

SB 860 by MS (CO-INTRODUCERS) Benacquisto, Hays; (Similar to CS/CS/H 7015) Military and Veterans Affairs

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| 936674 | D | S | RCS | AP, Richter | Delete everything after | 03/06 03:01 PM |
| 224526 | AA | S | RCS | AP, Bradley | btw L.819 - 820: | 03/06 03:01 PM |
| 570084 | AA | S | RCS | AP, Bradley | btw L.898 - 899: | 03/06 03:01 PM |

SPB 7066 by AP; Tax Administration

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| 492172 | A | S | RCS | AP, Hukill | Delete L.57 - 92. | 03/06 03:04 PM |
| 668070 | A | S | RCS | AP, Hukill | btw L.92 - 93: | 03/06 03:04 PM |

CS/CS/SB 140 by TR, MS, Bradley; (Compare to CS/CS/H 7015) Driver Licenses

CS/SB 208 by CM, Hukill (CO-INTRODUCERS) Thrasher, Hays, Latvala, Simpson, Simmons, Negron, Braynon, Altman, Galvano; (Similar to H 0127) Motorsports Entertainment Complexes

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| 507692 | PCS | S | FAV | AP | | 03/06 02:59 PM |
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CS/SB 218 by TR, Grimsley; (Identical to H 0345) Transportation

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| 252134 | A | S | | AP, Grimsley | btw L.33 - 34: | 03/05 01:14 PM |
| 128248 | A | S | | AP, Latvala | btw L.123 - 124: | 03/05 11:52 AM |
| 813366 | A | S | | AP, Grimsley | btw L.123 - 124: | 03/05 01:15 PM |

CS/SB 248 by HP, CF; (Similar to CS/CS/H 0573) Assisted Living Facilities

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| 642396 | A | S | RCS | AP, Sobel | btw L.1049 - 1050: | 03/06 03:11 PM |
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CS/SB 424 by CJ, Lee (CO-INTRODUCERS) Latvala; (Similar to CS/CS/H 0255) Discriminatory Insurance Practices

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| 561712 | A | S | RCS | AP, Lee | Delete L.73: | 03/06 03:09 PM |
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CS/SB 708 by BI, Bean; (Similar to H 0759) Insurance Claims

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Negrón, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, March 6, 2014
TIME: 1:00 —3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Negrón, 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 860 Military and Veterans Affairs, Space, and Domestic Security (Similar CS/CS/H 7015, Compare H 873, S 418, S 970) | Military and Veterans Affairs; Revising requirements for the Educational Dollars for Duty program developed by the Adjutant General; establishing the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden; providing administration and funding, without appropriation of state funds, by the Department of Veterans' Affairs; creating Florida Is for Veterans, Inc., as a nonprofit corporation within the Department of Veterans' Affairs; creating the Veterans Employment and Training Services Program within the Department of Veterans' Affairs, etc. AP 03/06/2014 Fav/CS | Fav/CS Yeas 19 Nays 0 |

Consideration of proposed committee bill:

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|---|-----------------|--|---|
| 2 | SPB 7066 | Tax Administration; Removing the requirement that the department review the level of assessment of use-valued properties in its reviews of county assessment rolls; providing monetary and criminal penalties for a dealer's willful failure to collect certain taxes or fees after receiving notice of such duty to collect from the Department of Revenue; deleting provisions relating to the imposition of criminal penalties after Department of Revenue notice of requirements to register as a dealer or to collect taxes, etc. | Submitted as Committee Bill Yeas 19 Nays 0 |
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COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, March 6, 2014, 1:00 —3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|-----------------------|
| 3 | CS/CS/SB 140 Transportation / Military and Veterans Affairs, Space, and Domestic Security / Bradley (Compare CS/CS/H 7015) | Driver Licenses; Providing that the spouse of a member of the United States Armed Forces is not required to obtain a Florida driver license because he or she enters his or her children in public school in this state under certain circumstances; providing that a dependent of a member of the United States Armed Forces is not required to obtain a Florida driver license under certain circumstances; providing that the spouse of a member of the United States Armed Forces is granted an automatic extension for the expiration of a certain class of driver license under certain circumstances, etc. MS 10/08/2013 Fav/CS TR 11/07/2013 Fav/CS ED 02/18/2014 Favorable AP 03/06/2014 Temporarily Postponed | Temporarily Postponed |

A proposed committee substitute for the following bill (CS/SB 208) is expected to be considered:

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|---|--|--|--------------------------|
| 4 | CS/SB 208 Commerce and Tourism / Hukill (Similar H 127) | Motorsports Entertainment Complexes; Providing for a monthly distribution of a specified amount of sales tax revenue to a complex certified as a motorsports entertainment complex by the Department of Economic Opportunity; specifying that the department may certify only one motorsports entertainment complex; authorizing the Auditor General to verify the expenditure of specified distributions and to notify the Department of Revenue of improperly expended funds so that it may pursue recovery, etc. CM 01/08/2014 Fav/CS AFT 02/06/2014 Fav/CS AP 03/06/2014 Fav/CS RC | Fav/CS Yeas 17 Nays 1 |
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With subcommittee recommendation - Finance and Tax

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, March 6, 2014, 1:00 —3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|--------------------------|
| 5 | CS/SB 218 Transportation / Grimsley (Similar H 259, Identical H 345, Compare H 1161, S 1048) | Transportation; Providing an exception for payment of certain utility work necessitated by a project on the State Highway System for municipally owned utilities or county-owned utilities located in rural areas of critical economic concern and authorizing the Department of Transportation to pay for such costs under certain circumstances; exempting from permitting certain signs placed by tourist-oriented businesses, certain farm signs placed during harvest seasons, certain acknowledgement signs on publicly funded school premises, and certain displays on specific sports facilities, etc. TR 11/07/2013 Fav/CS CU 01/14/2014 Favorable CM 02/17/2014 Favorable AP 03/06/2014 Temporarily Postponed | Temporarily Postponed |
| 6 | CS/SB 248 Health Policy / Children, Families, and Elder Affairs (Similar CS/H 573, Compare H 91, H 263, S 186, S 508) | Assisted Living Facilities; Providing that Medicaid managed care plans are responsible for enrolled mental health residents; providing that managing entities under contract with the Department of Children and Families are responsible for mental health residents who are not enrolled with a Medicaid managed care plan; revising the requirement that an extended congregate care license be issued to certain facilities that have been licensed as assisted living facilities under certain circumstances and authorizing the issuance of such license if a specified condition is met, etc. HP 01/08/2014 Fav/CS JU 02/04/2014 Favorable AP 03/06/2014 Fav/CS | Fav/CS Yeas 18 Nays 0 |
| 7 | CS/SB 424 Criminal Justice / Lee (Similar CS/CS/H 255) | Discriminatory Insurance Practices; Providing that unfair discrimination on the basis of gun ownership in the provision of personal lines property or personal lines automobile insurance is a discriminatory insurance practice; clarifying that insurers are not prevented from charging supplemental premiums or sharing information between an insurer and its agent if a separate rider has been requested, etc. BI 01/14/2014 Fav/2 Amendments CJ 02/03/2014 Fav/CS AP 03/06/2014 Fav/CS | Fav/CS Yeas 17 Nays 2 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, March 6, 2014, 1:00 —3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|-----------------------|
| 8 | CS/SB 708 Banking and Insurance / Bean (Similar H 759, Compare H 471, CS/H 565, CS/H 633, H 743, S 1210, S 1260) | Insurance Claims; Adding mediators and neutral evaluators to the list of individuals or entities that the Department of Financial Services or the Office of Insurance Regulation may investigate for alleged improper conduct; providing that a claim for residential property insurance cannot be denied based on certain credit information; establishing a Claims Bill of Rights for residential property insurance policyholders; revising qualifications for mediators of personal injury claims, etc. BI 02/11/2014 Fav/CS AP 03/06/2014 Temporarily Postponed | Temporarily Postponed |

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 Committee on Appropriations

BILL: CS/SB 860

INTRODUCER: Appropriations Committee; Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Military and Veterans Affairs

DATE: March 6, 2014 **REVISED:** _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------------------|----------------|-----------|----------------------------------|
| 1. <u>Hoagland</u> | <u>Ryon</u> | | MS SPB 7020 as introduced |
| 2. <u>Brown/Hoagland</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 860 contains provisions on a number of issues relating to employment, education, services, and benefits for current and former military personnel. The bill seeks to encourage veterans and recently separated service members to become permanent residents of Florida by promoting the state to veterans and by improving services, benefits, and honors.

Florida Is For Veterans, Inc., is created, in part, to help veterans achieve their employment goals. Veterans' employment preferences are expanded. A number of professional licensing provisions are modified, including extending certain fee waivers, addressing temporary certificates for military physicians, and authorizing reciprocal licensure for health care practitioners.

The bill provides out-of-state tuition fee waivers, allowing qualifying veterans to pay in-state rates at Florida post-secondary education institutions, and expands the state-funded education program for members of the Florida National Guard.

Several benefits currently offered to service members and veterans, are expanded to apply to certain family members. The bill also creates a memorial to veterans and eliminates the one-year Florida residency requirement for entrance into Florida veterans' home and nursing homes.

The bill appropriates \$1,930,874 in recurring funds and \$20,258,624 in nonrecurring funds from the General Revenue Fund for expenditures and full-time equivalent positions provided under the bill. As a result of the out-of-state tuition waivers for veterans, career and technical centers, Florida College System institutions, and state universities may not realize some tuition from students who are veterans.

II. Present Situation:

More than 1.6 million veterans live in Florida. Approximately 75 percent of Florida's veteran population are wartime veterans, including more than 231,000 veterans of the Afghanistan and Iraq wars and 498,000 Vietnam-era veterans. There are 187,000 military retirees who call Florida home.¹

Florida has a large military population with more than 61,000 military personnel and 12,000 Florida National Guard members. Another 25,000 civilian personnel are directly associated with the military presence in Florida.²

Florida's military installations and defense businesses provide a \$73 billion annual economic impact, and account for more than 758,000 jobs in Florida, representing the 3rd largest sector of the state economy after agriculture and tourism.³ The military spent \$31.3 billion across Florida in FY 2011 in goods and services, pensions, and salaries. Retirement, disability benefits and other transfers represent \$12.8 billion of that total.⁴

This bill contains provisions relating to employment, education, services, and benefits for current and former military personnel. Given the broad nature of the bill and multitude of proposals, information on the present situation for the relevant provisions of the bill is discussed in the Effect of Proposed Changes Section of this bill analysis.

III. Effect of Proposed Changes:

Florida National Guard Education Dollars for Duty Program (Section 1, 2 and 3)

Present Situation:

Education Dollars for Duty Program

The Education Dollars for Duty (EDD) program was created in 1997 to provide education tuition assistance to qualified Florida National Guard (FNG) members.⁵ The existing program provides education assistance for authorized courses of study at a public or nonpublic accredited institution. The program is administered by the Florida Department of Military Affairs (DMA). The DMA may pay the full cost of tuition and fees for required courses for the Guard. Tuition and fees at nonpublic postsecondary institutions are limited to an amount equal to the amount

¹ Florida Department of Veterans' Affairs, Fast Facts, http://floridavets.org/?page_id=50 last visited on January 24, 2014.

² Florida Defense Factbook, EFI and Haas Center, January 2013,

<http://www.eflorida.com/fdstf/docs/resources/Factbook%202013.pdf> last visited on January 24, 2014. This figure represents military and National Guard civilian personnel.

³ Florida's Military Profile, Enterprise Florida, Defense Office,

http://www.eflorida.com/fdstf/docs/info/Military_Install_Map.pdf last visited on January 24, 2014

⁴ Florida Defense Industry Economic Impact Analysis,

<http://www.floridadefense.org/documents/HAAS%20Study%202013/Impact2013FinalSubmission3.26.13.pdf> last visited on January 24, 2014.

⁵ Ch. 97-158, Laws of Florida

required to pay for the average tuition and fees at a public postsecondary education institution or public vocational-technical program. Noncredit courses or courses not leading to a degree or completion of career training are not permitted under the EDD program.⁶

To qualify, an actively drilling member of the FNG must be 17 years of age, live in Florida, agree to comply with the rules of the program, and remain in good standing with satisfactory participation in the FNG. A member is eligible at the time of enlistment in the FNG.⁷ The DMA has adopted rules regarding the EDD program in Chapter 70-2, F.A.C. The rules limit participation to FNG members who enlisted after the establishment of the program in 1997. Participation in the program is limited, by rule, to five years.⁸

If a member of the FNG does not maintain satisfactory participation in the FNG or is placed on scholastic probation, the member must reimburse the DMA for all tuition charges and student fees for the academic term. If the member leaves the FNG during the period specified in the member's enlistment or reenlistment contract,⁹ or is terminated,¹⁰ the member must reimburse the DMA for all tuition and fee payments received.¹¹

Federal Education Programs

Florida National Guard members may be eligible for some federal education benefits. The Army National Guard Federal Tuition Assistance program provides financial assistance to part-time Army National Guard members.¹² However, this program is not a guaranteed benefit and is subject to budget fluctuations and interruptions during government shutdowns.

The U.S. Department of Veterans Affairs (USDVA) provides financial assistance programs to eligible veterans and dependents pursuing postsecondary education. There are several programs available based on varying eligibility criteria. Florida National Guard members who have been deployed on federal active duty may be eligible for federal education benefits under the Montgomery GI Bill¹³ or the Post 9/11 GI Bill.¹⁴

Industry Certifications

The State Board of Education annually approves the Postsecondary Industry Certification Funding List, pursuant to s. 1008.44, F.S. The Chancellor of the State University System, the

⁶ Section 250.10(7) and (8), F.S.

⁷ Ibid.

⁸ Chapter 70-2, F.A.C.

⁹ Chapter 70-2.002, F.A.C., requires a member to serve in the FNG for a three year period after benefits are received.

¹⁰ Chapter 70-2.002, F.A.C., requires a minimum of a 2.0 grade point average.

¹¹ Section 250.10(8), F.S.

¹² [http://myarmybenefits.us.army.mil/Home/Benefit_Library/Federal_Benefits_Page/Tuition_Assistance_\(TA\).html?serv=149](http://myarmybenefits.us.army.mil/Home/Benefit_Library/Federal_Benefits_Page/Tuition_Assistance_(TA).html?serv=149)
last visited 3/7/14

¹³ *The Montgomery GI Bill-Selected Reserve*, VA Pamphlet 22-90-3, Revised January 2007. Requires a National Guard member to have been called up to active duty under title 10 U.S. Code for a period of two years.

¹⁴ *Post 9/11 GI Bill, It's Your Future*, VA Pamphlet 22-09-1 Revised May 2012. Available to persons who served on active duty after September 10, 2001, who have served at least 90 aggregate days on active duty. Percent of benefits allowed are calculated on period of time served on active duty and range from 40% of benefits for persons serving at least 90 days but less than 6 month to 100% of benefits for those serving at least 36 months.

Chancellor of the Florida College System, and the Chancellor of Career and Adult Education work with local workforce boards, other postsecondary institutions, businesses, and industry to identify, create, and recommend to the Commissioner of Education industry certifications to be placed on the funding list. The chancellors review results of the economic security report of employment and earning outcomes to assist in developing the list of approved industry certifications.¹⁵

Florida National Guard Deployments

Since September 2001, almost 12,000 members of the FNG have been deployed on federal missions,¹⁶ and many of these have had multiple deployments. Of the 12,000 FNG members deployed in the last 13 years, approximately 5,700 are currently serving in the Guard.¹⁷

Effect of Proposed Changes:

Section 1 amends s. 250.10, F.S., to expand the EDD program to allow funds to be used for a broader range of education and training opportunities associated with job skills, including training to obtain industry certifications, continuing education to maintain license certifications, and licensing and industry certification examination fees. Funding for the industry certifications is limited to those certifications approved by the Department of Education under s. 1008.44, F.S.

The bill provides preference and priority to eligible members who have deployed on federal military orders while a member of the FNG. The bill requires participants of the program to authorize the release of information by the postsecondary institution or technical center to the education service offices within the DMA.

The bill provides discretion to the Adjutant General to reimburse a member for books and fees based on available funding, regardless of the source of tuition funding. All tuition and fees for eligible members must be paid for the fiscal year prior to use of funds for books. Further, the bill modifies the limitations regarding funding to private institutions to reflect language within the federal Post-9/11 GI Bill to pay no more than the rate of the highest in-state tuition and fees at a public postsecondary education institution or public vocational-technical program.

The Adjutant General must adopt rules regarding approval of courses of study, industry certification training, and continuing education courses. Rules must also address guidelines for approving funds for licensing and industry certification examination fees. The DMA rules must include procedures for institutes of higher learning to release grade and status information to the DMA for students being funded through the EDD program. Rules must also provide guidelines for the payment of tuition and fees not to exceed the highest in-state tuition rate charged by a public postsecondary institution in Florida.

¹⁵ Section 1004.44, F.S.

¹⁶ Unit State*/ Home Residence for Service Members Currently Deployed, As of January 31, 2014, Source: Contingency Tracking System Deployment File

¹⁷ Correspondence from the Florida Department of Military Affairs to the Senate Committee on Military and Veterans Affairs, Space and Domestic Security staff on March 7, 2014.

Section 2 appropriates \$1.53 million in recurring funds from the General Revenue Fund to the DMA for the EDD program.

Section 3 appropriates \$250,000 in nonrecurring funds from the General Revenue Fund to the DMA for information technology upgrades related to the EDD program.

Uniform Code of Military Justice and the Manual for Courts-Martial (Section 4)

Present Situation:

The state National Guards are governed by the concurrent laws of the federal and respective state governments. All provisions of federal law, which relate to the Florida National Guard, and which are not inconsistent with the state constitution, are part of the military laws of Florida.¹⁸ The Florida Constitution specifies that the qualifications of a member of the Florida National Guard, and “the grounds and proceedings for their discipline and removal” must conform to the appropriate regulations of United States Army or Air Force.¹⁹

The federal Uniform Code of Military Justice (UCMJ) contains the substantive and procedural laws governing the military justice system. The UCMJ defines the same crimes as those in civilian courts, but also includes violations of order and discipline, such as disobedience to a superior officer, drunkenness on duty, misconduct as a prisoner of war, and even adultery. The Manual for Courts-Martial (MCM) prescribes procedural rules and punishments for violations of crimes.

Florida National Guard members are subject to the Uniform Code of Military Justice, as well as state law, at all times during their enlistment or appointment, whether serving in this state or out-of-state.²⁰

Section 250.35, F.S., references the MCM and the UCMJ, 2008 editions. Federal regulations require states to annually review the MCM to remain current with changes to the UCMJ.²¹

Effect of Proposed Changes:

Section 4 amends s. 250.35, F.S., to update the reference to the UCMJ and the MCM to reflect the most current version, the 2012 edition.

Florida Veterans’ Walk of Honor and Memorial Garden (Section 5)

Present Situation:

The Legislature created the Florida Veterans’ Hall of Fame in 2011 to recognize and honor those military veterans who have made a significant contribution to the State of Florida.²² Section 265.002, F.S., created the Florida Medal of Honor Wall on the Plaza Level of the Capitol

¹⁸ Section 250.03, F.S.; 32 U.S.C.A. is the primary federal law addressing the organization of the state National Guards.

¹⁹ Article X, section 2(d) of the State Constitution.

²⁰ Section 250.351, F.S.

²¹ Executive Order 12473 (July 13, 1984). 10 U.S.C.

²² Section 265.003, F.S.

Building in 1996 to honor recipients of the Medal of Honor who are in some way associated with Florida.

Effect of Proposed Changes:

Section 5 creates s. 265.0031, F.S., to establish the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden. The Walk of Honor and Memorial Garden are to be administered and funded by the Florida Department of Veterans' Affairs' (FDVA) direct support organization, without appropriation of state funds. The bill directs the Florida Department of Management Services (DMS) to set aside an area for the Walk of Honor on the Capitol grounds. Further, the bill directs the DMS to set aside an area for the Memorial Garden. The DMS must consult with the FDVA and the FDVA's direct support organization regarding the design and theme of the area.

The FDVA's direct support organization will accept donations from the public for the Walk of Honor, which will generate a recurring funding stream for the support of veterans and for the construction and maintenance of the Memorial Garden.

Provisions relating to the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden are effective upon becoming law.

Veterans Preference in Public Employment (Sections 7-10)

Present Situation:

Florida provides a preference and priority in the hiring practices of government employers of the state and political subdivisions of the state²³ for certain veterans and their spouses who are residents of Florida. All advertisements and written job announcements must include notice that veterans and eligible spouses receive preference in employment and are encouraged to apply for the position.²⁴ Florida's veterans' preference in employment statutes do not require a government employer to hire an unqualified veteran over a more qualified non-veteran.²⁵

Pursuant to Florida law, the following persons are eligible to claim veterans' employment preference:²⁶

- A veteran with a service-connected disability;
- The spouse of a person who is:
 - Unable to work due to a total, permanent disability resulting from a service-connected disability; or
 - Missing in action, captured in the line of duty, or forcibly detained or interned in the line of duty;

²³ Subsection 1.01(8), F.S., defines "political subdivision" to include counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

²⁴ Section 295.065, F.S.

²⁵ *Harris v. State, Public Employees Relations Com'n.*, 568 So.2d 475 (Fla. 1st DCA 1990).

²⁶ s. 295.07(1)(a)-(d), F.S.

- A wartime veteran²⁷ who was honorably discharged; and
- The unremarried widow or widower of a veteran who died of a service-connected disability.

Certain government positions are exempt from the veterans' employment preference. Examples of exempt positions include: elected officers; members, officers and employees of the legislative and judicial branch; and positions that require licensure as a physician or a member of the Florida Bar.²⁸ However, positions in the State University System, career service positions in the Florida College System, and the School for the Deaf and the Blind are specifically not exempt.²⁹

For positions that do not require an examination to determine qualification for employment, preference is given as follows:

- First preference is given to a veteran with a service-connected disability, the spouse of a veteran who is unable to work due to a permanent service-connected disability and the spouse of a servicemember missing in action or captured.
- Second preference is given to a wartime veteran and the widow and widower of a veteran who died of a service-connected disability.³⁰

For positions that require an examination to determine qualification for employment, specific point preference is given as follows:

- Ten points for a veteran with a service-connected disability, the spouse of a veteran that is unable to work due to a permanent service-connected disability, and the spouse of a servicemember missing in action or captured.
- Five points for a wartime veteran and the widow or widower of a veteran who died of a service-connected disability.³¹

The FDVA is charged with administering the grievance process for the veteran employment preference. The FDVA investigates any complaint filed with the department and may issue an opinion to the Public Employees Relations Commission (PERC) as to the merit or lack of merit in each case. The FDVA must also provide a copy of the investigative findings to the complainant and to the agency involved. Unresolved issues may go to the PERC.³²

The number of complaints filed with the FDVA has increased in the last several years, going from 143 complaints in Fiscal Year 2009-2010 to 1,125 complaints in Fiscal Year 2012-2013. Nine cases went to the PERC in Fiscal Year 2012-2013. Three cases were in the court system in Fiscal Year 2012-2013.³³

²⁷ Section 1.01(14), F.S., prescribes specified periods of wartime which qualify certain veterans for benefits exclusive to wartime veterans.

²⁸ Section 110.205(2), F.S.

²⁹ Section 295.07(4), F.S.

³⁰ Section 295.085, F.S.

³¹ Section 295.08, F.S.

³² Section 295.11, F.S.

³³ Correspondence from the Florida Department of Veterans Affairs to Senate Committee on Military and Veterans Affairs, Space and Domestic Security staff on December 9, 2013.

Effect of Proposed Changes:

Section 7 of the bill amends s. 295.065, F.S., to modify Legislative intent language to reflect the inclusion of certain service members and family members of veterans added to the employment preference.

Section 8 amends s. 295.07, F.S., to authorize the following persons to receive an employment preference:

- The mother, father, legal guardian, or unremarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions.
- An honorably discharged veteran.³⁴ However, active duty for training does not constitute eligibility.
- A current member of any reserve component of the U.S. Armed Forces or the FNG.

The bill removes the requirement that a person receiving preference be a Florida resident.

Section 9 amends s. 295.08, F.S., to revise the preference points to be awarded for positions that are numerically selected as follows:

- 15 points (an increase from 10 points) for:
 - A veteran with a service-connected disability;
 - The spouse of a veteran who is unable to work due to a permanent service-connected disability; and
 - The spouse of a service member missing in action, captured in the line of duty, or forcibly detained or interned in the line of duty.
- 10 points for:
 - A wartime veteran, who has served at least one day during a wartime period;
 - The unremarried widow or widower of a veteran who died of a service-connected disability; and
 - The mother, father, legal guardian, or unremarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions.
- 5 points for:
 - Any honorably discharged veteran. However, active duty for training does not constitute eligibility; and
 - A current member of any reserve component of the U.S. Armed Forces or the FNG.

Section 10 amends s. 295.085, F.S., to revise the preference order for positions that are not based on numerical point system as follows:

- First preference:
 - A veteran with a service-connected disability;
 - The spouse of a veteran who is unable to work due to a permanent service-connected disability; and
 - The spouse of a service member missing in action, captured in the line of duty, or forcibly detained or interned in the line of duty.

³⁴ Subsection 1.01(14), F.S., defines a “veteran” as “a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.”

- Second preference:
 - A wartime veteran, who has served at least one day during a wartime period;
 - The unremarried widow or widower of a veteran who died of a service-connected disability;
 - The mother, father, legal guardian, or unremarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions;
 - Any honorably discharged veteran. However, active duty for training does not constitute eligibility; and
 - A current member of any reserve component of the U.S. Armed Forces or the FNG.

Veterans Preference in Private Employment (Section 11)

Present Situation:

While the majority of states grant some form of employment preference to veterans in the public sector, private employers have been hesitant to favor veterans due to long-standing federal laws that prohibit discrimination in hiring.³⁵ Title VII of the Civil Rights Act of 1964 (Act) prohibits veterans' preference in employment as unlawfully discriminatory due to the potential disparate impact on women. However, Section 712 of the Act contains an exception which provides that veterans' preferences permitted pursuant to federal, state, or local law are not subject to challenge under Title VII.³⁶

Since 2011, four states have enacted statutes that allow private employers to create voluntary veterans' preference policies. These include the states of Washington, Minnesota, Arkansas, and North Dakota.³⁷

Effect of Proposed Changes:

Section 11 creates s. 295.188, F.S., to authorize, but not require, a private sector employer to establish a voluntary veterans' preference in employment process for an honorably discharged veteran or the spouse of a service-disabled veteran. The bill also clarifies that the provisions in the bill do not violate any state or local equal employment opportunity law.

Florida Is for Veterans, Inc. (Sections 12-21)

Present Situation:

Several Florida entities, as a part of their overall mission, provide education and employment assistance to veterans. In addition, Florida has created the Florida Defense Support Task Force to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for service members, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.³⁸ However, no single entity

³⁵ NCSL, Giving Veterans Hiring Preference, by Jennifer Schultz, Vol. 21, No. 46, December 2013, available at: <http://www.ncsl.org/research/military-and-veterans-affairs/giving-veterans-hiring-preference.aspx?TabId=27550>.

³⁶ EEOC, Policy Guidance on Veterans' Preference Under Title VII, August 10, 1990. Available at: http://www.eeoc.gov/policy/docs/veterans_preference.html

³⁷ See *supra* Note 40.

³⁸ Section 288.987, F.S.

is focused on promoting Florida as the future home for recently separated or retired military personnel.

With funding from the United States Department of Labor, the Florida Department of Economic Opportunity (DEO) directly administers the Jobs for Veterans State Grant in conjunction with various workforce development programs. The DEO veterans' program works to promote and maximize the employment of Florida's veteran population, especially those with barriers to employment. Florida's One-Stop Career Centers are staffed with a network of professional Disabled Veterans Outreach Program Specialists and Local Veteran Employment Representatives.³⁹

The Division of Career and Adult Education in the Florida Department of Education (FDOE) administers the Veterans Diploma program. The FDOE has also worked to ensure that veterans can receive academic credit for prior experience and training in the military.⁴⁰

The FDVA is a cabinet agency created to assist all present and former members of the U.S. Armed Forces and their dependents and survivors in preparing claims for and securing such compensation, pension, hospitalization, vocational training, employment assistance, and other benefits or privileges they may have earned. All services rendered by FDVA are without charge to the claimant.⁴¹ The FDVA annually publishes the Florida Veterans' Benefits Guide designed to provide the latest information on federal and state benefits.⁴²

Effect of Proposed Changes:

Section 12 creates s. 295.21, F.S., to establish the Florida Is For Veterans, Inc., (FIFV) a nonprofit corporation in the FDVA, to promote Florida as a veteran-friendly state. The purpose of the FIFV is to encourage and assist retired and recently separated military personnel to keep or make Florida their permanent residence. It will also help equip veterans for employment opportunities and promote the hiring of veterans.

The FIFV must:

- Conduct market research by competitively procuring a contract with one or more entities to identify the target market and the educational and employment needs of the target population;
- Advise the Florida Tourism Industry Marketing Corporation (VISIT Florida) on:
 - The target market identified through market research;
 - Development and implementation of a marketing campaign to encourage retired and recently separated military personnel to live in Florida; and
 - Methods of information dissemination to veterans of all ages regarding access to benefits;
- Promote and enhance the value of military skill sets to businesses;

³⁹ Material provided by the Department of Economic Opportunity to the Senate Committee on Military and Veterans Affairs, Space and Domestic Security, December 10, 2013.

⁴⁰ Material provided by the Florida Department of Education to the Senate Committee on Military Affairs, Space and Domestic Security, December 9, 2013.

⁴¹ <http://www.myflorida.com/agency/49/> (last visited 2/3/14)

⁴² FDVA website: <http://floridavets.org/> (last visited 2/3/14)

- Implement employment and training initiatives under the Veterans Employment and Training Services (VETS) program (created by the bill);
- Manage funds; and
- Administer specified programs.

The FIFV will be governed by a nine-member board of directors. The Governor, the President of the Senate, and the Speaker of the House of Representatives will each appoint three members and must consider representation by active and retired military personnel and their spouses representing a range of ages and persons with experience in business, education, marketing, and information management. The members of the board will serve for four years and will annually elect a chairman from among the board members. In order to achieve staggered terms, the initial appointees of the Governor shall be for a two year period. With the exception of members appointed for a term of two years or less, members are limited one term. Appointments must be made by July 15, 2014.

The bill provides that members of the board are subject to the standards of conduct for public officers and employees,⁴³ restrictions on employment of relatives,⁴⁴ and the provision governing voting conflicts,⁴⁵ contained in Chapter 112, F.S. Additionally, a member of the board may not have a direct interest in a contract, franchise, privilege, project, program, or other benefit relating to an award by the FIFV while on the board and for two years following service on the board. Accepting appointment to the board in violation of these provisions or acceptance by a board member of a direct interest in any contract, franchise, etc., granted by the FIFV to an awardee within two years after the end of their appointment is a misdemeanor of the first degree. Members of the board are required to file a financial disclosure.⁴⁶ Members of the board serve without compensation; however, they will be reimbursed for travel associated with the corporation.

The FIFV has the powers provided to not-for-profit corporations in ch. 617, F.S., and, in addition:

- May enter into contracts and other instruments, make expenditures, adopt and revise bylaws, accept funding for programs and activities from federal, state, local and private sources, and adopt and register a fictitious name for marketing.
- Is prohibited from issuing bonds and must revert to the state any moneys and property held by the corporation if the corporation ceases to exist.
- Is subject to public records and meetings provisions of Florida statutes.⁴⁷
- May hire staff. All agencies of the state are directed to provide such technical assistance as the corporation needs to identify programs within each agency that provide assistance or benefits to veterans. The FDVA may provide department property, facilities and personal services to the corporation.

⁴³ Section 112.313, F.S.

⁴⁴ Section 112.3135, F.S.

⁴⁵ Section 112.3143, F.S.

⁴⁶ Each member of the board who is not otherwise required to file financial disclosure under s. 8, Art. II of the State Constitution or s. 112.2144, F.S., must file a statement of financial interest under s. 112.3145, F.S.

⁴⁷ Chapters 119 and 286, F.S.

The FIFV must provide the Governor and Legislature with an annual progress report and work plan by December 1 of each year. The report must include the status and summary of findings regarding the target market, veteran benefits and any identified gaps in services; status of the marketing campaign, delivery systems of the marketing campaign, and outreach; status of the VETS program; proposed revisions or additions to the performance measurements for their programs; identification of contracts that the corporation enacted to carry out its duties; and annual compliance and financial audit of accounts and records.

In the event of the dissolution of FIFV, all moneys and property of the FIFV will revert to the state.

Sections 13 and 14 create the VETS program and the marketing campaign related to the functions of the FIFV. These sections provide administrative and advisory roles for the FIFV. Both programs are explained below in separate sections of the bill analysis.

Section 16 provides that \$56,768 in recurring funds and \$4,258 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position are appropriated to the DVA to assist the FIFV in performing state financial activities.

Section 17 appropriates \$344,106 in recurring funds and \$14,391 in nonrecurring funds from General Revenue to the DVA for start-up, staffing, and general operations of the FIFV.

Section 18 requires the FIFV to submit a plan to the Legislative Budget Commission (LBC) by August 15, 2014, that:

- Provides a strategy and framework for the general operations of the FIFV to fulfill its purpose, duties, and goals associated with s. 295.21, F.S., and the VETS program.
- Provides specific performance measures that will serve to evaluate the functions of the FIFV.
- Details existing expenditures and obligations of FIFV and provides a budget and timelines for expected expenditures for general operations and other functions of the corporation.

The LBC must approve performance measures for the FIFV prior to expenditure of any funds appropriated for the VETS program. Copies of the plan will also be provided to the Speaker of the House and the President of the Senate.

Section 19 requires VISIT Florida and the FIFV to jointly develop and submit performance measures that will serve to evaluate the research and marketing campaign created in s. 295.23, F.S., to the LBC by August 15, 2014. The LBC must approve performance measures for the FIFV prior to expenditure of any funds relating to the research and marketing campaign. Copies of the performance measures will also be provided to the Speaker of the House and the President of the Senate.

Section 20 requires the FIFV to submit a report no later than February 2, 2016, to the Governor, the President of the Senate, and the Speaker of the House, identifying existing gaps in veteran resources and recommending best practices to assist veterans and improve current or new resources and programs.

Section 21 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a performance audit of the corporation by February 1, 2018, to assess the implementation and outcomes of the activities of the VETS program and the research and marketing program, and to evaluate accomplishments and progress toward making Florida a veteran-friendly state. The audit findings will be submitted to the President of the Senate and the Speaker of the House of Representatives.

Veterans Employment and Training Services Program (VETS) (Sections 6, 13, 18 and 21)

Present Situation:

See Present Situation under Florida Is For Veterans, Inc.

Effect of Proposed Changes:

Section 13 creates in s. 295.22, F.S., the VETS program, which will be administered by the FIFV, with the purpose of connecting veterans and employers. The FIFV is required to provide services to veterans and employers.

Services offered to veterans include:

- Skill assessments, including skill translation of military skills into civilian workforce skills and resume creation.
- Assistance in establishing employment goals, including providing information on Department of Education approved industry certifications and the ability to earn college credit for training and education acquired in the military.
- Assistance in applying for employment, including referring a veteran to the state's job bank system (the Employ Florida Marketplace) or his or her Local One-Stop Career Center. The FIFV must provide information on the state's workforce programs on a central website.

The FIFV is required to contract, through competitive procurement, with one or more public or private universities to administer entrepreneurship initiative programs for veterans. The selected universities must demonstrate a commitment of university resources to such a program, have a military and veteran resource center, have a regional small business development center, and have been nationally recognized for commitment to the military and veterans. The initiative may include peer-to-peer learning, mentoring, technical assistance, networking, and use of tools in a virtual environment.

Services offered to employers include:

- Educating employers on the value of a veteran's military experience in the workplace;
- Assisting employers to meet hiring needs by connecting businesses with suitable veteran applicants; and
- Providing information about state and federal benefits of hiring veterans.

Additionally, the FIFV is required to create a grant program for businesses to provide funding for training veterans to meet a business's workforce needs. The grant funds are permitted to pay any training provider selected by the business, including in-house providers and state colleges or

universities. Preference is given to targeted industry businesses.⁴⁸ A business must enter into an agreement with FIFV for the grant and must provide a match to the grant funds of at least 50 percent. Grant terms may not exceed 48 months. Grant funds are limited to \$8,000 per veteran trainee to pay for costs such as tuition, fees, books, and rental fees for facilities. Grant funds may only be used in the absence of available veteran-specific, federally-funded programs. However, a grant under this program may be combined with a grant under the Quick Response Training Program under s. 288.047, F.S.

The FIFV must market the VETS program and recruit in-state and out-of-state veterans seeking employment in Florida to participate in the program. Efforts may include job fairs and social media campaigns. The marketing must be included as part of the main marketing campaign of the FIFV.

The bill requires that Enterprise Florida, Inc., provide information about the FIFV and its services to prospective, new, expanding, and relocating businesses and work with the FIFV, to the greatest extent possible, to meet the employment needs of such businesses.

Section 6 amends s. 288.0001, F.S., to require the Office of Economic and Demographic Research and the OPPAGA to include the entrepreneurship initiative and training grant programs created under the VETS program as part of the Economic Development Programs Evaluation in 2019.

Section 18 requires the FIFV to submit a plan and performance measures to the LBC and is discussed above in Effect of Proposed Changes under Florida Is For Veterans, Inc.

Section 21 provides for a performance audit and is discussed above in Effect of Proposed Changes under Florida Is For Veterans, Inc.

Veterans Research and Marketing Campaign (Sections 14, 15, 19 and 21)

Present Situation:

See Present Situation under Florida Is For Veterans, Inc.

Effect of Proposed Changes:

Section 14 creates s. 295.23, F.S., directing the Florida Tourism Industry Marketing Corporation (VISIT Florida) to develop and conduct a marketing campaign to encourage retired and recently separated military personnel to remain in Florida, or to make Florida their permanent residence. In addition, VISIT Florida is to develop a process to disseminate information regarding veteran benefits to veterans and military personnel targeted to the interests and needs of veterans of all ages.

⁴⁸ Target industries include cleantech, life sciences, infotech, aviation/aerospace, homeland security/defense, financial/professional services, and manufacturing, corporate headquarters, and research and development within those areas. See Enterprise Florida's "Qualified Targeted Industries for Incentives," available at http://www.eflorida.com/IntelligenceCenter/download/PSR/SI_Targeted_Industries.pdf (last visited 1/29/2014).

FIFV and VISIT Florida must coordinate their efforts in implementing the research and marketing campaign. VISIT Florida must provide input to the FIFV on research to identify the target market. In addition, VISIT Florida must seek advice from FIFV on the scope, process and focus of the marketing campaign at all stages of the campaign.

VISIT Florida is to expend \$1 million annually on marketing the state to veterans as a permanent home and on disseminating information to improve veterans' knowledge of and access to benefits from existing funds appropriated to VISIT Florida and private funds.

Section 15 provides, for Fiscal Year 2014-2015, that VISIT Florida provide FIFV \$300,000 to conduct the market research.

Section 19 requires VISIT Florida and FIFV to submit performance measures to the LBC and is discussed above in Effect of Proposed Changes under Florida Is For Veterans, Inc.

Section 21 provides for a performance audit and is discussed above in Effect of Proposed Changes under Florida Is For Veterans, Inc.

Florida Veterans' Domiciliary Home and Veterans' Nursing Homes (Sections 22 and 23)

Present Situation:

The FDVA operates six skilled nursing facilities in Daytona Beach, Land O' Lakes, Pembroke Pines, Panama City, Port Charlotte and St. Augustine, and one assisted living facility in Lake City. Skilled nursing care is provided to veterans with qualifying war or peacetime service whose need for such care has been certified by a USDVA physician. Assisted living level care is provided at the Robert H. Jenkins State Veterans' Domiciliary Home in Lake City, and includes rehabilitative assistance and other therapeutic measures to eligible ambulatory veterans who are not in need of hospitalization or skilled nursing services. The Robert H. Jenkins State Veterans' Domiciliary Home operated at an average occupancy rate of 86 percent in Fiscal Year 2012-2013. Occupancy rates for the state veterans' nursing homes are much higher, ranging from 97.1-percent to 99.9-percent in Fiscal Year 2012-2013.⁴⁹

Veterans must be a Florida resident for at least one year prior to applying for admittance into the state veterans' domiciliary home or the state veteran's nursing homes.⁵⁰

Effect of Proposed Changes:

Sections 22 and 23 amend ss. 296.06 and 296.36, F.S., respectively, to remove the one-year residency requirement for admittance into the state veterans' domiciliary home or the state veteran's nursing homes. However, the requirement that an applicant be a resident of Florida when the application is submitted is retained.

⁴⁹ Florida Department of Veterans' Affairs, Annual Report: Fiscal Year 2012-2013

⁵⁰ Section 296.06, F.S., provides the requirements for admittance into the state veterans' domiciliary home. Section 296.36, F.S., provides the requirements for admittance into the state veterans' nursing homes.

Driver License Exemptions for Nonresident Military Service members (Section 24)

Present Situation:

Florida law requires all persons driving a motor vehicle on a Florida highway to possess a valid driver license issued pursuant to ch. 322, F.S.⁵¹ However, a nonresident who is at least 16 years of age and has a valid driver license from another state is exempt from the requirement to obtain a driver license.⁵² Pursuant to this exemption, nonresident service members and their dependents stationed in Florida are not required to obtain a Florida driver license provided they possess a valid driver license issued by another state.⁵³

Current law provides that once a nonresident⁵⁴ enrolls his or children in a Florida public school or accepts employment in the state, the nonresident becomes subject to the driver license provisions in ch. 322, F.S., and must obtain a Florida driver license within 30 days after the commencement of such employment or education.⁵⁵ Under such circumstances, the spouse and dependent children of the nonresident must also obtain a Florida driver license within that 30-day period.

Section 322.031(2), F.S., exempts an active duty service member stationed in Florida from obtaining a Florida driver license solely because the service member enters his or her children in a Florida public school. To be eligible for the exemption, the service member must have a valid military driving permit or a valid driver license issued by another state. This exemption currently does not apply to the spouse or dependent children of a service member, only to the individual service member.

Effect of Proposed Change:

Section 24 amends s. 322.031, F.S., to expand the exemption from the requirement to obtain a Florida driver license that is currently afforded to nonresident active-duty U.S. Armed Forces service members to include the service member's spouse and dependent child residing with him or her. The spouse or dependent child of an active duty nonresident service member does not have to obtain a Florida driver license because he or she enrolled his or her child in public school or has accepted employment in this state.

Driver License Extensions for Military Personnel and Dependents (Section 25)

Present Situation:

Florida driver license holders are required to periodically renew their driver license⁵⁶ upon payment of the required renewal fees and successful passage of any required examination.⁵⁷ In an effort to process license renewals expeditiously, only examination of the licensee's eyesight

⁵¹ Section 322.03(1), F.S.

⁵² Section 322.04(1)(c), F.S.

⁵³ Op. Att'y Gen. Fla 78-164 (1978).

⁵⁴ Nonresident migrant or seasonal farm workers as defined in s. 316.003(61), F.S., are excluded.

⁵⁵ Section 322.031(1), F.S.

⁵⁶ Pursuant to s. 322.18(4)(a), F.S., driver licenses are generally valid for eight years.

⁵⁷ Section 322.18(4)(a), F.S.

and hearing is required.⁵⁸ The renewal fee for a Class E driver license is \$48. A delinquent fee of \$15 is assessed for the renewal of a Class E driver license within 12 months after the expiration date of the license.⁵⁹

Section 322.121(5), F.S., grants military service members serving on active duty outside this state, and their dependents residing with them, an automatic extension without reexamination for a Class E driver license that expires while performing such service. This extension is valid for 90-days after the service member is either discharged or returns to the state of Florida to live. Upon a service member's application to the Department of Highway Safety and Motor Vehicles (DHSMV) certifying active duty status outside of Florida, the DHSMV issues a military extension card extending the service member's and his or her dependents' driving privileges.⁶⁰ The DHSMV currently recognizes a "dependent" as a service member's spouse, children and step-children under the age of 21, living in the same household.⁶¹

Effect of Proposed Change:

Section 25 amends s. 322.121, F.S., to clarify that the spouse of a resident military service member is eligible for an automatic extension without reexamination for a Florida driver license that expires while the spouse resides with the service member who is stationed outside of Florida.

Professional Licensing Fee Waiver (Sections 26, 27, 33)

Present Situation:

Department of Business and Professional Regulation License Fee Waivers for Veterans

Section 455.213, F.S., provides the general provisions for issuance of professional licensure by the Department of Business and Professional Regulation (DBPR). Former members of the U.S. Armed Forces are required to meet all licensure requirements; however, the initial licensing fee, the initial application fee and initial unlicensed activity fee for military veterans who have been honorably discharged from the U.S. Armed Forces within 24 months prior to applying for licensure are waived.

Department of Health License Fee Waivers for Veterans

Section 456.013, F.S., provides the general licensing provisions for all professions regulated by the Division of Medical Quality Assurance within the Department of Health (DOH). The initial licensing fee, the initial application fee, and the initial unlicensed activity fee for an honorably discharged military veteran who applies to the DOH for a license within 24 months after discharge from the U.S. Armed Forces are waived.

⁵⁸ Section 322.121(1), F.S.

⁵⁹ Section 322.21(1)(c), F.S.

⁶⁰ DHSMV, *Military Extension Instructions For Military Personnel, Spouse and Dependents Temporarily Assigned Outside of Florida*, (April 2014), <http://www.flhsmv.gov/MilExtCard.pdf> (last visited 2/10/14).

⁶¹ DHSMV website, *How do I renew my license or ID card?* Available at: <http://www.flhsmv.gov/ddl/renewing.html> (last visited 2/10/14)

Radiological personnel are regulated in s. 468.304, F.S. The initial application fee for an honorably discharged military veteran who applies to the DOH for one of the certifications applicable to radiological personnel within 24 months after discharge from the U.S. Armed Forces is waived.

Effect of Proposed Changes

Sections 26 amends s. 455.213, F.S., to increase the time period during which the DBPR must waive the initial licensing fee, the initial application fee and initial unlicensed activity fee for a military veteran who has been honorably discharged from the U.S. Armed Forces to 60 months after discharge. The bill also expands this benefit to the spouse of an honorably discharged veteran and specifies that the spouse must have been married to the veteran at the time of discharge in order to qualify.

Section 27 amends s. 456.013, F.S., to increase the time period during which the DOH must waive the initial licensing fee, the initial application fee and initial unlicensed activity fee for a military veteran who has been honorably discharged from the U.S. Armed Forces to 60 months after discharge. The bill also expands this benefit to the spouse of an honorably discharged veteran and specifies that the spouse must have been married to the veteran at the time of discharge in order to qualify.

Section 33 amends s. 468.304, F.S., to increase the time period during which the DOH must waive the initial application fee for an honorably discharged military veteran who applies to the DOH for a certification applicable to radiological personnel to 60 months after discharge from the U.S. Armed Forces. The bill also expands this benefit to the spouse of an honorably discharged veteran and specifies that the spouse must have been married to the veteran at the time of discharge in order to qualify.

Health Practitioner Licensure (Sections 28 – 32)

Present Situation:

The Department of Health (DOH) is responsible for licensing and regulating health care practitioners in order to preserve the health, safety, and welfare of the public.⁶² The Division of Medical Quality Assurance (MQA) within the DOH evaluates the credentials of all applicants for licensure, issues licenses, investigates complaints, assists in prosecuting violations of the practice acts, combats unlicensed activity, and provides information about the credentials and discipline history of licensees to the public.⁶³

Health care practitioners licensed and regulated by the MQA include:

- Emergency Medical Technicians and Paramedics (part III of ch. 401, F.S.)
- Acupuncture (ch. 457, F.S.)
- Allopathic Medicine, (ch. 458, F.S.)

⁶² Section 20.43(1)(g), F.S.

⁶³ Florida Dept. of Health, *Resource Manual for the Florida Department of Health*, 254 - 260 (FY 2012-2013) (on file with the Senate Health Policy Committee).

- Osteopathic Medicine, (ch. 459, F.S.)
- Chiropractic Medicine, (ch. 460, F.S.)
- Podiatric Medicine (ch. 461, F.S.)
- Naturopathy (ch. 462, F.S.)
- Optometry (ch. 463, F.S.)
- Nursing, including Certified Nursing Assistants (ch. 464, F.S.)
- Pharmacy (ch. 465, F.S.)
- Dentistry (ch. 466, F.S.)
- Midwifery (ch. 467, F.S.)
- Speech-Language Pathology and Audiology (part I of ch. 468, F.S.)
- Nursing Home Administration (part II of ch. 468, F.S.)
- Occupational Therapy (part III of ch. 468, F.S.)
- Radiology (part IV of ch. 468, F.S.)
- Respiratory Therapy (part V of ch. 468, F.S.)
- Dietetics and Nutrition (part X of ch. 468, F.S.)
- Athletic Training (part XIII of ch. 468, F.S.)
- Orthotics, Prosthetics, and Pedorthics (part XIV of ch. 468, F.S.)
- Electrolysis (ch. 478, F.S.)
- Massage Therapy, (ch. 480, F.S.)
- Clinical Laboratory Personnel (part III of ch. 483, F.S.)
- Medical Physicists (part IV of ch. 483, F.S.)
- Opticianry (part I of ch. 484, F.S.)
- Hearing Aid Specialists (part II of ch. 484, F.S.)
- Physical Therapy Practice (ch. 486, F.S.)
- Psychology (ch. 490, F.S.)
- Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (ch. 491, F.S.)

Subject to limited exceptions, a health care practitioner must obtain a Florida license and comply with the relevant practice act in order to provide medical care in the state. Florida law authorizes military personnel to provide medical care to U.S. soldiers and other citizens as part of their official duties,⁶⁴ but does not authorize them to provide medical care to the public without first obtaining a Florida license or a temporary certificate.⁶⁵

Sections 458.315 and 459.0076, F.S., allow a physician who holds a license in any jurisdiction of the United States, or who has served as a physician in the United States Armed Forces for at least 10 years and received an honorable discharge to obtain a temporary certificate to practice in areas of critical need.

⁶⁴ See s. 250.375, F.S., authorizing physicians who hold an active license to practice in medicine in any other state or Puerto Rico, while serving as medical officer in the Florida National Guard, to practice medicine on military personnel or civilians during an emergency or declared disaster, or during federal military training; s. 458.303(c), F.S., exempting commissioned medical officers of the Armed Forces of the United States and of the U.S. Public Health Services, while on active duty and while acting within the scope of their military or public health responsibilities.

⁶⁵ Sections 458.315 and 459.0076, F.S., allow a physician who holds a license in any jurisdiction of the United States, or who has served as a physician in the United States Armed Forces for at least 10 years and received an honorable discharge to obtain a temporary certificate to practice in areas of critical need.

Effect of Proposed Changes:

Section 28 amends s. 456.024, F.S., to authorize a person who has served as a health care practitioner in the military to obtain a license to practice in Florida. To be eligible, the applicant must have: an active license in another state, the District of Columbia, or possession or territory of the United States and had no disciplinary actions against that license within the last five years; received an honorable discharge within six months of submitting the application; and actively practiced for the three years preceding the date of the application.

Sections 29 and 31 amend ss. 458.315, F.S., and 459.0076, F.S., to remove the language related to military physicians.

Sections 30 and 32 create ss. 458.3151, F.S., and 459.00761, F.S., respectively, which provide an expedited application procedure for active duty military personnel and veterans who served at least 10 years as a commissioned medical officer, to obtain a temporary certificate to practice in areas of critical need or other specified locations that provide medical care to underserved populations. To be eligible, a physician must have an active medical license to practice in any jurisdiction of the United States and, if active duty, submit a letter from military command authorizing the additional practice. The Board of Medicine or Board of Osteopathic Medicine, as applicable, must act on the application within 60 days and may approve or deny the certificate, or issue a conditional certificate. A physician with a temporary certificate may enter into a contract to provide volunteer services and obtain sovereign immunity pursuant to s. 766.1115, F.S.

Prescription Drug Wholesale Distributor (Section 34)***Present Situation:***

Prescription drug wholesale distributors are regulated by DBPR's Drugs, Devices, and Cosmetics division. All applicants and permittees must designate in writing at least one natural person to serve as the designated representative (certified designated representative).⁶⁶ Such person must have an active certification from the DBPR.⁶⁷ Part of the eligibility criteria to obtain a certification as a designated representative is having at least two years of either of the following types of verifiable, full-time work experience:⁶⁸

- Work experience in a pharmacy licensed in Florida or another state, provided the applicant's responsibilities included, but were not limited to, recordkeeping for prescription drugs; or
- Managerial experience with a prescription drug wholesale distributor licensed in this state or another.

⁶⁶ Section 499.012(16)(a), F.S.

⁶⁷ *Id.*

⁶⁸ Section 499.012(16)(b)(3), F.S.

Effect of Proposed Changes:

Section 34 amends s. 499.012(16)(b)(3), F.S., to provide a third option to satisfy the work experience permit requirement, which states “managerial experience with the United States military, where the applicant’s responsibilities included, but were not limited to, recordkeeping, warehousing, distribution, or other logistics services pertaining to prescription drugs.”

Charter Schools (Section 35)***Present Situation:***

There are approximately 1.3 million children of active duty members of the Armed Forces.⁶⁹ In addition, there are over 700,000 children of members of the reserve component of the Armed Forces.⁷⁰ The state of Florida has the seventh highest number of military students attending public schools in the country.⁷¹

Children in active-duty military families face unique educational challenges. The average military student faces transition challenges more than twice during high school, and most military children will have six to nine different school systems in their lives from kindergarten to 12th grade.⁷²

As a result, military children often experience delayed enrollment, inappropriate grade-level placement, exclusion from educational programs and extracurricular activities, and delayed graduation.⁷³

Effect of Proposed Changes:

Section 35 amends s. 1002.33, F.S., as follows:

- The Legislature finds that military families face unique challenges due to the highly mobile nature of military service. Among the challenges is providing a high-quality education for their children without disruption. The state has a compelling interest in assisting the development and enhancement and learning opportunities for military children and addressing their unique needs.
- It is the intent of the Legislature that a framework be established to address the needs of military children. In establishing this framework, military installation commanders are encouraged to collaboratively work with the Commissioner of Education to increase military family student achievement, which may include the establishment of charter schools on military installations. Although the State Board of Education, through the Commissioner of

⁶⁹ Military Child Education Coalition, A Policy Leaders’ Guide to Military Children, 2012, available at <http://www.militarychild.org/parents-and-students/resources> (last viewed February 27, 2014).

⁷⁰ Id.

⁷¹ Id.

⁷² Council of State Governments, Interstate Compact of Educational Opportunity for Military Children, Legislative Resource Kit, 2008, available at: <http://www.csg.org/programs/policyprograms/NCIC/MIC3ResourcesandPublications.aspx> (last viewed February 27, 2014).

⁷³ Council of State Governments, Interstate Compact of Educational Opportunity for Military Children, Legislative Resource Kit, 2008, available at: <http://www.csg.org/programs/policyprograms/NCIC/MIC3ResourcesandPublications.aspx> (last viewed February 27, 2014).

Education, shall supervise this collaboration, the applicable school district shall operate and maintain control over any school that is established on the military installation.

Veteran Tuition Waiver Program (Section 36)

Present Situation:

Under Florida law, “tuition” is defined as “the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state.”⁷⁴ A student who is classified as a “resident for tuition purposes” is a student who qualifies for the in-state tuition rate.⁷⁵

An “out-of-state fee” is defined as “the additional fee for instruction provided by a public postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate.”⁷⁶ A “non-resident for tuition purposes” is defined as a “person who does not qualify for the in-state tuition rate,”⁷⁷ and pays the out-of-state fee in addition to tuition.

Residents for tuition purposes are charged in-state rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless such costs are exempted or waived.⁷⁸

Florida law provides fee exemptions⁷⁹ and fee waivers⁸⁰ to qualified students that meet specified criteria. A number of fee exemptions and fee waivers are permissive⁸¹ while others are mandatory.⁸²

Regarding military personnel, Florida law provides a mandatory undergraduate fee waiver for “each recipient of a Purple Heart or another combat decoration superior in precedence” at a state university or Florida College System (FCS) institution.⁸³

⁷⁴ Section 1009.01(1), F.S. Additionally, the definition states that “[a] charge for any other purpose shall not be included within this fee.” *Id.*

⁷⁵ Section 1009.21(1)(g), F.S.

⁷⁶ Section 1009.01(2), F.S. Adding that “[a] charge for any other purpose shall not be included within this fee.” *Id.*

⁷⁷ Section 1009.21(1)(e), F.S.

⁷⁸ Sections 1009.23(2)(a) and 1009.24(2), F.S.

⁷⁹ Section 1009.25, F.S.; see The Florida College System, *Exemptions and Waivers in The Florida College System*, <http://www.fldoe.org/fcs/OSAS/Evaluations/pdf/FYI2012-02Exemptions.pdf> (noting that “[a]n exemption is provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees”).

⁸⁰ Section 1009.26, F.S.; see The Florida College System, *Exemptions and Waivers in The Florida College System*, <http://www.fldoe.org/fcs/OSAS/Evaluations/pdf/FYI2012-02Exemptions.pdf> (providing that a “waiver occurs when a student has his or her fees, which would otherwise be due, waived or forgiven by an institution”).

⁸¹ Section 1009.25(2), F.S. (authorizing each Florida College System institution to grant additional fee exemptions “up to 54 full-time equivalent students or 1 percent of [an] institution’s total full-time equivalent enrollment, whichever is greater at each institution”); ss. 1009.26(1)-(4), (6), (9), (10), (11), F.S.

⁸² Section 1009.25(1)(a)-(g), F.S.; ss. 1009.26(5), (7), (8), F.S.

⁸³ Section 1009.26(8), F.S.

The U.S. Department of Veterans Affairs (USDVA) provides financial assistance programs to eligible veterans and dependents pursuing postsecondary education. The USDVA currently administers the several federal educational assistance programs.⁸⁴

According to the USDVA, for fiscal year 2011,⁸⁵ the state of Florida had the third highest number of USDVA education beneficiaries (using one or more of the federal education assistance programs described above) in the nation with 68,133 beneficiaries, behind Texas (76,878) and California (88,420).⁸⁶ The number of USDVA education program beneficiaries in Florida has steadily increased since fiscal year 2000.⁸⁷ Total USDVA education program payments to Florida beneficiaries for fiscal year 2012 was \$702,492,751.⁸⁸

During fiscal year 2011, there were 42,607 Post-9/11 GI Bill beneficiaries in Florida.⁸⁹ The Post-9/11 GI Bill only covers the highest in-state undergraduate tuition;⁹⁰ therefore, a non-resident veteran would be responsible for the total costs that exceed the in-state tuition amount, unless the veteran attends an institution that voluntarily participates in the Yellow Ribbon Program.⁹¹

Effect of Proposed Changes:

Section 36 amends s. 1009.26, F.S., to create the “Congressman C.W. Bill Young Veteran Tuition Waiver Act” and to provide a mandatory, out-of-state fee waiver for honorably discharged veterans of the U.S. Armed Forces, the U.S. Reserve Forces, or the National Guard, who reside in the state while enrolled at a state university, Florida College System (FCS) institution, career center operated by a school district under s. 1001.44, or charter technical career center. Consistent with a similar fee waiver provision for recipients of a Purple Heart or another combat decoration superior in precedence, the fee waiver authorized by the bill covers 110 percent of the credit hours needed to complete the degree or certificate program in which the veteran is enrolled. State universities must report to the Board of Governors and FCS institutions, career centers operated by school districts, and charter technical career centers must report to the State Board of Education, information on the number and value of all fee waivers granted annually under the Congressman C.W. Bill Young Veteran Tuition Waiver Act. In effect, the bill

⁸⁴ Montgomery GI Bill, Educational Assistance Survivors’ and Dependents’ Program, Veterans Educational Assistance Program, Reserve Educational Assistance Program, Post 9/11 GI Bill Program, Yellow Ribbon GI Education Enhancement Program.

⁸⁵ Fiscal year 2011 is the most recent year for which data are currently available regarding the number of USDVA education beneficiaries. USDVA, *Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2011*, <http://www.va.gov/vetdata/Utilization.asp> (select “Benefit Programs” tab; then follow the hyperlink titled “Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2011”) (last visited Dec. 8, 2013).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Email from the National Center for Veterans Analysis and Statistics (Sept. 23, 2013) (on file with Senate Committee on Education).

⁸⁹ USDVA, *Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2011*, <http://www.va.gov/vetdata/Utilization.asp> (select “Benefit Programs” tab; then follow the hyperlink titled “Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2011”) (last visited Dec. 8, 2013).

⁹⁰ USDVA, *Yellow Ribbon Program* http://www.gibill.va.gov/School_Info/yellow_ribbon/ (last visited Dec. 8, 2013).

⁹¹ The Yellow Ribbon Program was created within the Post-9/11 GI Bill program as a means to partially or fully fund tuition and fee expenses that exceed the established thresholds under the Post-9/11 GI Bill. Both public and private colleges and universities are able to voluntarily participate in the Yellow Ribbon Program through an agreement with the USDVA. The USDVA will match an institution’s contributions, not to exceed 50 percent of the difference. Currently, two FCS institutions and four State University System institutions are listed as Yellow Ribbon Program participants.

guarantees that qualifying veterans will be charged in-state tuition and fee rates at Florida's state universities, FCS institutions, career centers operated by school districts, and charter technical career centers.

State Readiness Centers (National Guard Armories) (Section 37)

Present Situation:

The Florida Armory Revitalization Program (FARP) provides a bridge of state funding to keep armories safe and serviceable, while waiting for adequate levels of Military Construction funding from the federal government to either replace or fully renovate a facility.⁹² Some of Florida's armories have not been modernized since the mid-1960s and 1970s.⁹³ Many current armories are located in flood zones or storm surge areas, which affect the ability to respond locally to disasters.⁹⁴ According to the Florida Department of Military Affairs (DMA), continuing to fund FARP is critical to the FNG's ability to sustain Florida's armories.⁹⁵

Currently, 37 out of 51 of Florida's armories have been renovated through FARP.⁹⁶ According to the DMA's Legislative Budget Request for the 2014 Legislative Session, maintaining and repairing the remaining armories is the DMA's number one legislative priority.⁹⁷

Effect of the Proposed Changes:

Section 37 appropriates \$12.5 million in nonrecurring funds from the General Revenue Fund to the DMA for the continuing renovations to the state readiness centers (armories) to meet state and federal building codes.

Base Protection from Encroachment (Section 38)

Present Situation:

Encroachment is a term used by the U.S. Department of Defense to refer to incompatible uses of land, air, water, and other resources in close proximity to a military installation.⁹⁸ The Legislature has found that encroachment of military installations has been identified by local, state, and federal leaders as a critical threat to protecting, preserving, and enhancing military installations in the state, and can be detrimental to the current and future missions of military installations due to the incompatible use of adjacent land.⁹⁹ As such, the Legislature has recognized the unique need to secure lands that have no conservation value, but may present an encroachment threat to a military installation.¹⁰⁰

⁹² DMA, Adjutant General's Annual Report, Fiscal Year 2012.

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ DMA, Fiscal Year 2014-2015 Budget Request.

⁹⁷ Id.

⁹⁸ The National Conference of State Legislatures, *Minimizing Encroachment and Incompatible Land Use Near Military Installations*, January 2013, available at: <http://www.ncsl.org/research/military-and-veterans-affairs/minimize-encroachment-on-military-installations.aspx> (last viewed February 27, 2014).

⁹⁹ s. 288.980(1)(c), F.S.

¹⁰⁰ Id.

During the 2013 Legislative Session, the Legislature passed SB 1784 to modify the Military Base Protection Program (MBPP), within the Department of Economic Opportunity (DEO), to specifically address problems related to encroachment of military installations.¹⁰¹ Specifically, the MBPP was given the authority to use funds appropriated to it by the Florida Legislature to address encroachment reduction or prevention through the acquisition of nonconservation lands.¹⁰²

The DEO may annually submit a list to the Board of Trustees of the Internal Improvement Trust Fund¹⁰³ (the Board) of nonconservation lands which they recommend should be acquired, subject to a specific appropriation, through fee simple purchase (absolute ownership) or through perpetual, less-than-fee interest purchase (e.g., easements or development rights), for the purpose of buffering a military installation against encroachment.¹⁰⁴ The Board must consider the recommendations of the Florida Defense Support Task Force¹⁰⁵ when selecting nonconservation lands to purchase for the purpose of securing and protecting a military installation against encroachment.¹⁰⁶

For the current year, the DEO has identified the following three properties as its Tier 1, or highest priority, nonconservation lands and has recommended that the Legislature appropriate funds to secure their acquisition:

| Installation | Size |
|------------------------------------|------------|
| Naval Support Activity Panama City | 8.4 acres |
| Naval Station Mayport | 11 acres |
| MacDill Air Force Base | 25.5 acres |

The Florida Defense Support Task Force supports the acquisition of the above identified nonconservation properties to protect Florida’s military installations.¹⁰⁷

Effect of Proposed Changes

For Fiscal Year 2014-2015, \$7,489,975 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection to allow the Board to acquire, pursuant to s. 288.980, F.S., nonconservation land adjacent to the Naval Support Activity Panama City, Naval Station Mayport, and MacDill Air Force Base for the purpose of securing and protecting such installations against encroachment.

¹⁰¹ ch. 2013-222, L.O.F.

¹⁰² Id.

¹⁰³ The Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may inure to the state or any of its agencies, departments, boards, or commissions, with certain exceptions. See s. 253.03(1), F.S.

¹⁰⁴ s. 288.980(2)(b), F.S.

¹⁰⁵ s. 288.987, F.S.

¹⁰⁶ s. 288.980(2)(b), F.S.

¹⁰⁷ Florida Defense Support Task Force, 2014 Annual Report.

Effective Date (Section 39)

Section 39 provides an effective date of July 1, 2014 for all portions of the bill except Section 5 relating to the Florida Veterans' Walk of Honor and Florida Veterans' Memorial Garden. The Walk of Honor and Memorial Garden provisions will be effective upon becoming law.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Title VII of the Civil Rights Act of 1964 prohibits veterans' preferences in employment as unlawfully discriminatory due to the potential disparate impact on women. However, Section 712 of the Act provides an exception for veterans' preference processes that are authorized by federal, state, or local law.

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

Under sections 15, 16, and 17 of CS/SB 860, the initial licensing fees for military veterans and their spouses applying for DBPR or DOH licensure within 60 months after being honorably discharged from the U. S. Armed Forces, will be waived.

B. Private Sector Impact:

Veterans in Florida or seeking to relocate to Florida will benefit from the services of the (VETS) Veterans Employment and Training Program administered by Florida Is For Veterans, Inc., (FIFV). Veterans will receive assistance in meeting employment goals, finding employment, or becoming entrepreneurs.

Businesses in Florida or moving to Florida will benefit from the services of the VETS program administered by the FIFV. Businesses will be connected with veterans who meet the demand for highly skilled candidates for employment, receive information on the state and federal benefits of hiring veterans, and may receive grants for training employees.

The bill expands the Florida National Guard's (FNG) Education Dollars for Duty (EDD) program to allow for funds to be used for additional activities. The bill requires private universities, colleges and technical centers that receive EDD funds to provide specific student information to the Department of Military Affairs (DMA).

A spouse of a military service member who is a nonresident of Florida will not be required to obtain a Florida driver license for the purpose of enrolling his or her child in a Florida public school. As a result, the spouse will not be subject to the fees associated with obtaining and maintaining a Florida driver license. Additionally, dependent children who qualify for the driver license exemption in the bill will also not be subject to driver license fees.

Current law allows an automatic extension on a resident service member's driver license expiration date when stationed outside of the state. The bill includes the same extension to the service member's spouse and dependents that reside with him or her. Therefore, these service members and their spouse and dependents will not be subject to driver license renewal fees until they return to reside in the state.

Military veterans and their spouses will have up to 60 months following honorable discharge from the U.S. Armed Forces to be eligible for a fee waiver for initial fees associated with professional licensure. Current law provides this benefit to the veteran only and is limited to a 24-month period.

Non-resident veterans who qualify for the out-of-state fee waiver under the bill will only pay in-state tuition and fee rates. This will provide a considerable savings to student veterans each semester.

For the 2013-2014 academic year, the average State University System undergraduate cost for tuition and fees for two semesters is \$6,155 for residents and \$21,434 for non-residents.¹⁰⁸ Therefore, this out-of-state fee waiver could potentially save an eligible, full-time veteran undergraduate student¹⁰⁹ at a state university approximately \$15,279 per academic year. At the graduate level, the average cost for two semesters is \$10,262 for residents and \$25,138 for non-residents.¹¹⁰ Therefore, this out-of-state fee waiver could save an eligible, full-time veteran graduate student¹¹¹ at a state university approximately \$14,876 per academic year.

For the same period, the Florida College System reports the average cost for two semesters is approximately \$3,124 for residents enrolled in lower-level credit programs and \$11,531 for non-residents. Therefore, this out-of-state fee waiver could potentially

¹⁰⁸ Board of Governors of the State University System of Florida, *Public Colleges and Universities of Florida, Tuition and Required Fees, 2013-14 for New Students in Main Campus*, <http://www.flbog.edu/about/budget/current.php> (select the Excel link for "2013-2014 Fees") (last visited Dec. 8, 2013) (noting that the calculation is for students who are full-time taking 30 credit hours).

¹⁰⁹ Full-time status for undergraduate students is 30 hours.

¹¹⁰ *Id.* (providing that the calculation is for full-time graduate students taking 24 credit hours).

¹¹¹ Full-time status for graduate students is 24 hours.

save an eligible, full-time¹¹² veteran enrolled in a lower-level credit program \$8,407 per academic year. For residents enrolled in the upper-level credit programs the cost for two semesters is \$3,585 and \$15,400 for non-residents.¹¹³ Therefore, this out-of-state fee waiver could potentially save an eligible, full-time veteran enrolled in an upper-level credit program \$11,815 per academic year.

For the 2013-2014 academic year, the average district technical center cost for tuition and fees for a full-time equivalent student¹¹⁴ is \$2,443 for residents, and \$9,710 for non-residents. Therefore, the potential cost savings of this out-of-state fee waiver for eligible students could be \$7,267 per year.¹¹⁵

C. Government Sector Impact:

The bill expands the FNG's EDD program to allow for funds to be used for additional activities. The bill requires state universities, colleges, and technical centers that receive EDD funds to provide specific student information to the DMA. The bill also requires the DMA to revise rules regarding the program. Costs for these activities can be absorbed within existing resources.

The bill expands Florida's veterans' preference in employment statutes. The number of complaints filed with the Florida Department of Veterans' Affairs (FDVA) has been increasing in the last several years, going from 143 complaints in Fiscal Year 2009-2010 to 1,125 complaints in Fiscal Year 2012-2013. Nine cases went to the Public Employees Relations Commission (PERC) in Fiscal Year 2012-2013. Three cases have continued on to the courts.¹¹⁶ Allowing a broader field of persons to claim veterans' preference may result in an increase in the number of complaints. However, s. 295.11, F.S., requires the FDVA to conduct all investigations within existing amounts appropriated to the FDVA. The agency expects that the one full-time employee currently administering this program will process any increased complaints. In addition, the PERC may experience an increase in the number of complaints it must investigate and adjudicate.

The admission requirements to the state's veterans home and veterans nursing homes is revised to remove the requirement that the applicant must be a resident of Florida for one year prior to being admitted. The FDVA states that filling the vacant beds in the homes would not increase the cost of operating such facilities.

Local One-Stop Career Centers may see an indeterminate increase in workload as veterans are referred to receive services.

¹¹² Full-time status for students in lower-level and upper-level credit programs at Florida College System institutions is 30 hours.

¹¹³ Data provided by the Division of Florida Colleges (on file with Senate Appropriations Subcommittee on Education).

¹¹⁴ Full-time equivalent is defined as 900 instructional hours in a certificate program.

¹¹⁵ Data provided by the Division of Career and Adult Education (on file with the Senate Appropriations Subcommittee on Education).

¹¹⁶ Correspondence from the Florida Department of Veterans Affairs to Senate Committee on Military and Veterans Affairs, Space and Domestic Security staff on December 9, 2013.

Section 24 of the bill is expected to result in an indeterminate but insignificant negative fiscal impact to the General Revenue Fund.¹¹⁷

The number of spouses of military veterans and the increase in the number of military veterans who will apply for licensure or certification within 60 months after being honorably discharged from the U.S. Armed Forces is indeterminate. However, similar bills, which provided waivers to veterans within a 24-month period after discharge, were enacted in 2012 for DBPR licenses and in 2013 for DOH licenses. Since implementation in July 2012, DBPR has waived fees for 72 licenses representing a total of \$10,019.¹¹⁸ As of December 9, 2013, the DOH had approved 67 licenses, waiving a total of \$11,013 in fees, and had 72 open applications.¹¹⁹

The provisions of the bill that waive out-of-state tuition for veterans could potentially result in unrealized tuition of up to \$181,675 associated with career and technical education,¹²⁰ up to \$1.13 million to the Florida College System,¹²¹ and up to \$5.1 million for undergraduate students and up to \$3.1 million for graduate students, enrolled in the State University System, based on enrollment of veterans during the 2012-2013 academic year.¹²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 250.10, 250.35, 288.0001, 295.065, 295.07, 295.08, 295.085, 296.06, 296.36, 322.031, 322.121, 455.213, 456.013, 456.024, 458.315, 459.0076, 468.304, 499.012, 1002.33, and 1009.26.

This bill creates the following sections of the Florida Statutes: 265.0031, 295.188, 295.21, 295.22, 295.23, 458.3151, and 459.00761.

¹¹⁷ DHSMV, SB 140 Legislative Bill Analysis (Feb. 4, 2014) (on file with the Senate Committee on Education).

¹¹⁸ Material provided by the Department of Business and Professional Regulation to the Senate Committee on Military and Veterans Affairs, Space and Domestic Security, December 5, 2013.

¹¹⁹ Material provided by the Department of Health to the Senate Committee on Military and Veterans Affairs, Space and Domestic Security, December 9, 2013.

¹²⁰ Email from the Division of Career and Adult Education (Jan. 15, 2014) (on file with the Senate Appropriations Subcommittee on Education).

¹²¹ Email from the Division of Florida Colleges (Jan 16, 2014) (on file with the Senate Appropriations Subcommittee on Education).

¹²² Board of Governors of the State University System of Florida, Senate Bill 84 Agency Legislative Bill Analysis (Sept. 19, 2013) (on file with the Senate Appropriations Subcommittee on Education).

IX. 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 6, 2014:

The CS modified several items relating to the Florida Is For Veterans, Inc. (FIFV), and its associated programs by adding accountability to the new programs created through the Legislative Budget Commission approval of plans and performance measures. It also shifts responsibility for the marketing campaign from the FIFV to the Florida Tourism Industry Marketing Corporation (Visit Florida).

The CS:

- Waives out-of-state fees for tuition for veterans.
- Authorizes private employers to maintain a hiring policy that gives preference to veterans.
- Authorizes reciprocal licensure for healthcare practitioners who have served in the Armed Forces or with the Public Health Service;
- Makes legislative findings that military families face unique challenges due to the highly mobile nature of military service, and that a framework be established to address the needs of military children. In establishing this framework, military installation commanders are encouraged to collaboratively work with the Commissioner of Education to increase military family student achievement, which may include the establishment of charter school on military installations.
- Modifies driver license provisions specific to service members to apply to their spouse and dependent children.
- Establishes an expedited application procedure for active duty military personnel and veterans who served at least 10 years as a commissioned medical officer to obtain a temporary certificate to practice in areas of critical need or other specified locations that provide medical care to underserved populations.
- Appropriates general revenue to fund new full-time equivalent positions and expenditures related to implementing programs and provisions in the bill.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/06/2014 | . | |
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| | . | |
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The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (7) and (8) of section 250.10,
Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—
(7) The Adjutant General shall develop an education



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10 assistance program for members in good standing of the Florida
11 National Guard who enroll in an authorized course of study at a
12 public or nonpublic postsecondary institution or technical
13 center ~~of higher learning~~ in the state which has been accredited
14 by an accrediting body recognized by the United States
15 Department of Education or licensed by the Commission for
16 Independent Education. Education assistance also may be used for
17 training to obtain industry certifications approved by the
18 Department of Education pursuant to s. 1008.44 and continuing
19 education to maintain license certifications. The education
20 assistance ~~This~~ program shall be known as the Educational
21 Dollars for Duty program (EDD).

22 (a) The program shall establish ~~set forth~~ application
23 requirements, including, but not limited to, requirements that
24 the applicant:

- 25 1. Be 17 years of age or older.
- 26 2. Be presently domiciled in the state.
- 27 3. Be an active drilling member and in good standing in the
28 Florida National Guard at the beginning of and throughout the
29 entire academic term for which benefits are received.
- 30 4. Maintain continuous satisfactory participation in the
31 Florida National Guard for the ~~any~~ school term for which
32 ~~exemption~~ benefits are received.

33 5. Upon enrollment in the program, complete a memorandum of
34 agreement to:

- 35 a. Comply with the rules of the program. ~~and~~
- 36 b. Serve in the Florida National Guard for the period
37 specified in the member's enlistment or reenlistment contract.
- 38 c. Authorize the release of information pursuant to



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39 subparagraph (d)6. by the postsecondary institution or technical
40 center to the education service office of the Department of
41 Military Affairs, subject to applicable federal and state law.

42 (b) The program shall define those members of the Florida
43 National Guard who are ineligible to participate in the program
44 and those courses of study which are not authorized for the
45 program.

46 1. Ineligible members include, but are not limited to, a
47 any member, commissioned officer, warrant officer, or enlisted
48 person who has obtained a master's degree using the program.

49 2. Inactive members of the Florida National Guard and
50 members of the Individual Ready Reserve are not eligible to
51 participate in the program.

52 3.2. Courses not authorized include noncredit courses,
53 courses that do not meet degree requirements, courses that do
54 not meet requirements for completion of career training, or
55 other courses as determined by program definitions.

56 4. The program may not pay repeat course fees.

57 (c) The program may include, but is not limited to:

58 1. Courses at a public or nonpublic postsecondary
59 institution or technical center in the state which is accredited
60 by an accrediting body recognized by the United States
61 Department of Education or licensed by the Commission for
62 Independent Education.

63 2. Training to obtain industry certifications, limited to
64 certifications approved by the Department of Education under s.
65 1008.44.

66 3. Continuing education to maintain a license or
67 certification. Notwithstanding subparagraph (b)1., members who



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68 have obtained a master's degree using the program are eligible
69 for funding under this subparagraph.

70 4. Licensing and industry certification examination fees.
71 Notwithstanding subparagraph (b)1., members who have obtained a
72 master's degree using the program are eligible for funding under
73 this subparagraph.

74 5. Notwithstanding subparagraph (b)3., developmental
75 education courses.

76 ~~3. Developmental education courses are authorized for the~~
77 ~~program.~~

78 ~~(d)(e)~~ The Adjutant General shall adopt rules for the
79 overall policy, guidance, administration, implementation, and
80 proper use of the program. Such rules must include, but need not
81 be limited to:␣

82 1. Guidelines for certification by the Adjutant General of
83 a guard member's eligibility.␣

84 2. Procedures for notification to a postsecondary an
85 institution or technical center of a guard member's termination
86 of eligibility.␣~~and~~

87 3. Guidelines for approving courses of study that are
88 authorized for the program, including online courses, industry
89 certification training, and continuing education to maintain
90 license certifications.

91 4. Guidelines for approving the use of program funds for
92 licensing and industry certification examination fees.

93 5. Procedures for restitution when a guard member fails to
94 comply with the penalties described in this section.

95 6. Procedures that require a public or nonpublic
96 postsecondary institution or technical center that receives



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97 funding from the program to provide information regarding course
98 enrollment, course withdrawal, course cancellation, course
99 completion, course failure, and grade verification of enrolled
100 members to the education service office of the Department of
101 Military Affairs.

102 7. Guidelines for the payment of tuition and fees, not to
103 exceed the highest in-state tuition rate charged by a public
104 postsecondary institution in the state.

105 (8) Subject to appropriations, the Department of Military
106 Affairs may pay the full cost of tuition and fees for required
107 courses for current members of the Florida National Guard.
108 Members are eligible to use the program upon enlistment in the
109 Florida National Guard. If a member is enrolled in a nonpublic
110 postsecondary education institution or a nonpublic vocational-
111 technical program, the Department of Military Affairs shall pay
112 an amount that may not exceed the rate of the highest in-state
113 ~~equal to the amount that would be required to pay for the~~
114 ~~average~~ tuition and fees at a public postsecondary education
115 institution or public vocational-technical program.

116 (a) The Adjutant General shall give preference and priority
117 to eligible members who have deployed on federal military orders
118 while a member of the Florida National Guard.

119 (b) The Department of Military Affairs may reimburse a
120 member for student textbook and instructional material costs in
121 accordance with limits set each fiscal year based on funding
122 availability and regardless of the source of tuition funding,
123 but only after tuition and fees for all eligible members are
124 paid for that fiscal year.

125 ~~(a) A member may participate in the program if he or she~~



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126 ~~maintains satisfactory participation in, and is an active~~
127 ~~drilling member of, the Florida National Guard. Inactive members~~
128 ~~of the Florida National Guard and members of the Individual~~
129 ~~Ready Reserve (IRR) are not eligible to participate in the~~
130 ~~program.~~

131 (c) ~~(b)~~ Penalties for noncompliance with program
132 requirements include, but are not limited to, the following:

133 1. If a member of the Florida National Guard receives
134 payment of tuition and fees for an ~~any~~ academic term and fails
135 to maintain satisfactory participation in the Florida National
136 Guard during that academic term, the member shall reimburse the
137 Department of Military Affairs all tuition charges and student
138 fees for the academic term for which the member received
139 payment.

140 2. If a member of the Florida National Guard leaves the
141 Florida National Guard during the period specified in the
142 member's enlistment or reenlistment contract, the member shall
143 reimburse the Department of Military Affairs all tuition charges
144 and student fees for which the member received payments,
145 regardless of whether the obligation to reimburse the department
146 was incurred before, on, or after July 1, 2009, unless the
147 Adjutant General finds that there are justifiable extenuating
148 circumstances.

149 3. If the service of a member of the Florida National Guard
150 is terminated or the member is placed on scholastic probation
151 while receiving payments, the member shall reimburse the
152 Department of Military Affairs all tuition charges and student
153 fees for the academic term for which the member received
154 payment.



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155 4. If a member defaults on any reimbursement made under
156 this paragraph, the department may charge the member the maximum
157 interest rate authorized by law.

158 Section 2. Beginning in the 2014-2015 fiscal year, the sum
159 of \$1.53 million in recurring funds is appropriated from the
160 General Revenue Fund to the Department of Military Affairs to
161 supplement the Educational Dollars for Duty program to ensure
162 that Florida National Guard members are rewarded for their
163 service to the country with the ability to pursue higher
164 learning in the state pursuant to s. 250.10(7) and (8), Florida
165 Statutes.

166 Section 3. For the 2014-2015 fiscal year, the sum of
167 \$250,000 in nonrecurring funds is appropriated from the General
168 Revenue Fund to the Department of Military Affairs for the
169 purpose of information technology upgrades to accommodate
170 administering and auditing the Educational Dollars for Duty
171 program.

172 Section 4. Subsections (1) and (2) of section 250.35,
173 Florida Statutes, are amended to read:

174 250.35 Courts-martial.—

175 (1) The Uniform Code of Military Justice (UCMJ), 10 U.S.C.
176 ss. 801 et seq., and the Manual for Courts-Martial (2012 ~~2008~~
177 Edition) are adopted for use by the Florida National Guard,
178 except as otherwise provided by this chapter.

179 (2) Courts-martial may try a ~~any~~ member of the Florida
180 National Guard for any crime or offense made punishable by the
181 Uniform Code of Military Justice (2012 ~~2008~~ Edition), except
182 that a commissioned officer, warrant officer, or cadet may not
183 be tried by summary courts-martial.



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184 Section 5. Effective upon this act becoming a law, section
185 265.0031, Florida Statutes, is created to read:

186 265.0031 Florida Veterans' Walk of Honor and Florida
187 Veterans' Memorial Garden.—

188 (1) To recognize and honor those military veterans who have
189 made significant contributions to the state through their
190 service to the United States, the Florida Veterans' Walk of
191 Honor and the Florida Veterans' Memorial Garden are established.

192 (2) The Florida Veterans' Walk of Honor and the Florida
193 Veterans' Memorial Garden shall be administered by the direct-
194 support organization of the Department of Veterans' Affairs
195 without funding from the state. However, donations made to the
196 Florida Veterans' Walk of Honor and the Florida Veterans'
197 Memorial Garden shall be credited to the direct-support
198 organization of the Department of Veterans' Affairs and used
199 solely to support and maintain the Florida Veterans' Walk of
200 Honor, the Florida Veterans' Memorial Garden, and other efforts
201 of the direct-support organization.

202 (3) The Department of Management Services, in consultation
203 with the Department of Veterans' Affairs and the direct-support
204 organization of the Department of Veterans' Affairs, shall make
205 space available on the Capitol Complex grounds for the
206 construction of the Florida Veterans' Walk of Honor and the
207 Florida Veterans' Memorial Garden.

208 Section 6. Paragraph (d) is added to subsection (2) of
209 section 288.0001, Florida Statutes, to read:

210 288.0001 Economic Development Programs Evaluation.—The
211 Office of Economic and Demographic Research and the Office of
212 Program Policy Analysis and Government Accountability (OPPAGA)



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213 shall develop and present to the Governor, the President of the
214 Senate, the Speaker of the House of Representatives, and the
215 chairs of the legislative appropriations committees the Economic
216 Development Programs Evaluation.

217 (2) The Office of Economic and Demographic Research and
218 OPPAGA shall provide a detailed analysis of economic development
219 programs as provided in the following schedule:

220 (d) By January 1, 2019, and every 3 years thereafter, an
221 analysis of the grant and entrepreneur initiative programs
222 established under s. 295.22(3)(d) and (e).

223 Section 7. Section 295.065, Florida Statutes, is amended to
224 read:

225 295.065 Legislative intent.—It is the intent of the
226 Legislature to provide preference and priority in the hiring
227 practices of this state as set forth in this chapter. ~~In~~ All
228 written job announcements and audio and video advertisements
229 used by employing agencies of the state and its political
230 subdivisions must include a notice stating, ~~there shall be a~~
231 ~~notation~~ that certain servicemembers and veterans, and the
232 spouses and family members of the servicemembers and veterans,
233 receive preference and priority in employment by the state and
234 are encouraged to apply for the positions being filled.

235 Section 8. Subsections (1) and (3) of section 295.07,
236 Florida Statutes, are amended to read:

237 295.07 Preference in appointment and retention.—

238 (1) The state and its political subdivisions ~~in the state~~
239 shall give preference in appointment and retention in positions
240 of employment to:

241 (a) Those disabled veterans:



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242 1. Who have served on active duty in any branch of the
243 United States Armed Forces ~~of the United States~~, have received
244 an honorable discharge ~~been separated therefrom under honorable~~
245 ~~conditions~~, and have established the present existence of a
246 service-connected disability that ~~which~~ is compensable under
247 public laws administered by the United States ~~U.S.~~ Department of
248 Veterans ~~Veterans'~~ Affairs;7 or

249 2. Who are receiving compensation, disability retirement
250 benefits, or pension by reason of public laws administered by
251 the United States ~~U.S.~~ Department of Veterans ~~Veterans'~~ Affairs
252 and the United States Department of Defense.

253 (b) The spouse of a ~~any~~ person who has a total disability,
254 permanent in nature, resulting from a service-connected
255 disability and who, because of this disability, cannot qualify
256 for employment, and the spouse of a ~~any~~ person missing in
257 action, captured in line of duty by a hostile force, or forcibly
258 detained or interned in line of duty by a foreign government or
259 power.

260 (c) A wartime veteran ~~of any war~~ as defined in s. 1.01(14),
261 who has. ~~The veteran must have served at least 1 day during a~~
262 ~~wartime period to be eligible for veterans' preference.~~ Active
263 duty for training may ~~shall~~ not be allowed for eligibility under
264 this paragraph.

265 (d) The unremarried widow or widower of a veteran who died
266 of a service-connected disability.

267 (e) The mother, father, legal guardian, or unremarried
268 widow or widower of a member of the United States Armed Forces
269 who died in the line of duty under combat-related conditions, as
270 verified by the United States Department of Defense.



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271 (f) A veteran as defined in s. 1.01(14). Active duty for
272 training may not be allowed for eligibility under this
273 paragraph.

274 (g) A current member of any reserve component of the United
275 States Armed Forces or the Florida National Guard.

276 (3) Preference in employment and retention may be given
277 only to eligible persons who are described in subsection (1) ~~and~~
278 ~~who are residents of this state.~~

279 Section 9. Section 295.08, Florida Statutes, is amended to
280 read:

281 295.08 Positions for which a numerically based selection
282 process is used.—For positions for which an examination is used
283 to determine the qualifications for entrance into employment
284 with the state or political subdivisions in the state, 15 points
285 shall be added to the earned ratings of a person included under
286 s. 295.07(1)(a) or (b), 10 points shall be added to the earned
287 ratings of a any person included under s. 295.07(1)(c), (d), or
288 (e) 295.07(1)(a) or (b), and 5 points shall be added to the
289 earned rating of a any person included under s. 295.07(1)(f) or
290 (g) 295.07(1)(c) and (d), if the person has obtained a
291 qualifying score on the examination for the position. The names
292 of persons eligible for preference shall be entered on an
293 appropriate register or list in accordance with their respective
294 augmented ratings. However, except for classes of positions with
295 Federal Government designations of professional or technician,
296 the names of all persons qualified to receive a 15-point ~~10-~~
297 ~~point~~ preference whose service-connected disabilities have been
298 rated by the United States Department of Veterans Affairs or its
299 predecessor or the United States Department of Defense to be 30



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300 percent or more shall be placed at the top of the appropriate
301 register or employment list, in accordance with their respective
302 augmented ratings. The respective augmented rating is the
303 examination score or evaluated score in addition to the
304 applicable veteran's preference points.

305 Section 10. Section 295.085, Florida Statutes, is amended
306 to read:

307 295.085 Positions for which a numerically based selection
308 process is not used.—In all positions in which the appointment
309 or employment of persons is not subject to a written
310 examination, with the exception of positions that are exempt
311 under s. 295.07(4), first preference in appointment, employment,
312 and retention shall be given by the state and political
313 subdivisions in the state to a person ~~persons~~ included under s.
314 295.07(1)(a) or (b) ~~295.07(1)(a) and (b)~~, and second preference
315 shall be given to a person ~~persons~~ included under s.
316 295.07(1)(c), (d), (e), (f), or (g) ~~295.07(1)(c) and (d)~~ who
317 possesses ~~possess~~ the minimum qualifications necessary to
318 discharge the duties of the position involved.

319 Section 11. Section 295.188, Florida Statutes, is created
320 to read:

321 295.188 Preference in hiring veterans for private
322 employers.—

323 (1) The Legislature intends to establish a permissive
324 preference in private employment for certain veterans.

325 (2) A private employer may adopt an employment policy that
326 gives preference in hiring to an honorably discharged veteran,
327 as defined in s. 1.01(14); the spouse of a veteran with a
328 service-connected disability, as described in s. 295.07(1)(b);



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329 the unremarried widow or widower of a veteran who died of a
330 service-connected disability, as described in s. 295.07(1)(d);
331 or the unremarried widow or widower of a member of the United
332 States Armed Forces who died in the line of duty under combat-
333 related conditions. Such policy shall be applied uniformly to
334 employment decisions regarding hiring and promotion.

335 (3) These preferences are not considered violations of any
336 state or local equal employment opportunity law.

337 Section 12. Section 295.21, Florida Statutes, is created to
338 read:

339 295.21 Florida Is For Veterans, Inc.-

340 (1) CREATION.-There is created within the Department of
341 Veterans' Affairs a nonprofit corporation, to be known as
342 "Florida Is For Veterans, Inc.," which shall be registered,
343 incorporated, organized, and operated in compliance with chapter
344 617, and which is not a unit or entity of state government. As
345 used in this section and s. 295.22, unless the context indicates
346 otherwise, the term "corporation" means Florida Is For Veterans,
347 Inc. The corporation shall be a separate budget entity and is
348 not subject to the control, supervision, or direction of the
349 department in any manner, including, but not limited to,
350 personnel, purchasing, transactions involving real or personal
351 property, or budgetary matters.

352 (2) PURPOSE.-The purpose of the corporation is to promote
353 Florida as a veteran-friendly state that seeks to provide
354 veterans with employment opportunities and that promotes the
355 hiring of veterans by the business community. The corporation
356 shall encourage retired and recently separated military
357 personnel to remain in the state or to make the state their



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358 permanent residence. The corporation shall promote the value of
359 military skill sets to businesses in the state, assist in
360 tailoring the training of veterans to match the needs of the
361 employment marketplace, and enhance the entrepreneurial skills
362 of veterans.

363 (3) DUTIES.—The corporation shall:

364 (a) Conduct research to identify the target market and the
365 educational and employment needs of those in the target market.
366 The corporation shall contract with at least one entity pursuant
367 to the competitive bidding requirements in s. 287.057 and the
368 provisions of s. 295.187 to perform the research. Such entity
369 must have experience conducting market research on the veteran
370 demographic. The corporation shall seek input from the Florida
371 Tourism Industry Marketing Corporation on the scope, process,
372 and focus of such research.

373 (b) Advise the Florida Tourism Industry Marketing
374 Corporation, pursuant to s. 295.23, on:

375 1. The target market as identified in paragraph (a).

376 2. Development and implementation of a marketing campaign
377 to encourage members of the target market to remain in the state
378 or to make the state their permanent residence.

379 3. Methods for disseminating information to the target
380 market that relates to the interests and needs of veterans of
381 all ages and facilitates veterans' knowledge of and access to
382 benefits.

383 (c) Promote and enhance the value of military skill sets to
384 businesses.

385 (d) Implement the Veterans Employment and Training Services
386 Program established by s. 295.22.



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387 (e) Responsibly and prudently manage all funds received and
388 ensure that the use of such funds conforms to all applicable
389 laws, bylaws, or contractual requirements.

390 (f) Administer the programs created in this section and s.
391 295.22.

392 (4) GOVERNANCE.—

393 (a) The corporation shall be governed by a nine-member
394 board of directors. The Governor, the President of the Senate,
395 and the Speaker of the House of Representatives shall each
396 appoint three members to the board. In making appointments, the
397 Governor, the President of the Senate, and the Speaker of the
398 House of Representatives must consider representation by active
399 or retired military personnel and their spouses representing a
400 range of ages and persons with expertise in business, education,
401 marketing, and information management.

402 (b) The board of directors shall annually elect a chair
403 from among the board's members.

404 (c) Each member of the board of directors shall be
405 appointed for a term of 4 years, except that, to achieve
406 staggered terms, the initial appointees of the Governor shall
407 serve terms of 2 years. A member is ineligible for reappointment
408 to the board except that a member appointed to a term of 2 years
409 or less may be reappointed for an additional term of 4 years.
410 The initial appointments to the board must be made by July 15,
411 2014. Vacancies on the board shall be filled in the same manner
412 as the original appointment. A vacancy that occurs before the
413 scheduled expiration of the term of the member shall be filled
414 for the remainder of the unexpired term.

415 (d) The Legislature finds that it is in the public interest



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416 for the members of the board of directors to be subject to the
417 requirements of ss. 112.313, 112.3135, and 112.3143.
418 Notwithstanding the fact that they are not public officers or
419 employees, for purposes of ss. 112.313, 112.3135, and 112.3143,
420 the board members shall be considered to be public officers or
421 employees. In addition to the postemployment restrictions of s.
422 112.313(9), a person appointed to the board of directors may not
423 have direct interest in a contract, franchise, privilege,
424 project, program, or other benefit arising from an award by the
425 corporation during the appointment term and for 2 years after
426 the termination of such appointment. A person who accepts
427 appointment to the board of directors in violation of this
428 subsection, or accepts a direct interest in a contract,
429 franchise, privilege, project, program, or other benefit granted
430 by the corporation to an awardee within 2 years after the
431 termination of his or her service on the board, commits a
432 misdemeanor of the first degree, punishable as provided in s.
433 775.082 or s. 775.083. Further, each member of the board of
434 directors who is not otherwise required to file financial
435 disclosure under s. 8, Art. II of the State Constitution or s.
436 112.3144 shall file a statement of financial interests under s.
437 112.3145.

438 (e) Each member of the board of directors shall serve
439 without compensation but is entitled to reimbursement for travel
440 and per diem expenses as provided in s. 112.061 while performing
441 his or her duties.

442 (f) Each member of the board of directors is accountable
443 for the proper performance of the duties of office and owes a
444 fiduciary duty to the people of this state to ensure that awards



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445 provided are disbursed and used as prescribed by law and
446 contract. An appointed member of the board of directors may be
447 removed by the officer who appointed the member for malfeasance,
448 misfeasance, neglect of duty, incompetence, permanent inability
449 to perform official duties, unexcused absence from three
450 consecutive board meetings, arrest or indictment for a crime
451 that is a felony or a misdemeanor involving theft or a crime of
452 dishonesty, or pleading guilty or nolo contendere to or being
453 found guilty of any crime.

454 (g) A majority of the members of the board of directors
455 constitutes a quorum. Council meetings may be held via
456 teleconference or other electronic means.

457 (5) POWERS.—In addition to the powers and duties prescribed
458 in chapter 617 and the articles and bylaws adopted thereunder,
459 the board of directors may:

460 (a) Make and enter into contracts and other instruments
461 necessary or convenient for the exercise of its powers and
462 functions. However, notwithstanding s. 617.0302, the corporation
463 may not issue bonds.

464 (b) Make expenditures, including any necessary
465 administrative expenditure.

466 (c) Adopt, amend, and repeal bylaws, consistent with the
467 powers granted to it under this section or the articles of
468 incorporation, for the administration of the activities of the
469 corporation, and the exercise of its corporate powers.

470 (d) Accept funding for its programs and activities from
471 federal, state, local, and private sources.

472 (e) Adopt and register a fictitious name for use in its
473 marketing activities.



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The credit of the State of Florida may not be pledged on behalf of the corporation.

(6) PUBLIC RECORDS AND MEETINGS.—The corporation is subject to the provisions of chapters 119 and 286 relating to public records and meetings, respectively.

(7) STAFFING AND ASSISTANCE.—

(a) The corporation is authorized to hire or contract for all staff necessary for the proper execution of its powers and duties. All employees of the corporation shall comply with the Code of Ethics for Public Officers and Employees under part III of chapter 112. Corporation staff must agree to refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation during the term of their appointment and for 2 years after the termination of such appointment.

(b) All agencies of the state are authorized and directed to provide such technical assistance as the corporation may require to identify programs within each agency which provide assistance or benefits to veterans who are located in this state or who are considering relocation to this state.

(c) The Department of Veterans' Affairs may authorize the corporation's use of the department's property, facilities, and personnel services, subject to this section. The department may prescribe by contract any condition with which the corporation must comply in order to use the department's property, facilities, or personnel services.

(d) The department may not authorize the use of its property, facilities, or personnel services if the corporation



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503 does not provide equal employment opportunities to all persons
504 regardless of race, color, religion, sex, age, or national
505 origin.

506 (8) ANNUAL REPORT.—The corporation shall submit an annual
507 progress report and work plan by December 1 to the Governor, the
508 President of the Senate, and the Speaker of the House of
509 Representatives. The report must include:

510 (a) Status and summary of findings regarding the target
511 market, veteran benefits, and any identified gaps in services.

512 (b) Status of the marketing campaign, delivery systems of
513 the marketing campaign, and outreach to the target market.

514 (c) Status of the Veterans Employment and Training Services
515 Program administered under s. 295.22.

516 (d) Proposed revisions or additions to performance
517 measurements for the programs administered by the corporation.

518 (e) Identification of contracts that the corporation has
519 entered into to carry out its duties.

520 (f) An annual compliance and financial audit of accounts
521 and records for the previous fiscal year prepared by an
522 independent certified public accountant pursuant to rules
523 adopted by the Auditor General.

524 (9) DISSOLUTION.—All moneys and property held by the
525 corporation shall revert to the state if the corporation ceases
526 to exist.

527 Section 13. Section 295.22, Florida Statutes, is created to
528 read:

529 295.22 Veterans Employment and Training Services Program.—

530 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
531 that the state has a compelling interest in ensuring that each



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532 veteran who is a resident of the state finds employment that
533 meets his or her professional goals and receives the training or
534 education necessary to meet those goals. The Legislature also
535 finds that connecting dedicated, well-trained veterans with
536 businesses that need a dedicated, well-trained workforce is of
537 paramount importance. The Legislature recognizes that veterans
538 may not currently have the skills to meet the workforce needs of
539 Florida employers and may require assistance in obtaining
540 additional workforce training or in transitioning their skills
541 to meet the demands of the marketplace. It is the intent of the
542 Legislature that the Veterans Employment and Training Services
543 Program coordinate and meet the needs of veterans and the
544 business community to enhance the economy of this state.

545 (2) CREATION.—The Veterans Employment and Training Services
546 Program is created within the Department of Veterans' Affairs to
547 assist in linking veterans in search of employment with
548 businesses seeking to hire dedicated, well-trained workers. The
549 purpose of the program is to meet the workforce demands of
550 businesses in the state by facilitating access to training and
551 education in high-demand fields for veterans.

552 (3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall
553 administer the Veterans Employment and Training Services Program
554 and perform all of the following functions:

555 (a) Conduct marketing and recruiting efforts directed at
556 veterans who reside in or who have an interest in relocating to
557 this state and who are seeking employment. Marketing must
558 include information related to how a veteran's military
559 experience can be valuable to a business. Such efforts may
560 include attending veteran job fairs and events, hosting events



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561 for veterans or the business community, and using digital and
562 social media and direct mail campaigns. The corporation shall
563 also include such marketing as part of its main marketing
564 campaign.

565 (b) Assist veterans who reside in or relocate to this state
566 and who are seeking employment. The corporation shall offer
567 skills assessments to veterans and assist them in establishing
568 employment goals and applying for and achieving gainful
569 employment.

570 1. Assessment may include skill match information, skill
571 gap analysis, resume creation, translation of military skills
572 into civilian workforce skills, and translation of military
573 achievements and experience into generally understood civilian
574 workforce skills.

575 2. Assistance may include providing the veteran with
576 information on current workforce demand by industry or
577 geographic region, creating employment goals, and aiding or
578 teaching general knowledge related to completing applications.
579 The corporation may provide information related to industry
580 certifications approved by the Department of Education under s.
581 1008.44 as well as information related to earning academic
582 college credit at public postsecondary educational institutions
583 for college-level training and education acquired in the
584 military under s. 1004.096.

585 3. The corporation shall encourage veterans to register
586 with the state's job bank system and may refer veterans to local
587 one-stop career centers for further services. The corporation
588 shall provide each veteran with information about state
589 workforce programs and shall consolidate information about all



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590 available resources on one website that, if possible, includes a
591 hyperlink to each resource's website and contact information, if
592 available. If appropriate, a veteran shall be encouraged to
593 participate in the Complete Florida Degree Program established
594 under s. 1006.735.

595 4. Assessment and assistance may be in person or by
596 electronic means, as determined by the corporation to be most
597 efficient and best meet the needs of veterans.

598 (c) Assist Florida businesses in recruiting and hiring
599 veterans. The corporation shall provide services to Florida
600 businesses to meet their hiring needs by connecting businesses
601 with suitable veteran applicants for employment. Suitable
602 applicants include veterans who have appropriate job skills or
603 may need additional training to meet the specific needs of a
604 business. The corporation shall also provide information about
605 the state and federal benefits of hiring veterans.

606 (d) Create a grant program to provide funding to assist
607 veterans in meeting the workforce-skill needs of businesses
608 seeking to hire veterans, establish criteria for approval of
609 requests for funding, and maximize the use of funding for this
610 program. Grant funds may be used only in the absence of
611 available veteran-specific federally funded programs. Grants may
612 fund specialized training specific to a particular business.

613 1. Grant funds may be allocated to any training provider
614 selected by the business, including a career center, a Florida
615 College System institution, a state university, or an in-house
616 training provider of the business. If grant funds are used to
617 provide a technical certificate, a licensure, or a degree, funds
618 may be allocated only upon a review that includes, but is not



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619 limited to, accreditation and licensure documentation.
620 Instruction funded through the program must terminate when
621 participants demonstrate competence at the level specified in
622 the request; however, the grant term may not exceed 48 months.
623 Preference shall be given to target industry businesses, as
624 defined in s. 288.106, and to businesses in the defense supply,
625 cloud virtualization, or commercial aviation manufacturing
626 industries.

627 2. Costs and expenditures for the grant program must be
628 documented and separated from those incurred by the training
629 provider. Costs and expenditures shall be limited to \$8,000 per
630 veteran trainee. Eligible costs and expenditures include:

631 a. Tuition and fees.

632 b. Curriculum development.

633 c. Books and classroom materials.

634 d. Rental fees for facilities at public colleges and
635 universities, including virtual training labs.

636 e. Overhead or indirect costs not to exceed 5 percent of
637 the grant amount.

638 3. Before funds are allocated for a request pursuant to
639 this section, the corporation shall prepare a grant agreement
640 between the business requesting funds, the educational
641 institution or training provider receiving funding through the
642 program, and the corporation. Such agreement must include, but
643 need not be limited to:

644 a. Identification of the personnel necessary to conduct the
645 instructional program, the qualifications of such personnel, and
646 the respective responsibilities of the parties for paying costs
647 associated with the employment of such personnel.



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648 b. Identification of the match provided by the business,
649 including cash and in-kind contributions, equal to at least 50
650 percent of the total grant amount.

651 c. Identification of the estimated duration of the
652 instructional program.

653 d. Identification of all direct, training-related costs.

654 e. Identification of special program requirements that are
655 not otherwise addressed in the agreement.

656 f. Permission to access aggregate information specific to
657 the wages and performance of participants upon the completion of
658 instruction for evaluation purposes. The agreement must specify
659 that any evaluation published subsequent to the instruction may
660 not identify the employer or any individual participant.

661 4. A business may receive a grant under the Quick-Response
662 Training Program created under s. 288.047 and a grant under this
663 section for the same veteran trainee. If a business receives
664 funds under both programs, one grant agreement may be entered
665 into with Workforce Florida, Inc., as the grant administrator.

666 (e) Contract with one or more entities to administer an
667 entrepreneur initiative program for veterans in this state which
668 connects business leaders in the state with veterans seeking to
669 become entrepreneurs.

670 1. The corporation shall award each contract in accordance
671 with the competitive bidding requirements in s. 287.057 to one
672 or more public or private universities that:

673 a. Demonstrate the ability to implement the program and the
674 commitment of university resources, including financial
675 resources, to such programs.

676 b. Have a military and veteran resource center.



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677 c. Have a regional small business development center in the
678 Florida Small Business Development Center Network.

679 d. As determined by the corporation, have been nationally
680 recognized for commitment to the military and veterans.

681 2. Each contract must include performance metrics,
682 including a focus on employment and business creation. Each
683 university must coordinate with any entrepreneurship center
684 located at the university. The university may also work with an
685 entity offering related programs to refer veterans or to provide
686 services. The entrepreneur initiative program may include
687 activities and assistance such as peer-to-peer learning
688 sessions, mentoring, technical assistance, business roundtables,
689 networking opportunities, support of student organizations,
690 speaker series, or other tools within a virtual environment.

691 (4) DUTIES OF ENTERPRISE FLORIDA, INC.—Enterprise Florida,
692 Inc., shall provide information about the corporation and its
693 services to prospective, new, expanding, and relocating
694 businesses seeking to conduct business in this state. Enterprise
695 Florida, Inc., shall, to the greatest extent possible,
696 collaborate with the corporation to meet the employment needs,
697 including meeting the job creation requirements, of any business
698 receiving assistance or services from Enterprise Florida, Inc.

699 Section 14. Section 295.23, Florida Statutes, is created to
700 read:

701 295.23 Veterans research and marketing campaign.—

702 (1) The Florida Tourism Industry Marketing Corporation
703 shall:

704 (a) Provide input to Florida Is For Veterans, Inc., on
705 research to identify the target market and the educational and



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706 employment needs of those in the target market.

707 (b) Develop and conduct a marketing campaign to encourage
708 retired and recently separated military personnel to remain in
709 the state or to make the state their permanent residence.

710 (c) Develop a process for the dissemination of information
711 to the target market and targeting that information to the
712 interests and needs of veterans of all ages to facilitate
713 veterans' knowledge of and access to benefits.

714 (2) The Florida Tourism Industry Marketing Corporation
715 shall seek advice from Florida Is For Veterans, Inc., on the
716 scope, process, and focus of the marketing campaign. Input must
717 be received before invitations to bid, requests for proposals,
718 or invitations to negotiate for contracted services are
719 advertised. Florida Is For Veterans, Inc., shall be kept
720 informed at each stage of the marketing campaign and may provide
721 recommendations to the Florida Tourism Industry Marketing
722 Corporation to ensure that the effort effectively reaches
723 veterans.

724 (3) For the purposes of this section, the Florida Tourism
725 Industry Marketing Corporation shall expend \$1 million annually
726 on marketing the state to veterans as a permanent home and on
727 information dissemination to improve veterans' knowledge of and
728 access to benefits through a combination of existing funds
729 appropriated to the Florida Tourism Industry Marketing
730 Corporation by the Legislature and private funds.

731 Section 15. For fiscal year 2014-2015, the Florida Tourism
732 Industry Marketing Corporation shall provide Florida Is For
733 Veterans, Inc., \$300,000 to conduct market research pursuant to
734 s. 295.21(3)(a), Florida Statutes.



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735 Section 16. For the 2014-2015 fiscal year, the sum of
736 \$56,768 in recurring funds and \$4,258 in nonrecurring funds are
737 appropriated from the General Revenue Fund to the Department of
738 Veterans' Affairs, and one full-time equivalent position with
739 associated salary rate of 36,350, is authorized to assist
740 Florida Is For Veterans, Inc., in performing state financial
741 activities. The funds appropriated in this section shall be
742 released pursuant to s. 216.192, Florida Statutes.

743 Section 17. For the 2014-2015 fiscal year, the sum of
744 \$344,106 in recurring funds and \$14,391 in nonrecurring funds
745 from the General Revenue Fund is appropriated to the Department
746 of Veterans' Affairs for the purpose of funding the costs for
747 startup, staffing, and general operations of the Florida Is For
748 Veterans, Inc. The funds appropriated in this section shall be
749 released pursuant to s. 216.192, Florida Statutes.

750 Section 18. By August 15, 2014, Florida Is For Veterans,
751 Inc., shall submit a plan to the Legislative Budget Commission,
752 through the Department of Veterans' Affairs, pursuant to s.
753 216.177, Florida Statutes. The plan shall:

754 (1) Provide a strategy and framework for the general
755 operations of Florida Is For Veterans, Inc., including the
756 fulfillment of its purpose, duties, and goals as provided in ss.
757 295.21 and 295.22, Florida Statutes;

758 (2) Include specific performance measures by which Florida
759 Is For Veterans, Inc., and its functions shall be evaluated; and

760 (3) Include details of the existing expenditures and
761 obligations of Florida Is For Veterans, Inc., as well as a
762 budget and timelines for expected expenditures related both to
763 general operations and to products, services, and grants to be



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764 provided under programs administered by Florida Is For Veterans,
765 Inc.

766
767 Copies of the plan shall also be submitted to the President of
768 the Senate and the Speaker of the House of Representatives. The
769 Legislative Budget Commission must approve the plan, including
770 the performance measures, before Florida Is For Veterans, Inc.,
771 may expend funds for the duties required under s. 295.22,
772 Florida Statutes.

773 Section 19. By August 15, 2014, the Florida Tourism
774 Industry Marketing Corporation and Florida Is For Veterans,
775 Inc., shall jointly develop and submit to the Legislative Budget
776 Commission, through the Department of Economic Opportunity,
777 pursuant to s. 216.177, Florida Statutes, specific performance
778 measures by which the research and marketing campaign
779 established under s. 295.23, Florida Statutes, shall be
780 evaluated. Copies of the performance measures shall also be
781 submitted to the President of the Senate and the Speaker of the
782 House of Representatives. The Legislative Budget Commission must
783 approve the performance measures before the Florida Tourism
784 Industry Marketing Corporation or Florida Is For Veterans, Inc.,
785 may expend funds for the duties required under s. 295.23,
786 Florida Statutes.

787 Section 20. By February 2, 2016, Florida Is For Veterans,
788 Inc., shall submit a report to the Governor, the President of
789 the Senate, and the Speaker of the House of Representatives
790 identifying existing gaps in veteran resources and recommending
791 best practices that may be used to assist veterans and
792 improvements to current or new resources and programs.



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793 Section 21. By February 1, 2018, the Office of Program
794 Policy Analysis and Government Accountability shall conduct a
795 performance audit of Florida Is For Veterans, Inc. The audit
796 shall assess the implementation and outcomes of activities under
797 ss. 295.21 and 295.22, Florida Statutes, and evaluate the
798 corporation's accomplishments and progress toward making Florida
799 a veteran-friendly state. The audit must provide recommendations
800 for any necessary improvements. The report of the audit's
801 findings shall be submitted to the President of the Senate and
802 the Speaker of the House of Representatives.

803 Section 22. Paragraph (b) of subsection (2) of section
804 296.06, Florida Statutes, is amended to read:

805 296.06 State policy; eligibility requirements.—

806 (2) To be eligible for residency in the home, a veteran
807 must:

808 (b) ~~Have been a resident of the state for 1 year~~
809 ~~immediately preceding application and~~ Be a resident of the state
810 at the time of application.

811 Section 23. Paragraph (b) of subsection (1) of section
812 296.36, Florida Statutes, is amended to read:

813 296.36 Eligibility and priority of admittance.—

814 (1) To be eligible for admittance to the home, the person
815 must be a veteran as provided in s. 1.01(14) or have eligible
816 peacetime service as defined in s. 296.02 and must:

817 (b) Be ~~Have been~~ a resident of the state ~~for 1 year~~
818 ~~immediately preceding, and~~ at the time of application for,
819 admission to the home.

820 Section 24. Subsection (12) of section 455.213, Florida
821 Statutes, is amended to read:



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822 455.213 General licensing provisions.—

823 (12) The department shall waive the initial licensing fee,
824 the initial application fee, and the initial unlicensed activity
825 fee for a military veteran or his or her spouse at the time of
826 discharge, if he or she ~~who~~ applies to the department for a
827 license, in a format prescribed by the department, within ~~60~~ 24
828 months after ~~the veteran is discharged~~ ~~discharge~~ from any branch
829 of the United States Armed Forces. To qualify for this waiver,
830 the veteran must have been honorably discharged.

831 Section 25. Subsection (13) of section 456.013, Florida
832 Statutes, is amended to read:

833 456.013 Department; general licensing provisions.—

834 (13) The department shall waive the initial licensing fee,
835 the initial application fee, and the initial unlicensed activity
836 fee for a military veteran or his or her spouse at the time of
837 discharge, if he or she ~~who~~ applies to the department for an
838 initial license within ~~60~~ 24 months after ~~the veteran is being~~
839 honorably discharged from any branch of the United States Armed
840 Forces. The applicant must apply for the fee waiver using a form
841 prescribed by the department and must submit supporting
842 documentation as required by the department.

843 Section 26. Present subsection (3) of section 456.024,
844 Florida Statutes, is renumbered as subsection (4), and a new
845 subsection (3) is added to that section, to read:

846 456.024 Members of Armed Forces in good standing with
847 administrative boards or the department; spouses; licensure.—

848 (3) A person who serves or has served as a health care
849 practitioner in the United States Armed Forces, United States
850 Reserve Forces, or the National Guard or a person who serves or



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851 has served on active duty with the United States Armed Forces as
852 a health care practitioner in the United States Public Health
853 Service is eligible for licensure in this state. The department
854 shall develop an application form and each board, or the
855 department if there is no board, shall waive the application
856 fee, licensure fee, and unlicensed activity fee for such
857 applicants. For purposes of this subsection, "health care
858 practitioner" means a health care practitioner as defined in s.
859 456.001 and a person licensed under part III of chapter 401 or
860 part IV of chapter 468.

861 (a) The board, or department if there is no board, shall
862 issue a license to practice in this state to a person who:

863 1. Submits a complete application.

864 2. Receives an honorable discharge within 6 months before,
865 or will receive an honorable discharge within 6 months after,
866 the date of submission of the application.

867 3. Holds an active, unencumbered license issued by another
868 state, the District of Columbia, or a possession or territory of
869 the United States and who has not had disciplinary action taken
870 against him or her in the 5 years preceding the date of
871 submission of the application.

872 4. Attests that he or she is not, at the time of
873 submission, the subject of a disciplinary proceeding in a
874 jurisdiction in which he or she holds a license or by the United
875 States Department of Defense for reasons related to the practice
876 of the profession for which he or she is applying.

877 5. Actively practiced the profession for which he or she is
878 applying for the 3 years preceding the date of submission of the
879 application.



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880 6. Submits a set of fingerprints for a background screening
881 pursuant to s. 456.0135, if required for the profession for
882 which he or she is applying.

883
884 The department shall verify information submitted by the
885 applicant under this subsection using the National Practitioner
886 Data Bank.

887 (b) Each applicant who meets the requirements of this
888 subsection shall be licensed with all rights and
889 responsibilities as defined by law. The applicable board, or
890 department if there is no board, may deny an application if the
891 applicant has been convicted of or pled guilty or nolo
892 contendere to, regardless of adjudication, any felony or
893 misdemeanor related to the practice of a health care profession
894 regulated by this state.

895 (c) An applicant for initial licensure under this
896 subsection must submit the information required by ss.
897 456.039(1) and 456.0391(1) no later than 1 year after the
898 license is issued.

899 Section 27. Subsection (1) of section 468.304, Florida
900 Statutes, is amended to read:

901 468.304 Certification.—The department shall certify any
902 applicant who meets the following criteria:

903 (1) Pays to the department a nonrefundable fee that may not
904 exceed \$100, plus the actual per-applicant cost to the
905 department for purchasing the examination from a national
906 organization. The department shall waive the initial application
907 fee for a military veteran or his or her spouse at the time of
908 discharge, if he or she ~~who~~ applies to the department for an



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909 initial certification within 60 ~~24~~ months after the veteran is
910 ~~being~~ honorably discharged from any branch of the United States
911 Armed Forces. The applicant must apply for the fee waiver using
912 a form prescribed by the department and must submit supporting
913 documentation as required by the department. This waiver does
914 not include the fee for purchasing the examination from a
915 national organization.

916
917 The department may not certify any applicant who has committed
918 an offense that would constitute a violation of any of the
919 provisions of s. 468.3101 or applicable rules if the applicant
920 had been certified by the department at the time of the offense.
921 An application for a limited computed tomography certificate may
922 not be accepted. A person holding a valid computed tomography
923 certificate as of October 1, 1984, is subject to s. 468.309.

924 Section 28. Paragraph (b) of subsection (16) of section
925 499.012, Florida Statutes, is amended to read:

926 499.012 Permit application requirements.—

927 (16)

928 (b) To be certified as a designated representative, a
929 natural person must:

930 1. Submit an application on a form furnished by the
931 department and pay the appropriate fees. ~~†~~

932 2. Be at least 18 years of age. ~~†~~

933 3. Have at least ~~not less than~~ 2 years of verifiable full-
934 time:

935 a. Work experience in a pharmacy licensed in this state or
936 another state, where the person's responsibilities included, but
937 were not limited to, recordkeeping for prescription drugs; ~~†~~



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938 ~~have not less than 2 years of verifiable full-time~~

939 b. Managerial experience with a prescription drug wholesale
940 distributor licensed in this state or in another state; or

941 c. Managerial experience with the United States Armed
942 Forces, where the person's responsibilities included, but were
943 not limited to, recordkeeping, warehousing, distributing, or
944 other logistics services pertaining to prescription drugs.

945 4. Receive a passing score of at least 75 percent on an
946 examination given by the department regarding federal laws
947 governing distribution of prescription drugs and this part and
948 the rules adopted by the department governing the wholesale
949 distribution of prescription drugs. This requirement shall be
950 effective 1 year after the results of the initial examination
951 are mailed to the persons that took the examination. The
952 department shall offer such examinations at least four times
953 each calendar year.

954 5. Provide the department with a personal information
955 statement and fingerprints pursuant to subsection (9).

956 Section 29. Present subsection (27) of section 1002.33,
957 Florida Statutes, is renumbered as subsection (28), and a new
958 subsection (27) is added to that section, to read:

959 1002.33 Charter schools.—

960 (27) MILITARY INSTALLATIONS.—

961 (a) The Legislature finds that military families face
962 unique challenges due to the highly mobile nature of military
963 service. Among the many challenges that military families face
964 is providing a high-quality education for their children without
965 disruption. The state has a compelling interest in assisting the
966 development and enhancement of learning opportunities for



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967 military children and addressing their unique needs.

968 (b) It is the intent of the Legislature that a framework be
969 established to address the needs of military children who, along
970 with their families, face unique challenges due to the highly
971 mobile nature of military service. In establishing this
972 framework, military installation commanders are encouraged to
973 collaboratively work with the Commissioner of Education to
974 increase military family student achievement, which may include
975 the establishment of charter schools on military installations.
976 Although the State Board of Education, through the Commissioner
977 of Education, shall supervise this collaboration, the applicable
978 school district shall operate and maintain control over any
979 school that is established on the military installation.

980 Section 30. Subsection (12) is added to section 1009.26,
981 Florida Statutes, to read:

982 1009.26 Fee waivers.—

983 (12) (a) There is established the Congressman C. W. Bill
984 Young Veteran Tuition Waiver Program. A state university,
985 Florida College System institution, career center operated by a
986 school district under s. 1001.44, or charter technical career
987 center shall waive out-of-state fees for an honorably discharged
988 veteran of the United States Armed Forces, the United States
989 Reserve Forces, or the National Guard who physically resides in
990 this state while enrolled in the institution. Tuition and fees
991 charged to a veteran who qualifies for the out-of-state fee
992 waiver under this subsection may not exceed the tuition and fees
993 charged to a resident student. The waiver is applicable for 110
994 percent of the required credit hours of the degree or
995 certificate program for which the student is enrolled. Each



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996 state university, Florida College System institution, career
997 center operated by a school district under s. 1001.44, and
998 charter technical career center shall report to the Board of
999 Governors and the State Board of Education, respectively, the
1000 number and value of all fee waivers granted annually under this
1001 subsection.

1002 (b) This subsection may be cited as the "Congressman C.W.
1003 Bill Young Tuition Waiver Act."

1004 Section 31. For the 2014-2015 fiscal year, the sum of \$12.5
1005 million in nonrecurring funds is appropriated from the General
1006 Revenue Fund to the Department of Military Affairs for the
1007 purpose of continuing renovations to state readiness centers to
1008 meet state and federal building codes.

1009 Section 32. For the 2014-2015 fiscal year, the sum of
1010 \$7,489,975 in nonrecurring funds is appropriated from the
1011 General Revenue Fund to the Department of Environmental
1012 Protection to allow the Board of Trustees of the Internal
1013 Improvement Trust Fund to acquire, pursuant to s. 288.980,
1014 Florida Statutes, nonconservation land adjacent to the following
1015 installations for the purpose of securing and protecting the
1016 installations against encroachment:

- 1017 (1) MacDill Air Force Base.
1018 (2) Naval Support Activity Panama City.
1019 (3) Naval Station Mayport.

1020 Section 33. Except as otherwise expressly provided in this
1021 act and except for this section, which shall take effect upon
1022 this act becoming a law, this act shall take effect July 1,
1023 2014.

1024



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1025 ===== T I T L E A M E N D M E N T =====

1026 And the title is amended as follows:

1027 Delete everything before the enacting clause

1028 and insert:

1029 A bill to be entitled

1030 An act relating to military and veteran support;
1031 amending s. 250.10, F.S.; revising participation
1032 requirements and authorizing certain courses for the
1033 Educational Dollars for Duty program; directing the
1034 Adjutant General to adopt certain rules; providing
1035 appropriations; amending s. 250.35, F.S.; updating
1036 references with respect to courts-martial; creating s.
1037 265.0031, F.S.; establishing the Florida Veterans'
1038 Walk of Honor and the Florida Veterans' Memorial
1039 Garden; directing the Department of Management
1040 Services, in consultation with the direct-support
1041 organization of the Department of Veterans' Affairs,
1042 to make space available for such purpose; amending s.
1043 288.0001, F.S.; directing the Office of Economic and
1044 Demographic Research and the Office of Program Policy
1045 Analysis and Government Accountability to provide a
1046 specified analysis of certain grant and entrepreneur
1047 initiative programs; amending ss. 295.065, 295.07,
1048 295.08, and 295.085, F.S.; revising and providing
1049 governmental employment preference for certain
1050 persons; creating s. 295.188, F.S.; authorizing
1051 private employers to provide employment preference for
1052 certain persons; creating s. 295.21, F.S.;

1053 establishing Florida Is For Veterans, Inc., within the



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1054 Department of Veterans' Affairs; providing for a board
1055 of directors and the duties and requirements thereof;
1056 creating s. 295.22, F.S.; creating the Veterans
1057 Employment and Training Services Program within the
1058 department; providing program requirements; directing
1059 Enterprise Florida, Inc., to provide certain
1060 information about Florida Is For Veterans, Inc., to
1061 certain businesses; creating s. 295.23, F.S.;
1062 directing the Florida Tourism Industry Marketing
1063 Corporation to perform specified duties relating to
1064 Florida Is For Veterans, Inc., and to expend specified
1065 funds in the performance of such duties; requiring the
1066 Florida Tourism Industry Marketing Corporation to
1067 provide certain funds to Florida Is For Veterans,
1068 Inc.; providing appropriations; requiring Florida Is
1069 For Veterans, Inc., and the Florida Tourism Industry
1070 Marketing Corporation to submit certain plans and
1071 performance measures to the Legislative Budget
1072 Commission and receive the commission's approval
1073 before expending certain funds; directing Florida Is
1074 For Veterans, Inc., to submit a report to the Governor
1075 and the Legislature relating to gaps in veteran
1076 resources; directing the Office of Program Policy
1077 Analysis and Government Accountability to conduct a
1078 performance audit of Florida Is For Veterans, Inc.;
1079 amending ss. 296.06 and 296.36, F.S.; revising the
1080 eligibility requirements for residency in the Florida
1081 State Veterans' Domiciliary Home and admittance to a
1082 state veterans' nursing home; amending s. 455.213,



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1083 F.S.; extending the application deadline for military
1084 veterans to have certain fees waived by the Department
1085 of Business and Professional Regulation and waiving
1086 such fees for the spouses of veterans; amending ss.
1087 456.013 and 468.304, F.S.; extending the application
1088 deadline for military veterans to have certain fees
1089 waived by the Department of Health and waiving such
1090 fees for the spouses of veterans; amending s. 456.024,
1091 F.S.; providing licensing procedures and waiving fees
1092 for certain health care practitioners; amending s.
1093 499.012, F.S.; providing that specified military
1094 service meets certain permitting requirements;
1095 amending s. 1002.33, F.S.; providing legislative
1096 findings and intent with respect to establishing
1097 charter schools on military installations; encouraging
1098 military installation commanders to collaborate with
1099 the Commissioner of Education; providing for operation
1100 and control of such schools; amending s. 1009.26,
1101 F.S.; directing state universities, Florida College
1102 System institutions, and certain career centers to
1103 waive certain fees for veterans; providing
1104 applicability; providing appropriations; providing
1105 effective dates.



224526

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/06/2014 | . | |
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| | . | |
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The Committee on Appropriations (Bradley) recommended the following:

1 **Senate Amendment to Amendment (936674) (with title**
2 **amendment)**

3
4 Between lines 819 and 820
5 insert:

6 Section 24. Section 322.031, Florida Statutes, is amended
7 to read:

8 322.031 Nonresident; when license required.—

9 (1) In each ~~every~~ case in which a nonresident, except a
10 nonresident migrant or seasonal farm worker as defined in s.



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11 316.003(61), accepts employment or engages in a any trade,
12 profession, or occupation in this state or enters his or her
13 children to be educated in the public schools of this state,
14 such nonresident shall, within 30 days after beginning the
15 ~~commencement~~ of such employment or education, be required to
16 obtain a Florida driver ~~driver's~~ license if such nonresident
17 operates a motor vehicle on the highways of this state. The
18 spouse or dependent child of such nonresident shall also be
19 required to obtain a Florida driver ~~driver's~~ license within that
20 30-day period before ~~prior to~~ operating a motor vehicle on the
21 highways of this state.

22 (2) A member of the United States Armed Forces on active
23 duty in this state, his or her spouse, or a dependent residing
24 with him or her, is shall not be required to obtain or display a
25 Florida driver ~~driver's~~ license if he or she is in possession of
26 a valid military identification card and either a valid driver
27 license or learner's permit issued by another state, or a valid
28 military driving permit. Such a person is not required to obtain
29 or display a Florida driver license under this section solely
30 because he or she enters his or her children to be educated in
31 the public schools of this state or because he or she accepts
32 employment or engages in a trade, profession, or occupation in
33 this state if he or she has a valid military driving permit or a
34 valid driver's license issued by another state.

35 (3) A nonresident who is domiciled in another state and who
36 commutes into this state in order to work is shall not be
37 required to obtain a Florida driver ~~driver's~~ license under this
38 section solely because he or she has accepted employment or
39 engages in a any trade, profession, or occupation in this state



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40 if he or she has a valid driver ~~driver's~~ license issued by
41 another state. Further, a ~~any~~ person who is enrolled as a
42 student in a college or university and who is a nonresident but
43 is in this state for a period of up to 6 months engaged in a
44 work-study program for which academic credits are earned from a
45 college whose credits or degrees are accepted for credit by at
46 least three accredited institutions of higher learning, as
47 defined in s. 1005.02, is ~~shall~~ not be required to obtain a
48 Florida driver ~~driver's~~ license for the duration of the work-
49 study program if such person has a valid driver ~~driver's~~ license
50 issued by another state. A ~~Any~~ nonresident who is enrolled as a
51 full-time student in ~~any~~ such institution of higher learning is
52 also exempt from the requirement of obtaining a Florida driver
53 ~~driver's~~ license for the duration of such enrollment.

54 (4) A nonresident who is at least 21 years of age and who
55 has in his or her immediate possession a valid commercial driver
56 ~~driver's~~ license issued in substantial compliance with the
57 Commercial Motor Vehicle Safety Act of 1986 may operate a motor
58 vehicle of the type permitted by his or her license to be
59 operated in this state.

60 Section 25. Subsection (5) of section 322.121, Florida
61 Statutes, is amended to read:

62 322.121 Periodic reexamination of all drivers.—

63 (5) A member ~~Members~~ of the United States Armed Forces, his
64 or her spouse, or a dependent ~~their dependents~~ residing with him
65 or her ~~them~~, shall be granted an automatic extension for the
66 expiration of his or her ~~their~~ Class E license ~~licenses~~ without
67 reexamination while the member of the United States Armed Forces
68 is serving on active duty outside this state. This extension is



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69 valid for 90 days after the member of the United States Armed
70 Forces is either discharged or returns to this state to live.

71
72 ===== T I T L E A M E N D M E N T =====

73 And the title is amended as follows:

74 Delete line 1082

75 and insert:

76 state veterans' nursing home; amending s. 322.031,
77 F.S.; providing conditions under which the spouses and
78 dependents of servicemembers are exempt from obtaining
79 or displaying a driver license or learner's permit;
80 amending s. 322.121, F.S.; granting an automatic
81 extension for the expiration of a driver license to
82 the spouse and dependents of servicemembers; amending
83 s. 455.213,



570084

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/06/2014 | . | |
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The Committee on Appropriations (Bradley) recommended the following:

1 **Senate Amendment to Amendment (936674) (with title**
2 **amendment)**

3
4 Between lines 898 and 899
5 insert:

6 Section 27. Subsections (3) through (5) of section 458.315,
7 Florida Statutes, are renumbered as subsections (2) through (4),
8 respectively, and subsections (1) and (2) of that section are
9 amended, to read:

10 458.315 Temporary certificate for practice in areas of



570084

11 critical need.-

12 ~~(1) A certificate issued pursuant to this section may be~~
13 ~~cited as the "Rear Admiral LeRoy Collins, Jr., Temporary~~
14 ~~Certificate for Practice in Areas of Critical Need."~~

15 ~~(1)(2) A~~ Any physician who:

16 ~~(a) is licensed to practice in any jurisdiction of in the~~
17 ~~United States and whose license is currently valid; or~~

18 ~~(b) Has served as a physician in the United States Armed~~
19 ~~Forces for at least 10 years and received an honorable discharge~~
20 ~~from the military;~~

21
22 and who pays an application fee of \$300 may be issued a
23 temporary certificate for practice in areas of critical need.

24 Section 28. Section 458.3151, Florida Statutes, is created
25 to read:

26 458.3151 Temporary certificate for active duty military and
27 veterans practicing in areas of critical need.-

28 (1) A certificate issued pursuant to this section may be
29 cited as the "Rear Admiral LeRoy Collins, Jr., Temporary
30 Certificate for Practice in Areas of Critical Need."

31 (2) The board may issue a temporary certificate to a
32 physician who complies with subsection (3) and who will:

33 (a) Practice in an area of critical need;

34 (b) Be employed by or practice in a county health
35 department; correctional facility; Department of Veterans'
36 Affairs clinic; community health center funded by s. 329, s.
37 330, or s. 340 of the United States Public Health Services Act;
38 or other agency or institution that is approved by the State
39 Surgeon General and provides health care to meet the needs of



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40 underserved populations in this state; or

41 (c) Practice for a limited time to address critical
42 physician-specialty, demographic, or geographic needs for this
43 state's physician workforce as determined by the State Surgeon
44 General.

45 (3) To be eligible for a temporary certificate, a physician
46 must submit to the board:

47 (a) A complete application.

48 (b) Proof of an active and valid license to practice in a
49 jurisdiction of the United States.

50 (c) If on active duty, a letter from the physician's
51 military command authorizing the physician to practice medicine
52 at an approved entity in an area of critical need.

53 (d) Documentation demonstrating the physician is serving on
54 active duty in the United States Armed Forces as a commissioned
55 medical officer or has served as a commissioned medical officer
56 in the United States Armed Forces for at least 10 years and
57 received an honorable discharge from the military.

58 (4) The board shall use a simplified application for a
59 temporary certificate for practice in areas of critical need to
60 reduce administrative impediments and maximize participation.

61 (5) The application fee and all licensure fees, including
62 neurological injury compensation assessments, shall be waived
63 for a physician obtaining a temporary certificate to practice in
64 areas of critical need for the purpose of providing volunteer,
65 uncompensated care for low-income residents. The applicant must
66 submit an affidavit from the employing agency or institution
67 stating that the physician will not receive any compensation for
68 any service involving the practice of medicine.



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69 (6) (a) Within 60 days after receipt of a complete
70 application for a temporary certificate, the board shall review
71 the application and associated documentation and:

- 72 1. Issue the temporary certificate;
73 2. Deny the temporary certificate; or
74 3. Require the applicant to complete additional assessment,
75 training, education, or other requirements as a condition of
76 certification. The board shall issue a temporary certificate
77 upon receipt of documentation demonstrating that the
78 requirements of the board have been met.

79 (b) If an applicant has not actively practiced medicine
80 during the prior 3 years and the board determines the applicant
81 may lack clinical competency, possess diminished or inadequate
82 skills, lack necessary medical knowledge, or exhibit patterns of
83 deficits in clinical decisionmaking, the board may, within 60
84 days after receipt of a complete application:

- 85 1. Deny the application;
86 2. Issue a temporary certificate having reasonable
87 restrictions, including, but not limited to, a requirement that
88 the applicant practice under the supervision of a physician
89 approved by the board; or
90 3. Issue a temporary certificate upon receipt of
91 documentation confirming that the applicant has met any
92 reasonable conditions of the board, including, but not limited
93 to, completing continuing education or undergoing an assessment
94 of skills and training.

95 (c) The board may not issue a temporary certificate for
96 practice in areas of critical need to a physician who is under
97 investigation in any jurisdiction of the United States for an



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98 act that would constitute a violation of this chapter until such
99 time as the investigation is complete, at which time the
100 provisions of s. 458.331 apply.

101 (7) The recipient of a temporary certificate for practice
102 in areas of critical need shall, within 30 days after accepting
103 employment, notify the board of all approved institutions in
104 which the licensee practices and of all approved institutions
105 where practice privileges have been denied. A physician holding
106 a temporary certificate for practice in areas of critical need
107 may enter into a contract to provide volunteer health care
108 services pursuant to s. 766.1115.

109 (8) A temporary certificate issued under this section is
110 valid only so long as the State Surgeon General determines that
111 the reason for which it was issued remains a critical need to
112 the state. The board shall review each temporary
113 certificateholder at least annually to ascertain compliance with
114 the minimum requirements of this chapter, including this
115 section, and rules adopted thereunder. If it is determined that
116 such minimum requirements are not being met, the board shall
117 revoke such certificate or shall impose restrictions or
118 conditions, or both, as a condition of continued practice under
119 the certificate.

120 Section 29. Subsections (3) through (5) of section
121 459.0076, Florida Statutes, are renumbered as subsections (2)
122 through (4), respectively, and subsections (1) and (2) of that
123 section are amended, to read:

124 459.0076 Temporary certificate for practice in areas of
125 critical need.—

126 ~~(1) A certificate issued pursuant to this section may be~~



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127 ~~ited as the "Rear Admiral LeRoy Collins, Jr., Temporary~~
128 ~~Certificate for Practice in Areas of Critical Need."~~

129 ~~(1)(2) A~~ A Any physician who:

130 ~~(a)~~ is licensed to practice in any jurisdiction of in the
131 United States and whose license is currently valid; ~~or~~

132 ~~(b) Has served as a physician in the United States Armed~~
133 ~~Forces for at least 10 years and received an honorable discharge~~
134 ~~from the military;~~

135
136 and who pays an application fee of \$300 may be issued a
137 temporary certificate for practice in areas of critical need.

138 Section 30. Section 459.00761, Florida Statutes, is created
139 to read:

140 459.00761 Temporary certificate for active duty military
141 and veterans practicing in areas of critical need.—

142 (1) A certificate issued pursuant to this section may be
143 cited as the "Rear Admiral LeRoy Collins, Jr., Temporary
144 Certificate for Practice in Areas of Critical Need."

145 (2) The board may issue a temporary certificate to a
146 physician who complies with subsection (3) and who will:

147 (a) Practice in an area of critical need;

148 (b) Be employed by or practice in a county health
149 department; correctional facility; Department of Veterans'
150 Affairs clinic; community health center funded by s. 329, s.
151 330, or s. 340 of the United States Public Health Services Act;
152 or other agency or institution that is approved by the State
153 Surgeon General and provides health care to meet the needs of
154 underserved populations in this state; or

155 (c) Practice for a limited time to address critical



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156 physician-specialty, demographic, or geographic needs for this
157 state's physician workforce as determined by the State Surgeon
158 General.

159 (3) To be eligible for a temporary certificate, a physician
160 must submit to the board:

161 (a) A complete application.

162 (b) Proof of an active and valid license to practice in any
163 jurisdiction of the United States.

164 (c) If on active duty, a letter from the physician's
165 military command authorizing the physician to practice medicine
166 at an approved entity in an area of critical need.

167 (d) Documentation demonstrating the physician is serving on
168 active duty in the United States Armed Forces as a commissioned
169 medical officer or has served as a commissioned medical officer
170 in the United States Armed Forces for at least 10 years and
171 received an honorable discharge from the military.

172 (4) The board shall use a simplified application for a
173 temporary certificate for practice in areas of critical need to
174 reduce administrative impediments and maximize participation.

175 (5) The application fee and all licensure fees, including
176 neurological injury compensation assessments, shall be waived
177 for a physician obtaining a temporary certificate to practice in
178 areas of critical need for the purpose of providing volunteer,
179 uncompensated care for low-income residents. The applicant must
180 submit an affidavit from the employing agency or institution
181 stating that the physician will not receive any compensation for
182 any service involving the practice of medicine.

183 (6) (a) Within 60 days after receipt of a complete
184 application for a temporary certificate, the board shall review



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185 the application and associated documentation and:

- 186 1. Issue the temporary certificate;
187 2. Deny the temporary certificate; or
188 3. Require the applicant to complete additional assessment,
189 training, education, or other requirements as a condition of
190 certification. The board shall issue a temporary certificate
191 upon receipt of documentation demonstrating that the
192 requirements of the board have been met.

193 (b) If an applicant has not actively practiced medicine
194 during the prior 3 years and the board determines the applicant
195 may lack clinical competency, possess diminished or inadequate
196 skills, lack necessary medical knowledge, or exhibit patterns of
197 deficits in clinical decisionmaking, the board may, within 60
198 days after receipt of a complete application:

- 199 1. Deny the application;
200 2. Issue a temporary certificate having reasonable
201 restrictions, including, but not limited to, a requirement that
202 the applicant practice under the supervision of a physician
203 approved by the board; or

204 3. Issue a temporary certificate upon receipt of
205 documentation confirming that the applicant has met any
206 reasonable conditions of the board, including, but not limited
207 to, completing continuing education or undergoing an assessment
208 of skills and training.

209 (c) The board may not issue a temporary certificate for
210 practice in areas of critical need to a physician who is under
211 investigation in any jurisdiction of the United States for an
212 act that would constitute a violation of this chapter until such
213 time as the investigation is complete, at which time the



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214 provisions of s. 459.015 apply.

215 (7) The recipient of a temporary certificate for practice
216 in areas of critical need shall, within 30 days after accepting
217 employment, notify the board of all approved institutions in
218 which the licensee practices and of all approved institutions
219 where practice privileges have been denied. A physician holding
220 a temporary certificate for practice in areas of critical need
221 may enter into a contract to provide volunteer health care
222 services pursuant to s. 766.1115.

223 (8) A temporary certificate issued under this section is
224 valid as long as the State Surgeon General determines that the
225 reason for which it was issued remains a critical need to the
226 state. The board shall review each temporary certificateholder
227 at least annually to ascertain compliance with the minimum
228 requirements of this chapter, including this section, and rules
229 adopted thereunder. If it is determined that such minimum
230 requirements are not being met, the board shall revoke such
231 certificate or shall impose restrictions or conditions, or both,
232 as a condition of continued practice under the certificate.

233
234 ===== T I T L E A M E N D M E N T =====

235 And the title is amended as follows:

236 Delete line 1092

237 and insert:

238 for certain health care practitioners; amending ss.
239 458.315 and 459.0076, F.S.; revising provisions for
240 issuance of temporary certificates for practice in
241 areas of critical need to conform to changes made by
242 the act; creating ss. 458.3151 and 459.00761, F.S.;



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243 providing application requirements and procedures for
244 active duty military and veteran physicians to obtain
245 temporary certificates for practice in areas of
246 critical need; amending s.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security

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1 A bill to be entitled
 2 An act relating to military and veterans affairs;
 3 amending s. 250.10, F.S.; revising requirements for
 4 the Educational Dollars for Duty program developed by
 5 the Adjutant General; requiring an Educational Dollars
 6 for Duty program applicant to authorize the release of
 7 certain information to the Department of Military
 8 Affairs; prohibiting the program from paying repeat
 9 course fees; authorizing certain online courses to be
 10 offered through the program; requiring participating
 11 institutions to provide specified information to the
 12 Department of Military Affairs; authorizing the
 13 department to reimburse certain costs and fees;
 14 requiring the Adjutant General to adopt rules relating
 15 to specified components of the program; amending s.
 16 250.35, F.S.; updating references with respect to
 17 courts-martial; creating s. 265.0031, F.S.; providing
 18 legislative intent; establishing the Florida Veterans'
 19 Walk of Honor and the Florida Veterans' Memorial
 20 Garden; providing administration and funding, without
 21 appropriation of state funds, by the Department of
 22 Veterans' Affairs; requiring the Department of
 23 Management Services to set aside an area for the
 24 construction of the Walk of Honor and the Memorial
 25 Garden; requiring specified donations to be deposited
 26 in the account of the direct-support organization
 27 within the Department of Veterans' Affairs;
 28 authorizing the organization to use the donations for
 29 specified purposes; amending s. 288.0001, F.S.;

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30 requiring the Office of the Economic and Demographic
 31 Research and the Office of Program Policy Analysis and
 32 Government Accountability to provide an analysis of
 33 the Veterans Employment and Training Services Program
 34 by specified dates; amending s. 295.065, F.S.;
 35 revising legislative intent relating to the hiring
 36 practices of veterans; amending s. 295.07, F.S.;
 37 revising eligibility for preference in appointment and
 38 retention by public employers; amending s. 295.08,
 39 F.S.; revising point values added to earned ratings of
 40 a person eligible to receive preference in appointment
 41 to and retention in certain positions by public
 42 employers; amending s. 295.085, F.S.; revising
 43 preference in appointment, employment, and retention
 44 in positions for which numerically based selection
 45 processes are not used; conforming cross-references
 46 and provisions to changes made by the act; creating s.
 47 295.20, F.S.; creating Florida Is for Veterans, Inc.,
 48 as a nonprofit corporation within the Department of
 49 Veterans' Affairs; specifying the purpose and duties
 50 of the corporation; providing for the governance of
 51 the corporation by a board of directors; specifying
 52 the membership and composition of the board; providing
 53 for the appointment of board members and designating
 54 terms; providing that members of the board are subject
 55 to the Code of Ethics of Public Officers and
 56 Employees; providing a penalty for certain violations
 57 by board members; authorizing reimbursement for per
 58 diem and travel expenses of board members; providing

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59 that an appointed member of the board may be removed
 60 for cause; authorizing the board to exercise certain
 61 powers; providing that the corporation is subject to
 62 the state's public records and meetings laws;
 63 providing for administrative and staff support for the
 64 nonprofit corporation; authorizing each state agency
 65 to provide necessary assistance to the nonprofit
 66 corporation; authorizing the Department of Veterans'
 67 Affairs to allow the nonprofit corporation's use of
 68 property, facilities, and personal services; providing
 69 exceptions; requiring the nonprofit corporation to
 70 submit an annual report to the Governor and the
 71 Legislature; prescribing report requirements;
 72 requiring the Office of Program Policy Analysis and
 73 Government Accountability to conduct a performance
 74 audit by a specified date; prescribing audit
 75 requirements; requiring that the audit findings be
 76 submitted to the Legislature; creating s. 295.21,
 77 F.S.; providing legislative findings and intent;
 78 creating the Veterans Employment and Training Services
 79 Program within the Department of Veterans' Affairs;
 80 providing for administration of the program by Florida
 81 is For Veterans, Inc.; specifying duties of the
 82 program; requiring Enterprise Florida, Inc., to
 83 provide information regarding Florida Is for Veterans,
 84 Inc., to prospective businesses; requiring Enterprise
 85 Florida, Inc., to collaborate with Florida Is for
 86 Veterans, Inc., regarding employment needs; requiring
 87 Florida Is for Veterans, Inc., to submit a report to

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88 the Governor and the Legislature by a specified date;
 89 prescribing report requirements; amending s. 296.06,
 90 F.S.; revising residency requirements for eligibility
 91 for admittance to the Veterans' Domiciliary Home of
 92 Florida; amending s. 296.36, F.S.; revising residency
 93 requirements for eligibility for admittance to the
 94 Veterans' Nursing Home of Florida; amending s.
 95 455.213, F.S.; authorizing the person who is the
 96 spouse of a military veteran at the time of the
 97 veteran's discharge to apply to the Department of
 98 Business and Professional Regulation for certain
 99 licenses without paying initial fees; increasing the
 100 time period during which a military veteran or his or
 101 her spouse at the time of discharge may qualify for a
 102 fee waiver; amending ss. 456.013 and 468.304, F.S.;
 103 authorizing the Department of Health to waive certain
 104 fees for the person who is the spouse of a military
 105 veteran at the time of the veteran's discharge;
 106 increasing the time period during which a military
 107 veteran or his or her spouse at the time of discharge
 108 may qualify for a fee waiver; amending s. 499.012,
 109 F.S.; revising permit application requirements under
 110 the Florida Drug and Cosmetic Act for natural persons
 111 with certain managerial experience in the United
 112 States Armed Forces; reenacting s. 1002.36(4)(f),
 113 F.S., relating to the board of trustees of the Florida
 114 School for the Deaf and the Blind, to incorporate the
 115 amendments made to s. 295.07, F.S., in a reference
 116 thereto; providing an effective date.

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117

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

119

Section 1. Subsections (7) and (8) of section 250.10, Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—

(7) The Adjutant General shall develop an education assistance program for members in good standing of the Florida National Guard who enroll in an authorized course of study at a public or nonpublic postsecondary institution or technical center in this state ~~of higher learning in the state~~ which has been accredited by an accrediting body recognized by the United States Department of Education or licensed by the Commission for Independent Education. Education assistance also may be used for training to obtain industry certifications approved by the Department of Education pursuant to s. 1008.44 and continuing education to maintain license certifications. The education assistance ~~This~~ program shall be known as the Educational Dollars for Duty program (EDD).

(a) The program shall establish ~~set forth~~ application requirements, including, but not limited to, requirements that the applicant:

1. Be 17 years of age or older.
2. Be presently domiciled in the state.
3. Be an active drilling member and in good standing in the Florida National Guard at the beginning of and throughout the entire academic term for which benefits are received.
4. Maintain continuous satisfactory participation in the Florida National Guard for any school term for which exemption

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benefits are received.

147

5. Upon enrollment in the program, complete a memorandum of agreement to comply with the rules of the program and serve in the Florida National Guard for the period specified in the member's enlistment or reenlistment contract.

151

6. Authorize the release of information as provided in subparagraph (d)7. by the postsecondary institution or technical center to the Education Service Office within the Department of Military Affairs, subject to applicable federal and state law.

155

(b) The program shall define those members of the Florida National Guard who are ineligible to participate in the program and those courses of study which are not authorized for the program.

159

1. Ineligible members include, but are not limited to, any member, commissioned officer, warrant officer, or enlisted person who has obtained a master's degree using the program.

162

2. Inactive members of the Florida National Guard and members of the Individual Ready Reserve (IRR) are not eligible to participate in the program.

165

3. Courses not authorized include noncredit courses, courses that do not meet degree requirements, courses that do not meet requirements for completion of career training, or other courses as determined by program definitions.

169

~~4.3- The program may not pay repeat course fees developmental education courses are authorized for the program.~~

171

(c) The program may include, but is not limited to:

172

1. Courses at a public or nonpublic secondary institution or technical center in the state which has been accredited by an accrediting body recognized by the United States Department of

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175 Education or licensed by the Commission for Independent
 176 Education.

177 2. Training to obtain industry certifications, limited to
 178 certifications approved by the Department of Education under s.
 179 1008.44.

180 3. Continuing education to maintain a license or
 181 certification.

182 4. Licensing and industry certification examination fees.

183 5. Online courses approved by the Adjutant General for the
 184 program, pursuant to rules adopted pursuant to paragraph (d).
 185 Courses offered as part of a preeminent state research
 186 university institute for online learning, as designated in s.
 187 1001.7065, are expressly authorized for the program.

188 6. Participation in the Complete Florida Degree Program
 189 under s. 1006.735.

190 7. Developmental educational courses, notwithstanding
 191 subparagraph (b)3.

192 (d)(e) The Adjutant General shall adopt rules for the
 193 overall policy, guidance, administration, implementation, and
 194 proper use of the program. Such rules must include, but need not
 195 be limited to:

196 1. Guidelines for certification by the Adjutant General of
 197 a guard member's eligibility ~~and~~ procedures for notification to
 198 a postsecondary ~~an~~ institution or technical center of a guard
 199 member's termination of eligibility.

200 2. Guidelines for approving courses of study that are
 201 authorized for the program, including online courses, industry
 202 certification training, and continuing education to maintain
 203 license certifications.

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204 3. Guidelines for approving the use of program funds for
 205 licensing and industry certification examination fees.

206 4. Guidelines for recommending certain members participate
 207 in the Complete Florida Degree Program established pursuant to
 208 s. 1006.735.

209 5. Procedures to facilitate the award of academic college
 210 credit at public postsecondary educational institutions for
 211 college-level training and education acquired in the military
 212 pursuant to s. 1004.096, ~~and~~

213 6. Procedures for restitution when a guard member fails to
 214 comply with the penalties described in this section.

215 7. Procedures that require an institution that receives
 216 funding from the program provide information regarding course
 217 enrollment, course withdrawal, course cancellation, course
 218 completion, course failure, and grade verification of enrolled
 219 members to the Education Service Office within the Department of
 220 Military Affairs.

221 8. Guidelines for the payment of tuition and fees not to
 222 exceed the highest in-state tuition rate charged by a public
 223 postsecondary institution in this state.

224 (8) Subject to appropriations, the Department of Military
 225 Affairs may pay the full cost of tuition and fees for required
 226 courses for current members of the Florida National Guard.
 227 Members are eligible to use the program upon enlistment in the
 228 Florida National Guard. If a member is enrolled in a nonpublic
 229 postsecondary education institution or a nonpublic vocational-
 230 technical program, ~~the Department of Military Affairs shall pay~~
 231 ~~an amount equal to the amount that would be required to pay for~~
 232 ~~the average program fees may not exceed the rate of the highest~~

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233 in-state tuition and fees at a public postsecondary education
234 institution or public vocational-technical program.

235 (a) The Department of Military Affairs may reimburse a
236 member for student book costs and fees indexed to tuition in
237 accordance with limits set each fiscal year. Reimbursement shall
238 be based on funding availability and is subject to the Adjutant
239 General's discretion, including, but not limited to, authority
240 to reimburse book costs regardless of the source of tuition
241 funding ~~A member may participate in the program if he or she~~
242 ~~maintains satisfactory participation in, and is an active~~
243 ~~drilling member of, the Florida National Guard. Inactive members~~
244 ~~of the Florida National Guard and members of the Individual~~
245 ~~Ready Reserve (IRR) are not eligible to participate in the~~
246 ~~program.~~

247 (b) Penalties for noncompliance with program requirements
248 include, but are not limited to, the following:

249 1. If a member of the Florida National Guard receives
250 payment of tuition and fees for an ~~any~~ academic term and fails
251 to maintain satisfactory participation in the Florida National
252 Guard during that academic term, the member shall reimburse the
253 Department of Military Affairs all tuition charges and student
254 fees for the academic term for which the member received
255 payment.

256 2. If a member of the Florida National Guard leaves the
257 Florida National Guard during the period specified in the
258 member's enlistment or reenlistment contract, the member shall
259 reimburse the Department of Military Affairs all tuition charges
260 and student fees for which the member received payments,
261 regardless of whether the obligation to reimburse the department

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262 was incurred before, on, or after July 1, 2009, unless the
263 Adjutant General finds that there are justifiable extenuating
264 circumstances.

265 3. If the service of a member of the Florida National Guard
266 is terminated or the member is placed on scholastic probation
267 while receiving payments, the member shall reimburse the
268 Department of Military Affairs all tuition charges and student
269 fees for the academic term for which the member received
270 payment.

271 4. If a member defaults on any reimbursement made under
272 this paragraph, the department may charge the member the maximum
273 interest rate authorized by law.

274 Section 2. Subsections (1) and (2) of section 250.35,
275 Florida Statutes, are amended to read:

276 250.35 Courts-martial.—

277 (1) The Uniform Code of Military Justice (UCMJ), 10 U.S.C.
278 ss. 801 et seq., and the Manual for Courts-Martial (2012 ~~2008~~
279 Edition) are adopted for use by the Florida National Guard,
280 except as otherwise provided by this chapter.

281 (2) Courts-martial may try any member of the Florida
282 National Guard for any crime or offense made punishable by the
283 Uniform Code of Military Justice (2012 ~~2008~~ Edition), except
284 that a commissioned officer, warrant officer, or cadet may not
285 be tried by summary courts-martial.

286 Section 3. Section 265.0031, Florida Statutes, is created
287 to read:

288 265.0031 Florida Veterans' Walk of Honor and Memorial
289 Garden.—

290 (1) It is the intent of the Legislature to recognize and

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291 honor those military veterans who, through their works and lives
 292 during or after service, have made a significant contribution to
 293 this state.

294 (2) There is established the Florida Veterans' Walk of
 295 Honor.

296 (a) The Department of Veterans' Affairs shall administer
 297 the Florida Veterans' Walk of Honor and fund it through the
 298 department's direct-support organization, established under s.
 299 292.055, without appropriation of state funds.

300 (b) The Department of Management Services shall set aside
 301 an area of the courtyard in front of the Capitol Building
 302 necessary for the construction of the Florida Veterans' Walk of
 303 Honor and shall consult with the Department of Veterans' Affairs
 304 and the department's direct-support organization regarding the
 305 design and theme of the area.

306 (c) Donations made toward the Florida Veterans' Walk of
 307 Honor shall be deposited in a bank account established by the
 308 department's direct-support organization.

309 (3) There is established the Florida Veterans' Memorial
 310 Garden.

311 (a) The Department of Veterans' Affairs shall administer
 312 the Florida Veterans' Memorial Garden and fund it through the
 313 department's direct-support organization, established under s.
 314 292.055, without appropriation of state funds.

315 (b) The Department of Management Services shall set aside
 316 an area of the grounds of the Capitol Complex, as defined in s.
 317 281.01, for the construction of the Florida Veterans' Memorial
 318 Garden and shall consult with the Department of Veterans'
 319 Affairs and the department's direct-support organization

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320 regarding the design and theme of the area.

321 (c) The department's direct-support organization may use
 322 donations made toward the Florida Veterans' Walk of Honor to
 323 construct the Florida Veterans' Memorial Garden.

324 Section 4. Paragraph (d) is added to subsection (2) of
 325 section 288.0001, Florida Statutes, to read:

326 288.0001 Economic Development Programs Evaluation.—The
 327 Office of Economic and Demographic Research and the Office of
 328 Program Policy Analysis and Government Accountability (OPPAGA)
 329 shall develop and present to the Governor, the President of the
 330 Senate, the Speaker of the House of Representatives, and the
 331 chairs of the legislative appropriations committees the Economic
 332 Development Programs Evaluation.

333 (2) The Office of Economic and Demographic Research and
 334 OPPAGA shall provide a detailed analysis of economic development
 335 programs as provided in the following schedule:

336 (d) By January 1, 2019, and every 3 years thereafter, an
 337 analysis of the grant and entrepreneur initiative programs
 338 established under s. 295.21(3)(d) and (e).

339 Section 5. Section 295.065, Florida Statutes, is amended to
 340 read:

341 295.065 Legislative intent.—It is the intent of the
 342 Legislature to provide preference and priority in the hiring
 343 practices of this state as set forth in this chapter. ~~¶~~ All
 344 written job announcements and audio and video advertisements
 345 used by employing agencies of the state and its political
 346 subdivisions must include a notice stating, there shall be a
 347 notation that certain servicemembers, veterans, and spouses and
 348 family members of veterans receive preference and priority in

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349 employment by the state and are encouraged to apply for the
 350 positions being filled.

351 Section 6. Section 295.07, Florida Statutes, is amended to
 352 read:

353 295.07 Preference in appointment and retention.-

354 (1) The state and its political subdivisions ~~in the state~~
 355 shall give preference in appointment and retention in positions
 356 of employment to:

357 (a) Those disabled veterans:

358 1. Who have served on active duty in any branch of the
 359 Armed Forces of the United States, have received an honorable
 360 discharge ~~been separated therefrom under honorable conditions,~~
 361 and have established the present existence of a service-
 362 connected disability that which is compensable under public laws
 363 administered by the United States U.S. Department of Veterans
 364 Veterans' Affairs; ~~r~~ or

365 2. Who are receiving compensation, disability retirement
 366 benefits, or pension by reason of public laws administered by
 367 the United States U.S. Department of Veterans Veterans' Affairs
 368 and the Department of Defense.

369 (b) The spouse of a any person who has a total disability,
 370 permanent in nature, resulting from a service-connected
 371 disability and who, because of this disability, cannot qualify
 372 for employment, and the spouse of a any person missing in
 373 action, captured in line of duty by a hostile force, or forcibly
 374 detained or interned in line of duty by a foreign government or
 375 power.

376 (c) A wartime veteran ~~of any war~~ as defined in s. 1.01(14).
 377 The veteran must have served at least 1 day during a wartime

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378 period to be eligible for veterans' preference. Active duty for
 379 training may shall not be allowed for eligibility under this
 380 paragraph.

381 (d) The unremarried widow or widower of a veteran who died
 382 of a service-connected disability.

383 (e) The mother, father, legal guardian, or unremarried
 384 widow or widower of a member of the United States Armed Forces
 385 who died in the line of duty under combat-related conditions, as
 386 verified by the United States Department of Defense.

387 (f) A veteran as defined in s. 1.01(14). Active duty for
 388 training may not be allowed for eligibility under this
 389 paragraph.

390 (g) A current member of any reserve component of the United
 391 States Armed Forces or the Florida National Guard.

392 (2) The Department of Veterans' Affairs shall adopt rules
 393 to ensure that veterans are given special consideration in the
 394 employing agency's selection and retention processes. The rules
 395 must include the award of point values as articulated in s.
 396 295.08, if applicable, or, where point values are not relevant,
 397 must include procedures to ensure that veterans are given
 398 special consideration at each step of the employment selection
 399 process, unless the sponsoring governmental entity is a party to
 400 a collective bargaining agreement, in which case the collective
 401 bargaining agreement must comply within 90 days following
 402 ratification of a successor collective bargaining agreement or
 403 extension of any existing collective bargaining agreement.

404 (3) Preference in employment and retention may be given
 405 only to eligible persons who are described in subsection (1) ~~and~~
 406 ~~who are residents of this state.~~

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407 (4) The following positions are exempt from this section:

408 (a) Those positions that are exempt from the state Career
409 Service System under s. 110.205(2); however, all positions under
410 the University Support Personnel System of the State University
411 System as well as all Career Service System positions under the
412 Florida College System and the School for the Deaf and the
413 Blind, or the equivalent of such positions at state
414 universities, Florida College System institutions, or the School
415 for the Deaf and the Blind, are included.

416 (b) Positions in political subdivisions of the state which
417 are filled by officers elected by popular vote or persons
418 appointed to fill vacancies in such offices and the personal
419 secretary of each such officer, members of boards and
420 commissions, persons employed on a temporary basis without
421 benefits, heads of departments, positions that require licensure
422 as a physician, licensure as an osteopathic physician, licensure
423 as a chiropractic physician, and positions that require that the
424 employee be a member of The Florida Bar.

425 Section 7. Section 295.08, Florida Statutes, is amended to
426 read:

427 295.08 Positions for which a numerically based selection
428 process is used.—For positions for which an examination is used
429 to determine the qualifications for entrance into employment
430 with the state or political subdivisions in the state, 15 points
431 shall be added to the earned ratings of a person included under
432 s. 295.07(1)(a) and (b), 10 points shall be added to the earned
433 ratings of a any person included under s. 295.07(1)(c), (d), or
434 (e) s. 295.07(1)(a) or (b), and 5 points shall be added to the
435 earned ratings ~~rating~~ of a any person included under s.

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436 295.07(1)(f) or (g) s. 295.07(1)(e) and (d), if the person has
437 obtained a qualifying score on the examination for the position.
438 The names of persons eligible for preference shall be entered on
439 an appropriate register or list in accordance with their
440 respective augmented ratings. However, except for classes of
441 positions with Federal Government designations of professional
442 or technician, the names of all persons qualified to receive a
443 15-point ~~10-point~~ preference whose service-connected
444 disabilities have been rated by the United States Department of
445 Veterans Affairs or its predecessor or the Department of Defense
446 to be 30 percent or more shall be placed at the top of the
447 appropriate register or employment list, in accordance with
448 their respective augmented ratings. The respective augmented
449 rating is the examination score or evaluated score in addition
450 to the applicable veteran's preference points.

451 Section 8. Section 295.085, Florida Statutes, is amended to
452 read:

453 295.085 Positions for which a numerically based selection
454 process is not used.—In all positions in which the appointment
455 or employment of persons is not subject to a written
456 examination, with the exception of positions that are exempt
457 under s. 295.07(4), first preference in appointment, employment,
458 and retention shall be given by the state and political
459 subdivisions in the state to persons included under s.
460 295.07(1)(a) and (b), and second preference shall be given to
461 persons included under s. 295.07(1)(c)-(g), ~~s. 295.07(1)(e) and~~
462 ~~(d)~~ who possess the minimum qualifications necessary to
463 discharge the duties of the position involved.

464 Section 9. Section 295.20, Florida Statutes, is created to

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465 read:

466 295.20 Florida Is For Veterans, Inc.—

467 (1) CREATION.—There is created within the Department of
 468 Veterans' Affairs a nonprofit corporation, to be known as
 469 Florida Is For Veterans, Inc., which shall be registered,
 470 incorporated, organized, and operated in compliance with chapter
 471 617, and which is not a unit or entity of state government. As
 472 used in this section and s. 295.21, unless the context indicates
 473 otherwise, the term "corporation" means Florida Is For Veterans,
 474 Inc. The corporation is a separate budget entity and is not
 475 subject to the control, supervision, or direction of the
 476 department in areas, including, but not limited to, personnel,
 477 purchasing, transactions involving real or personal property, or
 478 budgetary matters.

479 (2) PURPOSE.—The purpose of the corporation is to promote
 480 Florida as a veteran-friendly state that seeks to equip veterans
 481 for employment opportunities and that promotes the hiring of
 482 veterans by the business community. The corporation should
 483 encourage retired and recently separated military personnel to
 484 keep or make Florida their permanent residence. The corporation
 485 shall promote the value of military skill sets to Florida
 486 businesses, assist in tailoring the training of veterans to
 487 match the needs of the employment marketplace, and enhance the
 488 entrepreneurial skills of veterans.

489 (3) DUTIES.—The corporation shall:

490 (a) Contract with one or more entities in accordance with
 491 competitive bidding requirements in s. 287.057. Such entity must
 492 have experience conducting market research on the veteran
 493 demographic and the tools to reach a target market on a

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494 nationwide basis. The corporation shall contract with such
 495 entity specifically to:

496 1. Conduct research to identify the target market and the
 497 educational and employment needs of those in the target market.

498 2. Develop and conduct a marketing campaign to encourage
 499 retired and recently separated military personnel to remain in
 500 Florida or to make Florida their permanent residence.

501 3. Develop a process for the dissemination of information
 502 to the target market and targeting that information to the
 503 interests and needs of veterans of all ages, and which
 504 facilitates veterans' knowledge of and access to benefits.

505 (b) Promote and enhance the value of military skill sets to
 506 businesses.

507 (c) Implement the Veterans Employment and Training Services
 508 Program established by s. 295.21.

509 (d) Responsibly and prudently manage all funds received,
 510 and ensure that the use of such funds is in accordance with all
 511 applicable laws, bylaws, or contractual requirements.

512 (e) Administer the programs created in this section and s.
 513 295.21.

514 (4) GOVERNANCE.—

515 (a) The corporation shall be governed by a 9-member board
 516 of directors. The Governor, the President of the Senate, and the
 517 Speaker of the House of Representatives shall each appoint three
 518 members to the board. In making appointments, the Governor, the
 519 President of the Senate, and the Speaker of the House of
 520 Representatives must consider representation by active or
 521 retired military personnel and their spouses representing a
 522 range of ages and persons with expertise in business, education,

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523 marketing, and information management.

524 (b) The board of directors shall annually elect a
525 chairperson from among the board's members.

526 (c) Each member of the board of directors shall be
527 appointed for a term of 4 years, except that, to achieve
528 staggered terms, the initial appointees of the Governor shall be
529 appointed to terms of 2 years. A member is ineligible for
530 reappointment to the board except that any member appointed to a
531 term of 2 years or less may be reappointed for an additional
532 term of 4 years. The initial appointments to the board must be
533 made by November 15, 2014. Vacancies on the board of directors
534 shall be filled by the officer who originally appointed the
535 member. A vacancy that occurs before the scheduled expiration of
536 the term of the member shall be filled for the remainder of the
537 unexpired term.

538 (d) The Legislature finds that it is in the public interest
539 for the members of the board of directors to be subject to the
540 requirements of ss. 112.313, 112.3135, and 112.3143,
541 notwithstanding the fact that they are not public officers or
542 employees. For purposes of those sections, board members shall
543 be considered to be public officers or employees. In addition to
544 the postemployment restrictions of s. 112.313(9), a person
545 appointed to the board of directors may not have direct interest
546 in a contract, franchise, privilege, project, program, or other
547 benefit arising from an award by the corporation during the
548 appointment term and for 2 years after the termination of such
549 appointment. It is a misdemeanor of the first degree, punishable
550 as provided in s. 775.082 or s. 775.083, for a person to accept
551 appointment to the board of directors in violation of this

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552 subsection or to accept a direct interest in any contract,
553 franchise, privilege, project, program, or other benefit granted
554 by the corporation to an awardee within 2 years after the
555 termination of his or her service on the board. Further, each
556 member of the board of directors who is not otherwise required
557 to file financial disclosure under s. 8, Art. II of the State
558 Constitution or s. 112.3144 shall file a statement of financial
559 interests under s. 112.3145.

560 (e) Each member of the board of directors shall serve
561 without compensation, but shall receive reimbursement for travel
562 and per diem expenses as provided in s. 112.061 while performing
563 his or her duties.

564 (f) Each member of the board of directors is accountable
565 for the proper performance of the duties of office and owes a
566 fiduciary duty to the people of this state to ensure that awards
567 provided are disbursed and used as prescribed by law and
568 contract. An appointed member of the board of directors may be
569 removed by the officer who appointed the member for malfeasance,
570 misfeasance, neglect of duty, incompetence, permanent inability
571 to perform official duties, unexcused absence from three
572 consecutive board meetings, arrest, or indictment for a crime
573 that is a felony or a misdemeanor involving theft or a crime of
574 dishonesty, or pleading nolo contendere to or being found guilty
575 of any crime.

576 (g) A majority of the members of the board of directors
577 constitutes a quorum. Council meetings may be held via
578 teleconference or other electronic means.

579 (5) POWERS.—In addition to the powers and duties prescribed
580 in chapter 617 and the articles and bylaws adopted thereunder,

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581 the board of directors may:

582 (a) Make and enter into contracts and other instruments
 583 necessary or convenient for the exercise of its powers and
 584 functions. However, notwithstanding s. 617.0302, the corporation
 585 may not issue bonds.

586 (b) Make expenditures, including any necessary
 587 administrative expenditure.

588 (c) Adopt, amend, and repeal bylaws, consistent with the
 589 powers granted to it under this section or the articles of
 590 incorporation, for the administration of the activities of the
 591 corporation, and the exercise of its corporate powers.

592 (d) Accept funding for its programs and activities from
 593 federal, state, local, and private sources.

594 (e) Adopt and register a fictitious name for use in its
 595 marketing activities.

596 (f) Provide for the reversion of moneys and property held
 597 by the corporation to the state if the corporation ceases to
 598 exist.

599 The credit of the State of Florida may not be pledged on behalf
 600 of the corporation.

602 (6) APPLICABILITY OF PUBLIC RECORDS AND MEETINGS LAWS.—The
 603 corporation is subject to the provisions of chapters 119 and 286
 604 relating to public records and meetings, respectively.

605 (7) STAFFING AND ASSISTANCE.—

606 (a) The corporation is authorized to hire or contract for
 607 all staff necessary for the proper execution of its powers and
 608 duties. All employees of the corporation shall comply with the
 609 Code of Ethics for Public Officers and Employees under part III

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610 of chapter 112. Corporation staff must agree to refrain from
 611 having any direct interest in any contract, franchise,
 612 privilege, project, program, or other benefit arising from an
 613 award by the corporation during the term of their appointment
 614 and for 2 years after the termination of such appointment.

615 (b) All agencies of the state are authorized and directed
 616 to provide such technical assistance as the corporation may
 617 require to identify programs within each agency which provide
 618 assistance or benefits to veterans who are located in this state
 619 or who are considering relocation to this state.

620 (c) The Department of Veterans' Affairs may authorize the
 621 corporation's use of the department's property, facilities, and
 622 personal services, subject to this section. The department may
 623 prescribe by contract any condition with which the corporation
 624 must comply in order to use the department's property,
 625 facilities, or personal services.

626 (d) The department may not authorize the use of its
 627 property, facilities, or personal services if the corporation
 628 does not provide equal employment opportunities to all persons
 629 regardless of race, color, religion, sex, age, or national
 630 origin.

631 (8) REPORTS.—The corporation shall submit an annual
 632 progress report and work plan by each December 1 to the
 633 Governor, the President of the Senate, and the Speaker of the
 634 House of Representatives. The report must include:

635 (a) Status and summary of findings regarding the target
 636 market, veteran benefits, and any identified gaps in services.

637 (b) Status of the marketing campaign, delivery systems of
 638 the marketing campaign, and outreach to the target market.

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639 (c) Status of the Veterans Employment and Training Services
640 Program administered under s. 295.21.

641 (d) Proposed revisions or additions to performance
642 measurements for the programs administered by the corporation.

643 (e) Identification of contracts that the corporation has
644 entered into to carry out its duties.

645 (f) An annual compliance and financial audit of accounts
646 and records for the previous fiscal year prepared by an
647 independent certified public accountant in accordance with rules
648 adopted by the Auditor General.

649 Section 10. By February 1, 2018, the Office of Program
650 Policy Analysis and Government Accountability shall conduct a
651 performance audit of Florida Is For Veterans, Inc. The audit
652 shall assess the implementation and outcomes of activities under
653 ss. 295.20 and 295.21, Florida Statutes, and evaluate the
654 corporation's accomplishments and progress toward making Florida
655 a veteran-friendly state. The audit must provide recommendations
656 for any necessary improvements. The report of the audit's
657 findings shall be submitted to the President of the Senate and
658 the Speaker of the House of Representatives.

659 Section 11. Section 295.21, Florida Statutes, is created to
660 read:

661 295.21 Veterans Employment and Training Services Program.—

662 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
663 that this state has a compelling interest in ensuring that each
664 veteran who is a resident of this state finds employment that
665 meets his or her professional goals and receives the training or
666 education necessary to meet those goals. The Legislature also
667 finds that connecting dedicated, well-trained veterans with

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668 businesses that need a dedicated, well-trained workforce is of
669 paramount importance. The Legislature recognizes that veterans
670 may not currently have the skills to meet the workforce needs of
671 Florida employers and may require assistance in obtaining
672 additional workforce training or in transitioning their skills
673 to meet the demands of the marketplace. It is the intent of the
674 Legislature that the Veterans Employment and Training Services
675 Program coordinate and meet the needs of veterans and the
676 business community to enhance the economy of this state.

677 (2) CREATION.—The Veterans Employment and Training Services
678 Program is created within the Department of Veterans' Affairs to
679 assist in linking veterans in search of employment with
680 businesses seeking to hire dedicated, well-trained workers. The
681 purpose of the program is to meet the workforce demands of
682 Florida businesses by facilitating access to training and
683 education in high-demand fields for veterans.

684 (3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall
685 administer the Veterans Employment and Training Services Program
686 and perform all of the following functions:

687 (a) Conduct marketing and recruiting efforts directed at
688 veterans who reside in or who have an interest in relocating to
689 this state and who are seeking employment. Marketing must
690 include information related to how a veteran's military
691 experience can be valuable to a business. Such efforts may
692 include attending veteran job fairs and events, hosting events
693 for veterans or the business community, and using digital and
694 social media and direct mail campaigns. The corporation shall
695 also include such marketing as part of its main marketing
696 campaign.

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697 (b) Assist veterans who reside in or relocate to this state
 698 and who are seeking employment. The corporation shall offer
 699 skills assessments to veterans and assist them in establishing
 700 employment goals and applying for and achieving gainful
 701 employment.

702 1. Assessment may include skill match information, skill
 703 gap analysis, resume creation, translation of military skills
 704 into civilian workforce skills, and translation of military
 705 achievements and experience to generally understood civilian
 706 workforce skills.

707 2. Assistance may include providing the veteran with
 708 information on current workforce demand by industry or
 709 geographic region, creating employment goals, and aiding or
 710 teaching general knowledge related to completing applications.
 711 The corporation may provide information related to industry
 712 certifications approved by the Department of Education under s.
 713 1008.44 as well as information related to earning academic
 714 college credit at public postsecondary educational institutions
 715 for college-level training and education acquired in the
 716 military under s. 1004.096.

717 3. The corporation shall encourage veterans to register
 718 with the state's job bank system and may refer veterans to local
 719 one-stop career centers for further services. The corporation
 720 shall provide each veteran with information about state
 721 workforce programs and shall consolidate information about all
 722 available resources on one website that, if possible, includes a
 723 hyperlink to each resource's website and contact information, if
 724 available. If appropriate, a veteran shall be encouraged to
 725 participate in the Complete Florida Degree Program established

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726 under s. 1006.735.

727 4. Assessment and assistance may be in person or by
 728 electronic means, as determined by the corporation to be most
 729 efficient and best meet the needs of veterans.

730 (c) Assist Florida businesses in recruiting and hiring
 731 veterans. The corporation shall provide services to Florida
 732 businesses to meet their hiring needs by connecting businesses
 733 with suitable veteran applicants for employment. Suitable
 734 applicants include veterans who have appropriate job skills or
 735 may need additional training to meet a business's specific
 736 needs. The corporation shall also provide information about the
 737 state and federal benefits of hiring veterans.

738 (d) Create a grant program to provide funding to assist
 739 veterans in meeting the workforce-skill needs of businesses
 740 seeking to hire veterans, establish criteria for approval of
 741 requests for funding, and maximize the use of funding for this
 742 program. Grant funds may be used only in the absence of
 743 available veteran-specific federally funded programs. Grants may
 744 fund specialized training specific to a particular business.

745 1. Grant funds may be allocated to any training provider
 746 selected by the business, including a career center, a Florida
 747 College System institution, a state university, or an in-house
 748 training provider of the business. If grant funds are used to
 749 provide a technical certificate, a licensure, or a degree, funds
 750 may be allocated only upon a review that includes, but is not
 751 limited to, accreditation and licensure documentation.
 752 Instruction funded through the program must terminate when
 753 participants demonstrate competence at the level specified in
 754 the request; however, the grant term may not exceed 48 months.

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755 Preference shall be given to target industry businesses, as
 756 defined in s. 288.106, and to businesses in the defense supply,
 757 cloud virtualization, or commercial aviation manufacturing
 758 industries.

759 2. Costs and expenditures for the grant program must be
 760 documented and separated from those incurred by the training
 761 provider. Costs and expenditures shall be limited to \$8,000 per
 762 veteran trainee. Eligible costs and expenditures include:

763 a. Tuition and fees;
 764 b. Curriculum development;
 765 c. Books and classroom materials;
 766 d. Rental fees for facilities at public colleges and
 767 universities, including virtual training labs; and
 768 e. Overhead or indirect costs not to exceed 5 percent of
 769 the grant amount.

770 3. Before funds are allocated for a request pursuant to
 771 this section, the corporation shall prepare a grant agreement
 772 between the business requesting funds, the educational
 773 institution or training provider receiving funding through the
 774 program, and the corporation. Such agreement must include, but
 775 need not be limited to:

776 a. Identification of the personnel necessary to conduct the
 777 instructional program, the qualifications of such personnel, and
 778 the respective responsibilities of the parties for paying costs
 779 associated with the employment of such personnel.

780 b. Identification of the match provided by the business,
 781 including cash and in-kind contributions, equal to at least 50
 782 percent of the total grant amount.

783 c. Identification of the estimated duration of the

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784 instructional program.

785 d. Identification of all direct, training-related costs.
 786 e. Identification of special program requirements that are
 787 not otherwise addressed in the agreement.

788 f. Permission to access aggregate information specific to
 789 the wages and performance of participants upon the completion of
 790 instruction for evaluation purposes. The agreement must specify
 791 that any evaluation published subsequent to the instruction may
 792 not identify the employer or any individual participant.

793 4. A business may receive a grant under the Quick-Response
 794 Training Program created under s. 288.047 and a grant under this
 795 section for the same veteran trainee. If a business receives
 796 funds under both programs, one grant agreement may be entered
 797 into with Workforce Florida, Inc., as the grant administrator.

798 (e) Contract with one or more entities to administer an
 799 entrepreneur initiative program for veterans in this state which
 800 connects Florida's business leaders with veterans seeking to
 801 become entrepreneurs.

802 1. The corporation shall award each contract in accordance
 803 with the competitive bidding requirements in s. 287.057 to one
 804 or more public or private universities that:

805 a. Demonstrate the ability to implement the program and the
 806 commitment of university resources, including financial
 807 resources, to such programs;

808 b. Have a military and veteran resource center;
 809 c. Have a regional small business development center in the
 810 Florida Small Business Development Center Network; and
 811 d. As determined by the corporation, have been nationally
 812 recognized for commitment to the military and veterans.

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813 2. Each contract must include performance metrics,
 814 including a focus on employment and business creation. Each
 815 university must coordinate with any entrepreneurship center
 816 located at the university. The university may also work with an
 817 entity offering related programs to refer veterans or to provide
 818 services. The entrepreneur initiative program may include
 819 activities and assistance such as peer-to-peer learning
 820 sessions, mentoring, technical assistance, business roundtables,
 821 networking opportunities, support of student organizations,
 822 speaker series, or other tools within a virtual environment.

823 (4) DUTIES OF ENTERPRISE FLORIDA, INC.—Enterprise Florida,
 824 Inc., shall provide information about the corporation and its
 825 services to prospective, new, expanding, and relocating
 826 businesses seeking to conduct business in this state. Enterprise
 827 Florida, Inc., shall, to the greatest extent possible,
 828 collaborate with the corporation to meet the employment needs,
 829 including meeting job creation requirements, of any business
 830 receiving assistance or services from Enterprise Florida, Inc.

831 Section 12. By February 2, 2015, Florida Is For Veterans,
 832 Inc., shall submit a report to the Governor, the President of
 833 the Senate, and the Speaker of the House of Representatives
 834 identifying existing gaps in veteran resources and recommending
 835 best practices that may be employed in assisting veterans and
 836 improvements to current or new resources and programs.

837 Section 13. Paragraph (b) of subsection (2) of section
 838 296.06, Florida Statutes, is amended to read:

839 296.06 State policy; eligibility requirements.—

840 (2) To be eligible for residency in the home, a veteran
 841 must:

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842 (b) ~~Have been a resident of the state for 1 year~~
 843 ~~immediately preceding application and~~ Be a resident of the state
 844 at the time of application.

845 Section 14. Paragraph (b) of subsection (1) of section
 846 296.36, Florida Statutes, is amended to read:

847 296.36 Eligibility and priority of admittance.—

848 (1) To be eligible for admittance to the home, the person
 849 must be a veteran as provided in s. 1.01(14) or have eligible
 850 peacetime service as defined in s. 296.02 and must:

851 (b) ~~Be Have been a resident of the state for 1 year~~
 852 ~~immediately preceding, and~~ at the time of application for,
 853 admission to the home.

854 Section 15. Subsection (12) of section 455.213, Florida
 855 Statutes, is amended to read:

856 455.213 General licensing provisions.—

857 (12) The department shall waive the initial licensing fee,
 858 the initial application fee, and the initial unlicensed activity
 859 fee for a military veteran or his or her spouse at the time of
 860 discharge, if he or she ~~who~~ applies to the department for a
 861 license, in a format prescribed by the department, within 60 ~~24~~
 862 months after the veteran is discharged ~~discharge~~ from any branch
 863 of the United States Armed Forces. To qualify for this waiver,
 864 the veteran must have been honorably discharged.

865 Section 16. Subsection (13) of section 456.013, Florida
 866 Statutes, is amended to read:

867 456.013 Department; general licensing provisions.—

868 (13) The department shall waive the initial licensing fee,
 869 the initial application fee, and the initial unlicensed activity
 870 fee for a military veteran or his or her spouse at the time of

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871 discharge, if he or she ~~who~~ applies to the department for an
 872 initial license within 60 24 months after the veteran is being
 873 honorably discharged from any branch of the United States Armed
 874 Forces. The applicant must apply for the fee waiver using a form
 875 prescribed by the department and must submit supporting
 876 documentation as required by the department.

877 Section 17. Subsection (1) of section 468.304, Florida
 878 Statutes, is amended to read:

879 468.304 Certification.—The department shall certify any
 880 applicant who meets the following criteria:

881 (1) Pays to the department a nonrefundable fee that may not
 882 exceed \$100, plus the actual per-applicant cost to the
 883 department for purchasing the examination from a national
 884 organization. The department shall waive the initial application
 885 fee for a military veteran or his or her spouse at the time of
 886 discharge, if he or she ~~who~~ applies to the department for an
 887 initial certification within 60 24 months after the veteran is
 888 ~~being~~ honorably discharged from any branch of the United States
 889 Armed Forces. The applicant must apply for the fee waiver using
 890 a form prescribed by the department and must submit supporting
 891 documentation as required by the department. This waiver does
 892 not include the fee for purchasing the examination from a
 893 national organization.

894
 895 The department may not certify any applicant who has committed
 896 an offense that would constitute a violation of any of the
 897 provisions of s. 468.3101 or applicable rules if the applicant
 898 had been certified by the department at the time of the offense.
 899 An application for a limited computed tomography certificate may

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900 not be accepted. A person holding a valid computed tomography
 901 certificate as of October 1, 1984, is subject to s. 468.309.

902 Section 18. Paragraph (b) of subsection (16) of section
 903 499.012, Florida Statutes, is amended to read:

904 499.012 Permit application requirements.—

905 (16)

906 (b) To be certified as a designated representative, a
 907 natural person must:

908 1. Submit an application on a form furnished by the
 909 department and pay the appropriate fees;

910 2. Be at least 18 years of age;

911 3. Have at least ~~not less than~~ 2 years of verifiable full-
 912 time:

913 a. Work experience in a pharmacy licensed in this state or
 914 another state, where the person's responsibilities included, but
 915 were not limited to, recordkeeping for prescription drugs; ~~or~~
 916 ~~have not less than 2 years of verifiable full-time~~

917 b. Managerial experience with a prescription drug wholesale
 918 distributor licensed in this state or in another state; or

919 c. Managerial experience with the United States Armed
 920 Forces, where the person's responsibilities included, but were
 921 not limited to, recordkeeping, warehousing, distribution, or
 922 other logistics services pertaining to prescription drugs;

923 4. Receive a passing score of at least 75 percent on an
 924 examination given by the department regarding federal laws
 925 governing distribution of prescription drugs and this part and
 926 the rules adopted by the department governing the wholesale
 927 distribution of prescription drugs. This requirement shall be
 928 effective 1 year after the results of the initial examination

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929 are mailed to the persons that took the examination. The
 930 department shall offer such examinations at least four times
 931 each calendar year; and

932 5. Provide the department with a personal information
 933 statement and fingerprints pursuant to subsection (9).

934 Section 19. For the purpose of incorporating the amendment
 935 made by this act to section 295.07, Florida Statutes, in a
 936 reference thereto, paragraph (f) of subsection (4) of section
 937 1002.36, Florida Statutes, is reenacted to read:

938 1002.36 Florida School for the Deaf and the Blind.—

939 (4) BOARD OF TRUSTEES.—

940 (f) The board of trustees shall:

941 1. Prepare and submit legislative budget requests for
 942 operations and fixed capital outlay, in accordance with chapter
 943 216 and ss. 1011.56 and 1013.60, to the Department of Education
 944 for review and approval. The department must analyze the amount
 945 requested for fixed capital outlay to determine if the request
 946 is consistent with the school's campus master plan, educational
 947 plant survey, and facilities master plan. Projections of
 948 facility space needs may exceed the norm space and occupant
 949 design criteria established in the State Requirements for
 950 Educational Facilities.

951 2. Approve and administer an annual operating budget in
 952 accordance with ss. 1011.56 and 1011.57.

953 3. Require all funds received other than gifts, donations,
 954 bequests, funds raised by or belonging to student clubs or
 955 student organizations, and funds held for specific students or
 956 in accounts for individual students to be deposited in the State
 957 Treasury and expended as authorized in the General

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958 Appropriations Act.

959 4. Require all purchases to be in accordance with the
 960 provisions of chapter 287 except for purchases made with funds
 961 received as gifts, donations, or bequests; funds raised by or
 962 belonging to student clubs or student organizations; or funds
 963 held for specific students or in accounts for individual
 964 students.

965 5. Administer and maintain personnel programs for all
 966 employees of the board of trustees and the Florida School for
 967 the Deaf and the Blind who shall be state employees, including
 968 the personnel classification and pay plan established in
 969 accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for
 970 academic and academic administrative personnel, the provisions
 971 of chapter 110, and the provisions of law that grant authority
 972 to the Department of Management Services over such programs for
 973 state employees.

974 6. Give preference in appointment and retention in
 975 positions of employment as provided within s. 295.07(1).

976 7. Ensure that the Florida School for the Deaf and the
 977 Blind complies with s. 1013.351 concerning the coordination of
 978 planning between the Florida School for the Deaf and the Blind
 979 and local governing bodies.

980 8. Ensure that the Florida School for the Deaf and the
 981 Blind complies with s. 112.061 concerning per diem and travel
 982 expenses of public officers, employees, and authorized persons
 983 with respect to all funds other than funds received as gifts,
 984 donations, or bequests; funds raised by or belonging to student
 985 clubs or student organizations; or funds held for specific
 986 students or in accounts for individual students.

583-01656-14

2014860__

987 9. Adopt a master plan which specifies the mission and
988 objectives of the Florida School for the Deaf and the Blind. The
989 plan shall include, but not be limited to, procedures for
990 systematically measuring the school's progress toward meeting
991 its objectives, analyzing changes in the student population, and
992 modifying school programs and services to respond to such
993 changes. The plan shall be for a period of 5 years and shall be
994 reviewed for needed modifications every 2 years. The board of
995 trustees shall submit the initial plan and subsequent
996 modifications to the Speaker of the House of Representatives and
997 the President of the Senate.

998 10. Designate a portion of the school as "The Verle Allyn
999 Pope Complex for the Deaf," in tribute to the late Senator Verle
1000 Allyn Pope.

1001 Section 20. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 16 2014

Meeting Date

Topic _____

Bill Number 860
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/14
Meeting Date

Topic Veterans in state tuition

Bill Number SB 860
(if applicable)

Name Juliann Simpson

Amendment Barcode _____
(if applicable)

Job Title FSU Office of Gov't Affairs

Address _____
Street

Phone (941) 681-0375

City

State

Zip

Speaking: For Against Information

E-mail _____

Representing FSU Student Government

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SR 860 VETS

Bill Number _____
(if applicable)

Name GLENN SUTPHIN

Amendment Barcode _____
(if applicable)

Job Title LEGISLATIVE DIRECTOR DMA

Address Rm 1902 THE CAPITOL

Phone (850) 414-9049

Street

TALLAHASSEE State Zip

E-mail _____

Speaking: For Against Information

Representing DMA

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)

6/11/11

Meeting Date

Topic Military Veterans Affairs

Bill Number SB 860
(if applicable)

Name Jim Gill

Amendment Barcode _____
(if applicable)

Job Title President TMG

Address 701 Chasswood Ct.

Phone 904 887 2181

Street

JAY FL 32259

City

State

Zip

E-mail Jim.gill99

Speaking: For Against Information

Representing Military + Veterans of Florida
@ Gmail. com

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)

3/6/124

Meeting Date

Topic Veterans Bill

Bill Number SB 860
(if applicable)

Name Adam Giery (Gear-e')

Amendment Barcode _____
(if applicable)

Job Title Dir of Policy

Address 136 South Bromough St

Phone _____

Street

Tallahassee

City

FL

State

32311

Zip

E-mail _____

Speaking: For Against Information

Representing FL Chamber

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)

3/6/14

Meeting Date

Topic Veterans

Bill Number 860
(if applicable)

Name Bill Helmich

Amendment Barcode _____
(if applicable)

Job Title _____

Address 303 Johns Dr

Phone 251 3126

Street Tallahassee FL 32301
City *State* *Zip*

E-mail _____

Speaking: For Against Information

Representing VFW and American Legion

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Military and Veterans Affairs

Bill Number SB 860
(if applicable)

Name Ed Woodruff

Amendment Barcode _____
(if applicable)

Job Title Government Relations Director

Address Po Box 13489

Phone 727-638-3577

Street

St. Petersburg FL 33733

City

State

Zip

E-mail Woodruff,Edward@spcollege.edu

Speaking: For Against Information

Representing St. Petersburg College

Waive in Support

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)

03/06/2014

Meeting Date

Topic _____

Bill Number SB 860

(if applicable)

Name Washington Sanchez

Amendment Barcode _____

(if applicable)

Job Title Chairman, FL Veterans Foundation

Address 2229 GATES DR

Street

Phone 850-322-8455

Tallahassee, FL

City

State

Zip

E-mail WJSAN4@AOL.COM

Speaking: For Against Information

Representing FL VETERANS FOUNDATION

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)

3/6/2014

Meeting Date

Topic _____

Bill Number SB 860
(if applicable)

Name Col. Mike Prendergast

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address The Capitol, Suite 2105, 400 South Monroe St.

Phone (850) 487-1533

Street

Tallahassee

FL

32399

City

State

Zip

E-mail prendergastm@fdva.
state.fl.us

Speaking: For Against Information

Representing The Florida Department of Veterans' Affairs

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)

3-6-14

Meeting Date

Topic MILITARY AFFAIRS - (MEMORIAL + WALK OF HONOR) Bill Number SB-860
(if applicable)

Name JOHN HAYNES Amendment Barcode _____
(if applicable)

Job Title CHAIRMAN AMERITUS

Address 424 HIAWATHA FARMS RD. Phone 850-443-3451
Street

MONTICELLO, FL 32344 E-mail _____
City State Zip

Speaking: For Against Information

Representing FLORIDA VETERANS FOUNDATION

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)

3/6/14

Meeting Date

Topic Military + Veterans Affairs

Bill Number SB860 (if applicable)

Name Adam Giery

Amendment Barcode (if applicable)

Job Title Policy Director

Address 136 S. Bronaugh

Phone 521-1251

Tallahassee FL 32301

E-mail agiery@fichamber.com

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

Representing Florida Chamber of Commerce

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

06 March 2014
Meeting Date

Topic Military & Veterans Affairs

Bill Number 860
(if applicable)

Name Matthew Holliday

Amendment Barcode _____
(if applicable)

Job Title Director of Government Relations

Address 8099 College Parkway
Street

Phone 239-826-7864

Ft. Myers FL 33919
City State Zip

E-mail mholliday@edison.edu

Speaking: For Against Information

Representing Edison State College

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/2014

Meeting Date

Topic CONGRESSMAN BILL YOUNG TUITION WAIVER ACT

Bill Number SB 860 (if applicable)

Name CARLO FASSI

Amendment Barcode 936674 (if applicable)

Job Title CHAIR, FLORIDA STUDENT ASSOCIATION

Address 1 UNF DR.

Phone 954.625.9176

Street

JACKSONVILLE FL 32224

City

State

Zip

E-mail c.g.fassi@unf.edu

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

Representing FL SUS STUDENTS

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.

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 7066

INTRODUCER: For consideration by Appropriations Committee

SUBJECT: Tax Administration

DATE: March 10, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|---------------------------------------|
| 1. | Fournier | Kynoch | | AP Submitted as Committee Bill |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |

I. Summary:

SPB 7066 contains changes in tax administration that were recommended by the Department of Revenue (department) and approved by the Governor and Cabinet, as well as a clarification of current tax law regarding charges for the storage of towed vehicles. It clarifies provisions pertaining to criminal penalties for failing to collect a tax or fee, making a false or fraudulent return, or failing to register with the department; clearly establishes the department's authority to require security for certain individuals seeking to register new businesses; increases the authority of the department's Executive Director to compromise taxes; conforms the remittance date for funds collected by the clerks of the court to other statutory requirements for the remittance of these funds; bans the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and provides criminal penalties for these actions; provides an incentive for businesses to comply with requests for reemployment tax records for audit purposes; reduces the interest rate imposed on reemployment tax deficiencies; and extends the protest period for reemployment tax assessments.

Several sections of this bill have a positive, but indeterminate, impact on state revenue. Section 11, which reduces the interest rate charged on delinquent reemployment taxes, was estimated by the Revenue Estimating Conference to reduce revenue to the Special Employment Security Administration Trust Fund million by \$0.2 million on a recurring basis.

II. Present Situation:

The Department of Revenue is responsible for ensuring that the taxes it administers are carried out in a fair and equitable manner. Each year the Executive Director seeks approval of proposed legislative concepts by the Governor and Cabinet, in their role as the head of the department. The department proposes changes in tax administration laws to reduce the burden on taxpayers and to ensure that Florida's tax laws are applied in a consistent, cost-effective, and equitable manner.

(See section-by-section analysis below.)

III. Effect of Proposed Changes:

Section 1

Present Situation: Section 212.03, F.S., provides that every person engaging in a lease or rental of parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage space for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports, shall be taxed at the rate of 6 percent on the total rental charges. Current administration of this statute treats storage facilities for towed vehicles as “parking lots or garages” for purposes of application of the tax, but the statute does not explicitly mention these facilities or provide an exception for law enforcement impoundment facilities.

Proposed change: The bill explicitly states that storage facilities for towed vehicles are included in “parking lots and garages” for tax purposes. It adds additional language providing that storage of towed vehicles from a “lawful impoundment” by a local, state, or federal law enforcement agency is not taxable, and defining “lawful impoundment.”

Sections 2, 3 and 5

Present situation: Sections 212.07, 212.12, and 212.18, F.S., contain redundant and potentially confusing language concerning criminal penalties.

Proposed change: The bill amends these sections to clarify the criminal penalties imposed on a person who:

- Willfully fails to collect a tax or fee.
- Makes a false or fraudulent return with a willful intent to evade payment of taxes or fees.
- Willfully fails to register after the department provides notice of the duty to register.

The bill creates no new penalties; the language is intended to clarify existing statutory penalties. These sections take effect July 1, 2014.

Section 4

Present situation: Section 212.14(4), F.S., authorizes the department to require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a sales tax dealer’s registration. Despite this requirement, delinquent sales tax dealers are able to close down businesses with tax liabilities and to reopen under a new name, because the current provision does not clearly apply to all of the individuals who were responsible for prior delinquent tax accounts when they seek to register new businesses.

Proposed change: The bill revises s. 212.14(4), F.S., to authorize the department to require security for individuals who are responsible for prior delinquent accounts when they seek to register new businesses. This section takes effect July 1, 2014.

Section 6 republishes s. 212.20, F.S., which contains a reference to s. 212.18(3).

Section 7

Present situation: Ch. 2010-162, L.O.F., changed the remittance date for funds state collected by the Clerks of the Court from the 20th day to the 10th day of the month immediately after the month in which the funds are collected. Section 213.13, F.S., which governs the electronic remittance and distribution of funds by the Clerks of the Court, was not amended to conform to the change.

Proposed change: Section 213.13, F.S., is amended to conform to changes made by ch. 2010-162, L.O.F.

Section 8

Present situation: Section 213.21, F.S., allows the department's Executive Director to enter into an agreement with a taxpayer that compromises the taxpayer's liability if there is a "doubt as to liability" or "doubt as to collectability" of the tax assessed. The statute limits this compromise authority to a reduction of \$250,000 or less.

Proposed change: The bill increases the Executive Director's authority to compromise taxes to a reduction of \$500,000 or less.

Section 9

Present situation: Automated sales suppression devices or "zappers" are software programs that falsify the records of electronic cash registers and other point-of-sale systems. These devices alter sales records to reduce the value of sales that are reported for tax purposes in order to evade state and federal taxes. In the case of sales tax, the use of these devices results in the theft of taxes that have been collected from a business' customers. While evading state taxes is illegal under current law, the sale, purchase, installation, use, or possession of the devices themselves is not illegal per se. Since 2011, eleven states have enacted legislation making it illegal to sell, install, or possess these devices.

Proposed change: The bill creates s. 213.295, F.S., which makes an automated sales suppression device a contraband article under ss. 932.701-932.706, F.S., and makes it unlawful to willfully and knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device, zapper, or phantom-ware. Any person convicted of violating this law is guilty of a third degree felony, is liable for all taxes, fees, penalties and interest due the state as a result of the use of the device, and must forfeit to the state as an additional penalty all profits associated with the sale or use of the device. The bill provides definitions for "automated sales suppression device," "zapper," "electronic cash register," "phantom-ware," "transaction data," and "transaction report." This section takes effect July 1, 2014.

Section 10

Present situation: Florida law provides a standard reemployment tax rate and allows many businesses to receive a lower rate if they meet certain criteria, including being in compliance with the law. Section 443.131, F.S., lists the criteria necessary for a business to be in compliance, but it does not explicitly state that a taxpayer must comply with records requests during audits to qualify for the reduced tax rate.

Proposed change: Section 443.131, F.S., is amended to create an additional condition for receiving a lower-than-standard reemployment tax rate. The condition is that the employer has produced records requested by the Department of Economic Opportunity or the department for audit purposes. This section takes effect upon the bill becoming a law.

Section 11

Present situation: Reemployment compensation tax contributions or reimbursements that are unpaid on the due date bear an interest rate of 1 percent per month, an effective annual rate of 12 percent. Other taxes that are administered by the department have an interest rate of prime plus 4 percent, not to exceed an effective rate of 1 percent per month. The interest rate is adjusted twice yearly.

Assessments of reemployment tax are final 15 days after the date they are mailed unless the employer files a written protest.

Proposed change: Section 443.141, F.S. is amended to change the interest rate imposed on reemployment compensation tax deficiencies to prime plus 4 percent, not to exceed 1 percent per month, beginning January 1, 2014. This is the rate applied to other taxes administered by the department.

This section is also amended to provide a 20-day protest period for reemployment tax assessments, which is the assessment period allowed for other reemployment tax actions.

This section is effective January 1, 2015.

Section 12 provides that except as otherwise expressly provided, this act shall take effect upon becoming a law.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The department anticipates that the following provisions of the bill will improve enforcement and collection of state tax laws:

- Banning the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and providing criminal penalties for these actions, should improve the department's ability to collect and enforce the sales tax statutes.
- Improved compliance with reemployment tax reporting is expected to improve the department's audit capability.

The Revenue Estimating Conference has determined that decreasing the interest rate on unpaid reemployment taxes will reduce state trust fund revenue by \$ 0.6 million in Fiscal Year 2014-15 and \$0.2 million on a recurring basis. Other provisions of the bill are expected to have an indeterminate, positive impact on state and local revenue.

B. Private Sector Impact:

This bill:

- Clarifies that storage facilities for towed vehicles are taxable, but that storage of towed vehicles from a "lawful impoundment" by a law enforcement agency are not taxable.
- Authorizes the department to require additional persons to provide a cash deposit, bond, or other security as a condition of obtaining or retaining a sales and use tax dealer's certificate of registration;
- Increases the Executive Director's authority to compromise taxes;
- Prohibits the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and specifies criminal penalties for these actions;
- Provides that an employer may not qualify for a reduced reemployment tax rate unless the employer has produced all records that were requested by the department or the Department of Economic Opportunity; and
- Reduces the interest rate imposed on reemployment tax deficiencies and lengthens the protest period for reemployment tax assessments.

C. Government Sector Impact:

The bill is expected to improve tax administration by banning the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and

phantom-ware, and providing criminal penalties for these actions; and by improving compliance with requests for information from employers for reemployment tax purposes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.03, 212.07, 212.12, 212.14, 212.18, 213.13, 213, 21, 213.295, 443.131, and 443.141.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



492172

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/06/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 92.

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

And the title is amended as follows:

Delete lines 3 - 6

and insert:

212.07, F.S.; conforming a cross-



668070

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/06/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Between lines 92 and 93

insert:

Section 2. Subsection (6) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(6) It is the legislative intent that a ~~every~~ person is engaging in a taxable privilege who leases or rents parking or



668070

11 storage spaces for motor vehicles in parking lots or garages,
12 including storage facilities for towed vehicles, who leases or
13 rents docking or storage spaces for boats in boat docks or
14 marinas, or who leases or rents tie-down or storage space for
15 aircraft at airports.

16 (a) For the exercise of this privilege, a tax is hereby
17 levied at the rate of 6 percent on the total rental charged.

18 (b) Charges for parking, docking, tie-down, or storage
19 arising from a lawful impoundment are not taxable. As used in
20 this paragraph, the term "lawful impoundment" means the storing
21 of or having custody over an aircraft, boat, or motor vehicle
22 by, or at the direction of, a local, state, or federal law
23 enforcement agency which the owner or the owner's representative
24 is not authorized to enter upon, have access to, or remove
25 without the consent of the law enforcement agency.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete line 6

30 and insert:

31 rolls; amending s. 212.03, F.S.; providing that
32 charges for the storage of towed vehicles that are
33 impounded by a local, state, or federal law
34 enforcement agency are not taxable; amending s.
35 212.07, F.S.; conforming a cross-

36

FOR CONSIDERATION By the Committee on Appropriations

576-00885A-14

20147066__

1 A bill to be entitled
 2 An act relating to tax administration; amending s.
 3 195.096, F.S.; removing the requirement that the
 4 department review the level of assessment of use-
 5 valued properties in its reviews of county assessment
 6 rolls; amending s. 212.07, F.S.; conforming a cross-
 7 reference to changes made by the act; providing
 8 monetary and criminal penalties for a dealer's willful
 9 failure to collect certain taxes or fees after
 10 receiving notice of such duty to collect from the
 11 Department of Revenue; amending s. 212.12, F.S.;
 12 deleting provisions relating to the imposition of
 13 criminal penalties after Department of Revenue notice
 14 of requirements to register as a dealer or to collect
 15 taxes; making technical and grammatical changes to
 16 provisions specifying penalties for making a false or
 17 fraudulent return with the intent to evade payment of
 18 a tax or fee; amending s. 212.14, F.S.; modifying the
 19 definition of the term "person"; authorizing the
 20 department to adopt rules relating to requirements for
 21 a person to deposit cash, a bond, or other security
 22 with the department in order to ensure compliance with
 23 sales tax laws; making technical and grammatical
 24 changes; amending s. 212.18, F.S.; providing criminal
 25 penalties for a person who willfully fails to register
 26 as a dealer after receiving notice of such duty by the
 27 department; making technical and grammatical changes;
 28 reenacting s. 212.20, F.S., relating to the
 29 disposition of funds collected, to incorporate changes

Page 1 of 22

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

576-00885A-14

20147066__

30 made by the act; amending s. 213.13, F.S.; revising
 31 the date for transmitting funds collected by the
 32 clerks of court to the department; amending s. 213.21,
 33 F.S.; increasing the compromise authority for closing
 34 agreements with taxpayers which can be delegated to
 35 and approved by the executive director; creating s.
 36 213.295, F.S., relating to automated sales suppression
 37 devices; defining terms; subjecting a person to
 38 criminal penalties and monetary penalties for
 39 knowingly selling or engaging in certain other actions
 40 involving a sales suppression device or phantom-ware;
 41 providing that sales suppression devices and phantom-
 42 ware are contraband articles under the Florida
 43 Contraband Forfeiture Act; amending s. 443.131, F.S.;
 44 imposing a requirement on employers to produce records
 45 for the Department of Economic Opportunity or its tax
 46 collection service provider as a prerequisite for a
 47 reduction in the rate of reemployment tax; amending s.
 48 443.141, F.S.; providing a method to calculate the
 49 interest rate for past due employer contributions and
 50 reimbursements, and delinquent, erroneous, incomplete,
 51 or insufficient reports; increasing the number of days
 52 for an employer to protest an assessment; providing
 53 effective dates.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. Paragraph (a) of subsection (3) of section
 58 195.096, Florida Statutes, is amended to read:

Page 2 of 22

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

576-00885A-14

20147066__

59 195.096 Review of assessment rolls.-
 60 (3) (a) Upon completing the reviews ~~completion of review~~
 61 pursuant to paragraph (2) (f), the department shall publish the
 62 results of reviews conducted under this section. The results
 63 must include all statistical and analytical measures computed
 64 under this section for the real property assessment roll as a
 65 whole, the personal property assessment roll as a whole, and
 66 independently for the following real property classes if the
 67 classes constituted 5 percent or more of the total assessed
 68 value of real property in a county on the previous tax roll:
 69 1. Residential property that consists of one primary living
 70 unit, including, but not limited to, single-family residences,
 71 condominiums, cooperatives, and mobile homes.
 72 2. Residential property that consists of two or more
 73 primary living units.
 74 3. ~~Agricultural, high-water recharge, historic property~~
 75 ~~used for commercial or certain nonprofit purposes, and other~~
 76 ~~use-valued property.~~
 77 3.4- Vacant lots.
 78 4.5- Nonagricultural acreage and other undeveloped parcels.
 79 5.6- Improved commercial and industrial property.
 80 6.7- Taxable institutional or governmental, utility,
 81 locally assessed railroad, oil, gas and mineral land, subsurface
 82 rights, and other real property.
 83
 84 If one of the above classes constituted less than 5 percent of
 85 the total assessed value of all real property in a county on the
 86 previous assessment roll, the department may combine it with one
 87 or more other classes of real property for purposes of

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88 assessment ratio studies or use the weighted average of the
 89 other classes for purposes of calculating the level of
 90 assessment for all real property in a county. The department
 91 shall also publish such results for any subclassifications of
 92 the classes or assessment rolls it may have chosen to study.
 93 Section 2. Effective July 1, 2014, paragraph (b) of
 94 subsection (1) and subsection (3) of section 212.07, Florida
 95 Statutes, are amended to read:
 96 212.07 Sales, storage, use tax; tax added to purchase
 97 price; dealer not to absorb; liability of purchasers who cannot
 98 prove payment of the tax; penalties; general exemptions.-
 99 (1)
 100 (b) A resale must be in strict compliance with s. 212.18
 101 and the rules and regulations, and any dealer who makes a sale
 102 for resale which is not in strict compliance is with s. 212.18
 103 ~~and the rules and regulations shall himself or herself be liable~~
 104 ~~for and must pay the tax.~~ Any dealer who makes a sale for resale
 105 shall document the exempt nature of the transaction, as
 106 established by rules adopted ~~promulgated~~ by the department, by
 107 retaining a copy of the purchaser's resale certificate. In lieu
 108 of maintaining a copy of the certificate, a dealer may document,
 109 before ~~prior to~~ the time of sale, an authorization number
 110 provided telephonically or electronically by the department, or
 111 by such other means established by rule of the department. The
 112 dealer may rely on a resale certificate issued pursuant to s.
 113 212.18(3)(d) ~~s. 212.18(3)(c)~~, valid at the time of receipt from
 114 the purchaser, without seeking annual verification of the resale
 115 certificate if the dealer makes recurring sales to a purchaser
 116 in the normal course of business on a continual basis. For

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117 purposes of this paragraph, "recurring sales to a purchaser in
 118 the normal course of business" refers to a sale in which the
 119 dealer extends credit to the purchaser and records the debt as
 120 an account receivable, or in which the dealer sells to a
 121 purchaser who has an established cash or C.O.D. account, similar
 122 to an open credit account. For purposes of this paragraph,
 123 purchases are made from a selling dealer on a continual basis if
 124 the selling dealer makes, in the normal course of business,
 125 sales to the purchaser at least no less frequently than once in
 126 every 12-month period. A dealer may, through the informal
 127 protest provided for in s. 213.21 and the rules of the
 128 department ~~of Revenue~~, provide the department with evidence of
 129 the exempt status of a sale. Consumer certificates of exemption
 130 executed by those exempt entities that were registered with the
 131 department at the time of sale, resale certificates provided by
 132 purchasers who were active dealers at the time of sale, and
 133 verification by the department of a purchaser's active dealer
 134 status at the time of sale in lieu of a resale certificate shall
 135 be accepted by the department when submitted during the protest
 136 period, but may not be accepted in any proceeding under chapter
 137 120 or any circuit court action instituted under chapter 72.

138 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
 139 collect the tax or fees imposed under this chapter herein
 140 ~~provided, either~~ by himself or herself or through the dealer's
 141 agents or employees, ~~is~~, in addition to the penalty of being
 142 liable for ~~and~~ paying the tax or fee himself or herself, commits
 143 ~~guilty of~~ a misdemeanor of the first degree, punishable as
 144 provided in s. 775.082 or s. 775.083.

145 (b) A dealer who willfully fails to collect a tax or fee

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146 after the department provides notice of the duty to collect the
 147 tax or fee is liable for a specific penalty of 100 percent of
 148 the uncollected tax or fee. This penalty is in addition to any
 149 other penalty that may be imposed by law. A dealer who willfully
 150 fails to collect taxes or fees totaling:

151 1. Less than \$300:

152 a. For a first offense, commits a misdemeanor of the second
 153 degree, punishable as provided in s. 775.082 or s. 775.083.

154 b. For a second offense, commits a misdemeanor of the first
 155 degree, punishable as provided in s. 775.082 or s. 775.083.

156 c. For a third or subsequent offense, commits a felony of
 157 the third degree, punishable as provided in s. 775.082, s.
 158 775.083, or s. 775.084.

159 2. An amount equal to \$300 or more, but less than \$20,000,
 160 commits a felony of the third degree, punishable as provided in
 161 s. 775.082, s. 775.083, or s. 775.084.

162 3. An amount equal to \$20,000 or more, but less than
 163 \$100,000, commits a felony of the second degree, punishable as
 164 provided in s. 775.082, s. 775.083, or s. 775.084.

165 4. An amount equal to \$100,000 or more, commits a felony of
 166 the first degree, punishable as provided in s. 775.082, s.
 167 775.083, or s. 775.084.

168 (c) The department shall give written notice of the duty to
 169 collect taxes or fees to the dealer by personal service, by
 170 sending notice to the dealer's last known address by registered
 171 mail, or both.

172 Section 3. effective July 1, 2014, paragraph (d) of
 173 subsection (2) of section 212.12, Florida Statutes, is amended
 174 to read:

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175 212.12 Dealer's credit for collecting tax; penalties for
 176 noncompliance; powers of Department of Revenue in dealing with
 177 delinquents; brackets applicable to taxable transactions;
 178 records required.-

179 (2)

180 (d) ~~A Any person who makes a false or fraudulent return and~~
 181 ~~who has with~~ a willful intent to evade payment of any tax or fee
 182 imposed under this chapter ~~is; any person who, after the~~
 183 ~~department's delivery of a written notice to the person's last~~
 184 ~~known address specifically alerting the person of the~~
 185 ~~requirement to register the person's business as a dealer,~~
 186 ~~intentionally fails to register the business; and any person~~
 187 ~~who, after the department's delivery of a written notice to the~~
 188 ~~person's last known address specifically alerting the person of~~
 189 ~~the requirement to collect tax on specific transactions,~~
 190 ~~intentionally fails to collect such tax, shall, in addition to~~
 191 ~~the other penalties provided by law, be liable for a specific~~
 192 ~~penalty of 100 percent of any unreported or any uncollected tax~~
 193 ~~or fee. This penalty is in addition to any other penalty~~
 194 provided by law. A person who makes a false or fraudulent return
 195 with a willful intent to evade payment of taxes or fees
 196 totaling:

197 1. Less than \$300:

198 a. For a first offense, commits a misdemeanor of the second
 199 degree, punishable as provided in s. 775.082 or s. 775.083.

200 b. For a second offense, commits a misdemeanor of the first
 201 degree, punishable as provided in s. 775.082 or s. 775.083.

202 c. For a third or subsequent offense, commits a felony of
 203 the third degree, punishable as provided in s. 775.082, s.

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204 775.083, or s. 775.084.

205 2. An amount equal to \$300 or more, but less than \$20,000,
 206 commits a felony of the third degree, punishable as provided in
 207 s. 775.082, s. 775.083, or s. 775.084.

208 3. An amount equal to \$20,000 or more, but less than
 209 \$100,000, commits a felony of the second degree, punishable as
 210 provided in s. 775.082, s. 775.083, or s. 775.084.

211 4. An amount equal to \$100,000 or more, commits a felony of
 212 the first degree, punishable and, upon conviction, for fine and
 213 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.
 214 Delivery of written notice may be made by certified mail, or by
 215 the use of such other method as is documented as being necessary
 216 and reasonable under the circumstances. The civil and criminal
 217 penalties imposed herein for failure to comply with a written
 218 notice alerting the person of the requirement to register the
 219 person's business as a dealer or to collect tax on specific
 220 transactions shall not apply if the person timely files a
 221 written challenge to such notice in accordance with procedures
 222 established by the department by rule or the notice fails to
 223 clearly advise that failure to comply with or timely challenge
 224 the notice will result in the imposition of the civil and
 225 criminal penalties imposed herein.

226 1. If the total amount of unreported or uncollected taxes
 227 or fees is less than \$300, the first offense resulting in
 228 conviction is a misdemeanor of the second degree, the second
 229 offense resulting in conviction is a misdemeanor of the first
 230 degree, and the third and all subsequent offenses resulting in
 231 conviction is a misdemeanor of the first degree, and the third
 232 and all subsequent offenses resulting in conviction are felonies

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233 ~~of the third degree.~~

234 ~~2. If the total amount of unreported or uncollected taxes~~
 235 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~
 236 ~~felony of the third degree.~~

237 ~~3. If the total amount of unreported or uncollected taxes~~
 238 ~~or fees is \$20,000 or more but less than \$100,000, the offense~~
 239 ~~is a felony of the second degree.~~

240 ~~4. If the total amount of unreported or uncollected taxes~~
 241 ~~or fees is \$100,000 or more, the offense is a felony of the~~
 242 ~~first degree.~~

243 Section 4. Effective July 1, 2014, subsection (4) of
 244 section 212.14, Florida Statutes, is amended to read:

245 212.14 Departmental powers; hearings; distress warrants;
 246 bonds; subpoenas and subpoenas duces tecum.—

247 (4) In all cases where it is necessary to ensure compliance
 248 with ~~the provisions of~~ this chapter, the department shall
 249 require a cash deposit, bond, or other security as a condition
 250 to a person obtaining or retaining a dealer's certificate of
 251 registration under this chapter. Such bond must ~~shall~~ be in the
 252 form and ~~such amount as~~ the department deems appropriate under
 253 the particular circumstances. A ~~Every~~ person failing to produce
 254 such cash deposit, bond, or other security is as provided for
 255 ~~herein shall~~ not be entitled to obtain or retain a dealer's
 256 certificate of registration under this chapter, and the
 257 Department of Legal Affairs is hereby authorized to proceed by
 258 injunction, if when ~~se~~ requested by the Department of Revenue,
 259 to prevent such person from doing business subject to ~~the~~
 260 ~~provisions of~~ this chapter until such cash deposit, bond, or
 261 other security is posted with the department, and any temporary

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262 injunction for this purpose may be granted by any judge or
 263 chancellor authorized by law to grant injunctions. Any security
 264 required to be deposited may be sold by the department at public
 265 sale if ~~it becomes necessary so to do~~ in order to recover any
 266 tax, interest, or penalty due. Notice of such sale may be served
 267 personally or by mail upon the person who deposited ~~the such~~
 268 security. If by mail, notice sent to the last known address as
 269 it the same appears on the records of the department is shall be
 270 sufficient for the purpose of this requirement. Upon such sale,
 271 the surplus, if any, above the amount due under this chapter
 272 shall be returned to the person who deposited the security. The
 273 department may adopt rules necessary to administer this
 274 subsection. For the purpose of the cash deposit, bond, or other
 275 security required by this subsection, the term "person" includes
 276 those entities defined in s. 212.02(12), as well as:

277 (a) An individual or entity owning a controlling interest
 278 in a business;

279 (b) An individual or entity that acquired an ownership
 280 interest or a controlling interest in a business that would
 281 otherwise be liable for posting a cash deposit, bond, or other
 282 security, unless the department has determined that the
 283 individual or entity is not liable for the taxes, interest, or
 284 penalties described in s. 213.758; or

285 (c) An individual or entity seeking to obtain a dealer's
 286 certificate of registration for a business that will be operated
 287 at the same location as a previous business that would otherwise
 288 have been liable for posting a cash deposit, bond, or other
 289 security, if the individual or entity fails to provide evidence
 290 that the business was acquired for consideration in an arms-

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291 length transaction.

292 Section 5. Effective July 1, 2014, subsection (3) of
 293 section 212.18, Florida Statutes, is amended to read:

294 212.18 Administration of law; registration of dealers;
 295 rules.-

296 (3) (a) A ~~Every~~ person desiring to engage in or conduct
 297 business in this state as a dealer, ~~as defined in this chapter,~~
 298 or to lease, rent, or let or grant licenses in living quarters
 299 or sleeping or housekeeping accommodations in hotels, apartment
 300 houses, roominghouses, or tourist or trailer camps that are
 301 subject to tax under s. 212.03, or to lease, rent, or let or
 302 grant licenses in real property, ~~as defined in this chapter,~~ and
 303 a ~~every~~ person who sells or receives anything of value by way of
 304 admissions, must file with the department an application for a
 305 certificate of registration for each place of business. The
 306 application must include, showing the names of the persons who
 307 have interests in such business and their residences, the
 308 address of the business, and ~~such~~ other data reasonably required
 309 by ~~as~~ the department ~~may reasonably require~~. However, owners and
 310 operators of vending machines or newspaper rack machines are
 311 required to obtain only one certificate of registration for each
 312 county in which such machines are located. The department, by
 313 rule, may authorize a dealer that uses independent sellers to
 314 sell its merchandise to remit tax on the retail sales price
 315 charged to the ultimate consumer in lieu of having the
 316 independent seller register as a dealer and remit the tax. The
 317 department may appoint the county tax collector as the
 318 department's agent to accept applications for registrations. The
 319 application must be submitted ~~made~~ to the department before the

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320 person, firm, copartnership, or corporation may engage in such
 321 business, and it must be accompanied by a registration fee of
 322 \$5. However, a registration fee is not required to accompany an
 323 application to engage in or conduct business to make mail order
 324 sales. The department may waive the registration fee for
 325 applications submitted through the department's Internet
 326 registration process.

327 (b) The department, upon receipt of such application, shall
 328 ~~will~~ grant to the applicant a separate certificate of
 329 registration for each place of business, which certificate may
 330 be canceled by the department or its designated assistants for
 331 any failure by the certificateholder to comply with ~~any of the~~
 332 ~~provisions of~~ this chapter. The certificate is not assignable
 333 and is valid only for the person, firm, copartnership, or
 334 corporation to which issued. The certificate must be placed in a
 335 conspicuous place in the business or businesses for which it is
 336 issued and must be displayed at all times. Except as provided in
 337 this subsection, a ~~no~~ person may not ~~shall~~ engage in business as
 338 a dealer or in leasing, renting, or letting of or granting
 339 licenses in living quarters or sleeping or housekeeping
 340 accommodations in hotels, apartment houses, roominghouses,
 341 tourist or trailer camps, or real property, ~~or as hereinbefore~~
 342 ~~defined, nor shall any person~~ sell or receive anything of value
 343 by way of admissions, without a valid ~~first having obtained such~~
 344 ~~a certificate. A~~ ~~or after such certificate has been canceled, no~~
 345 ~~person may not~~ ~~shall~~ receive a ~~any~~ license from any authority
 346 within the state to engage in any such business without a valid
 347 ~~certificate first having obtained such a certificate or after~~
 348 ~~such certificate has been canceled. A person may not engage~~ The

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349 ~~engaging~~ in the business of selling or leasing tangible personal
 350 property or services ~~or~~ as a dealer; ~~engage~~, as defined in this
 351 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 352 granting licenses in living quarters or sleeping or housekeeping
 353 accommodations in hotels, apartment houses, roominghouses, or
 354 tourist or trailer camps that are taxable under this chapter, or
 355 real property; ~~or engage the engaging~~ in the business of
 356 selling or receiving anything of value by way of admissions,
 357 without a valid such certificate ~~first being obtained or after~~
 358 ~~such certificate has been canceled by the department, is~~
 359 ~~prohibited.~~

360 (c)1. A The failure or refusal of any person who engages in
 361 acts requiring a certificate of registration under this
 362 subsection and who fails or refuses to register commits, firm,
 363 copartnership, or corporation to so qualify when required
 364 hereunder is a misdemeanor of the first degree, punishable as
 365 provided in s. 775.082 or s. 775.083. Such acts are, or subject
 366 to injunctive proceedings as provided by law. A person who
 367 engages in acts requiring a certificate of registration and who
 368 fails or refuses to register is also subject ~~Such failure or~~
 369 ~~refusal also subjects the offender~~ to a \$100 initial
 370 registration fee in lieu of the \$5 registration fee required by
 371 ~~authorized in~~ paragraph (a). However, the department may waive
 372 the increase in the registration fee if it finds is determined
 373 ~~by the department~~ that the failure to register was due to
 374 reasonable cause and not to willful negligence, willful neglect,
 375 or fraud.

376 2.a. A person who willfully fails to register after the
 377 department provides notice of the duty to register as a dealer

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378 commits a felony of the third degree, punishable as provided in
 379 s. 775.082, s. 775.083, or s. 775.084.

380 b. The department shall provide written notice of the duty
 381 to register to the person by personal service, by sending notice
 382 by registered mail to the person's last known address, or both.

383 (d)-(e) In addition to the certificate of registration, the
 384 department shall provide to each newly registered dealer an
 385 initial resale certificate that will be valid for the remainder
 386 of the period of issuance. The department shall provide each
 387 active dealer with an annual resale certificate. For purposes of
 388 this section, the term "active dealer" means a person who is
 389 currently registered with the department and who is required to
 390 file at least once during each applicable reporting period.

391 (e)-(d) The department may revoke a any dealer's certificate
 392 of registration if when the dealer fails to comply with this
 393 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of
 394 registration, the department must schedule an informal
 395 conference at which the dealer may present evidence regarding
 396 the department's intended revocation or enter into a compliance
 397 agreement with the department. The department must notify the
 398 dealer of its intended action and the time, place, and date of
 399 the scheduled informal conference by written notification sent
 400 by United States mail to the dealer's last known address of
 401 record furnished by the dealer on a form prescribed by the
 402 department. The dealer is required to attend the informal
 403 conference and present evidence refuting the department's
 404 intended revocation or enter into a compliance agreement with
 405 the department which resolves the dealer's failure to comply
 406 with this chapter. The department shall issue an administrative

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407 complaint under s. 120.60 if the dealer fails to attend the
 408 department's informal conference, fails to enter into a
 409 compliance agreement with the department resolving the dealer's
 410 noncompliance with this chapter, or fails to comply with the
 411 executed compliance agreement.

412 ~~(f)(e)~~ As used in this paragraph, the term "exhibitor"
 413 means a person who enters into an agreement authorizing the
 414 display of tangible personal property or services at a
 415 convention or a trade show. The following provisions apply to
 416 the registration of exhibitors as dealers under this chapter:

417 1. An exhibitor whose agreement prohibits the sale of
 418 tangible personal property or services subject to the tax
 419 imposed in this chapter is not required to register as a dealer.

420 2. An exhibitor whose agreement provides for the sale at
 421 wholesale only of tangible personal property or services subject
 422 to the tax imposed under ~~in~~ this chapter must obtain a resale
 423 certificate from the purchasing dealer but is not required to
 424 register as a dealer.

425 3. An exhibitor whose agreement authorizes the retail sale
 426 of tangible personal property or services subject to the tax
 427 imposed under ~~in~~ this chapter must register as a dealer and
 428 collect the tax ~~imposed under this chapter~~ on such sales.

429 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant to
 430 s. 212.0596 must register as a dealer.

431
 432 A ~~Any~~ person who conducts a convention or a trade show must make
 433 his or her ~~their~~ exhibitor's agreements available to the
 434 department for inspection and copying.

435 Section 6. Effective July 1, 2014, for the purpose of

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436 incorporating the amendment made by this act to subsection (3)
 437 of section 212.18, Florida Statutes, in a reference thereto,
 438 paragraph (c) of subsection (6) of section 212.20, Florida
 439 Statutes, is reenacted to read:

440 212.20 Funds collected, disposition; additional powers of
 441 department; operational expense; refund of taxes adjudicated
 442 unconstitutionally collected.—

443 (6) Distribution of all proceeds under this chapter and s.
 444 202.18(1)(b) and (2)(b) shall be as follows:

445 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
 446 and 212.18(3) shall remain with the General Revenue Fund.

447 Section 7. Subsection (5) of section 213.13, Florida
 448 Statutes, is amended to read:

449 213.13 Electronic remittance and distribution of funds
 450 collected by clerks of the court.—

451 (5) All court-related collections, including fees, fines,
 452 reimbursements, court costs, and other court-related funds that
 453 the clerks must remit to the state pursuant to law, must be
 454 transmitted electronically by the 10th ~~20th~~ day of the month
 455 immediately following the month in which the funds are
 456 collected.

457 Section 8. Paragraph (a) of subsection (2) of section
 458 213.21, Florida Statutes, is amended to read:

459 213.21 Informal conferences; compromises.—

460 (2)(a) The executive director of the department or his or
 461 her designee is authorized to enter into closing agreements with
 462 any taxpayer settling or compromising the taxpayer's liability
 463 for any tax, interest, or penalty assessed under any of the
 464 chapters specified in s. 72.011(1). Such agreements must ~~shall~~

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465 be in writing ~~if when~~ the amount of tax, penalty, or interest
 466 compromised exceeds \$30,000, or for lesser amounts, ~~if when~~ the
 467 department deems it appropriate or ~~if when~~ requested by the
 468 taxpayer. When a written closing agreement has been approved by
 469 the department and signed by the executive director or his or
 470 her designee and the taxpayer, it shall be final and conclusive;
 471 and, except upon a showing of fraud or misrepresentation of
 472 material fact or except as to adjustments pursuant to ss. 198.16
 473 and 220.23, no additional assessment may be made by the
 474 department against the taxpayer for the tax, interest, or
 475 penalty specified in the closing agreement for the time period
 476 specified in the closing agreement, and the taxpayer ~~is shall~~
 477 not ~~be~~ entitled to institute any judicial or administrative
 478 proceeding to recover any tax, interest, or penalty paid
 479 pursuant to the closing agreement. The department is authorized
 480 to delegate to the executive director the authority to approve
 481 any such closing agreement resulting in a tax reduction of
 482 \$500,000 ~~\$250,000~~ or less.

483 Section 9. Effective July 1, 2014, section 213.295, Florida
 484 Statutes, is created to read:

485 213.295 Automated sales suppression devices.-

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

487 (a) "Automated sales suppression device" or "zapper" means
 488 a software program that falsifies the electronic records of
 489 electronic cash registers or other point-of-sale systems,
 490 including, but not limited to, transaction data and transaction
 491 reports. The term includes the software program, any device that
 492 carries the software program, or an Internet link to the
 493 software program.

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494 (b) "Electronic cash register" means a device that keeps a
 495 register or supporting documents through the use of an
 496 electronic device or computer system designed to record
 497 transaction data for the purpose of computing, compiling, or
 498 processing retail sales transaction data in whatever manner.

499 (c) "Phantom-ware" means a hidden programming option
 500 embedded in the operating system of an electronic cash register
 501 or hardwired into the electronic cash register which may be used
 502 to create a second set of records or eliminate or manipulate
 503 transaction records, which may or may not be preserved in
 504 digital formats, to represent the true or manipulated record of
 505 transactions in the electronic cash register.

506 (d) "Transaction data" includes the identification of items
 507 purchased by a customer; the price for each item; a taxability
 508 determination for each item; a segregated tax amount for each of
 509 the taxed items; the amount of cash or credit tendered; the net
 510 amount returned to the customer in change; the date and time of
 511 the purchase; the name, address, and identification number of
 512 the vendor; and the receipt or invoice number of the
 513 transaction.

514 (e) "Transaction report" means a report that documents, but
 515 is not limited to documenting, the sales, taxes, or fees
 516 collected, media totals, and discount voids at an electronic
 517 cash register and is printed on a cash register tape at the end
 518 of a day or a shift, or a report that documents every action at
 519 an electronic cash register and is stored electronically.

520 (2) A person may not knowingly sell, purchase, install,
 521 transfer, possess, use, or access an automated sales suppression
 522 device, a zapper, or phantom-ware.

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523 (3) A person who violates this section:

524 (a) Commits a felony of the third degree, punishable as
525 provided in s. 775.082, s. 775.083, or s. 775.084.

526 (b) Is liable for all taxes, fees, penalties, and interest
527 due the state which result from the use of an automated sales
528 suppression device, a zapper, or phantom-ware and shall forfeit
529 to the state as an additional penalty all profits associated
530 with the sale or use of an automated sales suppression device, a
531 zapper, or phantom-ware.

532 (4) An automated sales suppression device, a zapper,
533 phantom-ware, or any device containing such device or software
534 is a contraband article under ss. 932.701-932.706, the Florida
535 Contraband Forfeiture Act.

536 Section 10. Paragraph (h) of subsection (3) of section
537 443.131, Florida Statutes, is amended to read:

538 443.131 Contributions.—

539 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
540 EXPERIENCE.—

541 (h) *Additional conditions for variation from the standard*
542 *rate.*—An employer's contribution rate may not be reduced below
543 the standard rate under this section unless:

544 1. All contributions, reimbursements, interest, and
545 penalties incurred by the employer for wages paid by him or her
546 in all previous calendar quarters, except the 4 calendar
547 quarters immediately preceding the calendar quarter or calendar
548 year for which the benefit ratio is computed, are paid; ~~and~~

549 2. The employer has produced for inspection and copying all
550 work records in his or her possession, custody, or control which
551 were requested by the Department of Economic Opportunity or its

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552 tax collection service provider pursuant to s. 443.171(5). An
553 employer shall have at least 60 days to provide the requested
554 work records before the employer is assigned the standard rate;
555 and

556 ~~3.2.~~ The employer entitled to a rate reduction must have at
557 least one annual payroll as defined in subparagraph (b)1. unless
558 the employer is eligible for additional credit under the Federal
559 Unemployment Tax Act. If the Federal Unemployment Tax Act is
560 amended or repealed in a manner affecting credit under the
561 federal act, this section applies only to the extent that
562 additional credit is allowed against the payment of the tax
563 imposed by the ~~Federal Unemployment Tax act.~~

564 The tax collection service provider shall assign an earned
565 contribution rate to an employer for under subparagraph 1. the
566 quarter immediately after the quarter in which all
567 contributions, reimbursements, interest, and penalties are paid
568 in full and all work records requested pursuant to s. 443.171(5)
569 have been produced for inspection and copying by the Department
570 of Economic Opportunity or the tax collection service provider.

571 Section 11. Effective January 1, 2015, paragraph (a) of
572 subsection (1) and paragraph (b) of subsection (2) of section
573 443.141, Florida Statutes, are amended to read:

574 443.141 Collection of contributions and reimbursements.—

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

577 (a) *Interest.*—Contributions or reimbursements unpaid on the
578 date due bear interest at the rate of 1 percent per month
579 through December 31, 2014. Beginning January 1, 2015, the
580

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581 interest rate shall be calculated in accordance with s. 213.235,
 582 except that the rate of interest may not exceed 1 percent per
 583 month from and after ~~the that~~ date due until payment plus
 584 accrued interest is received by the tax collection service
 585 provider, unless the service provider finds that the employing
 586 unit has good reason for failing to pay the contributions or
 587 reimbursements when due. Interest collected under this
 588 subsection must be paid into the Special Employment Security
 589 Administration Trust Fund.

(2) REPORTS, CONTRIBUTIONS, APPEALS.—

591 (b) *Hearings.*—The determination and assessment are final 20
 592 ~~15~~ days after the date the assessment is mailed unless the
 593 employer files with the tax collection service provider within
 594 the 20 ~~15~~ days a written protest and petition for hearing
 595 specifying the objections ~~thereto~~. The tax collection service
 596 provider shall promptly review each petition and may reconsider
 597 its determination and assessment in order to resolve the
 598 petitioner's objections. The tax collection service provider
 599 shall forward each unresolved petition ~~remaining unresolved~~ to
 600 the department for a hearing on the objections. Upon receipt of
 601 a petition, the department shall schedule a hearing and notify
 602 the petitioner of the time and place of the hearing. The
 603 department may appoint special deputies to conduct hearings who
 604 shall ~~and to~~ submit their findings together with a transcript of
 605 the proceedings before them and their recommendations to the
 606 department for its final order. Special deputies are subject to
 607 the prohibition against ex parte communications in s. 120.66. At
 608 any hearing conducted by the department or its special deputy,
 609 evidence may be offered to support the determination and

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610 assessment or to prove it is incorrect. In order to prevail,
 611 however, the petitioner must ~~either~~ prove that the determination
 612 and assessment are incorrect or file full and complete corrected
 613 reports. Evidence may also be submitted ~~at the hearing~~ to rebut
 614 the determination by the tax collection service provider that
 615 the petitioner is an employer under this chapter. Upon evidence
 616 taken before it or upon the transcript submitted to it with the
 617 findings and recommendation of its special deputy, the
 618 department shall ~~either~~ set aside the tax collection service
 619 provider's determination that the petitioner is an employer
 620 under this chapter or reaffirm the determination. The amounts
 621 assessed under the final order, together with interest and
 622 penalties, must be paid within 15 days after notice of the final
 623 order is mailed to the employer, unless judicial review is
 624 instituted in a case of status determination. Amounts due when
 625 the status of the employer is in dispute are payable within 15
 626 days after the entry of an order by the court affirming the
 627 determination. However, a any determination that an employing
 628 unit is not an employer under this chapter does not affect the
 629 benefit rights of an any individual as determined by an appeals
 630 referee or the commission unless:

631 1. The individual is made a party to the proceedings before
 632 the special deputy; or

633 2. The decision of the appeals referee or the commission
 634 has not become final or the employing unit and the department
 635 were not made parties to the proceedings before the appeals
 636 referee or the commission.

637 Section 12. Except as otherwise expressly provided in this
 638 act, this act shall take effect upon becoming a law.

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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 140

INTRODUCER: Transportation Committee; Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Bradley

SUBJECT: Driver Licenses

DATE: March 3, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----------------------|-----------------|-----------|--------------------|
| 1. <u>Spaulding</u> | <u>Ryon</u> | <u>MS</u> | <u>Fav/CS</u> |
| 2. <u>Everette</u> | <u>Eichin</u> | <u>TR</u> | <u>Fav/CS</u> |
| 3. <u>McLaughlin</u> | <u>Klebacha</u> | <u>ED</u> | <u>Favorable</u> |
| 4. <u>Carey</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 140 expands the current exemption from the requirement to obtain a Florida driver license that is currently afforded to nonresident active-duty U.S. Armed Forces service members to include the service member's spouse and dependent child residing with him or her in the state. An active-duty service member's spouse and child will be exempt from obtaining a Florida driver license within 30 days after enrolling his or her child in public school or accepting employment in this state, provided they have a valid military identification card or driver license issued by another state.

The bill also specifically provides for an automatic extension of a Florida driver license for the spouse of a resident military service member stationed outside of Florida and who resides with the service member outside of the state.

The bill will have a negative impact to the General Revenue Fund due to the decreased issuance of Florida driver licenses. The fiscal impact is indeterminate but expected to be insignificant.

II. Present Situation:

Driver License Exemptions for Nonresident Military Service members

Florida law requires all persons driving a motor vehicle on a Florida highway to possess a valid driver license issued pursuant to ch. 322, F.S.¹ However, a nonresident who is at least 16 years of age and has a valid driver license from another state is exempt from the requirement to obtain a driver license.² Pursuant to this exemption, nonresident service members and their dependents stationed in Florida are not required to obtain a Florida driver license provided they possess a valid driver license issued by another state.³

Current law provides that once a nonresident⁴ enrolls his or children in a Florida public school or accepts employment in the state, the nonresident becomes subject to the driver license provisions in ch. 322, F.S., and must obtain a Florida driver license within 30 days after the commencement of such employment or education.⁵ Under such circumstances, the spouse and dependent children of the nonresident must also obtain a Florida driver license within that 30-day period.

Section 322.031(2), F.S., exempts an active duty service member stationed in Florida from obtaining a Florida driver license solely because the service member enters his or her children in a Florida public school. To be eligible for the exemption, the service member must have a valid military driving permit or a valid driver license issued by another state. This exemption currently does not apply to the spouse or dependent children of a service member, only to the individual service member.

Driver License Extensions for Military Personnel and Dependents

Florida driver license holders are required to periodically renew their driver license⁶ upon payment of the required renewal fees and successful passage of any required examination.⁷ In an effort to process license renewals expeditiously, only examination of the licensee's eyesight and hearing is required.⁸ The renewal fee for a Class E driver license is \$48. A delinquent fee of \$15 is assessed for the renewal of a Class E driver license within 12 months after the expiration date of the license.⁹

Section 322.121(5), F.S., grants military service members serving on active duty outside this state, and their dependents residing with them, an automatic extension without reexamination for a Class E driver license that expires while performing such service. This extension is valid for 90-days after the service member is either discharged or returns to the state of Florida to live. Upon a service member's application to the Department of Highway Safety and Motor Vehicles

¹ Section 322.03(1), F.S.

² Section 322.04(1)(c), F.S.

³ Op. Att'y Gen. Fla 78-164 (1978).

⁴ Nonresident migrant or seasonal farm workers as defined in s. 316.003(61), F.S., are excluded.

⁵ Section 322.031(1), F.S.

⁶ Pursuant to s. 322.18(4)(a), F.S., driver licenses are generally valid for eight years.

⁷ Section 322.18(4)(a), F.S.

⁸ Section 322.121(1), F.S.

⁹ Section 322.21(1)(c), F.S.

(DHSMV) certifying active duty status outside of Florida, the DHSMV issues a military extension card extending the service member's and his or her dependents' driving privileges.¹⁰ The DHSMV currently recognizes a "dependent" as a service member's spouse, children and step-children under the age of 21, living in the same household.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 322.031, F.S., to expand the exemption from the requirement to obtain a Florida driver license that is currently afforded to nonresident active-duty U.S. Armed Forces service members to include the service member's spouse and dependent child residing with him or her. The spouse or dependent child of an active duty nonresident service member does not have to obtain a Florida driver license because he or she enrolled his or her child in public school or has accepted employment in this state.

Section 2 amends s. 322.121, F.S., to clarify that the spouse of a resident military service member is eligible for an automatic extension without reexamination for a Florida driver license that expires while the spouse resides with the service member who is stationed outside of Florida.

Section 3 provides an effective date of July 1, 2014.

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.

¹⁰ DHSMV, *Military Extension Instructions For Military Personnel, Spouse and Dependents Temporarily Assigned Outside of Florida*, (April 2014), <http://www.flhsmv.gov/MilExtCard.pdf> (last visited 2/10/14).

¹¹ DHSMV website, *How do I renew my license or ID card?* Available at: <http://www.flhsmv.gov/ddl/renewing.html> (last visited 2/10/14)

B. Private Sector Impact:

A spouse of a military service member who is a nonresident of Florida will not be required to obtain a Florida driver license for the purpose of enrolling his or her child in a Florida public school. As a result, the spouse will not be subject to the fees associated with obtaining and maintaining a Florida driver license. Additionally, dependent children who qualify for the driver license exemption in the bill will also not be subject to driver license fees.

Current law allows an automatic extension on a resident service member's driver license expiration date when stationed outside of the state. The bill now includes the same extension to the service member's spouse and dependents that reside with him or her. Therefore, these service members and their spouse and dependents will not be subject to driver license renewal fees until they return to reside in the state.

C. Government Sector Impact:

A negative fiscal impact is expected in the General Revenue Fund as a result of this bill.¹² The fiscal impact is indeterminate but expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.031 and 322.121.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Transportation on November 7, 2013:**

The committee substitute provides further clarification that an active service member's spouse or dependent residing with such service member does not need to obtain or display a Florida driver license because he or she enrolls his or her child in public school or he or she accepts employment or engages in a profession or occupation in the state providing he or she possess a valid military identification card and either a valid driver license or learner's permit issued by another state, or a valid military driving permit.

¹² DHSMV, SB 140 Legislative Bill Analysis (Feb. 4, 2014) (on file with the Senate Committee on Education).

CS by Military and Veterans Affairs, Space, and Domestic Security on October 8, 2013:

The committee substitute provides that the dependent child of a service member is also not required to obtain a Florida driver license if the service member or the spouse is not required to obtain a license under s. 322.031(2), F.S., provided that the dependent child has a valid driver license issued by another state and he or she does not accept employment in Florida.

B. Amendments:

None.

By the Committees on Transportation; and Military and Veterans Affairs, Space, and Domestic Security; and Senator Bradley

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1 A bill to be entitled
 2 An act relating to driver licenses; amending s.
 3 322.031, F.S.; providing that the spouse of a member
 4 of the United States Armed Forces is not required to
 5 obtain a Florida driver license because he or she
 6 enters his or her children in public school in this
 7 state under certain circumstances; providing that a
 8 dependent of a member of the United States Armed
 9 Forces is not required to obtain a Florida driver
 10 license under certain circumstances; updating
 11 terminology; amending s. 322.121, F.S.; providing that
 12 the spouse of a member of the United States Armed
 13 Forces is granted an automatic extension for the
 14 expiration of a certain class of driver license under
 15 certain circumstances; providing an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Section 322.031, Florida Statutes, is amended to
 20 read:
 21 322.031 Nonresident; when license required.—
 22 (1) In each ~~every~~ case in which a nonresident, except a
 23 nonresident migrant or seasonal farm worker as defined in s.
 24 316.003(61), accepts employment or engages in any trade,
 25 profession, or occupation in this state or enters his or her
 26 children to be educated in the public schools of this state,
 27 such nonresident shall, within 30 days after the commencement of
 28 such employment or education, be required to obtain a Florida
 29 driver ~~driver's~~ license if such nonresident operates a motor

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30 vehicle on the highways of this state. The spouse or dependent
 31 child of such nonresident shall also be required to obtain a
 32 Florida driver ~~driver's~~ license within that 30-day period before
 33 ~~prior to~~ operating a motor vehicle on the highways of this
 34 state.
 35 (2) A member of the United States Armed Forces on active
 36 duty in this state, his or her spouse, or a dependent residing
 37 with him or her, is ~~shall not be~~ required to obtain or display a
 38 Florida driver ~~driver's~~ license if he or she is in possession of
 39 a valid military identification card and either a valid driver
 40 license or learner's permit issued by another state, or a valid
 41 military driving permit. Such a person is not required to obtain
 42 or display a Florida driver license under this section solely
 43 because he or she enters his or her children to be educated in
 44 the public schools of this state or accepts employment or
 45 engages in any trade, profession, or occupation in this state ~~if~~
 46 ~~he or she has a valid military driving permit or a valid~~
 47 ~~driver's license issued by another state.~~
 48 (3) A nonresident who is domiciled in another state and who
 49 commutes into this state in order to work is ~~shall not be~~
 50 required to obtain a Florida driver ~~driver's~~ license under this
 51 section solely because he or she has accepted employment or
 52 engages in any trade, profession, or occupation in this state if
 53 he or she has a valid driver ~~driver's~~ license issued by another
 54 state. Further, a ~~any~~ person who is enrolled as a student in a
 55 college or university and who is a nonresident but is in this
 56 state for a period of up to 6 months engaged in a work-study
 57 program for which academic credits are earned from a college
 58 whose credits or degrees are accepted for credit by at least

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59 three accredited institutions of higher learning, as defined in
60 s. 1005.02, ~~is shall~~ not be required to obtain a Florida driver
61 ~~driver's~~ license for the duration of the work-study program if
62 such person has a valid driver ~~driver's~~ license issued by
63 another state. ~~A~~ ~~any~~ nonresident who is enrolled as a full-time
64 student in any such institution of higher learning is also
65 exempt from the requirement of obtaining a Florida driver
66 ~~driver's~~ license for the duration of such enrollment.

67 (4) A nonresident who is at least 21 years of age and who
68 has in his or her immediate possession a valid commercial driver
69 ~~driver's~~ license issued in substantial compliance with the
70 Commercial Motor Vehicle Safety Act of 1986 may operate a motor
71 vehicle of the type permitted by his or her license to be
72 operated in this state.

73 Section 2. Subsection (5) of section 322.121, Florida
74 Statutes, is amended to read:

75 322.121 Periodic reexamination of all drivers.—

76 (5) A member ~~Members~~ of the United States Armed Forces, his
77 or her spouse, or a dependent ~~their dependents~~ residing with him
78 or her ~~them~~, shall be granted an automatic extension for the
79 expiration of his or her ~~their~~ Class E license ~~licenses~~ without
80 reexamination while the member of the United States Armed Forces
81 is serving on active duty outside this state. This extension is
82 valid for 90 days after the member of the United States Armed
83 Forces is either discharged or returns to this state to live.

84 Section 3. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2014

I respectfully request that **Senate Bill # 140**, relating to Driver Licenses, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 1 6 12014

Meeting Date

Topic _____

Bill Number 140
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

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.

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/CS/SB 208 (507692)

INTRODUCER: Commerce and Tourism Committee and Senator Hukill and others

SUBJECT: Motorsports Entertainment Complexes

DATE: March 5, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------------|------------|--------------------|
| 1. | <u>Askey</u> | <u>Hrdlicka</u> | <u>CM</u> | Fav/CS |
| 2. | <u>Fournier</u> | <u>Diez-Arguelles</u> | <u>AFT</u> | Fav/CS |
| 3. | <u>Fournier</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |
| 4. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 208 permits the Department of Economic Opportunity to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

The bill authorizes the Auditor General to conduct audits to ensure that distributions are expended as required and, if not found in compliance, notify the Department of Revenue which may pursue recovery of such funds.

The distribution is \$166,667 monthly for up to 30 years. For Fiscal Year 2014-2015, the fiscal impact of the bill is a negative \$1.7 million; the recurring fiscal impact is a negative \$2 million annually.

II. Present Situation:

Motorsports in Florida

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona.¹

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

In late 1947, a group of racing promoters gathered in Daytona Beach to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.²

Today, NASCAR is automobile racing’s largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.³ Information on the tracks is below:

| | Daytona International Speedway⁴ | Homestead Miami Speedway⁵ |
|-----------------------------|---|---|
| Major Races | Daytona 500, Coke Zero 400 | Ford EcoBoost 400, Ford EcoBoost 300 |
| Year Opened | 1959 | 1995 |
| Grandstand Seating Capacity | 147,000 | 65,000 |
| Location | Volusia County | Miami-Dade County |
| Facility Operator | International Speedway Corporation (facility leased from Daytona Beach Racing and Recreational Facilities District) | International Speedway Corporation (facility leased from City of Homestead) |

The Daytona 500 is the opening race of the NASCAR Sprint Cup Series, and is considered the race that “sets the tone for the entire season to follow.”⁶ The Ford EcoBoost 400 is the NASCAR Sprint Cup Series’ final race.

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.⁷

Sales and Use Tax

Chapter 212, F.S., contains the state’s statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

² *Id.*

³ NASCAR Tracks, available at: www.nascar.com/races/tracks/, (last visited on December 17, 2013).

⁴ ESPN, *NASCAR Track Guide: Daytona International Speedway*, (June 27, 2011), available at: <http://espn.go.com/espn/thelife/news/story?id=2346804>, (last visited on December 17, 2013).

⁵ Homestead Miami Speedway website, *The History of Homestead-Miami Speedway*, available at: <http://www.homesteadmiamispeedway.com/About/Track-History.aspx>, (last visited on December 17, 2013).

⁶ *Supra* note 4.

⁷ Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips, available at: <http://www.racingin.com/track/florida.aspx>, (last visited December 17, 2013).

Sales Tax Funding of Professional Sports Facilities

Since 1991, Florida has authorized distributions from state sales tax for professional sports facilities and for spring training facilities.⁸ There are eight certified new or retained professional sports franchise facilities in Florida, the total number allowed under the statute.⁹ The maximum payment allowed for a new or retained professional sports franchise facility is \$166,667 per month for up to 30 years. The facilities funded under this program and the payment distribution for each are listed below:

| Facility name | Certified entity | Franchise | First Payment | Final Payment | Total payments as of January 2014 |
|-------------------------|---|---------------------------------------|----------------------|----------------------|--|
| Sun Life Stadium | Dolphins Stadium/ South Florida Stadium | Florida (Miami) Marlins ¹⁰ | 06/94 | 06/2023 | \$41,166,749 |
| Everbank Field | City of Jacksonville | Jacksonville Jaguars | 06/94 | 05/2024 | \$39,333,412 |
| Tropicana Field | City of St. Petersburg | Tampa Bay Rays | 06/95 | 06/2025 | \$37,166,741 |
| Tampa Bay Times Forum | Tampa Sports Authority | Tampa Bay Lightning | 09/95 | 08/2025 | \$36,833,407 |
| BB&T Center | Broward County | Florida Panthers | 08/96 | 07/2026 | \$35,000,070 |
| Raymond James Stadium | Hillsborough County | Tampa Bay Buccaneers | 01/97 | 12/2026 | \$34,166,729 |
| American Airlines Arena | BPL, LTD | Miami Heat | 03/98 | 03/2028 | \$31,666,730 |
| Amway Center | City of Orlando | Orlando Magic | 02/08 | 01/2038 | \$12,000,024 |

(Information from the Department of Economic Opportunity and Department of Revenue)

A local governments may be certified to receive funding for the purpose of acquiring, constructing, reconstructing, or renovating a spring training facility.¹¹ In order to be certified, a facility must be located in a county that levies a tourist development tax under s. 125.0104, F.S., which authorizes an additional 1-cent excise tax on transient lodgings that is used to pay debt service on bonds issued to finance the facility. (Duval County and Miami-Dade County are authorized under other statutes to levy additional transient lodging taxes for this purpose.¹²) Even though new spring training facilities had been eligible for certification since 1991 under s.

⁸ Section 212.20(6)(d)6.b. and e., F.S.

⁹ Section 288.1162, F.S. The number of new or retained facilities eligible for funding was increased from 6 to eight by ch. 96-320, L.O.F.

¹⁰ The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

¹¹ Sections 288.11621 and 288.11631, F.S.

¹² Section 212.0305(4)(a), F.S. (Duval County) and s. 212.0305(4)(b), F.S., (Miami-Dade County.)

288.1162, F.S., no such facilities were certified. In 2000, funding (\$41,667 per month for up to 30 years) for each of five “retained” spring training facilities was provided.¹³ In 2006 the number of spring training facilities eligible for funding was doubled.¹⁴ As of January 8, 2013, there were 10 certified local governments. The local governments and the payment distribution for each are listed below:

| Certified Local Government | Franchise | Facility | First Payment | Final Payment | Total Payments as of January 2014 |
|---------------------------------------|-----------------------------------|-----------------------------|----------------------|----------------------|--|
| City of Clearwater | Philadelphia Phillies | Bright House Field | February 2001 | February 2031 | \$6,458,385 |
| City of Dunedin | Toronto Blue Jays | Dunedin Stadium | February 2001 | February 2023 | \$6,458,385 |
| Indian River County | Los Angeles Dodgers ¹⁵ | Holman Stadium (Dodgertown) | February 2001 | February 2031 | \$6,458,385 |
| Osceola County | Houston Astros | Osceola County Stadium | February 2001 | February 2016 | \$6,458,385 |
| City of Lakeland | Detroit Tigers | Joker Marchant Stadium | February 2001 | February 2016 | \$6,027,795 |
| Charlotte County | Tampa Bay Rays | Charlotte County Stadium | March 2007 | March 2037 | \$3,458,361 |
| City of Bradenton | Pittsburgh Pirates | McKechnie Field | March 2007 | March 2037 | \$3,458,361 |
| City of Fort Lauderdale ¹⁶ | NA | NA | March 2007 | March 2037 | \$0 |
| City of Sarasota ¹⁷ | Baltimore Orioles | Ed Smith Stadium | March 2007 | March 2037 | \$3,458,361 |
| St. Lucie County | New York Mets | Digital Domain Park | March 2007 | March 2037 | \$1,824,793 |
| Lee County | Minnesota Twins | Hammond Stadium | July 2013 | June 2043 | \$291,669 |

(Information from the Department of Economic Opportunity and Department of Revenue)

¹³ Chapter 2000-186, L.O.F.

¹⁴ Chapter 2006-262, L.O.F.

¹⁵ The L.A. Dodgers relocated their spring training operations to Arizona in 2008.

¹⁶ 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. 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.

¹⁷ Sarasota was awarded funds for a facility for the Cincinnati Reds, but was unable to use these funds because the Reds moved 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.

In 2013, the Legislature approved a new funding program for spring training facilities. Section 288.11631, F.S., provides funding for a facility used by a single spring training franchise up to \$55,555 per month for up to 30 years; a facility used by more than one franchise can receive \$111,110 monthly for up to 37.5 years.¹⁸

Monthly sales tax distributions (\$166,667 for up to 300 months) also fund the professional golf hall of fame.¹⁹ The International Game Fish Association World Center facility received a lump-sum payment (\$999,996) after it was certified in 2000 and received a monthly distribution (\$83,333 for up to 168 months) which ended in FY 2013-14.

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program (program) is the largest source of revenue received by local governments among the state's shared revenue sources. The program primarily serves to provide ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.²⁰ A local government may also pledge funds from the program for payment of principal and interest on any capital project.²¹

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.²² The *ordinary* distribution operates by a transfer of 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government's jurisdiction to the Local Government Half-cent Sales Tax Clearing Trust Fund (trust fund).²³ The *emergency* and *supplemental* distributions operate by a transfer of 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.^{24,25} An additional, separate distribution from the trust fund is available to qualifying fiscally constrained counties.²⁶

Funds remitted by sales tax dealers within a local government's jurisdiction and transferred to the trust fund are earmarked and distributed monthly to the governing bodies of participating eligible local governments.²⁷ Program funds are distributed to participating county and municipal governments based on a distribution formula.²⁸

¹⁸ Chapter 2013-42, L.O.F.

¹⁹ Section 212.20(6)(d)6.c., F.S.

²⁰ Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: <http://edr.state.fl.us/Content/local-government/reports/lgfi12.pdf>, (last visited on December 17, 2013).

²¹ Section 218.64, F.S.

²² Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S.

²³ Section 212.20(6)(d)2., F.S.

²⁴ Section 212.20(6)(d)3., F.S.

²⁵ *Supra* note 8 at page 55.

²⁶ Section 218.67, F.S.

²⁷ Section 218.61, F.S.

²⁸ Section 218.62, F.S.

If a majority of the members of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal population adopt an ordinance, up to \$2 million annually of the program funds allocated to that county may be used for the following purposes:^{29, 30}

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.
- Funding an applicant certified as a “motorsports entertainment complex” under s. 288.1171, F.S.

Motorsports Entertainment Complex Certification

Section 288.1171, F.S., provides the procedure by which a local government may receive certification for a motorsport entertainment complex in order to use \$2 million of Local Government Half-cent Sales Tax Program funds to pay for certain costs associated with the complex. As of October 30, 2013, no local government has received certification for a motorsport entertainment complex to use such funds.³¹ A motorsport entertainment complex is defined as a closed-course racing facility.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants to allow them to use program funds for these purposes. An applicant must be a unit of local government that either owns a motorsport entertainment complex or owns the land on which a complex is located.

Before certifying an applicant as a motorsport entertainment complex, the DEO must first verify that:

- The local government holds title to the land on which the complex is located or holds title to the complex; and
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose.

If the DEO determines an applicant meets eligibility requirements, it must notify the applicant and the Department of Revenue (DOR) of the applicant's certification through an official letter. If an applicant does not meet the requirements, the DEO must notify the applicant within 10 days of such determination. An applicant may not receive more than one certification. There are no limitations on the number of applicants that may be certified.

An applicant certified as a motorsport entertainment complex may only use funds provided from the Local Government Half-cent Sales Tax Program for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a motorsport entertainment complex, including related transportation and other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. Additional eligible uses include paying for

²⁹ Section 218.64(3)(b), F.S.

³⁰ If a county and municipal government's governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.

³¹ Department of Economic Opportunity, *Agency Bill Analysis: SB 208*, (October 30, 2013).

advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.³²

The DOR may perform an audit to ensure the distributions are expended as required, and may pursue recovery of any funds not expended as required by law.

III. Effect of Proposed Changes:

The bill permits the DEO to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

Section 1 amends s. 212.20, F.S., to direct the DOR to distribute \$166,667 monthly from state sales tax revenues to a motorsports entertainment complex certified under s. 288.1171, F.S.

Section 2 amends s. 288.1171, F.S., to permit a single motorsports entertainment complex to receive a distribution from state sales tax revenue upon certification by the DEO.

Application

Before certification, the DEO must determine that the project meets the following criteria:

- The local government holds title to the land on which the complex is located or holds title to the complex;
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose;
- The applicant has approval from a sanctioning body³³ that motorsport events are sanctioned to occur at the applicant's complex;
- The applicant's facility has at least 50,000 fixed seats;
- The applicant has projections, verified by the DEO, which demonstrate that the complex will attract paid attendance of more than 100,000 annually;
- The applicant has an independent analysis, verified by the DEO, which demonstrates that the amount of revenues generated by the taxes imposed under ch. 212, F.S., with respect to the use and operation of the complex will equal or exceed \$2 million annually;
- The applicant has demonstrated that it has or is capable of providing, or has financial or other commitments to provide, one-half the cost incurred or related to the improvement and development of the complex; and

³² Distributions to professional sports facilities and local governments for funding spring training facilities under s. 212.20(6)(d)6.b and e., F.S., may not be used for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.

³³ Defined in current law under s. 288.1171(1)(e), F.S., as the American Motorcycle Association (AMA), Championship Auto Racing Teams (CART), Grand American Road Racing Association (Grand Am), Indy Racing League (IRL), National Association for Stock Car Auto Racing (NASCAR), National Hot Rod Association (NHRA), Professional Sportscar Racing (PSR), Sports Car Club of America (SCCA), United States Auto Club (USAC), or any successor organization, or any other nationally recognized governing body of motorsports which establishes and administers rules and regulations governing all participants involved in such events and all persons conducting such events, and requires certain liability assurances, including insurance.

- The total cost of the construction, reconstruction, expansion, or renovation of the complex exceeds \$250 million.

Certification

The bill provides that the approved applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

Audits

The bill authorizes the Auditor General to verify the expenditure of distributions, and notify the DOR of improperly expended funds so that it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

Section 3 provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The distribution of sales tax revenue to a motorsports entertainment complex would decrease General Revenue by \$1.7 million in Fiscal Year 2014-2015 and \$2 million on a recurring basis.

B. Private Sector Impact:

The bill will allow the owner of a certified motorsports entertainment complex to receive funding of up to \$2 million per year for up to 30 years, for a total distribution of \$60 million, to support renovations of such a complex.

C. Government Sector Impact:

The DEO indicated that any costs incurred would be covered by current resources.

The DOR indicated that the bill would have insignificant impact on the department.

Funds distributed under s. 212.20, F.S., to a motorsports entertainment complex may be used to pay for advertising or promotion of or related to the motorsports entertainment complex or the municipality or county in which the complex is located, if the advertising or promotion is designed to increase paid attendance at the complex or increase tourism in or promote the economic development of the community in which the complex is located.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20 and 288.1171

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on February 6, 2014:

The committee substitute makes it clear that current-law provisions which allow a local government to spend funds on behalf of a motorsports complex are not changed or eliminated. The new requirements established in the bill are applicable only to a motorsports entertainment complex seeking state funds.

CS by Commerce and Tourism on Jan. 8, 2014:

The committee substitute corrects a reference to clarify that the certified applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations

A bill to be entitled

An act relating to motorsports entertainment complexes; amending s. 212.20, F.S.; providing for a monthly distribution of a specified amount of sales tax revenue to a complex certified as a motorsports entertainment complex by the Department of Economic Opportunity; amending s. 288.1171, F.S.; authorizing the department to certify a single motorsports complex if it meets specified criteria; authorizing the Auditor General to verify the expenditure of specified distributions and to notify the Department of Revenue of improperly expended funds so that it may pursue recovery; providing an effective date.

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

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.-

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes



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collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance



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58 Trust Fund in state fiscal year 1999-2000, no municipality shall
59 receive less than the amount due from the Revenue Sharing Trust
60 Fund for Municipalities and the former Municipal Financial
61 Assistance Trust Fund in state fiscal year 1999-2000. If the
62 total proceeds to be distributed are less than the amount
63 received in combination from the Revenue Sharing Trust Fund for
64 Municipalities and the former Municipal Financial Assistance
65 Trust Fund in state fiscal year 1999-2000, each municipality
66 shall receive an amount proportionate to the amount it was due
67 in state fiscal year 1999-2000.

68 6. Of the remaining proceeds:

69 a. In each fiscal year, the sum of \$29,915,500 shall be
70 divided into as many equal parts as there are counties in the
71 state, and one part shall be distributed to each county. The
72 distribution among the several counties must begin each fiscal
73 year on or before January 5th and continue monthly for a total
74 of 4 months. If a local or special law required that any moneys
75 accruing to a county in fiscal year 1999-2000 under the then-
76 existing provisions of s. 550.135 be paid directly to the
77 district school board, special district, or a municipal
78 government, such payment must continue until the local or
79 special law is amended or repealed. The state covenants with
80 holders of bonds or other instruments of indebtedness issued by
81 local governments, special districts, or district school boards
82 before July 1, 2000, that it is not the intent of this
83 subparagraph to adversely affect the rights of those holders or
84 relieve local governments, special districts, or district school
85 boards of the duty to meet their obligations as a result of
86 previous pledges or assignments or trusts entered into which



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87 obligated funds received from the distribution to county
88 governments under then-existing s. 550.135. This distribution
89 specifically is in lieu of funds distributed under s. 550.135
90 before July 1, 2000.

91 b. The department shall distribute \$166,667 monthly
92 ~~pursuant to s. 288.1162~~ to each applicant certified as a
93 facility for a new or retained professional sports franchise
94 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
95 monthly by the department to each certified applicant as defined
96 in s. 288.11621 for a facility for a spring training franchise.
97 However, not more than \$416,670 may be distributed monthly in
98 the aggregate to all certified applicants for facilities for
99 spring training franchises. The department shall also distribute
100 \$166,667 monthly to an applicant certified as a motorsports
101 entertainment complex under s. 288.1171. Distributions begin 60
102 days after such certification and continue for not more than 30
103 years, except as otherwise provided in s. 288.11621. A certified
104 applicant identified in this sub-subparagraph may not receive
105 more in distributions than expended by the applicant for the
106 public purposes provided for under ~~in~~ s. 288.1162(5), ~~or~~ s.
107 288.11621(3), or s. 288.1171(7).

108 c. Beginning 30 days after notice by the Department of
109 Economic Opportunity to the Department of Revenue that an
110 applicant has been certified as the professional golf hall of
111 fame pursuant to s. 288.1168 and is open to the public, \$166,667
112 shall be distributed monthly, for up to 300 months, to the
113 applicant.

114 d. Beginning 30 days after notice by the Department of
115 Economic Opportunity to the Department of Revenue that the



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116 applicant has been certified as the International Game Fish
117 Association World Center facility pursuant to s. 288.1169, and
118 the facility is open to the public, \$83,333 shall be distributed
119 monthly, for up to 168 months, to the applicant. This
120 distribution is subject to reduction pursuant to s. 288.1169. A
121 lump sum payment of \$999,996 shall be made, after certification
122 and before July 1, 2000.

123 e. The department shall distribute up to \$55,555 monthly to
124 each certified applicant as defined in s. 288.11631 for a
125 facility used by a single spring training franchise, or up to
126 \$111,110 monthly to each certified applicant as defined in s.
127 288.11631 for a facility used by more than one spring training
128 franchise. Monthly distributions begin 60 days after such
129 certification or July 1, 2016, whichever is later, and continue
130 for not more than 30 years, except as otherwise provided in s.
131 288.11631. A certified applicant identified in this sub-
132 subparagraph may not receive more in distributions than expended
133 by the applicant for the public purposes provided in s.
134 288.11631(3).

135 7. All other proceeds must remain in the General Revenue
136 Fund.

137 Section 2. Subsection (2) of section 288.1171, Florida
138 Statutes, is amended, present subsections (4) through (7) of
139 that section are redesignated as subsections (5) through (8),
140 respectively, and amended, and a new subsection (4) is added to
141 that section, to read:

142 288.1171 Motorsports entertainment complex; definitions;
143 certification; duties.-

144 (2) The department shall serve as the state agency for



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145 screening applicants for funding under s. 212.20, for local
146 option funding under s. 218.64(3), and for certifying an
147 applicant as a motorsports entertainment complex. The department
148 shall develop and adopt rules for the receipt and processing of
149 applications for funding under ~~ss. 212.20 and s.~~ 218.64(3). The
150 department shall make a determination regarding any application
151 filed by an applicant within ~~not later than~~ 120 days after the
152 application is filed.

153 (4) The department may certify a single applicant as a
154 motorsports entertainment complex for funding under s. 212.20 if
155 the applicant meets all of the following conditions:

156 (a) The applicant meets the requirements of subsection (3).

157 (b) The applicant has a verified copy of the approval of a
158 sanctioning body stating that motorsport events are sanctioned
159 to occur at the applicant's complex.

160 (c) The applicant's facility has at least 50,000 fixed
161 seats.

162 (d) The applicant has projections, verified by the
163 department, which demonstrate that the motorsports entertainment
164 complex will annually attract paid attendance of more than
165 100,000 persons.

166 (e) The applicant has an independent analysis or study,
167 verified by the department, which demonstrates that the amount
168 of revenues generated by the taxes imposed under chapter 212
169 with respect to the use and operation of the motorsports
170 entertainment complex will annually equal or exceed \$2 million.

171 (f) The applicant has demonstrated that it has provided, is
172 capable of providing, or has financial or other commitments to
173 provide more than one-half of the costs incurred or related to



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174 the improvement and development of the complex.

175 (g) The total cost of construction, reconstruction,
176 expansion, or renovation of the complex exceeds \$250 million.

177
178 The approved applicant may not seek funding under s. 218.64(3)
179 while receiving funding under s. 212.20.

180 (5)(4) Upon determining that an applicant meets the
181 requirements of subsection (3) or subsection (4), the department
182 shall notify the applicant and the executive director of the
183 Department of Revenue of such certification by means of an
184 official letter granting certification. If the applicant fails
185 to meet the certification requirements of subsection (3) or
186 subsection (4), the department shall notify the applicant within
187 not later than 10 days following such determination.

188 (6)(5) A motorsports entertainment complex that has been
189 previously certified under this section and has received funding
190 under such certification is ineligible for ~~any~~ additional
191 certification.

192 (7)(6) An applicant certified as a motorsports
193 entertainment complex may use funds provided pursuant to s.
194 212.20 or s. 218.64(3) only for the following public purposes:

195 (a) Paying for the construction, reconstruction, expansion,
196 or renovation of a motorsports entertainment complex.

197 (b) Paying debt service reserve funds, arbitrage rebate
198 obligations, or other amounts relating payable with respect to
199 bonds issued for the construction, reconstruction, expansion, or
200 renovation of the motorsports entertainment complex or for the
201 reimbursement of such costs or the refinancing of bonds issued
202 for such purposes.



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203 (c) Paying for construction, reconstruction, expansion, or
204 renovation of transportation or other infrastructure
205 improvements related to, necessary for, or appurtenant to the
206 motorsports entertainment complex, including, ~~without~~
207 ~~limitation~~, paying debt service reserve funds, arbitrage rebate
208 obligations, or other amounts relating payable with respect to
209 bonds issued for the construction, reconstruction, expansion, or
210 renovation of such transportation or other infrastructure
211 improvements, and for the reimbursement of such costs or the
212 refinancing of bonds issued for such purposes.

213 (d) Paying for programs of advertising and promotion of or
214 related to the motorsports entertainment complex or the
215 municipality in which the motorsports entertainment complex is
216 located, or the county if the motorsports entertainment complex
217 is located in an unincorporated area, if such programs of
218 advertising and promotion are designed to increase paid
219 attendance at the motorsports entertainment complex or increase
220 tourism in or promote the economic development of the community
221 in which the motorsports entertainment complex is located.

222 (8)(7) ~~The Department of Revenue may audit~~. As provided in
223 s. ~~11.45 213.34~~, the Auditor General may conduct an audit to
224 verify that the distributions pursuant to this section have been
225 expended as required in this section. ~~Such information is~~
226 ~~subject to the confidentiality requirements of chapter 213~~. If
227 the Auditor General ~~Department of Revenue~~ determines that the
228 distributions pursuant to certification ~~under this section~~ have
229 not been expended as required by this section, the Auditor
230 General shall notify the Department of Revenue, which ~~it~~ may
231 pursue recovery of such funds pursuant to the laws and rules



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232 governing the assessment of taxes.

233 Section 3. This act shall take effect July 1, 2014.

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 208

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Finance and Tax); Commerce and Tourism Committee; and Senator Hukill and others

SUBJECT: Motorsports Entertainment Complexes

DATE: March 6, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------------|-----------------------|------------|---------------|
| 1. <u>Askey</u> | <u>Hrdlicka</u> | <u>CM</u> | <u>Fav/CS</u> |
| 2. <u>Fournier</u> | <u>Diez-Arguelles</u> | <u>AFT</u> | <u>Fav/CS</u> |
| 3. <u>Fournier</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |
| 4. _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 208 permits the Department of Economic Opportunity to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

The bill authorizes the Auditor General to conduct audits to ensure that distributions are expended as required and, if not found in compliance, notify the Department of Revenue which may pursue recovery of such funds.

The distribution is \$166,667 monthly for up to 30 years. For Fiscal Year 2014-2015, the fiscal impact of the bill is a negative \$1.7 million; the recurring fiscal impact is a negative \$2 million annually.

II. Present Situation:

Motorsports in Florida

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona.¹

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

In late 1947, a group of racing promoters gathered in Daytona Beach to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.²

Today, NASCAR is automobile racing’s largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.³ Information on the tracks is below:

| | Daytona International Speedway⁴ | Homestead Miami Speedway⁵ |
|-----------------------------|---|---|
| Major Races | Daytona 500, Coke Zero 400 | Ford EcoBoost 400, Ford EcoBoost 300 |
| Year Opened | 1959 | 1995 |
| Grandstand Seating Capacity | 147,000 | 65,000 |
| Location | Volusia County | Miami-Dade County |
| Facility Operator | International Speedway Corporation (facility leased from Daytona Beach Racing and Recreational Facilities District) | International Speedway Corporation (facility leased from City of Homestead) |

The Daytona 500 is the opening race of the NASCAR Sprint Cup Series, and is considered the race that “sets the tone for the entire season to follow.”⁶ The Ford EcoBoost 400 is the NASCAR Sprint Cup Series’ final race.

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.⁷

Sales and Use Tax

Chapter 212, F.S., contains the state’s statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal

² *Id.*

³ NASCAR Tracks, available at: www.nascar.com/races/tracks/, (last visited on December 17, 2013).

⁴ ESPN, *NASCAR Track Guide: Daytona International Speedway*, (June 27, 2011), available at: <http://espn.go.com/espn/thelife/news/story?id=2346804>, (last visited on December 17, 2013).

⁵ Homestead Miami Speedway website, *The History of Homestead-Miami Speedway*, available at: <http://www.homesteadmiamispeedway.com/About/Track-History.aspx>, (last visited on December 17, 2013).

⁶ *Supra* note 4.

⁷ Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips, available at: <http://www.racingin.com/track/florida.aspx>, (last visited December 17, 2013).

property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

Sales Tax Funding of Professional Sports Facilities

Since 1991, Florida has authorized distributions from state sales tax for professional sports facilities and for spring training facilities.⁸ There are eight certified new or retained professional sports franchise facilities in Florida, the total number allowed under the statute.⁹ The maximum payment allowed for a new or retained professional sports franchise facility is \$166,667 per month for up to 30 years. The facilities funded under this program and the payment distribution for each are listed below:

| Facility name | Certified entity | Franchise | First Payment | Final Payment | Total payments as of January 2014 |
|-------------------------|---|---------------------------------------|---------------|---------------|-----------------------------------|
| Sun Life Stadium | Dolphins Stadium/ South Florida Stadium | Florida (Miami) Marlins ¹⁰ | 06/94 | 06/2023 | \$41,166,749 |
| Everbank Field | City of Jacksonville | Jacksonville Jaguars | 06/94 | 05/2024 | \$39,333,412 |
| Tropicana Field | City of St. Petersburg | Tampa Bay Rays | 06/95 | 06/2025 | \$37,166,741 |
| Tampa Bay Times Forum | Tampa Sports Authority | Tampa Bay Lightning | 09/95 | 08/2025 | \$36,833,407 |
| BB&T Center | Broward County | Florida Panthers | 08/96 | 07/2026 | \$35,000,070 |
| Raymond James Stadium | Hillsborough County | Tampa Bay Buccaneers | 01/97 | 12/2026 | \$34,166,729 |
| American Airlines Arena | BPL, LTD | Miami Heat | 03/98 | 03/2028 | \$31,666,730 |
| Amway Center | City of Orlando | Orlando Magic | 02/08 | 01/2038 | \$12,000,024 |

(Information from the Department of Economic Opportunity and Department of Revenue)

A local governments may be certified to receive funding for the purpose of acquiring, constructing, reconstructing, or renovating a spring training facility.¹¹ In order to be certified, a facility must be located in a county that levies a tourist development tax under s. 125.0104, F.S., which authorizes an additional 1-cent excise tax on transient lodgings that is used to pay debt service on bonds issued to finance the facility. (Duval County and Miami-Dade County are

⁸ Section 212.20(6)(d)6.b. and e., F.S.

⁹ Section 288.1162, F.S. The number of new or retained facilities eligible for funding was increased from 6 to eight by ch. 96-320, L.O.F.

¹⁰ The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

¹¹ Sections 288.11621 and 288.11631, F.S.

authorized under other statutes to levy additional transient lodging taxes for this purpose.¹²⁾ Even though new spring training facilities had been eligible for certification since 1991 under s. 288.1162, F.S., no such facilities were certified. In 2000, funding (\$41,667 per month for up to 30 years) for each of five “retained” spring training facilities was provided.¹³ In 2006 the number of spring training facilities eligible for funding was doubled.¹⁴ As of January 8, 2013, there were 10 certified local governments. The local governments and the payment distribution for each are listed below:

| Certified Local Government | Franchise | Facility | First Payment | Final Payment | Total Payments as of January 2014 |
|---------------------------------------|-----------------------------------|-----------------------------|----------------------|----------------------|--|
| City of Clearwater | Philadelphia Phillies | Bright House Field | February 2001 | February 2031 | \$6,458,385 |
| City of Dunedin | Toronto Blue Jays | Dunedin Stadium | February 2001 | February 2023 | \$6,458,385 |
| Indian River County | Los Angeles Dodgers ¹⁵ | Holman Stadium (Dodgertown) | February 2001 | February 2031 | \$6,458,385 |
| Osceola County | Houston Astros | Osceola County Stadium | February 2001 | February 2016 | \$6,458,385 |
| City of Lakeland | Detroit Tigers | Joker Marchant Stadium | February 2001 | February 2016 | \$6,027,795 |
| Charlotte County | Tampa Bay Rays | Charlotte County Stadium | March 2007 | March 2037 | \$3,458,361 |
| City of Bradenton | Pittsburgh Pirates | McKechnie Field | March 2007 | March 2037 | \$3,458,361 |
| City of Fort Lauderdale ¹⁶ | NA | NA | March 2007 | March 2037 | \$0 |
| City of Sarasota ¹⁷ | Baltimore Orioles | Ed Smith Stadium | March 2007 | March 2037 | \$3,458,361 |
| St. Lucie County | New York Mets | Digital Domain Park | March 2007 | March 2037 | \$1,824,793 |

¹² Section 212.0305(4)(a), F.S. (Duval County) and s. 212.0305(4)(b), F.S., (Miami-Dade County.)

¹³ Chapter 2000-186, L.O.F.

¹⁴ Chapter 2006-262, L.O.F.

¹⁵ The L.A. Dodgers relocated their spring training operations to Arizona in 2008.

¹⁶ 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. 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.

¹⁷ Sarasota was awarded funds for a facility for the Cincinnati Reds, but was unable to use these funds because the Reds moved 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.

| Certified Local Government | Franchise | Facility | First Payment | Final Payment | Total Payments as of January 2014 |
|----------------------------|-----------------|-----------------|---------------|---------------|-----------------------------------|
| Lee County | Minnesota Twins | Hammond Stadium | July 2013 | June 2043 | \$291,669 |

(Information from the Department of Economic Opportunity and Department of Revenue)

In 2013, the Legislature approved a new funding program for spring training facilities. Section 288.11631, F.S., provides funding for a facility used by a single spring training franchise up to \$55,555 per month for up to 30 years; a facility used by more than one franchise can receive \$111,110 monthly for up to 37.5 years.¹⁸

Monthly sales tax distributions (\$166,667 for up to 300 months) also fund the professional golf hall of fame.¹⁹ The International Game Fish Association World Center facility received a lump-sum payment (\$999,996) after it was certified in 2000 and received a monthly distribution (\$83,333 for up to 168 months) which ended in FY 2013-14.

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program (program) is the largest source of revenue received by local governments among the state’s shared revenue sources. The program primarily serves to provide ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.²⁰ A local government may also pledge funds from the program for payment of principal and interest on any capital project.²¹

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.²² The *ordinary* distribution operates by a transfer of 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government’s jurisdiction to the Local Government Half-cent Sales Tax Clearing Trust Fund (trust fund).²³ The *emergency* and *supplemental* distributions operate by a transfer of 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.^{24, 25} An additional, separate distribution from the trust fund is available to qualifying fiscally constrained counties.²⁶

¹⁸ Chapter 2013-42, L.O.F.

¹⁹ Section 212.20(6)(d)6.c., F.S.

²⁰ Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: <http://edr.state.fl.us/Content/local-government/reports/lgfi12.pdf>, (last visited on December 17, 2013).

²¹ Section 218.64, F.S.

²² Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S.

²³ Section 212.20(6)(d)2., F.S.

²⁴ Section 212.20(6)(d)3., F.S.

²⁵ *Supra* note 8 at page 55.

²⁶ Section 218.67, F.S.

Funds remitted by sales tax dealers within a local government's jurisdiction and transferred to the trust fund are earmarked and distributed monthly to the governing bodies of participating eligible local governments.²⁷ Program funds are distributed to participating county and municipal governments based on a distribution formula.²⁸

If a majority of the members of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal population adopt an ordinance, up to \$2 million annually of the program funds allocated to that county may be used for the following purposes:^{29, 30}

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.
- Funding an applicant certified as a "motorsports entertainment complex" under s. 288.1171, F.S.

Motorsports Entertainment Complex Certification

Section 288.1171, F.S., provides the procedure by which a local government may receive certification for a motorsport entertainment complex in order to use \$2 million of Local Government Half-cent Sales Tax Program funds to pay for certain costs associated with the complex. As of October 30, 2013, no local government has received certification for a motorsport entertainment complex to use such funds.³¹ A motorsport entertainment complex is defined as a closed-course racing facility.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants to allow them to use program funds for these purposes. An applicant must be a unit of local government that either owns a motorsport entertainment complex or owns the land on which a complex is located.

Before certifying an applicant as a motorsport entertainment complex, the DEO must first verify that:

- The local government holds title to the land on which the complex is located or holds title to the complex; and
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose.

If the DEO determines an applicant meets eligibility requirements, it must notify the applicant and the Department of Revenue (DOR) of the applicant's certification through an official letter. If an applicant does not meet the requirements, the DEO must notify the applicant within 10 days of such determination. An applicant may not receive more than one certification. There are no limitations on the number of applicants that may be certified.

²⁷ Section 218.61, F.S.

²⁸ Section 218.62, F.S.

²⁹ Section 218.64(3)(b), F.S.

³⁰ If a county and municipal government's governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.

³¹ Department of Economic Opportunity, *Agency Bill Analysis: SB 208*, (October 30, 2013).

An applicant certified as a motorsport entertainment complex may only use funds provided from the Local Government Half-cent Sales Tax Program for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a motorsport entertainment complex, including related transportation and other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. Additional eligible uses include paying for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.³²

The DOR may perform an audit to ensure the distributions are expended as required, and may pursue recovery of any funds not expended as required by law.

III. Effect of Proposed Changes:

The bill permits the DEO to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

Section 1 amends s. 212.20, F.S., to direct the DOR to distribute \$166,667 monthly from state sales tax revenues to a motorsports entertainment complex certified under s. 288.1171, F.S.

Section 2 amends s. 288.1171, F.S., to permit a single motorsports entertainment complex to receive a distribution from state sales tax revenue upon certification by the DEO.

Application

Before certification, the DEO must determine that the project meets the following criteria:

- The local government holds title to the land on which the complex is located or holds title to the complex;
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose;
- The applicant has approval from a sanctioning body³³ that motorsport events are sanctioned to occur at the applicant's complex;
- The applicant's facility has at least 50,000 fixed seats;
- The applicant has projections, verified by the DEO, which demonstrate that the complex will attract paid attendance of more than 100,000 annually;

³² Distributions to professional sports facilities and local governments for funding spring training facilities under s. 212.20(6)(d)6.b and e., F.S., may not be used for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.

³³ Defined in current law under s. 288.1171(1)(e), F.S., as the American Motorcycle Association (AMA), Championship Auto Racing Teams (CART), Grand American Road Racing Association (Grand Am), Indy Racing League (IRL), National Association for Stock Car Auto Racing (NASCAR), National Hot Rod Association (NHRA), Professional Sportscar Racing (PSR), Sports Car Club of America (SCCA), United States Auto Club (USAC), or any successor organization, or any other nationally recognized governing body of motorsports which establishes and administers rules and regulations governing all participants involved in such events and all persons conducting such events, and requires certain liability assurances, including insurance.

- The applicant has an independent analysis, verified by the DEO, which demonstrates that the amount of revenues generated by the taxes imposed under ch. 212, F.S., with respect to the use and operation of the complex will equal or exceed \$2 million annually;
- The applicant has demonstrated that it has or is capable of providing, or has financial or other commitments to provide, one-half the cost incurred or related to the improvement and development of the complex; and
- The total cost of the construction, reconstruction, expansion, or renovation of the complex exceeds \$250 million.

Certification

The bill provides that the approved applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

Audits

The bill authorizes the Auditor General to verify the expenditure of distributions, and notify the DOR of improperly expended funds so that it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

Section 3 provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The distribution of sales tax revenue to a motorsports entertainment complex would decrease General Revenue by \$1.7 million in Fiscal Year 2014-2015 and \$2 million on a recurring basis.

B. Private Sector Impact:

The bill will allow the owner of a certified motorsports entertainment complex to receive funding of up to \$2 million per year for up to 30 years, for a total distribution of \$60 million, to support renovations of such a complex.

C. Government Sector Impact:

The DEO indicated that any costs incurred would be covered by current resources.

The DOR indicated that the bill would have insignificant impact on the department.

Funds distributed under s. 212.20, F.S., to a motorsports entertainment complex may be used to pay for advertising or promotion of or related to the motorsports entertainment complex or the municipality or county in which the complex is located, if the advertising or promotion is designed to increase paid attendance at the complex or increase tourism in or promote the economic development of the community in which the complex is located.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20 and 288.1171

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

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

CS/CS by Appropriations on March 6, 2014:

The committee substitute makes it clear that current-law provisions which allow a local government to spend funds on behalf of a motorsports complex are not changed or eliminated. The new requirements established in the bill are applicable only to a motorsports entertainment complex seeking state funds.

CS by Commerce and Tourism on Jan. 8, 2014:

The committee substitute corrects a reference to clarify that the certified applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

B. Amendments:

None.

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

By the Committee on Commerce and Tourism; and Senators Hukill, Thrasher, Hays, Latvala, Simpson, Simmons, and Negron

577-00950-14

2014208c1

1 A bill to be entitled
 2 An act relating to motorsports entertainment
 3 complexes; amending s. 212.20, F.S.; providing for a
 4 monthly distribution of a specified amount of sales
 5 tax revenue to a complex certified as a motorsports
 6 entertainment complex by the Department of Economic
 7 Opportunity; amending s. 288.1171, F.S.; revising the
 8 definition of the term "motorsports entertainment
 9 complex"; revising requirements for the certification
 10 of a facility as a motorsports entertainment complex;
 11 specifying that the department may certify only one
 12 motorsports entertainment complex; authorizing the
 13 Auditor General to verify the expenditure of specified
 14 distributions and to notify the Department of Revenue
 15 of improperly expended funds so that it may pursue
 16 recovery; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Paragraph (d) of subsection (6) of section
 21 212.20, Florida Statutes, is amended to read:
 22 212.20 Funds collected, disposition; additional powers of
 23 department; operational expense; refund of taxes adjudicated
 24 unconstitutionally collected.-
 25 (6) Distribution of all proceeds under this chapter and s.
 26 202.18(1)(b) and (2)(b) shall be as follows:
 27 (d) The proceeds of all other taxes and fees imposed
 28 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 29 and (2)(b) shall be distributed as follows:

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30 1. In any fiscal year, the greater of \$500 million, minus
 31 an amount equal to 4.6 percent of the proceeds of the taxes
 32 collected pursuant to chapter 201, or 5.2 percent of all other
 33 taxes and fees imposed pursuant to this chapter or remitted
 34 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 35 monthly installments into the General Revenue Fund.
 36 2. After the distribution under subparagraph 1., 8.814
 37 percent of the amount remitted by a sales tax dealer located
 38 within a participating county pursuant to s. 218.61 shall be
 39 transferred into the Local Government Half-cent Sales Tax
 40 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 41 transferred shall be reduced by 0.1 percent, and the department
 42 shall distribute this amount to the Public Employees Relations
 43 Commission Trust Fund less \$5,000 each month, which shall be
 44 added to the amount calculated in subparagraph 3. and
 45 distributed accordingly.
 46 3. After the distribution under subparagraphs 1. and 2.,
 47 0.095 percent shall be transferred to the Local Government Half-
 48 cent Sales Tax Clearing Trust Fund and distributed pursuant to
 49 s. 218.65.
 50 4. After the distributions under subparagraphs 1., 2., and
 51 3., 2.0440 percent of the available proceeds shall be
 52 transferred monthly to the Revenue Sharing Trust Fund for
 53 Counties pursuant to s. 218.215.
 54 5. After the distributions under subparagraphs 1., 2., and
 55 3., 1.3409 percent of the available proceeds shall be
 56 transferred monthly to the Revenue Sharing Trust Fund for
 57 Municipalities pursuant to s. 218.215. If the total revenue to
 58 be distributed pursuant to this subparagraph is at least as

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59 great as the amount due from the Revenue Sharing Trust Fund for
 60 Municipalities and the former Municipal Financial Assistance
 61 Trust Fund in state fiscal year 1999-2000, no municipality shall
 62 receive less than the amount due from the Revenue Sharing Trust
 63 Fund for Municipalities and the former Municipal Financial
 64 Assistance Trust Fund in state fiscal year 1999-2000. If the
 65 total proceeds to be distributed are less than the amount
 66 received in combination from the Revenue Sharing Trust Fund for
 67 Municipalities and the former Municipal Financial Assistance
 68 Trust Fund in state fiscal year 1999-2000, each municipality
 69 shall receive an amount proportionate to the amount it was due
 70 in state fiscal year 1999-2000.

71 6. Of the remaining proceeds:

72 a. In each fiscal year, the sum of \$29,915,500 shall be
 73 divided into as many equal parts as there are counties in the
 74 state, and one part shall be distributed to each county. The
 75 distribution among the several counties must begin each fiscal
 76 year on or before January 5th and continue monthly for a total
 77 of 4 months. If a local or special law required that any moneys
 78 accruing to a county in fiscal year 1999-2000 under the then-
 79 existing provisions of s. 550.135 be paid directly to the
 80 district school board, special district, or a municipal
 81 government, such payment must continue until the local or
 82 special law is amended or repealed. The state covenants with
 83 holders of bonds or other instruments of indebtedness issued by
 84 local governments, special districts, or district school boards
 85 before July 1, 2000, that it is not the intent of this
 86 subparagraph to adversely affect the rights of those holders or
 87 relieve local governments, special districts, or district school

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88 boards of the duty to meet their obligations as a result of
 89 previous pledges or assignments or trusts entered into which
 90 obligated funds received from the distribution to county
 91 governments under then-existing s. 550.135. This distribution
 92 specifically is in lieu of funds distributed under s. 550.135
 93 before July 1, 2000.

94 b. The department shall distribute \$166,667 monthly
 95 ~~pursuant to s. 288.1162~~ to each applicant certified as a
 96 facility for a new or retained professional sports franchise
 97 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
 98 monthly by the department to each certified applicant as defined
 99 in s. 288.11621 for a facility for a spring training franchise.
 100 However, not more than \$416,670 may be distributed monthly in
 101 the aggregate to all certified applicants for facilities for
 102 spring training franchises. The department shall also distribute
 103 \$166,667 monthly to an applicant certified as a motorsports
 104 entertainment complex under s. 288.1171. Distributions begin 60
 105 days after such certification and continue for not more than 30
 106 years, except as otherwise provided in s. 288.11621. A certified
 107 applicant identified in this sub-subparagraph may not receive
 108 more in distributions than expended by the applicant for the
 109 public purposes provided for under ~~in~~ s. 288.1162(5), ~~or~~ s.
 110 288.11621(3), or s. 288.1171(6).

111 c. Beginning 30 days after notice by the Department of
 112 Economic Opportunity to the Department of Revenue that an
 113 applicant has been certified as the professional golf hall of
 114 fame pursuant to s. 288.1168 and is open to the public, \$166,667
 115 shall be distributed monthly, for up to 300 months, to the
 116 applicant.

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117 d. Beginning 30 days after notice by the Department of
 118 Economic Opportunity to the Department of Revenue that the
 119 applicant has been certified as the International Game Fish
 120 Association World Center facility pursuant to s. 288.1169, and
 121 the facility is open to the public, \$83,333 shall be distributed
 122 monthly, for up to 168 months, to the applicant. This
 123 distribution is subject to reduction pursuant to s. 288.1169. A
 124 lump sum payment of \$999,996 shall be made, after certification
 125 and before July 1, 2000.

126 e. The department shall distribute up to \$55,555 monthly to
 127 each certified applicant as defined in s. 288.11631 for a
 128 facility used by a single spring training franchise, or up to
 129 \$111,110 monthly to each certified applicant as defined in s.
 130 288.11631 for a facility used by more than one spring training
 131 franchise. Monthly distributions begin 60 days after such
 132 certification or July 1, 2016, whichever is later, and continue
 133 for not more than 30 years, except as otherwise provided in s.
 134 288.11631. A certified applicant identified in this sub-
 135 subparagraph may not receive more in distributions than expended
 136 by the applicant for the public purposes provided in s.
 137 288.11631(3).

138 7. All other proceeds must remain in the General Revenue
 139 Fund.

140 Section 2. Section 288.1171, Florida Statutes, is amended
 141 to read:

142 288.1171 Motorsports entertainment complex; ~~definitions;~~
 143 ~~certification; duties.~~

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

145 (a) "Applicant" means the owner of a motorsports

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146 entertainment complex.

147 (b) "Motorsports entertainment complex" means a closed-
 148 course racing facility that has at least 50,000 fixed seats.

149 (c) "Motorsports event" means a motorsports race that has
 150 been sanctioned by a sanctioning body.

151 (d) "Owner" means a unit of local government which owns a
 152 motorsports entertainment complex or owns the land on which the
 153 motorsports entertainment complex is located.

154 (e) "Sanctioning body" means the American Motorcycle
 155 Association (AMA), Championship Auto Racing Teams (CART), Grand
 156 American Road Racing Association (Grand Am), Indy Racing League
 157 (IRL), National Association for Stock Car Auto Racing (NASCAR),
 158 National Hot Rod Association (NHRA), Professional Sportscar
 159 Racing (PSR), Sports Car Club of America (SCCA), United States
 160 Auto Club (USAC), or any successor organization, or any other
 161 nationally recognized governing body of motorsports which
 162 establishes an annual schedule of motorsports events and grants
 163 rights to conduct such events, has established and administers
 164 rules and regulations governing all participants involved in
 165 such events and all persons conducting such events, and requires
 166 certain liability assurances, including insurance.

167 (f) "Unit of local government" has the meaning ascribed in
 168 s. 218.369.

169 (2) The department shall serve as the state agency for
 170 screening applicants for funding under s. 212.20, for local
 171 option funding under s. 218.64(3), and for certifying an
 172 applicant as a motorsports entertainment complex. The department
 173 shall develop and adopt rules for the receipt and processing of
 174 applications for funding under ss. 212.20 and s- 218.64(3). The

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175 department shall make a determination regarding any application
 176 filed by an applicant within not later than 120 days after the
 177 application is filed.

178 (3) Before certifying an applicant as a motorsports
 179 entertainment complex, the department must determine that:

180 (a) A unit of local government holds title to the land on
 181 which the motorsports entertainment complex is located or holds
 182 title to the motorsports entertainment complex.

183 (b) The municipality in which the motorsports entertainment
 184 complex is located, or the county if the motorsports
 185 entertainment complex is located in an unincorporated area, has
 186 certified by resolution after a public hearing that the
 187 application serves a public purpose.

188 (c) The applicant has a verified copy of the approval of a
 189 sanctioning body stating that motorsport events are sanctioned
 190 to occur at the applicant's complex.

191 (d) The applicant has projections, verified by the
 192 department, which demonstrate that the motorsports entertainment
 193 complex will annually attract paid attendance of more than
 194 100,000.

195 (e) The applicant has an independent analysis or study,
 196 verified by the department, which demonstrates that the amount
 197 of revenues generated by the taxes imposed under chapter 212
 198 with respect to the use and operation of the motorsports
 199 entertainment complex will annually equal or exceed \$2 million.

200 (f) The applicant has demonstrated that it has provided, is
 201 capable of providing, or has financial or other commitments to
 202 provide more than one-half of the costs incurred or related to
 203 the improvement and development of the complex.

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204 (g) The total cost of construction, reconstruction,
 205 expansion, or renovation of the complex exceeds \$250 million.

206 (4) Upon determining that an applicant meets the
 207 requirements of subsection (3), the department shall notify the
 208 applicant and the executive director of the Department of
 209 Revenue of such certification by means of an official letter
 210 granting certification. If the applicant fails to meet the
 211 certification requirements of subsection (3), the department
 212 shall notify the applicant within not later than 10 days
 213 following such determination.

214 (5) A motorsports entertainment complex that has been
 215 previously certified under this section and has received funding
 216 under such certification is ineligible for ~~any~~ additional
 217 certification.

218 (6) An applicant certified as a motorsports entertainment
 219 complex may use funds provided pursuant to s. 218.64(3) or s.
 220 212.20 only for the following public purposes:

221 (a) Paying for the construction, reconstruction, expansion,
 222 or renovation of a motorsports entertainment complex.

223 (b) Paying debt service reserve funds, arbitrage rebate
 224 obligations, or other amounts relating payable with respect to
 225 bonds issued for the construction, reconstruction, expansion, or
 226 renovation of the motorsports entertainment complex or for the
 227 reimbursement of such costs or the refinancing of bonds issued
 228 for such purposes.

229 (c) Paying for construction, reconstruction, expansion, or
 230 renovation of transportation or other infrastructure
 231 improvements related to, necessary for, or appurtenant to the
 232 motorsports entertainment complex, including, ~~without~~

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233 ~~limitation,~~ paying debt service reserve funds, arbitrage rebate
 234 obligations, or other amounts relating payable with respect to
 235 bonds issued for the construction, reconstruction, expansion, or
 236 renovation of such transportation or other infrastructure
 237 improvements, and for the reimbursement of such costs or the
 238 refinancing of bonds issued for such purposes.

239 (d) Paying for programs of advertising and promotion of or
 240 related to the motorsports entertainment complex or the
 241 municipality in which the motorsports entertainment complex is
 242 located, or the county if the motorsports entertainment complex
 243 is located in an unincorporated area, if such programs of
 244 advertising and promotion are designed to increase paid
 245 attendance at the motorsports entertainment complex or increase
 246 tourism in or promote the economic development of the community
 247 in which the motorsports entertainment complex is located.

248 (7) The department may certify only one applicant as a
 249 motorsports entertainment complex. The approved applicant may
 250 not seek funding under s. 218.64(3) while receiving funding
 251 under s. 212.20.

252 ~~(8)(7) The Department of Revenue may audit,~~ As provided in
 253 s. ~~11.45~~ 213.34, the Auditor General may conduct an audit to
 254 verify that the distributions pursuant to this section have been
 255 expended as required in this section. ~~Such information is~~
 256 ~~subject to the confidentiality requirements of chapter 213.~~ If
 257 the Auditor General ~~Department of Revenue~~ determines that the
 258 distributions pursuant to certification ~~under this section~~ have
 259 not been expended as required by this section, the Auditor
 260 General shall notify the Department of Revenue, which ~~it~~ may
 261 pursue recovery of such funds pursuant to the laws and rules

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262 governing the assessment of taxes.

263 Section 3. This act shall take effect July 1, 2014.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations
Appropriations Subcommittee on Education
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

February 6, 2014

The Honorable Joe Negron
412 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 208 – Motorsports Entertainment Complex

Dear Chair Negron:

Senate Bill 208, relating to Motorsports Entertainment Complex, has been referred to the Appropriations Committee. I am requesting your consideration to include SB 208 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Dorothy L. Hukill, District 8

cc: Cindy Kynock, Staff Director of the Appropriations Committee
Alicia Weiss, Administrative Assistant of the Appropriations Committee
Carrie Lira, Legislative Assistant for Senator Joe Negron

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DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/14
Meeting Date

Topic Motorsports complex

Bill Number SB208
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tally FL 32301
City State Zip

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

8/6/2014

Meeting Date

Topic _____

Bill Number 208
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
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 218

INTRODUCER: Transportation Committee and Senator Grimsley

SUBJECT: Transportation

DATE: March 3, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Price | Eichin | TR | Fav/CS |
| 2. | Wiehle | Caldwell | CU | Favorable |
| 3. | Malcolm | Hrdlicka | CM | Favorable |
| 4. | Carey | Kynoch | AP | Pre-meeting |
| 5. | | | | |
| 6. | | | | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 218 revises provisions relating to certain transportation-related utility relocation expenses, outdoor advertising permit exemptions, and the tourist-oriented directional sign program. The bill:

- Provides an exemption for certain public-utilities in a rural area of critical economic concern (RACEC) from the requirement to pay the cost to remove or relocate utility lines in certain circumstances;
- Repeals unnecessary rulemaking authority relating to lighting restrictions for certain outdoor advertising signs;
- Exempts certain signs placed by tourist-oriented businesses, farm signs placed during harvest seasons, “acknowledgement signs” on public school premises, and displays on specific sports facilities from permitting requirements;
- Provides that certain exemptions from sign permitting may not be implemented if such exemptions will adversely impact the allocation of federal funds to the Florida Department of Transportation (FDOT);
- Directs the FDOT to notify a sign owner that a sign must be removed if federal funds are adversely impacted, and authorizes the FDOT to remove the sign and assess costs to the sign owner if the sign is not removed; and

- Expands the tourist-oriented directional sign program to all rural and conventional roads, and clarifies provisions relating to the program.

The bill will have an indeterminate but insignificant negative impact on the State Transportation Trust Fund.

II. Present Situation:

Utility Relocation Expenses

Section 337.401, F.S., regulates the use of road and rail corridor right-of-ways by utilities.¹ It authorizes the FDOT and local governmental entities² to regulate the placement and maintenance of utility lines along, across, or on any public road or rail corridor under their respective jurisdictions.

Section 337.403, F.S., requires a utility owner to remove or relocate a utility that the authority finds is unreasonably interfering with the use, maintenance, improvement, extension, or expansion of the road or rail corridor. The utility owner, upon 30 days' written notice by the authority, must initiate work on the removal or relocation. The work must be completed within a reasonable time stated in the notice or as agreed to by the authority and the utility owner. The utility owner must bear the cost of the removal or relocation except in the following cases:

- When utility relocation is required due to construction of a project on the federal-aid interstate system and federal funding will cover at least 90 percent of the project cost, the FDOT pays for the removal or relocation;
- When utility work is performed as part of a transportation facility construction contract, the FDOT may participate in those costs that exceed the FDOT's estimate of the cost of the work by 10 percent;³
- When utility work is performed in advance of a construction contract, the FDOT may participate in the cost of removing trees, stumps, and roots necessary for the relocation;
- If the utility being removed or relocated was initially installed to exclusively serve the authority or its tenants, the authority bears the cost of the utility work;
- If, in an agreement between a utility and an authority made after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for the cost of removal or relocation of the utility, the authority bears the cost of such removal or relocation;
- If the utility is an electric facility being relocated underground to enhance vehicular, bicycle, and pedestrian safety, and if ownership of the facility has been transferred to a public utility within the past 5 years, the FDOT bears the cost of the necessary utility work; and

¹ "Utility" means "any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structure[]" Section 337.401(1)(a), F.S.

² Referred to in ss. 337.401-337.404, F.S., as the "authority."

³ However, the FDOT's participation amount is limited to the difference between the estimate of the work in the agreement plus 10 percent and the amount awarded for the utility work in the construction contract. Section 337.403(1)(b), F.S.

- An authority may bear the costs of utility work when the utility is not able to establish a compensable property right in the property where the utility is located if;
 - The utility was physically located on the property before the authority acquired rights in the property;
 - The utility demonstrates it has a compensable property right in all adjacent properties along the alignment of the utility; and
 - The information available to the authority does not establish the priorities of the authority's and the utility's interest in the property.

The FDOT advises that under its procedure 710-030-005-a, *Utility Work for Local Government Utilities*,⁴ when a local-government utility cannot afford work necessitated by an FDOT project as determined by the FDOT's comptroller, the FDOT will pay for the work. In such cases, the utility signs a promissory note to reimburse the FDOT, thereby allowing the FDOT project to proceed, potentially avoiding contractor delay claims. According to the FDOT, if the utility does not reimburse the FDOT within 10 years, the FDOT can take steps to write off the loss as opposed to undergoing collection efforts.⁵

The FDOT advises it currently “has approximately \$12 million in promissory notes for utility relocations that under the legislation would be eligible for waivers.”⁶

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA)⁷ in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along federal-aid primary, interstate, and National Highway System roads. The primary features of the HBA include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting, and spacing provisions as agreed to by the state and federal governments.⁸ Billboard controls apply to interstates, federal-aid primary roads, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs⁹ along highways. However, the payment of just compensation is required for the removal of any lawfully erected billboard along the specified roads.¹⁰
- States and localities may enact stricter laws than stipulated in the HBA.¹¹

The HBA requires the development of standards for certain signs as well as the removal of nonconforming signs.¹² While states are not directly forced to control signs, failure to impose the

⁴ Available at <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710030005.pdf> (last visited Feb. 10, 2014).

⁵ FDOT Legislative Bill Analysis, *SB 218*, 2 (Oct. 25, 2013) (on file with the Committee on Commerce and Tourism).

⁶ *Id.* at 4.

⁷ 23 U.S.C. s. 131 et seq.

⁸ *Id.* at (d); *see id.* at (t).

⁹ A legal “nonconforming sign” is a sign that was legally erected according to the applicable laws and regulations of the time, but which does not meet current laws or regulations. Section 479.01(17), F.S.

¹⁰ 21 U.S.C. s. 131(g).

¹¹ *Id.* at (k).

¹² *Id.* at (d) and (r).

required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.¹³

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation¹⁴ incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements to obtain sign permits when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required effective control of the erection and maintenance of outdoor advertising signs, displays, and devices.¹⁵ Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations and the 1972 agreement.

On-Premise Signs/Lighting Restrictions/Rulemaking Authority

Section 479.16(1), F.S., exempts from signage permitting, signs on the premises of an establishment that consist primarily of the name of the establishment or identify the merchandise, services, activities, or entertainment sold, produced, manufactured, or furnished on the premises, provided the signs comply with the lighting restrictions "under department rule adopted pursuant to s. 479.11(5), F.S."

Section 479.11(5), F.S., prohibits an on-premise sign that displays "intermittent lights not embodied in the sign, or any rotating or flashing light within 100 feet of the outside boundary of the right-of-way of any [state or federal highway or interstate] or which is illuminated in such a manner so as . . . to impair the vision of motorists or otherwise distract motorists . . ."

The FDOT currently has no adopted rule that addresses lighting restrictions for on-premise signs pursuant to s. 479.11(5), F.S., and instead relies on the quoted statute. The rulemaking authority in s. 479.16(1), F.S., is therefore unnecessary.¹⁶

Other Permit Exemptions

In addition to the exemption for on-premise signs in s. 479.16(1), F.S., s. 479.16, F.S., includes exemptions from permitting for a number of other types of signs, including:

- Signs on property stating only the name of the owner, lessee, or occupant of the premises and no larger than 8 square feet in area;
- Signs no larger than 8 square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or government agencies;
- Signs placed on benches, transit shelters, and waste receptacles; and

¹³ *Id.* at (b).

¹⁴ Available at <http://www.scenic.org/storage/PDFs/FSAs/fl1965.pdf> (last visited Feb. 10, 2014).

¹⁵ 21 U.S.C. s. 131(b) and (d). See also s. 479.11, F.S.

¹⁶ E-mail from Rob Jessee, Office of Right of Way, FDOT (Feb. 10, 2014) (on file with the Committee on Commerce and Tourism).

- Signs no larger than 16 square feet placed at a state highway road junction denoting only the distance or direction of a residence or farm, or, in a rural area where a hardship is created because a small business is not visible from the junction, one sign no larger than 16 square feet, denoting only the name of, and the distance and direction to, the business.

The final exemption does not apply to charter counties and may not be implemented if the federal government notifies the FDOT that implementation will adversely affect the allocation of federal funds to the FDOT.¹⁷

Tourist-Oriented Directional Sign Program

Section 479.262, F.S., establishes a tourist-oriented directional (TOD) sign program for intersections on rural and conventional state, county, or municipal roads in rural counties identified by criteria and population in s. 288.0656, F.S, i.e., rural areas of critical economic concern. (RACEC). The program is intended to provide directions to tourist-oriented businesses, services, and activities in RACEC areas, when approved and permitted by county or local government entities.¹⁸

A county or local government that issues permits for a TOD sign program is responsible for sign construction, maintenance, and program operation for roads on the State Highway System and may establish permit fees sufficient to offset associated costs.¹⁹ TOD signs installed on the State Highway System must comply with the requirements of the Manual on Uniform Traffic Control Devices²⁰ (MUTCD) and rules established by the FDOT.²¹

TOD signs may be installed on the State Highway System only after being permitted by the FDOT, and placement of TOD signs is limited to rural conventional roads, as required in the MUTCD.²² TOD signs may *not* be placed within the right-of-way of limited access facilities; within the right-of-way of a limited access facility interchange, regardless of jurisdiction or local road classification; on conventional roads in urban areas; or at interchanges on freeways or expressways.²³

¹⁷ Section 479.16(15), F.S.

¹⁸ Section 288.0656(2), F.S., defines a “rural area of critical economic concern” as a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. “Rural community” is defined to mean a county with a population of 75,000 or fewer, a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, or a municipality therein.

¹⁹ Section 479.262(1), F.S.; “Prior to requesting a permit to install TODS on the state highway system, a local government shall have established, by ordinance, criteria for TODS program eligibility including participant qualifications and location regulations.” Rule 14-51.061(3), F.A.C.

²⁰ Adopted by the FDOT pursuant to s. 316.0745(2), F.S.

²¹ Section 479.262(3), F.S.

²² Rule 14-51.063(1) and (2), F.A.C.

²³ *Id.* at (2); s. 2K.01 of Ch. 2K of the MUTCD (2009), available at <http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part2ithu2n.pdf> (last visited Feb. 10, 2014).

III. Effect of Proposed Changes:

Section 1 amends s. 337.403, F.S., to add an exception to the general rule that a utility owner must bear the cost of removing or relocating a utility. This exception applies if a municipally- or county-owned utility is located in a RACEC and the FDOT determines that the utility is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by an FDOT project on the State Highway System. Under these circumstances, the FDOT may pay the cost of the work performed by the FDOT or its contractors.

This exception “[f]ormalizes current FDOT procedure of promissory note forgiveness for a local utility that meets certain criteria and demonstrates an inability to pay for utility work necessitated by an FDOT project.”²⁴

Section 2 amends s. 479.16, F.S., relating to signs for which permits are not required, to:

- Clarify that signs placed on certain objects, such as benches, news racks, and street light poles, which are regulated under s. 337.408, F.S., are exempt from permit requirements under s. 479.16, F.S.;
- Eliminate unnecessary rulemaking authority; and
- Allow the small business “hardship” sign authorization exemption to also apply in charter counties.

The bill also authorizes the following new sign permit exemptions:

- Local tourist-oriented business signs within a RACEC, provided that:
 - Signs are not more than eight square feet in size and not more than four feet tall;
 - Signs are located only in rural areas on a facility that does not meet the definition of a limited access facility;
 - Signs are located within two miles of the business location and at least 500 feet apart;
 - Signs are located only in two directions leading to the business;
 - Signs are not located within the right-of-way; and
 - The business is at least four miles from any other business using the exemption and the business does not participate in any other directional sign program;
- Temporary harvest-season signs, provided such signs measure up to 32 square feet, denote only the distance or direction of a farm operation, and are erected at a road junction within the State Highway System; such signs may only be erected during the harvest season, not to exceed 4 months;
- “Acknowledgement signs,”²⁵ provided such signs:
 - Are erected upon publicly funded school premises;
 - Relate to a specific public school club, team, or event;
 - Are placed at least 1,000 feet from any other acknowledgement sign on the same side of the roadway; and
 - Limit sponsor information to no more than 100 square feet of the sign; and

²⁴ FDOT Bill Analysis at 2.

²⁵ The bill defines the term “acknowledgement sign” to mean “a sign that is intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or other entity.”

- Displays erected upon a sports facility,²⁶ the content of which is directly related to the facility's activities or where products or services offered on the sports facility property are present, provided such displays are mounted flush to the surface of the sports facility and rely on the building facade for structural support.

The bill prohibits implementation or continuation of the provisions allowing permit exemptions for small business "hardship" signs, local tourist-oriented business signs, harvest-season signs, public school premise "acknowledgement signs," and sports facility displays if the federal government notifies the FDOT that implementation or continuation will adversely affect the allocation of federal funds to the FDOT. In such an event, the FDOT is required to provide notice to a sign owner that the sign must be removed within 30 days; the FDOT is required to remove the sign if the owner does not remove it and the FDOT's costs will be assessed against and collected from the owner.

Section 3 amends s. 479.262, F.S., relating to the TOD sign program. The bill expands the program by repealing the restriction limiting the program to roads in a RACEC and providing that the program applies to intersections on rural and conventional state, county or municipal roads. The bill also expressly states, consistent with Rule 14-51.063, F.A.C., and the MUTCD, that a TOD sign may not be used on roads in urban areas or at interchanges on freeways or expressways.

Section 4 provides the bill takes effect on July 1, 2014.

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.

²⁶ "Sports facility" is defined to mean "an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanent installed seating capacity of 15,000 people or more."

B. Private Sector Impact:

In the event the FDOT bears the cost of utility work for municipally- or county-owned utility removal or relocation, and such action avoids delay of a project on the State Highway System, a positive but indeterminate fiscal impact to businesses and private individuals may be realized.

The authorization to use signs without a permit to advertise local tourist-oriented businesses; farm products; public school club, team, or event sponsors; and products and services directly related to a sports facility's activities or offered on the sports facility's property provides greater opportunity to attract people to such businesses or events.

Revision of the TOD sign program to eliminate restriction of the program to signs at intersections in a RACEC provides greater opportunity for business participation in the program. Participants may be subject to permit fees established by local governments.

C. Government Sector Impact:

According to the FDOT, formalizing the FDOT's procedure of promissory note forgiveness for a local utility that meets certain criteria and demonstrates an inability to pay for utility work necessitated by an FDOT project will result in a negative, but indeterminate, fiscal impact to the state. The FDOT advises it currently "has approximately \$12 million in promissory notes for utility relocations that under the legislation would be eligible for waivers" and states the waiver provision will result in an indeterminate reduction in expenditures for local governments that receive a promissory note waiver from the FDOT.²⁷

The bill avoids a potential annual penalty of 10 percent of federal highway funds by authorizing the FDOT to remove signs erected under the additional sign permit exemptions if the Federal Government notifies the FDOT of an adverse impact on the allocation of federal funds.

According to the FDOT, the expansion of participation in the TOD sign program may produce a positive but indeterminate fiscal impact for local governments as a result of them issuing sign permits for signs located on roads where signs previously were not permitted.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁷ FDOT Bill Analysis at 4.

²⁸ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 337.403, 479.16, and 479.262.

IX. Additional Information:

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

CS by Transportation on November 7, 2013:

The CS reflects a technical revision to the language relating to signs placed by local tourist-oriented businesses to rely on an existing definition of “limited access facility,” thereby avoiding the need for the FDOT to incur expenses associated with adopting by rule a definition of “non-limited access facility.”

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 33 and 34

insert:

Section 1. Subsection (4) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show



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11 or display amber lights when in operation or a hazard exists. A
12 commercial motor vehicle or trailer designed to transport
13 unprocessed logs or pulpwood may show or display an amber light
14 affixed to the rearmost point of the vehicle or trailer.

15

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

17 And the title is amended as follows:

18 Between lines 2 and 3

19 insert:

20 316.2397, F.S., expanding the types of vehicles that
21 may show or display an amber light; amending s.



128248

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 123 and 124

insert:

Section 2. Section 339.041, Florida Statutes, is created to read:

339.041 Factoring of revenues from leases for wireless communication facilities.—

(1) The Legislature finds that efforts to increase funding



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10 for capital expenditures for the transportation system are
11 necessary for the protection of the public safety and general
12 welfare and for the preservation of transportation facilities in
13 this state. It is, therefore, the intent of the Legislature:

14 (a) To create a mechanism for factoring future revenues
15 received by the department from leases for wireless
16 communication facilities on department property on a nonrecourse
17 basis;

18 (b) To fund fixed capital expenditures for the statewide
19 transportation system from proceeds generated through this
20 mechanism; and

21 (c) To maximize revenues from factoring by ensuring that
22 such revenues are exempt from income taxation under federal law
23 in order to increase funds available for capital expenditures.

24 (2) For the purposes of factoring revenues under this
25 section, department property includes real property located
26 within the department's limited access rights-of-way, property
27 located outside the current operating right-of-way limits which
28 is not needed to support current transportation facilities,
29 other property owned by the Board of Trustees of the Internal
30 Improvement Trust Fund and leased by the department, space on
31 department telecommunications facilities, and space on
32 department structures.

33 (3) The department may solicit investors willing to enter
34 into agreements to purchase the revenue stream from one or more
35 existing department leases for wireless communication facilities
36 on property owned or controlled by the department through the
37 issuance of an invitation to negotiate. Such agreements shall be
38 structured as tax-exempt financings for federal income tax



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39 purposes in order to result in the largest possible payout.

40 (4) The department may not pledge the credit, the general
41 revenues, or the taxing power of the state or of any political
42 subdivision of the state. The obligations of the department and
43 investors under the agreement do not constitute a general
44 obligation of the state or a pledge of the full faith and credit
45 or taxing power of the state. The agreement is payable from and
46 secured solely by payments received from department leases for
47 wireless communication facilities on property owned or
48 controlled by the department, and neither the state nor any of
49 its agencies has any liability beyond such payments.

50 (5) The department may make any covenant or representation
51 necessary or desirable in connection with the agreement,
52 including a commitment by the department to take whatever
53 actions are necessary on behalf of investors to enforce the
54 department's rights to payments on property leased for wireless
55 communications facilities. However, the department may not
56 guarantee that revenues actually received in a future year will
57 be those anticipated in its leases for wireless communication
58 facilities. The department may agree to use its best efforts to
59 ensure that anticipated future-year revenues are protected. Any
60 risk that actual revenues received from department leases for
61 wireless communications facilities will be lower than
62 anticipated shall be borne exclusively by investors.

63 (6) Subject to annual appropriation, the investors shall
64 collect the lease payments on a schedule and in a manner
65 established in the agreements entered into pursuant to this
66 section between the department and the investors. The agreements
67 may provide for lease payments to be made directly to investors



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68 by lessees if the lease agreements entered into by the
69 department and the lessees pursuant to s. 365.172(12)(f) allow
70 direct payment.

71 (7) Proceeds received by the department from leases for
72 wireless communication facilities shall be deposited in the
73 State Transportation Trust Fund created under s. 206.46 and used
74 for fixed capital expenditures for the statewide transportation
75 system.

76
77 ===== T I T L E A M E N D M E N T =====

78 And the title is amended as follows:

79 Delete line 9

80 and insert:

81 under certain circumstances; creating s. 339.041,
82 F.S.; providing legislative intent; describing the
83 types of department property eligible for factoring
84 future revenues received by the department from leases
85 for communication facilities on department property;
86 authorizing the department to enter into agreements
87 with investors to purchase the revenue streams from
88 department leases of wireless communication facilities
89 on such property pursuant to an invitation to
90 negotiate; prohibiting the department from pledging
91 state credit; allowing the department to make certain
92 covenants; providing for the appropriation and payment
93 of moneys received from such agreements to investors;
94 requiring the proceeds from such leases to be used for
95 capital expenditures; amending s. 479.16, F.S.;



813366

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 123 and 124

insert:

Section 2. Section 339.2820, Florida Statutes, is created to read:

339.2820 Small City Road and Bridge Assistance program.—

(1) There is created within the Department of Transportation the Small City Road and Bridge Assistance Program. The purpose of this program is to assist small city



813366

11 governments in repairing or rehabilitating city bridges,
12 resurfacing or reconstructing city roads, addressing road-
13 related drainage improvements, or constructing safety
14 improvements to city roads.

15 (2) For the purposes of this section, the term "small city"
16 means any rural community included by the definitions in
17 subparagraphs 3 or 4 of s.288.0656(2) (e) within a "Rural area of
18 critical economic concern" designated by the Governor under
19 s.288.0656(2) (d).

20 (3) Beginning with fiscal year 2014-2015 until fiscal year
21 2019-2020, up to \$9 million annually from the General Revenue
22 Fund shall be deposited into the State Transportation Trust Fund
23 to be used for the purposes of funding the Small City Road and
24 Bridge Assistance Program as described in this section.

25 (4) (a) Small cities shall be eligible to compete for funds
26 that have been designated for the Small City Road and Bridge
27 Assistance Program for repairing or rehabilitating city bridges,
28 resurfacing or reconstructing city roads, addressing road-
29 related drainage improvements, or constructing safety
30 improvements to city roads. Capacity improvements on city roads
31 shall not be eligible for funding under the program.

32 (b) In determining a city's eligibility for assistance
33 under this program, the department may consider whether the city
34 has attempted to keep city roads in satisfactory condition,
35 including the amount of available local revenues dedicated to
36 road and bridge maintenance. The department may also consider
37 the extent to which the city has offered to provide a match of
38 local funds with state funds provided under the program.

39 (c) The following criteria must be used to prioritize road



813366

40 projects for funding under the program:

41 1. The primary criterion is the physical condition of the
42 road or bridge as measured by the department.

43 2. As secondary criteria the department may consider:

44 a. Whether a road or bridge is used as an evacuation route.

45 b. Whether a road or bridge has high levels of agricultural
46 travel.

47 c. Whether a road or bridge is considered a major arterial
48 route.

49 d. Whether a road or bridge is considered a feeder road.

50 e. Safety issues that the department determines exist with
51 respect to a road or bridge.

52 f. Other criteria related to the impact of a project on the
53 public road system or on the state or local economy as
54 determined by the department.

55 (5) The department is authorized to administer contracts on
56 behalf of a city selected to receive funding for a project under
57 this section. All projects funded under this section shall be
58 included in the department's work program developed pursuant to
59 s. 339.135.

60

61

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

63 And the title is amended as follows:

64 Delete line 9

65 and insert:

66 under certain circumstances; creating s. 339.2820,

67 F.S.; establishing the Small City Road and Bridge

68 Assistance Program within the Department of



813366

69 Transportation; defining the term "small city";
70 appropriating up to \$9 million annually from the
71 General Revenue Fund, beginning in fiscal year 2014-
72 2015 until fiscal year 2019-2020, for deposit into the
73 State Transportation Trust Fund for the purpose of
74 funding the program; providing that small cities are
75 eligible to compete for funds designated for the
76 program for identified activities; providing that
77 capacity improvements on city roads are not eligible
78 for program funding; providing eligibility criteria;
79 providing project prioritization criteria; authorizing
80 the Department of Transportation to administer
81 contracts on behalf of a city; requiring all projects
82 funded under the program to be included in the
83 Department of Transportation's work program; amending
84 s. 479.16, F.S.;

By the Committee on Transportation; and Senator Grimsley

596-00650-14

2014218c1

1 A bill to be entitled
 2 An act relating to transportation; amending s.
 3 337.403, F.S.; providing an exception for payment of
 4 certain utility work necessitated by a project on the
 5 State Highway System for municipally owned utilities
 6 or county-owned utilities located in rural areas of
 7 critical economic concern and authorizing the
 8 Department of Transportation to pay for such costs
 9 under certain circumstances; amending s. 479.16, F.S.;
 10 exempting certain signs from the provisions of ch.
 11 479, F.S.; exempting from permitting certain signs
 12 placed by tourist-oriented businesses, certain farm
 13 signs placed during harvest seasons, certain
 14 acknowledgement signs on publicly funded school
 15 premises, and certain displays on specific sports
 16 facilities; providing that certain provisions relating
 17 to the regulation of signs may not be implemented or
 18 continued if such actions will adversely impact the
 19 allocation of federal funds to the Department of
 20 Transportation; directing the department to notify a
 21 sign owner that the sign must be removed if federal
 22 funds are adversely impacted; authorizing the
 23 department to remove the sign and assess costs to the
 24 sign owner under certain circumstances; amending s.
 25 479.262, F.S.; clarifying provisions relating to the
 26 tourist-oriented directional sign program; limiting
 27 the placement of such signs to intersections on
 28 certain rural roads; prohibiting such signs in urban
 29 areas or at interchanges on freeways or expressways;

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

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30 providing an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Subsection (1) of section 337.403, Florida
 35 Statutes, is amended to read:
 36 337.403 Interference caused by relocation of utility;
 37 expenses.—
 38 (1) If a utility that is placed upon, under, over, or along
 39 any public road or publicly owned rail corridor is found by the
 40 authority to be unreasonably interfering in any way with the
 41 convenient, safe, or continuous use, or the maintenance,
 42 improvement, extension, or expansion, of such public road or
 43 publicly owned rail corridor, the utility owner shall, upon 30
 44 days' written notice to the utility or its agent by the
 45 authority, initiate the work necessary to alleviate the
 46 interference at its own expense except as provided in paragraphs
 47 (a)-(h) ~~(a)-(g)~~. The work must be completed within such
 48 reasonable time as stated in the notice or such time as agreed
 49 to by the authority and the utility owner.
 50 (a) If the relocation of utility facilities, as referred to
 51 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
 52 84-627 ~~627~~ of the ~~84th~~ Congress, is necessitated by the
 53 construction of a project on the federal-aid interstate system,
 54 including extensions thereof within urban areas, and the cost of
 55 the project is eligible and approved for reimbursement by the
 56 Federal Government to the extent of 90 percent or more under the
 57 Federal Aid Highway Act, or any amendment thereof, then in that
 58 event the utility owning or operating such facilities shall

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59 perform any necessary work upon notice from the department, and
 60 the state shall pay the entire expense properly attributable to
 61 such work after deducting therefrom any increase in the value of
 62 a new facility and any salvage value derived from an old
 63 facility.

64 (b) When a joint agreement between the department and the
 65 utility is executed for utility work to be accomplished as part
 66 of a contract for construction of a transportation facility, the
 67 department may participate in those utility work costs that
 68 exceed the department's official estimate of the cost of the
 69 work by more than 10 percent. The amount of such participation
 70 is shall be limited to the difference between the official
 71 estimate of all the work in the joint agreement plus 10 percent
 72 and the amount awarded for this work in the construction
 73 contract for such work. The department may not participate in
 74 any utility work costs that occur as a result of changes or
 75 additions during the course of the contract.

76 (c) When an agreement between the department and utility is
 77 executed for utility work to be accomplished in advance of a
 78 contract for construction of a transportation facility, the
 79 department may participate in the cost of clearing and grubbing
 80 necessary to perform such work.

81 (d) If the utility facility was initially installed to
 82 exclusively serve the authority or its tenants, or both, the
 83 authority shall bear the costs of the utility work. However, the
 84 authority is not responsible for the cost of utility work
 85 related to any subsequent additions to that facility for the
 86 purpose of serving others.

87 (e) If, under an agreement between a utility and the

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88 authority entered into after July 1, 2009, the utility conveys,
 89 subordinates, or relinquishes a compensable property right to
 90 the authority for the purpose of accommodating the acquisition
 91 or use of the right-of-way by the authority, without the
 92 agreement expressly addressing future responsibility for the
 93 cost of necessary utility work, the authority shall bear the
 94 cost of removal or relocation. This paragraph does not impair or
 95 restrict, and may not be used to interpret, the terms of any
 96 such agreement entered into before July 1, 2009.

97 (f) If the utility is an electric facility being relocated
 98 underground in order to enhance vehicular, bicycle, and
 99 pedestrian safety and in which ownership of the electric
 100 facility to be placed underground has been transferred from a
 101 private to a public utility within the past 5 years, the
 102 department shall incur all costs of the necessary utility work.

103 (g) An authority may bear the costs of utility work
 104 required to eliminate an unreasonable interference when the
 105 utility is not able to establish that it has a compensable
 106 property right in the particular property where the utility is
 107 located if:

108 1. The utility was physically located on the particular
 109 property before the authority acquired rights in the property;

110 2. The utility demonstrates that it has a compensable
 111 property right in all adjacent properties along the alignment of
 112 the utility; and

113 3. The information available to the authority does not
 114 establish the relative priorities of the authority's and the
 115 utility's interests in the particular property.

116 (h) If a municipally owned utility or county-owned utility

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117 is located in a rural area of critical economic concern, as
 118 defined in s. 288.0656(2), and the department determines that
 119 the utility is unable, and will not be able within the next 10
 120 years, to pay for the cost of utility work necessitated by a
 121 department project on the State Highway System, the department
 122 may pay, in whole or in part, the cost of such utility work
 123 performed by the department or its contractor.

124 Section 2. Section 479.16, Florida Statutes, is amended to
 125 read:

126 479.16 Signs for which permits are not required.—Signs
 127 placed on benches, transit shelters, modular news racks, street
 128 light poles, public pay telephones, and waste receptacles within
 129 the right-of-way, as provided under s. 337.408, are exempt from
 130 this chapter. The following signs are exempt from the
 131 requirement that a permit ~~for a sign~~ be obtained under the
 132 ~~provisions of this chapter but must are required to~~ comply with
 133 ~~the provisions of s. 479.11(4)-(8):~~

134 (1) Signs erected on the premises of an establishment,
 135 which ~~signs~~ consist primarily of the name of the establishment
 136 or ~~which~~ identify the principal or accessory merchandise,
 137 services, activities, or entertainment sold, produced,
 138 manufactured, or furnished on the premises of the establishment
 139 and which comply with the lighting restrictions imposed under
 140 ~~department rule adopted pursuant to s. 479.11(5), or signs owned~~
 141 by a municipality or a county located on the premises of such
 142 municipality or ~~such~~ county which display information regarding
 143 government services, activities, events, or entertainment. For
 144 purposes of this section, the following types of messages shall
 145 not be considered information regarding government services,

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146 activities, events, or entertainment:

147 (a) Messages that ~~which~~ specifically reference any
 148 commercial enterprise.

149 (b) Messages that ~~which~~ reference a commercial sponsor of
 150 any event.

151 (c) Personal messages.

152 (d) Political campaign messages.

153

154 If a sign located on the premises of an establishment consists
 155 principally of brand name or trade name advertising and the
 156 merchandise or service is only incidental to the principal
 157 activity, or if the owner of the establishment receives rental
 158 income from the sign, ~~then~~ the sign is not exempt under this
 159 subsection.

160 (2) Signs erected, used, or maintained on a farm by the
 161 owner or lessee of such farm and relating solely to farm
 162 produce, merchandise, service, or entertainment sold, produced,
 163 manufactured, or furnished on such farm.

164 (3) Signs posted or displayed on real property by the owner
 165 or by the authority of the owner, stating that the real property
 166 is for sale or rent. However, if the sign contains any message
 167 not pertaining to the sale or rental of the ~~that~~ real property,
 168 ~~then~~ it is not exempt under this section.

169 (4) Official notices or advertisements posted or displayed
 170 on private property by or under the direction of any public or
 171 court officer in the performance of her or his official or
 172 directed duties, or by trustees under deeds of trust or deeds of
 173 assignment or other similar instruments.

174 (5) Danger or precautionary signs relating to the premises

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175 on which they are located; forest fire warning signs erected
 176 under the authority of the Florida Forest Service of the
 177 Department of Agriculture and Consumer Services; and signs,
 178 notices, or symbols erected by the United States Government
 179 under the direction of the United States Forestry Service.

180 (6) Notices of any railroad, bridge, ferry, or other
 181 transportation or transmission company necessary for the
 182 direction or safety of the public.

183 (7) Signs, notices, or symbols for the information of
 184 aviators as to location, directions, and landings and conditions
 185 affecting safety in aviation erected or authorized by the
 186 department.

187 (8) Signs or notices measuring up to 8 square feet in area
 188 which are erected or maintained upon property and state stating
 189 only the name of the owner, lessee, or occupant of the premises
 190 and not exceeding 8 square feet in area.

191 (9) Historical markers erected by duly constituted and
 192 authorized public authorities.

193 (10) Official traffic control signs and markers erected,
 194 caused to be erected, or approved by the department.

195 (11) Signs erected upon property warning the public against
 196 hunting and fishing or trespassing ~~thereon~~.

197 (12) Signs ~~not in excess of up to~~ up to 8 square feet which that
 198 are owned by and relate to the facilities and activities of
 199 churches, civic organizations, fraternal organizations,
 200 charitable organizations, or units or agencies of government.

201 ~~(13) Except that signs placed on benches, transit shelters,~~
 202 ~~and waste receptacles as provided for in s. 337.408 are exempt~~
 203 ~~from all provisions of this chapter.~~

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204 ~~(13)-(14)~~ Signs relating exclusively to political campaigns.

205 ~~(14)-(15)~~ Signs measuring up to not in excess of 16 square
 206 feet placed at a road junction with the State Highway System
 207 denoting only the distance or direction of a residence or farm
 208 operation, or, outside an incorporated in a rural area where a
 209 hardship is created because a small business is not visible from
 210 the road junction with the State Highway System, one sign
 211 measuring up to not in excess of 16 square feet, denoting only
 212 the name of the business and the distance and direction to the
 213 business. ~~The small-business-sign provision of this subsection~~
 214 ~~does not apply to charter counties and may not be implemented if~~
 215 ~~the Federal Government notifies the department that~~
 216 ~~implementation will adversely affect the allocation of federal~~
 217 ~~funds to the department.~~

218 (15) Signs placed by a local tourist-oriented business
 219 located within a rural area of critical economic concern as
 220 defined under s. 288.0656(2) which are:

221 (a) Not more than 8 square feet in size or more than 4 feet
 222 in height;

223 (b) Located only in rural areas on a facility that does not
 224 meet the definition of a limited access facility as defined by
 225 department rule;

226 (c) Located within 2 miles of the business location and at
 227 least 500 feet apart;

228 (d) Located only in two directions leading to the business;
 229 and

230 (e) Not located within the road right-of-way.

231
 232 A business placing such signs must be at least 4 miles from any

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233 other business using this exemption and may not participate in
 234 any other directional signage program by the department.

235 (16) Signs measuring up to 32 square feet denoting only the
 236 distance or direction of a farm operation which are erected at a
 237 road junction with the State Highway System, but only during the
 238 harvest season of the farm operation for a period not to exceed
 239 4 months.

240 (17) Acknowledgement signs erected upon publicly funded
 241 school premises which relate to a specific public school club,
 242 team, or event which are placed at least 1,000 feet from any
 243 other acknowledgement sign on the same side of the roadway. The
 244 sponsor information on an acknowledgement sign may constitute no
 245 more than 100 square feet of the sign. For purposes of this
 246 subsection, the term "acknowledgement sign" means a sign that is
 247 intended to inform the traveling public that a public school
 248 club, team, or event has been sponsored by a person, firm, or
 249 other entity.

250 (18) Displays erected upon a sports facility the content of
 251 which is directly related to the facility's activities or where
 252 products or services offered on the sports facility property are
 253 present. Displays must be mounted flush to the surface of the
 254 sports facility and must rely upon the building facade for
 255 structural support. For purposes of this subsection, the term
 256 "sports facility" means an athletic complex, athletic arena, or
 257 athletic stadium, including physically connected parking
 258 facilities, which is open to the public and has a permanent
 259 installed seating capacity of 15,000 people or more.

260 The exemptions in subsections (14)-(18) may not be implemented
 261

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262 or continued if the Federal Government notifies the department
 263 that implementation or continuation will adversely impact the
 264 allocation of federal funds to the department. If the exemptions
 265 in subsections (14)-(18) are not implemented or continued due to
 266 notification from the Federal Government that the allocation of
 267 federal funds to the department will be adversely impacted, the
 268 department shall provide notice to the sign owner that the sign
 269 must be removed within 30 days. If the sign is not removed
 270 within 30 days after receipt of the notice by the sign owner,
 271 the department may remove the sign, and the costs incurred in
 272 connection with the sign removal shall be assessed against and
 273 collected from the sign owner.

274 Section 3. Section 479.262, Florida Statutes, is amended to
 275 read:

276 479.262 Tourist-oriented directional sign program.—

277 (1) A tourist-oriented directional sign program to provide
 278 directions to rural tourist-oriented businesses, services, and
 279 activities may be established for intersections on rural and
 280 conventional state, county, or municipal roads only ~~in rural~~
 281 ~~counties identified by criteria and population in s. 288.0656~~
 282 when approved and permitted by county or local government
 283 entities within their respective jurisdictional areas ~~at~~
 284 ~~intersections on rural and conventional state, county, or~~
 285 ~~municipal roads~~. A county or local government ~~that which~~ issues
 286 permits for a tourist-oriented directional sign program ~~is shall~~
 287 ~~be~~ responsible for sign construction, maintenance, and program
 288 operation in compliance with subsection (3) for roads on the
 289 state highway system and may establish permit fees sufficient to
 290 offset associated costs. A tourist-oriented directional sign may

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291 not be used on roads in urban areas or at interchanges on
292 freeways or expressways.

293 (2) This section does not create a proprietary or
294 compensable interest in any tourist-oriented directional sign
295 site or location for any permittee on any rural and conventional
296 state, county, or municipal ~~road roads~~. The department or the
297 permitting entity may terminate permits or change locations of
298 tourist-oriented directional sign sites as determined necessary
299 for construction or improvement of transportation facilities or
300 for improved traffic control or safety.

301 (3) Tourist-oriented directional signs installed on the
302 state highway system must ~~shall~~ comply with the requirements of
303 the federal Manual on Uniform Traffic Control Devices and rules
304 established by the department. The department may adopt rules to
305 establish requirements for participant qualification,
306 construction standards, location of sign sites, and other
307 criteria necessary to implement this program.

308 Section 4. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-14
Meeting Date

Topic CELL TOWER RENTS FACTORING

Bill Number SB 218
(if applicable)

Name RON RICHMOND

Amendment Barcode 128248
(if applicable)

Job Title ATTORNEY AT LAW

Address 1394 MILLSTREAM ROAD
Street

Phone 545-5964

TALLAHASSEE, FL 32312
City State Zip

E-mail ron@drichmond.com
NET

Speaking: For Against Information

Representing AP WIRELESS PARTNERS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6
Meeting Date

Topic _____

Bill Number 218
(if applicable)

Name JIM SPRATT

Amendment Barcode 252134
(if applicable)

Job Title _____

Address DO BOX 10011

Phone 850-228-1296

Street

TALLAHASSEE

City

FL 32311

State

Zip

E-mail Jim@magnoliastrategiesllc.ca

Speaking: For Against Information

Representing FLORIDA FORESTRY ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic TRANSPORTATION

Bill Number CS SB 218
(if applicable)

Name JOSEPH SPRATT

Amendment Barcode 813366
(if applicable)

Job Title LOBBYIST

Address 250 HALL ST.

Phone _____

Street

LABELLE

FL.

33935

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing CITY OF LABELLE, FL.

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 16 2014

Meeting Date

Topic _____

Bill Number 218
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

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.

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 248

INTRODUCER: Appropriations Committee; Health Policy Committee; and Children, Families, and Elder Affairs Committee

SUBJECT: Assisted Living Facilities

DATE: March 6, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|----------------------------------|
| | <u>Daniell</u> | <u>Hendon</u> | | CF SPB 7000 as introduced |
| 1. | <u>Looke</u> | <u>Stovall</u> | <u>HP</u> | Fav/CS |
| 2. | <u>Munroe</u> | <u>Cibula</u> | <u>JU</u> | Favorable |
| 3. | <u>Brown</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 248 strengthens the enforcement of current regulations for assisted living facilities (ALF or facility) by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for facilities having significant violations. Among other provisions, the bill:

- Clarifies the criteria under which the Agency for Health Care Administration (AHCA) must revoke or deny a facility's license;
- Adds certain responsible parties and AHCA personnel to the list of people who must report abuse or neglect to the Department of Children and Families' central abuse hotline;
- Requires a study to determine the consistency with which the AHCA applies regulations to facilities; and
- Requires the AHCA to implement an ALF rating system by March 1, 2015, and to add certain content to its website by November 1, 2014, to help consumers select an ALF.

The bill is estimated to have a net positive fiscal impact of approximately \$1 million on the AHCA's Health Care Trust Fund and appropriates for Fiscal Year 2014-2015 three full-time equivalent positions, \$261,852 of recurring funds and \$109,125 of nonrecurring funds from the trust fund.

II. Present Situation:

An assisted living facility (ALF or facility) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.³

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁴ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁵ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.⁶

As of January 1, 2014, there were 3,037 licensed ALFs in Florida having a total of 86,473 beds.⁷ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services (LNS),⁸ limited mental health services (LMH),⁹ and extended congregate care services (ECC).¹⁰ There are 1,009 facilities with LNS specialty licenses, 275 with ECC licenses, and 1,030 with LMH specialty licenses.¹¹

Limited Nursing Services Specialty License

An LNS specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized under the standard license. The nursing services are limited to acts specified in administrative rules, may only be provided as authorized by a health care provider's order, and must be conducted and supervised in accordance with ch. 464, F.S., relating to nursing and the prevailing standard of practice in the nursing community.

¹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

² Section 429.02(16), F.S.

³ Section 429.02(1), F.S.

⁴ For specific minimum standards see Rule 58A-5.0182, F.A.C.

⁵ Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

⁶ Section 429.28, F.S.

⁷ Fla. Agency for Health Care Admin., *Assisted Living Facility Directory* (January 1, 2014), http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/docs/alf/Directory_ALF.pdf (last visited January 29, 2014).

⁸ Section 429.07(3)(c), F.S.

⁹ Section 429.075, F.S.

¹⁰ Section 429.07(3)(b), F.S.

¹¹ See Fla. Agency for Health Care Admin., *Assisted Living Facility*, http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/alf.shtml (follow the hyperlinks for the ALF directories found under the "Notices/Updates" heading) (last visited January 15, 2013).

Extended Congregate Care Specialty License

The primary purpose of ECC services is to allow residents to remain in a familiar setting as they become more impaired with physical or mental limitations. An ECC specialty license enables a facility to provide, directly or through contract, services performed by licensed nurses and supportive services¹² to persons who otherwise would be disqualified from continued residence in an ALF.¹³ A facility licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility having a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, a facility with an ECC license still may not serve residents who require 24-hour nursing supervision.¹⁴

Limited Mental Health Specialty License

An ALF that serves three or more mental health residents must obtain an LMH specialty license.¹⁵ A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS).¹⁶ The department must ensure that a mental health resident is assessed and determined able to live in an ALF with an LMH license.¹⁷

The administrator of an LMH facility must consult with a mental health resident and the resident's case manager to develop and help execute a community living support plan for the resident detailing the specific needs and services the resident requires.¹⁸ The LMH licensee must also execute a cooperative agreement with the mental health care services provider. The cooperative agreement specifies, among other things, directions for the ALF accessing emergency and after-hours care for the mental health resident.

¹² Supportive services include social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. Rule 58A-5.030(8)(a), F.A.C.

¹³ An ECC program may provide additional services, such as the following: total help with bathing, dressing, grooming, and toileting; nursing assessments conducted more frequently than monthly; measuring and recording basic vital functions and weight; dietary management; assisting with self-administered medications or administering medications and treatments pursuant to a health care provider's order; supervising residents with dementia and cognitive impairments; health education, counseling, and implementing health-promoting programs; rehabilitative services; and escort services related to health-related appointments. Section 429.07(3)(b), F.S., and Rule 58A-5.030, F.A.C.

¹⁴ Section 429.07(3)(b), F.S.

¹⁵ Section 429.075, F.S.

¹⁶ Section 429.02(15), F.S. Optional State Supplementation is a cash assistance program. Its purpose is to supplement a person's income to help pay for costs in an assisted living facility, mental health residential treatment facility, or adult family care home, but it is not a Medicaid program. Dep't of Elder Affairs, *Florida Affordable Assisted Living: Optional State Supplementation (OSS)*, <http://elderaffairs.state.fl.us/faal/operator/statesupp.html> (last visited January 22, 2014).

¹⁷ Section 394.4574(2)(a), F.S., requires a mental health resident to be assessed by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual who is supervised by one of these professionals to determine whether it is appropriate for the person to reside in an ALF.

¹⁸ Rule 58A-5.029(2)(c)3., F.A.C.

Department of Elder Affairs Rules

In addition to ch. 429, F.S., ALFs are also subject to regulation under Rule 58A-5 of the Florida Administrative Code (FAC). These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with the AHCA, the Department of Children and Families (DCF), and the Department of Health (DOH).¹⁹ In June 2012, the DOEA initiated a process of negotiated rulemaking to revise many of its rules regarding ALFs. After multiple meetings, a committee that consisted of AHCA staff, consumer advocates, and industry representatives voted on numerous changes to Rule 58A-5, FAC. On November 28, 2012, the DOEA issued a proposed rule and held several public hearings on the proposed rule.²⁰ In June 2013, the DOEA withdrew the proposed rule in order to get a revised Statement of Estimated Regulatory Costs, and it plans to move forward with the rule, including seeking ratification from the Legislature on the portions of the rule that require it.²¹

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the DOEA,²² intended to assist facilities in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.²³

The current ALF core training requirements established by the DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming a facility administrator or manager. The minimum passing score for the competency test is 75 percent.²⁴

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years.²⁵ A newly hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.²⁶

¹⁹ Section 429.41(1), F.S.

²⁰ See Dep't of Elder Affairs, *Assisted Living Facility (ALF) Negotiated Rulemaking*, http://elderaffairs.state.fl.us/doea/alf_rulemaking.php (last visited November 18, 2013).

²¹ Conversation with Adam Lovejoy, Legislative Affairs Director, Department of Elder Affairs with Committee on Judiciary staff (January 27, 2014).

²² Rule 58A-5.0191, F.A.C. Many of the training requirements in rule may be subject to change due to the DOEA negotiated rulemaking process.

²³ Section 429.52(1), F.S.

²⁴ Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

²⁵ 58A-5.0191(1)(c), F.A.C.

²⁶ Rule 58A-5.0191, F.A.C.

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents.²⁷ Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least one hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on “do not resuscitate” orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer’s disease, if applicable.

ECC Specific Training

The administrator and the ECC supervisor, if different from the administrator, must complete four hours of initial training in extended congregate care either prior to the facility receiving its ECC license or within three months after beginning employment in the facility as an administrator or ECC supervisor. The administrator and ECC supervisor must also complete a minimum of four hours of continuing education every two years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons having Alzheimer’s disease or related disorders.²⁸

All direct-care staff providing care to residents in an ECC program must complete at least two hours of in-service training, provided by the facility administrator or ECC supervisor, within six months after beginning employment in the facility. The training must address ECC concepts and requirements, including statutory and rule requirements and the delivery of personal care and supportive services in an ECC facility.²⁹

LMH Specific Training

Administrators, managers, and staff who have direct contact with mental health residents in a licensed LMH facility must receive a minimum of six hours of specialized training in working with individuals having mental health diagnoses and a minimum of three hours of continuing education dealing with mental health diagnoses or mental health treatment every two years.³⁰

Inspections and Surveys

The AHCA is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license;
- Prior to biennial renewal of a license;
- When there is a change of ownership;
- To monitor facilities licensed to provide LNS or ECC services;

²⁷ *Id*

²⁸ Rule 58A-5.0191(7)(a) and (b), F.A.C.

²⁹ Rule 58A-5.0191(7)(c), F.A.C.

³⁰ Section 429.075(1), F.S. and Rule 58A-5.0191(8), F.A.C.

- To monitor facilities cited in the previous year for a class I or class II, or four or more uncorrected class III, violations;³¹
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
- If the AHCA has reason to believe a facility is violating a provision of part III of ch. 429, F.S., relating to adult day care centers, or an administrative rule;
- To determine if cited deficiencies have been corrected; or
- To determine if a facility is operating without a license.³²

Abbreviated Surveys

An applicant for licensure renewal is eligible for an abbreviated biennial survey by the AHCA if the applicant does not have any:

- Class I, class II, or uncorrected class III violations.
- Confirmed complaints from the long-term care ombudsman council which were reported to the AHCA by the council.
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.³³

An abbreviated survey allows for a quicker and less intrusive survey by narrowing the range of items the AHCA must inspect.³⁴ The AHCA must expand an abbreviated survey or conduct a full survey if violations that threaten or potentially threaten the health, safety, or security of residents are identified during an abbreviated survey.³⁵

Monitoring Visits

Facilities with LNS or ECC licenses are subject to monitoring visits in which the AHCA inspects the facility for compliance with the requirements of the specialty license. An LNS licensee is subject to monitoring inspections at least twice a year. At least one registered nurse must be included in the inspection team to monitor residents receiving services and to determine if the facility is complying with applicable regulatory requirements.³⁶ An ECC licensee is subject to quarterly monitoring inspections. At least one registered nurse must be included in the inspection team. The AHCA may waive one of the required yearly monitoring visits for an ECC facility that has been licensed for at least 24 months, if the registered nurse who participated in the monitoring inspections determines that the ECC services are being provided appropriately and there are no serious violations or substantiated complaints about the quality of service or care.³⁷

Violations and Penalties

Part II of ch. 408, F.S., provides general licensure standards for all facilities regulated by the AHCA. Under s. 408.813, F.S., ALFs may be subject to administrative fines imposed by the

³¹ See “Violations and Penalties” subheading below for a description of the violations.

³² See s. 429.34, F.S., and Rule 58A-5.033(1)(a), F.A.C.

³³ Rule 58A-5.033(2)(a), F.A.C.

³⁴ Rule 58A-5.033(2)(b), F.A.C.

³⁵ Rule 58A-5.033(2)(c), F.A.C.

³⁶ Section 429.07(3)(c)2., F.S.

³⁷ Section 429.07(3)(b)2., F.S.

AHCA for certain types of violations. Violations are categorized into four classes according to the nature of the violation and the gravity of its probable effect on residents:

- **Class I violations** are those conditions that the AHCA determines present an imminent danger to residents or a substantial probability of death or serious physical or emotional harm.
 - Examples include resident death due to medical neglect, risk of resident death due to inability to exit in an emergency, and the suicide of a mental health resident in an ALF licensed for limited mental health.
 - The AHCA must fine a facility between \$5,000 and \$10,000 for each class I violation.
 - During Fiscal Years 2011-2012 and 2012-2013, the AHCA entered 115 final orders for class I violations with an average fine amount of \$6,585 for facilities having fewer than 100 beds and \$7,454 for facilities having 100 or more beds.³⁸
- **Class II violations** are those conditions that the AHCA determines directly threaten the physical or emotional health, safety, or security of the clients.
 - Examples include no qualified staff in the facility, the failure to call 911 in a timely manner for a resident in a semi-comatose state, and rodents in a food storage area.
 - The AHCA must fine a facility between \$1,000 and \$5,000 for each violation.
 - During Fiscal Years 2011-2012 and 2012-2013, the AHCA entered 749 final orders for class II violations with an average fine amount of \$1,542 for facilities having fewer than 100 beds and \$1,843 for facilities having 100 or more beds.
- **Class III violations** are those conditions that the AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients.
 - Examples include missing or incomplete resident assessments, erroneous documentation of medication administration, and failure to correct unsatisfactory DOH Food Service inspection findings in a timely manner.
 - The AHCA must fine a facility between \$500 and \$1,000 for each violation, but no fine may be imposed if the facility corrects the violation.
 - During Fiscal Years 2011-2012 and 2012-2013, the AHCA entered 507 final orders for uncorrected class III violations with an average fine amount of \$766 for facilities having fewer than 100 beds and \$614 for facilities having 100 or more beds.
- **Class IV violations** are those conditions that do not have the potential of negatively affecting clients.
 - Examples include failure to file an adverse incident report, incorrect phone numbers posted for advocacy resources, and failure to post current menus.
 - The AHCA may fine a facility between \$100 and \$200 for each violation but only if the problem is not corrected.
 - During Fiscal Years 2011-2012 and 2012-2013, the AHCA entered 18 final orders for uncorrected class IV violations with an average fine amount of \$165 for facilities having fewer than 100 beds and \$100 for facilities having 100 or more beds.^{39,40,41}

³⁸ Florida Agency for Health Care Administration, *2014 Agency Legislative Bill Analysis for SB 248* (November 26, 2013) (On file with the Senate Committee on Judiciary).

³⁹ When fixing the amount of the fine, AHCA must consider the following factors: the gravity of the violation and the extent to which any laws or rules were violated, actions taken to correct the violations, any previous violations, the financial benefit of committing or continuing the violation, and the licensed capacity of the facility. Section 429.19(3), F.S.

⁴⁰ Section 429.19(2), F.S.

⁴¹ Florida Agency for Health Care Administration, *2014 Agency Legislative Bill Analysis for SB 248* (November 26, 2013) (On file with the Senate Committee on Judiciary).

In addition to financial penalties, the AHCA can take other actions against a facility. The AHCA may deny, revoke, and suspend any license for any of the actions listed in s. 429.14(1)(a)-(k), F.S. The AHCA is required to deny or revoke the license of an ALF that has two or more class I violations that are similar to violations identified during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous two years.⁴² The AHCA may also impose an immediate moratorium or emergency suspension on any provider if it finds any condition that presents a threat to the health, safety, or welfare of a client.⁴³ The AHCA is required to publicly post notification of a license suspension, revocation, or denial of a license renewal, at the facility.⁴⁴ Finally, ch. 825, F.S., Florida's Criminal Code, provides criminal penalties for the abuse, neglect, and exploitation of elderly persons⁴⁵ and disabled adults.⁴⁶

Central Abuse Hotline

The DCF is required under s. 415.103, F.S., to establish and maintain a central abuse hotline to receive reports, in writing or through a single statewide toll-free telephone number, of known or suspected abuse, neglect, or exploitation of a vulnerable adult⁴⁷ at any hour of the day or night, any day of the week.⁴⁸ Persons listed in s. 415.1034, F.S., who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited are required to immediately report such knowledge or suspicion to the central abuse hotline.⁴⁹

Florida's Long-Term Care Ombudsman Program

The federal Older Americans Act (OAA) requires each state to create a Long-Term Care Ombudsman Program to be eligible to receive funding associated with programs under the OAA.⁵⁰ In Florida, the program is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, including residents of nursing homes, ALFs, and adult family-care homes. The ombudsman program is administratively housed in the DOEA and is headed by the State Long-Term Care Ombudsman,

⁴² Section 429.14(4), F.S.

⁴³ Section 408.814, F.S.

⁴⁴ Section 429.14(7), F.S.

⁴⁵ "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. Section 825.101(5), F.S. It does not constitute a defense to a prosecution for any violation of this chapter that the accused did not know the age of the victim. Section 825.104, F.S.

⁴⁶ "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. Section 825.101(4), F.S.

⁴⁷ "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(27), F.S.

⁴⁸ The central abuse hotline is operated by the DCF to accept reports for investigation when there is a reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited; determine whether the allegations require an immediate, 24-hour, or next-working-day response priority; when appropriate, refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might better resolve the reporter's concerns; immediately identify and locate prior reports of abuse, neglect, or exploitation through the central abuse hotline. Section 415.103(1), F.S.

⁴⁹ Section 415.1034, F.S.

⁵⁰ 42 U.S.C. 3058, et. seq.. See also s. 400.0061(1), F.S.

who is appointed by the DOEA Secretary.⁵¹ The ombudsman program is required to establish a statewide toll-free telephone number for receiving complaints concerning matters adversely affecting the health, safety, welfare, or rights of residents of ALFs, nursing homes, and adult family care homes. Every resident or representative of a resident must receive, upon admission to a long-term care facility, information regarding the program and the statewide toll-free telephone number for receiving complaints.⁵² The names and identities of the complainants or residents involved in a complaint, including any problem identified by an ombudsman council as a result of an investigation, are confidential and exempt from Florida's public records laws, unless the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure, or the disclosure is required by court order.⁵³ In addition to investigating and resolving complaints, ombudsmen conduct unannounced visits to assess the quality of care in facilities, referred to as administrative assessments.

Consumer Information

Section 400.191, F.S., requires the AHCA to provide information to the public about all licensed nursing homes in the state. The information must be provided in a consumer-friendly electronic format to assist consumers and their families in comparing and evaluating nursing homes. Under s. 400.191(2), F.S., the AHCA must provide an Internet site that includes information such as a list by name and address of all nursing homes in the state, the total number of beds in each facility, and survey and deficiency information. Additional information that the AHCA may provide on the site includes the licensure status history of each facility, the rating history of each facility, and the regulatory history of each facility.

There is no similar requirement in law to provide certain consumer information to the public on the licensed ALFs in the state.

***The Miami Herald* Articles and the Governor's Assisted Living Workgroup**

Beginning on April 30, 2011, *The Miami Herald* published a four-part series, titled "Neglected to Death," which detailed abuses occurring in ALFs and the state regulatory responses to such cases. The newspaper spent a year examining thousands of state inspections, police reports, court cases, autopsy files, emails, and death certificates and conducted dozens of interviews with operators and residents throughout Florida. The series detailed examples of abuses, neglect, and deaths that took place in facilities.⁵⁴ The series also examined the state's regulatory and law enforcement agencies' responses to the problems. The newspaper concluded that the state's agencies, and in particular the AHCA, failed to enforce existing laws designed to protect Florida's citizens who reside in ALFs.⁵⁵

⁵¹ Section 400.0063, F.S.

⁵² Section 400.0078(2), F.S.

⁵³ Section 400.0077(1)(b), F.S.

⁵⁴ Rob Barry, Michael Sallah and Carol Marbin Miller, *Neglected to Death, Parts 1-3*, THE MIAMI HERALD, April 30, 2011 available at <http://www.miamiherald.com/2011/04/30/2194842/once-pride-of-florida-now-scenes.html> and <http://www.miamiherald.com/2011/05/03/2199747/key-medical-logs-doctored-missing.html> (see left side of article to access weblinks to the three-part series) (Last visited on January 27, 2014).

⁵⁵ *Id.*

Soon after *The Miami Herald* series, Governor Rick Scott vetoed HB 4045,⁵⁶ which reduced regulatory requirements on ALFs. The Governor then directed the AHCA to form a task force for the purpose of examining current assisted living regulations and oversight.⁵⁷ The task force, referred to as the Assisted Living Workgroup, held meetings and produced two reports, one in August of 2011 and one in October of 2012. In addition to public testimony and presentations, the Assisted Living Workgroup focused on assisted living regulation, consumer information and choice, and long term care services and access.⁵⁸ The workgroup made numerous recommendations in its two reports.⁵⁹

III. Effect of Proposed Changes:

Section 1 amends s. 394.4574, F.S., to clarify that Medicaid managed care plans are responsible for state-supported mental health residents enrolled in their plans and that managing entities under contract with the DCF are responsible for mental health residents who are not enrolled with a Medicaid managed care plan. This section requires a mental health resident's community living support plan to be updated when there is a significant change to the resident's behavioral health status. The resident's case manager must keep a two-year record of any face-to-face interaction with the resident. Finally, this section charges the entity responsible for a mental health resident with ensuring that there is adequate and consistent monitoring of the community living support plan and to report any concerns about a regulated provider failing to provide services or otherwise acting in a manner with the potential to cause harm to the resident.

Section 2 amends s. 400.0074, F.S., to require the Long-Term Care Ombudsman Program's administrative assessments of facilities be comprehensive in nature. This section also requires ombudsmen to conduct an exit consultation with the facility administrator to discuss issues and concerns from the visit.

Section 3 amends s. 400.0078, F.S., to require an ALF to include a statement that retaliatory action cannot be taken against a resident for presenting grievances when that ALF provides the required information to new residents upon admission to the facility about the purpose of the Long-Term Care Ombudsman Program.

⁵⁶ House Bill 4045 (2011) repealed a requirement for the annual dissemination of a list of ALFs that had been sanctioned or fined, a requirement for an ALF to report monthly any liability claims filed against it, a requirement to disseminate the results of the inspection of each ALF, provisions concerning rule promulgation for ALFs by the DOEA, provisions concerning the collection of information regarding the cost of care in ALFs, and the authority for local governments or organizations to contribute to the cost of care of local facility residents.

⁵⁷ Membership details of the task force are available at Fla. Agency for Health Care Admin., *Assisted Living Workgroup Members*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/wgmembers.shtml> (last visited January 27, 2014).

⁵⁸ See Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase I*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/ALWG2011.shtml> (last visited January 27, 2014); Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase II*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/index.shtml> (last visited January 27, 2014).

⁵⁹ See Fla. Agency for Health Care Admin., *Florida Assisted Living Workgroup, Phase II Recommendations* (January 27, 2014), <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/docs/ALF-FinalReportandRecommendationsPhaseII.pdf> (last visited January 27, 2014); Fla. Agency for Health Care Admin., *Florida Assisted Living Workshop, Final Report and Recommendations*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/docs/2011/ALWorkgroupFinalReport.pdf> (last visited January 27, 2014).

Section 4 amends s. 429.07, F.S., to make changes to improve the regulation of facilities with ECC and LNS specialty licenses. These changes include:

- Requiring that an ALF be licensed for two or more years before being issued a full ECC license;
- Clarifying under what circumstances the AHCA may deny or revoke a facility's ECC license;
- Reducing monitoring visits for facilities with ECC licenses from quarterly to twice a year, and for facilities with LNS licenses from twice a year to once a year; and
- Clarifying under what circumstances the AHCA may waive one of the required monitoring visits for facilities with ECC licenses and also authorizing the AHCA to waive the required monitoring visit for facilities with an LNS license under the same conditions.

This section of the bill also creates a provisional ECC license for ALFs that have been licensed for less than two years.

- The provisional license lasts for a period of six months.
- The facility must inform the AHCA when it has admitted one or more residents requiring ECC services, after which the AHCA must inspect the facility for compliance with the requirements of the ECC license.
- If the licensee demonstrates compliance with the requirements of an ECC license, the AHCA must grant the facility a full ECC license.
- If the licensee fails to demonstrate compliance with the requirements of an ECC license or fails to admit an ECC resident within three months, the provisional ECC license expires.

Section 5 amends s. 429.075, F.S., to require facilities having one or more state-supported mental health residents to obtain a LMH license. Current law requires an ALF to obtain an LMH license only if it has have three or more state-supported mental health residents.

Section 6 amends s. 429.14, F.S., to clarify the use of administrative penalties, to:

- Allow the AHCA to revoke, rather than only deny,⁶⁰ a facility's or a controlling interest's license if that facility or controlling interest has, or had, a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or was the subject of other specified administrative sanctions;
- Add additional criteria under which the AHCA must deny or revoke a facility's license; and
- Require that the AHCA impose an immediate moratorium on a facility that fails to provide the AHCA with access to the facility, prohibits a regulatory inspection, denies access to records, or prohibits the confidential interview of facility staff or residents.

This section of the bill also clarifies that if a facility is required to relocate its residents due to AHCA action, the facility does not have to give residents 45 days' notice as required under s. 429.28(1)(k), F.S.

Section 7 amends s. 429.178, F.S., to make technical changes and to conform to changes elsewhere in the bill.

⁶⁰ Denial of a license occurs when the AHCA refuses to renew the facilities license at the end of the two-year period the license was issued for.

Section 8 amends s. 429.19, F.S., relating to the impositions of fines, as follows.

- The dollar amount of fines for facilities having fewer than 100 beds is set at at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. These figures represent the midpoint of the current ranges for fines in current law.
- The dollar amount of fines for facilities having 100 or more beds is set at \$11,250 for class I violations, \$4,500 for class II violations, \$1,125 for class III violations, and \$225 for class IV violations. These fines are 1.5 times the amount of the fines for facilities having fewer than 100 beds.
- The bill requires the AHCA to impose a fine on a facility for a class I violation, even if the facility corrects the violation before the AHCA conducts an investigation. Facilities can still challenge such fines through an administrative hearing pursuant to ch. 120, F.S.
- The bill doubles the fines for facilities with repeat class I and class II violations.
- The bill imposes a fine on facilities with repeat class III and class IV violations, regardless of correction. Current law prohibits the AHCA from assessing fines for corrected class III and class IV violations.
- The bill doubles the fines for class III or class IV violations if a facility is cited for one or more such violations, stemming from the same regulation, upon the third licensure inspection if it was previously cited for the same violations over the course of the last two licensure inspections.
- The bill substitutes a fine of \$500 for failure to comply with background screening requirements. This fine will take the place of any fine assessed based on the class of violation.

Section 9 amends s. 429.256, F.S., to allow unlicensed staff to assist with several additional services that fall under the category of assistance with self-administration of medication.

Specifically, unlicensed staff will be allowed to assist with:

- Taking a prefilled insulin syringe to a resident;
- The resident's use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose into the dispensing cup;
- The resident's use of a glucometer to perform blood-glucose level checks;
- Putting on and taking off anti-embolism stockings;
- Applying and removing an oxygen cannula, but not titrating the oxygen levels;
- The resident's use of a continuous positive airway pressure device, but not titrating the device;
- Measuring vital signs; and
- The resident's use of colostomy bags.

Section 10 amends s. 429.28, F.S., to require the posted notice of a resident's rights, obligations, and prohibitions, to specify that complaints made to the ombudsman program, as well as the names and identities of the complainant and any residents involved, are confidential. This section also creates a fine of \$2,500, which is imposed if a facility cannot show good cause in state court for terminating the residency of an individual who has exercised an enumerated right.

Section 11 amends s. 429.34, F.S., to require certain state officials, such as Medicaid Fraud investigators and state or local fire marshals, to report any knowledge or reasonable suspicion that a vulnerable adult has been or is being abused, neglected, or exploited to the DCF central abuse hotline. The bill provides that a facility having one or more class I violations, two or more class II violations arising from separate surveys within a 60-day period, or two or more unrelated class II violations cited during one survey, be subject to an additional inspection within six months. The licensee must pay a fee to the AHCA to cover the cost of the additional inspection.

Section 12 amends s. 429.41, F.S., to provide that if a continuing care facility or a retirement community licenses part of a building for ALF services, the staffing requirements established in rule apply only to the residents receiving assisted living services.

Section 13 amends s. 429.52, F.S., to require that facilities provide a two-hour, pre-service orientation for all new facility employees who have not previously completed core training. The pre-service orientation must cover topics that help new employees provide responsible care and respond to the needs of the residents. A new employee and the facility's administrator must sign a statement that the new ALF staff member has completed the pre-service orientation. The signed statement must be kept in that staff member's file. The bill clarifies that the pre-service orientation can be provided by the ALF instead of requiring that it be provided by a trainer registered with the DOEA.

The bill also increases the training requirements for staff who assist residents with medication from four to six hours.

Section 14 creates non-statutory provision of law which requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of inter-surveyor reliability to determine if different surveyors consistently apply licensure standards. The OPPAGA must report its findings and make recommendations to the Governor, the President of the Senate, and the Speaker of the House no later than November 1, 2014.

Section 15 creates a non-statutory provision of law which finds that consumers need additional information in order to select an ALF. The bill requires the AHCA to implement a rating system for ALFs by March 1, 2015. This section also requires the AHCA to create a consumer guide website with information on ALFs no later than November 1, 2014. At a minimum, the website must include:

- Information on each licensed ALF such as the number and type of licensed beds, the types of licenses held by the facility, and the expiration date of the facility's license;
- A list of the facility's violations, including a summary of the violation, any sanctions imposed, and the date of any corrective action taken by the facility;
- Links to inspection reports; and
- A monitored comment page to help inform consumers of the quality and care of services in ALFs.

The comment page must allow members of the public to post comments on their experiences with, or observations of, an ALF. A controlling interest in an ALF or an employee or owner of an ALF may not post comments on the page; however, a controlling interest, employee, or owner

may respond to comments on the page, and the AHCA shall ensure that the responses are identified as being from a representative of the facility.

Section 16 appropriates \$156,943 in recurring funds and \$7,546 in nonrecurring funds from the AHCA's Health Care Trust Fund for two full-time equivalent senior attorney positions for the AHCA for the purpose of implementing the bill's regulatory provisions.

Section 17 appropriates \$104,909 in recurring funds and \$101,579 in nonrecurring funds from the AHCA's Health Care Trust Fund for one full-time equivalent health services and facilities consultant; specified contracted services; and the purchase, installation, and maintenance of software, for the purpose of the AHCA's implementation and maintenance of the public information website enhancements provided under the bill.

Section 18 provides an effective date of July 1, 2014.

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:

CS/CS/SB 248 requires the AHCA to conduct a new survey of an ALF within six months after finding a class I violation or two or more class II violations. Facilities that require the additional survey will be charged a fee to cover the cost of the additional survey. According to the AHCA, fees and fines from ALFs under current law do not cover the cost of regulating such facilities statewide.

B. Private Sector Impact:

The bill revises the fine amounts for each of the four classes of violations. Specifically, the bill sets the dollar amount of fines for facilities having fewer than 100 beds at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. Current law provides for a range of fine amounts. For example a facility cited for a class I violation can be fined between \$5,000 and \$10,000 under current law. Under the bill, for facilities having 100 or more beds, fines are multiplied by 1.5 to help resolve an inequity in penalties whereby small facilities can pay the same fine

amount as much larger facilities. Fixing the fine amounts at the mid-point of each range will provide for more predictable outcomes for facilities that are cited for violations.

Additionally, the bill provides for the following changes to the fine amounts:

- A \$2,500 fine if a facility removes a resident without cause, as determined by a state court;
- A doubling of fines for class I or II violations if the facility was previously cited for one or more class I or II violations during the last licensure inspection; and
- An imposition of a fine for class I violations regardless of whether they were corrected prior to being cited by the AHCA.

The AHCA estimates that the new fine structure will initially cost facilities cited for violations a total of approximately \$1.3 million per year. However, these increased costs could be reduced by increased compliance with ALF regulations and a corresponding reduction in the number of cited violations.⁶¹ All fines are subject to challenge through an administrative hearing under ch. 120, F.S.

Facilities having significant uncorrected violations will be more likely to see their licenses suspended or revoked under the bill.

Facilities having any state-supported mental health residents will need to meet limited mental health licensure requirements. Facilities that currently have fewer than three state-supported mental health residents and do not meet these requirements may see increased costs to comply.

Facilities with specialty licenses that meet licensure standards will have fewer monitoring visits from the AHCA. This will positively impact the facilities as they will have less interruption of staff time due to such visits.

The bill requires facilities to provide all new employees who have not already gone through the ALF core training program with a two-hour pre-service training session before they work with residents. Additionally, the bill increases the training requirements for staff who assist residents with medication from four to six hours. The cost of both of these training requirements is not expected to be significant.

C. Government Sector Impact:

The bill will generate approximately \$1 million of additional net revenues for the AHCA per year when accounting for revenue generated and expenditures incurred as a result of the bill. The bill appropriates \$261,852 in recurring funds, \$109,125 in nonrecurring funds, and three full-time equivalent positions from the AHCA's Health Care Trust Fund for implementing the bill's regulatory and public information provisions. These costs will likely be offset, and additional revenue will likely be generated, through the increased fines directed to the Health Care Trust Fund. The AHCA estimates, based on the number

⁶¹ Florida Agency for Health Care Administration, 2014 Agency Legislative Bill Analysis for SB 248, (November 26, 2013) (On file with the Senate Committee on Judiciary).

of violations cited over the past two years, that the new fine structure in the bill will generate approximately \$1.3 million additional revenue per year. However, this amount could decrease if the new fine amounts result in increased compliance and fewer cited violations.⁶²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4574, 400.0074, 400.0078, 429.07, 429.075, 429.14, 429.178, 429.19, 429.256, 429.28, 429.34, 429.41, and 429.52.

The bill creates two new undesignated sections of Florida law.

IX. 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 6, 2014:

The CS includes in the bill provisions to appropriate funds and full-time equivalent positions to the AHCA for the purpose of implementing the regulatory and public information provisions of the bill.

CS by Health Policy on January 8, 2014:

The CS amends SB 248 to:

- Delete language related to flexible bed licenses while retaining language clarifying that a continuing care facility or retirement community which licenses a part of a building for ALF services must only comply with ALF staffing requirements for those residents who are receiving ALF services;
- Require an ALF administrator to sign a statement, rather than attest under penalty of perjury, that a new employee has completed a pre-service orientation;
- Change the date by which the AHCA must implement a rating system for ALFs from November 1, 2014, to March 1, 2015;
- Change the date by which the AHCA must create a website with ALF content from January 1, 2015, to November 1, 2014;
- Require the AHCA to post the date that an ALF corrects a cited violation, rather than a summary of the corrective action taken;

⁶² *Id.*

- Rename “Medicaid prepaid behavioral health plans” to “Medicaid managed care plans;” and
- Clarify:
 - That a provisional ECC license expires if the ALF fails to admit an ECC resident within three months after receiving the provisional license;
 - That ombudsman council complaints resulting in licensure citations need not be confirmed before they require the AHCA to perform the full number of licensure inspections for ECC and LNS licenses.
 - Language requiring the AHCA to impose fines for class I violations that are corrected before a licensure inspection.
 - That assisting a resident with applying and removing an oxygen cannula or a CPAP device does not include titrating the cannula or device.

B. Amendments:

None.



642396

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/06/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment (with title amendment)

Between lines 1049 and 1050
insert:

Section 16. For the 2014-2015 fiscal year, the sums of \$156,943 in recurring funds and \$7,546 in nonrecurring funds from the Health Care Trust Fund and two full-time equivalent senior attorney positions with associated salary rate of 103,652 are appropriated to the Agency for Health Care Administration for the purpose of implementing the regulatory provisions of



642396

11 this act.

12 Section 17. For the 2014-2015 fiscal year, for the purpose
13 of implementing and maintaining the public information website
14 enhancements provided under this act:

15 (1) The sums of \$72,435 in recurring funds and \$3,773 in
16 nonrecurring funds from the Health Care Trust Fund and one full-
17 time equivalent health services and facilities consultant
18 position with associated salary rate of 46,560 are appropriated
19 to the Agency for Health Care Administration;

20 (2) The sums of \$30,000 in recurring funds and \$15,000 in
21 nonrecurring funds from the Health Care Trust Fund are
22 appropriated to the Agency for Health Care Administration for
23 software purchase, installation, and maintenance services; and

24 (3) The sums of \$2,474 in recurring funds and \$82,806 in
25 nonrecurring funds from the Health Care Trust Fund are
26 appropriated to the Agency for Health Care Administration for
27 contracted services.

28
29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete line 146

32 and insert:

33 providing appropriations; providing an effective date.

By the Committees on Health Policy; and Children, Families, and Elder Affairs

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1 A bill to be entitled
 2 An act relating to assisted living facilities;
 3 amending s. 394.4574, F.S.; providing that Medicaid
 4 managed care plans are responsible for enrolled mental
 5 health residents; providing that managing entities
 6 under contract with the Department of Children and
 7 Families are responsible for mental health residents
 8 who are not enrolled with a Medicaid managed care
 9 plan; deleting a provision to conform to changes made
 10 by the act; requiring that the community living
 11 support plan be completed and provided to the
 12 administrator of a facility upon the mental health
 13 resident's admission; requiring the community living
 14 support plan to be updated when there is a significant
 15 change to the mental health resident's behavioral
 16 health; requiring the case manager assigned to a
 17 mental health resident of an assisted living facility
 18 that holds a limited mental health license to keep a
 19 record of the date and time of face-to-face
 20 interactions with the resident and to make the record
 21 available to the responsible entity for inspection;
 22 requiring that the record be maintained for a
 23 specified time; requiring the responsible entity to
 24 ensure that there is adequate and consistent
 25 monitoring and enforcement of community living support
 26 plans and cooperative agreements and that concerns are
 27 reported to the appropriate regulatory oversight
 28 organization under certain circumstances; amending s.
 29 400.0074, F.S.; requiring that an administrative

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30 assessment conducted by a local council be
 31 comprehensive in nature and focus on factors affecting
 32 the rights, health, safety, and welfare of residents
 33 in the facilities; requiring a local council to
 34 conduct an exit consultation with the facility
 35 administrator or administrator designee to discuss
 36 issues and concerns in areas affecting the rights,
 37 health, safety, and welfare of residents and make
 38 recommendations for improvement; amending s. 400.0078,
 39 F.S.; requiring that a resident or a representative of
 40 a resident of a long-term care facility be informed
 41 that retaliatory action cannot be taken against a
 42 resident for presenting grievances or for exercising
 43 any other resident right; amending s. 429.07, F.S.;
 44 revising the requirement that an extended congregate
 45 care license be issued to certain facilities that have
 46 been licensed as assisted living facilities under
 47 certain circumstances and authorizing the issuance of
 48 such license if a specified condition is met;
 49 providing the purpose of an extended congregate care
 50 license; providing that the initial extended
 51 congregate care license of an assisted living facility
 52 is provisional under certain circumstances; requiring
 53 a licensee to notify the Agency for Health Care
 54 Administration if it accepts a resident who qualifies
 55 for extended congregate care services; requiring the
 56 agency to inspect the facility for compliance with the
 57 requirements of an extended congregate care license;
 58 requiring the issuance of an extended congregate care

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59 license under certain circumstances; requiring the
 60 licensee to immediately suspend extended congregate
 61 care services under certain circumstances; requiring a
 62 registered nurse representing the agency to visit the
 63 facility at least twice a year, rather than quarterly,
 64 to monitor residents who are receiving extended
 65 congregate care services; authorizing the agency to
 66 waive one of the required yearly monitoring visits
 67 under certain circumstances; authorizing the agency to
 68 deny or revoke a facility's extended congregate care
 69 license; requiring a registered nurse representing the
 70 agency to visit the facility at least annually, rather
 71 than twice a year, to monitor residents who are
 72 receiving limited nursing services; providing that
 73 such monitoring visits may be conducted in conjunction
 74 with other inspections by the agency; authorizing the
 75 agency to waive the required yearly monitoring visit
 76 for a facility that is licensed to provide limited
 77 nursing services under certain circumstances; amending
 78 s. 429.075, F.S.; requiring that an assisted living
 79 facility that serves one or more mental health
 80 residents, rather than three or more residents, obtain
 81 a limited mental health license; amending s. 429.14,
 82 F.S.; revising the circumstances under which the
 83 agency may deny, revoke, or suspend the license of an
 84 assisted living facility and impose an administrative
 85 fine; requiring the agency to deny or revoke the
 86 license of an assisted living facility under certain
 87 circumstances; requiring the agency to impose an

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88 immediate moratorium on the license of an assisted
 89 living facility under certain circumstances; deleting
 90 a provision requiring the agency to provide a list of
 91 facilities with denied, suspended, or revoked licenses
 92 to the Department of Business and Professional
 93 Regulation; exempting a facility from the 45-day
 94 notice requirement if it is required to relocate some
 95 or all of its residents; amending s. 429.178, F.S.;
 96 conforming cross-references; amending s. 429.19, F.S.;
 97 revising the amounts and uses of administrative fines;
 98 requiring the agency to levy a fine for violations
 99 that are corrected before an inspection if
 100 noncompliance occurred within a specified period of
 101 time; deleting factors that the agency is required to
 102 consider in determining penalties and fines; amending
 103 s. 429.256, F.S.; revising the term "assistance with
 104 self-administration of medication" as it relates to
 105 the Assisted Living Facilities Act; amending s.
 106 429.28, F.S.; providing notice requirements to inform
 107 facility residents that the identity of the resident
 108 and complainant in any complaint made to the State
 109 Long-Term Care Ombudsman Program or a local long-term
 110 care ombudsman council is confidential and that
 111 retaliatory action may not be taken against a resident
 112 for presenting grievances or for exercising any other
 113 resident right; requiring that a facility that
 114 terminates an individual's residency after the filing
 115 of a complaint be fined if good cause is not shown for
 116 the termination; amending s. 429.34, F.S.; requiring

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117 certain persons to report elder abuse in assisted
 118 living facilities; requiring the agency to regularly
 119 inspect every licensed assisted living facility;
 120 requiring the agency to conduct more frequent
 121 inspections under certain circumstances; requiring the
 122 licensee to pay a fee for the cost of additional
 123 inspections; requiring the agency to annually adjust
 124 the fee; amending s. 429.41, F.S.; providing that
 125 certain staffing requirements apply only to residents
 126 in continuing care facilities who are receiving
 127 relevant services; amending s. 429.52, F.S.; requiring
 128 each newly hired employee of an assisted living
 129 facility to attend a preservice orientation provided
 130 by the assisted living facility; requiring the
 131 employee and administrator to sign a statement that
 132 the employee completed the required preservice
 133 orientation and keep the signed statement in the
 134 employee's personnel record; requiring 2 additional
 135 hours of training for assistance with medication;
 136 conforming a cross-reference; requiring the Office of
 137 Program Policy Analysis and Government Accountability
 138 to study the reliability of facility surveys and
 139 submit to the Governor and the Legislature its
 140 findings and recommendations; requiring the agency to
 141 implement a rating system of assisted living
 142 facilities by a specified date, adopt rules, and
 143 create content for the agency's website that makes
 144 available to consumers information regarding assisted
 145 living facilities; providing criteria for the content;

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146 providing an effective date.

147

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

149

150 Section 1. Section 394.4574, Florida Statutes, is amended
 151 to read:

152 394.4574 ~~Department~~ Responsibilities for coordination of
 153 services for a mental health resident who resides in an assisted
 154 living facility that holds a limited mental health license.—

155 (1) As used in this section, the term "mental health
 156 resident" "mental health resident," for purposes of this
 157 ~~section,~~ means an individual who receives social security
 158 disability income due to a mental disorder as determined by the
 159 Social Security Administration or receives supplemental security
 160 income due to a mental disorder as determined by the Social
 161 Security Administration and receives optional state
 162 supplementation.

163 (2) Medicaid managed care plans are responsible for
 164 Medicaid-enrolled mental health residents, and managing entities
 165 under contract with the department are responsible for mental
 166 health residents who are not enrolled in a Medicaid health plan.
 167 A Medicaid managed care plan or a managing entity, as
 168 appropriate, shall ~~The department must~~ ensure that:

169 (a) A mental health resident has been assessed by a
 170 psychiatrist, clinical psychologist, clinical social worker, or
 171 psychiatric nurse, or an individual who is supervised by one of
 172 these professionals, and determined to be appropriate to reside
 173 in an assisted living facility. The documentation must be
 174 provided to the administrator of the facility within 30 days

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175 after the mental health resident has been admitted to the
 176 facility. An evaluation completed upon discharge from a state
 177 mental hospital meets the requirements of this subsection
 178 related to appropriateness for placement as a mental health
 179 resident if it was completed within 90 days before ~~prior to~~
 180 admission to the facility.

181 (b) A cooperative agreement, as required in s. 429.075, is
 182 developed by ~~between~~ the mental health care services provider
 183 that serves a mental health resident and the administrator of
 184 the assisted living facility with a limited mental health
 185 license in which the mental health resident is living. ~~Any~~
 186 entity that provides Medicaid prepaid health plan services shall
 187 ensure the appropriate coordination of health care services with
 188 an assisted living facility in cases where a Medicaid recipient
 189 is both a member of the entity's prepaid health plan and a
 190 resident of the assisted living facility. If the entity is at
 191 risk for Medicaid targeted case management and behavioral health
 192 services, the entity shall inform the assisted living facility
 193 of the procedures to follow should an emergent condition arise.

194 (c) The community living support plan, as defined in s.
 195 429.02, has been prepared by a mental health resident and his or
 196 her a mental health case manager ~~of that resident~~ in
 197 consultation with the administrator of the facility or the
 198 administrator's designee. The plan must be completed and
 199 provided to the administrator of the assisted living facility
 200 with a limited mental health license in which the mental health
 201 resident lives upon the resident's admission. The support plan
 202 and the agreement may be in one document.

203 (d) The assisted living facility with a limited mental

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204 health license is provided with documentation that the
 205 individual meets the definition of a mental health resident.

206 (e) The mental health services provider assigns a case
 207 manager to each mental health resident for whom the entity is
 208 responsible ~~who lives in an assisted living facility with a~~
 209 ~~limited mental health license.~~ The case manager shall coordinate
 210 ~~is responsible for coordinating~~ the development ~~of~~ and
 211 implementation of the community living support plan defined in
 212 s. 429.02. The plan must be updated at least annually, or when
 213 there is a significant change in the resident's behavioral
 214 health status, such as an inpatient admission or a change in
 215 medication, level of service, or residence. Each case manager
 216 shall keep a record of the date and time of any face-to-face
 217 interaction with the resident and make the record available to
 218 the responsible entity for inspection. The record must be
 219 retained for at least 2 years after the date of the most recent
 220 interaction.

221 (f) Adequate and consistent monitoring and enforcement of
 222 community living support plans and cooperative agreements are
 223 conducted by the resident's case manager.

224 (g) Concerns are reported to the appropriate regulatory
 225 oversight organization if a regulated provider fails to deliver
 226 appropriate services or otherwise acts in a manner that has the
 227 potential to result in harm to the resident.

228 (3) The Secretary of Children and ~~Families~~ Family Services,
 229 in consultation with the Agency for Health Care Administration,
 230 shall ~~annually~~ require each district administrator to develop,
 231 with community input, a detailed annual plan that demonstrates
 232 ~~detailed plans that demonstrate~~ how the district will ensure the

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233 provision of state-funded mental health and substance abuse
 234 treatment services to residents of assisted living facilities
 235 that hold a limited mental health license. ~~This plan~~ ~~These plans~~
 236 must be consistent with the substance abuse and mental health
 237 district plan developed pursuant to s. 394.75 and must address
 238 case management services; access to consumer-operated drop-in
 239 centers; access to services during evenings, weekends, and
 240 holidays; supervision of the clinical needs of the residents;
 241 and access to emergency psychiatric care.

242 Section 2. Subsection (1) of section 400.0074, Florida
 243 Statutes, is amended, and paragraph (h) is added to subsection
 244 (2) of that section, to read:

245 400.0074 Local ombudsman council onsite administrative
 246 assessments.—

247 (1) In addition to any specific investigation conducted
 248 pursuant to a complaint, the local council shall conduct, at
 249 least annually, an onsite administrative assessment of each
 250 nursing home, assisted living facility, and adult family-care
 251 home within its jurisdiction. This administrative assessment
 252 must be comprehensive in nature and must shall focus on factors
 253 affecting residents' the rights, health, safety, and welfare of
 254 the residents. Each local council is encouraged to conduct a
 255 similar onsite administrative assessment of each additional
 256 long-term care facility within its jurisdiction.

257 (2) An onsite administrative assessment conducted by a
 258 local council shall be subject to the following conditions:

259 (h) The local council shall conduct an exit consultation
 260 with the facility administrator or administrator designee to
 261 discuss issues and concerns in areas affecting residents'

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262 rights, health, safety, and welfare and, if needed, make
 263 recommendations for improvement.

264 Section 3. Subsection (2) of section 400.0078, Florida
 265 Statutes, is amended to read:

266 400.0078 Citizen access to State Long-Term Care Ombudsman
 267 Program services.—

268 (2) ~~Every resident or representative of a resident shall~~
 269 ~~receive~~, Upon admission to a long-term care facility, each
 270 resident or representative of a resident must receive
 271 information regarding the purpose of the State Long-Term Care
 272 Ombudsman Program, the statewide toll-free telephone number for
 273 receiving complaints, information that retaliatory action cannot
 274 be taken against a resident for presenting grievances or for
 275 exercising any other resident right, and other relevant
 276 information regarding how to contact the program. Each resident
 277 or his or her representative ~~Residents or their representatives~~
 278 must be furnished additional copies of this information upon
 279 request.

280 Section 4. Paragraphs (b) and (c) of subsection (3) of
 281 section 429.07, Florida Statutes, are amended to read:

282 429.07 License required; fee.—

283 (3) In addition to the requirements of s. 408.806, each
 284 license granted by the agency must state the type of care for
 285 which the license is granted. Licenses shall be issued for one
 286 or more of the following categories of care: standard, extended
 287 congregate care, limited nursing services, or limited mental
 288 health.

289 (b) An extended congregate care license shall be issued to
 290 each facility that has been licensed as an assisted living

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291 facility for 2 or more years and that provides services
 292 ~~facilities providing~~, directly or through contract, ~~services~~
 293 beyond those authorized in paragraph (a), including services
 294 performed by persons licensed under part I of chapter 464 and
 295 supportive services, as defined by rule, to persons who would
 296 otherwise be disqualified from continued residence in a facility
 297 licensed under this part. An extended congregate care license
 298 may be issued to a facility that has a provisional extended
 299 congregate care license and meets the requirements for licensure
 300 under subparagraph 2. The primary purpose of extended congregate
 301 care services is to allow residents the option of remaining in a
 302 familiar setting from which they would otherwise be disqualified
 303 for continued residency as they become more impaired. A facility
 304 licensed to provide extended congregate care services may also
 305 admit an individual who exceeds the admission criteria for a
 306 facility with a standard license, if he or she is determined
 307 appropriate for admission to the extended congregate care
 308 facility.

309 1. In order for extended congregate care services to be
 310 provided, the agency must first determine that all requirements
 311 established in law and rule are met and must specifically
 312 designate, on the facility's license, that such services may be
 313 provided and whether the designation applies to all or part of
 314 the facility. This ~~Such~~ designation may be made at the time of
 315 initial licensure or ~~licensure renewal~~ ~~relicensure~~, or upon
 316 request in writing by a licensee under this part and part II of
 317 chapter 408. The notification of approval or the denial of the
 318 request shall be made in accordance with part II of chapter 408.
 319 Each existing facility that qualifies ~~facilities qualifying~~ to

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320 provide extended congregate care services must have maintained a
 321 standard license and may not have been subject to administrative
 322 sanctions during the previous 2 years, or since initial
 323 licensure if the facility has been licensed for less than 2
 324 years, for any of the following reasons:
 325 a. A class I or class II violation;
 326 b. Three or more repeat or recurring class III violations
 327 of identical or similar resident care standards from which a
 328 pattern of noncompliance is found by the agency;
 329 c. Three or more class III violations that were not
 330 corrected in accordance with the corrective action plan approved
 331 by the agency;
 332 d. Violation of resident care standards which results in
 333 requiring the facility to employ the services of a consultant
 334 pharmacist or consultant dietitian;
 335 e. Denial, suspension, or revocation of a license for
 336 another facility licensed under this part in which the applicant
 337 for an extended congregate care license has at least 25 percent
 338 ownership interest; or
 339 f. Imposition of a moratorium pursuant to this part or part
 340 II of chapter 408 or initiation of injunctive proceedings.

341
 342 The agency may deny or revoke a facility's extended congregate
 343 care license for not meeting the criteria for an extended
 344 congregate care license as provided in this subparagraph.

345 2. If an assisted living facility has been licensed
 346 for less than 2 years, the initial extended congregate care
 347 license must be provisional and may not exceed 6 months. Within
 348 the first 3 months after the provisional license is issued, the

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349 licensee shall notify the agency, in writing, when it has
 350 admitted at least one extended congregate care resident, after
 351 which an unannounced inspection shall be made to determine
 352 compliance with requirements of an extended congregate care
 353 license. Failure to admit an extended congregate care resident
 354 within the first 3 months shall render the extended congregate
 355 care license void. A licensee that has a provisional extended
 356 congregate care license which demonstrates compliance with all
 357 of the requirements of an extended congregate care license
 358 during the inspection shall be issued an extended congregate
 359 care license. In addition to sanctions authorized under this
 360 part, if violations are found during the inspection and the
 361 licensee fails to demonstrate compliance with all assisted
 362 living requirements during a followup inspection, the licensee
 363 shall immediately suspend extended congregate care services, and
 364 the provisional extended congregate care license expires. The
 365 agency may extend the provisional license for not more than 1
 366 month in order to complete a followup visit.

367 3.2- A facility that is licensed to provide extended
 368 congregate care services shall maintain a written progress
 369 report on each person who receives services which describes the
 370 type, amount, duration, scope, and outcome of services that are
 371 rendered and the general status of the resident's health. A
 372 registered nurse, or appropriate designee, representing the
 373 agency shall visit the facility at least twice a year ~~quarterly~~
 374 to monitor residents who are receiving extended congregate care
 375 services and to determine if the facility is in compliance with
 376 this part, part II of chapter 408, and relevant rules. One of
 377 the visits may be in conjunction with the regular survey. The

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378 monitoring visits may be provided through contractual
 379 arrangements with appropriate community agencies. A registered
 380 nurse shall serve as part of the team that inspects the
 381 facility. The agency may waive one of the required yearly
 382 monitoring visits for a facility that has:

383 a. Held an extended congregate care license for at least 24
 384 months; been licensed for at least 24 months to provide extended
 385 congregate care services, if, during the inspection, the
 386 registered nurse determines that extended congregate care
 387 services are being provided appropriately, and if the facility
 388 has

389 b. No class I or class II violations and no uncorrected
 390 class III violations; and-

391 c. No ombudsman council complaints that resulted in a
 392 citation for licensure ~~The agency must first consult with the~~
 393 ~~long-term care ombudsman council for the area in which the~~
 394 ~~facility is located to determine if any complaints have been~~
 395 ~~made and substantiated about the quality of services or care.~~
 396 ~~The agency may not waive one of the required yearly monitoring~~
 397 ~~visits if complaints have been made and substantiated.~~

398 4.3- A facility that is licensed to provide extended
 399 congregate care services must:

400 a. Demonstrate the capability to meet unanticipated
 401 resident service needs.

402 b. Offer a physical environment that promotes a homelike
 403 setting, provides for resident privacy, promotes resident
 404 independence, and allows sufficient congregate space as defined
 405 by rule.

406 c. Have sufficient staff available, taking into account the

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407 physical plant and firesafety features of the building, to
 408 assist with the evacuation of residents in an emergency.

409 d. Adopt and follow policies and procedures that maximize
 410 resident independence, dignity, choice, and decisionmaking to
 411 permit residents to age in place, so that moves due to changes
 412 in functional status are minimized or avoided.

413 e. Allow residents or, if applicable, a resident's
 414 representative, designee, surrogate, guardian, or attorney in
 415 fact to make a variety of personal choices, participate in
 416 developing service plans, and share responsibility in
 417 decisionmaking.

418 f. Implement the concept of managed risk.

419 g. Provide, directly or through contract, the services of a
 420 person licensed under part I of chapter 464.

421 h. In addition to the training mandated in s. 429.52,
 422 provide specialized training as defined by rule for facility
 423 staff.

424 5.4- A facility that is licensed to provide extended
 425 congregate care services is exempt from the criteria for
 426 continued residency set forth in rules adopted under s. 429.41.
 427 A licensed facility must adopt its own requirements within
 428 guidelines for continued residency set forth by rule. However,
 429 the facility may not serve residents who require 24-hour nursing
 430 supervision. A licensed facility that provides extended
 431 congregate care services must also provide each resident with a
 432 written copy of facility policies governing admission and
 433 retention.

434 ~~5. The primary purpose of extended congregate care services~~
 435 ~~is to allow residents, as they become more impaired, the option~~

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436 ~~of remaining in a familiar setting from which they would~~
 437 ~~otherwise be disqualified for continued residency. A facility~~
 438 ~~licensed to provide extended congregate care services may also~~
 439 ~~admit an individual who exceeds the admission criteria for a~~
 440 ~~facility with a standard license, if the individual is~~
 441 ~~determined appropriate for admission to the extended congregate~~
 442 ~~care facility.~~

443 6. Before the admission of an individual to a facility
 444 licensed to provide extended congregate care services, the
 445 individual must undergo a medical examination as provided in s.
 446 429.26(4) and the facility must develop a preliminary service
 447 plan for the individual.

448 7. ~~If~~ When a facility can no longer provide or arrange for
 449 services in accordance with the resident's service plan and
 450 needs and the facility's policy, the facility must ~~shall~~ make
 451 arrangements for relocating the person in accordance with s.
 452 429.28(1)(k).

453 ~~8. Failure to provide extended congregate care services may~~
 454 ~~result in denial of extended congregate care license renewal.~~

455 (c) A limited nursing services license shall be issued to a
 456 facility that provides services beyond those authorized in
 457 paragraph (a) and as specified in this paragraph.

458 1. In order for limited nursing services to be provided in
 459 a facility licensed under this part, the agency must first
 460 determine that all requirements established in law and rule are
 461 met and must specifically designate, on the facility's license,
 462 that such services may be provided. This ~~Such~~ designation may be
 463 made at the time of initial licensure or licensure renewal
 464 ~~relicensure~~, or upon request in writing by a licensee under this

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465 part and part II of chapter 408. Notification of approval or
 466 denial of such request shall be made in accordance with part II
 467 of chapter 408. An existing facility that qualifies facilities
 468 ~~qualifying~~ to provide limited nursing services must shall have
 469 maintained a standard license and may not have been subject to
 470 administrative sanctions that affect the health, safety, and
 471 welfare of residents for the previous 2 years or since initial
 472 licensure if the facility has been licensed for less than 2
 473 years.

474 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
 475 limited nursing services shall maintain a written progress
 476 report on each person who receives such nursing services. The
 477 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
 478 scope, and outcome of services that are rendered and the general
 479 status of the resident's health. A registered nurse representing
 480 the agency shall visit the facility ~~such facilities~~ at least
 481 annually twice a year to monitor residents who are receiving
 482 limited nursing services and to determine if the facility is in
 483 compliance with applicable provisions of this part, part II of
 484 chapter 408, and related rules. The monitoring visits may be
 485 provided through contractual arrangements with appropriate
 486 community agencies. A registered nurse shall also serve as part
 487 of the team that inspects such facility. Visits may be in
 488 conjunction with other agency inspections. The agency may waive
 489 the required yearly monitoring visit for a facility that has:

490 a. Had a limited nursing services license for at least 24
 491 months;

492 b. No class I or class II violations and no uncorrected
 493 class III violations; and

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494 c. No ombudsman council complaints that resulted in a
 495 citation for licensure.

496 3. A person who receives limited nursing services under
 497 this part must meet the admission criteria established by the
 498 agency for assisted living facilities. When a resident no longer
 499 meets the admission criteria for a facility licensed under this
 500 part, arrangements for relocating the person shall be made in
 501 accordance with s. 429.28(1)(k), unless the facility is licensed
 502 to provide extended congregate care services.

503 Section 5. Section 429.075, Florida Statutes, is amended to
 504 read:

505 429.075 Limited mental health license.—An assisted living
 506 facility that serves one ~~three~~ or more mental health residents
 507 must obtain a limited mental health license.

508 (1) To obtain a limited mental health license, a facility
 509 must hold a standard license as an assisted living facility,
 510 must not have any current uncorrected ~~deficiencies or~~
 511 violations, and must ensure that, within 6 months after
 512 receiving a limited mental health license, the facility
 513 administrator and the staff of the facility who are in direct
 514 contact with mental health residents must complete training of
 515 no less than 6 hours related to their duties. This ~~Such~~
 516 designation may be made at the time of initial licensure or
 517 licensure renewal ~~relicensure~~ or upon request in writing by a
 518 licensee under this part and part II of chapter 408.
 519 Notification of approval or denial of such request shall be made
 520 in accordance with this part, part II of chapter 408, and
 521 applicable rules. This training must ~~will~~ be provided by or
 522 approved by the Department of Children and Families ~~Family~~

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523 ~~Services.~~

524 (2) A facility that is ~~Facilities~~ licensed to provide
 525 services to mental health residents ~~must shall~~ provide
 526 appropriate supervision and staffing to provide for the health,
 527 safety, and welfare of such residents.

528 (3) A facility that has a limited mental health license
 529 must:

530 (a) Have a copy of each mental health resident's community
 531 living support plan and the cooperative agreement with the
 532 mental health care services provider. The support plan and the
 533 agreement may be combined.

534 (b) Have documentation ~~that is~~ provided by the Department
 535 of Children and Families ~~Family Services~~ that each mental health
 536 resident has been assessed and determined to be able to live in
 537 the community in an assisted living facility that has ~~with~~ a
 538 limited mental health license.

539 (c) Make the community living support plan available for
 540 inspection by the resident, the resident's legal guardian or
 541 ~~the resident's~~ health care surrogate, and other individuals who
 542 have a lawful basis for reviewing this document.

543 (d) Assist the mental health resident in carrying out the
 544 activities identified in the individual's community living
 545 support plan.

546 (4) A facility that has ~~with~~ a limited mental health
 547 license may enter into a cooperative agreement with a private
 548 mental health provider. For purposes of the limited mental
 549 health license, the private mental health provider may act as
 550 the case manager.

551 Section 6. Section 429.14, Florida Statutes, is amended to

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552 read:

553 429.14 Administrative penalties.—

554 (1) In addition to the requirements of part II of chapter
 555 408, the agency may deny, revoke, and suspend any license issued
 556 under this part and impose an administrative fine in the manner
 557 provided in chapter 120 against a licensee for a violation of
 558 any provision of this part, part II of chapter 408, or
 559 applicable rules, or for any of the following actions by a
 560 licensee, ~~for the actions of~~ any person subject to level 2
 561 background screening under s. 408.809, or ~~for the actions of~~ any
 562 facility staff ~~employee~~:

563 (a) An intentional or negligent act seriously affecting the
 564 health, safety, or welfare of a resident of the facility.

565 (b) A ~~The~~ determination by the agency that the owner lacks
 566 the financial ability to provide continuing adequate care to
 567 residents.

568 (c) Misappropriation or conversion of the property of a
 569 resident of the facility.

570 (d) Failure to follow the criteria and procedures provided
 571 under part I of chapter 394 relating to the transportation,
 572 voluntary admission, and involuntary examination of a facility
 573 resident.

574 (e) A citation for ~~of~~ any of the following violations
 575 ~~deficiencies~~ as specified in s. 429.19:

- 576 1. One or more cited class I violations ~~deficiencies~~.
 - 577 2. Three or more cited class II violations ~~deficiencies~~.
 - 578 3. Five or more cited class III violations ~~deficiencies~~
- 579 that have been cited on a single survey and have not been
 580 corrected within the times specified.

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581 (f) Failure to comply with the background screening
 582 standards of this part, s. 408.809(1), or chapter 435.

583 (g) Violation of a moratorium.

584 (h) Failure of the license applicant, the licensee during
 585 licensure renewal ~~relicensure~~, or a licensee that holds a
 586 provisional license to meet the minimum license requirements of
 587 this part, or related rules, at the time of license application
 588 or renewal.

589 (i) An intentional or negligent life-threatening act in
 590 violation of the uniform firesafety standards for assisted
 591 living facilities or other firesafety standards which that
 592 threatens the health, safety, or welfare of a resident of a
 593 facility, as communicated to the agency by the local authority
 594 having jurisdiction or the State Fire Marshal.

595 (j) Knowingly operating any unlicensed facility or
 596 providing without a license any service that must be licensed
 597 under this chapter or chapter 400.

598 (k) Any act constituting a ground upon which application
 599 for a license may be denied.

600 (2) Upon notification by the local authority having
 601 jurisdiction or by the State Fire Marshal, the agency may deny
 602 or revoke the license of an assisted living facility that fails
 603 to correct cited fire code violations that affect or threaten
 604 the health, safety, or welfare of a resident of a facility.

605 (3) The agency may deny or revoke a license of an to any
 606 applicant or controlling interest as defined in part II of
 607 chapter 408 which has or had a 25 percent ~~25 percent~~ or greater
 608 financial or ownership interest in any other facility that is
 609 licensed under this part, or in any entity licensed by this

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610 state or another state to provide health or residential care, if
 611 that which facility or entity during the 5 years before ~~prior to~~
 612 the application for a license closed due to financial inability
 613 to operate; had a receiver appointed or a license denied,
 614 suspended, or revoked; was subject to a moratorium; or had an
 615 injunctive proceeding initiated against it.

616 (4) The agency shall deny or revoke the license of an
 617 assisted living facility if:

618 (a) There are two moratoria, issued pursuant to this part
 619 or part II of chapter 408, within a 2-year period which are
 620 imposed by final order;

621 (b) The facility is cited for two or more class I
 622 violations arising from unrelated circumstances during the same
 623 survey or investigation; or

624 (c) The facility is cited for two or more class I
 625 violations arising from separate surveys or investigations
 626 within a 2-year period that has two or more class I violations
 627 that are similar or identical to violations identified by the
 628 agency during a survey, inspection, monitoring visit, or
 629 complaint investigation occurring within the previous 2 years.

630 (5) An action taken by the agency to suspend, deny, or
 631 revoke a facility's license under this part or part II of
 632 chapter 408, in which the agency claims that the facility owner
 633 or an employee of the facility has threatened the health,
 634 safety, or welfare of a resident of the facility, must be heard
 635 by the Division of Administrative Hearings of the Department of
 636 Management Services within 120 days after receipt of the
 637 facility's request for a hearing, unless that time limitation is
 638 waived by both parties. The administrative law judge shall ~~must~~

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639 render a decision within 30 days after receipt of a proposed
640 recommended order.

641 (6) As provided under s. 408.814, the agency shall impose
642 an immediate moratorium on an assisted living facility that
643 fails to provide the agency access to the facility or prohibits
644 the agency from conducting a regulatory inspection. The licensee
645 may not restrict agency staff in accessing and copying records
646 or in conducting confidential interviews with facility staff or
647 any individual who receives services from the facility provide
648 to the Division of Hotels and Restaurants of the Department of
649 Business and Professional Regulation, on a monthly basis, a list
650 of those assisted living facilities that have had their licenses
651 denied, suspended, or revoked or that are involved in an
652 appellate proceeding pursuant to s. 120.60 related to the
653 denial, suspension, or revocation of a license.

654 (7) Agency notification of a license suspension or
655 revocation, or denial of a license renewal, shall be posted and
656 visible to the public at the facility.

657 (8) If a facility is required to relocate some or all of
658 its residents due to agency action, that facility is exempt from
659 the 45 days' notice requirement imposed under s. 429.28(1)(k).
660 This subsection does not exempt the facility from any deadlines
661 for corrective action set by the agency.

662 Section 7. Paragraphs (a) and (b) of subsection (2) of
663 section 429.178, Florida Statutes, are amended to read:

664 429.178 Special care for persons with Alzheimer's disease
665 or other related disorders.—

666 (2) (a) An individual who is employed by a facility that
667 provides special care for residents who have with Alzheimer's

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668 disease or other related disorders, and who has regular contact
669 with such residents, must complete up to 4 hours of initial
670 dementia-specific training developed or approved by the
671 department. The training ~~must shall~~ be completed within 3 months
672 after beginning employment and ~~satisfy shall satisfy~~ the core
673 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

674 (b) A direct caregiver who is employed by a facility that
675 provides special care for residents who have with Alzheimer's
676 disease or other related disorders, ~~and who~~ provides direct care
677 to such residents, must complete the required initial training
678 and 4 additional hours of training developed or approved by the
679 department. The training ~~must shall~~ be completed within 9 months
680 after beginning employment and ~~satisfy shall satisfy~~ the core
681 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

682 Section 8. Section 429.19, Florida Statutes, is amended to
683 read:

684 429.19 Violations; imposition of administrative fines;
685 grounds.—

686 (1) In addition to the requirements of part II of chapter
687 408, the agency shall impose an administrative fine in the
688 manner provided in chapter 120 for the violation of any
689 provision of this part, part II of chapter 408, and applicable
690 rules by an assisted living facility, for the actions of any
691 person subject to level 2 background screening under s. 408.809,
692 for the actions of any facility employee, or for an intentional
693 or negligent act seriously affecting the health, safety, or
694 welfare of a resident of the facility.

695 (2) Each violation of this part and adopted rules ~~must~~
696 ~~shall~~ be classified according to the nature of the violation and

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697 the gravity of its probable effect on facility residents.

698 (a) The agency shall indicate the classification on the
699 written notice of the violation as follows:

700 1.~~(a)~~ Class "I" violations are defined in s. 408.813. The
701 agency shall impose an administrative fine of \$7,500 for each a
702 cited class I violation in a facility that is licensed for fewer
703 than 100 beds at the time of the violation in an amount not less
704 than \$5,000 and not exceeding \$10,000 for each violation. The
705 agency shall impose an administrative fine of \$11,250 for each
706 cited class I violation in a facility that is licensed for 100
707 or more beds at the time of the violation. If the agency has
708 knowledge of a class I violation which occurred within 12 months
709 before an inspection, a fine must be levied for that violation
710 whether or not the noncompliance was corrected before the
711 inspection.

712 2.~~(b)~~ Class "II" violations are defined in s. 408.813. The
713 agency shall impose an administrative fine of \$3,000 for each a
714 cited class II violation in a facility that is licensed for
715 fewer than 100 beds at the time of the violation in an amount
716 not less than \$1,000 and not exceeding \$5,000 for each
717 violation. The agency shall impose an administrative fine of
718 \$4,500 for each cited class II violation in a facility that is
719 licensed for 100 or more beds at the time of the violation.

720 3.~~(c)~~ Class "III" violations are defined in s. 408.813. The
721 agency shall impose an administrative fine of \$750 for each a
722 cited class III violation in a facility that is licensed for
723 fewer than 100 beds at the time of the violation in an amount
724 not less than \$500 and not exceeding \$1,000 for each violation.
725 The agency shall impose an administrative fine of \$1,125 for

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726 each cited class III violation in a facility that is licensed
727 for 100 or more beds at the time of the violation.

728 4.~~(d)~~ Class "IV" violations are defined in s. 408.813. The
729 agency shall impose an administrative fine of \$150 for each a
730 cited class IV violation in a facility that is licensed for
731 fewer than 100 beds at the time of the violation in an amount
732 not less than \$100 and not exceeding \$200 for each violation.
733 The agency shall impose an administrative fine of \$225 for each
734 cited class IV violation in a facility that is licensed for 100
735 or more beds at the time of the violation.

736 (b) Any fine imposed for a class I violation or a class II
737 violation must be doubled if a facility was previously cited for
738 one or more class I or class II violations during the agency's
739 last licensure inspection or any inspection or complaint
740 investigation since the last licensure inspection.

741 (c) Notwithstanding s. 408.813(2)(c) and (d) and s.
742 408.832, a fine must be imposed for each class III or class IV
743 violation, regardless of correction, if a facility was
744 previously cited for one or more class III or class IV
745 violations during the agency's last licensure inspection or any
746 inspection or complaint investigation since the last licensure
747 inspection for the same regulatory violation. A fine imposed for
748 class III or class IV violations must be doubled if a facility
749 was previously cited for one or more class III or class IV
750 violations during the agency's last two licensure inspections
751 for the same regulatory violation.

752 (d) Regardless of the class of violation cited, instead of
753 the fine amounts listed in subparagraphs (a)1.-4., the agency
754 shall impose an administrative fine of \$500 if a facility is

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755 found not to be in compliance with the background screening
 756 requirements as provided in s. 408.809.

757 ~~(3) For purposes of this section, in determining if a~~
 758 ~~penalty is to be imposed and in fixing the amount of the fine,~~
 759 ~~the agency shall consider the following factors:~~

760 ~~(a) The gravity of the violation, including the probability~~
 761 ~~that death or serious physical or emotional harm to a resident~~
 762 ~~will result or has resulted, the severity of the action or~~
 763 ~~potential harm, and the extent to which the provisions of the~~
 764 ~~applicable laws or rules were violated.~~

765 ~~(b) Actions taken by the owner or administrator to correct~~
 766 ~~violations.~~

767 ~~(c) Any previous violations.~~

768 ~~(d) The financial benefit to the facility of committing or~~
 769 ~~continuing the violation.~~

770 ~~(e) The licensed capacity of the facility.~~

771 (3)(4) Each day of continuing violation after the date
 772 established by the agency fixed for correction termination of
 773 the violation, as ordered by the agency, constitutes an
 774 additional, separate, and distinct violation.

775 ~~(4)(5) An Any~~ action taken to correct a violation shall be
 776 documented in writing by the owner or administrator of the
 777 facility and verified through followup visits by agency
 778 personnel. The agency may impose a fine and, in the case of an
 779 owner-operated facility, revoke or deny a facility's license
 780 when a facility administrator fraudulently misrepresents action
 781 taken to correct a violation.

782 ~~(5)(6) A Any~~ facility whose owner fails to apply for a
 783 change-of-ownership license in accordance with part II of

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784 chapter 408 and operates the facility under the new ownership is
 785 subject to a fine of \$5,000.

786 ~~(6)(7)~~ In addition to any administrative fines imposed, the
 787 agency may assess a survey fee, equal to the lesser of one half
 788 of the facility's biennial license and bed fee or \$500, to cover
 789 the cost of conducting initial complaint investigations that
 790 result in the finding of a violation that was the subject of the
 791 complaint or monitoring visits conducted under s. 429.28(3)(c)
 792 to verify the correction of the violations.

793 ~~(7)(8)~~ During an inspection, the agency shall make a
 794 reasonable attempt to discuss each violation with the owner or
 795 administrator of the facility, before ~~prior to~~ written
 796 notification.

797 ~~(8)(9)~~ The agency shall develop and disseminate an annual
 798 list of all facilities sanctioned or fined for violations of
 799 state standards, the number and class of violations involved,
 800 the penalties imposed, and the current status of cases. The list
 801 shall be disseminated, at no charge, to the Department of
 802 Elderly Affairs, the Department of Health, the Department of
 803 Children and Families ~~Family Services~~, the Agency for Persons
 804 with Disabilities, the area agencies on aging, the Florida
 805 Statewide Advocacy Council, and the state and local ombudsman
 806 councils. The Department of Children and Families ~~Family~~
 807 ~~Services~~ shall disseminate the list to service providers under
 808 contract to the department who are responsible for referring
 809 persons to a facility for residency. The agency may charge a fee
 810 commensurate with the cost of printing and postage to other
 811 interested parties requesting a copy of this list. This
 812 information may be provided electronically or through the

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813 agency's website ~~Internet site~~.

814 Section 9. Subsection (3) and paragraph (c) of subsection
815 (4) of section 429.256, Florida Statutes, are amended to read:

816 429.256 Assistance with self-administration of medication.—

817 (3) Assistance with self-administration of medication
818 includes:

819 (a) Taking the medication, in its previously dispensed,
820 properly labeled container, including an insulin syringe that is
821 prefilled with the proper dosage by a pharmacist and an insulin
822 pen that is prefilled by the manufacturer, from where it is
823 stored, and bringing it to the resident.

824 (b) In the presence of the resident, reading the label,
825 opening the container, removing a prescribed amount of
826 medication from the container, and closing the container.

827 (c) Placing an oral dosage in the resident's hand or
828 placing the dosage in another container and helping the resident
829 by lifting the container to his or her mouth.

830 (d) Applying topical medications.

831 (e) Returning the medication container to proper storage.

832 (f) Keeping a record of when a resident receives assistance
833 with self-administration under this section.

834 (g) Assisting with the use of a nebulizer, including
835 removing the cap of a nebulizer, opening the unit dose of
836 nebulizer solution, and pouring the prescribed premeasured dose
837 of medication into the dispensing cup of the nebulizer.

838 (h) Using a glucometer to perform blood-glucose level
839 checks.

840 (i) Assisting with putting on and taking off antiembolism
841 stockings.

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842 (j) Assisting with applying and removing an oxygen cannula,
843 but not with titrating the prescribed oxygen settings.

844 (k) Assisting with the use of a continuous positive airway
845 pressure (CPAP) device, but not with titrating the prescribed
846 setting of the device.

847 (l) Assisting with measuring vital signs.

848 (m) Assisting with colostomy bags.

849 (4) Assistance with self-administration does not include:

850 ~~(c) Administration of medications through intermittent~~
851 ~~positive pressure breathing machines or a nebulizer.~~

852 Section 10. Subsections (2), (5), and (6) of section
853 429.28, Florida Statutes, are amended to read:

854 429.28 Resident bill of rights.—

855 (2) The administrator of a facility shall ensure that a
856 written notice of the rights, obligations, and prohibitions set
857 forth in this part is posted in a prominent place in each
858 facility and read or explained to residents who cannot read. The
859 This notice must shall include the name, address, and telephone
860 numbers of the local ombudsman council, the and central abuse
861 hotline, and, if when applicable, Disability Rights Florida the
862 Advocacy Center for Persons with Disabilities, Inc., and the
863 Florida local advocacy council, where complaints may be lodged.
864 The notice must state that a complaint made to the Office of
865 State Long-Term Care Ombudsman or a local long-term care
866 ombudsman council, the names and identities of the residents
867 involved in the complaint, and the identity of complainants are
868 kept confidential pursuant to s. 400.0077 and that retaliatory
869 action cannot be taken against a resident for presenting
870 grievances or for exercising any other resident right. The

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871 facility must ensure a resident's access to a telephone to call
 872 the local ombudsman council, central abuse hotline, and
 873 Disability Rights Florida Advocacy Center for Persons with
 874 Disabilities, Inc., and the Florida local advocacy council.

875 (5) A ~~No~~ facility or employee of a facility may not serve
 876 notice upon a resident to leave the premises or take any other
 877 retaliatory action against any person who:

878 (a) Exercises any right set forth in this section.

879 (b) Appears as a witness in any hearing, inside or outside
 880 the facility.

881 (c) Files a civil action alleging a violation of the
 882 provisions of this part or notifies a state attorney or the
 883 Attorney General of a possible violation of such provisions.

884 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of
 885 an individual who participated in activities specified in
 886 subsection (5) must ~~shall~~ show good cause in a court of
 887 competent jurisdiction. If good cause is not shown, the agency
 888 shall impose a fine of \$2,500 in addition to any other penalty
 889 assessed against the facility.

890 Section 11. Section 429.34, Florida Statutes, is amended to
 891 read:

892 429.34 Right of entry and inspection.—

893 (1) In addition to the requirements of s. 408.811, any duly
 894 designated officer or employee of the department, the Department
 895 of Children and Families ~~Family Services~~, the Medicaid Fraud
 896 Control Unit of the Office of the Attorney General, the state or
 897 local fire marshal, or a member of the state or local long-term
 898 care ombudsman council has ~~shall have~~ the right to enter
 899 unannounced upon and into the premises of any facility licensed

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900 pursuant to this part in order to determine the state of
 901 compliance with ~~the provisions of~~ this part, part II of chapter
 902 408, and applicable rules. Data collected by the state or local
 903 long-term care ombudsman councils or the state or local advocacy
 904 councils may be used by the agency in investigations involving
 905 violations of regulatory standards. A person specified in this
 906 section who knows or has reasonable cause to suspect that a
 907 vulnerable adult has been or is being abused, neglected, or
 908 exploited shall immediately report such knowledge or suspicion
 909 to the central abuse hotline pursuant to chapter 415.

910 (2) The agency shall inspect each licensed assisted living
 911 facility at least once every 24 months to determine compliance
 912 with this chapter and related rules. If an assisted living
 913 facility is cited for one or more class I violations or two or
 914 more class II violations arising from separate surveys within a
 915 60-day period or due to unrelated circumstances during the same
 916 survey, the agency must conduct an additional licensure
 917 inspection within 6 months. In addition to any fines imposed on
 918 the facility under s. 429.19, the licensee shall pay a fee for
 919 the cost of the additional inspection equivalent to the standard
 920 assisted living facility license and per-bed fees, without
 921 exception for beds designated for recipients of optional state
 922 supplementation. The agency shall adjust the fee in accordance
 923 with s. 408.805.

924 Section 12. Subsection (2) of section 429.41, Florida
 925 Statutes, is amended to read:

926 429.41 Rules establishing standards.—

927 (2) In adopting any rules pursuant to this part, the
 928 department, in conjunction with the agency, shall make distinct

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929 standards for facilities based upon facility size; the types of
 930 care provided; the physical and mental capabilities and needs of
 931 residents; the type, frequency, and amount of services and care
 932 offered; and the staffing characteristics of the facility. Rules
 933 developed pursuant to this section ~~may shall~~ not restrict the
 934 use of shared staffing and shared programming in facilities that
 935 are part of retirement communities that provide multiple levels
 936 of care and otherwise meet the requirements of law and rule. If
 937 a continuing care facility licensed under chapter 651 or a
 938 retirement community offering multiple levels of care obtains a
 939 license pursuant to this chapter for a building or part of a
 940 building designated for independent living, staffing
 941 requirements established in rule apply only to residents who
 942 receive personal services, limited nursing services, or extended
 943 congregate care services under this part. Such facilities shall
 944 retain a log listing the names and unit number for residents
 945 receiving these services. The log must be available to surveyors
 946 upon request. Except for uniform firesafety standards, the
 947 department shall adopt by rule separate and distinct standards
 948 for facilities with 16 or fewer beds and for facilities with 17
 949 or more beds. The standards for facilities with 16 or fewer beds
 950 must shall be appropriate for a noninstitutional residential
 951 environment; ~~however, provided that~~ the structure may not be ~~is~~
 952 ~~no~~ more than two stories in height and all persons who cannot
 953 exit the facility unassisted in an emergency must reside on the
 954 first floor. The department, in conjunction with the agency, may
 955 make other distinctions among types of facilities as necessary
 956 to enforce the provisions of this part. Where appropriate, the
 957 agency shall offer alternate solutions for complying with

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958 established standards, based on distinctions made by the
 959 department and the agency relative to the physical
 960 characteristics of facilities and the types of care offered
 961 ~~therein.~~

962 Section 13. Present subsections (1) through (11) of section
 963 429.52, Florida Statutes, are redesignated as subsections (2)
 964 through (12), respectively, a new subsection (1) is added to
 965 that section, and present subsections (5) and (9) of that
 966 section are amended, to read:

967 429.52 Staff training and educational programs; core
 968 educational requirement.—

969 (1) Effective October 1, 2014, each new assisted living
 970 facility employee who has not previously completed core training
 971 must attend a preservice orientation provided by the facility
 972 before interacting with residents. The preservice orientation
 973 must be at least 2 hours in duration and cover topics that help
 974 the employee provide responsible care and respond to the needs
 975 of facility residents. Upon completion, the employee and the
 976 administrator of the facility must sign a statement that the
 977 employee completed the required preservice orientation. The
 978 facility must keep the signed statement in the employee's
 979 personnel record.

980 ~~(6)-(5)~~ Staff involved with the management of medications
 981 and assisting with the self-administration of medications under
 982 s. 429.256 must complete a minimum of 6 ~~4~~ additional hours of
 983 training provided by a registered nurse, licensed pharmacist, or
 984 department staff. The department shall establish by rule the
 985 minimum requirements of this additional training.

986 ~~(10)-(9)~~ The training required by this section other than

588-00971-14 2014248c1
 987 ~~the preservice orientation must shall~~ be conducted by persons
 988 registered with the department as having the requisite
 989 experience and credentials to conduct the training. A person
 990 seeking to register as a trainer must provide the department
 991 with proof of completion of the minimum core training education
 992 requirements, successful passage of the competency test
 993 established under this section, and proof of compliance with the
 994 continuing education requirement in subsection (5) ~~(4)~~.

995 Section 14. The Legislature finds that consistent
 996 regulation of assisted living facilities benefits residents and
 997 operators of such facilities. To determine whether surveys are
 998 consistent between surveys and surveyors, the Office of Program
 999 Policy Analysis and Government Accountability (OPPAGA) shall
 1000 conduct a study of intersurveyor reliability for assisted living
 1001 facilities. By November 1, 2014, OPPAGA shall report its
 1002 findings to the Governor, the President of the Senate, and the
 1003 Speaker of the House of Representatives and make any
 1004 recommendations for improving intersurveyor reliability.

1005 Section 15. The Legislature finds that consumers need
 1006 additional information on the quality of care and service in
 1007 assisted living facilities in order to select the best facility
 1008 for themselves or their loved ones. Therefore, the Agency for
 1009 Health Care Administration shall:

1010 (1) Implement a rating system for assisted living
 1011 facilities by March 1, 2015. The agency shall adopt rules to
 1012 administer this subsection.

1013 (2) By November 1, 2014, create content that is easily
 1014 accessible through the front page of the agency's website. At a
 1015 minimum, the content must include:

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 1016 (a) Information on each licensed assisted living facility,
 1017 including, but not limited to:
 1018 1. The name and address of the facility.
 1019 2. The number and type of licensed beds in the facility.
 1020 3. The types of licenses held by the facility.
 1021 4. The facility's license expiration date and status.
 1022 5. Other relevant information that the agency currently
 1023 collects.
 1024 (b) A list of the facility's violations, including, for
 1025 each violation:
 1026 1. A summary of the violation which is presented in a
 1027 manner understandable by the general public;
 1028 2. Any sanctions imposed by final order; and
 1029 3. The date the corrective action was confirmed by the
 1030 agency.
 1031 (c) Links to inspection reports that the agency has on
 1032 file.
 1033 (d) A monitored comment page, maintained by the agency,
 1034 which allows members of the public to anonymously comment on
 1035 assisted living facilities that are licensed to operate in this
 1036 state. This comment page must, at a minimum, allow members of
 1037 the public to post comments on their experiences with, or
 1038 observations of, an assisted living facility and to review other
 1039 people's comments. Comments posted to the agency's comment page
 1040 may not contain profanity and are intended to provide meaningful
 1041 feedback about the assisted living facility. The agency shall
 1042 review comments for profane content before the comments are
 1043 posted to the page. A controlling interest, as defined in s.
 1044 408.803, Florida Statutes, in an assisted living facility, or an

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2014248c1

1045 employee or owner of an assisted living facility, is prohibited
1046 from posting comments on the page, except that a controlling
1047 interest, employee, or owner may respond to comments on the
1048 page, and the agency shall ensure that the responses are
1049 identified as being from a representative of the facility.

1050 Section 16. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/14

Meeting Date

Topic Assisted Living Facilities

Bill Number SB 248
(if applicable)

Name TOM RANDEL

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 1812 Riggins Road
Street

Phone 671-3700

Tallahassee FL 32308
City State Zip

E-mail TRandel@LeadingAgeFL.org

Speaking: For Against Information

Representing Leading Age FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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)

3/6/14
Meeting Date

Topic ALFS

Bill Number CS/JB 248
(if applicable)

Name JACK MCRAY

Amendment Barcode _____
(if applicable)

Job Title _____

Address 200 W. COLLEGE ST. # 304
Street

Phone 850-577-5187

TCH FL 32301
City State Zip

E-mail jmcraay@aarp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 424

INTRODUCER: Appropriations Committee; Criminal Justice Committee; and Senator Lee and others

SUBJECT: Discriminatory Insurance Practices

DATE: March 6, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|-------------------------|
| 1. | <u>Johnson</u> | <u>Knudson</u> | <u>BI</u> | Fav/2 amendments |
| 2. | <u>Cellon</u> | <u>Cannon</u> | <u>CJ</u> | Fav/CS |
| 3. | <u>Betta</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 424 provides that it is an unfair discriminatory practice for a personal lines property or automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm or ammunition by the applicant, insured, or a household member of the applicant or insured.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity of the insurer unless the insurer discloses to the applicant the need for the disclosure, and the applicant or insured expressly consents or “opts in” to the disclosure.

The bill provides limited exceptions to the general provision of the bill regarding sharing firearm-related information.

The insurer is not prohibited from charging a supplemental premium when a separate rider is voluntarily requested by a policyholder or prospective policyholder to insure a firearm or firearm collection (if the value of the collection exceeds standard policy coverage) so long as it is not unfairly discriminatory.

If an insurer engages in discriminatory practices prohibited under part IX, of ch. 626, F.S., the insurer would be subject to fines and other administrative actions by the Office of Insurance Regulation.

There is no fiscal impact to the state.

II. Present Situation:

Regulation of Property and Automobile Insurance in Florida

Personal residential property (homeowners) insurance generally provides coverage of a dwelling, other structures, contents, loss of use, personal liability (bodily injury or property damage for which the policyholder or others covered by the policy are deemed liable), and medical payments to others. Florida drivers are required to purchase both personal injury protection and property damage liability insurance.¹

The Office of Insurance Regulation (OIR)² is responsible for the regulation and oversight of insurers and other risk-bearing entities. These activities include licensing, rates, policy forms, market conduct examinations, and solvency.³ Upon receipt of a rate filing, the OIR reviews the filing to determine if a proposed rate is excessive, inadequate, or unfairly discriminatory, which is prohibited pursuant to s. 627.062, F.S. A rate is deemed “unfairly discriminatory” as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

Part IX of ch. 626, F.S., entitled Unfair Insurance Trade Practices, defines and prohibits unfair methods of competition and unfair or deceptive acts or practices and provides penalties and enforcement authority to the respective regulator, the Department of Financial Services or the OIR.⁴ Section 626.9541, F.S., defines activities that are deemed as unfair methods of competition and unfair or deceptive acts or practices and are prohibited and subject to penalties under s. 626.9521, F.S. Except as provided in s. 626.9521(3), F.S., any person violating any provision of part IX, is subject to a fine in an amount not greater than \$5,000 for each nonwillful violation and not greater than \$40,000 for each willful violation.⁵ Fines imposed against an insurer may not exceed \$20,000 for all nonwillful violations arising out of the same action or an aggregate amount of \$200,000 for all willful violations arising out of the same action.⁶

Professional staff of the Senate Banking and Insurance Committee requested information from the OIR regarding the use of firearm ownership information as an underwriting factor by the top five writers of homeowners’ insurance.⁷ According to the OIR, only one of these companies

¹ See sections 324.022 F.S., and 627.733, F.S.

² Section 20.121(3), F.S. The Financial Services Commission, composed of the Governor, Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, oversees the OIR, and is the agency head for purposes of rulemaking.

³ Insurance agents and agencies are regulated by the Department of Financial Services. (Section 20.121, F.S.)

⁴ Section 626.9561, F.S. The department regulates insurance agents and agencies under part I, ch. 626, F.S., and are subject to part IX of ch. 626, F.S.

⁵ Section 626.9521(2), F.S.

⁶ Section 626.9521, F.S., also contains enhanced penalties for specified violations of s. 626.9541, F.S.

⁷ According to the latest Quasar ranking dated 3rd quarter 2013, the top 5 writers of HO-3 (owners) policies are Citizens, State Farm Florida Insurance Company, Universal Property and Casualty Insurance Company, St. Johns Insurance Company, and United Property and Casualty Insurance Company.

addressed firearm ownership in the underwriting guidelines.⁸ Citizens does not use firearm ownership in the underwriting process⁹, and the Citizens Clearinghouse¹⁰ application does not contain questions about firearm ownership.

Florida Firearm Regulations

Chapter 790, F.S., governs the regulation of firearms and weapons. Section 790.25, F.S., prescribes the requirements for the lawful ownership, possession, and use of firearms and other weapons. Section 790.001, F.S., defines the term “firearm” to mean “any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime.”

State and Federal Insurance Information Privacy Laws

The federal Gramm-Leach-Bliley Act¹¹ requires a financial institution to provide notice to its customers about its privacy policies and generally prohibits a financial institution from sharing nonpublic personal information¹² about individuals with nonaffiliated third parties without giving customers an opportunity to opt out.¹³ Such annual notices provided to consumers disclose the categories of information collected and how the institution shares information with affiliates as well as with nonaffiliated third parties. The Act broadly defines the term, “financial institution,” to mean any institution in the business of engaging in financial activities.¹⁴ Examples of activities that are financial in nature include lending, investing, safeguarding money, insuring and acting as principal, agent, or broker. The Act requires insurers and others to comply with regulatory standards to protect the security and confidentiality of consumer information. These federal provisions do not supersede, alter, or affect any state law except to the extent such state law is inconsistent with these provisions. A state law is not considered inconsistent with the federal provisions if the protection that such state law affords any consumer is greater than the protection provided under the federal Act.¹⁵

⁸ E-mail from K. Kees, Office of Insurance Regulation (January 10, 2013) (on file with the Senate Committee on Banking and Insurance). The manual of the United Property and Casualty Company addresses “dangerous firearms including, but not limited to, assault-type and rapid-fire weapons, except for game hunting rifles or shotguns.

⁹ E-mail from C. Bunker of Citizens Property Insurance. (January 6, 2014) (on file with the Senate Committee on Banking and Insurance)

¹⁰ In 2013, the Florida Legislature created a clearinghouse for Citizens to divert insurance from Citizens to the private market. The law requires all new applications and all renewals for personal residential property insurance in Citizens to be submitted to the clearinghouse in order to determine if the policy can be written or renewed by an insurer in the private market within the premium eligibility restrictions. [Ch. 2013-60, L.O.F.]

¹¹ Pub. Law No. 106-102, H. Rept. 106-434.

¹² This term includes personally identifiable financial information provided by a consumer to a financial institution; resulting from any transaction with the consumer or any service performed for the consumer; or otherwise obtained by the financial institution.

¹³ 15 U.S.C. ss. 6801-6809.

¹⁴ 12 U.S.C. 1843(k).

¹⁵ The Federal Trade Commission on its own motion or upon the petition of any interested party would make this determination. (16 C.F.R. s. 313.17)

Two provisions of the insurance code address the Act's provisions relating to privacy and disclosure of information. Section 626.025, F.S., requires insurance agents to comply with specified insurance code provisions and any other licensing requirement, restriction, or prohibition designated as a consumer protection by the Chief Financial Officer, but not inconsistent with the requirements of Subtitle C of the federal Gramm-Leach-Bliley Act. Section 626.9651, F.S., requires the Department of Financial Services and the Financial Services Commission (as agency head of the OIR) to adopt rules governing the use of a consumer's nonpublic personal and financial health information.

III. Effect of Proposed Changes:

The bill amends s. 626.9541, F.S., by providing that it is an unfair discriminatory practice and, therefore, a prohibited act under part IX of chapter 626, F.S., for a personal lines property or personal lines automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm or ammunition by the applicant, insured, or a household member of the applicant or insured. Under current law, the use of an unfairly discriminatory rate is prohibited.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity unless the insurer discloses to the applicant or insured the specific need to disclose the information and the applicant or insured expressly consents to the disclosure. Currently, insurers and other specified entities are allowed to share information with affiliates; however, consumers have the right to "opt-out" of disclosures to nonaffiliated third parties, subject to some exceptions.

The bill provides limited exceptions to the general provision of the bill regarding sharing firearm-related information. These exceptions occur only when it becomes necessary to disclose the information in order to quote or bind coverage, continue coverage, or adjust a claim.

The bill provides an exception when it becomes necessary for an insurer and its licensed insurance agent to share firearm information for purposes of underwriting or issuing coverage on a separate rider, voluntarily requested by a policyholder or prospective policyholder, in order to insure a firearm or firearm collection the value of which exceeds standard policy coverage. When a separate rider is voluntarily requested under these circumstances, the insurer is not prohibited from charging a supplemental premium so long as it is not unfairly discriminatory.

The bill is effective July 1, 2014.

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:

To the extent an applicant or insured who lawfully owns, possesses, or uses a firearm or ammunition and has had coverage previously denied, nonrenewed, or cancelled due to such lawful firearm ownership, possession, or use, CS/CS/SB 424 can provide additional coverage options. Information about lawful gun ownership collected by an insurer cannot be shared with affiliates or third parties without the express consent or “opt-in” by the insured or applicant, or when the necessity arises under the limits of the bill.

The bill prohibits insurers from denying, nonrenewing, or cancelling coverage or charging unfairly discriminatory rates based on the lawful ownership, possession, or use of a firearm or ammunition and authorizes the OIR to impose penalties on insurers that engage in this practice.

To the extent an insurer collects and shares information regarding lawful gun ownership, an insurer may incur indeterminate administrative costs revising its notice and disclosure process to comply with the “opt-in” and notice requirements required by the bill. Currently, an insurer is required to provide a consumer with an opportunity to opt-out of disclosures with nonaffiliated third parties (with some exceptions); however, no opt-out applies with respect to disclosures to affiliates.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear how the provisions of the bill would be interpreted or implemented with the existing requirements under s. 790.338(7), F.S., which prohibits an insurer that issues any type of coverage pursuant to ch. 627, F.S., from denying coverage, increasing premiums, or otherwise discriminating against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership, possession or storage of a firearm or ammunition. An insurer is authorized to consider the fair market value of firearms or ammunitions in the setting of premiums for scheduled personal property coverage.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 of the Florida Statutes.

IX. 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 6, 2014:

Provides that it is an unlawful and discriminatory act to refuse to issue, renew, or cancel a policy or charge an unfair discriminatory rate based on the lawful ownership, possession, or use of ammunition (in addition to firearms) by the applicant, insured, or a household member of the applicant or insured.

CS by Criminal Justice on February 3, 2014:

- Specifies that the provisions of the bill do not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily requested by an insurance applicant to insure a firearm or firearm collection above the standard policy coverage.
- Expands the circumstances under which an insurer may disclose information regarding the lawful ownership or possession of firearms by an insurance applicant, insured, or household member, to include when such disclosure is necessary to:
 - quote coverage;
 - bind coverage;
 - continue coverage; or
 - adjust a claim.
- Specifies that the provisions of the bill do not prevent an insurer and its licensed agent from sharing the same information, for purposes of underwriting and issuing insurance coverage, when a separate rider has been voluntarily requested by the policyholder or prospective policyholder to insure a firearm or firearm collection the value of which exceeds the standard policy limit.

- B. **Amendments:**

None.



561712

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/06/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment

Delete line 73

and insert:

possession, or ownership of a firearm or ammunition by the
insurance

By the Committee on Criminal Justice; and Senators Lee and
Latvala

591-01606-14

2014424c1

1 A bill to be entitled
2 An act relating to discriminatory insurance practices;
3 amending s. 626.9541, F.S.; providing that unfair
4 discrimination on the basis of gun ownership in the
5 provision of personal lines property or personal lines
6 automobile insurance is a discriminatory insurance
7 practice; clarifying that insurers are not prevented
8 from charging supplemental premiums or sharing
9 information between an insurer and its agent if a
10 separate rider has been requested; providing an
11 effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Paragraph (g) of subsection (1) of section
16 626.9541, Florida Statutes, is amended to read:
17 626.9541 Unfair methods of competition and unfair or
18 deceptive acts or practices defined.—
19 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
20 ACTS.—The following are defined as unfair methods of competition
21 and unfair or deceptive acts or practices:
22 (g) *Unfair discrimination.*—
23 1. Knowingly making or permitting ~~any~~ unfair discrimination
24 between individuals of the same actuarially supportable class
25 and equal expectation of life, in the rates charged for a ~~any~~
26 life insurance or annuity contract, in the dividends or other
27 benefits payable thereon, or in any other term or condition ~~of~~
28 ~~the terms and conditions~~ of such contract.
29 2. Knowingly making or permitting ~~any~~ unfair discrimination

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

591-01606-14

2014424c1

30 between individuals of the same actuarially supportable class,
31 as determined at the ~~original~~ time of initial issuance of the
32 coverage, and essentially the same hazard, in the amount of
33 premium, policy fees, or rates charged for a ~~any~~ policy or
34 contract of accident, disability, or health insurance, in the
35 benefits payable thereunder, in ~~any of~~ the terms or conditions
36 of such contract, or in any other manner ~~whatever~~.
37 3. For a health insurer, life insurer, disability insurer,
38 property and casualty insurer, automobile insurer, or managed
39 care provider to underwrite a policy, or refuse to issue,
40 reissue, or renew a policy, refuse to pay a claim, cancel or
41 otherwise terminate a policy, or increase rates based upon the
42 fact that an insured or applicant who is also the proposed
43 insured has made a claim or sought or should have sought medical
44 or psychological treatment in the past for abuse, protection
45 from abuse, or shelter from abuse, or that a claim was caused in
46 the past by, or might occur as a result of, any future assault,
47 battery, or sexual assault by a family or household member upon
48 another family or household member as defined in s. 741.28. A
49 health insurer, life insurer, disability insurer, or managed
50 care provider may refuse to underwrite, issue, or renew a policy
51 based on the applicant's medical condition, but may ~~shall~~ not
52 consider whether such condition was caused by an act of abuse.
53 For purposes of this section, the term "abuse" means the
54 occurrence of one or more of the following acts:
55 a. Attempting or committing assault, battery, sexual
56 assault, or sexual battery;
57 b. Placing another in fear of imminent serious bodily
58 injury by physical menace;

Page 2 of 4

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- 59 c. False imprisonment;
 60 d. Physically or sexually abusing a minor child; or
 61 e. An act of domestic violence as defined in s. 741.28.
 62

63 This subparagraph does not prohibit a property and casualty
 64 insurer or an automobile insurer from excluding coverage for
 65 intentional acts by the insured if such exclusion ~~is~~ ~~does~~ not
 66 constitute an act of unfair discrimination as defined in this
 67 paragraph.

68 4. For a personal lines property or personal lines
 69 automobile insurer to:

70 a. Refuse to issue, reissue, or renew a policy; cancel or
 71 otherwise terminate a policy; or charge an unfairly
 72 discriminatory rate in this state based on the lawful use,
 73 possession, or ownership of a firearm by the insurance
 74 applicant, insured, or a household member of the applicant or
 75 insured. This sub-subparagraph does not prevent an insurer from
 76 charging a supplemental premium that is not unfairly
 77 discriminatory for a separate rider voluntarily requested by the
 78 insurance applicant to insure a firearm or a firearm collection
 79 whose value exceeds the standard policy coverage.

80 b. Disclose the lawful ownership or possession of firearms
 81 of an insurance applicant, insured, or household member of the
 82 applicant or insured to a third party or an affiliated entity of
 83 the insurer unless the insurer discloses to the applicant or
 84 insured the specific need to disclose the information and the
 85 applicant or insured expressly consents to the disclosure, or
 86 the disclosure is necessary to quote or bind coverage, continue
 87 coverage, or adjust a claim. For purposes of underwriting and

Page 3 of 4

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

591-01606-14

2014424c1

88 issuing insurance coverage, this sub-subparagraph does not
 89 prevent the sharing of information between an insurance company
 90 and its licensed insurance agent if a separate rider has been
 91 voluntarily requested by the policyholder or prospective
 92 policyholder to insure a firearm or a firearm collection whose
 93 value exceeds the standard policy coverage.

94 Section 2. This act shall take effect July 1, 2014.

Page 4 of 4

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

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/14

Meeting Date

Topic Insurance Discrimination

Bill Number SB-424 - LEE
(if applicable)

Name MARION P. HAMMER

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. BOX 1387
Street

Phone 850-222-9518

TALLAHASSEE FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) U DIFIED SPORTSMEN OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting

The Florida Senate
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 708

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Insurance Claims

DATE: March 3, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|-----------|--------------------|
| 1. | <u>Billmeier</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Betta</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 708 revises the law relating to property insurance claims. The bill gives the Department of Financial Services (DFS) the ability to investigate mediators and neutral evaluators in a manner similar to how it investigates agents and agencies. It allows the DFS and the Office of Insurance Regulation (OIR) to share information with other regulatory bodies while any investigation is ongoing. The bill gives the DFS increased power to take disciplinary action against mediators and neutral evaluators.

The bill prohibits insurers from denying claims or canceling an insurance policy or contract based on credit information available in the public record if the insurance policy or contract has been in effect for more than 90 days.

In order for a post-loss assignment of a residential property insurance policy to be valid, the assignment agreement:

- Must require the assignee to notify the insurance company within 48 hours;
- Limit the assignment to contracted work to be performed;
- Specify the estimated scope and price of work before it is performed;
- Prohibit the assignee from charging the policyholder more than the applicable deductible.
- Prohibits a person performing any portion of the repair on behalf of the assignee from charging the policy owner;
- Prohibits the assignee from retaining insurance proceeds that are earmarked by the insurer for payment of work to be performed by vendors other than the assignee; and

- Requires the assignee to guarantee that the work performed conforms to the most recent, accepted industry standards.

Insurance contracts often contain an appraisal provision allowing parties who agree that there is a covered loss to use an umpire to determine the amount of the loss. This bill allows parties to disqualify an umpire for specified conflicts of interest such as where the umpire is related to one of the parties or has been employed by one of the parties.

The bill creates a “Homeowner Claim Bill of Rights,” describing some of the rights held by insurance policyholders and requires the insurer to provide a copy to the policyholder within 14 days of a claim. It does not create a new civil cause of action.

This bill creates new requirements for agreements between insureds and providers of services needed to mitigate the damage caused by fire, water, or catastrophic events.

There is no fiscal impact to the state.

This bill is effective July 1, 2014.

II. Present Situation:

Ability of the Department of Financial Services to Investigate Licensees

The Department of Financial Services (DFS) is the agency charged with the regulation of insurance agents, insurance agencies, insurance adjusters,¹ insurance school officials, and insurance school instructors.^{2,3} Section 626.601, Florida Statutes, allows the DFS to investigate licensed insurance agencies, agents, adjusters, service representatives, managing general agents, customer representatives, title insurance agents and agencies, continuing education course providers, instructors, school officials, and monitor groups. During the investigation, the DFS may contact the person being investigated and may inspect the person’s books and records.⁴ Investigations may be initiated by the DFS independently or may be initiated based on a complaint received by the DFS.⁵

Section 626.601(6), F.S., provides that a complaint and any information obtained pursuant to an investigation by the DFS or the OIR are confidential and exempt from disclosure unless the DFS or OIR files an administrative complaint, emergency order, or consent order against the licensee. The DFS or OIR may disclose information to any law enforcement agency prior to the filing of an administrative complaint, consent order, or emergency order.

¹ See s. 624.317, F.S.

² See ss. 626.2816, 626.2817, F.S.

³ Insurance schools provide instruction for students seeking licensure as insurance agents.

⁴ See s. 626.601(1), (2), F.S.

⁵ See s. 626.601(1), F.S.

Alternative Dispute Resolution Programs

The DFS administers alternative dispute programs for various types of insurance and has mediation programs for property insurance⁶ and automobile insurance⁷ claims. The DFS has a neutral evaluation program, similar to mediation, for sinkhole insurance claims.⁸ The DFS approves mediators used in the two mediation programs and certifies the neutral evaluators used in neutral evaluations for sinkhole insurance claims.⁹

To qualify as a mediator for the property or automobile mediation programs, a person must possess graduate level degrees in specified areas, be a member of the Florida Bar, be a licensed certified public accountant, or be a mediator for four years.¹⁰ In addition, an applicant must complete a training program approved by the DFS.¹¹

To qualify as a neutral evaluator for sinkhole insurance claims, a neutral evaluator must be a professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution approved by the DFS and who is determined by the DFS to be fair and impartial.¹²

According to an analysis provided by the DFS,¹³ the number of reported mediations and neutral evaluations is:

| | Fiscal Year 2010-2011 | Fiscal Year 2011-2012 | Fiscal Year 2012-2013 |
|---------------------|--------------------------|--------------------------|--------------------------|
| Mediations | 3,489 | 3,323 | 3,966 |
| Neutral Evaluations | 2,245 | 2,681 | 1,867 |

The DFS does not have the explicit authority to investigate, remove, or discipline mediators and neutral evaluators.

Misrepresentations on Insurance Applications and Cancellation of Insurance Policies

Section 627.409, F.S., provides that recovery under an insurance policy may be prevented if a misrepresentation, omission, concealment of fact, or incorrect statement on an application for insurance: (1) is fraudulent or is material either to the acceptance of the risk or to the hazard assumed by the insurer; or (2) if the true facts had been known to the insurer, the insurer would not have issued the policy, would not have issued it at the same premium rate, would not have issued a policy in as large an amount, or would not have provided coverage with respect to the

⁶ See s. 627.7015, F.S.

⁷ See s. 626.745, F.S.

⁸ See s. 627.7074, F.S.

⁹ See ss. 627.7015, 627.7074, and 627.745, F.S.

¹⁰ See ss. 627.7015, 627.745(3), F.S.

¹¹ See ss. 627.7015, 627.745(3), F.S.

¹² See s. 627.706, F.S.

¹³ See Department of Financial Services, *Senate Bill 708 Analysis* (February 4, 2014)(on file with the Committee on Banking and Insurance).

hazard resulting in the loss. If an insurer discovers a misrepresentation or omission after issuing the policy, it may deny coverage after a claim is made. In *Nationwide Mutual Fire Insurance Company v. Kramer*,¹⁴ an insurer refused to pay a claim for a stolen automobile because the insureds did not disclose a previous bankruptcy filing. In *Kieser v. Old Line Insurance Company of America*,¹⁵ an insurance company refused to pay a life insurance policy because the insured failed to disclose certain health conditions and failed to disclose that he was shopping for other life insurance policies. In *Universal Property and Casualty Insurance Company v. Johnson*,¹⁶ an insurance company refused to pay a property insurance claim because the insureds failed to disclose prior criminal history. A misrepresentation from or an omission in an insurance application need not be intentional in order for the insurance company to deny recovery.¹⁷

Section 627.4133(2), F.S., requires notice to the insured before an insurer can cancel, nonrenew, or terminate any personal lines or commercial residential property insurance policy. The timing of the notice ranges from 10 days for nonpayment of premium to 120 days for certain policyholders.¹⁸ After the policy has been in effect for 90 days, such a policy cannot be canceled unless there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements with 90 days after the date of effectuation of coverage, or a substantial change in the risk covered by the policy.¹⁹ According to the DFS, there are instances of insurance companies reviewing a policyholder's application for insurance after a claim has been filed and denying coverage based on misrepresentations about credit history.²⁰

Assignment of Benefits

An assignment is the transfer of the rights of one party under a contract to another party. Current law generally allows a policyholder to assign the benefits of the policy, such as the right to be paid, to another party, typically the party that repairs the damaged property. Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee can file a lawsuit against the insurer to recover the benefits. Section 627.422, F.S., governs assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. However, the general rule in Florida is that an assignment made after the loss (a post-loss assignment) is valid even if the contract states otherwise.²¹ "A provision against assignment of an insurance policy does not bar an insured's assignment of an after-loss claim."²²

¹⁴ 725 So.2d 1141 (Fla. 2^d DCA 1998).

¹⁵ 712 So.2d 1261 (Fla. 1st DCA 1998).

¹⁶ 114 So.3d 1031 (Fla. 1st DCA 2013).

¹⁷ *Universal Property and Casualty Insurance Company*, 114 So.3d at 1035.

¹⁸ See s. 627.4133(2), F.S.

¹⁹ *Id.*

²⁰ See Department of Financial Services, *Senate Bill 708 Analysis* (February 4, 2014)(on file with the Committee on Banking and Insurance).

²¹ See *West Florida Grocery Company v. Teutonia Fire Insurance Company*, 77 So. 209, 211 (Fla. 1917)("The policy was assigned after loss, and it is a well-settled rule that the provision in a policy relative to the consent of the insurer to the transfer of an interest therein does not apply to an assignment after loss").

²² See *Better Construction, Inc. v. National Union Fire Insurance Company of Pittsburgh*, 651 So.2d 141, 142 (Fla. 3^d DCA 1995).

Appraisal

Property insurance contracts often contain “appraisal” provisions. Appraisal provisions are used when the parties agree that there is a covered loss but disagree as to the amount of the loss.²³ Such provisions typically provide that each party select an appraiser. The two appraisers jointly select an umpire. The two appraisers submit a report to the insurer. If the appraisers agree as to the amount of the loss, the insurer pays the claim. If they do not agree, the umpire resolves the dispute.²⁴ Current law does not limit or restrict who may act as an umpire and does not provide a method for either party to challenge whether an umpire is fair and impartial.

Homeowner Rights in Property Insurance Claims

Property insurance policy holders have a number of rights pursuant to statute or rule. Section 627.70131, F.S., and rule 69O-166.24, Florida Administrative Code, require an insurer to review and acknowledge receipt of communication with respect to a claim within 14 days of receipt. Section 626.9541(1)(i), F.S., requires an insurer to affirm or deny full or partial coverage of claims or provide a written statement that the claim is being investigated upon the written request of the insured within 30 days after proof-of-loss statements have been completed. An insurer must pay or deny the claim within 90 days.²⁵

The DFS provides services to insurers and consumers such as the mediation of property insurance claims²⁶ and neutral evaluation²⁷ of sinkhole claims. In addition, the DFS has a Division of Consumer Services that can assist consumers in the claims process.²⁸

Emergency Mitigation Services

Homeowners can experience significant damage to their homes in situations that require immediate action to prevent further damage. There are companies that provide services such as “drying” a structure after a loss caused by water. These companies are not regulated by the state. According to the DFS, consumers have no guarantee or protection in place to ensure their homes will be repaired by an accredited professional.²⁹

III. Effect of Proposed Changes:

Disclosure of Information Obtained During an Investigation

Section 1 allows the DFS or the OIR to share information obtained during an investigation with other regulatory bodies in cases where no administrative complaint, emergency order, or consent

²³ See Fla.Jur. Insurance §3292.

²⁴ *Citizens Property Insurance Corporation v. Mango Hill Condominium Association 12 Inc.*, 54 So.3d 578 (Fla.3d DCA 2011) and *Intracoastal Ventures Corp. v. Safeco Ins. Co. of America*, 540 So.2d 162 (Fla. 3d DCA 1989), contain examples of appraisal provisions.

²⁵ See s. 627.70131, F.S.

²⁶ See s. 627.7015, F.S.

²⁷ See s. 627.7074, F.S.

²⁸ See <http://www.myfloridacfo.com/division/consumers/#.UvTl9vldUeE> (last accessed on February 7, 2014).

²⁹ See Department of Financial Services, *Senate Bill 708 Analysis* (February 4, 2014) at p. 4 (on file with the Committee on Banking and Insurance).

order is filed. This will allow the DFS to share information with federal and state regulators during the course of an investigation. It will also allow the sharing of information with private regulatory bodies such as FINRA.³⁰ According to the DFS staff, there can be investigations where an agent is licensed in Florida and also licensed in another state. Being able to share information with other regulators can aid the investigation.³¹

Mediators and Neutral Evaluators

Section 1 gives the DFS the authority to investigate mediators and neutral evaluators in the same manner it investigates agencies and agents. This bill allows the DFS to initiate investigations of neutral evaluators and mediators on its own authority or after a complaint is received. The DFS may require a neutral evaluator or mediator to open its books and records for inspection. The bill gives the DFS the authority to discipline mediators and neutral evaluators. Section 6 of the bill requires the DFS to adopt rules for the denial of application, suspension, and other penalties for mediators. Section 9 requires the DFS to adopt rules for certifying, denying certification, and revoking the certification as a neutral evaluator.

Section 9 provides that the DFS must deny an application for a neutral evaluator or suspend or revoke the approval of a neutral evaluator if there is:

- A material misstatement, misrepresentation, or fraud in the attempt to obtain approval;
- A demonstrated lack of fitness and trustworthiness to act as a neutral evaluator; and
- Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of financial services business, or violations of statutes, DFS rules, or DFS orders.

The DFS has similar power to discipline insurance agents and other regulated persons or entities.

Section 12 provides that the DFS must deny an application as a mediator or suspend or revoke the certification of a mediator if there is:

- A material misstatement, misrepresentation, or fraud in the attempt to obtain approval or certification;
- A demonstrated lack of fitness and trustworthiness to act as a mediator;
- Fraudulent or dishonest practices in the conduct of mediation or financial services business; and
- A violation of statutes, DFS rules, DFS orders, or the Florida Rules for Certified and Court-Appointed Mediators.

The DFS has similar power to discipline insurance agents and other regulated persons or entities.

Section 12 replaces the DFS mediator education, experience, and training program requirements. The bill provides that an individual with an active certification as a Florida Circuit Court Mediator is qualified to be a mediator for the DFS. An individual not certified as a Florida Circuit Court Mediator can be a DFS mediator if the person is an approved DFS mediator on July 1, 2014, and has conducted at least one DFS mediation from July 1, 2010, through July 1,

³⁰ FINRA is the “Financial Industry Regulatory Authority.” See <http://www.finra.org/AboutFINRA/>

³¹ Interview with DFS staff, February 7, 2014.

2014. This provision essentially grandfathers in current and active DFS mediators so they can continue to be DFS mediators, even if they are not certified as a Florida Circuit Court Mediator.

In order to become certified as a Florida Circuit Court Mediator, one must fulfil education requirements set by the Florida Supreme Court, complete a mediation training program certified by the Florida Supreme Court, and observe and conduct mediations under the supervision of a certified mediator.³²

Misrepresentations on Insurance Applications and Cancellation of Insurance Policies

Section 3 amends s. 627.409, F.S., to provide that if a residential property insurance policy or contract has been in effect for more than 90 days, a claim filed by the insured cannot be denied based on credit information available in the public record. The bill does not change the law relating to other types of insurance or other types of misrepresentations (such as a misrepresentation regarding health or criminal history).

Section 4 provides after a policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

Assignment of Benefits

Section 5 provides that an agreement assigning post-loss benefits for repair or replacement is valid only if the agreement:

- Requires the assignee to notify the insurance company within 48 hours of the assignment or as soon as practicable if the insurer is unavailable during the first 48 hours;
- Limits the assignment to the contracted work and is restricted to claims for damage to structures covered under the policy;
- Specifies the estimated scope and price of the work before it is performed;
- Prohibits the assignee from charging the policy owner for any portion of the repair beyond the deductible contained in the insurance policy;
- Prohibits a person performing any portion of the repair on behalf of the assignee from charging the policy owner;
- Prohibits the assignee from retaining insurance proceeds that are earmarked by the insurer for payment of work to be performed by vendors other than the assignee; and
- Requires the assignee to guarantee that the work performed conforms to the most recent, accepted industry standards.

Standards for Disqualification of an Appraisal Umpire

Section 7 creates requirements for challenging the selection of an umpire when an appraisal provision is used to resolve a dispute. This bill allows an insurer or policyholder to challenge an umpire's impartiality and disqualify the proposed umpire only if:

- A familial relationship within the third degree exists between the umpire and a party or a representative of a party;

³² See <http://www.flcourts.org/core/fileparse.php/283/urlt/HowToBecomeMediator.pdf> (last accessed February 7, 2014).

- The umpire has previously represented a party or a representative of a party in a professional capacity in the same or a substantially related matter;
- The umpire has represented another person in a professional capacity on the same or a substantially related matter that includes the claim or the same property, and the other person's interests are materially adverse to the interests of a party; or
- The umpire has worked as an employer or employee of a party within the preceding five years.

Homeowner Claims Bill of Rights

Section 10 creates a "Homeowner Claims Bill of Rights." It requires an insurer issuing a personal lines residential property insurance policy to provide a copy of the Homeowner Claims Bill of Rights ("Bill of Rights") to a policyholder within 14 calendar days after receiving an initial communication with respect to a claim unless the claim follows an event that is the subject of a declaration of state of emergency by the Governor.

The bill provides that the purpose of the Bill of Rights is to explain the rights of a residential property insurance policyholder who files a claim of loss. The bill further provides that the Bill of Rights does not create a civil cause of action by a policyholder or class of policyholders against an insurer. The Bill of Rights informs policyholders that they have the right to:

- Receive acknowledgment of the reported claim and necessary claim forms within 14 days after the claim is communicated to the insurance company.
- Receive confirmation that a claim is covered in full, partially covered, or denied, or receive a written statement that a claim is being investigated within 30 days.
- Receive full settlement payment for the claim or payment of the undisputed portion of the claim or the insurance company's denial of the claim within 90 days.
- Receive free mediation of the claim by the DFS under most circumstances and subject to certain restrictions.
- Receive a neutral evaluation of a disputed sinkhole claim covered by the policy.

The Bill of Rights:

- Informs consumers of services provided by the DFS, such as the Division of Consumer Services helpline.
- Advises policyholders to contact the insurance company before entering into any contract for repairs, to make and document emergency repairs that are necessary to prevent further damage, to read any contract that requires a payment of out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds, and to confirm that the contractor is licensed to do business in Florida.
- Informs policyholders that it does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an individual insurer.

Emergency Mitigation Services

Section 11 provides conditions upon which an agreement for emergency mitigation services will be valid. The bill defines “emergency mitigation services” as the delivery of goods or services³³ that are needed to mitigate damage caused by fire, water, or catastrophic events when delay may exacerbate the damage to the covered property. An agreement for emergency mitigation services to which insurance proceeds may be applied is valid only if:

- The agreement specifies in writing the estimated scope and price of the work before it is performed;
- Any change from the original estimated scope and price of the work is preapproved by the policyholder; and
- The work is performed by an individual or company possessing a valid certification consistent with the most recent Standard and Reference Guide for Professional Water Damage Restoration, as developed by the Institute of Inspection, Cleaning and Restoration Certification and approved by the American National Standards Institute, or by a company that possesses a valid Division I license under chapter 489, which is providing services within the scope of that license.³⁴

Section 13 provides an effective date of July 1, 2014.

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.

³³ Services include the removal of contents, removal of water or other contaminants, cleaning, sanitizing, incidental demolition, or other treatment, including preventive activities.

³⁴ A Division 1 license includes general contractors, building contractors, and residential contractors. *See* s. 489.105(3), F.S.

C. **Government Sector Impact:**

According to the DFS and the OIR, there is no fiscal impact.

VI. Technical Deficiencies:

On line 12, the title should state that a policy or contract may not be cancelled based on certain credit information.

On line 35, the title should state that the bill revises qualifications for mediators of specified motor vehicle insurance claims.

On line 141, the word “record” should be plural.

Lines 365-371 refer to the “approval” of neutral evaluators. This is not necessary because the DFS certifies neutral evaluators.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.601, 627.3518, 627.409, 627.4133, 627.422, 627.7015, 627.706, 627.7074, and 627.745.

This bill creates the following sections of the Florida Statutes: 627.70151, 627.7142, and 627.715.

IX. Additional Information:

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

CS by Banking and Insurance on February 11, 2014:

The committee adopted an amendment providing that the Claims Bill of Rights must be distributed within 14 calendar days after receiving an initial communication with respect to a claim and providing that the Claims Bill of Rights must be provided to personal lines residential policyholders.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Bean

597-01763-14

2014708c1

1 A bill to be entitled
 2 An act relating to insurance claims; amending s.
 3 626.601, F.S.; adding mediators and neutral evaluators
 4 to the list of individuals or entities that the
 5 Department of Financial Services or the Office of
 6 Insurance Regulation may investigate for alleged
 7 improper conduct; amending s. 627.3518, F.S.;
 8 conforming a cross-reference; amending s. 627.409,
 9 F.S.; providing that a claim for residential property
 10 insurance cannot be denied based on certain credit
 11 information; amending s. 627.4133, F.S.; providing
 12 that a policy or contract be cancelled based on
 13 certain credit information; amending s. 627.422, F.S.;
 14 providing for the assignment of property insurance
 15 policy benefits; specifying requirements for the
 16 assignment of post-loss benefits in a valid agreement
 17 for services; amending s. 627.7015, F.S.; revising the
 18 rule requirements relating to the property insurance
 19 mediation program administered by the department;
 20 creating s. 627.70151, F.S.; providing grounds for
 21 challenging an umpire's impartiality in estimating the
 22 amount of a property loss; amending s. 627.706, F.S.;
 23 redefining the term "neutral evaluator"; amending s.
 24 627.7074, F.S.; specifying grounds for denying,
 25 suspending, or revoking approval of a neutral
 26 evaluator; creating s. 627.7142, F.S.; establishing a
 27 Claims Bill of Rights for residential property
 28 insurance policyholders; providing that such bill of
 29 rights does not provide a cause of action; creating s.

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

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30 627.715, F.S.; defining terms; providing requirements
 31 for emergency mitigation repair agreements; requiring
 32 an emergency mitigation contractor to be appropriately
 33 certified or to possess a contracting license;
 34 amending s. 627.745, F.S.; revising qualifications for
 35 mediators of personal injury claims; providing grounds
 36 for denying, suspending, or revoking the application
 37 or approval of a mediator; providing an effective
 38 date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 626.601, Florida Statutes, is amended to
 43 read:

44 626.601 Improper conduct; investigation inquiry;
 45 ~~fingerprinting.~~

46 (1) The department or office may, upon its own motion or
 47 upon a written complaint signed by an ~~any~~ interested person and
 48 filed with the department or office, inquire into the ~~any~~
 49 alleged improper conduct of an approved, certified, or ~~any~~
 50 licensed insurance agency, agent, adjuster, service
 51 representative, managing general agent, customer representative,
 52 title insurance agent, title insurance agency, mediator, neutral
 53 evaluator, continuing education course provider, instructor,
 54 school official, or monitor group under this code. The
 55 department or office may thereafter initiate an investigation of
 56 ~~any~~ such individual or entity licensee if it has reasonable
 57 cause to believe that the individual or entity licensee has
 58 violated any provision of the insurance code. During the course

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59 of its investigation, the department or office shall contact the
60 individual or entity licensee being investigated unless it
61 determines that contacting such individual or entity person
62 could jeopardize the successful completion of the investigation
63 or cause injury to the public.

64 (2) In the investigation by the department or office of the
65 alleged misconduct, the individual or entity licensee shall, if
66 ~~whenever so~~ required by the department or office, open the
67 individual's or entity's ~~cause his or her~~ books and records ~~to~~
68 ~~be open~~ for inspection ~~for the purpose of such inquiries.~~

69 (3) ~~The~~ Complaints against an individual or entity any
70 licensee may be informally alleged and are not required to
71 include language ~~need not be in any such language as is~~
72 necessary to charge a crime on an indictment or information.

73 (4) The expense for ~~any~~ hearings or investigations
74 conducted pursuant to under this section law, as well as the
75 fees and mileage of witnesses, may be paid out of the
76 appropriate fund.

77 (5) ~~If the department or office,~~ after investigation, the
78 department or office has reason to believe that an individual a
79 licensee may have been found guilty of or pleaded guilty or nolo
80 contendere to a felony or a crime related to the business of
81 insurance in this or any other state or jurisdiction, the
82 department or office may require the individual licensee to file
83 with the department or office a complete set of his or her
84 fingerprints, ~~which shall be~~ accompanied by the fingerprint
85 processing fee specified set forth in s. 624.501. The
86 fingerprints must shall be taken by an authorized law
87 enforcement agency or other department-approved entity.

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88 (6) The complaint and ~~any~~ information obtained pursuant to
89 the investigation by the department or office are confidential
90 and ~~are~~ exempt from ~~the provisions of~~ s. 119.07, unless the
91 department or office files a formal administrative complaint,
92 emergency order, or consent order against the individual or
93 entity licensee. ~~Nothing in~~ This subsection does not shall be
94 ~~construed to~~ prevent the department or office from disclosing
95 the complaint or such information as it deems necessary to
96 conduct the investigation, to update the complainant as to the
97 status and outcome of the complaint, or to share such
98 information with a any law enforcement agency or other
99 regulatory body.

100 Section 2. Subsection (9) of section 627.3518, Florida
101 Statutes, is amended to read:

102 627.3518 Citizens Property Insurance Corporation
103 policyholder eligibility clearinghouse program.—The purpose of
104 this section is to provide a framework for the corporation to
105 implement a clearinghouse program by January 1, 2014.

106 (9) The 45-day notice of nonrenewal requirement set forth
107 in s. 627.4133(2)(b)5.b. ~~s. 627.4133(2)(b)4.b.~~ applies when a
108 policy is nonrenewed by the corporation because the risk has
109 received an offer of coverage pursuant to this section which
110 renders the risk ineligible for coverage by the corporation.

111 Section 3. Section 627.409, Florida Statutes, is amended to
112 read:

113 627.409 Representations in applications; warranties.—

114 (1) Any statement or description made by or on behalf of an
115 insured or annuitant in an application for an insurance policy
116 or annuity contract, or in negotiations for a policy or

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117 contract, is a representation and ~~is~~ not a warranty. Except as
 118 provided in subsection (3), a misrepresentation, omission,
 119 concealment of fact, or incorrect statement may prevent recovery
 120 under the contract or policy only if any of the following apply:

121 (a) The misrepresentation, omission, concealment, or
 122 statement is fraudulent or is material ~~either~~ to the acceptance
 123 of the risk or to the hazard assumed by the insurer.

124 (b) If the true facts had been known to the insurer
 125 pursuant to a policy requirement or other requirement, the
 126 insurer in good faith would not have issued the policy or
 127 contract, would not have issued it at the same premium rate,
 128 would not have issued a policy or contract in as large an
 129 amount, or would not have provided coverage with respect to the
 130 hazard resulting in the loss.

131 (2) A breach or violation by the insured of a any warranty,
 132 condition, or provision of a any wet marine or transportation
 133 insurance policy, contract of insurance, endorsement, or
 134 application ~~therefor~~ does not void the policy or contract, or
 135 constitute a defense to a loss thereon, unless such breach or
 136 violation increased the hazard by any means within the control
 137 of the insured.

138 (3) For residential property insurance, if a policy or
 139 contract has been in effect for more than 90 days, a claim filed
 140 by the insured cannot be denied based on credit information
 141 available in public record.

142 Section 4. Paragraph (b) of subsection (2) of section
 143 627.4133, Florida Statutes, is amended to read:

144 627.4133 Notice of cancellation, nonrenewal, or renewal
 145 premium.-

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146 (2) With respect to any personal lines or commercial
 147 residential property insurance policy, including, but not
 148 limited to, any homeowner's, mobile home owner's, farmowner's,
 149 condominium association, condominium unit owner's, apartment
 150 building, or other policy covering a residential structure or
 151 its contents:

152 (b) The insurer shall give the first-named insured written
 153 notice of nonrenewal, cancellation, or termination at least 100
 154 days before the effective date of the nonrenewal, cancellation,
 155 or termination. However, the insurer shall give at least 100
 156 days' written notice, or written notice by June 1, whichever is
 157 earlier, for any nonrenewal, cancellation, or termination that
 158 would be effective between June 1 and November 30. The notice
 159 must include the reason ~~or reasons~~ for the nonrenewal,
 160 cancellation, or termination, except that:

161 1. The insurer shall give the first-named insured written
 162 notice of nonrenewal, cancellation, or termination at least 120
 163 days before ~~prior to~~ the effective date of the nonrenewal,
 164 cancellation, or termination for a first-named insured whose
 165 residential structure has been insured by that insurer or an
 166 affiliated insurer for at least 5 years before ~~a 5-year period~~
 167 ~~immediately prior to~~ the date of the written notice.

168 2. If cancellation is for nonpayment of premium, at least
 169 10 days' written notice of cancellation accompanied by the
 170 reason therefor must be given. As used in this subparagraph, the
 171 term "nonpayment of premium" means failure of the named insured
 172 to discharge when due her or his obligations for paying the
 173 premium in connection with the payment of premiums on a policy
 174 or an any installment of such premium, whether the premium is

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175 payable directly to the insurer or its agent or indirectly under
 176 ~~a any~~ premium finance plan or extension of credit, or failure to
 177 maintain membership in an organization if such membership is a
 178 condition precedent to insurance coverage. The term also means
 179 the failure of a financial institution to honor an insurance
 180 applicant's check after delivery to a licensed agent for payment
 181 of a premium, even if the agent has previously delivered or
 182 transferred the premium to the insurer. If a dishonored check
 183 represents the initial premium payment, the contract and all
 184 contractual obligations are void ab initio unless the nonpayment
 185 is cured within the earlier of 5 days after actual notice by
 186 certified mail is received by the applicant or 15 days after
 187 notice is sent to the applicant by certified mail or registered
 188 mail. ~~and~~ If the contract is void, any premium received by the
 189 insurer from a third party must be refunded to that party in
 190 full.

191 3. If ~~such~~ cancellation or termination occurs during the
 192 first 90 days the insurance is in force and the insurance is
 193 canceled or terminated for reasons other than nonpayment of
 194 premium, at least 20 days' written notice of cancellation or
 195 termination accompanied by the reason therefor must be given
 196 unless there has been a material misstatement or
 197 misrepresentation or a failure to comply with the underwriting
 198 requirements established by the insurer.

199 4. After a policy or contract has been in effect for more
 200 than 90 days, the insurer may not cancel or terminate the policy
 201 or contract based on credit information available in public
 202 records.

203 ~~5.4.~~ The requirement for providing written notice by June 1

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204 of any nonrenewal that would be effective between June 1 and
 205 November 30 does not apply to the following situations, but the
 206 insurer remains subject to the requirement to provide such
 207 notice at least 100 days before the effective date of
 208 nonrenewal:

209 a. A policy that is nonrenewed due to a revision in the
 210 coverage for sinkhole losses and catastrophic ground cover
 211 collapse pursuant to s. 627.706.

212 b. A policy that is nonrenewed by Citizens Property
 213 Insurance Corporation, pursuant to s. 627.351(6), for a policy
 214 that has been assumed by an authorized insurer offering
 215 replacement coverage to the policyholder is exempt from the
 216 notice requirements of paragraph (a) and this paragraph. In such
 217 cases, the corporation must give the named insured written
 218 notice of nonrenewal at least 45 days before the effective date
 219 of the nonrenewal.

220
 221 After the policy has been in effect for 90 days, the policy may
 222 not be canceled by the insurer unless there has been a material
 223 misstatement, a nonpayment of premium, a failure to comply with
 224 underwriting requirements established by the insurer within 90
 225 days after the date of effectuation of coverage, ~~or~~ a
 226 substantial change in the risk covered by the policy, ~~or if~~ the
 227 cancellation is for all insureds under such policies for a given
 228 class of insureds. This paragraph does not apply to individually
 229 rated risks that have ~~having~~ a policy term of less than 90 days.

230 ~~6.5.~~ Notwithstanding any other provision of law, an insurer
 231 may cancel or nonrenew a property insurance policy after at
 232 least 45 days' notice if the office finds that the early

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233 cancellation of some or all of the insurer's policies is
 234 necessary to protect the best interests of the public or
 235 policyholders and the office approves the insurer's plan for
 236 early cancellation or nonrenewal of some or all of its policies.
 237 The office may base such finding upon the financial condition of
 238 the insurer, lack of adequate reinsurance coverage for hurricane
 239 risk, or other relevant factors. The office may condition its
 240 finding on the consent of the insurer to be placed under
 241 administrative supervision pursuant to s. 624.81 or to the
 242 appointment of a receiver under chapter 631.

243 ~~7.6-~~ A policy covering both a home and a motor vehicle may
 244 be nonrenewed for any reason applicable to either the property
 245 or motor vehicle insurance after providing 90 days' notice.

246 Section 5. Section 627.422, Florida Statutes, is amended to
 247 read:

248 627.422 Assignment of policies.—A policy may be assignable,
 249 or not assignable, as provided by its terms.

250 (1) Subject to its ~~terms relating to~~ assignability, a any
 251 life or health insurance policy, under the terms of which the
 252 beneficiary may be changed only upon the ~~sole~~ request of the
 253 policyowner, may be assigned ~~either~~ by pledge or transfer of
 254 title, by an assignment executed by the policyowner alone and
 255 delivered to the insurer, regardless of whether ~~or not~~ the
 256 pledgee or assignee is the insurer. Any such assignment entitles
 257 ~~shall entitle~~ the insurer to deal with the assignee as the owner
 258 or pledgee of the policy in accordance with the terms of the
 259 assignment, until the insurer has received at its home office
 260 written notice of termination of the assignment or pledge or
 261 written notice by or on behalf of some other person claiming

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262 some interest in the policy in conflict with the assignment.

263 (2) For a residential property insurance policy, an
 264 agreement purporting to assign post-loss benefits for repair or
 265 replacement is a valid assignment only if the agreement:

266 (a) Requires the assignee to notify the insurance company
 267 within 48 hours of the assignment. If the contact information
 268 for the insurer is unavailable for the first 48 hours, the
 269 assignee shall contact the company as soon as practicable;

270 (b) Limits the assignment to the contracted work to be
 271 performed and is restricted to claims for damage to structures
 272 covered under the policy;

273 (c) Specifies the estimated scope and price of the work
 274 before it is performed;

275 (d) Prohibits the assignee from charging the policyowner
 276 for any portion of the repair or replacement beyond the
 277 applicable deductible contained in the insurance policy;

278 (e) Prohibits a person performing any portion of the repair
 279 or replacement on behalf of the assignee from charging the
 280 policyowner;

281 (f) Prohibits the assignee from retaining insurance
 282 proceeds that are earmarked by the insurer for payment of work
 283 to be performed by vendors other than the assignee; and

284 (g) Requires the assignee to guarantee that the work
 285 performed for the loss event conforms to the most recent,
 286 accepted industry standards.

287 Section 6. Paragraph (b) of subsection (4) of section
 288 627.7015, Florida Statutes, is amended to read:

289 627.7015 Alternative procedure for resolution of disputed
 290 property insurance claims.—

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291 (4) The department shall adopt by rule a property insurance
 292 mediation program to be administered by the department or its
 293 designee. The department may also adopt special rules which are
 294 applicable in cases of an emergency within the state. The rules
 295 shall be modeled after practices and procedures set forth in
 296 mediation rules of procedure adopted by the Supreme Court. The
 297 rules shall provide for:

298 (b) Qualifications, denial of application, suspension,
 299 revocation, and other penalties for ~~of~~ mediators as provided in
 300 s. 627.745 and ~~in~~ the Florida Rules for ~~of~~ Certified and Court-
 301 Appointed ~~Court Appointed~~ Mediators, ~~and for such other~~
 302 ~~individuals as are qualified by education, training, or~~
 303 ~~experience as the department determines to be appropriate.~~

304 Section 7. Section 627.70151, Florida Statutes, is created
 305 to read:

306 627.70151 Appraisal; conflicts of interest.—An insurer that
 307 offers residential coverage as defined in s. 627.4025, or a
 308 policyholder that uses an appraisal clause in a property
 309 insurance contract to establish a process for using an impartial
 310 umpire to estimate or evaluate the amount of loss, may challenge
 311 an umpire's impartiality and disqualify the proposed umpire only
 312 if:

313 (1) A familial relationship within the third degree exists
 314 between the umpire and a party or a representative of a party;

315 (2) The umpire has previously represented a party or a
 316 representative of a party in a professional capacity in the same
 317 or a substantially related matter;

318 (3) The umpire has represented another person in a
 319 professional capacity on the same or a substantially related

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320 matter that includes the claim or the same property, and the
 321 other person's interests are materially adverse to the interests
 322 of a party; or

323 (4) The umpire has worked as an employer or employee of a
 324 party within the preceding 5 years.

325 Section 8. Paragraph (c) of subsection (2) of section
 326 627.706, Florida Statutes, is amended to read:

327 627.706 Sinkhole insurance; catastrophic ground cover
 328 collapse; definitions.—

329 (2) As used in ss. 627.706-627.7074, and as used in
 330 connection with any policy providing coverage for a catastrophic
 331 ground cover collapse or for sinkhole losses, the term:

332 (c) "Neutral evaluator" means a professional engineer or a
 333 professional geologist who has completed a course of study in
 334 alternative dispute resolution designed or approved by the
 335 department for use in the neutral evaluation process, ~~and~~ who is
 336 determined by the department to be fair and impartial, and who
 337 is not otherwise ineligible for certification under s. 627.7074.

338 Section 9. Subsections (7) and (18) of section 627.7074,
 339 Florida Statutes, are amended to read:

340 627.7074 Alternative procedure for resolution of disputed
 341 sinkhole insurance claims.—

342 (7) Upon receipt of a request for neutral evaluation, the
 343 department shall provide the parties a list of certified neutral
 344 evaluators. The department shall allow the parties to submit
 345 requests to disqualify evaluators on the list for cause.

346 (a) The department shall disqualify neutral evaluators for
 347 cause based only on any of the following grounds:

348 1. A familial relationship within the third degree exists

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349 between the neutral evaluator and either party or a
350 representative of either party ~~within the third degree.~~

351 2. The proposed neutral evaluator has, in a professional
352 capacity, previously represented either party or a
353 representative of either party, ~~in the same or a substantially~~
354 related matter.

355 3. The proposed neutral evaluator has, in a professional
356 capacity, represented another person in the same or a
357 substantially related matter and that person's interests are
358 materially adverse to the interests of the parties. The term
359 "substantially related matter" means participation by the
360 neutral evaluator on the same claim, property, or adjacent
361 property.

362 4. The proposed neutral evaluator has, within the preceding
363 5 years, worked as an employer or employee of any party to the
364 case.

365 (b) The department shall deny an application for, or
366 suspend or revoke its approval of, a neutral evaluator if the
367 department finds that any of the following grounds exist:

368 1. Lack of one or more of the qualifications specified in
369 this section for approval or certification.

370 2. Material misstatement, misrepresentation, or fraud in
371 obtaining or attempting to obtain approval or certification.

372 3. Demonstrated lack of fitness or trustworthiness to act
373 as a neutral evaluator.

374 4. Fraudulent or dishonest practices in the conduct of an
375 evaluation or in the conduct of financial services business.

376 5. Violation of any provision of this code or of a lawful
377 order or rule of the department, or aiding, instructing, or

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378 encouraging another party in committing such a violation.

379 (c)(b) The parties shall appoint a neutral evaluator from
380 the department list and promptly inform the department. If the
381 parties cannot agree to a neutral evaluator within 14 business
382 days, the department shall appoint a neutral evaluator from the
383 list of certified neutral evaluators. The department shall allow
384 each party to disqualify two neutral evaluators without cause.
385 Upon selection or appointment, the department shall promptly
386 refer the request to the neutral evaluator.

387 (d)(e) Within 14 business days after ~~the~~ referral, the
388 neutral evaluator shall notify the policyholder and the insurer
389 of the date, time, and place of the neutral evaluation
390 conference. The conference may be held by telephone, if feasible
391 and desirable. The neutral evaluator shall make reasonable
392 efforts to hold the conference within 90 days after the receipt
393 of the request by the department. Failure of the neutral
394 evaluator to hold the conference within 90 days does not
395 invalidate either party's right to neutral evaluation or to a
396 neutral evaluation conference held outside this timeframe.

397 (18) The department shall adopt rules of procedure for the
398 neutral evaluation process and for certifying, denying
399 certification, suspending certification, and revoking the
400 certification of a neutral evaluator.

401 Section 10. Section 627.7142, Florida Statutes, is created
402 to read:

403 627.7142 Homeowner Claims Bill of Rights.—An insurer
404 issuing a personal lines residential property insurance policy
405 in this state must provide a Claims Bill of Rights to a
406 policyholder within 14 calendar days after receiving an initial

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465 into any contract for repairs to confirm any managed
 466 repair policy provisions or optional preferred
 467 vendors.

468 2. Make and document emergency repairs that are
 469 necessary to prevent further damage. Keep the damaged
 470 property, if feasible, keep all receipts, and take
 471 photographs of damage before and after any repairs.

472 3. Carefully read any contract that requires you
 473 to pay out-of-pocket expenses or a fee that is based
 474 on a percentage of the insurance proceeds that you
 475 will receive for repairing or replacing your property.

476 4. Confirm that the contractor you choose is
 477 licensed to do business in Florida. You can verify a
 478 contractor's license and check to see if there are any
 479 complaints against him or her by calling the Florida
 480 Department of Business and Professional Regulation.
 481 You should also ask the contractor for references from
 482 previous work.

483 5. Require all contractors to provide proof of
 484 insurance before beginning repairs.

485 6. Take precautions if the damage requires you to
 486 leave your home, including securing your property and
 487 turning off your gas, water, and electricity, and
 488 contacting your insurance company and provide a phone
 489 number where you can be reached.

491 Section 11. Section 627.715, Florida Statutes, is created
 492 to read:

493 627.715 Emergency mitigation services; agreements.—

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494 (1) As used in this section, the term "emergency mitigation
 495 services" means the delivery of goods or services that are
 496 needed to mitigate damage caused by fire, water, or catastrophic
 497 events when delay may exacerbate the damage to the covered
 498 property. Services include the removal of contents, removal of
 499 water or other contaminants, cleaning, sanitizing, incidental
 500 demolition, or other treatment, including preventive activities.

501 (2) For residential property insurance, an agreement for
 502 emergency mitigation services to which insurance proceeds may be
 503 applied is valid only if:

504 (a) The agreement specifies in writing the estimated scope
 505 and price of the work before it is performed;

506 (b) Any change from the original estimated scope and price
 507 of the work is preapproved by the policyholder; and

508 (c) The work is performed by an individual or company
 509 possessing a valid certification consistent with the most recent
 510 Standard and Reference Guide for Professional Water Damage
 511 Restoration, as developed by the Institute of Inspection,
 512 Cleaning and Restoration Certification and approved by the
 513 American National Standards Institute, or by a company that
 514 possesses a valid Division I license under chapter 489, which is
 515 providing services within the scope of that license. A company
 516 is considered to be certified for the purposes of this paragraph
 517 if the company representative who possesses a valid
 518 certification personally supervises the emergency mitigation
 519 services performed.

520 Section 12. Present subsections (3) through (5) of section
 521 627.745, Florida Statutes, are amended, and a new subsection (4)
 522 is added to that section, to read:

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523 627.745 Mediation of claims.-

524 (3)(a) The department shall approve mediators to conduct
525 mediations pursuant to this section.

526 (a) All mediators must file an application under oath for
527 approval as a mediator.

528 (b) To qualify for approval as a mediator, an individual a
529 ~~person~~ must meet one of the following qualifications:

530 1. Possess active certification by the Florida Supreme
531 Court as a circuit court mediator. A certified circuit court
532 mediator in a lapsed, suspended, sanctioned, or decertified
533 status is not eligible to participate in the mediation program a
534 masters or doctorate degree in psychology, counseling, business,
535 accounting, or economics, be a member of The Florida Bar, be
536 licensed as a certified public accountant, or demonstrate that
537 the applicant for approval has been actively engaged as a
538 qualified mediator for at least 4 years prior to July 1, 1990.

539 2. Be an approved department mediator as of July 1, 2014,
540 and have conducted at least one mediation on behalf of the
541 department within the 4 years immediately preceding that the
542 date. the application for approval is filed with the department,
543 have completed a minimum of a 40-hour training program approved
544 by the department and successfully passed a final examination
545 included in the training program and approved by the department.
546 The training program shall include and address all of the
547 following:

548 ~~a. Mediation theory.~~

549 ~~b. Mediation process and techniques.~~

550 ~~c. Standards of conduct for mediators.~~

551 ~~d. Conflict management and intervention skills.~~

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552 ~~e. Insurance nomenclature.~~

553 (4) The department shall deny an application, or suspend or
554 revoke its approval of a mediator, or the certification of a
555 neutral evaluator to serve as a mediator, if the department
556 finds that any of the following grounds exists:

557 (a) Lack of one or more of the qualifications specified in
558 this section for approval or certification.

559 (b) Material misstatement, misrepresentation, or fraud in
560 obtaining or attempting to obtain approval or certification.

561 (c) Demonstrated lack of fitness or trustworthiness to act
562 as a mediator or neutral evaluator.

563 (d) Fraudulent or dishonest practices in the conduct of
564 mediation or neutral evaluation or in the conduct of financial
565 services business.

566 (e) Violation of this code, of a lawful order or rule of
567 the department, or of the Florida Rules for Certified and Court-
568 Appointed Mediators, or the aiding, instructing, or encouraging
569 of another to commit such violation.

570 (5)(4) The department shall ~~must~~ adopt rules to administer
571 this section, including rules of procedure for claims mediation,
572 taking into consideration a system that ~~which~~:

573 (a) Is fair.

574 (b) Promotes settlement.

575 (c) Avoids delay.

576 (d) Is nonadversarial.

577 (e) Uses a framework for modern mediating technique.

578 (f) Controls costs and expenses of mediation.

579 (6)(5) Disclosures and information divulged in the
580 mediation process are not admissible in any subsequent action or

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581 proceeding relating to the claim or to the cause of action
582 giving rise to the claim. A person demanding mediation under
583 this section may not demand or request mediation after a suit ~~is~~
584 ~~filed~~ relating to the same facts already mediated is filed.
585 Section 13. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 16 2014

Meeting Date

Topic _____

Bill Number 708

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/14

Meeting Date

Topic Insurance claim

Bill Number SB708
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 130 S Bronough St

Phone 521-1235

Street

Tallahassee FL

E-mail cjohnson@flchamber.com

City

State

Zip

Speaking: For Against Information

Representing FL 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)

CourtSmart Tag Report

Room: KN 412

Case:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 3/6/2014 12:59:50 PM

Ends: 3/6/2014 2:07:04 PM Length: 01:07:15

12:59:52 PM Sen. Negron (Chair)
1:01:12 PM S 208
1:01:17 PM Sen. Hukill
1:02:12 PM Sen. Negron
1:02:33 PM PCS 507692
1:03:04 PM Brian Pitt, Trustee, Justice-2-Jesus
1:05:05 PM Sen. Negron
1:05:10 PM Bruster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
1:05:38 PM Sen. Hukill
1:05:40 PM Sen. Negron
1:06:32 PM S 860
1:06:50 PM Sen. Altman
1:07:48 PM Sen. Negron
1:07:55 PM Am. 936674
1:08:17 PM Sen. Richter
1:10:15 PM Sen. Negron
1:10:20 PM Sen. Benacquisto
1:10:28 PM Sen. Joyner
1:10:40 PM Sen. Richter
1:10:49 PM Sen. Joyner
1:11:11 PM Sen. Richter
1:11:18 PM Sen. Joyner
1:11:34 PM Sen. Richter
1:12:21 PM Sen. Joyner
1:13:20 PM Sen. Richter
1:13:51 PM Sen. Joyner
1:14:13 PM Sen. Richter
1:14:15 PM Sen. Altman
1:14:49 PM Sen. Joyner
1:15:12 PM Sen. Altman
1:15:25 PM Sen. Joyner
1:16:25 PM Sen. Montford
1:19:33 PM Sen. Richter
1:20:36 PM Am. 224526
1:20:53 PM Sen. Bradley
1:21:29 PM Am. 570084
1:23:33 PM Sen. Bradley
1:23:39 PM Sen. Benacquisto
1:23:53 PM S 860 (cont.)
1:24:02 PM Carlo Fassi, Chair, Florida Student Associan, FL SUS Students (waives in support)
1:24:17 PM Sen. Smith
1:26:03 PM Sen. Joyner
1:28:26 PM Sen. Benacquisto
1:28:31 PM Sen. Montford
1:31:00 PM Sen. Sobel
1:32:00 PM Sen. Benacquisto
1:32:07 PM Sen. Richter
1:35:04 PM Sen. Benacquisto
1:35:26 PM Bill Hemlich, Veterans of Foreign Wars and American Legion (waives in support)
1:35:33 PM Ed Woodruff, Government Relations Director, St. Petersburg College (waives in support)
1:35:40 PM Washington Sanchez, Chairman, FL Veterans Foundation (waives in support)
1:35:48 PM Col. Mike Prendergast, Executive Director, FL Dept.of Veterans Affairs (waives in support)

1:36:00 PM John Haynes, Chairman Emeritus, Florida Veterans Foundation (waives in support)
1:36:04 PM Adam Giery, Director of Policy, Florida Chamber (waives in support)
1:36:11 PM Matthew Holiday, Director of Government Relations, Edison State College (waives in support)
1:36:18 PM Jim Gill, President TMG, Military Veterans of Florida
1:39:05 PM Sen. Benaquisto
1:40:09 PM Brian Pitts, Trustee, Justice-2-Jesus
1:42:44 PM Sen. Benacquisto
1:43:02 PM Sen. Altman
1:43:03 PM Sen. Benacquisto
1:43:05 PM Sen. Altman
1:44:19 PM Sen. Benacquisto
1:45:21 PM S 7066
1:45:26 PM Sen. Hukill
1:47:19 PM Am. 492172
1:47:34 PM Sen. Hukill
1:47:37 PM Sen. Benacquisto
1:47:50 PM Am. 668070
1:47:54 PM Sen. Hukill
1:48:03 PM Sen. Benacquisto
1:48:19 PM S 7066 (cont.)
1:49:16 PM Sen. Benacquisto
1:49:23 PM S 424
1:49:35 PM Sen. Lee
1:49:48 PM Sen. Benacquisto
1:49:52 PM Sen. Lee
1:49:54 PM Sen. Benacquisto
1:49:56 PM Sen. Lee
1:50:20 PM Sen. Benacquisto
1:50:27 PM Am. 561712
1:50:48 PM Sen. Lee
1:51:27 PM Sen. Benacquisto
1:51:48 PM S 424 (cont.)
1:52:19 PM Marion Hammer, National Rifle Association United Sportsmen of Florida
1:52:29 PM Sen. Benacquisto
1:52:36 PM Sen. Joyner
1:53:11 PM Sen. Lee
1:54:45 PM Sen. Benacquisto
1:54:53 PM Sen. Lee
1:54:54 PM Sen. Benacquisto
1:55:57 PM S 248
1:56:01 PM Sen. Sobel
1:58:35 PM Sen. Benacquisto
1:58:43 PM Sen. Joyner
1:58:57 PM Sen. Sobel
1:59:04 PM Sen. Joyner
1:59:27 PM Sen. Sobel
1:59:39 PM Sen. Benacquisto
1:59:44 PM Am. 642396
1:59:50 PM Sen. Sobel
2:00:20 PM Sen. Benacquisto
2:00:40 PM S 248 (cont.)
2:00:48 PM Brian Pitts, Trustee, Justice-2-Jesus
2:01:42 PM Sen. Benacquisto
2:01:46 PM Sen. Joyner
2:05:33 PM Sen. Benacquisto
2:05:39 PM Sen. Sobel
2:06:05 PM Sen. Benacquisto