.) • Enterprise Zone Development Agency report to the DEO (s. 290.0056, F.S.) • EFI's Annual Report, due *before* this date (s. 288.906, F.S.)

December 30	• EFI's Annual Incentives Report (s. 288.907, F.S.) • Annual report on the Economic Development Trust Fund (s. 288.095, F.S.) • Florida Export Finance Corporation, report due as part of the DEO report on the Economic Development Trust Fund (s. 288.7771, F.S.) • Office of Film and Entertainment annual travel and expenses report (s. 288.1253, F.S) • Florida Small Business Technology Growth Program report on the financial status of the program (s. 288.95155, F.S.)
December 31	• Economic Gardening Technical Assistance Pilot Program (s. 288.1082, F.S.)
Miscellaneous or multiple dates	• Quick Action Closing Fund, reported within 6 months of validation of contract performance. (s. 288.1088, F.S.) • Innovation Incentive Fund, reported within 90 days of the conclusion or termination of an award (s. 288.1089, F.S.) • Economic Gardening Business Loan Pilot Program, reports are due June 30th and December 31st (s. 288.1081, F.S.)

The Legislature also requires periodic review and analysis of several economic development programs by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Economic development program reports by the OPPAGA typically focus on areas such as program administration and whether the program is meeting its statutory goals and direction. A sample of recent OPPAGA reports evaluating economic development programs includes:

- Economic Development Technical Assistance Program (GrowFL);[23]
- Research Commercialization Matching Grant Program;[24] and

[23] OPPAGA, *Report No. 12-14: GrowFL Participants that Received Multiple Services and Met Eligibility Requirements Experienced Higher Growth*, (December 2012), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1214rpt.pdf, (last visited on January 16, 2013).

- Enterprise Zone Program.[25]

Section 20.601, F.S., requires the OPPAGA to review the DEO and EFI by July 1, 2016, detailing several aspects of the operations, performance, and effectiveness of both.

Information on local economic development incentives is collected by EDR. EDR is required to collect information relating to each county or municipality that granted local economic development incentives in excess of $25,000 during a fiscal year.[26] Counties and municipalities may complete their reporting requirements by completing a survey either online or by hard copy and returning it to EDR, who compiles the information into a single report.[27]

DEO Incentives Portal

On August 2, 2012, the DEO launched an online portal for the public to view economic development projects receiving state funds.[28] The portal allows the public to view:

- Completed projects approved from January 1996 through May 2012;
- Inactive or terminated projects that were approved from January 1996 through December 1998; and
- Quick Action Closing Fund projects approved from program inception (1999) through December 2011, which are not confidential.

The portal's website states that DEO expects to have all non-confidential projects available on the portal by March of 2013.[29] The portal website allows users to view projects by incentive program, by the county of the project's location, by the date of the project, and by the recipient business's name. Information provided includes the total state incentive awarded, payments to date, job requirements, and capital investment requirements.

Economic Development Confidentiality Requirements

Section 288.075, F.S., specifies confidentiality of records requirements relating to a business's plans to locate, relocate, or expand business activities in Florida. Currently, certain business

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[24] OPPAGA, *Report No. 11-20: Research Commercialization Matching Grant Program Underway, Additional Performance Data Needed*, (November 2011), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1120rpt.pdf, (last visited on January 16, 2013).
[25] OPPAGA, *Report No. 11-01: Few Businesses Take Advantage of Enterprise Zone Benefits; The Legislature Could Consider Several Options to Modify the Program*, (January, 2011), available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf, (last visited on January 16, 2013).
[26] Section 125.045, F.S., requires counties to report economic development incentives of $25,000 or more that were granted in the fiscal year. Section 166.021, F.S., requires municipalities with revenues and expenditures over $250,000 to report economic development incentives of $25,000 or more granted in the fiscal year.
[27] More information on the report and survey can be accessed by visiting http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm, (last visited on January 16, 2013).
[28] DEO press release, "DEO Launches Public Economic Development Incentives Portal, (August 02, 2012), available at: http://www.floridajobs.org/news-center/news-feed/2012/08/02/deo-launches-public-economic-development-incentives-portal, (last visited on February 15, 2013).
[29] DEO Economic Development Incentives Portal website, available at: http://www.floridajobs.org/office-directory/division-of-strategic-business-development/economic-development-incentives-portal, (last visited on February 15, 2013).

records are confidential and exempt[30] from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), and public economic development agencies of local governments.

The following information is confidential and exempt from public records requirements for the duration specified:

- Upon written request, information relating to a business's plans, intentions, and interests to locate, relocate, or expand its business activities in Florida. This information remains confidential and exempt for 12 months and may be extended an additional 12 months. If a final project order is issued, the information becomes public the earlier of: 180 days after the final project order for a signed economic development incentive award agreement is issued, a date specified in the final project order, or when the information is otherwise disclosed.
- Proprietary confidential business information and trade secrets are always confidential and exempt.
- Information on a business's federal employer identification number, reemployment assistance account number, or Florida sales tax registration number is always confidential and exempt.
- Certain information pertaining to economic development incentive agreements. Specific sales, employee wage, and tax information remains confidential and exempt for the duration of the incentive agreement. Information including a business's name, expected number of jobs created or retained, total jobs, the amount of incentives awarded, and the committed total annual wages remain confidential and exempt until the earlier of: 180 days after a final project order is issued for a signed economic development incentives agreement, a date specified in the final project order, or when the information is otherwise disclosed.

Florida's Grapefruit League

Florida hosts 15 Major League Baseball (MLB) franchises each February and March as part of MLB's annual Spring Training. The 15 teams constitute the Grapefruit League. The teams and their locations are below:

Team	Host Location	Facility Name	Average Per-game Attendance in 2012[31]	Team's Lease Expires[32]

[30] There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).
[31] Florida Sports, *Press Release: Florida Spring Training Baseball Tops 1.6 Million Total Attendance for 2012 Season*, (April 13, 2012), (on file with the Commerce and Tourism Committee).
[32] Florida Sports, *Florida Spring Training Stadium Lease Dates*, (on file with the Commerce and Tourism Committee).

Team	Host Location	Facility Name	Average Per-game Attendance in 2012[31]	Team's Lease Expires[32]
Atlanta Braves	Walt Disney World Resort (Lake Buena Vista)	Disney's Wide World of Sports[33]	7,489	2017
Baltimore Orioles	Sarasota	Ed Smith Stadium	7,093	2039
Boston Red Sox	Fort Myers	JetBlue Park	7,469	2042
Detroit Tigers	Lakeland	Joker Marchant Stadium	7,935	2016
Houston Astros	Kissimmee	Osceola County Stadium	4,027	2016
Miami Marlins	Jupiter	Roger Dean Stadium	7,935	2027
Minnesota Twins	Fort Myers	Hammond Stadium	7,344	2045
New York Mets	Port St. Lucie	Digital Domain Park	5,358	2023
New York Yankees	Tampa	Steinbrenner Field	10,855	2027
Philadelphia Phillies	Clearwater	Bright House Field	9,593	2023
Pittsburgh Pirates	Bradenton	McKechnie Field	5,493	2037[34]
St. Louis Cardinals	Jupiter	Roger Dean Stadium	6,604	2027
Tampa Bay Rays	Port Charlotte	Charlotte Sports Park	5,495	2028
Toronto Blue Jays	Dunedin	Florida Auto Exchange Stadium	4,751	2016
Washington Nationals	Viera	Space Coast Stadium	4,880	2017

The Washington Capitals (now defunct) were the first professional team to come to Florida for spring training in 1888, spending three weeks in Jacksonville to prepare for the upcoming regular season. In the modern era, Florida's Grapefruit League (league) has been the spring-training home to as many as 20 of the 30 Major League Baseball teams.[35] The Grapefruit League saw a total attendance of 1.6 million fans during the 2012 MLB spring training season and set a per-game average attendance record, with an average of 6,965 fans attending games during the

[33] The Braves play at the only privately-owned stadium in the Grapefruit League.
[34] The Pirate's lease expires in 2027 but the City of Bradenton is scheduled to continue receiving current statutory payments through March of 2037. See table below under *Current Certified Teams* heading.
[35] More information about the league is available at: http://www.floridagrapefruitleague.com/, (last visited on March 11, 2013).

month of March 2012.[36] The league results in approximately $752.3 million in total economic impacts on the Florida economy, creating or supporting 9,205 full-time and part-time jobs.[37]

Competition from Arizona
Since the late 1990s, the league has lost several teams to Arizona's Cactus League,[38] which has a 60-year history of its own with Major League Baseball spring training. A 2012 economic impact study indicated that the Cactus League generated approximately $632 million annually to Arizona's economy.[39]

The impetus for Arizona's emergence as a spring-training competitor to Florida was passage in of legislation in 2000 creating the "Arizona Sports and Tourism Authority." The authority was authorized to levy and collect certain taxes (such as car-rental fees), and to bond them as debt service for certain specified sports facilities.[40] These revenue sources, coupled with local bed-tax and other funds, have enabled the construction of new spring-training ballparks, some of which are shared.

Aside from the availability of large, new facilities, baseball teams are drawn to Arizona due to the close proximity of the spring training stadiums, which are located within two adjacent counties: Maricopa and Pima. Florida's spring training facilities, on the other hand, are scattered along the state's two coasts and its central regions, making travel between stadiums time-consuming.

Since 1998, the following six teams have left the Grapefruit League for the Cactus League: the Texas Rangers, the Kansas City Royals, the Chicago White Sox, the Los Angeles Dodgers, the Cleveland Indians, and the Cincinnati Reds.

State Incentives for Spring Training Facilities

Section 288.11621, F.S., provides the procedures by which local governments may be certified to receive state funding for the purposes of acquiring, constructing, reconstructing, or renovating a MLB spring training facility. Only local governments may apply for certification

Eligibility Criteria
The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. The DEO must screen each applicant to confirm that the county where the facility is located levies a tourist development tax under s. 125.0104, F.S., and that the local government:

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[36] *Supra* note 1.
[37] Florida Sports Foundation & The Bonn Marketing Research Group, Inc., *2009 Major League Baseball Florida Spring Training Economic Impact Study*, (June 2009), (on file with the Senate Commerce and Tourism Committee).
[38] The Cactus League began in 1947 with two teams, and now has 15 teams.
[39] Cactus League press release: *Two New Studies Credit Cactus League Industry with $632 Million Annual Economic Impact*, (December 17, 2012), available at: http://www.cactusleague.com/about.php, (last visited on March 11, 2013).
[40] *See* A.R.S. T.5, Ch.8 at: http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=5. The relevant statewide legislation was ch. 372, Laws 2000, and the implementing local referendum was Proposition 302, which Maricopa County voters approved by a vote of 52 percent to 48 percent, authorizing new tourism taxes.

- Is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property where the facility is located;
- Has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement must require the franchise to reimburse the state for state funds expended by the local government if the franchise relocates before the agreement expires;
- Has made a financial commitment to provide 50 percent or more of the funds required for the acquisition, construction, management, or operation of the spring training franchise facility (such commitment may be contingent upon award of state funds);
- Demonstrates that the spring training franchise facility will attract an annual paid attendance of at least 50,000 patrons.

Evaluation Criteria
DEO is directed to competitively evaluate applications for state funding. DEO must evaluate applicants based on the following criteria, prioritized in descending order of importance:

- The anticipated effect on the local economy where the spring training facility will be located, with priority given to applicants with the largest projected economic impact;
- The amount of local matching funds committed to a facility relative to total state funding sought, with priority to local governments committing larger amounts;
- The potential for the facility to serve multiple uses;
- The intended use of state funds, with priority given to local governments planning to use funds to acquire, construct, or renovate a facility;
- The length of time a local government has been under agreement with a franchise to hold spring training activities within its jurisdiction, with priority given to the longest-standing agreements;
- The length of time a local government's facility has been used by one or more franchises, with priority given to local governments whose facility has been in continuous use by the franchise the longest;
- The remaining term on a lease between a local government and a franchise, with priority given to local governments with the shortest lease terms remaining;
- The length of time that a franchise agrees to use a local government's facility if the local government is certified, with priority given to agreements with the longest future use;
- The net increase of total active recreation space owned by the local government after acquisition of land for the facility, with priority given to local governments having the largest percentage increase in total active recreations space available for public use; and
- If the facility is located in a brownfield, enterprise zone, community redevelopment area, or other targeted economic development area or revitalization included in an urban infill redevelopment plan, with priority given to local governments having facilities located in such areas.

Local governments must enter into an agreement with DEO that specifies:

- The amount of state incentive funding to be distributed;
- The criteria the local government must meet to remain certified;

- That the local government is subject to decertification if it fails to comply with the agreement or other requirements of certification;
- That DEO may recover state funds if the local government is decertified; and
- Any other provisions deemed prudent by DEO.

Sales Tax Distribution Payments
Any applicant local government meeting the above mentioned eligibility criteria and competitively evaluated by DEO is eligible to receive monthly sales tax distribution payments from the state of $41,667 for not more than 30 years,[41] for an annual payment totaling $500,004. The Department of Revenue (DOR) disburses the payments. DOR may not distribute payments until it receives notice from DEO that the local government has encumbered funds.

Sales tax distribution payments may only be used for the public purposes of:

- Acquiring, constructing, reconstructing, or renovating a facility for a new or retained professional sports franchise;
- Paying or pledging payments of debt service on bonds issued for such activities;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities;
- Refinancing such bonds;
- Reimbursing associated costs for such activities; or
- Assisting in the relocation of a spring training franchise from one local government to another, but only if the governing board of the current host local government agrees to relocation by majority vote.

State funds may not be awarded to a local government to subsidize a privately owned facility, exclusively used by the franchise.

Any funds received by a local government that are not expended must be placed in a separate account or trust fund, and may only be used for authorized uses outlined above. Local governments may request that DOR suspend further distribution of state funds for 12 months after an existing agreement with a franchise expires in order to give the local government an opportunity to enter into a new agreement with a franchise. If the local government is able to enter into a new agreement, DOR will continue distributions. Local governments must begin expending state funds distributed within 48 months after initial receipt, and the construction or capital improvements to a spring training facility must be completed within 2 years after the project begins.

Decertification Process
DEO must decertify any local government who requests decertification. Any local government that does not have a valid agreement with a franchise or satisfy its commitment to provide local matching funds is also subject to decertification by DEO. Decertification is delayed for 12 months after an agreement between a local government and a franchise expires if the local government can demonstrate it is actively negotiating with a franchise other than the franchise

[41] Section 212.20(6)(d)6.b., F.S.

that was the basis for the original certification. A local government who receives notice of intent to decertify has 60 days to petition for a review of the decision, and DEO has 45 days from the date of the request to notify the local government of the review's outcome. DOR must immediately stop payments to a decertified applicant for any funds that are not encumbered. A decertified local government has 60 days from final notice of decertification to repay all unencumbered state funds received, plus any interest accrued. A local government *may not* be decertified if it has encumbered funds to pay or pledge for the payment of debt service or other associated debt financing or bonding related to the acquisition, construction, or renovation of a spring training facility.

If a local government is decertified, DEO may accept applications for additional certifications, however a local government may only be certified once.

Strategic Planning
DEO is required to seek assistance from Enterprise Florida, Inc., and the Florida Grapefruit League Association to develop a comprehensive strategic plan. The strategic plan was published in 2010.[42] The strategic plan is required to include recommendations and strategies to:

- Finance spring training facilities;
- Monitor and oversee the use of state funds awarded to recipients;
- Identify spring training's impact on the state and ways to improve the impact;
- Identify opportunities for public-private partnerships to engage in marketing and advertising;
- Identify efforts of other states to maintain or develop partnerships with spring training franchises; and
- Develop recommendations for the Legislature to consider for sustaining or improving the state's spring training tradition.

Current Certified Teams
Total certifications may not exceed 10 at any time. As of January 8, 2013, there were 10 certified local governments. The local governments and the payment distribution for each are listed below:[43]

Certified Local Government	Franchise	Facility	First Payment	Final Payment	Total Payments to Date
City of Clearwater	Phillies	Bright House Field	February 2001	February 2031	$5,958,381
City of Dunedin	Blue Jays	Dunedin Stadium	February 2001	February 2023	$5,958,381
Indian River County	Dodgers[44]	Holman Stadium (Dodgertown)	February 2001	February 2031	$5,958,381

[42] Governor's Office of Tourism, Trade, and Economic Development, The Florida Sports Foundation, and the Florida Grapefruit League Association, *The State of Florida's Major League Baseball Spring Training Strategic Plan*, (December 2010), (on file with the Commerce and Tourism Committee).
[43] *Supra* note 1 at page 3.

Certified Local Government	Franchise	Facility	First Payment	Final Payment	Total Payments to Date
Osceola County	Astros	Osceola County Stadium	February 2001	February 2016	$5,958,381
City of Lakeland	Tigers	Joker Marchant Stadium	February 2001	February 2016	$5,561,127
Charlotte County	Rays	Charlotte County Stadium	March 2007	March 2037	$2,958,357
City of Bradenton	Pirates	McKechnie Field	March 2007	March 2037	$2,958,357
City of Fort Lauderdale[45]	N/A	N/A	March 2007	March 2037	$2,291,685
City of Sarasota[46]	Baltimore Orioles	Ed Smith Stadium	March 2007	March 2037	$2,958,357
St. Lucie County	Mets	Digital Domain Park	March 2007	March 2037	$1,560,967

Certification of Lee County[47]
On April 6, 2012, a notice was published in the Florida Administrative Register announcing the application period for the Spring Training Baseball Facilities program, based on an opening that resulted from the decertification of the City of Fort Lauderdale and the return of funds. Lee County was the only applicant, on behalf of the Minnesota Twins for $15 million over 30 years. On August 9, 2012, Lee County received notice that it had been certified. Lee County is now required to enter into a contract with DEO, at which point it will begin receiving state funding.

Reporting and Audits
Each certified local government must submit an annual report to DEO by September 1 with information including a copy of its most recent audit, information on the use of state and local funds expended, a copy of the contract between the local government and the franchise, a cost-benefit analysis of the team's impact on the community, and evidence the local government continues to meet eligibility criteria.

The Auditor General may conduct audits to verify state funds distributed to local governments for the program are properly spent. If the Auditor General finds that funds have been spent

[44] The L.A. Dodgers relocated their spring training operations to Arizona in 2008.
[45] The City of Ft. Lauderdale was unable to find a suitable home for the Baltimore Orioles. In 2011, OTTED requested the city return the unspent funds to the state. The city submitted a check to the state for the full amount, plus interest, as required by statute. The funds were returned to the state's General Revenue Fund.
[46] Sarasota was unable to use state funds due to its loss of the Cincinnati Reds to Arizona in 2009. Sarasota petitioned the then Director of OTTED, and was granted permission to use the state funds to help pay debt service on bonds to be issued and entered into a long-term agreement with the Baltimore Orioles.
[47] *Supra* note 1 at pages 3 and 4.

improperly, the Auditor General must notify the Department of Revenue, who may pursue recovery of state funds.

The Brownfields Redevelopment Act

The term "brownfield" came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."[48] In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities around the country access to federal funds that have been allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.[49]

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).[50] The act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.[51] The Act required the Department of Environmental Protection (DEP) to adopt rules to determine site-specific investigation methods, clean-up methods, and clean-up target levels by incorporating risk based corrective action principles.[52]

The act also created the Brownfield Redevelopment Bonus Refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.[53] The act identifies specific procedures and criteria for the designation of a brownfield area by local governments,[54] counties,[55] and municipalities.[56] Brownfield areas are also eligible for a number of other incentives created throughout the years. For example, building materials used in redevelopment projects in designated brownfield areas are eligible for an exemption from sales tax.[57]

A "brownfield site" is defined as "real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination." A "brownfield area" means "a contiguous area of one or more brownfield sites, some of which may not be

[48] Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, (Sept. 2010), *available at* http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf (last visited Feb. 15, 2013).
[49] The Florida Brownfields Association, *Brownfields 101, available at* http://floridabrownfields.org/associations/11916/files/Brownfields101.pdf (last visited Feb. 15, 2013).
[50] Chapter 97-277, Laws of Fla.
[51] DEP, *Florida Brownfields Redevelopment Act-1998 Annual Report, available at* http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Feb. 15, 2013).
[52] ASTM International defines "risk based corrective action principles" as consistent decision-making processes for assessment and response to chemical releases. *See* http://www.astm.org/Standards/E2081.htm (last visited Feb. 22, 2013).
[53] Section 288.107, F.S.
[54] Section 376.80, F.S.
[55] Section 125.66, F.S.
[56] Section 166.041, F.S.
[57] See s. 212.08(5)(o), F.S.

contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects."[58]

As of January 23, 2013, local governments have adopted 330 resolutions to officially designate brownfield areas and 183 brownfield site rehabilitation agreements have been executed.[59]

III. Effect of Proposed Changes:

CS/SB 406 revises and creates various statutory provisions relating to economic development. The bill:

- Streamlines the process by which all incentive program applicants are evaluated by requiring that all applicants be evaluated for the "economic benefits" of the proposed project.
- Creates a rotating, 3-year review schedule for specified incentives and programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Consolidates required reports and reporting dates for various economic development program reports by the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.
- Requires the DEO to publish project-based information on economic development programs provided to businesses on its website in a user-friendly format.
- Creates a new certification process for local governments to receive state funds for the construction and renovation of spring training facilities, contingent upon passage of SB 306, or similar legislation, which repeals section 220.63(5), Florida Statutes, the corporate income tax deduction for an international banking facility.
- Specifies the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

Evaluation of Incentive Program Applicants

This bill requires that the DEO evaluate all incentives applications for "economic benefits" using a model that will be developed and reviewed by the EDR. The DEO and the EDR are permitted to develop an amended definition of "economic benefits" from the one defined by s. 288.005, F.S., for the up-front evaluation. The EDR is required to report on the methodology and model by September 1, 2013, and every third year thereafter to the President of the Senate and the Speaker of the House of Representatives. The executive director of the DEO may not approve an incentives application unless the applicant signs a written declaration stating that the applicant has read the information in the application and that such information is true, correct, and complete to the best of the applicant's knowledge. If an incentives award is approved, the awardee is required to sign a written declaration in each year the DEO validates contract performance. The declaration must state that the awardee has reviewed the information and that

[58] Section 376.79(3) and (4), F.S.
[59] DEP, *Senate Bill 554 Agency Analysis* (Feb. 2013) (on file with the Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

the information is true, correct, and complete to the best of the awardee's knowledge and belief. (**Section 10, amends s. 288.061, F.S.**)

Similar language requiring an up-front analysis of "economic benefits" for an application for a qualified target industry tax refund (QTI) application is removed. Applications for a QTI incentive are required by the bill to be evaluated to determine if an applicant has previously received economic development incentives in other states, and the outcome of any such previous agreements. The bill also requires all QTI applications to be evaluated for the expected effect on the unemployed and underemployed in the county where a project will be located. Current law states that applications are evaluated for their effect on the unemployment *rate* in the county where a project will be located. The existing requirement that a QTI application be evaluated for the expected long-term commitment to economic growth and employment in Florida is removed by the bill. (**Section 14, amends s. 288.106, F.S.**)

The bill changes requirements that a project qualifying for the Innovation Incentive Program as a research and development program or as an alternative and renewable energy project demonstrate a break-even "return on investment" over a 20-year period, and instead requires the projects to demonstrate a *cumulative* break-even "economic benefit" over a 20-year period. The term "return on investment" as it related to the Innovation Incentive Program is not defined under current law. This change creates consistent terminology and ensures applicants for the Innovation Incentive Program will be evaluated similarly to other incentive programs. (**Section 19, amends s. 288.1089, F.S.**)

Evaluation of Economic Development Programs

The bill creates the Economic Development Programs Evaluation (evaluation). (**Section 1**) EDR and the OPPAGA are required to jointly present the evaluation to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees. The offices are required to evaluate the state's economic development programs according to a rotating schedule every 3 years. Programs are grouped together based on general program type. The evaluation schedule is as follows:

YEAR 1 (January 1, 2014) and every 3rd year	
Program	**Florida Statute(s)**
Quick Action Closing Fund	s. 288.1088
Brownfield Redevelopment Bonus Tax Refund	s. 288.107
High Impact Sector Performance Grants	s. 288.108
Capital Investment Tax Credit	s. 220.191
Qualified Target Industry Tax Refund	s. 288.106
Innovation Incentive Program	s. 288.1089
Enterprise Zone Programs	ss. 220.181-182, 212.08(5), 212.096, 212.08(15)

YEAR 2 (January 1, 2015) and every 3rd year

Program	Florida Statute(s)
Entertainment Industry Financial Incentive Program	s. 288.1254
Entertainment Industry Sales Tax Exemption Program	s. 288.1258
The Florida Commission on Tourism/VISIT Florida	ss. 288.122-124
Florida Sports Foundation	ss. 288.1162-1171

YEAR 3 (January 1, 2016) and every 3rd year	
Program	**Florida Statute(s)**
Qualified Defense Contractor and Space Flight Business Tax Refund Program	s. 288.1045
Semiconductor, Defense, or Space Technology Sales Tax Exemption	s. 212.08(5)(j)
Military Base Protection	s. 288.980
Manufacturing & Spaceport Investment Incentive Program	s. 288.1083
Quick Response Training	s. 288.047
Incumbent Worker Training	s. 445.003
International Trade & Business Development	s. 288.826

EDR and the OPPAGA are required to coordinate and submit a work plan for the evaluation to the President of the Senate and the Speaker of the House of Representatives by July 1, 2013.

The bill requires EDR to use specialized modeling techniques to evaluate the economic development programs listed above. EDR is required to evaluate each program for "economic benefits," as well as jobs created, the increase or decrease in personal income, and the impact on state GDP of each program using data from the previous 3 years. The data used to evaluate any tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs is specified as being data from projects that are either fully complete, partially complete with future fund disbursal possible pending performance measures, or partially completed with no future fund disbursal possible as a result of a business's inability to meet performance measures. EDR is required to provide an explanation of the model used in its analysis, and the model's key assumptions. EDR is permitted to use another model if it explains why another model is more appropriate.

The OPPAGA is required to evaluate each program for effectiveness and value to Florida taxpayers, and to provide recommendations to the Legislature based on its evaluation of each program. The OPPAGA's analysis is required to include information from interviews, reviews of relevant reports, or other data.

The bill gives EDR and the OPPAGA access to all data necessary to complete the Economic Development Programs Evaluation, including confidential data. The offices may coordinate data collection and analysis.

Any information shared by the DOR with EDR and the OPPAGA may be shared by the director of OPPAGA and the coordinator of EDR or the director or coordinator's authorized agent, for purposes of completing the Economic Development Programs Evaluation. (**Section 6, amends s. 212.053, F.S.)**

The bill updates requirements for the Annual Incentives Report currently produced by EFI (**Section 29, amends s. 288.907, F.S.**) and requires the report to be a joint report by the DEO and EFI. The agencies no longer will be required to report on the "economic benefit" of each project or program in the Annual Incentives Report. The evaluation of "economic benefits" will now be conducted as part of the Economic Development Programs Evaluation, conducted jointly by the EDR and the OPPAGA. See above.

"Jobs" is defined to ensure that all jobs data is reported and evaluated in the same manner across programs. The term means only full-time equivalent positions, and excludes any temporary construction jobs involved with the construction of facilities for a project. (**Section 8, amends s. 288.005, F.S.**)

The bill repeals a required the OPPAGA report on the Innovation Incentive Program. (**Section 19, amends s. 288.1089, F.S.**) This report is duplicative as a result of the evaluation of the Innovation Incentive Program required as part of the Economic Development Programs Evaluation created in Section 1 of the bill.

A duplicative analysis of EFI's return on the public's investment is repealed. (**Section 27, amends s. 288.904, F.S.**) Current law requires the analysis to be included as part of EFI Annual Report. Current s. 20.601(3), F.S., requires OPPAGA to conduct a similar analysis in 2016.

Agency Reporting Consolidation

The bill consolidates several independent program reports and reporting dates.

The DEO Annual Report

The bill makes several changes to the DEO annual report. (**Section 2, amends s. 20.60, F.S.**) The report's annual due date is changed from January 1st to November 1st. The DEO is directed to include supplements to its annual report on several programs. As a result, the independent due dates for each of the reports are removed. The programs to be included in the DEO annual report are:

- Displaced Homemaker program (**Section 36, amends s. 446.50, F.S.**).
- Enterprise Zone program (**Sections 32 and 33**).
  - Changes the due date of each enterprise zone development agency's report to the DEO from December 1st to October 1st. (**Section 32, amends s. 290.0056, F.S.**)
  - Changes the due date of the Department of Revenue's report on the usage and revenue impacts, by county, of state incentives relating to enterprise zones from February 1st to October 1st. (**Section 33, amends s. 290.014, F.S.**)
- Economic Gardening Business Loan Pilot Program (**Section 16, amends s. 288.1081, F.S.**).

- Economic Gardening Technical Assistance Pilot Program (**Section 17, amends s. 288.1082, F.S.**).
- Black business loan program (**Section 24, amends s. 288.714, F.S.**).
- Rural Economic Development Initiative (**Section 11, amends s. 288.0656, F.S.**).

EFI Annual Report

The bill (**Section 28, amends s. 288.906, F.S.**) requires EFI to include as a supplement in its annual report information on:

- State of Florida International Offices (**Section 9, amends s. 288.012, F.S**).
- Florida Export Finance Corporation annual report (**Section 25, amends s. 288.7771, F.S.**).

Additionally, under current law EFI division reports are due independently on October 1st, for inclusion in EFI annual report. The bill repeals this independent due date. (**Section 30, amends s. 288.92, F.S.**).

Annual Incentives Report

The bill revises the duties of EFI to require the Annual Incentives Report to be a joint report by EFI and DEO. (**Section 26, amends s. 288.903, F.S.**) The report is currently produced by EFI alone using data supplied by the DEO. The report would still be due annually on December 30th.

Information on the Economic Development Trust Fund is required to be included in the Annual Incentives Report. The information is currently required under s. 288.095(3)(c), F.S. The bill repeals this paragraph (**Section 13**) and incorporates the information into the Annual Incentives Report. (**Section 29, amends s. 288.907, F.S.**) The information includes:

- The types of projects supported;
- Tax refunds or other payments made out of the Economic Development Incentives Account for each project supported;
- A separate analysis of the impact of tax refunds on Enterprise Zones, rural communities, brownfield areas, and distressed urban communities; and
- The name and tax refund amounts for each business receiving a QTI or qualified defense space contractor and space flight business tax refund.

Several other stand-alone program reports are incorporated as supplements to the Annual Incentives Report. As a result, the independent due dates for the reports are removed. The reports required to be included as supplements to the Annual Incentives Report include:

- Florida Space Business Incentives Act annual report (**Section 7, amends s. 220.194, F.S.**), beginning in 2014.
- Information on the causes of a business's failure to complete its QTI incentive agreement (**Section 14, amends s. 288.106, F.S.**). The term *failure* is also changed to *inability* by the bill.

- Information relating to Innovation Incentive Program recipients, including the evaluation as to whether the recipients were catalysts for additional economic development (**Section 19, amends s. 288.1089, F.S.**).
- Florida Small Business Technology Growth Program annual report (**Section 31, amends s. 288.95155, F.S.**).

Validation of contractor performance for all incentive programs is currently required as part of the Annual Incentives Report. The bill adds a cross-reference to s. 288.061(3), F.S., clarifying that validation of contractor performance is to be included in the Annual Incentives Report. (**Section 29, amends s. 288.907)**

The bill clarifies that the DEO rather than EFI is responsible for validating contractor performance for the Quick Action Closing Fund incentives and that such information is to be included in the Annual Incentives Report. Current law requires the contractor performance validation to be reported within 6 months of completion of a contract with a business. This requirement is deleted by the bill. (**Section 18, amends s. 288.1088, F.S.**)

Validation of contractor performance for the Innovation Incentive Program recipients is required to be included in the Annual Incentives Report. The current law requirement that a report on contractor performance be submitted within 90 days of an agreement's conclusion is repealed. (**Section 19, amends s. 288.1089, F.S.**)

Office of Film and Entertainment Annual Report

The bill changes the due date of the Office of Film and Entertainment's (OFE) Annual Report on the entertainment industry financial incentive program from October 1st to November 1st. (**Section 22, amends s. 288.1254, F.S.**) The OFE Annual Report is also required to include the OFE expenditures report (**Section 21, amends s. 288.1253, F.S.**) and the report detailing the relationship between tax exemptions and incentives to industry. (**Section 23, amends s. 288.1258, F.S.**)

Space Florida Annual Report

The bill changes the due date for the Space Florida annual performance report from September 1st to November 30th (**Section 34, amends s. 331.3051, F.S.**), and requires the Space Florida annual operations report to be included in the performance report. (**Section 35, amends s. 331.310, F.S.**)

Return on Investment Reporting for Economic Development Programs

The bill establishes an economic development incentive review and online publication process to be implemented by DEO. **Section 12** creates s. 288.076, F.S., relating to reporting for economic development programs, requiring the DEO to maintain a website that publishes information on economic development incentive awards to businesses. Information must be made available in an easy to use format that allows users to view and retrieve all required information at once. The DEO has 48 hours after the expiration of the period of confidentiality to publish the following information on each project:

Projected Economic Benefits

- The economic benefits *projected* to occur for each project at the time of the initial project award date.

Project Information

- The program or programs through which state investment is being made. "State investment" is defined by the bill as any state grants, tax exemptions, tax refunds, tax credits, or other state incentives awarded to a business under a program administered by the DEO, including the capital investment tax credit.
- The maximum potential cumulative value of the state investment in a project.
- The target industries[60] or high-impact sectors[61] that the project may fall under.
- The county or counties that may be affected by the project.
- The total cumulative value of any local financial commitment and in-kind support for the project.

Participant Business Information

- The location of the participant business's headquarters or the headquarters of the parent company if it is a subsidiary. "Participant business" is defined by the bill to mean an employing unit, as defined in s. 443.036, F.S., that has entered into an agreement with DEO to receive a state investment.
- The firm size class of the participant business, or where owned by a parent company, the firm size class of the participant business's parent company, using firm size classes established by the U.S. Department of Labor's Bureau of Labor Statistics. This information must also note whether the participant business qualifies as a small business under s. 288.703, F.S.
- The date of the project award.
- The expected duration of the contract.
- The anticipated date when the participant business will claim its last state investment.

Project Evaluation Criteria

- The economic benefits generated by the project.
- The net indirect and induced incremental jobs to be generated by the project. The bill states that "jobs" has the same meaning as in s. 288.106(2)(i), F.S., which means full-time equivalent positions, including positions obtained from a temporary employment agency or employee leasing company, or through a union agreement or coemployment under a professional employer organization agreement. Temporary construction jobs are not included in the definition.
- The net indirect and induced incremental capital investment to be generated by the project.

[60] Section 288.106(2)(q), F.S.
[61] Section 288.108(6)(a), F.S.

- The net indirect and induced incremental tax revenue paid to the state to be generated by the project.

Project Performance Goals

- The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.
- The number of jobs generated and the number of jobs retained by the project. For projects that begin after the bill's effective date, DEO must report the median annual wage of persons holding such jobs.
- The incremental direct capital investment in the state generated by the project.
- The incremental projected tax revenue to the state paid by the participant business for the project.

Total State Investment to Date

- The total amount of state investment disbursed to the participant business to date, itemized by incentive program.

The DEO is required to use the methodology and formulas developed by the EDR to determine each project's economic benefits. Each project's economic benefits must be published on the DEO website within 48 hours after the conclusion of an agreement between a participant business and the DEO. This ensures a project's total economic benefits that actually occurred are published, allowing visitors of the website to view and compare the information with projected economic benefits at the time of the project's award date. The DEO is directed to publish a description of the methodology and formulas developed by the EDR to calculate economic benefits of a project, and must publish the information on its website within 48 hours after receiving it from the EDR.

The bill requires the DEO to update information on its website for each project annually from its award date. Verified results must be updated for each project, including information on Project Information, Participant Business Information, Project Evaluation Criteria, Project Performance Goals, and Total State Investment discussed above. The DEO must publish the date on which the information was last updated on the website.

Within 48 hours after the expiration of the period of confidentiality, the DEO must publish the contract or award agreement with the participant business on its website. The agreement may be redacted to protect a participant business from disclosure of any information that remains confidential or exempt by law.

The bill requires the DEO to publish all information required above for all projects completed prior to the bill's effective date of October 1, 2013. The DEO has until October 1, 2014, to compile and publish the information.

The bill clarifies that provisions restricting the publication of any information on the DEO's website is limited to that purpose, and is not to be construed as creating a public records exemption.

The DEO may adopt rules to administer the provisions included in **section 12** of the bill.

Qualified Target Industry Tax Refund Reports

DEO must publish on the website any reports of findings and recommendations concerning a business's failure to complete its qualified target industry tax refund program agreement within 48 hours after submitting the report.

Quick Action Closing Fund Timeline

The bill requires DEO to publish information on its website relating to Quick Action Closing Fund[62] (QACF) incentive projects, including the average number of days between the date DEO receives a completed QACF application and the date on which the application was approved.

Retention of Spring Training Franchises

Section 5 amends s. 212.20, F.S., to authorize the Department of Revenue to distribute up to $55,555 per month to each applicant certified to receive state funds for a spring training facility, or up to $111,110 per month for certified applicants who use a spring training facility for more than one spring training franchise. Distributions begin 60 days after such certification, and continue for no more than 30 years, except as otherwise provided under s. 288.11631, F.S. No certified applicants may receive more in distribution payments than it expends. This is a new distribution for a new designation created in **Section 20**. This section is contingent upon repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for international banking facilities.

Section 20 creates s. 288.11631, F.S., relating to retention of Major League Baseball (MLB) spring training baseball franchises. The bill creates a new certification process to allow local governments to receive additional state funds after July 1, 2014, for the public purpose of constructing or renovating a spring training facility.

Eligibility Criteria

The bill specifies the certification process for local governments to be certified under the retention program. Before certifying a local government, the DEO must verify that the local government:

- Is responsible for the construction or renovation of a spring training facility for a MLB franchise, or holds title to the property where the facility is located;
- Has a certified copy of a signed agreement with a MLB franchise for use of the facility that is, at a minimum, equal to the length of the term of any bonds issued to construct or renovate the spring training facility, or for a term of 20 years in instances where bonds will not be issued. The agreement for the MLB franchise to use the facility may not be signed more than 3 years before the expiration of any existing agreement between the franchise and the local

[62] Section 288.1088, F.S.

government. The agreement must require the franchise to reimburse the state for any state funds expended for retention if the franchise relocates before the agreement expires. The agreement may be contingent upon award of state funds;
- Has committed to provide a 50 percent minimum match to state funds. The agreement may be contingent upon award of state funds;
- Demonstrates the spring training facility will attract at least 50,000 paying guests per year; and
- Is a county or is a municipality within a county that levies a tourist development tax under s. 125.0104, F.S.

Evaluation Criteria
The DEO evaluates applications for state funds based on the following criteria:

- The anticipated effect on the local economy where the spring training facility is or will be located;
- The amount of local matching funds committed to a facility relative to total state funding sought;
- The potential for the facility to serve multiple uses year-round;
- The intended use of state funds by the local government;
- The length of time an MLB franchise has been under agreement to conduct spring training activities within the local government's geographic location or jurisdiction;
- The length of time the local government's spring training facility has been used by one or more spring training franchises, including continuous use as a facility for spring training;
- The remaining term on a lease between a local government and a MLB franchise for use of the facility;
- The length of time that a MLB franchise agrees to use the facility if the application is granted; and
- Whether the facility is located in a brownfield, enterprise zone, community redevelopment area, or other targeted economic development area or revitalization included in an urban infill redevelopment plan.

If a local government is certified by the DEO on or after July 1, 2013, it must enter into an agreement with the DEO specifying certain terms relating to the use of state funds. The agreement must:

- Specify the amount of state funding to be distributed;
- State the provisions the local government must meet in order to remain certified;
- State that the local government may be decertified if it fails to comply with the agreement;
- State that the DEO may recover state funds if the local government is decertified;
- Specify required reporting information; and
- Include any other provisions the DEO deems prudent.

Payments
The bill limits payments to a local government certified by the DEO to no more than $20 million, or $40 million if the local government hosts more than one MLB franchise. Such funds may only be used for the public purpose of constructing or renovating a spring training franchise; paying

or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; refinancing such bonds; or reimbursing associated costs for such activities. State funds may not be used to subsidize a privately-owned facility that is maintained and used exclusively by a MLB franchise for spring training activities.

The Department of Revenue (DOR) begins distributions once the DEO has notified it that a local government has encumbered funds. Certified local governments must place funds that are not expended in a separate account or trust fund, and may only be used for authorized uses outlined above. Local governments may request that the DOR suspend further distribution of state funds for 12 months after an existing agreement with a franchise expires in order to provide the local government with an opportunity to enter into a new agreement with a new MLB franchise. If the local government is able to enter into a new agreement, the DOR will continue distributions. Local governments must begin expending state funds distributed within 48 months after initial receipt, and the construction or capital improvements to a spring training facility must be completed within 2 years after the project starts.

Decertification Process
The DEO must decertify any local government who requests decertification. Any local government that does not have a valid agreement with a MLB franchise or satisfy its commitment to provide local matching funds is also subject to decertification by the DEO. Decertification is delayed for 12 months after an agreement between a local government and a franchise expires if the local government can demonstrate it is actively negotiating with a franchise other than the franchise that was the basis for the original certification. A local government who receives notice of intent to decertify has 60 days to petition for a review of the decision, and the DEO has 45 days from the date of the request to notify the local government of the review's outcome. The DOR must immediately stop payments to a decertified applicant for any funds that are not encumbered. A decertified local government has 60 days from final notice of decertification to repay all unencumbered state funds received, plus any interest accrued. A local government *may not* be decertified if it has encumbered funds to pay or pledge for the payment of debt service or other associated debt financing or bonding related to the construction or renovation of a spring training facility.

Reports and Auditing
The bill requires each certified local government must submit an annual report to the DEO by September 1 with certain information, including information on the use of state and local funds expended, a copy of the contract between the local government and the MLB franchise, a cost-benefit analysis of the team's impact on the community, and evidence the local government continues to meet eligibility criteria. The DEO must compile the information received and publish the information by November 1 each year.

The Auditor General may conduct audits to verify state funds distributed to local governments for the program are properly spent. If it is found that funds are spent improperly, the Auditor General must notify the DOR, who may pursue recovery of such state funds.

Provision Contingent Upon Repeal of Corporate Income Tax Deduction

The passage of section 20 is contingent upon the repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for "international banking facilities".

Brownfields

Section 3 amends s. 212.08, F.S., to specify that a redevelopment project located in a brownfield site for which a rehabilitation agreement with the Department of Environmental Protection (DEP) or a local government delegated by the DEP has been executed under s. 376.80, F.S., or any abutting real property parcel within a brownfield area designated by the local government, is eligible for the sales tax exemption.

Section 15 amends s. 288.107, to specify that in order to be eligible for the brownfield redevelopment bonus refund for a qualified target industry agreement, the jobs must be created in a brownfield area eligible for bonus refunds. The term "brownfield area eligible for bonus refunds" is defined as a brownfield site for which a rehabilitation agreement with the DEP or a local government delegated by the DEP has been executed under s. 376.80 or any abutting real property parcel within a brownfield area designated by the local government.

Section 4 provides that amendments to ss. 212.08 and 288.107, F.S., do not apply to building materials purchased before the effective date of the bill, or to contracts for brownfield redevelopment bonus refunds executed by the DEO or EFI prior to the bill's effective date.

Effective Date - the bill takes effect upon becoming law. **(Section 37)**

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:

This bill is projected to have a fiscal impact to the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability, as follows:

- Office of Economic and Demographic Research (EDR)
  - Economic Development Program Evaluation Workload - three positions and $302,324 to cover salaries, benefits and expenses associated with the new positions ($37,002 of the expenses are nonrecurring).
  - Modifications to Statewide Model - $34,400 to design and develop an employment module for the statewide model.

  Funding for the EDR would need to be appropriated in the General Appropriations Act.

- Office of Program Policy Analysis and Government Accountability (OPPAGA) Economic Development Program Evaluation Workload - two positions and a part-time intern - $178,163 for salaries and benefits. The OPPAGA has indicated that they can absorb the additional workload within existing resources.

These estimates assume that the EDR and the OPPAGA will obtain access to all information related to economic development programs that is needed to complete the Economic Development Program Evaluations without cost to the EDR or the OPPAGA.

The provisions of the bill that streamline reporting requirements, delete duplicative reports, and consolidate reporting due dates may improve efficiencies and are not expected to have a fiscal impact to the Department of Economic Opportunity, Enterprise Florida, Inc., the Office of Film and Entertainment, or Space Florida.

The DEO projects that the provisions of the bill that require “return on investment” reporting for economic development programs will require two full-time positions and $398,000 of additional state funds to implement. Currently, information regarding economic development incentives available on the DEO’s Economic Development Incentives Portal includes the following:

- Quick Action Closing Fund
- Innovation Incentive Program
- Qualified Target Industry Tax Refund Program
- Qualified Defense Contractor and Space Flight Business Tax Refund Program
- Brownfield Redevelopment Bonus Tax Refund
- Semiconductor, Defense, or Space Technology Sales Tax Exemption
- Capital Investment Tax Credit
- Manufacturing & Spaceport Investment Incentive Program
- High Impact Sector Performance Grants.

The bill requires the DEO to provide additional information for the programs listed above and to expand the enhanced reporting to all economic development "projects" (defined as the creation of a new business or expansion of an existing business) that receive state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under an economic development program administered by the DEO. The department projects that it will need an additional $398,000 from state funding sources in Fiscal Year 2013-14 and two full-time positions to implement these requirements, as follows:

	Total	Nonrecurring
Process Mapping	$75,000	$75,000
Sales Force and portal development	$85,000	$85,000
Data Migration	$50,000	$50,000
Training	$ 6,000	$ 6,000
Cloud Storage	$12,000	
Additional Software Licenses	$10,000	
FTE – Technical Administrator	$80,000	
FTE – Substantive Administrator	$80,000	
Total Projected Costs	$398,000	$216,000

The provisions of the bill that revise the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund have not yet been reviewed by the Revenue Estimating Conference (REC). It is likely that state expenditures related to the brownfield redevelopment bonus refunds and refunds for the brownfield sales tax exemption for building materials will decrease in future fiscal years by indeterminate amounts due to the application of more restrictive criteria.

With respect to the provisions of the bill that create sales tax distribution payments for local governments responsible for Major League Baseball (MLS) spring training facilities, current leases for the 15 MLB teams in Florida will begin to expire in 2016. State distributions under this bill would begin in Fiscal Year 2015-16. The following table shows projected distributions for the existing Florida teams through Fiscal Year 2035-36 based on the expiration dates for current facility leases:

State Fiscal Year	**Number Of Teams/Payments**	**Total Funds Distributed Annually**
2013-14	0	$0
2014-15	0	$0
2015-16	3	$666,600
2016-17	4	$2,222,200
2017-18	4	$2,666,640
2018-19	4	$2,666,640
2019-20	4	$2,666,640
2020-21	4	$2,666,640

2021-22	4	$2,666,640
2022-23	6	$3,111,080
2023-24	6	$3,999,960
2024-25	6	$3,999,960
2025-26	6	$3,999,960
2026-27	10	$4,666,620
2027-28	11	$6,222,160
2028-29	11	$6,666,600
2029-30	11	$6,666,600
2030-31	11	$6,666,600
2031-32	11	$6,666,600
2032-33	11	$6,666,600
2033-34	11	$6,666,600
2034-35	11	$6,666,600
2035-36	11	$6,666,600

The REC has not yet estimated the impact of the future spring training sales tax distribution payments. While there is no cash fiscal impact for the first two fiscal years, it is likely that the REC will reduce the available recurring General Revenue by an amount ranging from $2.7 million to $4 million for Fiscal Year 2013-14, and increase the available nonrecurring General Revenue for that fiscal year by the same amount. This assumes that no new MLB teams would come to Florida and be certified for the payments authorized in the bill. This fiscal impact is offset by the contingency included in the bill that provides that the new spring training sales tax distribution payments are effective only if the corporate income tax deduction currently provided for international banking facilities is repealed. While the REC has not yet estimated the impact of repealing this tax deduction, staff of the Senate Appropriations Subcommittee on Finance and Tax has informally estimated that the annual impact would be an increase of $10.8 million in recurring General Revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DEO to adopt rules to implement the certification, decertification, and decertification review processes of local governments as it relates to disbursal of state funds for spring training franchises.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 13, 2013:

- Clarifies that the coordinator of the Office of Economic and Demographic Research and the Director of the Office of Program Policy Analysis and Government Accountability, or his or her authorized agent, may share confidential information for the purposes of completing the Economic Development Programs Evaluation.
- Adds a requirement that DEO publish certain project-specific information on each economic development program awarded to businesses on its website in an easy-to-use format.
- Adds a requirement that the DEO executive director not approve an incentives application unless the applicant signs a written declaration that the applicant has read the application and that the information is true, correct, and complete to their knowledge. Also adds a requirement that in each year after an incentives agreement is approved and DEO validates contractor performance, the awardee must sign a written declaration stating that the awardee has reviewed the information and that the information is true, correct, and complete to their knowledge and belief.
- Creates s. 288.11631, F.S., to provide a new process for local governments to apply for and receive certification to receive state funds to construct or renovate spring training facilities, contingent upon repeal of s. 220.63(5), F.S., relating to the corporate income tax deduction for international banking facilities.
- Creates a process for certified local governments to receive a distribution of $55,555 per month to construct or renovate a spring training facility, or a distribution of $111,110 per month if a certified local government's facility is used by more than one professional baseball franchise by amending s. 212.20, F.S.
- Specifies the meaning of the term "brownfield" for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

B. Amendments:

None.

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 Appropriations Committee

BILL: SB 746

INTRODUCER: Senator Stargel

SUBJECT: Terms of Courts

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	**Favorable**
2.	Harkness	Sadberry	ACJ	**Favorable**
3.	Harkness	Hansen	AP	**Favorable**
4.				
5.				
6.				

I. Summary:

SB 746 allows the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts and allows an appellate court to withdraw a mandate within 120 days of issuance.

This bill has an indeterminate, but negligible, fiscal impact .

This bill repeals obsolete language that includes specific references to terms of court, including provisions for:

- Regular terms of court for the Florida Supreme Court;
- Terms of the circuit courts;
- A judge's attendance at the first day of a term;
- A judge's stated reason for nonattendance;
- The penalty for nonattendance of a judge;
- Adjournment of court upon nonattendance of a judge;
- Calling the docket at the end of a term;
- The clerk of circuit court, or his or her deputy clerk, to reside at the county seat or within two miles of the county seat;
- The term of the district courts of appeal;
- Criminal trials to be heard in the term of court prior to civil cases; and
- Persons in custody to be arraigned and tried in the term of court unless good cause is shown.

In addition, this bill also makes conforming changes to sections of law that refer to terms of courts.

The effective date of this bill is January 1, 2014.

This bill substantially amends the following sections of the Florida Statutes: 26.46, 27.04, 30.12, 30.15, 34.13, 35.05, 38.23, 112.19, 206.215, 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and 932.47.

This bill creates sections 43.43 and 43.44, Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 25.051, 26.21, 26.22, 26.23, 26.24, 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33, 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055.

II. Present Situation:

Article V of the Florida Constitution establishes the judicial branch of government, including prescribing the various courts in which judicial power is vested. The Florida State Courts System consists of all officers, employees, and divisions of the following courts.[1]

- The Supreme Court, the highest state appellate court, has seven justices and statewide jurisdiction. The Chief Justice is the administrator of the state courts system. The Court also regulates admission of lawyers to The Florida Bar and the discipline of judges and lawyers.
- The district courts of appeal and the state appellate courts have jurisdiction within the limits of their five geographic districts and have approximately 61 judges.
- The circuit courts, the highest level trial court in each of the 20 judicial circuits have approximately 599 judges. The circuit courts hear, for example, felony cases, family law matters, and civil cases in which the matter in controversy exceeds $15,000.
- The county courts, the lowest level trial courts, have approximately 322 judges; each county has at least one judge. The county courts hear, for example, misdemeanor cases, small claims cases, and civil cases in which the matter in controversy does not exceed $15,000.

Terms of courts were developed to ensure that circuit judges showed up to conduct court business in the past when riding the circuit involved traversing potentially difficult terrain from one county seat to the next.[2] The state constitution required terms of court until the substantial rewrite of Article V of the State Constitution in 1957.[3]

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[1] Office of Program Policy Analysis and Government Accountability, Fla. Legislature, Government Program Summaries, *State Courts System* (last updated Jan. 2, 2013), http://www.oppaga.state.fl.us/profiles/1072/ (last visited Feb. 22, 2013).
[2] See George S. Reynolds III, *The First One Hundred Years 1868-1968*, http://2ndcircuit.leoncountyfl.gov/courtHistory/firsthundred.php (describing the history of the Second Judicial Circuit, including how the terms of court provided for the circuit judge to travel down the Apalachicola River, and were changed to accommodate the arrival of steamboat service along the river) (last visited Feb. 22, 2013).
[3] Article V, s. 8 of the Constitution of 1885 included this sentence: "Such Judge shall hold at least two terms of his court in each county within his Circuit every year, at such times and places as shall be prescribed by law, and may hold special terms.", http://www.law.fsu.edu/crc/conhist/1885con.html (last visited Feb. 22, 2013).

Current law mandates a minimum of two terms of court each for the Supreme Court, circuit courts, and district courts of appeal. Enacted in 1957, s. 25.051, F.S., requires the Supreme Court to hold two terms in each year, in the Supreme Court Building, commencing respectively on the first day of January and July, or the first day thereafter if that day is a Sunday or holiday. Sections 26.21-26.365, F.S., require at least two regular terms of the circuit court to be held in each county each year and allow for special terms as needed. There is a separate statute for each of the 20 circuits which provides for the starting day of each term. Enacted in 1957, ss. 35.10 and 35.11, F.S., require the district courts of appeal to hold two regular terms each year at their headquarters and allow for special terms as needed. The regular terms of the district courts of appeal commence on the second Tuesday in January and July.

Today, terms of court seem an archaic concept. Circuit judges come and go from each of the counties as needed, and far more often than once every six months. Reference to terms of court is still relevant, however, for two purposes: designating the terms of local grand juries and limiting withdrawal of an appellate mandate. Historically, although not explicitly required by statute, the term of a grand jury coincided with the term of the court. In the appellate courts, the terms of court limit an appellate court's ability to withdraw a mandate, a rare procedure. [4]

In addition to repealing statutes establishing the terms of court, this bill repeals a number of statutory provisions incidental to the terms of court concept. The present situation for the relevant provisions is discussed in the "Effect of Proposed Changes" section of this bill analysis, below.

III. Effect of Proposed Changes:

Repeal of Terms of Court

The bill repeals the statutes that set out the court system's regular and special terms of court. This includes the repeal of s. 25.051, F.S., requiring the Supreme Court to hold two terms in each year; ss. 26.21-26.365, F.S., requiring at least two regular terms of the circuit court to be held in each county each year and allowing for special terms as needed; and ss. 35.10 and 35.11, F.S., requiring the district courts of appeal to hold two regular terms each year and allowing for special terms as needed.

Authorization for the Florida Supreme Court to Establish Terms of Court

This bill authorizes the Florida Supreme Court to establish terms of court for the Supreme Court and for the lower courts. Finalization of cases is addressed through permitting "the supreme court to establish, by rule, new terms of court, to authorize the district courts of appeal and circuit courts to independently set their own terms, or to dispense with terms of court altogether."

[4] A mandate is"[a]n order from an appellate court directing a lower court to take a specified action." BLACK'S LAW DICTIONARY (9th ed. 2009).

Convening Grand Juries

Present Situation: Section 905.01, F.S., currently permits circuit court chief judges to "dispense with the convening of grand juries by written order directing clerks of court not to summon jurors."[5]

Effect of the Bill: Section 19 amends s. 905.01, F.S., addressing the authority to convene grand juries. Specifically, the bill requires circuit court chief judges to regularly order the convening of grand juries for terms of six months.

Timeframe for Withdrawal of Mandate by Appellate Court

Present Situation: Under current law, a mandate may only be withdrawn during the current term of the appellate court. In effect, some appellate court opinions are subject to withdrawal for nearly six months while others may be subject to withdrawal only for a few days. The Florida Supreme Court in 1932 explained the scope and limits of the power to withdraw:

> But, be that as it may, a majority of the court have reached the conclusion that the correct rule, which should be recognized and applied in such situation, is that the jurisdiction of this court, like the jurisdiction of courts generally, persists to the end of the term, and then terminates, but that, during the term at which a judgment of this court is rendered, this court has jurisdiction and power which it may exercise, as the circumstances and justice of the case may require, to reconsider, revise, reform, or modify its own judgments for the purpose of making the same accord with law and justice, and that it has power to recall its own mandate for the purpose of enabling it to exercise such jurisdiction and power in a proper case.[6]

Effect of the Bill: Section 10 creates s. 43.44, F.S., which provides that an appellate court may withdraw a mandate for up to 120 days after it is filed with a lower court.

Repeal of Incidental Provisions

This bill repeals a number of statutory provisions incidental to the terms of court concept.

Judge to Attend First Day of Term

Present Situation: Initially enacted in 1849, s. 26.37, F.S., requires every judge of a circuit court, unless prevented by sickness or other providential causes, to attend the first day of each term of the circuit court. If the judge fails to attend, he or she is subject to a $100 deduction from his or her salary.

Effect of the Bill: Section 1 repeals s. 26.37, F.S.

---

[5] *Id*.

[6] *Chapman v. St. Stephens Protestant Episcopal Church, Inc.*, 138 So. 630, 632 (Fla. 1932). The *Chapman* case specifically provides that the power to withdraw a mandate may be limited by statute.

Judge's Reason for Nonattendance

Present Situation: Initially enacted in 1849, s. 26.38, F.S., requires a judge who misses the first day of each term to state the reasons for such failure in writing to be handed to the clerk of the court.

Effect of the Bill: Section 1 repeals s. 26.38, F.S.

Penalty for Nonattendance of Judge

Present Situation: Initially enacted in 1849, s. 26.39, F.S., requires the clerk of court to notify the Chief Financial Officer (CFO) of the state when a judge fails to attend the first day of the term of court. The CFO is then directed to deduct $100 from the judge's pay for every such default.

Effect of the Bill: Section 1 repeals s. 26.39, F.S.

Adjournment of Court upon Nonattendance

Present Situation: Enacted in 1828, s. 26.40, F.S., requires that, whenever a judge does not attend on the first day of any term, the court shall stand adjourned until 12 o'clock on the second day. If the judge does not attend court at that time, the clerk must continue all causes and adjourn the court to such time as the judge may appoint or to the next regular term.

Effect of the Bill: Section 1 repeals s. 26.40, F.S.

Calling Docket at End of Term

Present Situation: Enacted in 1828, s. 26.42, F.S., requires a judge, after other court business of the term has been completed, to call the remaining cases on the docket and make such orders and entries as necessary.

Effect of the Bill: Section 1 repeals s. 26.42, F.S.

Order of Cases Tried in Circuit Court

Present Situation: Enacted in 1939, s. 907.05, F.S., requires that criminal trials be heard in the term of court prior to civil cases, if they can be tried without injury to the interests of the state or defendant.

Effect of the Bill: Section 1 repeals s. 907.05, F.S.

Trial of Persons in Custody

Present Situation: Enacted in 1939, s. 907.055, F.S., requires that persons in custody be arraigned and tried in the term of court when the indictment or information for a felony is filed, unless good cause is shown for a continuance.

Effect of the Bill: Section 1 repeals s. 907.055, F.S.

Conforming Provisions

This bill amends multiple statutes that currently use the language of terms of court. Sections 2-8 and 11-24 of the bill consist of conforming provisions made to the following sections of the Florida Statutes: 26.46, regarding jurisdiction of a resident judge; 27.04, regarding witnesses in a criminal case; 30.12, regarding the power to appoint a sheriff; 30.15, regarding powers, duties, and obligations of the sheriff; 34.13, regarding methods of prosecution; 35.05, regarding the headquarters of a district court of appeal; 38.23, regarding contempt of court; 112.19, regarding law enforcement officers; 206.215, regarding court costs; 450.121, regarding child labor law; 831.10, regarding forged bills; 831.17, regarding second or subsequent offenses for possession of counterfeit coins; 877.08, regarding coin-operated machines; 902.19, regarding when a prosecutor is liable for costs; 903.32, regarding defects in a criminal bond; 905.01, regarding grand jury terms; 905.09, regarding discharge and recall of a grand jury; 905.095, regarding extension of a grand jury term; 914.03, regarding attendance of witnesses; 924.065, regarding appearance bonds; and 932.47, F.S., regarding an information filed by a prosecuting attorney.

Effective Date

The bill provides an effective date of January 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) indicates that the bill will not have a fiscal impact on court workload. The effect on judicial time will be limited to the administrative responsibilities of chief judges. OSCA does, however, anticipate a nominal near-term impact on court operations due to the mandate changes for appellate courts.[7] An exact fiscal impact on expenditures of the State Courts System is unknown as of the date of this analysis.

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.

[7] Fla. Office of the State Courts Administrator, *SB 746 2013 Judicial Impact Statement* (Feb. 14, 2013).

By Senator Stargel

15-00441A-13 2013746__

A bill to be entitled

An act relating to terms of courts; repealing s. 25.051, F.S., relating to regular terms of the Supreme Court; repealing s. 26.21, F.S., relating to terms of the circuit courts; repealing s. 26.22, F.S., relating to terms of the First Judicial Circuit; repealing s. 26.23, F.S., relating to terms of the Second Judicial Circuit; repealing s. 26.24, F.S., relating to terms of the Third Judicial Circuit; repealing s. 26.25, F.S., relating to terms of the Fourth Judicial Circuit; repealing s. 26.26, F.S., relating to terms of the Fifth Judicial Circuit; repealing s. 26.27, F.S., relating to terms of the Sixth Judicial Circuit; repealing s. 26.28, F.S., relating to terms of the Seventh Judicial Circuit; repealing s. 26.29, F.S., relating to terms of the Eighth Judicial Circuit; repealing s. 26.30, F.S., relating to terms of the Ninth Judicial Circuit; repealing s. 26.31, F.S., relating to terms of the Tenth Judicial Circuit; repealing s. 26.32, F.S., relating to terms of the Eleventh Judicial Circuit; repealing s. 26.33, F.S., relating to terms of the Twelfth Judicial Circuit; repealing s. 26.34, F.S., relating to terms of the Thirteenth Judicial Circuit; repealing s. 26.35, F.S., relating to terms of the Fourteenth Judicial Circuit; repealing s. 26.36, F.S., relating to terms of the Fifteenth Judicial Circuit; repealing s. 26.361, F.S., relating to terms of the Sixteenth Judicial Circuit; repealing s. 26.362, F.S., relating to terms of the

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15-00441A-13 2013746__

Seventeenth Judicial Circuit; repealing s. 26.363, F.S., relating to terms of the Eighteenth Judicial Circuit; repealing s. 26.364, F.S., relating to terms of the Nineteenth Judicial Circuit; repealing s. 26.365, F.S., relating to terms of the Twentieth Judicial Circuit; repealing s. 26.37, F.S., relating to requiring a judge to attend the first day of each term of the circuit court; repealing s. 26.38, F.S., relating to a requirement for a judge to state a reason for nonattendance; repealing s. 26.39, F.S., relating to the penalty for nonattendance of the judge; repealing s. 26.40, F.S., relating to adjournment of the circuit court upon nonattendance of the judge; repealing s. 26.42, F.S., relating to calling all cases on the docket at the end of each term; repealing s. 35.10, F.S., relating to regular terms of the district courts of appeal; repealing s. 35.11, F.S., relating to special terms of the district courts of appeal; repealing s. 907.05, F.S., relating to a requirement that criminal trials be heard in the term of court before civil cases; repealing s. 907.055, F.S., relating to a requirement that persons in custody be arraigned and tried in the term of court unless good cause is shown; amending ss. 26.46, 27.04, 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.; conforming provisions to changes made by the act; creating s. 43.43, F.S.; allowing the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts; creating s.

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43.44, F.S.; authorizing appellate courts to withdraw a mandate within 120 days after its issuance; amending ss. 112.19, 206.215, 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and 932.47, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24, 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33, 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055, Florida Statutes, are repealed.

Section 2. Section 26.46, Florida Statutes, is amended to read:

26.46 Jurisdiction of resident judge after assignment.—If ~~When~~ a circuit judge is assigned to another circuit, none of the circuit judges in that ~~such~~ other circuit shall, because of the ~~such~~ assignment, be deprived of or affected in his or her jurisdiction other than to the extent essential so as not to conflict with the authority of the temporarily assigned circuit judge as to the particular case or cases or class of cases~~, or in presiding at the particular term or part of term named or specified in the assignment~~.

Section 3. Section 27.04, Florida Statutes, is amended to read:

27.04 Summoning and examining witnesses for state.—The state attorney shall have summoned all witnesses required on

behalf of the state; and he or she is allowed the process of his or her court to summon witnesses from throughout the state to appear before the state attorney ~~in or out of term time~~ at such convenient places in the state attorney's judicial circuit and at such convenient times as may be designated in the summons, to testify before him or her as to any violation of the law upon which they may be interrogated, and he or she is empowered to administer oaths to all witnesses summoned to testify by the process of his or her court or who may voluntarily appear before the state attorney to testify as to any violation or violations of the law.

Section 4. Section 30.12, Florida Statutes, is amended to read:

30.12 Power to appoint sheriff.—If ~~Whenever~~ any sheriff in the state fails ~~shall fail~~ to attend, in person or by deputy, ~~any term of~~ the circuit court or county court of the county, from sickness, death, or other cause, the judge attending the ~~said~~ court may appoint an interim ~~a~~ sheriff, who shall assume all the responsibilities, perform all the duties, and receive the same compensation as if he or she had been duly appointed sheriff~~,~~ for only the ~~said~~ term of nonattendance ~~court~~ and no longer.

Section 5. Paragraph (c) of subsection (1) of section 30.15, Florida Statutes, is amended to read:

30.15 Powers, duties, and obligations.—

(1) Sheriffs, in their respective counties, in person or by deputy, shall:

(c) Attend all sessions ~~terms~~ of the circuit court and county court held in their counties.

117 Section 6. Subsection (2) of section 34.13, Florida
118 Statutes, is amended to read:
119 34.13 Method of prosecution.—
120 (2) Upon the finding of indictments by the grand jury for
121 crimes cognizable by the county court, the clerk of the court,
122 without any order therefor, shall docket the same on the trial
123 docket of the county court ~~on or before the first day of its~~
124 ~~next succeeding term~~.
125 Section 7. Subsection (2) of section 35.05, Florida
126 Statutes, is amended to read:
127 35.05 Headquarters.—
128 (2) A district court of appeal may designate other
129 locations within its district as branch headquarters for the
130 conduct of the business of the court ~~in special or regular term~~
131 and as the official headquarters of its officers or employees
132 pursuant to s. 112.061.
133 Section 8. Section 38.23, Florida Statutes, is amended to
134 read:
135 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any
136 legal order, mandate or decree, made or given by any judge
137 ~~either in term time or in vacation~~ relative to any of the
138 business of the ~~said~~ court, after due notice thereof, is ~~shall~~
139 ~~be considered~~ a contempt, punishable ~~and punished~~ accordingly.
140 ~~But nothing said or written, or published, in vacation, to or of~~
141 ~~any judge, or of any decision made by a judge, shall in any case~~
142 ~~be construed to be a contempt.~~
143 Section 9. Section 43.43, Florida Statutes, is created to
144 read:
145 43.43 Terms of courts.—The Supreme Court may establish

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146 terms of court for the Supreme Court, the district courts of
147 appeal, and the circuit courts; may authorize district courts of
148 appeal and circuit courts to establish their own terms of court;
149 or may dispense with terms of court.
150 Section 10. Section 43.44, Florida Statutes, is created to
151 read:
152 43.44 Mandate of an appeals court.—An appellate court may,
153 as the circumstances and justice of the case may require,
154 reconsider, revise, reform, or modify its own opinions and
155 orders for the purpose of making the same accord with law and
156 justice. Accordingly, an appellate court may recall its own
157 mandate for the purpose of allowing it to exercise such
158 jurisdiction and power in a proper case. A mandate may not be
159 recalled more than 120 days after it has been issued.
160 Section 11. Paragraph (b) of subsection (1) of section
161 112.19, Florida Statutes, is amended to read:
162 112.19 Law enforcement, correctional, and correctional
163 probation officers; death benefits.—
164 (1) Whenever used in this section, the term:
165 (b) "Law enforcement, correctional, or correctional
166 probation officer" means any officer as defined in s. 943.10(14)
167 or employee of the state or any political subdivision of the
168 state, including any law enforcement officer, correctional
169 officer, correctional probation officer, state attorney
170 investigator, or public defender investigator, whose duties
171 require such officer or employee to investigate, pursue,
172 apprehend, arrest, transport, or maintain custody of persons who
173 are charged with, suspected of committing, or convicted of a
174 crime; and the term includes any member of a bomb disposal unit

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175 whose primary responsibility is the location, handling, and
176 disposal of explosive devices. The term also includes any full-
177 time officer or employee of the state or any political
178 subdivision of the state, certified pursuant to chapter 943,
179 whose duties require such officer to serve process or to attend
180 a session ~~terms~~ of a circuit or county court as bailiff.
181 Section 12. Subsection (2) of section 206.215, Florida
182 Statutes, is amended to read:
183 206.215 Costs and expenses of proceedings.—
184 (2) The clerks of the courts performing duties under the
185 provisions aforesaid shall receive the same fees as prescribed
186 by the general law for the performance of similar duties, and
187 witnesses attending any investigation pursuant to subpoena shall
188 receive the same mileage and per diem as if attending as a
189 witness before the circuit court ~~in term time~~.
190 Section 13. Subsection (4) of section 450.121, Florida
191 Statutes, is amended to read:
192 450.121 Enforcement of Child Labor Law.—
193 (4) Grand juries ~~shall~~ have inquisitorial powers to
194 investigate violations of this chapter; also, trial court judges
195 shall specially charge the grand jury~~, at the beginning of each~~
196 ~~term of the court,~~ to investigate violations of this chapter.
197 Section 14. Section 831.10, Florida Statutes, is amended to
198 read:
199 831.10 Second conviction of uttering forged bills.—A person
200 previously ~~Whoever, having been~~ convicted of violating ~~the~~
201 ~~offense mentioned in~~ s. 831.09 who is again convicted of that
202 ~~the like~~ offense committed after the former conviction~~,~~ and on
203 ~~whoever is at the same term of the court convicted upon~~ three

204 distinct charges of such offense committed within a 6-month
205 period~~,~~ shall be deemed a common utterer of counterfeit bills,
206 and shall be punished as provided in s. 775.084.
207 Section 15. Section 831.17, Florida Statutes, is amended to
208 read:
209 831.17 Violation of s. 831.16; second or subsequent
210 conviction.—A person previously ~~Whoever having been~~ convicted of
211 violating ~~either of the offenses mentioned in~~ s. 831.16 who~~,~~ is
212 again convicted of violating that statute ~~either of the same~~
213 ~~offenses,~~ committed after the former conviction on~~, and whoever~~
214 ~~is at the same term of the court convicted upon~~ three distinct
215 charges of such offense committed within a 6-month period ~~said~~
216 ~~offenses,~~ commits a felony of the second degree, punishable as
217 provided in s. 775.082, s. 775.083, or s. 775.084.
218 Section 16. Subsection (4) of section 877.08, Florida
219 Statutes, is amended to read:
220 877.08 Coin-operated vending machines and parking meters;
221 defined; prohibited acts, penalties.—
222 (4) Whoever violates ~~the provisions of~~ subsection (3) a
223 second or subsequent time commits~~, and is convicted of such~~
224 ~~second separate offense, either at the same term or a subsequent~~
225 ~~term of court, shall be guilty of~~ a felony of the third degree,
226 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
227 Section 17. Subsection (1) of section 902.19, Florida
228 Statutes, is amended to read:
229 902.19 When prosecutor liable for costs.—
230 (1) If ~~When~~ a person makes a complaint before a county
231 court judge that a crime has been committed and is recognized by
232 the county court judge to appear before ~~at the next term of~~ the

233 court having jurisdiction to give evidence of the crime and
234 fails to appear, the person is ~~shall be~~ liable for all costs
235 occasioned by his or her complaint, and the county court judge
236 may enter ~~obtain~~ a judgment and execution for the costs as in
237 other cases.
238 Section 18. Subsection (2) of section 903.32, Florida
239 Statutes, is amended to read:
240 903.32 Defects in bond.—
241 (2) If no day, or an impossible day, is stated in a bond
242 for the defendant's appearance before a trial court judge for a
243 hearing or trial, the defendant shall be bound to appear 10 days
244 after receipt of notice to appear by the defendant, the
245 defendant's counsel, or any surety on the undertaking. ~~If no~~
246 ~~day, or an impossible day, is stated in a bond for the~~
247 ~~defendant's appearance for trial, the defendant shall be bound~~
248 ~~to appear on the first day of the next term of court that will~~
249 ~~commence more than 3 days after the undertaking is given.~~
250 Section 19. Section 905.01, Florida Statutes, is amended to
251 read:
252 905.01 Number and procurement of grand jury; replacement of
253 member; term of grand jury.—
254 (1) The grand jury shall consist of no ~~not~~ fewer than 15,
255 but no ~~nor~~ more than 21 persons. The ~~provisions of~~ law governing
256 the qualifications, disqualifications, excusals, drawing,
257 summoning, supplying deficiencies, compensation, and procurement
258 of petit jurors apply to grand jurors. In addition, an elected
259 public official is not eligible for service on a grand jury.
260 (2) The chief judge of any circuit court may provide for
261 the replacement of any grand juror who, for good cause, is

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262 unable to complete the term of the grand jury. Such replacement
263 shall be made by appropriate order of the chief judge from the
264 list of prospective jurors from which the grand juror to be
265 replaced was selected.
266 (3) The chief judge of each ~~any~~ circuit court shall
267 regularly order ~~may dispense with~~ the convening of the grand
268 jury for a ~~at any~~ term of 6 months ~~court by filing a written~~
269 ~~order with the clerk of court directing that a grand jury not be~~
270 ~~summoned~~.
271 Section 20. Section 905.09, Florida Statutes, is amended to
272 read:
273 905.09 Discharge and recall of grand jury.—A grand jury
274 that has been dismissed may be recalled at any time during the
275 ~~same~~ term of the grand jury ~~court~~.
276 Section 21. Section 905.095, Florida Statutes, is amended
277 to read:
278 905.095 Extension of grand jury term.—Upon petition of the
279 state attorney or the foreperson of the grand jury acting on
280 behalf of a majority of the grand jurors, the circuit court may
281 extend the term of a grand jury impaneled under this chapter
282 beyond the term ~~of court~~ in which it was originally impaneled. A
283 grand jury whose term has been extended as provided under this
284 section ~~herein~~ shall have the same composition and the same
285 powers and duties it had during its original term. If ~~In the~~
286 ~~event~~ the term of the grand jury is extended under this section,
287 it shall be extended for a time certain, not to exceed a total
288 of 90 days, and only for the purpose of concluding one or more
289 specified investigative matters initiated during its original
290 term.

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291 Section 22. Section 914.03, Florida Statutes, is amended to
292 read:
293 914.03 Attendance of witnesses.—A witness summoned by a
294 grand jury ~~or in a criminal case~~ shall remain in attendance
295 until excused by the grand jury. A witness summoned in a
296 criminal case shall remain available for attendance until the
297 case for which he or she was summoned is disposed of or until he
298 or she is excused by the court. A witness who departs without
299 permission of the court shall be in criminal contempt of court.
300 ~~A witness shall attend each succeeding term of court until the~~
301 ~~case is terminated.~~
302 Section 23. Subsection (2) of section 924.065, Florida
303 Statutes, is amended to read:
304 924.065 Denial of motion for new trial or arrest of
305 judgment; appeal bond; supersedeas.—
306 (2) An appeal may ~~shall~~ not be a supersedeas to the
307 execution of the judgment, sentence, or order until the
308 appellant has entered into a bond with at least two sureties to
309 secure the payment of the judgment, fine, and any future costs
310 that may be adjudged by the appellate court. The bond shall be
311 conditioned on the appellant's personally answering and abiding
312 by the final order, sentence, or judgment of the appellate court
313 and, if the action is remanded, on the appellant's appearing
314 before ~~at the next term of~~ the court in which the case was
315 originally determined and not departing without leave of court.
316 Section 24. Section 932.47, Florida Statutes, is amended to
317 read:
318 932.47 Informations filed by prosecuting attorneys.—
319 Informations may be filed by the prosecuting attorney of the

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320 circuit court with the clerk of the circuit court ~~in vacation or~~
321 ~~in term~~ without leave of the court first being obtained.
322 Section 25. This act shall take effect January 1, 2014.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL
15th District

COMMITTEES:
Regulated Industries, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Community Affairs
Education

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

March 20, 2013

The Honorable Joe Negron
Senate Appropriations Committee, Chair
201 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Negron:

Thank you for placing SB 746 (Terms of Court) on the Appropriations Committee agenda for Thursday, March 21st.

I am respectfully request that my Legislative Assistant, Samantha Hartman, present this bill to the Appropriation Committee in my place.

Thank you for your consideration.

Sincerely,

Kelli Stargel
Senator, District 15

cc: Mike Hansen, Staff Director
~~Alicia Weiss, CAA~~

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DON GAETZ
President of the Senate

GARRETT RICHTER
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 Committee on Appropriations

BILL: SPB 7038

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Health Care

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Hansen		**Submitted as committee bill**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7038 amends several sections of the Florida Kidcare Program Act under Part II of chapter 409, Florida Statutes, to remove obsolete provisions and conform other provisions with changes in federal laws and regulations relating to the implementation of the federal Patient Protection and Affordable Care Act (Public Law 2011-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 2011-152), known collectively as "PPACA," and the Supreme Court ruling in *National Federation of Independent Business v. Sebelius*.[1]

The bill adds definitions for "modified adjusted gross income" and "household income" to align with changes in Medicaid and Children's Health Insurance Program (CHIP) program eligibility laws and regulations and removes definitions that are no longer applicable to the program. The bill removes authority and provisions for an employer-sponsored insurance premium assistance program component in Florida Kidcare. Notification requirements for certain Florida Kidcare disenrollees regarding other insurance options on the exchange, as defined under PPACA, are added, and the non-subsidized program under Florida Kidcare is phased-out. The bill includes provisions for electronic eligibility matching through the exchange hub and an option for written documentation when matching is not feasible.

The bill would have an indeterminate fiscal impact. Estimates of the increased administrative costs incurred by the Florida Healthy Kids Corporation are yet to be finalized. The costs for providing coverage to new enrollees under the bill are estimated to be approximately $1.26 billion in federal expenditures for state fiscal year 2013-14.

[1] *National Federation of Independent Business v. Sebelius, 567 U.S.___(2012).*

The bill revises the eligibility process to reflect the procedures that will be used under the modified adjusted gross income (MAGI) method beginning January 1, 2014. The bill further revises the responsibilities of the Department of Children and Family Services (DCF), the Agency for Health Care Administration (AHCA), the Department of Health (DOH), the Florida Healthy Kids Corporation (FHKC), and the Office of Insurance Regulation (OIR) under the Florida Kidcare Program. The bill clarifies that the AHCA is directed to contract with the Florida Healthy Kids Corporation for the administration of the Healthy Kids and Healthy Florida programs.

The bill amends s. 624.91, Florida Statutes – the Florida Healthy Kids Corporation Act – to revise legislative intent to include a new program, Healthy Florida. The bill modifies FHKC's corporate governance structure, medical loss ratio guidelines for health plan contracts, and corporate responsibilities. The bill creates s. 624.917, Florida Statutes, to provide definitions, eligibility criteria, enrollment, and benefits for the Healthy Florida program. The corporation is also authorized to make changes to the program to negotiate for the approval of the Healthy Florida program with the federal Department of Health and Human Services, if necessary.

The bill repeals the authority for an operating fund for the Florida Healthy Kids Corporation under section 624.915, Florida Statutes.

The bill includes a conflict of laws statement indicating that if there is a conflict between a provision in the bill and PPACA, the provision must be interpreted to comply with the requirements of federal law.

The bill is effective upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: 409.811, 409.813, 409.8132, 409.8135, 409.814, 409.815, 409.8177, 409.818, 409.820, and 624.91.

The bill creates section 624.917, Florida Statutes.

The bill repeals sections 409.817, 409.8175, and 624.915, Florida Statutes.

II. Present Situation:

Florida provides health insurance coverage options to low income Floridians through a variety of programs utilizing state and federal funds. As of February 28, 2013, more than 3.2 million individuals received coverage through some Medicaid eligibility category.[2] Enrollment in the Florida Kidcare program (non-Medicaid funded components) for the same time period was an additional 256,721 children.[3]

Florida's Medicaid program is expected to expend $21 billion for the 2012-13 state fiscal year to provide coverage to its enrollees, making it the fifth largest in the nation in terms of

[2] Agency for Health Care Administration, *Report of Medicaid Eligibles*, http://ahca.myflorida.com/Medicaid/about/pdf/age_assistance_category_130228.pdf (last visited Mar. 17, 2013).
[3] Agency for Health Care Administration, *Florida KidCare Enrollment Report – February 2013*, (copy on file with the Senate Health Policy Committee).

expenditures.[4] The Florida Medicaid program is jointly funded between the state and federal governments; 57.73 percent of the cost for health care services is paid by federal funds and 42.27 percent is state share in the current state fiscal year. Funding for the Florida Kidcare program's Title XXI components has an enhanced federal match of 70.66 percent for federal fiscal year 2012-13.[5]

According to the most recent data from the American Community Survey (ACS) of the federal Census Bureau, an estimated 4 million Floridians are uninsured.[6] Of that number according to the ACS data, 594,000 are children.[7] Dividing Florida's uninsured by income level, more than 1.9 million adults are under 139% of the federal poverty level (FPL), according to statistics for 2010-2011.[8] Lower income adults, or those below 100 percent of the FPL, number at 1.1 million of the 1.9 million for that same time period.[9]

Eligibility for the Medicaid program is based on a number of factors, including age, household or individual income, and assets.

The Department of Children and Families (DCF) determines eligibility for the Medicaid program but the AHCA is the single state Medicaid agency and has the lead responsibility for the overall program.[10]

Recipients in the Medicaid program receive their benefits through several different delivery systems, depending on their individual situation. Delivery systems currently include fee-for-service providers, prepaid dental plans, provider service networks, and Medicaid managed care plans. In July 2006, the AHCA implemented the Medicaid Managed Pilot Program as directed by the 2005 Legislature through s. 409.91211, F.S. The pilot program operates under an 1115 Research and Demonstration Waiver approved by the federal Centers for Medicare and Medicaid Services. The pilot program was initially authorized for Broward and Duval counties with expansion to Baker, Clay and Nassau the following year.

Under the current pilot program, most Medicaid recipients in the five pilot counties (Broward, Duval, Baker, Clay, and Nassau counties) are required to receive their benefits through either

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[4] Agency for Health Care Administration, Presentation to House Health and Human Services Committee, *Florida Medicaid: An Overview - December 5, 2012*, http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2714&Session=2013&DocumentType=Meeting Packets&FileName=HHSC_Mtg_ 12-5-12_ONLINE.pdf (last visited Mar. 17, 2013).
[5] Florida KidCare Coordinating Council, *2013 Annual Report and Recommendations*, p. 5, (January 2013), http://www.floridakidcare.org/council/reports/2013_KCC_Report.pdf (last visited Mar. 17, 2013).
[6] Office of Economic and Demographic Research, Florida Legislature, *Economic Analysis of PPACA and Medicaid Expansion*, Presentation to Senate Select Committee on Patient Protection and Affordable Care Act (Mar. 4, 2013), http://www.floridakidcare.org/council/reports/2013_Recommendations.pdf (last visited Mar. 17, 2013).
[7] Ibid.
[8] Kaiser Family Foundation, statehealthfacts.org, *Health Insurance Coverage of the Non-Elderly (0-64) with Incomes up to 139% of FPL (2010-2011)*, http://www.statehealthfacts.org/profileind.jsp?ind=849&cat=3&rgn=11&cmprgn=1 (last visited Mar. 17, 2013).
[9] Kaiser Family Foundation, statehealthfacts.org, *Health Insurance Coverage of the Non-Elderly (0-64) with Incomes up to 139% of FPL (2010-2011)*, http://www.statehealthfacts.org/profileind.jsp?ind=849&cat=3&rgn=11&cmprgn=1 (last visited Mar. 17, 2013).
[10] Agency for Health Care Administration, *Welcome to Medicaid!*, http://ahca.myflorida.com/Medicaid/index.shtml (last visited Mar. 17, 2013).

health maintenance organizations (HMOs), provider service networks (PSNs), or a specialty plan. In addition to the minimum benefits package, plans may provide enhanced services such as over the counter benefits, preventive dental care for adults, and health and wellness benefits.

Medicaid Statewide Managed Medical Care Program

In 2011, the Legislature passed HB 7107, creating the Statewide Medicaid Managed Medical Assistance (SMMC) Program as part IV of ch. 409, F.S. The SMMC requires the AHCA to create an integrated managed care program for Medicaid enrollees that incorporates all of the minimum benefits, for the delivery of primary and acute care. The SMMC has two components: the Long Term Care Managed Care program and the Managed Medical Assistance (MMA) program.

As the single state agency for Medicaid under s. 409.963, F.S., the AHCA has primary responsibility for the management and operations of the state's Medicaid program, including seeking waiver authority from the federal government. To implement these two programs and receive federal Medicaid funding, the AHCA was required to seek federal authorization through two different Medicaid waivers from the Centers for Medicare and Medicaid Services. The first component authorized was the LTC Managed Care Program's 1915(b) and (c) waiver. Approval was granted on February 1, 2013.

The LTC Managed Care Program will serve those individuals who are 65 years of age or old or who are eligible for Medicaid by reason of a disability, subject to wait list prioritization and availability of funds. The recipients must also be determined to require a nursing facility level of care. Medicaid recipients who qualify will receive all of their long-term care services from the long-term care managed care plan.

The AHCA is responsible for administering the LTC Managed Care Program but may delegate specific duties to the Department of Elderly Affairs and other state agencies. Implementation of the LTC Managed Care program started July 1, 2012, with completion expected by October 1, 2013. The AHCA released an Invitation to Negotiate (ITN) on June 29, 2012, and on January 15, 2013, notices of contract awards to managed care plans under that ITN were announced.

For the SMMC component, the AHCA sought to modify the existing Medicaid Reform 1115 Demonstration waiver with the Centers for Medicare and Medicaid Services to expand the program statewide. The AHCA initiated the SMMC project in January 2012 and released a separate ITN to competitively procure managed care plans on a statewide basis on December 28, 2012. Bids are due to the AHCA on March 29, 2013 and awards are expected to be announced on September 16, 2013.

Plans can supplement the minimum benefits in their bids and offer enhanced options. The number of plans to be selected by region is prescribed under s. 409.974, F.S. Specialty plans that serve specific, targeted populations based on age, medical condition, and diagnosis, are also included under the SMMC program. Under s. 409.967, F.S., accountability provisions for the managed care plans specify several conditions or requirements including emergency care and physician reimbursement standards, access and credentialing requirements, encounter data submission guidelines, grievance and resolutions, and medical loss ratio calculations.

Statewide implementation of SMMC is expected to be completed by October 1, 2014. Final approval of the necessary Medicaid waiver by the federal government has not yet been received; however, on February 20, 2013 the AHCA and the Centers for Medicare and Medicaid Services reached an "Agreement in Principle" on the proposed plan.

Under SMMC, persons meeting applicable eligibility requirements of Title XIX of the Social Security Act must be enrolled in a managed care plan. Medicaid recipients who (a) have other creditable care coverage, excluding Medicare; (b) reside in residential commitment facilities operated through the Department of Juvenile Justice, group care facilities operated by the DCF, and treatment facilities funded through the DCF Substance Abuse and Mental Health Program; (c) are eligible for refugee assistance; or (d) are residents of a developmental disability center, may voluntarily enroll in the SMMC program. Those recipients who elect not to enroll in SMMC voluntarily will be served through the Medicaid fee-for-service system.

Florida Kidcare Program

The Florida Kidcare Program (Program) was created in 1998 by the Florida Legislature in response to the federal enactment of the Children's Health Insurance Program (CHIP) in 1997. The CHIP provides subsidized health insurance coverage to uninsured children who do not qualify for Medicaid but who have family incomes under 200 percent of the FPL and meet other eligibility criteria. The state statutory authority for the Program is found under part II of chapter 409; ss. 409.810 through 409.821, F.S.

The Program includes four operating components: Medicaid for children, Medikids, the Children's Medical Services Network, and the Florida Healthy Kids Corporation (corporation). Section 409.813, F.S., includes five components for the Program. The fifth component – the employer sponsored group health insurance plan – has never been implemented. The AHCA submitted a state plan amendment in December 1998 for implementation of that component; however, the plan amendment was disapproved by the federal Centers for Medicare and Medicaid Services in November 1999 and was not re-submitted.[11] The Title XXI-funded components of Florida Kidcare serve distinct populations under the program:[12]

- Medicaid for Children: Children from birth until age 1 for family incomes between 185 percent and 200 percent of the FPL.
- Medikids: Title XXI funding is available from age 1 until age 5 for family incomes between 133 percent and 200 percent of the FPL.
- Healthy Kids: Title XXI funding is available from age 5 through age 6 for family incomes between 133 and 200 percent of the FPL. For age 6 through age 18, Title XXI funding is available for family incomes between 100 percent and 200 percent of the FPL.

[11] *See* State of Florida, Florida KidCare Program, Title XXI State Child Health Insurance Plan, Amendment #22, July 1, 2012, pg. 6, http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Childrens-Health-Insurance-Program-CHIP/Downloads/CHIP-SPAs/FL-CSPA-22-FINAL.pdf (last visited: March 15, 2013).
[12] *See* State of Florida, Florida KidCare Program, Title XXI State Child Health Insurance Plan, Amendment #22, July 1, 2012, pg.5., http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Childrens-Health-Insurance-Program-CHIP/Downloads/CHIP-SPAs/FL-CSPA-22-FINAL.pdf (last visited: March 15, 2013).

- Children's Medical Services Network: Title XXI and Title XIX funds are available from birth until age 19 for family incomes up to 200 percent of the FPL for children with special health care needs. The Department of Health assesses whether children meet the clinical requirements.

Coverage for the non-Medicaid components of the Florida Kidcare Program is funded through Title XXI of the federal Social Security Act (CHIP coverage). Title XIX of the Social Security Act (Medicaid coverage), state funds for CHIP coverage, and family contributions also provide funding for the Florida Kidcare Program. Family contributions are based on family size, household income, and other eligibility factors. Families above the income limits for premium assistance or who are not otherwise eligible for premium assistance are offered the opportunity to participate in the Program at a non-subsidized rate (full-pay). Currently, the income limit for premium assistance is 200 percent of the FPL.

The Medikids program was created under s. 409.8132, F.S., as a Medicaid "look-alike" program for enrollees age 1 through 4. Medikids is administered by the AHCA and enrollees receive the same mandatory and optional benefits covered under ss. 409.905 and 409.906, F.S. Enrollees are offered a choice of health plans or, if two plans are not offered in a particular county, MediPass is provided as one of the options. Many provisions of the Medicaid program also apply to the Medikids program; such as program integrity, provider fraud and abuse preventions, and quality of care.

Under s. 409.814, F.S., the Program's eligibility guidelines are described in conformity with current Title XIX and Title XXI terminology and requirements for each funding component. Other eligibility factors related to premium assistance under this section include whether a child:

- Is covered under other employer-based coverage costing less than five percent of the family income;
- Is an alien, but does not meet the definition of a qualified alien;
- Is an inmate in a public institution or a patient in an institution for mental disease; or,
- Has dropped employer-sponsored coverage within 60 days of applying for premium assistance. Current law does provide good cause exceptions that may be taken into consideration for individuals that drop employer-sponsored coverage resulting in a waiver of the 60-day waiting period for premium assistances.

Families with income above 200 percent of the FPL or who do not meet the qualifications for premium assistance may still be able to purchase the coverage under Medikids or Healthy Kids at the non-subsidized rate.

To enroll in Kidcare, families utilize a form that is both a Medicaid and a CHIP application. Families may apply using either an online or a paper application. Both formats are available in English, Spanish, or Creole. Eligibility is determined through electronic data matching using available databases, or, when income cannot be verified electronically, through submission of current paystubs, tax returns, or W-2 forms. Families may also apply for Medicaid through the

DCF web portal (ACCESS) online, at an ACCESS community partner site, or with a paper form via the mail, fax, or in person at a Customer Service Center.[13]

Under s. 409.815, F.S., benefits under the Florida Kidcare program vary by program component. For Medicaid, Medikids, and the Children's Medical Services Network, enrollees receive the mandatory and optional medical benefits covered under ss. 409.905 and 409.906, F.S. For Healthy Kids and the employer-sponsored component, a benchmark benefit package is provided. The comprehensive benefit package includes preventive services, specialty care, hospitalization, prescription drug coverage, behavioral health and substance abuse services, dental care, vision and hearing services, and emergency care and transportation.

Limits on premiums and cost sharing in the Program are covered under s. 409.816, F.S., and conform to existing federal law and regulation for Title XIX and XXI. All Title XXI funded enrollees pay monthly premiums of $15 or $20 per family per month based on their family size and income. For those families at or below 150 percent of the FPL, the cost is $15 per family per month. For those between 150 percent of the FPL and 200 percent of the FPL, the cost is $20 per family per month. Enrollees in the Healthy Kids component also have copayments for non-preventive services that range from $5 per prescription to $10 for an inappropriate use of the emergency room visit. There are no copayments for visits related to well-child, preventive health, or dental care.[14]

Under s. 409.8175, F.S., a health maintenance organization may reimburse providers in a rural county according to the Medicaid fee schedule provided the provider agrees to such a schedule.

The AHCA contracts for an annual evaluation of the Program to address the statutory components of s. 409.8177, F.S. The annual reports are posted to the AHCA's website for public review and submitted to the Centers for Medicare and Medicaid Services.[15]

Several state agencies and the non-profit corporation – Florida Healthy Kids – share responsibilities for the Program. Section 409.818, F.S., delineates the responsibilities for each of the entities under the Program, and subsection (5) preserves the corporation's eligibility determination functions for the Healthy Kids program. Annually, the Legislature provides administrative funds through the AHCA's appropriation to contract with the corporation to conduct the eligibility and administrative functions related to the Program.[16] The DCF determines eligibility for Medicaid and the corporation determines eligibility for CHIP, which includes a Medicaid screening and referral process to the DCF, as appropriate.

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[13] Florida Department of Children and Families, *ACCESS Florida Website*, *http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash* (last visited March 15, 2013).

[14] *See* State of Florida, Florida KidCare Program, Title XXI State Child Health Insurance Plan, Amendment #22, July 1, 2012, pp.98-101., http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Childrens-Health-Insurance-Program-CHIP/Downloads/CHIP-SPAs/FL-CSPA-22-FINAL.pdf (last visited: Mar. 17, 2013).

[15] Agency for Health Care Administration, *Medikids Publications*, *http://www.fdhc.state.fl.us/medicaid/medikids/publications.shtml*, (last visited: Mar. 15, 2013).

[16] See Conference Report on HB 5001, 2012-2013 General Appropriations Act, Proviso for Line Item 162. (http://www.flsenate.gov/Session/Bill/2012/5001/Amendment/657521/PDF) (last visited Mar. 15, 2013).

During the 2012 Legislature, the DCF was directed to collaborate with the AHCA to develop an internet-based system for eligibility determination for Medicaid and CHIP.[17] The Legislature provided DCF with specific business and functional requirements for the project and timeframes for project completion.[18]

The following chart reflects current roles and responsibilities of the agencies and the FHKC:

Agency for Health Care Administration	Department of Children and Families	Department of Health	Florida Healthy Kids Corporation
Medicaid program and policy	Medicaid eligibility determination	Oversight of the Children's Medical Services Network program	Oversight of the Florida Healthy Kids Program
Lead state agency for Title XIX and XXI Compliance and federal funding	Manage B-NET program – specialized behavioral health care program	KidCare Coordinating Council	Conduct Title XXI (CHIP) eligibility and administration
Oversight of the Medikids program		Develop Quality Assurance Standards	Conduct Kidcare Outreach and Marketing
Monitor quality assurance standards			
Maintain Kidcare Grievance Process			

The Florida Kidcare Coordinating Council falls under the responsibility of the DOH; the secretary of the DOH chairs the Council. The Coordinating Council is specifically created under s. 409.818(2)(b), F.S., and is charged with making recommendations concerning the implementation and operation of the program. The Council includes representatives from the partner agencies and stakeholder representatives from the insurance industry, consumers, and providers. For 2013, the Council developed a single priority state recommendation: "To fully fund the Florida Kidcare program, including its annualization and medical trend needs, projected growth, outreach and increased medical and dental costs in order to maximize the use of Florida's CHIP federal funds and include all eligible uninsured children."[19]

The Florida Healthy Kids Program is authorized under s. 624.91, F.S., which is also known as the "William G. 'Doc' Myers Healthy Kids Corporation Act." The Florida Healthy Kids Corporation (FHKC) was created as a private, not-for-profit corporation by the 1990 Florida Legislature in an effort to increase access to health insurance for school-aged children.[20]

[17] s. 409.902(3), F.S.
[18] ss. 409.902(4) and (5), F.S.
[19] Florida KidCare Website, KidCare Coordinating Council, *2013 Recommendations*, *http://www.floridakidcare.org/council/reports/2013_Recommendations.pdf* (last visited Mar. 17, 2013).
[20] Florida Healthy Kids Corporation, *History*, https://www.healthykids.org/healthykids/history/ (last visited Mar. 15, 2013).

Eligibility for the state-funded assistance is prescribed under s. 624.91(3), F.S., and provides cross references to the Florida Kidcare Act. The Healthy Kids program is also identified as a non-entitlement program under subsection (4).

Under s. 624.91(5), F.S., the FHKC is managed by an executive director selected by the board with the number of staff determined by the board. The FHKC is authorized to:

- Collect contributions from families, local sources or employer based premiums;
- Accept voluntary local match for Title XXI and Title XXI;
- Accept supplemental local match for Title XXI;
- Establish administrative and accounting procedures;
- Establish preventive health standards for children that do not limit participation to pediatricians in rural areas with consultation from appropriate experts;
- Determine eligibility for children seeking enrollment in Title XXI funded and non-Title XXI components;
- Establish grievance processes;
- Establish participation criteria for administrative services for the corporation;
- Establish enrollment criteria that include penalties or waiting periods for non-payment of premiums of 30 days;
- Contract with authorized insurers and other health care providers meeting standards established by the corporation for the delivery of services and select health plans through a competitive bid process;
- Purchase goods and services in a cost effective manner with a minimum medical loss ratio of 85 percent for health plan contracts;
- Establish disenrollment criteria for insufficient funding levels;
- Develop a plan to publicize the program;
- Secure staff and the necessary funds to administer the program;
- Provide an annual Kidcare report, in consultation with partner agencies, to the Governor, Chief Financial Officer, Commissioner of Education, President of the Senate, Speaker of the House of Representative and Minority Leaders of the Senate and House of Representatives;
- Provide quarterly enrollment information on the full pay population; and,
- Establish benefit packages that conform to the Florida Kidcare benchmark benefit.

The FHKC is governed by a 13-member board of directors, chaired by Florida's chief financial officer or his or her designee.[21] The 12 other board members are:

- Secretary of the AHCA;
- One member appointed by the Commissioner of Education from the Office of School Health Programs from the Department of Education;
- One member, appointed by the Chief Financial Officer from among three members nominated by the Florida Pediatric Society;
- One member, appointed by the Governor, who represents the Children's Medical Services Program;

[21] *See* s. 624.91(6), F.S.

- One member appointed by the Chief Financial Officer from among three members nominated by the Florida Hospital Association;
- One member, appointed by the Governor, who is an expert on child health policy;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Academy of Family Physicians;
- One member, appointed by the Governor, who represents the state Medicaid program;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Association of Counties;
- The State Health Officer or his or her designee;
- The Secretary of the DCF, or his or her designee; and,
- One member, appointed by the Governor, from among three members nominated by the Florida Dental Association.

Board members do not receive compensation for their service but may receive reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S.[22]

The FHKC is not an insurer and is not subject to the licensing requirements of the Department of Financial Services. In addition, the FHKC board is also granted complete fiscal control over the corporation and responsibility for all fiscal operations. Any liquidation of the FHKC would be supervised by the Department of Financial Services.[23]

The Patient Protection and Affordable Care Act of 2010

In March 2010, the Congress passed and the President signed the PPACA.[24] Under PPACA, one of the key components required the states to expand Medicaid to a minimum national eligibility threshold of 133 percent of the FPL, or, as it is sometimes expressed, 138 percent of the FPL with application of an automatic five percent income disregard, effective January 1, 2014.[25] While the funding for the newly eligible under this expansion would be initially funded at 100 percent federal funds for the first 3 calendar years, the states would gradually be required to pay a share of the costs, starting at 5 percent in calendar year 2017 before leveling off at 10 percent in 2020.[26] As enacted, PPACA provided that states refusing to expand to the new national eligibility threshold faced the loss of *all* of their federal Medicaid funding.[27]

Florida, along with 25 other states challenged the constitutionality of the law. In *NFIB v. Sebelius*, the Supreme Court found the enforcement provisions of the Medicaid expansion unconstitutional.[28] As a result, states can voluntarily expand their Medicaid eligibility thresholds

[22] *See* s. 624.91(5), F.S.
[23] *See* s. 624.91(7), F.S.
[24] Pub. Law No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).
[25] 42 U.S.C. s. 1396a(1).
[26] 42 U.S.C. s. 1396d(y)(1).
[27] 42 U.S.C. s. a1396c
[28] *See supra* note 1.

to PPACA standards and receive the enhanced federal match for the expansion population, but states cannot be penalized for not doing so.[29]

Since the decision in *NFIB v. Sebelius*, federal guidance has emphasized state flexibility in how states expand coverage to those defined as the newly eligible population. In a letter to the National Governors Association January 14, 2013, Health and Human Services Secretary Kathleen Sebelius reminded states of their ability to design flexible benefit packages without the need for waivers and the alternative benefit plans that are available.[30] This letter was preceded by the Frequently Asked Questions document on Exchange, Market Reforms and Medicaid, issued on December 10, 2012, that discussed promotion of personal responsibility wellness benefits and state flexibility to design benefits.[31]

A State Medicaid Director Letter on November 20, 2012 (ACA #21) further addressed state options for the adult Medicaid expansion group and the alternative benefit plans available under Section 1937 of the Social Security Act.[32] Under Section 1937, state Medicaid programs have the option of providing certain groups with benchmark or benchmark equivalent coverage based on four products: (1) the standard Blue Cross/Blue Shield Preferred Provider option offered to federal employees; (2) state employee coverage that is generally offered to all state employees; (3) the commercial HMO with the largest insured, non-Medicaid enrollment in the state or (4) Secretary-approved coverage.[33] For children under the age of 21, the coverage must include the Early and Periodic Screening, Diagnostic and Treatment Service (EPSDT). Other aspects of the essential health benefit requirements of PPACA, as discussed further below, may also be applicable, depending on the benefit package utilized.

In addition to the Medicaid expansion component, the PPACA imposes a mandate on individuals to acquire health insurance or pay a penalty. Currently, many uninsured individuals are eligible for Medicaid or Kidcare coverage but are not enrolled. The existence of the federal mandate to purchase insurance may result in an unknown number of currently eligible individuals coming forward and enrolling Medicaid who had not previously chosen to enroll. While these individuals are currently entitled to Medicaid coverage, their participation will result in increased costs that the state would not likely have incurred without the catalyst of the federal legislation.

To facilitate coverage, PPACA authorized the state-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges. These exchanges are to be administered by governmental agencies or non-profit organizations and be ready to accept

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[29] Department of Health and Human Services, *Secretary Sebelius Letter to Governors, July 10, 2012*, http://capsules.kaiserhealthnews.org/wp-content/uploads/2012/07/Secretary-Sebelius-Letter-to-the-Governors-071012.pdf (last visited Mar. 16, 2013).

[30] *Letter to National Governor's Association from Secretary Sebelius*, January 14, 2013 (copy on file with Senate Health Policy Committee).

[31] Centers for Medicare and Medicaid Services, *Frequently Asked Questions on Exchanges, Market Reforms and Medicaid*, (December 10, 2012), http://cciio.cms.gov/resources/factsheets/index.html, pp. 15-16, (last visited Mar. 17, 2013).

[32] Centers for Medicare and Medicaid Services, *State Medicaid Director Letter: Essential Health Benefits in the Medicaid Program* (November 20, 2012), http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD-12-003.pdf (last visited Mar. 17, 2013).

[33] *See supra* note 30 at 2.

applications for coverage beginning October 1, 2013, for January 1, 2014, coverage dates. The exchanges, at a minimum, must:[34]

- Certify, re-certify and de-certify plans participating on the exchange;
- Operate a toll-free hotline;
- Maintain a website;
- Provide plan information and plan benefit options;
- Interact with the state's Medicaid and CHIP programs and provide information on eligibility and determination of eligibility for these programs;
- Certify individuals that gain exemptions from the individual responsibility requirement; and,
- Establish a navigator program.

The initial guidance from the Department of Health and Human Services in November 2010 set forward a number of principles and priorities for the exchanges. Further guidance was issued on May 16, 2012, detailing the proposed operations of a federally-facilitated exchange for those states that elect not to implement a state-based exchange. On November 16, 2012, Florida Governor Rick Scott notified Health and Human Services Secretary Sebelius that Florida had too many unanswered questions to commit to a state-based exchange under PPACA for the first enrollment period on January 1, 2014.[35]

PPACA also includes a tax penalty for those individuals that do not have qualifying health insurance coverage beginning January 1, 2014. The penalty is the greater of $695 per year up to a maximum of three times that amount per family or 2.5% of household income. The penalty, however, is phased-in and exemptions apply.

The following persons are exempt from the PPACA's requirement to maintain coverage:[36]

- Individuals with a religious objection;
- individuals not lawfully present; and
- Incarcerated individuals.

The following persons are exempt from the PPACA's penalty for failure to maintain coverage:[37]

- Individuals who cannot afford coverage, i.e. those whose required premium contributions exceed eight percent of household income;
- Individuals with income below the income tax filing threshold;
- American Indians;
- Individuals without coverage for less than three months; and

[34]Centers for Medicare and Medicaid Services, Initial Guidance to States on Exchanges, November 18, 2010, http://cciio.cms.gov/resources/files/guidance_to_states_on_exchanges.html (last visited Mar. 16, 2013).
[35] *Letter from Governor Rick Scott to Health and Human Services Secretary Kathleen Sebelius,* November 16, 2012 http://www.flgov.com/2012/11/16/letter-from-governor-rick-scott-to-u-s-secretary-of-health-and-human-services-kathleen-sebelius/ (last visited Mar. 16, 2013).
[36] *See* Sec. 5000A(d), Internal Revenue Code of 1986, as created or amended by the Patient Protection and Affordable Care Act of 2010 and/or the Health Care and Education Reconciliation Act of 2010.
[37] *See* Sec. 5000A(e), Internal Revenue Code of 1986, as created or amended by the Patient Protection and Affordable Care Act of 2010 and/or the Health Care and Education Reconciliation Act of 2010.

- Individuals determined by the Department of Health and Human Services secretary to have suffered a hardship with respect to the capability to obtain coverage under a qualified plan.

Qualifying coverage may be obtained through an employer, the federal or state exchanges created under PPACA, or private individual or group coverage meeting the minimum essential benefits coverage standard.

Employers with more than 50 full time employees also share a financial responsibility under PPACA. Employers with more than 50 full-time employees that do not offer coverage meeting the essential benefits coverage standard and who have at least one employee receive a premium tax credit will be assessed a fee of $2,000 per full time employee, after the 30th employee.[38] If an employer does offer coverage and an employee receives a premium tax credit, the employer is assessed the lesser of $3,000 per employee receiving the credit or $2,000 per each employee after the 30th employee.[39]

Premium credits and other cost sharing subsidies are available to United States citizens and legal immigrants within certain income limits for coverage purchased through the exchanges. Legal immigrants with incomes at or below 100 percent of the FPL who are not eligible for Medicaid during their first five years are eligible for premium credits.[40] Premium credits are set on a sliding scale based on the percent of FPL for the household and reduce the out-of-pocket costs incurred by individuals and families.

The amount for premium tax credits, as a percentage of income, are set in section 36B of the Internal Revenue Code follows:[41]

Premium Tax Credits	
Income Range	**Premium Percentage Range** (% of income)
Up to 133% FPL	2%
133% to 150%	3% - 4%
150% to 200%	4% - 6.3%
200% to 250%	6.3% - 8.05%
250% to 300%	8.05% - 9.5
300% to 400%	9.5%

Subsidies for cost sharing are also applicable for those between 100 percent of the FPL and 400 percent of the FPL. The cost sharing credits reduce the out-of-pocket amounts incurred by individuals on essential health benefits and will also impact the actuarial value of a health plan.[42]

[38] Kaiser Family Foundation, *Summary of New Health Reform Law*, Last Modified April 15, 2011, http://www.kff.org/healthreform/upload/8061.pdf (last viewed Mar. 16, 2013).
[39] Kaiser Family Foundation, *Summary of New Health Reform Law*, Last Modified April 15, 2011, http://www.kff.org/healthreform/upload/8061.pdf (last viewed Mar. 16, 2013).
[40] 26 U.S.C. s. 36B(c).
[41] 26 U.S.C. s. 36B(c).
[42] Kaiser Family Foundation, *Summary of New Health Reform Law, Last Modified April 15, 2011*, http://www.kff.org/healthreform/upload/8061.pdf (last viewed Mar. 16, 2013).

Actuarial value reflects the average share of covered benefits paid by the insurer or health plan.[43] For example, if the actuarial value of a plan is 90 percent, the health plan is paying 90 percent of the costs and the enrollee 10 percent. Under PPACA, the maximum amount of cost sharing under this component range from 94% for those between 100% of the FPL to 150% FPL to 70 percent for those between 250 percent of the FPL and 400 percent of the FPL.[44]

III. Effect of Proposed Changes:

Section 1 amends s. 409.811, F.S. adding, deleting, and modifying definitions relating to the Florida Kidcare Act. Definitions applicable to the overall Act, which is identified as ss. 409.810 through 409.821, F.S., are updated or added to align with requirements under PPACA:

- CHIP (Children's Health Insurance Program)
- Combined Eligibility Notice
- Household Income
- Modified Adjusted Gross Income (MAGI)
- Patient Protection and Affordable Care Act (Act)

Other definitions under this section are deleted as obsolete if related to the employer-sponsored component of the Florida Kidcare program. This program component was never implemented and is deleted under this bill. Definitions that have been modified or rendered obsolete by PPACA have also been deleted.

Section 2 amends s. 409.813, F.S., relating to the program components of the Florida Kidcare program. The bill also adds the FHKC to the list of entities for which a cause of action cannot be brought if coverage is not provided under the non-entitlement portion of the program. The FHKC is the only Kidcare component excluded.

Section 3 amends s. 409.8132, F.S., relating to the Medikids program component of the Florida Kidcare program. The bill deletes language permitting a Medikids enrollee who is a younger sibling of a Healthy Kids enrollee, to enroll in a Healthy Kids plan. An obsolete reference to receiving approval from the predecessor agency to the Centers for Medicare and Medicaid Services for MediPass coverage authorization is removed. The MediPass option in Medikids has been approved since the program was implemented in 1998.

Section 4 makes technical changes to s. 409.8134, F.S., relating to program expenditures and enrollment in the Florida Kidcare program.

Section 5 amends section s. 409.814, F.S., relating to eligibility for the Florida Kidcare program. The bill modifies references to align with changes under PPACA. Obsolete references related to the employer-sponsored component have been deleted. An option has been provided to Medicaid

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[43] Lisa Bowen Garrett, et al., The Urban Institute, *Premium and Cost Sharing Subsidies under Health Reform: Implications for Coverage, Costs and Affordability* (December 2009), http://www.urban.org/UploadedPDF/411992_health_reform.pdf (last visited Mar. 16, 2013).

[44] Kaiser Family Foundation, *Summary of New Health Reform Law*, Last Modified April 15, 2011, http://www.kff.org/healthreform/upload/8061.pdf (last viewed Mar. 16, 2013).

enrollees to elect coverage under the CHIP component and permit a transfer back to Medicaid at any time without a break in coverage.

Under s. 409.814(6)(c), F.S., the FHKC is directed to notify full pay enrollees of the availability of coverage under the exchanges, as created under PPACA. No new applications for full-pay or non-subsidized coverage are permitted after September 30, 2013.

Modifications to the eligibility determination process are made under s. 409.814(8), F.S., to reflect changes in the eligibility process under PPACA and the role of the federal data hub.

Section 6 amends s. 409.815, F.S., relating to the benefits under the Florida Kidcare program. Obsolete dates and references are deleted under certain benefits.

Section 7 amends s. 409.816, F.S, relating to lifetime benefits on premiums and limitations on cost sharing. References to "family," "family income," and "modified adjusted income" are updated to align with federal definitions under PPACA.

Section 8 repeals s. 409.817, F.S., relating to approval of health benefits, coverage, and financial assistance. The other requirements of this section have been preempted under PPACA.

Section 9 repeals s. 409.8175, F.S., relating to the delivery of services in rural counties. Health maintenance organizations and health insurers may contract with providers in accordance with any fee schedule that may be agreed upon by the parties. The language under this section is permissive and not mandatory under current law.

Section 10 amends s. 409.8177, F.S., relating to evaluation of the Florida Kidcare program. A reference to family income is updated to household income to align with PPACA.

Section 11 amends s. 409.818, F.S., relating to the administration of the Florida Kidcare program. The duties and responsibilities of the DCF are modified to recognize the modernization efforts and process changes under PPACA. The department is required to develop a combined eligibility notice, in consultation with the AHCA and the FHKC. A reference to a centralized coordinating office is deleted.

Specific administrative responsibilities for the Florida Kidcare program for the DOH are deleted. Obsolete provisions for designing the eligibility intake process are removed, as is the requirement for the DOH to establish a toll-free hotline. The FHKC provides customer service for the Florida Kidcare program, including operation of the toll-free hotline, under its Florida Kidcare eligibility determination responsibilities.

The responsibilities for the AHCA under this section are modified to reflect the removal of the employer-sponsored component and accompanying deletion of the OIR involvement. Technical references to a more general definition of managed care organizations rather than the more limited term of HMOs are made in this section. References to specific topics for rulemaking are deleted. A direction to contract with the corporation for the Healthy Kids program and the Healthy Florida program is added. Direction to the AHCA for Healthy Kids has been included annually in proviso or implementing bill language in the past.

Responsibilities under the Florida Kidcare program for the OIR have been deleted. Their removal reflects the deletion of the employer sponsored component from the program.

Section 12 amends s. 409.820, F.S., relating to the quality assurance and access standards for the Florida Kidcare program. The quality assurance and access standards are clarified to show that such standards are for the pediatric and adolescent populations.

Section 13 amends s. 624.91, F.S., relating to the FHKC. The legislative intent for the Florida Healthy Kids Corporation Act is expanded to include a new program called "Healthy Florida." The legislative intent states that Healthy Florida will cover uninsured adults utilizing a unique network of providers and contracts through which enrollees will receive a comprehensive set of benefits and services.

The Florida Healthy Kids Corporation Act is modified in several subsections to reflect the addition of the Healthy Florida program. Cross references are added to the Florida Kidcare program and the Florida Medicaid program, as appropriate.

Section 624.91(5)(b), F.S., is amended to incorporate the Healthy Florida program and to align with changes made to the Florida Kidcare Act.

Provisions under s. 624.91(5)(b)10., F.S., are separated into individual sub-subparagraphs by topic. No substantive change is made in sub-subparagraphs a. and b. The medical loss ratio requirement for the Healthy Kids program is modified under sub-subparagraph c. to include all health care contracts and language relating to the exemption of dental contracts is deleted. Clarification on how the calculations for the medical loss ratios will be computed is added and a cross reference to federal guidelines for classification of funds is included.

Under s. 624.91(5)(b)12., F.S., the corporation's responsibility for the development of a plan for publicity of the Florida Kidcare program, public awareness, eligibility procedures, and requirements and to maintain public awareness is expanded to include both the Florida Kidcare program and the Healthy Florida program.

Requirements for separate reporting on the full-pay program by the FHKC are repealed effective December 31, 2013. The repeal aligns with the closure of new enrollment in the full-pay program effective September 30, 2013, and the availability of the exchange on January 1, 2014. A new subparagraph 16 requires the corporation to notify existing full-pay enrollees of the availability of the exchange and how to access services. No new applications for full-pay coverage may be accepted after September 30, 2013.

Amendments to s. 624.91(5)(d), F.S., provides that the corporation and any committees formed by the corporation are subject to the conflict of interest provisions of ch. 112, F.S., the public records provisions of ch. 119, F.S., and the public meeting requirements of ch. 286, F.S.

The membership of the FHKC board of directors is changed to require that the chair of the board be appointed by the governor, rather than the chief financial officer or his or her designee. The specific membership and nominating guidelines for the 12 other members of the FHKC board are

repealed and replaced with a board of 12 members appointed by the governor, with confirmation by the Senate for the chair and members. Members of the board will serve three-year terms at the pleasure of the governor. A provision is also included that any current board member serving at the time of enactment may remain until July 1, 2013, to provide the Governor time to appoint a new board after the enactment of the law.

An executive steering committee of agency secretaries is created to provide management direction and support to the board and its programs. The steering committee comprises the secretary of the AHCA, the secretary of the DCF, and the state surgeon general.

Section 14 repeals s. 624.915, F.S., relating to the Florida Healthy Kids Corporation Operating Fund. This language is obsolete and the option is not being utilized by the corporation.

Section 15 creates a new section of statute, s. 624.917, F.S., relating to the Healthy Florida program. Healthy Florida will be administered by the FHKC as a program for lower income, uninsured adults who meet eligibility guidelines established by the corporation. Definitions are provided that are specific to the Healthy Florida program under s. 624.917(2), F.S.

Eligibility for the Healthy Florida program is prescribed under s. 624.917(3), F.S. To be eligible and remain eligible, an individual must be a Florida resident and meet the definition of being "newly eligible" under PPACA, maintain their eligibility with the corporation, and meet any renewal requirements to renew their coverage at least annually.

Under s. 624.917(4), F.S., enrollment may begin on October 1, 2013, with coverage effective no earlier than January 1, 2014. Enrollment in the program may occur through a third party administrator, referrals from other agencies, or through the exchange, as defined under PPACA. When an enrollee leaves the program, the FHKC is required to provide information about other insurance affordability options that may be available.

Delivery of services under Healthy Florida is provided for under s. 624.917(5), F.S. The FHKC is directed to contract with authorized insurers licensed under ch. 627, F.S., or managed care organizations under ch. 624, F.S., meeting standards established by the corporation to deliver services to enrollees. The FHKC must also establish access and network standards to ensure an adequate number of providers are available to deliver the benefits and services. Standards are to be developed in consultation with and under consideration of National Committee on Quality Assurance recommendations, stakeholders, and other existing performance standards for public and commercial populations.

Under this subsection, enrollees must also be provided a choice of plans. A lock-in period is specifically included and the corporation is directed to offer exceptions to that lock-in period that take into consideration good cause reasons and qualifying events.

The bill permits the FHKC to consider contracts that include family plans that would provide coverage for members that are enrolled across multiple state or federally funded programs. The medical loss ratio provisions of s. 624.91, F.S., are applicable to the Healthy Florida program. These provisions mirror those used for the Healthy Kids contracts.

Under s. 624.917(6), F.S., the bill provides the benefits for the Healthy Florida program. The FHKC is directed to establish a benefit plan for the program that is actuarially equivalent to the Florida Kidcare benchmark plan, excluding dental. The benefits package must also meet the alternative benefits package requirements under section 1937 of the Social Security Act. Benefits must be offered as an integrated, single package, without carve-outs.

The bill also requires that a health reimbursement account or comparable health savings account be established for Healthy Florida enrollees. The account may be established and managed either by the FHKC directly or by a contractor. Under s. 624.917(6)(a), F.S., the bill provides examples of the types of behaviors for which enrollees may be rewarded and how funds may be utilized by enrollees. Paragraph (b) of this same subsection also permits the offering of other enhanced benefits and services, provided these services generate savings to the overall plan. Paragraph (c) requires the FHKC to establish a process for the delivery of medically necessary wrap-around services that are not covered by the benchmark plan but that may be required under PPACA. The corporation's capitation process with its contracted plans for the wrap-around services will be subject to a separate reconciliation process, and the medical loss ratio provisions will also apply to the wrap-around capitation. Prior authorization processes and other utilization controls for any benefit are authorized under this subsection, if approved by the corporation.

Under s. 624.917(7), F.S., the bill establishes requirements for cost sharing under the Healthy Florida program. The FHKC is authorized to collect premiums and copayments from enrollees in accordance with federal law and in amounts that will be established annually in the General Appropriations Act. The bill provides that payment of a monthly premium may be required prior to an enrollee receiving a coverage start date under the program. Enrollees may also be required to make copayments as a condition of receiving a health care service. Providers will be responsible for collecting any copayment for a service and failure to collect any amount due from the enrollee will reduce the provider's reimbursement by the uncollected enrollee's copayment amount.

Management of the Healthy Florida program is described under s. 624.917(8), F.S. The FHKC is designated as the entity responsible for the oversight of the program. The AHCA is directed to seek the necessary state plan amendment to implement the program and to consult with the FHKC on the development of the amendment. The bill provides an amendment submission deadline by the AHCA of June 14, 2013. The AHCA is also directed under this subsection to contract with the FHKC for the administration of this program and for the purposes of the timely release of state and federal funds. The AHCA is recognized as the state's single entity for the administration of the Medicaid program.

Under s. 624.917(8)(a), F.S., the FHKC is directed to establish a grievance and resolutions process under which Healthy Florida recipients can be notified of their rights under the Medicaid Fair Hearing process as well as of any other processes that may be adopted by the corporation for the program.

Under paragraph (b), the corporation is required to establish a program integrity process to ensure compliance with the program's guidelines and to combat applicant and enrollee fraud. Timelines for the notification of when benefits may be withheld, reasons for loss of benefits, and

the identification of individuals who can be prosecuted for fraud under s. 414.39, F.S., are specified.

Cross references to the applicability of certain Medicaid statutes to the Healthy Florida program are included under s. 624.917(9), F.S. The referenced statutes are s. 409.902, F.S., relating to the AHCA as the designated single state agency for Medicaid; s. 409.9128, F.S., relating to providing emergency services and care; and, s. 409.920, F.S, relating to Medicaid provider fraud. These provisions would apply to the Healthy Florida program in the same manner in which they apply in Medicaid.

The requirement for an evaluation of the Healthy Florida program is added under s. 624.917(10), F.S. The FHKC is required to collect eligibility and enrollment data on its applicants and enrollees and utilization and encounter data from its contracted entities for health care services. Monthly enrollment reports to the Legislature are also required. The bill provides for an interim evaluation by July 1, 2015, with annual evaluations thereafter. Components of the evaluation report are detailed and include information on application and enrollment trends, utilization and cost data, and customer satisfaction.

Section 624.917(11), F.S., sets an expiration date for the program for the end of the state fiscal year in which any of several conditions happen, whichever occurs first. The trigger events are identified as the federal match falling below 90 percent; the federal match contribution falling below the "Increased FMAP for Medical Assistance for Newly Eligible Mandatory Individuals" as specified under PPACA; or a blended federal match formula for Healthy Florida and the Medicaid program is enacted under federal law or regulation which causes the overall federal contribution to be reduced compared to separate, non-blended federal contributions under the status quo.

Section 16 creates an undesignated section of law that authorizes the FHKC to make program changes to comply with objections raised by the Department of Health and Human Services that are necessary to gain approval of the Healthy Florida program in compliance with PPACA, upon giving notice to the Legislature of the proposed changes. The Healthy Florida program requires approval of an amendment to the state's Medicaid state plan prior to implementation and to receive federal funds. The section also includes a conflict of laws interpretation clause that provides that if there is conflict between any provision in this section and PPACA, the provision should be interpreted as an intention to comply with federal requirements.

Section 17 provides that the act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill explicitly requires the Florida Healthy Kids Corporation to conduct its activities and those of any committees formed by the corporation, in accordance with chapters 119

and 286, F.S. The FHKC currently provides notice of meetings of its board and committees on its website at www.healthykids.org and posts materials for board meetings on the same site within timeframes set through board policy.

The FHKC also responds to requests for public records, within the additional exemptions and limitations of s. 409.821, F.S. and federal law which protect certain individual and identifying information of applicants and enrollees to the Florida Kidcare program.

The provisions of this bill would expressly require compliance with state public records and open meetings requirements.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida's Social Services Estimating Conference (SSEC) estimates that 438,113 individuals would become newly eligible and would enroll in Florida Medicaid during the 2013-14 state fiscal year if the program's eligibility threshold were expanded to 138 percent of FPL beginning January 1, 2014. An estimated 377,813 of those newly eligible enrollees are currently uninsured while the remaining 60,300 are likely to terminate their existing individual coverage in favor of Medicaid after becoming eligible. The Healthy Florida program would expect roughly the same estimated enrollees if implemented.

The bill contemplates the corporation contracting with insurers and managed care organizations to deliver comprehensive health insurance coverage to uninsured individuals who may or may not be seeking health care services now. Physicians, hospitals, and other health care providers may be impacted by a potentially higher demand for their services after Healthy Florida is implemented.

C. Government Sector Impact:

The bill directs AHCA to seek the PPACA's enhanced federal match for the Healthy Florida program, which would result in 100 percent federal funding for newly eligible enrollees until January 1, 2017. To cover the estimated 438,113 new enrollees in state fiscal year 2013-14, $1.26 billion would be expended, according to the SSEC.

Additionally, under eligibility expansion, the SSEC estimates that 70,647 Kidcare enrollees would become newly eligible for Medicaid and could transfer out of Kidcare. In

such a transfer, the federal match would be the same as the Kidcare matching rate, which is 71.03 percent for state fiscal year 2013-14. The state and federal expenditures to cover those children would be the same between the two programs.

The PPACA also imposes a federal health insurance tax (HIT) on health insurance providers beginning January 1, 2014, to be divided among insurers according to a formula based on each insurer's net premiums, including those contracted under Medicaid or Healthy Florida. Federal guidance indicates that states must account for the HIT to be incurred by managed care plans when calculating rates paid by a state Medicaid program to the plans. For the newly eligible population, the federal match for the HIT mirrors the match provided in the PPACA, which means a 100 percent federal match for the HIT during the 2013-14 state fiscal year. For Kidcare transfers, however, the federal match will mirror the Kidcare matching rate. If all 70,647 children described above were to transfer from Kidcare to Healthy Florida, an estimated $254,151 of general revenue would be required to compensate insurers and managed care plans for the HIT in state fiscal year 2013-14.

The FHKC will need additional resources to adapt its existing eligibility and enrollment systems to accommodate a new program. Also, the FHKC will need to adjust and expand its administrative structure and professional staff to manage new contracts for the Healthy Florida program. The fiscal impact of the FHKC's additional resource needs was not available as of the publication of this analysis.

VI. Technical Deficiencies:

The bill makes two references to s. 624.91(8), F.S., on lines 1096 and 1102. Those two references should instead be s. 624.917(3). In the context of the bill language, "s. 624.91(8)" should be replaced with "subsection (3)" on both lines.

On line 1187, the bill makes reference to chapter 624, F.S. The correct reference should be part I of chapter 641, F.S.

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.

FOR CONSIDERATION By the Committee on Appropriations

576-02536-13 20137038__

A bill to be entitled

An act relating to health care; amending s. 409.811, F.S.; revising and providing definitions; amending s. 409.813, F.S.; revising the components of the Florida Kidcare program; prohibiting a cause of action from arising against the Florida Healthy Kids Corporation for failure to make health services available; amending s. 409.8132, F.S.; revising the eligibility of the Medikids program component; revising the enrollment requirements of the Medikids program component; amending s. 409.8134, F.S.; conforming provisions to changes made by the act; amending s. 409.814, F.S.; revising eligibility requirements for the Florida Kidcare program; amending s. 409.815, F.S.; revising the minimum health benefits coverage under the Florida Kidcare Act; deleting obsolete provisions; amending ss. 409.816 and 409.8177, F.S.; conforming provisions to changes made by the act; repealing s. 409.817, F.S., relating to the approval of health benefits coverage and financial assistance; repealing s. 409.8175, F.S., relating to delivery of services in rural counties; amending s. 409.818, F.S.; revising the duties of the Department of Children and Families and the Agency for Health Care Administration with regard to the Florida Kidcare Act; deleting the duties of the Department of Health and the Office of Insurance Regulation with regard to the Florida Kidcare Act; amending s. 409.820, F.S.; requiring the Department of Health, in consultation

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

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with the agency and the Florida Healthy Kids Corporation, to develop a minimum set of pediatric and adolescent quality assurance and access standards for all program components; amending s. 624.91, F.S.; revising the legislative intent of the Florida Healthy Kids Corporation Act to include the Healthy Florida program; revising the medical loss ratio requirements for the contracts for the Florida Healthy Kids Corporation; modifying the membership of the Florida Healthy Kids Corporation's board of directors; creating an executive steering committee; requiring additional corporate compliance requirements for the Florida Healthy Kids Corporation; revising participation guidelines for non-subsidized enrollees in the Healthy Kids program; repealing s. 624.915, F.S., relating to the operating fund of the Florida Healthy Kids Corporation; creating s. 624.917, F.S.; creating the Healthy Florida program; providing definitions; providing eligibility and enrollment requirements; authorizing the Florida Healthy Kids Corporation to contract with certain insurers; requiring the corporation to establish a benefits package and a process for payment of services; authorizing the corporation to collect premiums and copayments; requiring the corporation to oversee the Healthy Florida program and to establish a grievance process and integrity process; providing applicability of certain state laws for administration of the Healthy Florida program; requiring the corporation to

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

59 collect certain data and to submit enrollment reports
60 and interim independent evaluations to the
61 Legislature; providing for expiration of the program;
62 providing an implementation and interpretation clause;
63 providing an effective date.
64
65 Be It Enacted by the Legislature of the State of Florida:
66
67 Section 1. Section 409.811, Florida Statutes, is amended to
68 read:
69 409.811 Definitions relating to Florida Kidcare Act.—As
70 used in ss. 409.810-409.821, the term:
71 (1) "Actuarially equivalent" means that:
72 (a) The aggregate value of the benefits included in health
73 benefits coverage is equal to the value of the benefits in the
74 benchmark benefit plan; and
75 (b) The benefits included in health benefits coverage are
76 substantially similar to the benefits included in the benchmark
77 benefit plan, except that preventive health services must be the
78 same as in the benchmark benefit plan.
79 (2) "Agency" means the Agency for Health Care
80 Administration.
81 (3) "Applicant" means a parent or guardian of a child or a
82 child whose disability of nonage has been removed under chapter
83 743, who applies for determination of eligibility for health
84 benefits coverage under ss. 409.810-409.821.
85 (4) "Child benchmark benefit plan" means the form and level
86 of health benefits coverage established in s. 409.815.
87 (5) "Child" means any person under 19 years of age.

88 (6) "Child with special health care needs" means a child
89 whose serious or chronic physical or developmental condition
90 requires extensive preventive and maintenance care beyond that
91 required by typically healthy children. Health care utilization
92 by such a child exceeds the statistically expected usage of the
93 normal child adjusted for chronological age, and such a child
94 often needs complex care requiring multiple providers,
95 rehabilitation services, and specialized equipment in a number
96 of different settings.
97 (7) "Children's Medical Services Network" or "network"
98 means a statewide managed care service system as defined in s.
99 391.021(1).
100 (8) "CHIP" means the children's health insurance program as
101 authorized under Title XXI of the Social Security Act, and its
102 regulations, ss. 409.810-820, and as administered in this state
103 by the agency, the department and the Florida Healthy Kids
104 Corporation, as appropriate to their responsibilities.
105 (9) "Combined eligibility notice" means an eligibility
106 notice that informs an applicant or enrollee or multiple family
107 members of a household, when feasible, of eligibility for each
108 of the insurance affordability programs and enrollment into a
109 program or exchange plan. A combined eligibility form must be
110 issued by the last agency or department to make an eligibility,
111 renewal or denial determination. The form must meet all of the
112 federal and state law and regulatory requirements no later than
113 January 1, 2014.
114 ~~(8) "Community rate" means a method used to develop~~
115 ~~premiums for a health insurance plan that spreads financial risk~~
116 ~~across a large population and allows adjustments only for age,~~

117 ~~gender, family composition, and geographic area.~~
118 (10)~~(9)~~ "Department" means the Department of Health.
119 (11)~~(10)~~ "Enrollee" means a child who has been determined
120 eligible for and is receiving coverage under ss. 409.810-
121 409.821.
122 ~~(11) "Family" means the group or the individuals whose~~
123 ~~income is considered in determining eligibility for the Florida~~
124 ~~Kidcare program. The family includes a child with a parent or~~
125 ~~caretaker relative who resides in the same house or living unit~~
126 ~~or, in the case of a child whose disability of nonage has been~~
127 ~~removed under chapter 743, the child. The family may also~~
128 ~~include other individuals whose income and resources are~~
129 ~~considered in whole or in part in determining eligibility of the~~
130 ~~child.~~
131 ~~(12) "Family income" means cash received at periodic~~
132 ~~intervals from any source, such as wages, benefits,~~
133 ~~contributions, or rental property. Income also may include any~~
134 ~~money that would have been counted as income under the Aid to~~
135 ~~Families with Dependent Children (AFDC) state plan in effect~~
136 ~~prior to August 22, 1996.~~
137 (12)~~(13)~~ "Florida Kidcare program," "Kidcare program," or
138 "program" means the health benefits program administered through
139 ss. 409.810-409.821.
140 (13)~~(14)~~ "Guarantee issue" means that health benefits
141 coverage must be offered to an individual regardless of the
142 individual's health status, preexisting condition, or claims
143 history.
144 (14)~~(15)~~ "Health benefits coverage" means protection that
145 provides payment of benefits for covered health care services or

146 that otherwise provides, either directly or through arrangements
147 with other persons, covered health care services on a prepaid
148 per capita basis or on a prepaid aggregate fixed-sum basis.
149 (15)~~(16)~~ "Health insurance plan" means health benefits
150 coverage under the following:
151 (a) A health plan offered by any certified health
152 maintenance organization or authorized health insurer, except a
153 plan that is limited to the following: a limited benefit,
154 specified disease, or specified accident; hospital indemnity;
155 accident only; limited benefit convalescent care; Medicare
156 supplement; credit disability; dental; vision; long-term care;
157 disability income; coverage issued as a supplement to another
158 health plan; workers' compensation liability or other insurance;
159 or motor vehicle medical payment only; or
160 (b) An employee welfare benefit plan that includes health
161 benefits established under the Employee Retirement Income
162 Security Act of 1974, as amended.
163 (16) "Household income" means the group or the individual
164 whose income is considered in determining eligibility for the
165 Florida Kidcare program. The term "household" has the same
166 meaning as provided in section 36B(d)(2) of the Internal Revenue
167 Code of 1986.
168 (17) "Medicaid" means the medical assistance program
169 authorized by Title XIX of the Social Security Act, and
170 regulations thereunder, and ss. 409.901-409.920, as administered
171 in this state by the agency.
172 (18) "Medically necessary" means the use of any medical
173 treatment, service, equipment, or supply necessary to palliate
174 the effects of a terminal condition, or to prevent, diagnose,

175 correct, cure, alleviate, or preclude deterioration of a
176 condition that threatens life, causes pain or suffering, or
177 results in illness or infirmity and which is:
178 (a) Consistent with the symptom, diagnosis, and treatment
179 of the enrollee's condition;
180 (b) Provided in accordance with generally accepted
181 standards of medical practice;
182 (c) Not primarily intended for the convenience of the
183 enrollee, the enrollee's family, or the health care provider;
184 (d) The most appropriate level of supply or service for the
185 diagnosis and treatment of the enrollee's condition; and
186 (e) Approved by the appropriate medical body or health care
187 specialty involved as effective, appropriate, and essential for
188 the care and treatment of the enrollee's condition.
189 (19) "Medikids" means a component of the Florida Kidcare
190 program of medical assistance authorized by Title XXI of the
191 Social Security Act, and regulations thereunder, and s.
192 409.8132, as administered in the state by the agency.
193 (20) "Modified Adjusted Gross Income (MAGI)" means the
194 individual or household's annual adjusted gross income as
195 defined in 26 U.S.C. s. 36 of the Internal Revenue Code of 1986
196 which is used to determine eligibility under the Florida Kidcare
197 program.
198 (21) "Patient Protection and Affordable Care Act" or "Act"
199 means the federal law enacted as Public Law 111-148, as further
200 amended by the federal Health Care and Education Reconciliation
201 Act of 2010, Public Law 111-152, and any amendments,
202 regulations, or guidance thereunder, issued under those acts.
203 (22) ~~(20)~~ "Preexisting condition exclusion" means, with

204 respect to coverage, a limitation or exclusion of benefits
205 relating to a condition based on the fact that the condition was
206 present before the date of enrollment for such coverage, whether
207 or not any medical advice, diagnosis, care, or treatment was
208 recommended or received before such date.
209 (23) ~~(21)~~ "Premium" means the entire cost of a health
210 insurance plan, including the administration fee or the risk
211 assumption charge.
212 (24) ~~(22)~~ "Premium assistance payment" means the monthly
213 consideration paid by the agency per enrollee in the Florida
214 Kidcare program towards health insurance premiums.
215 (25) ~~(23)~~ "Qualified alien" means an alien as defined in 8
216 U.S.C. s. 1641 (b) and (c) ~~s. 431 of the Personal Responsibility~~
217 ~~and Work Opportunity Reconciliation Act of 1996, as amended,~~
218 ~~Pub. L. No. 104-193~~.
219 (26) ~~(24)~~ "Resident" means a United States citizen, or
220 qualified alien, who is domiciled in this state.
221 (27) ~~(25)~~ "Rural county" means a county having a population
222 density of less than 100 persons per square mile, or a county
223 defined by the most recent United States Census as rural, in
224 which there is no prepaid health plan participating in the
225 Medicaid program as of July 1, 1998.
226 ~~(26) "Substantially similar" means that, with respect to~~
227 ~~additional services as defined in s. 2103(c)(2) of Title XXI of~~
228 ~~the Social Security Act, these services must have an actuarial~~
229 ~~value equal to at least 75 percent of the actuarial value of the~~
230 ~~coverage for that service in the benchmark benefit plan and,~~
231 ~~with respect to the basic services as defined in s. 2103(c)(1)~~
232 ~~of Title XXI of the Social Security Act, these services must be~~

233 ~~the same as the services in the benchmark benefit plan.~~
234 Section 2. Section 409.813, Florida Statutes, is amended to
235 read:
236 409.813 Health benefits coverage; program components;
237 entitlement and nonentitlement.—
238 (1) The Florida Kidcare program includes health benefits
239 coverage provided to children through the following program
240 components, which shall be marketed as the Florida Kidcare
241 program:
242 (a) Medicaid;
243 (b) Medikids as created in s. 409.8132;
244 (c) The Florida Healthy Kids Corporation as created in s.
245 624.91; and
246 ~~(d) Employer sponsored group health insurance plans~~
247 ~~approved under ss. 409.810-409.821; and~~
248 (d) ~~(e)~~ The Children's Medical Services network established
249 in chapter 391.
250 (2) Except for Title XIX-funded Florida Kidcare program
251 coverage under the Medicaid program, coverage under the Florida
252 Kidcare program is not an entitlement. No cause of action shall
253 arise against the state, the department, the Department of
254 Children and Family Services, ~~or~~ the agency, or the Florida
255 Healthy Kids Corporation for failure to make health services
256 available to any person under ss. 409.810-409.821.
257 Section 3. Subsections (6) and (7) of section 409.8132,
258 Florida Statutes, are amended to read:
259 409.8132 Medikids program component.—
260 (6) ELIGIBILITY.—
261 (a) A child who has attained the age of 1 year but who is

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262 under the age of 5 years is eligible to enroll in the Medikids
263 program component of the Florida Kidcare program, if the child
264 is a member of a family that has a family income which exceeds
265 the Medicaid applicable income level as specified in s. 409.903,
266 but which is equal to or below 200 percent of the current
267 federal poverty level. In determining the eligibility of such a
268 child, an assets test is not required. ~~A child who is eligible~~
269 ~~for Medikids may elect to enroll in Florida Healthy Kids~~
270 ~~coverage or employer sponsored group coverage. However, a child~~
271 ~~who is eligible for Medikids may participate in the Florida~~
272 ~~Healthy Kids program only if the child has a sibling~~
273 ~~participating in the Florida Healthy Kids program and the~~
274 ~~child's county of residence permits such enrollment.~~
275 (b) The provisions of s. 409.814 apply to the Medikids
276 program.
277 (7) ENROLLMENT.—Enrollment in the Medikids program
278 component may occur at any time throughout the year. A child may
279 not receive services under the Medikids program until the child
280 is enrolled in a managed care plan or MediPass. Once determined
281 eligible, an applicant may receive choice counseling and select
282 a managed care plan or MediPass. The agency may initiate
283 mandatory assignment for a Medikids applicant who has not chosen
284 a managed care plan or MediPass provider after the applicant's
285 voluntary choice period ends. An applicant may select MediPass
286 under the Medikids program component only in counties that have
287 fewer than two managed care plans available to serve Medicaid
288 recipients ~~and only if the federal Health Care Financing~~
289 ~~Administration determines that MediPass constitutes "health~~
290 ~~insurance coverage" as defined in Title XXI of the Social~~

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291 ~~Security Act~~.
292 Section 4. Subsection (2) of section 409.8134, Florida
293 Statutes, is amended to read:
294 409.8134 Program expenditure ceiling; enrollment.—
295 (2) The Florida Kidcare program may conduct enrollment
296 continuously throughout the year.—
297 (a) Children eligible for coverage under the Title XXI-
298 funded Florida Kidcare program shall be enrolled on a first-
299 come, first-served basis using the date the enrollment
300 application is received. Enrollment shall immediately cease when
301 the expenditure ceiling is reached. Year-round enrollment shall
302 only be held if the Social Services Estimating Conference
303 determines that sufficient federal and state funds will be
304 available to finance the increased enrollment.
305 (b) The application for the Florida Kidcare program is
306 valid for a period of 120 days after the date it was received.
307 At the end of the 120-day period, if the applicant has not been
308 enrolled in the program, the application is invalid and the
309 applicant shall be notified of the action. The applicant may
310 reactivate the application after notification of the action
311 taken by the program.
312 (c) Except for the Medicaid program, whenever the Social
313 Services Estimating Conference determines that there are
314 presently, or will be by the end of the current fiscal year,
315 insufficient funds to finance the current or projected
316 enrollment in the Florida Kidcare program, all additional
317 enrollment must cease and additional enrollment may not resume
318 until sufficient funds are available to finance such enrollment.
319 Section 5. Section 409.814, Florida Statutes, is amended to

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320 read:
321 409.814 Eligibility.—A child who has not reached 19 years
322 of age whose household ~~family~~ income is equal to or below 200
323 percent of the federal poverty level is eligible for the Florida
324 Kidcare program as provided in this section. If an enrolled
325 individual is determined to be ineligible for coverage, he or
326 she must be immediately disenrolled from the respective Florida
327 Kidcare program component and referred to another insurance
328 affordability program, if appropriate, through a combined
329 eligibility notice.
330 (1) A child who is eligible for Medicaid coverage under s.
331 409.903 or s. 409.904 must be offered the opportunity to enroll
332 ~~enrolled~~ in Medicaid ~~and is not eligible to receive health~~
333 ~~benefits under any other health benefits coverage authorized~~
334 ~~under the Florida Kidcare program~~. A child who is eligible for
335 Medicaid and opts to enroll in CHIP may disenroll from CHIP at
336 any time and transition to Medicaid. This transition must occur
337 without any break in coverage.
338 (2) A child who is not eligible for Medicaid, but who is
339 eligible for the Florida Kidcare program, may obtain health
340 benefits coverage under any of the other components listed in s.
341 409.813 if such coverage is approved and available in the county
342 in which the child resides.
343 (3) A Title XXI-funded child who is eligible for the
344 Florida Kidcare program who is a child with special health care
345 needs, as determined through a medical or behavioral screening
346 instrument, is eligible for health benefits coverage from and
347 shall be assigned to and may opt out of the Children's Medical
348 Services Network.

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349 (4) The following children are not eligible to receive
350 Title XXI-funded premium assistance for health benefits coverage
351 under the Florida Kidcare program, except under Medicaid if the
352 child would have been eligible for Medicaid under s. 409.903 or
353 s. 409.904 as of June 1, 1997:
354 (a) A child who is covered under a family member's group
355 health benefit plan or under other private or employer health
356 insurance coverage, if the cost of the child's participation is
357 not greater than 5 percent of the household's ~~family's~~ income.
358 If a child is otherwise eligible for a subsidy under the Florida
359 Kidcare program and the cost of the child's participation in the
360 family member's health insurance benefit plan is greater than 5
361 percent of the household's ~~family's~~ income, the child may enroll
362 in the appropriate subsidized Kidcare program.
363 ~~(b) A child who is seeking premium assistance for the~~
364 ~~Florida Kidcare program through employer-sponsored group~~
365 ~~coverage, if the child has been covered by the same employer's~~
366 ~~group coverage during the 60 days before the family submitted an~~
367 ~~application for determination of eligibility under the program.~~
368 (b) ~~(c)~~ A child who is an alien, but who does not meet the
369 definition of qualified alien, in the United States.
370 (c) ~~(d)~~ A child who is an inmate of a public institution or
371 a patient in an institution for mental diseases.
372 (d) ~~(e)~~ A child who is otherwise eligible for premium
373 assistance for the Florida Kidcare program and has had his or
374 her coverage in an employer-sponsored or private health benefit
375 plan voluntarily canceled in the last 60 days, except those
376 children whose coverage was voluntarily canceled for good cause,
377 including, but not limited to, the following circumstances:

378 1. The cost of participation in an employer-sponsored
379 health benefit plan is greater than 5 percent of the household's
380 modified adjusted gross ~~family's~~ income;
381 2. The parent lost a job that provided an employer-
382 sponsored health benefit plan for children;
383 3. The parent who had health benefits coverage for the
384 child is deceased;
385 4. The child has a medical condition that, without medical
386 care, would cause serious disability, loss of function, or
387 death;
388 5. The employer of the parent canceled health benefits
389 coverage for children;
390 6. The child's health benefits coverage ended because the
391 child reached the maximum lifetime coverage amount;
392 7. The child has exhausted coverage under a COBRA
393 continuation provision;
394 8. The health benefits coverage does not cover the child's
395 health care needs; or
396 9. Domestic violence led to loss of coverage.
397 ~~(5) A child who is otherwise eligible for the Florida~~
398 ~~Kidcare program and who has a preexisting condition that~~
399 ~~prevents coverage under another insurance plan as described in~~
400 ~~paragraph (4)(a) which would have disqualified the child for the~~
401 ~~Florida Kidcare program if the child were able to enroll in the~~
402 ~~plan is eligible for Florida Kidcare coverage when enrollment is~~
403 ~~possible.~~
404 (5) ~~(6)~~ A child whose household's modified adjusted gross
405 ~~family~~ income is above 200 percent of the federal poverty level
406 or a child who is excluded under the provisions of subsection

407 (4) may participate in the Florida Kidcare program as provided
408 in s. 409.8132 or, if the child is ineligible for Medikids by
409 reason of age, in the Florida Healthy Kids program, subject to
410 the following:
411 (a) The family is not eligible for premium assistance
412 payments and must pay the full cost of the premium, including
413 any administrative costs.
414 (b) The board of directors of the Florida Healthy Kids
415 Corporation may offer a reduced benefit package to these
416 children in order to limit program costs for such families.
417 (c) By August 15, 2013, the Florida Healthy Kids
418 Corporation shall notify all current full-pay enrollees of the
419 availability of the exchange and how to access other insurance
420 affordability options. New applications for full-pay coverage
421 may not be accepted after September 30, 2013.
422 (6) ~~(7)~~ Once a child is enrolled in the Florida Kidcare
423 program, the child is eligible for coverage for 12 months
424 without a redetermination or reverification of eligibility, if
425 the family continues to pay the applicable premium. Eligibility
426 for program components funded through Title XXI of the Social
427 Security Act terminates when a child attains the age of 19. A
428 child who has not attained the age of 5 and who has been
429 determined eligible for the Medicaid program is eligible for
430 coverage for 12 months without a redetermination or
431 reverification of eligibility.
432 (7) ~~(8)~~ When determining or reviewing a child's eligibility
433 under the Florida Kidcare program, the applicant shall be
434 provided with reasonable notice of changes in eligibility which
435 may affect enrollment in one or more of the program components.

436 If a transition from one program component to another is
437 authorized, there shall be cooperation between the program
438 components and the affected family which promotes continuity of
439 health care coverage. Any authorized transfers must be managed
440 within the program's overall appropriated or authorized levels
441 of funding. Each component of the program shall establish a
442 reserve to ensure that transfers between components will be
443 accomplished within current year appropriations. These reserves
444 shall be reviewed by each convening of the Social Services
445 Estimating Conference to determine the adequacy of such reserves
446 to meet actual experience.
447 (8) ~~(9)~~ In determining the eligibility of a child, an assets
448 test is not required. Each applicant shall provide documentation
449 during the application process and the redetermination process,
450 including, but not limited to, the following:
451 (a) Proof of household ~~family~~ income, which must be
452 verified electronically to determine financial eligibility for
453 the Florida Kidcare program. Written documentation, which may
454 include wages and earnings statements or pay stubs, W-2 forms,
455 or a copy of the applicant's most recent federal income tax
456 return, is required only if the electronic verification is not
457 available or does not substantiate the applicant's income. This
458 paragraph expires December 31, 2013.
459 (b) A statement from all applicable, employed household
460 ~~family~~ members that:
461 1. Their employers do not sponsor health benefit plans for
462 employees;
463 2. The potential enrollee is not covered by an employer-
464 sponsored health benefit plan; or

465 3. The potential enrollee is covered by an employer-
466 sponsored health benefit plan and the cost of the employer-
467 sponsored health benefit plan is more than 5 percent of the
468 household's modified adjusted gross ~~family's~~ income.
469 (c) To enroll in the Children's Medical Services Network, a
470 completed application, including a clinical screening.
471 (d) Effective January 1, 2014, eligibility will be
472 determined through electronic matching using the federal hub and
473 other resources. Written documentation from the applicant may be
474 accepted if the electronic verification does not substantiate
475 the applicant's income or if there has been a change in
476 circumstances.
477 (9)~~(10)~~ Subject to paragraph (4)(a), the Florida Kidcare
478 program shall withhold benefits from an enrollee if the program
479 obtains evidence that the enrollee is no longer eligible,
480 submitted incorrect or fraudulent information in order to
481 establish eligibility, or failed to provide verification of
482 eligibility. The applicant or enrollee shall be notified that
483 because of such evidence program benefits will be withheld
484 unless the applicant or enrollee contacts a designated
485 representative of the program by a specified date, which must be
486 within 10 working days after the date of notice, to discuss and
487 resolve the matter. The program shall make every effort to
488 resolve the matter within a timeframe that will not cause
489 benefits to be withheld from an eligible enrollee.
490 (10)~~(11)~~ The following individuals may be subject to
491 prosecution in accordance with s. 414.39:
492 (a) An applicant obtaining or attempting to obtain benefits
493 for a potential enrollee under the Florida Kidcare program when

494 the applicant knows or should have known the potential enrollee
495 does not qualify for the Florida Kidcare program.
496 (b) An individual who assists an applicant in obtaining or
497 attempting to obtain benefits for a potential enrollee under the
498 Florida Kidcare program when the individual knows or should have
499 known the potential enrollee does not qualify for the Florida
500 Kidcare program.
501 Section 6. Paragraphs (g), (k), (q), and (w) of subsection
502 (2) of section 409.815, Florida Statutes, are amended to read:
503 409.815 Health benefits coverage; limitations.—
504 (2) BENCHMARK BENEFITS.—In order for health benefits
505 coverage to qualify for premium assistance payments for an
506 eligible child under ss. 409.810-409.821, the health benefits
507 coverage, except for coverage under Medicaid and Medikids, must
508 include the following minimum benefits, as medically necessary.
509 (g) *Behavioral health services.*—
510 1. Mental health benefits include:
511 a. Inpatient services, ~~limited to 30 inpatient days per~~
512 ~~contract year~~ for psychiatric admissions, or residential
513 services in facilities licensed under s. 394.875(6) or s.
514 395.003 in lieu of inpatient psychiatric admissions~~; however, a~~
515 ~~minimum of 10 of the 30 days shall be available only for~~
516 ~~inpatient psychiatric services~~ if authorized by a physician; and
517 b. Outpatient services, including outpatient visits for
518 psychological or psychiatric evaluation, diagnosis, and
519 treatment by a licensed mental health professional~~, limited to~~
520 ~~40 outpatient visits each contract year~~.
521 2. Substance abuse services include:
522 a. Inpatient services, ~~limited to 7 inpatient days per~~

523 ~~contract year~~ for medical detoxification only and ~~30 days of~~
524 residential services; and
525 b. Outpatient services, including evaluation, diagnosis,
526 and treatment by a licensed practitioner~~, limited to 40~~
527 ~~outpatient visits per contract year~~.
528
529 ~~Effective October 1, 2009,~~ Covered services include inpatient
530 and outpatient services for mental and nervous disorders as
531 defined in the most recent edition of the Diagnostic and
532 Statistical Manual of Mental Disorders published by the American
533 Psychiatric Association. Such benefits include psychological or
534 psychiatric evaluation, diagnosis, and treatment by a licensed
535 mental health professional and inpatient, outpatient, and
536 residential treatment of substance abuse disorders. Any benefit
537 limitations, including duration of services, number of visits,
538 or number of days for hospitalization or residential services,
539 shall not be any less favorable than those for physical
540 illnesses generally. The program may also implement appropriate
541 financial incentives, peer review, utilization requirements, and
542 other methods used for the management of benefits provided for
543 other medical conditions in order to reduce service costs and
544 utilization without compromising quality of care.
545 (k) *Hospice services.*—Covered services include reasonable
546 and necessary services for palliation or management of an
547 enrollee's terminal illness~~, with the following exceptions:~~
548 ~~1. Once a family elects to receive hospice care for an~~
549 ~~enrollee, other services that treat the terminal condition will~~
550 ~~not be covered; and~~
551 ~~2. Services required for conditions totally unrelated to~~

552 ~~the terminal condition are covered to the extent that the~~
553 ~~services are included in this section~~.
554 (q) *Dental services.* ~~Effective October 1, 2009,~~ Dental
555 services shall be covered as required under federal law and may
556 also include those dental benefits provided to children by the
557 Florida Medicaid program under s. 409.906(6).
558 (w) *Reimbursement of federally qualified health centers and*
559 *rural health clinics.* ~~Effective October 1, 2009,~~ Payments for
560 services provided to enrollees by federally qualified health
561 centers and rural health clinics under this section shall be
562 reimbursed using the Medicaid Prospective Payment System as
563 provided for under s. 2107(e)(1)(D) of the Social Security Act.
564 If such services are paid for by health insurers or health care
565 providers under contract with the Florida Healthy Kids
566 Corporation, such entities are responsible for this payment. The
567 agency may seek any available federal grants to assist with this
568 transition.
569 Section 7. Section 409.816, Florida Statutes, is amended to
570 read:
571 409.816 Limitations on premiums and cost-sharing.—The
572 following limitations on premiums and cost-sharing are
573 established for the program.
574 (1) Enrollees who receive coverage under the Medicaid
575 program may not be required to pay:
576 (a) Enrollment fees, premiums, or similar charges; or
577 (b) Copayments, deductibles, coinsurance, or similar
578 charges.
579 (2) Enrollees in households that have ~~families with~~ a
580 modified adjusted gross ~~family~~ income equal to or below 150

581 percent of the federal poverty level, who are not receiving
582 coverage under the Medicaid program, may not be required to pay:
583 (a) Enrollment fees, premiums, or similar charges that
584 exceed the maximum monthly charge permitted under s. 1916(b)(1)
585 of the Social Security Act; or
586 (b) Copayments, deductibles, coinsurance, or similar
587 charges that exceed a nominal amount, as determined consistent
588 with regulations referred to in s. 1916(a)(3) of the Social
589 Security Act. However, such charges may not be imposed for
590 preventive services, including well-baby and well-child care,
591 age-appropriate immunizations, and routine hearing and vision
592 screenings.
593 (3) Enrollees in households that have ~~families with~~ a
594 modified adjusted gross ~~family~~ income above 150 percent of the
595 federal poverty level who are not receiving coverage under the
596 Medicaid program or who are not eligible under s. 409.814(5) ~~s.~~
597 ~~409.814(6)~~ may be required to pay enrollment fees, premiums,
598 copayments, deductibles, coinsurance, or similar charges on a
599 sliding scale related to income, except that the total annual
600 aggregate cost-sharing with respect to all children in a
601 household ~~family~~ may not exceed 5 percent of the household's
602 modified adjusted ~~family's~~ income. However, copayments,
603 deductibles, coinsurance, or similar charges may not be imposed
604 for preventive services, including well-baby and well-child
605 care, age-appropriate immunizations, and routine hearing and
606 vision screenings.
607 Section 8. Section 409.817, Florida Statutes, is repealed.
608 Section 9. Section 409.8175, Florida Statutes, is repealed.
609 Section 10. Paragraph (c) of subsection (1) of section

610 409.8177, Florida Statutes, is amended to read:
611 409.8177 Program evaluation.—
612 (1) The agency, in consultation with the Department of
613 Health, the Department of Children and Family Services, and the
614 Florida Healthy Kids Corporation, shall contract for an
615 evaluation of the Florida Kidcare program and shall by January 1
616 of each year submit to the Governor, the President of the
617 Senate, and the Speaker of the House of Representatives a report
618 of the program. In addition to the items specified under s. 2108
619 of Title XXI of the Social Security Act, the report shall
620 include an assessment of crowd-out and access to health care, as
621 well as the following:
622 (c) The characteristics of the children and families
623 assisted under the program, including ages of the children,
624 household ~~family~~ income, and access to or coverage by other
625 health insurance prior to the program and after disenrollment
626 from the program.
627 Section 11. Section 409.818, Florida Statutes, is amended
628 to read:
629 409.818 Administration.—In order to implement ss. 409.810-
630 409.821, the following agencies shall have the following duties:
631 (1) The Department of Children and Family Services shall:
632 (a) Maintain ~~Develop~~ a simplified eligibility determination
633 and renewal process ~~application mail-in form to be used for~~
634 ~~determining the eligibility of children for coverage~~ under the
635 Florida Kidcare program, in consultation with the agency, the
636 Department of Health, and the Florida Healthy Kids Corporation.
637 The simplified eligibility process ~~application form~~ must include
638 ~~an item that provides~~ an opportunity for the applicant to

639 indicate whether coverage is being sought for a child with
640 special health care needs. Families applying for children's
641 Medicaid coverage must also be able to use the simplified
642 application process ~~form~~ without having to pay a premium.
643 (b) Establish and maintain the eligibility determination
644 process under the program except as specified in subsection (3),
645 which includes the following: ~~(5).~~
646 1. The department shall directly, or through the services
647 of a contracted third-party administrator, establish and
648 maintain a process for determining eligibility of children for
649 coverage under the program. The eligibility determination
650 process must be used solely for determining eligibility of
651 applicants for health benefits coverage under the program. The
652 eligibility determination process must include an initial
653 determination of eligibility for any coverage offered under the
654 program, as well as a redetermination or reverification of
655 eligibility each subsequent 6 months. ~~Effective January 1, 1999,~~
656 A child who has not attained the age of 5 and who has been
657 determined eligible for the Medicaid program is eligible for
658 coverage for 12 months without a redetermination or
659 reverification of eligibility. In conducting an eligibility
660 determination, the department shall determine if the child has
661 special health care needs.
662 2. The department, in consultation with the Agency for
663 Health Care Administration and the Florida Healthy Kids
664 Corporation, shall develop procedures for redetermining
665 eligibility which enable applicants and enrollees ~~a family~~ to
666 easily update any change in circumstances which could affect
667 eligibility.

668 3. The department may accept changes in ~~a family's~~ status
669 as reported to the department by the Florida Healthy Kids
670 Corporation or the exchange without requiring a new application
671 ~~from the family~~. Redetermination of a child's eligibility for
672 Medicaid may not be linked to a child's eligibility
673 determination for other programs.
674 4. The department, in consultation with the agency and the
675 Florida Healthy Kids Corporation, shall develop a combined
676 eligibility notice to inform applicants and enrollees of their
677 application or renewal status, as appropriate. The content must
678 be coordinated to meet all federal and state requirements under
679 the Act.
680 (c) Inform program applicants about eligibility
681 determinations and provide information about eligibility of
682 applicants to the Florida Kidcare program and to insurers and
683 their agents~~, through a centralized coordinating office~~.
684 (d) Adopt rules necessary for conducting program
685 eligibility functions.
686 ~~(2) The Department of Health shall:~~
687 ~~(a) Design an eligibility intake process for the program,~~
688 ~~in coordination with the Department of Children and Family~~
689 ~~Services, the agency, and the Florida Healthy Kids Corporation.~~
690 ~~The eligibility intake process may include local intake points~~
691 ~~that are determined by the Department of Health in coordination~~
692 ~~with the Department of Children and Family Services.~~
693 ~~(b) Chair a state level Florida Kidcare coordinating~~
694 ~~council to review and make recommendations concerning the~~
695 ~~implementation and operation of the program. The coordinating~~
696 ~~council shall include representatives from the department, the~~

697 ~~Department of Children and Family Services, the agency, the~~
698 ~~Florida Healthy Kids Corporation, the Office of Insurance~~
699 ~~Regulation of the Financial Services Commission, local~~
700 ~~government, health insurers, health maintenance organizations,~~
701 ~~health care providers, families participating in the program,~~
702 ~~and organizations representing low income families.~~
703 ~~(c) In consultation with the Florida Healthy Kids~~
704 ~~Corporation and the Department of Children and Family Services,~~
705 ~~establish a toll free telephone line to assist families with~~
706 ~~questions about the program.~~
707 ~~(d) Adopt rules necessary to implement outreach activities.~~
708 (2) ~~(3)~~ The Agency for Health Care Administration, under the
709 authority granted in s. 409.914(1), shall:
710 (a) Calculate the premium assistance payment necessary to
711 comply with the premium and cost-sharing limitations specified
712 in s. 409.816 and the Act. The premium assistance payment for
713 each enrollee in a health insurance plan participating in the
714 Florida Healthy Kids Corporation shall equal the premium
715 approved by the Florida Healthy Kids Corporation ~~and the Office~~
716 ~~of Insurance Regulation of the Financial Services Commission~~
717 ~~pursuant to ss. 627.410 and 641.31,~~ less any enrollee's share of
718 the premium established within the limitations specified in s.
719 409.816. ~~The premium assistance payment for each enrollee in an~~
720 ~~employer sponsored health insurance plan approved under ss.~~
721 ~~409.810-409.821 shall equal the premium for the plan adjusted~~
722 ~~for any benchmark benefit plan actuarial equivalent benefit~~
723 ~~rider approved by the Office of Insurance Regulation pursuant to~~
724 ~~ss. 627.410 and 641.31, less any enrollee's share of the premium~~
725 ~~established within the limitations specified in s. 409.816. In~~

726 ~~calculating the premium assistance payment levels for children~~
727 ~~with family coverage, the agency shall set the premium~~
728 ~~assistance payment levels for each child proportionately to the~~
729 ~~total cost of family coverage.~~
730 (b) Make premium assistance payments to health insurance
731 plans on a periodic basis. The agency may use its Medicaid
732 fiscal agent or a contracted third-party administrator in making
733 these payments. The agency may require health insurance plans
734 that participate in the Medikids program ~~or employer sponsored~~
735 ~~group health insurance~~ to collect premium payments from an
736 enrollee's family. Participating health insurance plans shall
737 report premium payments collected on behalf of enrollees in the
738 program to the agency in accordance with a schedule established
739 by the agency.
740 (c) Monitor compliance with quality assurance and access
741 standards developed under s. 409.820 and in accordance with s.
742 2103(f) of the Social Security Act, 42 U.S.C. s. 1397cc(f).
743 (d) Establish a mechanism for investigating and resolving
744 complaints and grievances from program applicants, enrollees,
745 and health benefits coverage providers, and maintain a record of
746 complaints and confirmed problems. In the case of a child who is
747 enrolled in a managed care organization ~~health maintenance~~
748 ~~organization~~, the agency must use the provisions of s. 641.511
749 to address grievance reporting and resolution requirements.
750 ~~(e) Approve health benefits coverage for participation in~~
751 ~~the program, following certification by the Office of Insurance~~
752 ~~Regulation under subsection (4).~~
753 (e) ~~(f)~~ Adopt rules necessary for ~~calculating premium~~
754 ~~assistance payment levels, making premium assistance payments,~~

755 monitoring access and quality assurance standards and~~,~~
756 investigating and resolving complaints and grievances~~,~~
757 ~~administering the Medikids program, and approving health~~
758 ~~benefits coverage~~.
759 (f) Contract with the Florida Healthy Kids Corporation for
760 the administration of the Florida Kidcare Program and the
761 Healthy Florida Program and to facilitate the release of any
762 federal and state funds.
763
764 The agency is designated the lead state agency for Title XXI of
765 the Social Security Act for purposes of receipt of federal
766 funds, for reporting purposes, and for ensuring compliance with
767 federal and state regulations and rules.
768 ~~(4) The Office of Insurance Regulation shall certify that~~
769 ~~health benefits coverage plans that seek to provide services~~
770 ~~under the Florida Kidcare program, except those offered through~~
771 ~~the Florida Healthy Kids Corporation or the Children's Medical~~
772 ~~Services Network, meet, exceed, or are actuarially equivalent to~~
773 ~~the benchmark benefit plan and that health insurance plans will~~
774 ~~be offered at an approved rate. In determining actuarial~~
775 ~~equivalence of benefits coverage, the Office of Insurance~~
776 ~~Regulation and health insurance plans must comply with the~~
777 ~~requirements of s. 2103 of Title XXI of the Social Security Act.~~
778 ~~The department shall adopt rules necessary for certifying health~~
779 ~~benefits coverage plans.~~
780 (3)~~(5)~~ The Florida Healthy Kids Corporation shall retain
781 its functions as authorized in s. 624.91, including eligibility
782 determination for participation in the Healthy Kids program.
783 (4)~~(6)~~ The agency, the Department of Health, the Department

784 of Children and Family Services, and the Florida Healthy Kids
785 Corporation, ~~and the Office of Insurance Regulation,~~ after
786 consultation with and approval of the Speaker of the House of
787 Representatives and the President of the Senate, are authorized
788 to make program modifications that are necessary to overcome any
789 objections of the United States Department of Health and Human
790 Services to obtain approval of the state's child health
791 insurance plan under Title XXI of the Social Security Act.
792 Section 12. Section 409.820, Florida Statutes, is amended
793 to read:
794 409.820 Quality assurance and access standards.—Except for
795 Medicaid, the Department of Health, in consultation with the
796 agency and the Florida Healthy Kids Corporation, shall develop a
797 minimum set of pediatric and adolescent quality assurance and
798 access standards for all program components. The standards must
799 include a process for granting exceptions to specific
800 requirements for quality assurance and access. Compliance with
801 the standards shall be a condition of program participation by
802 health benefits coverage providers. These standards shall comply
803 with the provisions of this chapter and chapter 641 and Title
804 XXI of the Social Security Act.
805 Section 13. Section 624.91, Florida Statutes, is amended to
806 read:
807 624.91 The Florida Healthy Kids Corporation Act.—
808 (1) SHORT TITLE.—This section may be cited as the "William
809 G. 'Doc' Myers Healthy Kids Corporation Act."
810 (2) LEGISLATIVE INTENT.—
811 (a) The Legislature finds that increased access to health
812 care services could improve children's health and reduce the

813 incidence and costs of childhood illness and disabilities among
814 children in this state. Many children do not have comprehensive,
815 affordable health care services available. It is the intent of
816 the Legislature that the Florida Healthy Kids Corporation
817 provide comprehensive health insurance coverage to such
818 children. The corporation is encouraged to cooperate with any
819 existing health service programs funded by the public or the
820 private sector.
821 (b) It is the intent of the Legislature that the Florida
822 Healthy Kids Corporation serve as one of several providers of
823 services to children eligible for medical assistance under Title
824 XXI of the Social Security Act. Although the corporation may
825 serve other children, the Legislature intends the primary
826 recipients of services provided through the corporation be
827 school-age children with a family income below 200 percent of
828 the federal poverty level, who do not qualify for Medicaid. It
829 is also the intent of the Legislature that state and local
830 government Florida Healthy Kids funds be used to continue
831 coverage, subject to specific appropriations in the General
832 Appropriations Act, to children not eligible for federal
833 matching funds under Title XXI.
834 (c) It is further the intent of the Legislature that the
835 Florida Healthy Kids Corporation administer and manage services
836 for Healthy Florida, a health care program for uninsured adults
837 using a unique network of providers and contracts. Enrollees in
838 Healthy Florida will receive comprehensive health care services
839 from private, licensed health insurers who meet standards
840 established by the corporation. It is further the intent of the
841 Legislature that these enrollees participate in their own health

842 care decisionmaking and contribute financially toward their
843 medical costs. The Legislature intends to provide an alternative
844 benefit package that includes a full range of services which
845 meet the needs of residents of this state. As a new program, the
846 Legislature will also ensure that a comprehensive evaluation is
847 conducted to measure the overall impact of the program and
848 identify whether to renew the program after an initial 3-year
849 term.
850 (3) ELIGIBILITY FOR STATE-FUNDED ASSISTANCE.—Only the
851 following individuals are eligible for state-funded assistance
852 in paying premiums for Healthy Florida or Florida Healthy Kids
853 ~~premiums~~:
854 (a) Residents of this state who are eligible for the
855 Florida Kidcare program pursuant to s. 409.814 or the Healthy
856 Florida pursuant to s. 624.917.
857 (b) Notwithstanding s. 409.814, legal aliens who are
858 enrolled in the Florida Healthy Kids program as of January 31,
859 2004, who do not qualify for Title XXI federal funds because
860 they are not qualified aliens as defined in s. 409.811.
861 (4) NONENTITLEMENT.—Nothing in this section shall be
862 construed as providing an individual with an entitlement to
863 health care services. No cause of action shall arise against the
864 state, the Florida Healthy Kids Corporation, or a unit of local
865 government for failure to make health services available under
866 this section.
867 (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.—
868 (a) There is created the Florida Healthy Kids Corporation,
869 a not-for-profit corporation.
870 (b) The Florida Healthy Kids Corporation shall:

871 1. Arrange for the collection of any family, individual, or
872 local contributions~~, or employer payment or premium~~, in an
873 amount to be determined by the board of directors, to provide
874 for payment of premiums for comprehensive insurance coverage and
875 for the actual or estimated administrative expenses.
876 2. Arrange for the collection of any voluntary
877 contributions to provide for payment of Florida Kidcare or
878 Healthy Florida program premiums for enrollees ~~children who are~~
879 ~~not eligible for medical assistance under Title XIX or Title XXI~~
880 ~~of the Social Security Act~~.
881 3. Subject to the provisions of s. 409.8134, accept
882 voluntary supplemental local match contributions that comply
883 with the requirements of Title XXI of the Social Security Act
884 for the purpose of providing additional Florida Kidcare coverage
885 in contributing counties under Title XXI.
886 4. Establish the administrative and accounting procedures
887 for the operation of the corporation.
888 5. Establish, with consultation from appropriate
889 professional organizations, standards for preventive health
890 services and providers and comprehensive insurance benefits
891 appropriate to children, provided that such standards for rural
892 areas shall not limit primary care providers to board-certified
893 pediatricians.
894 6. Determine eligibility for children seeking to
895 participate in the Title XXI-funded components of the Florida
896 Kidcare program consistent with the requirements specified in s.
897 409.814, as well as the non-Title-XXI-eligible children as
898 provided in subsection (3).
899 7. Establish procedures under which providers of local

900 match to, applicants to and participants in the program may have
901 grievances reviewed by an impartial body and reported to the
902 board of directors of the corporation.
903 8. Establish participation criteria and, if appropriate,
904 contract with an authorized insurer, health maintenance
905 organization, or third-party administrator to provide
906 administrative services to the corporation.
907 9. Establish enrollment criteria that include penalties or
908 waiting periods of 30 days for reinstatement of coverage upon
909 voluntary cancellation for nonpayment of family and individual
910 premiums under the programs.
911 10.a. Contract with authorized insurers or any provider of
912 health care services, meeting standards established by the
913 corporation, for the provision of comprehensive insurance
914 coverage to participants. Such standards shall include criteria
915 under which the corporation may contract with more than one
916 provider of health care services in program sites.
917 b. Health plans shall be selected through a competitive bid
918 process.
919 c. The Florida Healthy Kids Corporation shall purchase
920 goods and services in the most cost-effective manner consistent
921 with the delivery of quality medical care. The maximum
922 administrative cost for a Florida Healthy Kids Corporation
923 contract shall be 15 percent. For all health care contracts, the
924 minimum medical loss ratio is ~~for a Florida Healthy Kids~~
925 ~~Corporation contract shall be~~ 85 percent. The calculations must
926 use uniform financial data collected from all plans in a format
927 established by the corporation and shall be computed for each
928 insurer on a statewide basis. Funds shall be classified in a

929 manner consistent with 45 C.F.R. part 158 ~~For dental contracts,~~
930 ~~the remaining compensation to be paid to the authorized insurer~~
931 ~~or provider under a Florida Healthy Kids Corporation contract~~
932 ~~shall be no less than an amount which is 85 percent of premium;~~
933 ~~to the extent any contract provision does not provide for this~~
934 ~~minimum compensation, this section shall prevail~~.
935 d. The health plan selection criteria and scoring system,
936 and the scoring results, shall be available upon request for
937 inspection after the bids have been awarded.
938 11. Establish disenrollment criteria in the event local
939 matching funds are insufficient to cover enrollments.
940 12. Develop and implement a plan to publicize the Florida
941 Kidcare program and Healthy Florida, the eligibility
942 requirements of the programs ~~program~~, and the procedures for
943 enrollment in the program and to maintain public awareness of
944 the corporation and the programs ~~program~~.
945 13. Secure staff necessary to properly administer the
946 corporation. Staff costs shall be funded from state and local
947 matching funds and such other private or public funds as become
948 available. The board of directors shall determine the number of
949 staff members necessary to administer the corporation.
950 14. In consultation with the partner agencies, provide a
951 report on the Florida Kidcare program annually to the Governor,
952 the Chief Financial Officer, the Commissioner of Education, the
953 President of the Senate, the Speaker of the House of
954 Representatives, and the Minority Leaders of the Senate and the
955 House of Representatives.
956 15. Provide information on a quarterly basis to the
957 Legislature and the Governor which compares the costs and

958 utilization of the full-pay enrolled population and the Title
959 XXI-subsidized enrolled population in the Florida Kidcare
960 program. The information, at a minimum, must include:
961 a. The monthly enrollment and expenditure for full-pay
962 enrollees in the Medikids and Florida Healthy Kids programs
963 compared to the Title XXI-subsidized enrolled population; and
964 b. The costs and utilization by service of the full-pay
965 enrollees in the Medikids and Florida Healthy Kids programs and
966 the Title XXI-subsidized enrolled population. This subparagraph
967 is repealed effective December 31, 2013.
968
969 ~~By February 1, 2010, the Florida Healthy Kids Corporation shall~~
970 ~~provide a study to the Legislature and the Governor on premium~~
971 ~~impacts to the subsidized portion of the program from the~~
972 ~~inclusion of the full-pay program, which shall include~~
973 ~~recommendations on how to eliminate or mitigate possible impacts~~
974 ~~to the subsidized premiums.~~
975 16. By August 15, 2013, the corporation shall notify all
976 current full-pay enrollees of the availability of the exchange,
977 as defined in the federal Patient Protection and Affordable Care
978 Act, and how to access other insurance affordability options.
979 New applications for full-pay coverage may not be accepted after
980 September 30, 2013.
981 17.~~16.~~ Establish benefit packages that conform to the
982 provisions of the Florida Kidcare program, as created in ss.
983 409.810-409.821.
984 (c) Coverage under the corporation's program is secondary
985 to any other available private coverage held by, or applicable
986 to, the participant ~~child~~ or family member. Insurers under

987 contract with the corporation are the payors of last resort and
988 must coordinate benefits with any other third-party payor that
989 may be liable for the participant's medical care.
990 (d) The Florida Healthy Kids Corporation shall be a private
991 corporation not for profit, registered, incorporated, and
992 organized pursuant to chapter 617, and shall have all powers
993 necessary to carry out the purposes of this act, including, but
994 not limited to, the power to receive and accept grants, loans,
995 or advances of funds from any public or private agency and to
996 receive and accept from any source contributions of money,
997 property, labor, or any other thing of value, to be held, used,
998 and applied for the purposes of this act. The corporation and
999 any committees it forms shall act in compliance with part III of
1000 chapter 112, and chapters 119 and 286.
1001 (6) BOARD OF DIRECTORS AND MANAGEMENT SUPERVISION.—
1002 (a) The Florida Healthy Kids Corporation shall operate
1003 subject to the supervision and approval of a board of directors
1004 chaired by an appointee designated by the Governor ~~Chief~~
1005 ~~Financial Officer or her or his designee,~~ and composed of 12
1006 other members. The Senate shall confirm the designated chair and
1007 other board appointees ~~selected~~ for 3-year terms~~ of office as~~
1008 ~~follows:~~
1009 ~~1. The Secretary of Health Care Administration, or his or~~
1010 ~~her designee~~.
1011 ~~2. One member appointed by the Commissioner of Education~~
1012 ~~from the Office of School Health Programs of the Florida~~
1013 ~~Department of Education.~~
1014 ~~3. One member appointed by the Chief Financial Officer from~~
1015 ~~among three members nominated by the Florida Pediatric Society.~~

1016 ~~4. One member, appointed by the Governor, who represents~~
1017 ~~the Children's Medical Services Program.~~
1018 ~~5. One member appointed by the Chief Financial Officer from~~
1019 ~~among three members nominated by the Florida Hospital~~
1020 ~~Association.~~
1021 ~~6. One member, appointed by the Governor, who is an expert~~
1022 ~~on child health policy.~~
1023 ~~7. One member, appointed by the Chief Financial Officer,~~
1024 ~~from among three members nominated by the Florida Academy of~~
1025 ~~Family Physicians.~~
1026 ~~8. One member, appointed by the Governor, who represents~~
1027 ~~the state Medicaid program.~~
1028 ~~9. One member, appointed by the Chief Financial Officer,~~
1029 ~~from among three members nominated by the Florida Association of~~
1030 ~~Counties.~~
1031 ~~10. The State Health Officer or her or his designee.~~
1032 ~~11. The Secretary of Children and Family Services, or his~~
1033 ~~or her designee.~~
1034 ~~12. One member, appointed by the Governor, from among three~~
1035 ~~members nominated by the Florida Dental Association.~~
1036 (b) A member of the board of directors serves at the
1037 pleasure of the Governor ~~may be removed by the official who~~
1038 ~~appointed that member~~. The board shall appoint an executive
1039 director, who is responsible for other staff authorized by the
1040 board.
1041 (c) Board members are entitled to receive, from funds of
1042 the corporation, reimbursement for per diem and travel expenses
1043 as provided by s. 112.061.
1044 (d) There shall be no liability on the part of, and no

1045 cause of action shall arise against, any member of the board of
1046 directors, or its employees or agents, for any action they take
1047 in the performance of their powers and duties under this act.
1048 (e) Board members who are serving on or before the date of
1049 enactment of this act or similar legislation may remain until
1050 July 1, 2013.
1051 (f) An executive steering committee is created to provide
1052 management direction and support and to make recommendations to
1053 the board on the programs. The steering committee is composed of
1054 the Secretary of Health Care Administration, the Secretary of
1055 Children and Families, and the State Surgeon General. Committee
1056 members may not delegate their membership or attendance.
1057 (7) LICENSING NOT REQUIRED; FISCAL OPERATION.—
1058 (a) The corporation shall not be deemed an insurer. The
1059 officers, directors, and employees of the corporation shall not
1060 be deemed to be agents of an insurer. Neither the corporation
1061 nor any officer, director, or employee of the corporation is
1062 subject to the licensing requirements of the insurance code or
1063 the rules of the Department of Financial Services or Office of
1064 Insurance Regulation. However, any marketing representative
1065 utilized and compensated by the corporation must be appointed as
1066 a representative of the insurers or health services providers
1067 with which the corporation contracts.
1068 (b) The board has complete fiscal control over the
1069 corporation and is responsible for all corporate operations.
1070 (c) The Department of Financial Services shall supervise
1071 any liquidation or dissolution of the corporation and shall
1072 have, with respect to such liquidation or dissolution, all power
1073 granted to it pursuant to the insurance code.

1074 Section 14. Section 624.915, Florida Statutes, is repealed.
1075 Section 15. Section 624.917, Florida Statutes, is created
1076 to read:
1077 624.917 Healthy Florida program.—
1078 (1) PROGRAM CREATION.—There is created Healthy Florida, a
1079 health care program for lower income, uninsured adults who meet
1080 the eligibility guidelines established under s. 624.91. The
1081 Florida Healthy Kids Corporation shall administer the program
1082 under its existing corporate governance and structure.
1083 (2) DEFINITIONS.—As used in this section, the term:
1084 (a) "Actuarially equivalent" means:
1085 1. The aggregate value of the benefits included in health
1086 benefits coverage is equal to the value of the benefits in the
1087 child benchmark benefit plan as defined in s. 409.811; and
1088 2. The benefits included in health benefits coverage are
1089 substantially similar to the benefits included in the child
1090 benchmark benefit plan, except that preventive health services
1091 do not include dental services.
1092 (b) "Agency" means the Agency for Health Care
1093 Administration.
1094 (c) "Applicant" means the individual who applies for
1095 determination of eligibility for health benefits coverage under
1096 s. 624.91(8).
1097 (d) "Child benchmark benefit plan" means the form and level
1098 of health benefits coverage established in s. 409.815.
1099 (e) "Child" means any person under 19 years of age.
1100 (f) "Corporation" means Florida Healthy Kids Corporation.
1101 (g) "Enrollee" means an individual who has been determined
1102 eligible for and is receiving coverage under s. 624.91(8).

1103 (h) "Florida Kidcare program" or "Kidcare program," means
1104 the health benefits program administered through ss. 409.810-
1105 409.821.
1106 (i) "Health benefits coverage" means protection that
1107 provides payment of benefits for covered health care services or
1108 that otherwise provides, either directly or through arrangements
1109 with other persons, covered health care services on a prepaid
1110 per capita basis or on a prepaid aggregate fixed-sum basis.
1111 (j) "Healthy Florida" means the program created by this
1112 section which is administered by the Florida Healthy Kids
1113 Corporation.
1114 (k) "Healthy Kids" means the Florida Kidcare program
1115 component created under s. 624.91 for children ages 5 through
1116 18.
1117 (l) "Household income" means the group or the individual
1118 whose income is considered in determining eligibility for the
1119 Healthy Florida program. The household has the same meaning as
1120 it is defined under section 36B(d)(2) of the Internal Revenue
1121 Code of 1986.
1122 (m) "Medicaid" means the medical assistance program
1123 authorized by Title XIX of the Social Security Act, and
1124 regulations thereunder, and ss. 409.901-409.920, as administered
1125 in this state by the agency.
1126 (n) "Medically necessary" means the use of any medical
1127 treatment, service, equipment, or supply necessary to palliate
1128 the effects of a terminal condition, or to prevent, diagnose,
1129 correct, cure, alleviate, or preclude deterioration of a
1130 condition that threatens life, causes pain or suffering, or
1131 results in illness or infirmity and which is:

1132 1. Consistent with the symptom, diagnosis, and treatment of
1133 the enrollee's condition;
1134 2. Provided in accordance with generally accepted standards
1135 of medical practice;
1136 3. Not primarily intended for the convenience of the
1137 enrollee, the enrollee's family, or the health care provider;
1138 4. The most appropriate level of supply or service for the
1139 diagnosis and treatment of the enrollee's condition; and
1140 5. Approved by the appropriate medical body or health care
1141 specialty involved as effective, appropriate, and essential for
1142 the care and treatment of the enrollee's condition.
1143 (o) "Modified Adjusted Gross Income (MAGI)" means the
1144 individual or household's annual adjusted gross income as
1145 defined in 26 U.S.C. s. 36 of the Internal Revenue Code of 1986
1146 which is used to determine eligibility under the Florida Kidcare
1147 program.
1148 (p) "Patient Protection and Affordable Care Act" or "Act"
1149 means the federal law enacted as Pub. L. No. 111-148, as further
1150 amended by the federal Health Care and Education Reconciliation
1151 Act of 2010, Public Law 111-152, and any amendments, regulations
1152 or guidance thereunder, issued under those acts.
1153 (q) "Premium" means the entire cost of a health insurance
1154 plan, including the administration fee or the risk assumption
1155 charge.
1156 (r) "Premium assistance payment" means the monthly
1157 consideration paid by the agency per enrollee in the Florida
1158 Kidcare program towards health insurance premiums.
1159 (s) "Qualified alien" means an alien as defined in 8 U.S.C.
1160 s. 1641(b) and (c).

1161 (t) "Resident" means a United States citizen or qualified
1162 alien who is domiciled in this state.
1163 (3) ELIGIBILITY.—To be eligible and remain eligible for the
1164 Healthy Florida program, an individual must be a resident of
1165 this state and meet the following additional criteria:
1166 (a) Be identified as "newly eligible" as defined in
1167 subclause (VIII) of section 1902(a)(10)(A)(i) of the Social
1168 Security Act (section 2001 of the Patient Protection and
1169 Affordable Care Act) and as may be further defined by federal
1170 regulation.
1171 (b) Maintain eligibility with the corporation and meet all
1172 renewal requirements as established by the corporation.
1173 (c) Renew eligibility on at least an annual basis.
1174 (4) ENROLLMENT.—The corporation may begin the enrollment of
1175 applicants in the Healthy Florida program on October 1, 2013.
1176 Enrollment may occur directly, through the services of a third-
1177 party administrator, referrals from the Department of Children
1178 and Families and the exchange as defined by the federal Patient
1179 Protection and Affordable Care Act. As an enrollee disenrolls,
1180 the corporation must also provide the enrollee with information
1181 about other insurance affordability programs and electronically
1182 refer the enrollee to the exchange or other programs, as
1183 appropriate. The earliest coverage effective date under the
1184 program shall be January 1, 2014.
1185 (5) DELIVERY OF SERVICES.—The corporation shall contract
1186 with authorized insurers licensed under chapter 627 and managed
1187 care organizations under chapter 624 which meet standards
1188 established by the corporation to provide comprehensive health
1189 care services to enrollees who qualify for services under this

1190 section. The corporation may contract for such services on a
1191 statewide or regional basis.
1192 (a) The corporation must establish access and network
1193 standards for such contracts and ensure that contracted
1194 providers have sufficient providers to meet enrollee needs.
1195 Quality standards must be developed by the corporation, specific
1196 to the adult population, which take into consideration
1197 recommendations from the National Committee on Quality
1198 Assurance, stakeholders, and other existing performance
1199 indicators from both public and commercial populations.
1200 (b) Enrollees must be provided a choice. The corporation
1201 has the authority to select a plan if no selection has been
1202 received before the coverage start date. Once enrolled,
1203 enrollees have an initial 90-day free look period before a lock-
1204 in period of not more than 12 months is applied. Exceptions to
1205 the lock-in period must be offered to enrollees for good cause
1206 reasons and qualifying events.
1207 (c) The corporation may consider contracts that provide
1208 family plans that would allow members from multiple state and
1209 federal funded programs to remain together under the same plan.
1210 (d) All contracts must meet the medical loss ratio
1211 requirements under s. 624.91.
1212 (6) BENEFITS.—The corporation shall establish a benefits
1213 package that is actuarially equivalent to the benchmark benefit
1214 plan offered under s. 409.815(2), excluding dental, and meets
1215 the alternative benefits package requirements under section 1937
1216 of the Social Security Act. Benefits must be offered as an
1217 integrated, single package.
1218 (a) In addition to benchmark benefits, health reimbursement

1219 accounts (HRAs) or a comparable health savings account for each
1220 enrollee must be established through the corporation or the
1221 contracts managed by the corporation. Enrollees must be rewarded
1222 for healthy behaviors, wellness program adherence, and other
1223 activities established by the corporation which demonstrate
1224 compliance with preventive care or disease management
1225 guidelines. Funds deposited into these accounts may be used to
1226 pay cost-sharing obligations or to purchase over the counter
1227 health related items, to the extent allowed under federal law or
1228 regulation.
1229 (b) Enhanced services may be offered if the cost of such
1230 additional services provides savings to the overall plan.
1231 (c) The corporation shall establish a process for the
1232 payment of wrap-around services not covered by the benchmark
1233 plan through a separate subcapitation process to its contracted
1234 providers if it is determined that such services are required by
1235 federal law. Such services would be covered when deemed
1236 medically necessary on an individual basis. The subcapitation
1237 pool is subject to a separate reconciliation process under the
1238 medical loss ratio provisions in s. 624.91.
1239 (d) A prior authorization process and other utilization
1240 controls may be established by the plan for any benefit if
1241 approved by the corporation.
1242 (7) COST SHARING.—The corporation may collect premiums and
1243 copayments from enrollees in accordance with federal law.
1244 Amounts to be collected for the Healthy Florida program must be
1245 established annually in the General Appropriations Act.
1246 (a) Payment of a monthly premium may be required before the
1247 establishment of an enrollee's coverage start date and to retain

1248 monthly coverage.
1249 (b) Enrollees may be required to make copayments as a
1250 condition of receiving a health care service.
1251 (c) Providers are responsible for the collection of point
1252 of service cost sharing obligations. The enrollee's cost sharing
1253 contribution will be considered part of the provider's total
1254 reimbursement. Failure to collect any enrollee cost sharing will
1255 reduce the provider's share of the reimbursement.
1256 (8) PROGRAM MANAGEMENT.—The corporation is responsible for
1257 the oversight of the Healthy Florida program. The agency shall
1258 seek a state plan amendment or other appropriate federal
1259 approval to implement the Healthy Florida program. The agency
1260 shall consult with the corporation in the amendment's
1261 development with a submission deadline to the federal Department
1262 of Health and Human Services of June 14, 2013. The Agency will
1263 contract with the corporation for the administration of the
1264 program and for the timely release of federal and state funds.
1265 The Agency retains its authorities as provided under ss. 409.902
1266 and 409.963.
1267 (a) The corporation shall establish a process by which
1268 grievances can be resolved and Healthy Florida recipients can be
1269 informed of their rights under the Medicaid Fair Hearing
1270 Process, as appropriate, or any alternative resolution process
1271 adopted by the corporation.
1272 (b) The corporation shall establish a program integrity
1273 process to ensure compliance with program guidelines. At a
1274 minimum, the corporation shall withhold benefits from an
1275 applicant or enrollee if the corporation obtains evidence that
1276 the applicant or enrollee is no longer eligible, submitted

1277 incorrect or fraudulent information in order to establish
1278 eligibility, or failed to provide verification of eligibility.
1279 The applicant or enrollee shall be notified that because of such
1280 evidence program benefits will be withheld unless the applicant
1281 or enrollee contacts a designated representative of the
1282 corporation by a specified date, which must be within 10 working
1283 days after the date of notice, to discuss and resolve the
1284 matter. The corporation shall make every effort to resolve the
1285 matter within a timeframe that will not cause benefits to be
1286 withheld from an eligible enrollee. The following individuals
1287 may be subject to specific prosecution in accordance with s.
1288 414.39:
1289 1. An applicant obtaining or attempting to obtain benefits
1290 for a potential enrollee under the Healthy Florida program when
1291 the applicant knows or should have known the potential enrollee
1292 does not qualify for the Healthy Florida program.
1293 2. An individual who assists an applicant in obtaining or
1294 attempting to obtain benefits for a potential enrollee under the
1295 Healthy Florida program when the individual knows or should have
1296 known the potential enrollee does not qualify for the Healthy
1297 Florida program.
1298 (9) APPLICABILITY OF LAWS RELATING TO MEDICAID.—The
1299 provisions of ss. 409.902, 409.9128, and 409.920 apply to the
1300 administration of the program.
1301 (10) PROGRAM EVALUATION.—The corporation must collect both
1302 eligibility and enrollment data from program applicants and
1303 enrollees as well as encounter and utilization data from all
1304 contracted entities during the program term. Monthly enrollment
1305 reports must be submitted to the Senate President, the Speaker

1306 of the House of Representative and the Minority Leaders of the
1307 Florida Senate and House of Representatives. An interim
1308 independent evaluation of the program shall be submitted to the
1309 presiding officers no later than July 1, 2015, with annual
1310 evaluations due thereafter every July 1. The evaluations should
1311 address at a minimum application and enrollment trends and
1312 issues, utilization and cost data, and customer satisfaction.
1313 (11) PROGRAM EXPIRATION.—The Healthy Florida program shall
1314 expire at the end of the state fiscal year in which any of these
1315 conditions occur, whichever occurs first:
1316 (a) The federal match contribution falls below 90 percent.
1317 (b) The federal match contribution falls below the
1318 "Increased FMAP for Medical Assistance for Newly Eligible
1319 Mandatory Individuals" as specified in the federal Patient
1320 Protection and Affordable Care Act (Public Law 111-148), as
1321 amended by the federal Health Care and Education Reconciliation
1322 Act of 2010 (Public Law 111-152).
1323 (c) The federal match for the Healthy Florida program and
1324 the Medicaid program are blended under federal law or regulation
1325 in such a way that causes the overall federal contribution to
1326 diminish when compared to separate, non-blended federal
1327 contributions.
1328 Section 16. The corporation may make changes to comply with
1329 the objections of the federal Department of Health and Human
1330 Services to gain approval of the Healthy Florida program in
1331 compliance with the federal Patient Protection and Affordable
1332 Care Act upon giving notice to the Senate and the House of
1333 Representatives of the proposed changes. If there is a conflict
1334 between a provision in this section and the federal Patient

1335 Protection and Affordable Care Act (Public Law 111-148), as
1336 amended by the federal Health Care and Education Reconciliation
1337 Act of 2010 (Public Law 111-152), the provision must be
1338 interpreted and applied so as to comply with the requirement of
1339 the federal law.
1340 Section 17. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2013
Meeting Date

Topic _____ Bill Number 7038 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/21/2013
Meeting Date

Topic: Health Care

Bill Number: SPB 7038 (if applicable)

Name: Michael Garner

Amendment Barcode: (if applicable)

Job Title: Pres & CEO

Address: 200 W. College Ave., Suite 104
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-386-2904

E-mail: michael@fahp.net

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

Representing: Florida Association of Health Plans

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Medicaid Expansion

Bill Number: _____ (if applicable)

Name: Shannan Reaze

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 45 NE 45th (Street)

Miami, FL 33137 (City, State, Zip)

Phone: _____

E-mail: _____

Speaking: ☐ For ☐ Against ☐ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: MEDICAL EXPENSION

Bill Number: _____ (if applicable)

Name: EVENS PIERRE PAUL

Amendment Barcode: _____ (if applicable)

Job Title: Produce Sale Associale

Address: 149 NE 16th Ave (Street)

Boynton Beach (City) FL (State) 33435 (Zip)

Phone: 239-200-4465

E-mail: PierrePaulEvens@yah...

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

Representing: _____

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Medicaid Expansion

Bill Number: _____ (if applicable)

Name: Carline

Amendment Barcode: _____ (if applicable)

Job Title: Walmart Associate.

Address: 1470 N.E 125th terrace # 301
Street

City _____ State _____ Zip _____

Phone: 786-499-6689

E-mail: carlinerobasson18@yahoo.com

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

Representing: _____

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Medicaid Expansion

Bill Number: _____ (if applicable)

Name: Paul Toussaint

Amendment Barcode: _____ (if applicable)

Job Title: walmart associate

Address: 14795 NE 18 Av - apt 308
Street

City _____ State _____ Zip _____

Phone: 786 487 7325

E-mail: _____

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

Representing: _____

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Medicaid expentsion

Bill Number: _____ (if applicable)

Name: ANDre Prévat

Amendment Barcode: _____ (if applicable)

Job Title: Employe' on Wolmart

Address: 863 NW 8AV -
Street

Miami, FL 33150
City, State, Zip

Phone: 305 896 1957

E-mail: _____

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

Representing: _____

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: Health Care

Bill Number: SPB 7038 (if applicable)

Name: Karen Woodall

Amendment Barcode: (if applicable)

Job Title:

Address: 579 E. Call St.
Street

Tallahassee, Fl 32301
City, State, Zip

Phone: 850-321-9386

E-mail: kwtally@aol.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)

3/21/2013
Meeting Date

Topic: Florida Kidscare Program

Bill Number: SPB 7038 *(if applicable)*

Name: Michael Rosenthal

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 4045 Kilmartin Drive
Street

Tallahassee, FL 32309
City, State, Zip

Phone: 850-894-2362

E-mail: Michael.Rosenthal.TLH@gmail.com

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)

3/21/13
Meeting Date

Topic: HEALTH CARE

Bill Number: SPB 7038 *(if applicable)*

Name: PAUL BELCHER

Amendment Barcode: *(if applicable)*

Job Title: VICE PRESIDENT

Address: 306 E. COLLEGE AVE
Street

TALLAHASSEE FLA 32301
City *State* *Zip*

Phone: 850-222-9800

E-mail: PAUL@FHA.ORG

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

Representing: FLORIDA HOSPITAL ASSOCIATION

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic _____ Bill Number SB 7038 *(if applicable)*

Name SAM BELL Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 1298 MILLSTREAM
Street

TALL FL 32312
City *State* *Zip*

Phone 222-3533

E-mail shelto@penningtonlaw.com

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

Representing FLORIDA PEDIATRIC SOCIETY / CHILDREN'S COUNCILS

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)

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 3/21/2013 2:05:09 PM
Ends: 3/21/2013 4:24:15 PM **Length: 02:19:07**

2:05:12 PM	Sen. Negron (Chair)
2:14:14 PM	Sen. Smith
2:14:26 PM	Sen. Negron
2:14:52 PM	Sen. Thrasher
2:15:47 PM	Sen. Latvala
2:16:43 PM	S 278
2:17:04 PM	PCS 507672
2:17:21 PM	Sen. Richter
2:20:59 PM	Am. 155938
2:21:12 PM	Sen. Joyner
2:23:26 PM	Sen. Richter
2:23:45 PM	Sen. Joyner
2:24:09 PM	Sen. Sobel
2:24:40 PM	Sen. Richter
2:25:49 PM	Dr. Ken Lawson, Legislative Chair, Florida Optometric Association
2:26:49 PM	Dr. Charles Slonim, President, Florida Society of Ophthalmology
2:28:15 PM	S 338
2:28:22 PM	Sen. Simpson
2:29:10 PM	Suzanne Goss, Government Relations Specialist, JEA
2:29:23 PM	Mike Bjorklund, Director of Legislative Affairs, FECA
2:29:27 PM	Amy Zubaly, Director of Public Affairs, Florida Municipal Electric Association
2:29:29 PM	Brewster Bevis, Senior Vice President, Associated Industries of Florida
2:29:34 PM	Cameron Cooper, Director of External Affairs, Progress Energy Florida
2:29:36 PM	Lee Killinger, American Water Works Association, Florida Section
2:29:48 PM	Sen. Simpson
2:30:41 PM	S 278
2:30:45 PM	Leslie Dughi, Assistant Director, Associated Industries of Florida
2:30:53 PM	Chris Nuland, American College of Surgeons
2:31:11 PM	Brian Pitts, Trustee, Justice 2 Jesus
2:32:19 PM	Jerrod Holton, City Councilman, Midway
2:33:24 PM	Sen. Joyner
2:34:18 PM	Sen. Sobel
2:35:50 PM	Sen. Richter
2:37:33 PM	Sen. Negron
2:39:02 PM	S 422
2:39:10 PM	Sen. Benacquisto
2:39:56 PM	Am. 355038
2:40:43 PM	Sen. Joyner
2:41:14 PM	Am. 122406
2:41:30 PM	Sen. Benacquisto
2:41:48 PM	Am. 597066
2:42:07 PM	Dr. Wayne Taylor, Leukemia & Lymphoma Society
2:45:44 PM	Michael Garner, Florida Association of Health Plans
2:48:24 PM	Sen. Negron
2:49:29 PM	M. Garner
2:50:32 PM	Sen. Negron
2:50:43 PM	M. Garner
2:50:51 PM	Sen. Ring
2:52:12 PM	B. Pitts
2:54:48 PM	Am. 355038
2:55:21 PM	Sen. Benacquisto
2:57:38 PM	Sen. Galvano

2:58:10 PM	S 7038
2:58:25 PM	Sen. Negron
3:05:07 PM	Sen. Sobel
3:07:10 PM	Sen. Joyner
3:07:27 PM	Sen. Negron
3:08:31 PM	Sen. Joyner
3:11:30 PM	Sen. Negron
3:12:21 PM	Sen. Joyner
3:14:37 PM	Sen. Negron
3:15:47 PM	Sam Bell, Florida Pediatric Society
3:15:59 PM	Paul Belcher, Vice President, Florida Hospital Association
3:17:06 PM	Michael Rosenthal
3:20:47 PM	Karen Woodall, Florida Center for Fiscal & Economic Policy
3:22:32 PM	Sen. Negron
3:23:37 PM	K. Woodall
3:23:41 PM	Sen. Negron
3:25:46 PM	K. Woodall
3:26:12 PM	Andre Prevot, Walmart employee
3:28:33 PM	Paul Toussaint, Walmart employee
3:30:10 PM	Carline, Walmart employee
3:32:01 PM	Evens Pierre Paul, Produce Sales Associate, Walmart
3:32:47 PM	Shannan Reaze, citizen
3:34:18 PM	Michael Garner, Florida Association of Health Plans
3:35:27 PM	B. Pitts
3:37:14 PM	Sen. Smith
3:38:46 PM	Sen. Gardiner
3:41:46 PM	Sen. Ring
3:43:15 PM	Sen. Sobel
3:44:46 PM	Sen. Bean
3:45:48 PM	Sen. Margolis
3:46:12 PM	Sen. Negron
3:49:31 PM	Sen. Benacquisto
3:50:09 PM	S 294
3:50:15 PM	Sen. Bradley
3:50:45 PM	Am. 292376
3:51:01 PM	Am. 351690
3:51:28 PM	Ken Vickery, Sergeant, Florida Sheriffs Association
3:51:31 PM	Beth Labasky, Consultant, Informed Families of Florida
3:51:42 PM	David Cruz, Florida League of Cities
3:51:47 PM	Mark Fontaine, Executive Director, Florida Alcohol and Drug Abuse Association
3:52:43 PM	S 318
3:53:01 PM	Sen. Grimsley
3:53:21 PM	B. Bevis
3:53:26 PM	Richard Watson, Legislative Counsel, Associated Builders and Contractors
3:53:31 PM	Gail Marie Perry, Chair, Council of Florida, Communications Workers of America
3:53:46 PM	B. Pitts
3:56:53 PM	Amy Datz
3:57:46 PM	S 326
3:57:52 PM	Sen. Hays
3:59:09 PM	S 342
3:59:12 PM	Sen. Thrasher
3:59:59 PM	B. Pitts
4:02:11 PM	S 354
4:02:25 PM	PCS 122984
4:02:35 PM	Sen. Thrasher
4:03:06 PM	B. Pitts
4:05:30 PM	S 364
4:05:46 PM	Sen. Hays
4:06:23 PM	L. Killinger
4:06:31 PM	B. Bevis
4:06:36 PM	Diane Salz, Government Affairs Consultant, Peace River Water Authority
4:06:38 PM	David Christian, Vice President for Government Affairs, Florida Chamber of Commerce

4:06:44 PM	D. Cruz
4:06:47 PM	Richard Gentry, Palm Beach Economic Council
4:07:53 PM	Sen. Bradley
4:08:02 PM	S 372
4:08:12 PM	Sen. Latvala
4:08:45 PM	Am. 405880
4:08:58 PM	Chris Hansen, Restaurant Depot
4:10:21 PM	S 406
4:10:26 PM	Sen. Gardiner
4:11:08 PM	PCS 227254
4:12:17 PM	Am. 364048
4:12:39 PM	Am. 598762
4:12:56 PM	Sen. Sobel
4:13:24 PM	Sen. Gardiner
4:13:58 PM	Sen. Latvala
4:14:58 PM	Sen. Sobel
4:15:28 PM	Sen. Gardiner
4:16:13 PM	Sen. Latvala
4:17:04 PM	Sen. Grimsley
4:17:14 PM	B. Pitts
4:20:17 PM	Sen. Gardiner
4:21:37 PM	Sen. Hukill
4:21:56 PM	Sen. Negron
4:22:09 PM	S 746
4:22:16 PM	Samanatha Hartman, Legislative Assistant to Senator Stargel
4:23:55 PM	Sen. Hukill