The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Thursday, March 14, 2013
TIME: 8:00 —10:30 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Simpson, Chair; Senator Thompson, Vice Chair; Senators Bradley, Hukill, Latvala, Smith, Soto, Stargel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 726** Simmons	Regulation of Family or Medical Leave Benefits for Employees; Prohibiting a political subdivision from requiring or otherwise regulating family or medical leave benefits for employees; preempting regulation of family or medical leave benefits to the state; providing that the act does not prohibit a political subdivision from establishing family or medical leave benefits for its employees; providing that the act does not prohibit a federally authorized or recognized tribal government from requiring family or medical leave benefits under certain conditions, etc. CA 03/07/2013 Temporarily Postponed CA 03/14/2013 Fav/CS HP JU	Fav/CS Yeas 6 Nays 2
2	**CS/SB 848** Military and Veterans Affairs, Space, and Domestic Security / Gardiner (Identical CS/H 135)	Spaceport Territory; Revising spaceport territory for purposes of the Space Florida Act to include certain property, etc. MS 03/07/2013 Fav/CS CA 03/14/2013 Fav/CS	Fav/CS Yeas 8 Nays 0
3	**CS/SB 286** Judiciary / Negron (Similar CS/H 575)	Design Professionals; Redefining the term “design professional”; specifying conditions under which a design professional employed by a business entity or an agent of the business entity may not be held individually liable for damages resulting from negligence occurring within the course and scope of a professional services contract, etc. RI 02/06/2013 Favorable JU 03/06/2013 Fav/CS CA 03/14/2013 Favorable	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 444** Diaz de la Portilla (Similar CS/H 707)	Domestic Wastewater Discharged Through Ocean Outfalls; Revising the measurement standard for the wastewater flow; revising the requirements for installation of a functioning reuse system by a utility that had a permit for a domestic wastewater facility on a specified date to discharge through ocean outfall; revising plan requirements for the elimination of ocean outfalls; requiring that the Department of Environmental Protection approve certain apportionment of reuse if a facility contracts with another facility to install a functioning reuse system, etc. EP 03/07/2013 Favorable CA 03/14/2013 Fav/CS AGG AP	Fav/CS Yeas 8 Nays 0
5	**SB 602** Hukill (Identical H 687)	Local Bids and Contracts for Public Construction Works; Eliminating specified conditions under which a local government is exempt from the requirement to competitively award contracts, etc. CA 03/14/2013 Temporarily Postponed GO RC	Temporarily Postponed
6	**SB 1118** Hays (Compare H 181)	Public Contracting; Prohibiting a governmental unit that contracts for the construction, repair, remodeling, or improving of a facility from imposing conditions that requires, prohibits, encourages, or discourages certain bidders, contractors, or subcontractors from entering into or adhering to agreements with a collective bargaining organization; prohibiting certain terms from being placed in bid specifications, project agreements, or other controlling documents; revising the period during which an agency must file a protest following certain contract solicitations or awards, etc. CA 03/14/2013 Temporarily Postponed GO JU	Temporarily Postponed
7	**SB 1766** Transportation (Similar H 7059)	Driver Licenses; Revising requirements relating to exemptions from licensure requirements for nonresidents; deleting a requirement that residents of foreign countries hold an International Driving Permit to be exempt, etc. CA 03/14/2013 Favorable	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/SB 534** Governmental Oversight and Accountability / Brandes (Similar CS/H 599)	Publicly-funded Defined Benefit Retirement Plans; Providing that the state is not liable for shortfalls in local government retirement systems or plans; requiring a defined benefit system or plan to report certain information to the Department of Management Services by a certain date and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make certain information available on certain websites; requiring the department to provide a fact sheet specifying certain information, etc. GO 02/21/2013 Temporarily Postponed GO 03/07/2013 Fav/CS CA 03/14/2013 Temporarily Postponed AP	Temporarily Postponed
9	**SB 1064** Latvala (Similar H 277)	Assessment of Residential and Nonhomestead Real Property; Excluding the value of certain installations, changes, or improvements made after a specified date from the assessed value of residential real property; requiring a nonrefundable filing fee for a petition to the value adjustment board; specifying additional exceptions to the assessment of homestead property at just value; repealing provisions relating to the property tax exemption for renewable energy source devices, etc. CA 03/14/2013 Favorable AFT AP	Favorable Yeas 8 Nays 0
10	**SB 1062** Latvala (Identical H 421)	Delinquent Real Property Taxes; Revising the interest rate applicable to delinquent real property taxes, etc. CA 03/14/2013 Favorable AFT AP	Favorable Yeas 8 Nays 0
11	**CS/SB 404** Judiciary / Stargel (Identical CS/H 267)	Real Property Liens and Conveyances; Deleting a requirement that blank spaces be included on a warranty deed to allow for entry of social security numbers of grantees on the deed; providing that certain types of governmental or quasi-governmental liens on real property are valid and effectual against certain creditors and purchasers only if recorded in a specified manner, etc. JU 03/06/2013 Fav/CS CA 03/14/2013 Favorable AFT AP	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**SB 928** Simpson (Compare H 437, H 921, S 740)	Community Development; Deleting an ad valorem tax exemption for property owned by certain Florida-based limited partnerships and used for affordable housing for certain income-qualified persons; extending the expiration date applicable to the granting of community contribution tax credits against the sales and use tax, corporate income tax, and insurance premium tax for contributions to eligible sponsors of community projects approved by the Department of Economic Opportunity; revising the powers of the Florida Housing Finance Corporation, etc. CA 03/14/2013 Fav/CS AFT AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 726

INTRODUCER: Community Affairs and Senator Simmons

SUBJECT: Regulation of Family or Medical Leave Benefits for Employees

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			HP	
3.			JU	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 726 preempts the regulation of family and medical leave benefits to the state. Exceptions are provided for leave related to and arising directly from domestic violence and for federal laws or regulations governing family or medical leave benefits. The bill also creates an Employer-Sponsored Benefits Task Force to analyze employer-sponsored family and medical leave benefits and the impact of the state preemption.

The bill does not limit the authority of a political subdivision to establish family or medical leave benefits for its own employees. Federally authorized and recognized tribal governments are not prohibited from requiring family or medical leave benefits for a person employed within tribe jurisdiction.

This bill creates an undesignated section of Florida Statutes.

II. Present Situation:

The Family Medical Leave Act

The Family and Medical Leave Act (FMLA) of 1993, as amended, entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.[1]

Covered Employers[2]

The FMLA only applies to employers that meet certain criteria. A covered employer is a:

- private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- public agency, including a local, state, or federal government agency, regardless of the number of employees it employs; or
- public or private elementary or secondary school, regardless of the number of employees it employs.

Eligible Employees[3]

Only eligible employees are entitled to take FMLA leave. An eligible employee is one who:

- works for a covered employer;
- has worked for the employer for at least 12 months;
- has at least 1,250 hours of service for the employer during the 12 month period immediately preceding the leave; and
- works at a location where the employer has at least 50 employees within 75 miles.

Leave Entitlement[4]

Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- the birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- to care for a spouse, son, daughter, or parent who has a serious health condition;
- for a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- for any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.[5]

Notice[6]

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[1] *See* Public Law 103-3, Enacted February 5, 1993, *available at* *http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_107_ENFORCEMENT* (last visited Feb. 25, 2013).
[2] *Id. See* section 101. Definitions.
[3] *Id. See* section 101. Definitions.
[4] *Id. See* section 102. Leave Requirement.
[5] An eligible employee may also take up to 26 workweeks of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.
[6] See supra note 4.

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

Enforcement[7]

The Wage and Hour Division of the United States Department of Labor administers and enforces the FMLA for all private, state and local government employees, and some federal employees. The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. An employee may also be able to bring a private civil action against an employer for violations. In general, any allegation must be raised within two years from the date of violation.

Expansion of FMLA in other States and Local Governments

The FMLA allows states and local governments to set standards that are more expansive than the federal law, and many states and local entities have chosen to do so.[8] Currently only two states, California and New Jersey, offer paid, or partially paid, family and medical leave.[9] In California, paid leave is funded by a payroll tax on employees and allows employees to participate in the temporary disability program. New Jersey extended its existing temporary disability insurance system to administer paid leave, and also funds the program through an employee payroll tax.

Washington passed a paid family leave law in 2007 that was to take effect in October 2009. However, due to state budget concerns, subsequent bills have delayed the implementation of the paid leave law until 2015.[10]

Wisconsin recently provided for the preemption of local sick leave ordinances in the state.[11] The 2011 Wisconsin Act 16 prohibits a city, village, town, or county from enacting or administering an ordinance that requires employers to provide paid or unpaid leave for four reasons:

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[7] United States Department of Labor, Wage and Hour Division, *Fact Sheet # 77B: Protection for Individuals under the FMLA*, *available at* http://www.dol.gov/whd/regs/compliance/whdfs77b.htm (last visited Feb. 25, 2013).

[8] *See* 29 C.F.R. s. 825.701, *available at* http://law.justia.com/cfr/title29/29-3.1.1.3.52.7.466.2.html (last visited Feb. 25, 2013). Connecticut and Minnesota allow leave for an organ or bone marrow donor. Oregon's definition of "family member" includes the employee's grandparent, grandchild, or parent-in-law. North Carolina allows leave to participate in children's educational activities. See National Conference of State Legislatures, *State Family and Medical Leave Laws that Differ from the Federal FMLA* (Sept. 2008), *available at* http://www.ncsl.org/Portals/1/Documents/employ/StateFamilyandMedicalLeaveLaws.pdf (last visited Feb. 25, 2013). San Francisco, Philadelphia, and Seattle have also passed expanded leave ordinances. Miami-Dade County ordinances on family leave and domestic violence include unpaid leave for the care of a grandparent and for circumstances related to a medical or dental problem resulting from domestic or repeat violence. See Miami-Dade County Regulations, *Chapter 11A Discrimination: Article V. - Family Leave, Article VIII - Domestic Leave, available at* http://miamidade.fl.eregulations.us/code/reglist/ord_ptiii_ch11a?selectdate=3/1/2013 (last visited Mar. 1, 2013).

[9] National Conference of State Legislatures, *State Family Medical Leave Laws, available at* http://www.ncsl.org/issues-research/labor/state-family-and-medical-leave-laws.aspx (last visited Feb. 25, 2013).

[10] *Id.*

[11] *See* Wisconsin Legislative Council, *Act Memo for 2011 Wisconsin Act 16: Preemption of Local Sick Leave Ordinances* (May 10, 2011), *available at* http://docs.legis.wisconsin.gov/2011/related/lcactmemo/sb23.pdf.

- for the employee's own health condition or preventive medical care.
- for a family member of the employee's health condition or preventive medical care.
- for the employee's medical care or assistance relating to domestic violence.
- for the employee's other family, medical, or health issues, for himself or herself or a family member.[12]

Leave Provisions in Florida Law

Some leave of absence and medical leave provisions exist in Florida Statutes. Section 741.313, F.S., provides that an employer permit an employee to take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence. This leave may be paid or unpaid, at the discretion of the employer. These provisions only apply to an employer who employs 50 or more employees and to an employee who has been employed for three months or longer.[13]

Section 110.221, F.S., prevents the termination of state career service employees for reasons related to pregnancy or adoption. The section also allows up to six months of unpaid leave for these employees.[14] In addition, s. 121.121, F.S., governs authorized leaves of absences for members of the Florida Retirement System.

"At-Will" Employment

Florida is an "at-will" employment state.[15] In essence, this means that, absent an employment contract, either party, employer or employee, may terminate the employment relationship at any time, for any reason, so long as the reason is not prohibited by law.[16]

Actions for wrongful termination of employment, under the constitutional theory of a violation of "basic rights" as set forth in Article I, Section 2 of the Florida Constitution, must be based upon a state action, and not the action of one citizen (employer) against another (employee).[17] One citizen's rights "shall not be construed to deny or impair others retained by the people."[18] The application of the right to equal protection in Article I, Section 2 of the Florida Constitution, is activated when the government intrudes into a citizen's most basic, personal freedom from

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[12] *Id*. The Act does not affect local ordinances that require leave for employees of a local governmental unit. If the terms of a collective bargaining agreement are inconsistent with the provisions of the Act, the provisions apply when the collective bargaining agreement expires, or is extended, modified, or renewed, whichever occurs first.
[13] *See* s. 741.313, F.S.
[14] *See* s. 110.221, F.S. Additional provisions relate to annual leave credits and accrued sick leave.
[15] This section of the analysis is drawn from Florida Senate Judiciary Committee, *CS/SB 1130 Analysis: Firearms in Motor Vehicles* (Mar. 26, 2008) *available at* http://archive.flsenate.gov/data/session/2008/Senate/bills/analysis/pdf/2008s1130.ju.pdf.
[16] See *Smith v. Piezo Technology and Prof'l Adm'rs*, 427 So. 2d 182, 184 (Fla. 1983) ("[t]he established rule in Florida relating to employment termination is that '[W]here the term of employment is discretionary with either party or indefinite, then either party for any reason may terminate it at any time and no action may be maintained for breach of the employment contract.'") (quoting *DeMarco v. Publix Super Markets, Inc.*, 384 So. 2d 1253, 1254 (Fla. 1980)); *Leonardi v. City of Hollywood*, 715 So. 2d 1007, 1008 fn. 1 (Fla. 4th DCA 1998) ("[t]he general rule of at-will employment is that an employee can be discharged at any time, as long as he is not terminated for a reason prohibited by law, such as retaliation or unlawful discrimination").
[17] *Schreiner v. McKenzie Tank Lines*, 432 So. 2d 567, 569-70 (Fla. 1983).
[18] FLA. CONST., art. 1, s. 1.

such intrusion. Consequently, there is no constitutional right to employment in Florida in the private sector.

The Legislature has enacted statutes addressing discrimination based upon race, color, religion, sex, national origin, age, handicap, or marital status.[19] These statutes provide causes of action for employment discrimination, and the methods by which they are to be pursued, against employers who employ 15 or more employees for each working day in each of 20 or more calendar weeks.[20]

The statutory protections set forth protect employees from discrimination based upon who they are, not matters that are necessarily matters of choice or preference. These statutory protections could be viewed as an expansion, or at least a clarification from a public policy standpoint, of the constitutional basic rights enumerated in Article I, Section 2 of the Florida Constitution.

Reasons not inherently "identity-related," for employing or not employing, retaining, or terminating an employee are matters within the discretion of the employer and are neither constitutionally nor statutorily governed.

Orange County Earned Sick Time Ordinance Petition

In 2012, registered voters petitioned to place an Orange County ordinance entitled *Earned Sick Time for Employees of Businesses in Orange County* on the November ballot.[21] The ordinance would require employers with 15 or more employees to give employees within Orange County paid sick time when they are sick or caring for a sick family member. Employees would accrue one hour of sick time for every 37 hours worked, capped at 56 hours in a calendar year. Employers with fewer than 15 employees would not have to offer paid sick time, but could not retaliate against workers who take unpaid time off when they are sick.

Local Government Powers and Legislative Preemption

The Florida Constitution grants counties or municipalities broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.[22] Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.[23] Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[24] Section 125.01, F.S., enumerates the powers and duties of all county governments, unless preempted on a particular subject by general or special law.

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[19] Florida Civil Rights Act, ss. 760.1-760.11, F.S.; s. 509.092, F.S.
[20] Section 760.02(7), F.S.
[21] Petition language is available at http://blogs.orlandosentinel.com/news_politics/files/2012/08/Earned_Sick_Time_Petition_Form.pdf. The ordinance was not on the November 2012 ballot but is now scheduled for the August 2014 ballot.
[22] FLA. CONST. art. VIII, s. 1(f).
[23] FLA. CONST. art. VIII, s. 1(g).
[24] FLA. CONST. art. VIII, s. 2(b); s*ee also* s. 166.021, F.S.

Under its broad home rule powers, a municipality or a charter county may legislate concurrently with the Legislature on any subject which has not been expressly preempted to the State.[25] Express preemption of a municipality's power to legislate requires a specific statement; preemption cannot be made by implication or by inference.[26] A county or municipality cannot forbid what the Legislature has expressly licensed, authorized or required, nor may it authorize what the Legislature has expressly forbidden.[27] The Legislature can preempt a county's broad authority to enact ordinances and may do so either expressly or by implication.[28]

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of Florida Statutes on ordinances relating to family or medical leave benefits for employees. Definitions provided for "employee" and "employer" are those as established in the federal Fair Labor Standards Act of 1938.[29] "Family or medical leave" is defined to mean a paid or unpaid absence from employment to deal with a health condition or seek medical attention for oneself or to assist another person engaged in the same two activities. This type of leave is also defined to include the birth or adoption of a child. "Family or medical leave" does *not* include leave related to and arising directly from domestic violence. "Political subdivision" is also defined and includes a county, municipality, department, commission, special district board or other public body.

This section provides that a political subdivision may not require an employer to provide family or medical leave benefits to an employee and may not otherwise regulate such leave. With the exception of family or medical leave benefits regulated under federal law or regulations, the regulation of family and medical leave benefits is expressly preempted to the state.

This section also creates the Employer-Sponsored Benefits Study Task Force to analyze employer-sponsored family and medical leave benefits and the impact of state preemption of the regulation of such benefits. The task force shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The task force is composed of nine members and includes the Director of the Workforce Florida, Inc., who will serve as chair of the group. The President and Speaker shall each make four appointments to the task force and will include members of the Legislature, owners of various sized businesses, and representatives of organizations representing non-

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[25] *See, e.g., City of Hollywood v. Mulligan*, 934 So. 2d 1238 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011 (Fla. 2d DCA 2005).
[26] *Id.*
[27] *Rinzler v. Carson*, 262 So. 2d 661 (Fla. 1972); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011 (Fla. 2d DCA 2005).
[28] *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011 (Fla. 2d DCA 2005).
[29] See U.S. Department of Labor Wage and Hour Division, *The Fair Labor Standards Act of 1938, As Amended*, *available at* http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf (last visited Feb. 25, 2013). Section 203 of the Act defines "employer" to include "any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization." The term "employee" means "any individual employed by an employer" subject to certain federal government employee definitions and excluding certain employees deemed as volunteers.

management employees of businesses. The task force shall organize by September 1, 2013, and complete its work by January 15, 2014.

This section does not limit the authority of a political subdivision to establish family or medical leave benefits for its employees. In addition, the section does not prohibit a federally authorized and recognized tribal government from requiring family or medical leave benefits for a person employed within a territory over which the tribe has jurisdiction.

Section 2 provides an effective date upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is unknown how many local governments may have established family or medical leave benefits that apply to non-government employees which are more expansive than federal law.[30] Under the bill, any such benefits would be preempted to the state.

There will be indeterminate costs associated with the meetings and the work-product of the Employer-Sponsored Benefits Study Task Force.

[30] Miami-Dade County ordinances on family leave and domestic violence include unpaid leave for the care of a grandparent and for circumstances related to a medical or dental problem resulting from domestic or repeat violence. See Miami-Dade County Regulations, *Chapter 11A Discrimination: Article V. - Family Leave, Article VIII - Domestic Leave, available at* http://miamidade.fl.eregulations.us/code/reglist/ord_ptiii_ch11a?selectdate=3/1/2013 (last visited Mar. 1, 2013).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The sponsor may wish to clarify who will manage the administrative responsibilities of the task force or if member per diem or travel expenses may be reimbursed.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on March 14, 2013:

- Establishes an exception to the preemption provision for leave related to and arising directly from domestic violence.
- Removes the bill's provision of an employee's right to absence from work for illness or a medical emergency and the process for work schedule adjustments for doctor or dental appointments.
- Creates the Employer-Sponsored Benefits Study Task Force.

B. Amendments:

None.

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

251726

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 19 - 20
4 and insert:
5 Section 1. Family or medical leave benefits; ordinances;
6 statewide minimum requirements.—

952590

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
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3 Between lines 29 and 30
4 insert:
5 The term does not include leave related to and arising directly
6 from domestic violence.

584330

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/14/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 41 - 72
4 and insert:
5 (3) Each business entity in this state which employs more
6 than fifty employees at a time must have a written policy that
7 delineates the allotted benefits provided to each employee for
8 paid or unpaid leave in the event of illness of the employee or
9 a dependent child of the employee. The written policy must be
10 provided to all new employees.
11 (4)(a) There is created the Employer-Sponsored Benefits
12 Study Task Force. The task force shall organize by September 1,

584330

13 2013. The task force is composed of nine members. The Director
14 of Workforce Florida, Inc., shall serve as a member and chair of
15 the task force. The President of the Senate and the Speaker of
16 the House of Representatives shall each appoint four members to
17 the task force. The four appointments from the President of the
18 Senate and the four appointments from the Speaker of the House
19 of Representatives must include:
20 1. A member of the Legislature.
21 2. An owner of a business in this state which employs fewer
22 than 50 people.
23 3. An owner or representative of a business in this state
24 which employs more than 50 people.
25 4. A representative of an organization who represents the
26 nonmanagement employees of a business.
27 (b) The purpose of the task force is to analyze employer-
28 sponsored family or medical leave benefits and the impact of
29 state preemption of the regulation of such benefits. The task
30 force shall develop a report that includes its findings and
31 recommendations for legislative action regarding the regulation
32 of family or medical leave benefits. The task force shall submit
33 the report to the Governor, the President of the Senate, and the
34 Speaker of the House of Representatives by January 15, 2014.
35 (c) This subsection is repealed June 30, 2014.
36 (5) This section does not limit the authority of a
37 political subdivision to establish family or medical leave
38 benefits for the employees of the political subdivision.
39 (6) This section does not prohibit a federally authorized
40
41 ========== T I T L E A M E N D M E N T ==========

584330

42 And the title is amended as follows:
43 Delete lines 7 - 9
44 and insert:
45 medical leave benefits to the state; requiring certain
46 business entities to have a written policy on leave
47 benefits; requiring that the written policy be
48 provided to all new employees; creating the Employer-
49 Sponsored Benefits Study Task Force; establishing the
50 purpose and composition of the task force; requiring
51 the task force to submit a report to the Governor and
52 the Legislature by a specified date; providing report
53 requirements; providing for future repeal of the task
54 force; providing that the act does not prohibit a

581142

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 26 - 29
4 and insert:
5 from employment, paid or unpaid, used by an employee for a
6 personal health condition or to seek medical attention; to
7 assist a dependent child of the employee, the employee's spouse,
8 or a member of the employee's household dealing with a health
9 condition or seeking medical attention; or to give birth or
10 adopt a child. The term does not include leave related to and
11 arising directly from domestic violence unless such leave is
12 related to a personal health condition or the seeking of medical

581142

13 attention as a result of domestic violence.

364972

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 41 - 43
4 and insert:
5 (3) An employee who has worked for an employer in this
6 state

111396

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 75 and 76
4 insert:
5 (6) This section does not limit the right of employers to
6 provide greater family or medical leave benefits to employees
7 than the benefits specified in this section.
8
9 ========== T I T L E A M E N D M E N T ==========
10 And the title is amended as follows:
11 Delete line 15
12 and insert:

111396

13 providing that the act does not limit employers from
14 offering additional family or medical leave benefits;
15 providing an effective date.

931520

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (584330) (with title**
2 **amendment)**
3
4 Delete lines 41 - 72
5 and insert:
6 (3)(a) There is created the Employer-Sponsored Benefits
7 Study Task Force. The task force shall organize by September 1,
8 2013. The task force is composed of nine members. The Director
9 of Workforce Florida, Inc., shall serve as a member and chair of
10 the task force. The President of the Senate and the Speaker of
11 the House of Representatives shall each appoint four members to
12 the task force. The four appointments from the President of the

931520

13 Senate and the four appointments from the Speaker of the House
14 of Representatives must include:
15 1. A member of the Legislature.
16 2. An owner of a business in this state which employs fewer
17 than 50 people.
18 3. An owner or representative of a business in this state
19 which employs more than 50 people.
20 4. A representative of an organization who represents the
21 nonmanagement employees of a business.
22 (b) The purpose of the task force is to analyze employer-
23 sponsored family or medical leave benefits and the impact of
24 state preemption of the regulation of such benefits. The task
25 force shall develop a report that includes its findings and
26 recommendations for legislative action regarding the regulation
27 of family or medical leave benefits. The task force shall submit
28 the report to the Governor, the President of the Senate, and the
29 Speaker of the House of Representatives by January 15, 2014.
30 (c) This subsection is repealed June 30, 2014.
31 (4) This section does not limit the authority of a
32 political subdivision to establish family or medical leave
33 benefits for the employees of the political subdivision.
34 (5) This section does not prohibit a federally authorized
35
36 ========== T I T L E A M E N D M E N T ==========
37 And the title is amended as follows:
38 Delete lines 7 - 9
39 and insert:
40 medical leave benefits to the state; creating the
41 Employer-Sponsored Benefits Study Task Force;

931520

42 establishing the purpose and composition of the task
43 force; requiring the task force to submit a report to
44 the Governor and the Legislature by a specified date;
45 providing report requirements; providing for future
46 repeal of the task force; providing that the act does
47 not prohibit a

By Senator Simmons

10-00537B-13 2013726__

A bill to be entitled

An act relating to the regulation of family or medical leave benefits for employees; providing definitions; prohibiting a political subdivision from requiring or otherwise regulating family or medical leave benefits for employees; preempting regulation of family or medical leave benefits to the state; establishing certain family or medical leave benefits for specified employees; providing that the act does not prohibit a political subdivision from establishing family or medical leave benefits for its employees; providing that the act does not prohibit a federally authorized or recognized tribal government from requiring family or medical leave benefits under certain conditions; providing an effective date.

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

Section 1. Ordinances relating to family or medical leave benefits for employees.—

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

(a) "Employee" and the term "employer" have the same meanings as established in the federal Fair Labor Standards Act of 1938, 29 U.S.C. s. 203.

(b) "Family or medical leave" means a period of absence from employment, paid or unpaid, used by an employee to deal with a health condition or seek medical attention, to assist another person dealing with a health condition or seeking medical attention, or to give birth to or adopt a child.

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

30 (c) "Political subdivision" means a county, municipality,
31 department, commission, special district, board, or other public
32 body, whether corporate or otherwise, created by or under state
33 law.
34 (2) A political subdivision may not require an employer to
35 provide family or medical leave benefits to an employee and may
36 not otherwise regulate such leave. For purposes of uniform
37 application of this section throughout the state, with the
38 exception of family or medical leave benefits regulated under
39 federal law or regulations, the regulation of family and medical
40 leave benefits is expressly preempted to the state.
41 (3) In addition to any family or medical leave benefits
42 available to an employee pursuant to applicable federal or state
43 laws, an employee who has worked for an employer in this state
44 for a total of 12 months and has worked a minimum of 1,250 hours
45 over the previous 12 months, is entitled to the following
46 rights:
47 (a) An employee may be absent from his or her employment
48 for up to 5 days during a calendar year, without risk of
49 termination, in the event of the illness of the employee or a
50 dependent child of the employee which is documented by a signed
51 letter from a licensed medical professional.
52 (b) An employee may, without risk of termination, leave
53 work for up to 1 day during a calendar year due to a medical
54 emergency involving the employee, a dependent child of the
55 employee, the employee's spouse, or a member of the household
56 which is documented by a signed letter from a licensed medical
57 professional which attests to the existence of a medical
58 emergency.

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

59 (c) An employee may, in consultation with his or her
60 employer, obtain an adjustment of the employee's work schedule
61 in order to accommodate up to a total of five doctor or dentist
62 appointments each calendar year for the employee or a dependent
63 child of the employee. The employee shall provide reasonable
64 notice to his or her employer of the appointments.
65 (d) As a condition of receiving the benefits specified in
66 paragraphs (a)-(c), an employer may provide, and require an
67 employee to participate in, a wellness or preventive health care
68 program.
69 (4) This section does not limit the authority of a
70 political subdivision to establish family or medical leave
71 benefits for the employees of the political subdivision.
72 (5) This section does not prohibit a federally authorized
73 and recognized tribal government from requiring family or
74 medical leave benefits for a person employed within a territory
75 over which the tribe has jurisdiction.
76 Section 2. This act shall take effect upon becoming a law.

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

3/14/13
SB 726
Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

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

Topic: ~~Public Private~~ Regulation of Family Farms

Bill Number: SB 726 (if applicable)

Name: Richard Watson

Amendment Barcode: (if applicable)

Job Title: Legislative Counsel

Address: P.O. Box 10038 (Street)

Tallahassee, FL 32302 (City, State, Zip)

Phone: 850 222.0000

E-mail: rick@watsonandassociates.com

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

Representing: Associated Builders and Contractors

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

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

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

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)

3/19/13
Meeting Date

Topic: Health Benefits

Bill Number: 726 *(if applicable)*

Name: Rick Templin

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 135 S. Monroe
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-224-6526

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/14/13
Meeting Date

Topic: ~~[illegible]~~ Paid Leave

Bill Number: 724 *(if applicable)*

Name: Carolyn Johnson

Amendment Barcode: 584330 *(if applicable)*

Job Title: Policy Director

Address: 136 S Bronough St
Street

Tallahassee FL 32311
City *State* *Zip*

Phone: 850-521-1295

E-mail:

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

Representing: FL 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.

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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)

3-14-13
Meeting Date

Topic: Pre emption

Bill Number: SB 726 *(if applicable)*

Name: Bill Herrle

Amendment Barcode: *(if applicable)*

Job Title: Exec Director

Address: 110 E Jeff.
Street

Tallc.
City *State* *Zip*

Phone: 681 0416

E-mail: billherrle@nfib.org

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

Representing: Nat. Fed. of Ind. Business

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: PAID SICK LEAVE

Bill Number: SB 726 (if applicable)

Name: RANDY MILLER

Amendment Barcode: (if applicable)

Job Title: EX VICE PRES

Address: 227 S. ADAMS ST
Street

TALLAHASSEE FL 32301
City State Zip

Phone: 222-4082

E-mail: RMILLER@FRF.ORG

Speaking: [X] For (AS AMENDED) [ ] Against [ ] Information

Representing: FLORIDA RETAIL FEDERATION

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

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

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

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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)

3/14/13
Meeting Date

Topic: Family Medical Leave

Bill Number: SB 726 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: _____ *(if applicable)*

Job Title: Senior VP

Address: 516 N Adams St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 224-7173

E-mail: bbevis@aif.com

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

Representing: Associated Industries of Florida

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic _____

Bill Number SB 726 *(if applicable)*

Name Kraig Conn

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 301 S. Bronough
Street

Tall FL 32301
City *State* *Zip*

Phone 222 9684

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

3-14-13
Meeting Date

Topic: Sick Time

Bill Number: SB 726 *(if applicable)*

Name: Stephanie Kunkel

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 1143 Albritton DR
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-320-4208

E-mail: stef.kunkel@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Organize Now

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)

March 14, 2013
Meeting Date

Topic: Regulation of Family or Medical Leave Benefits

Bill Number: SB 726 *(if applicable)*

Name: CAROL DOVER

Amendment Barcode: _____ *(if applicable)*

Job Title: President & CEO

Address: 230 S. Adams
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850 224-2250

E-mail: Cdover@FRLA.org

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

Representing: Florida Restaurant & Lodging Assn.

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic

Bill Number 726 *(if applicable)*

Name Carmen Balasquide.

Amendment Barcode *(if applicable)*

Job Title

Address 308 Aylesbury ct
Street

Gss Fl 34758
City *State* *Zip*

Phone 407-580-9246

E-mail carmen@organizeflorida.org

Speaking: ☐ For ☑ Against ☐ Information

Representing Organize now

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)

3/14/13
Meeting Date

Topic: Family & medical leave

Bill Number: 726 (if applicable)

Name: Edward Prince

Amendment Barcode: (if applicable)

Job Title: Building inspector

Address: 1318 S/E 43rd TER
Street

Cape Coral, Fl 33904
City, State, Zip

Phone: 239 677-1173

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: Myself

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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)

3/14/13
Meeting Date

Topic: FLMA

Bill Number: 726 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR

Address: PO Box 17666
Street

POMPANO BCH FLA 33061
City State Zip

Phone: 954 850 4055

E-mail: workingfolk@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: COMMUNICATIONS WORKERS OF AMERICA

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)

3/14/13
Meeting Date

Topic: Earned Sick Time

Bill Number: 726 *(if applicable)*

Name: Maria McCluskey

Amendment Barcode: *(if applicable)*

Job Title:

Address: 12073 Lk Cypress Cir
Street

Orlando, FL 32828
City, State, Zip

Phone: 904 614 3687

E-mail: mccluskey.maria@gmail

Speaking: ☐ For ☑ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: February 14, 2013

I respectfully request that **Senate Bill 726**, relating to Regulation of Family or Medical Leave Benefits for Employees, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/CS/SB 848

INTRODUCER: Community Affairs Committee, Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Gardiner

SUBJECT: Spaceport Territory

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Spaulding	Ryon	MS	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 848 revises spaceport territory for the purposes of the Space Florida Act to include properties in Brevard County as spaceport territory. The properties included in the bill are within the boundaries of the Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park.

The bill substantially amends section 331.304 of the Florida Statutes.

II. Present Situation:

Commercial Space Industry

With the retirement of the Space Shuttle Program in July of 2011,[1] the United States is now reliant on the private sector for the transportation of cargo and passengers to the International Space Station, low Earth orbit, and beyond. Historically, the commercial space industry has

[1] National Aeronautics and Space Administration, Space Shuttle Launches, http://www.nasa.gov/pdf/537939main_ss-launches-080311.pdf, last viewed March 5, 2013.

focused primarily on putting payloads, such as satellites, into orbit using expendable launch systems. As the industry shifts its focus toward space tourism, expendable launch systems are slowly being replaced by reusable systems capable of transporting humans and general cargo into space. In response, several states have developed or proposed commercial spaceports in order to capture a greater share of what is anticipated to be a growing market in the near future.[2]

Federal Regulations

The Office of Commercial Space Transportation within the Federal Aviation Administration (FAA) is the federal agency responsible for regulating and facilitating the safe operations of the U.S. commercial space transportation industry. The Commercial Space Launch Act of 1984, as amended, authorizes the FAA to establish licensing and regulatory requirements for launch vehicles, launch sites, and reusable suborbital rockets.[3] The FAA's launch regulations and licensing procedures apply to all commercial launches taking place within the United States, U.S. territories, and for launches being conducted abroad by U.S. companies. In general, the FAA does not license launch sites owned or operated by agencies of the U.S. government.[4] Since 1984, the FAA has licensed the operation of eight FAA-approved launch sites, including the Cape Canaveral Spaceport and the spaceport at Cecil Field.[5]

Spaceports in Florida

Currently, Florida has two federally owned spaceports and two FAA licensed commercial spaceports. The Cape Canaveral Air Force Station and the National Aeronautics and Space Administration's Kennedy Space Center are owned and operated by the federal government. The two FAA licensed commercial spaceports in Florida include the Cape Canaveral Spaceport, operated by Space Florida, and the Cecil Field Spaceport, operated by the Jacksonville Aviation Authority. The Space Launch Site Operator licenses for the Cape Canaveral Spaceport and Cecil Field Spaceport were issued in 1999 and 2010 respectively.

Space Coast Regional Airport

The Space Coast Regional Airport is located about 5 miles south of Titusville and features a 7,319 foot runway. The airport is governed by the Titusville-Cocoa Airport Authority and serves as a corporate and commercial charter aviation facility. The Airport Authority is currently seeking a Space Launch Site Operator license from the FAA. The Space Coast Regional Airport Industrial Park is located adjacent to the airport.

Spaceport Territories Designated in the Florida Statutes

Section 331.304, F.S., provides that certain real property in the following areas constitute a spaceport territory: Brevard County and within the 1998 boundaries of Patrick Air Force Base,

---

[2] FAA Aerospace Forecast Fiscal Years 2012-2032, p. 59, http://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2012-2032/media/Commercial%20Space%20Transportation.pdf, last viewed March 1, 2013.

[3] 51 U.S.C. Ch. 509, §§ 50901-23.

[4] The FAA also exempts certain classes of small rockets from licensure.

[5] California Spaceport, Kodiak Launch Complex (AK), Mid-Atlantic Regional Spaceport (VA), Mojave Air and Space Port (CA), Clinton-Sherman Industrial Airpark (OK), and Spaceport America (NM).

Cape Canaveral Air Force Station, or John F. Kennedy Space Center, Santa Rosa, Okaloosa, Gulf, and Walton Counties and within the 1997 boundaries of Eglin Air Force Base, Duval County which is included within the boundaries of Cecil Airport and Cecil Commerce Center, and real property licensed as a spaceport by the Federal Aviation Administration, and designated as spaceport territory by the board of directors of Space Florida.

Section 212.08, F.S., provides a tax exemption for machinery and equipment purchased for a new or expanding business in a spaceport territory. New and expanding businesses located within spaceport territory designated by the bill, may be eligible for this exemption. In order to qualify, a business must be engaged in spaceport activities, as defined by s. 212.02(22), F.S.[6]

Currently, the Space Coast Regional Airport and the Space Coast Regional Airport Industrial Park are not designated as a "spaceport territory" in the Florida Statutes.

III. Effect of Proposed Changes:

Section 1 amends s. 331.304, F.S., to designate real property located in Brevard County which is included within the boundaries of the Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park as a spaceport territory.

Section 2 provides that the bill will 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:

Section 212.02(22) F.S., defines "Spaceport activities" as those directed or sponsored by Space Florida on spaceport territory pursuant to its powers and responsibilities under the Space Florida Act. According to statute 212.08, industrial machinery and equipment purchased for exclusive use by a new or expanding business in spaceport activities, or for use in new businesses that manufacture, process, compound, or produce for sale items of

[6] The term "Spaceport Activities" means activities directed or sponsored by Space Florida on spaceport territory pursuant to its powers and responsibilities under the Space Florida Act.

tangible personal property are exempt from sales tax. This bill would be expanding the area which this sales tax exemption is used.

B. Private Sector Impact:

The increase in designated Space Port territory could lead to an increase of growth in the space industry, which could potentially lead to more jobs.

C. Government Sector Impact:

The Revenue Estimating Conference met on HB 135, which is identical, and stated it would have a negative recurring fiscal impact of $100,000 on state funds related to the tax exemption in s. 212.08, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Community Affairs on March 14, 2013:
The Committee Substitute makes a technical change.

CS by Military and Veterans Affairs, Space, and Domestic Security on March 7, 2013:
The Committee Substitute adds the Space Port Commerce Park to area to be designated as a spaceport territory.

B. Amendments:

None.

191896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 13
4 and insert:
5 (5) Real property located in Brevard County which

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

583-02015-13 2013848c1

A bill to be entitled

An act relating to spaceport territory; amending s. 331.304, F.S.; revising spaceport territory for purposes of the Space Florida Act to include certain property; providing an effective date.

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

Section 1. Subsection (5) is added to section 331.304, Florida Statutes, to read:

331.304 Spaceport territory.—The following property shall constitute spaceport territory:

(5) Certain real property located in Brevard County which is included within the boundaries of Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park.

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/13/13
Meeting Date

Topic: Spaceport Territory

Bill Number: SB848 *(if applicable)*

Name: Chris Snow

Amendment Barcode: *(if applicable)*

Job Title: Senior Director of Government Relations

Address: 1580 Waldo Palmer Lane
Street

Tallahassee — *City*
FL — *State*
32317 — *Zip*

Phone: 321-474-9754

E-mail: csnow@spaceflorida.gov

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

Representing: Space 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)

3/14/13
Meeting Date

Topic: Spaceport Territory

Bill Number: SB 848 (if applicable)

Name: Lori Hundley

Amendment Barcode: (if applicable)

Job Title: Govt Relations

Address: 21 Fairden Dr
Street

Huntsville FL 32796
City State Zip

Phone: 321 863-5266

E-mail: LAYLUND@yahoo.com

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

Representing: SpaceCoast Economic Development Commission

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: SPACEPORT TERRITORY

Bill Number: SB 848 *(if applicable)*

Name: JERRY SAWSON

Amendment Barcode: *(if applicable)*

Job Title: CHAIRMAN

Address: PO BOX 98
Street

COCOA, FL. 32923
City *State* *Zip*

Phone: 321-772-8138

E-mail: FISHAWIV@AOL.COM

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

Representing: TITUSVILLE COCOA AIRPORT AUTHORITY

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ANDY GARDINER
13th District

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Finance and Tax
Environmental Preservation and Conservation
Ethics and Elections
Gaming
Judiciary
Military Affairs, Space, and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

March 7, 2013

The Honorable Wilton Simpson, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson,

Senate Bill 848 Spaceport Territory has been referred to your committee. This legislation designates the Space Coast Regional Airport and surrounding areas as a spaceport. I respectfully request that Senate Bill 848 be heard before your committee.

If you have any questions regarding this request, please do not hesitate to call my office. Thank you for your time and consideration of this matter.

Sincerely,

Senator Andy Gardiner

AG:gh

Cc: Mr. Tom Yeatman, Staff Director

REPLY TO:
❒ 1013 East Michigan Street, Orlando, Florida 32806 (407) 428-5800
❒ 420 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ANDY GARDINER
13th District

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Finance and Tax
Environmental Preservation and Conservation
Ethics and Elections
Gaming
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

March 11, 2013

The Honorable Wilton Simpson, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chairman Simpson,

I respectfully request that my legislative assistant, Gina Herron, be allowed to present SB 848 Spaceport Territory in the Community Affairs meeting taking place March 14, 2013 if I am unable to present the bill.

If you should have any questions regarding this request, please do not hesitate to contact my office at 487-5013. Thank you for your time and consideration of this matter.

Sincerely,

Senator Andy Gardiner
State Senate District 13

AG: gh

Cc: Mr. Tom Yeatman

REPLY TO:
❒ 1013 East Michigan Street, Orlando, Florida 32806 (407) 428-5800
❒ 420 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

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 Community Affairs

BILL: CS/SB 286

INTRODUCER: Judiciary Committee and Senator Negron

SUBJECT: Design Professionals

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.	Shankle	Cibula	JU	**Fav/CS**
3.	Anderson	Yeatman	CA	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 286 permits a design professional employed by a business entity or an agent of the entity to be immune from tort liability for damages occurring within the course and scope of the performance of a professional services contract if:

- The contract is made between the business entity and a claimant or another entity for the provision of services to the claimant;
- The contract does not name an individual employee or agent as a party to the contract;
- The contract prominently states that an individual employee or agent may not be held individually liable for negligence;
- The business entity maintains any professional liability insurance required under the contract; and
- Any damages are solely economic in nature and do not extent to persons or property not subject to the contract.

The bill adds geologists to list of professions defined as “design professionals” in s. 588.002, F.S.

This bill amends the following sections of the Florida Statutes: 471.023, 472.021, 481.219, 481.319, 492.111, and 558.002.

The bill creates section 558.0035, Florida Statutes.

II. Present Situation:

Personal Liability for Professional Services

Under s. 621.07, F.S., a professional service corporation or professional service limited liability company is liable up to the full value of its property for the negligence of its employees. An employee or agent is also personally liable for negligent or wrongful acts or misconduct committed by that person, or by any person under that person's direct supervision and control, while rendering professional service on behalf of the corporation or limited liability.[1]

Liability of Construction Defects by Design Professionals

Chapter 558, F.S., provides the process whereby a property owner can assert a claim against a contractor, subcontractor, supplier, or design professional concerning a construction defect. Section 558.002(7), F.S., defines the term "design professional" to mean "a person, as defined in s. 1.01, F.S., licensed in this state as an architect, interior designer, landscape architect, engineer, or surveyor."[2]

Economic Loss Rule

The economic loss rule is "a judicially created doctrine that sets forth the circumstances under which a tort action is prohibited if the only damages suffered are economic losses."[3] Under the economic loss rule, economic damages may not be recovered in a negligence action if the damages are not accompanied by physical property damage or bodily injury.[4] This rule "bars a plaintiff from bringing tort claims to recover pure economic damages arising from a breach of contract cause of action absent personal injury or property damages."[5] As a result, if the relationship between the plaintiff and the defendant is derived in contract, and the plaintiff cannot prove a tort independent of some contractual breach, the economic loss rule bars recovery on any noncontract claims.[6]

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[1] Section 621.07, F.S.
[2] Section 725.08(4), F.S., also defines the term "design professional" to mean "an individual or entity licensed by the state who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture, under chapter 472 to practice land surveying and mapping, or under chapter 471 to practice engineering, and who enters into a professional services contract."
[3] *Indemnity Ins. Co. of N. Am. v. Am. Aviation, Inc.*, 891 So. 2d 532, 536 (Fla. 2004).
[4] 17 FLA. JUR. 2D *Damages* s. 36 (2010).
[5] *Id*.
[6] *Id.*

Economic Loss Rule and Design Professionals

In *Moransais v. Heathman*, the Florida Supreme Court found that professional malpractice and negligence claims are not barred by the economic loss rule.[7] The case involved the assertion of the economic loss rule as a defense to a professional malpractice claim brought by a homeowner (plaintiff). The defendants were licensed engineers who made a pre-purchase inspection of a home and allegedly failed to detect and disclose defects in the condition of the house. The plaintiff contracted with a professional engineering corporation to perform the home inspection services, and the contract did not name the defendants who actually conducted the inspection as parties to the contract.[8]

The court first held that home purchasers have a cause of action for professional malpractice against an employee of the engineering corporation who conducts a home inspection but with whom the home purchaser is not in privity of contract.[9] The court then concluded that professional malpractice and negligence claims are not barred by the economic loss rule. The court's holding was based on two principal reasons:

- Florida's common law and statutory scheme recognizes tort claims against professionals for negligence based on the professional's violation of a duty of care to the injured person.
- The economic loss rule is not intended to apply to professionals who negligently perform their duties.[10]

The court noted that the rule has not eliminated causes of action premised upon torts that are independent of the contract.[11] It also held that the rule was not intended to bar well-established common law causes of action, such as those for neglect in providing professional services.[12] The court stated that the economic loss rule was primarily intended to limit product liability claims, and that it should generally be limited to that context "or situations where the policy considerations are substantially identical to those underlying the product liability-type analysis."[13] Noting that actions against professionals often involve only economic loss without any personal or property damage, the court stated that extending the economic loss rule to tort cases against professionals "would effectively extinguish such causes of action."[14]

Third-Party Liability Limitations in Contracts

Generally, Florida law recognizes limitation of liability clauses in contracts and permits third party beneficiaries to enforce a limitation of liability clause. However, in *Witt v. La Gorce Country Club, Inc.*, the Florida Third District Court of Appeal held that the limitation of liability

[7] *Moransais v. Heathman*, 744 So. 2d 973, 983 (Fla. 1999).
[8] *Id.* at 974.
[9] Privity of contract is defined as: "The relationship between the parties to a contract, allowing them to sue each other but preventing a third party from doing so. The requirement of privity has been relaxed under modern laws and doctrines of implied warranty and strict liability, which allow a third-party beneficiary or other foreseeable user to sue the seller of a defective product." BLACK'S LAW DICTIONARY (9th Ed.).
[10] *Moransais* at 983-84.
[11] *Id.* at 981 (citing *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238 (Fla. 1996)).
[12] *Id.* at 983.
[13] *Id.*
[14] *Id.*

clause in the contract was invalid and unenforceable as to a geologist in his capacity as a licensed professional.[15] Consequently, the court refused to apply the economic loss rule to bar a negligence claim.

In *Witt*, the plaintiff, La Gorce Country Club, Inc., entered into a design-build contract for a reverse osmosis system with ITT Industries, Inc. (ITT), and Gerald M. Witt and Associates, Inc. (GMWA), the company of professional geologist Gerald M. Witt (Witt). The contract provided a limitation of liability to the benefit of Witt, who in his individual capacity was not a party to the contract. The reverse osmosis system failed after numerous technical problems during the design and building of the system. The plaintiff then filed suit.[16]

The court relied on the holding in *Moransais*, noting that, as a professional geologist, Witt was specifically subject to personal liability for negligence, misconduct, or wrongful acts under s. 492.111, F.S. Consequently, the court rejected the application of the economic loss rule to a professional malpractice claim against a licensed professional geologist.[17]

In effect, the *Witt* decision is an exception to the rule, as expressed in *Florida Power and Light Company v. Mid-Valley*, that third-party beneficiaries of a contract are entitled protection of a liability limitation clause in a contract.[18] Under *Witt*, professionals are not entitled to that protection. In refusing to recognize the contract's liability limitation and to apply the economic loss rule to limit Witt's liability, the court noted that "claims of professional negligence operate outside of the contract."[19]

Engineers

Professional engineers are regulated by the Board of Professional Engineers within the Department of Business and Professional Regulation (department), which enforces and administers the provisions of ch. 471, F.S. Existing law provides the following education and experience requirements for a person to qualify to take the examination for licensure as an engineer:

- Graduating from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board and has a record of 4 years of active engineering experience of a character indicating the competence to be in responsible charge of engineering;
- Graduating from an approved engineering technology curriculum of 4 years or more in a school, college, or university within the State University System, having been enrolled or having graduated prior to July 1, 1979, and having had a record of 4 years of active

[15] *Witt v. La Gorce Country Club, Inc.*, 35 So. 3d 1033 (Fla. 3d DCA 2010).
[16] The claims against Gerald M. Witt, the defendant professional geologist, and his codefendant corporations included: (1) fraud in the inducement against codefendant ITT Industries, Inc. (ITT); (2) aiding and abetting fraud in the inducement by Witt and his company Gerald M. Witt and Associates, Inc. (GMWA); (3) violation of the Florida Deceptive and Unfair Trade Practices Act in ss. 501.201-501.213, F.S., by ITT and GMWA; (4) professional malpractice by Witt and GMWA; and (5) breach of the contract by GMWA. *Witt* at 1037-1038.
[17] *Id*.
[18] *Florida Power and Light Company v. Mid-Valley, Inc.*, 763 F.2d 1316 (11th Cir. 1985).
[19] *Witt* at 1039.

engineering experience of a character indicating competence to be in responsible charge of engineering; or

- Having, in lieu of the education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. This provision does not apply unless the person notified the department before July 1, 1984, that she or he would be engaged in such work on July 1, 1981.[20]

Engineer Liability

Licensed engineers may practice through a business organization, including a partnership, corporation, or other legal entity offering professional services.[21] Current law establishes the liability of engineers when practicing through a business organization, including the liability of partners in a partnership and of the business organization's officers, agents, or employees for negligence, misconduct, or wrongful acts.[22] Section 471.023(3), F.S., provides that the "fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her." With regard to the extent of a licensed engineer's liability for his or her own negligence, misconduct, or wrongful acts while employed by a business organization, s. 471.023(3), F.S., also provides that:

> any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization.

Partnerships and all partners are also jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.[23] A business organization is liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.[24]

Surveyors and Mappers

Surveyors and mappers are regulated by the Board of Professional Surveyors and Mappers within the Department of Agriculture and Consumer Services, which enforces and administers ch. 472, F.S.[25] Existing law provides the following education and experience requirements for a person to qualify to take the examination for licensure as a surveyor and mapper:

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[20] Section 471.013(1), F.S.
[21] Section 471.023, F.S.
[22] *Id.*
[23] Section 471.023(3), F.S.
[24] *Id.*
[25] The regulation of surveyors and mappers was transferred from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services by ch. 2009-66, L.O.F.

- Receiving a degree in surveying and mapping of 4 years or more in a surveying and mapping degree program from a college or university recognized by the board and having a specific experience record of 4 or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.
- Being a graduate of a 4 year course of study, other than in surveying and mapping, at an accredited college or university and having a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, 5 years of which are of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.[26]

Surveyors and Mappers Liability

Licensed surveyors and mappers may practice through a corporation or partnership. Current law establishes the liability of surveyors and mappers who practice through a corporation or partnership.[27] "The fact that any registered surveyor and mapper practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her."[28]

In regard to the extent of a licensed mapper and surveyor's liability for his or her own negligence, misconduct, or wrongful acts while employed by a business organization, s. 472.021(3), F.S., also provides that:

> any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control while rendering professional services on behalf of the business organization.

Partnerships and all partners are also jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.[29] A business organization is liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.[30]

Architects and Interior Designers

Architects and interior designers are regulated by the Board of Architecture and Interior Design within the Department of Business and Professional Regulation, which enforces and administers the provisions of part I of ch. 481, F.S. Existing law provides the following education and

[26] Section 472.013(2), F.S.
[27] Section 472.021(3), F.S.
[28] *Id*.
[29] *Id*.
[30] *Id*.

experience requirements for a person to qualify to take the examination for licensure as an architect:

- Graduating from a school or college of architecture accredited by the National Architectural Accreditation Board, or from an approved architectural curriculum at an unaccredited school or college of architecture approved by the board; and
- Completing one year of internship experience.[31]

Current law provides the following education and experience requirements for a person to qualify to take the examination for licensure as an interior designer:

- Graduating from a board-approved interior design program of 5 years or more and completing 1 year of diversified interior design experience;
- Graduating from a board-approved interior design program of 4 years or more and completing 2 years of diversified interior design experience;
- Completing at least 3 years of a board-approved interior design curriculum and completing 3 years of diversified interior design experience; or
- Graduating from an interior design program of at least 2 years and completing 4 years of diversified interior design experience.[32]

Architects and Interior Designers Liability

Licensees may offer architecture and interior design services through a corporation, limited liability company, or partnership.[33] The corporation, limited liability company, or partnership is not relieved of responsibility for the conduct or acts of its agents, employees, or officers.[34]

With regard to the extent of a licensed architect's or interior designer's personal liability, s. 481.219(11), F.S., also provides that:

> the architect who signs and seals the construction documents and instruments of service shall be liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

Corporations, limited liability companies, and partnerships are not relieved of responsibility for the conduct or acts of their agents, employees, or officers.[35]

Landscape Architects

Landscape architects are regulated by the Board of Landscape Architecture within the Department of Business and Professional Regulation, which enforces and administers the provisions of part II of ch. 481, F.S. Existing law provides the following education and

[31] Section 481.209(1), F.S.
[32] Section 481.209(2), F.S.
[33] Section 481.219, F.S.
[34] Section 481.219(11), F.S.
[35] *Id.*

experience requirements for a person to qualify to take the examination for licensure as a landscape architect:

- Completing a board-approved professional degree program in landscape architecture; or
- Having 6 years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board.[36]

Practicing landscape architecture through a corporation or partnership does not relieve any landscape architect from personal liability for his or her professional acts.[37]

Landscape Architects Liability

Licensees may offer landscape architect services through a corporation or partnership.[38] Section 481.319(6), F.S., provides that:

> the fact that registered landscape architects practice landscape architecture through a corporation or partnership as provided in this section shall not relieve any landscape architect from personal liability for his or her professional acts.

Geologist

Geologists are regulated by the Board of Professional Geologists within the Department of Business and Professional Regulation, which enforces and administers ch. 492, F.S. Existing law includes the following education and experience requirements for a person to qualify to take the examination for licensure as a geologist:

- Graduating from such college or university with a major in geology or other related science acceptable to the board;
- Completing of at least 30 semester hours of geological courses, 24 of which must be at the third or fourth year or graduate level; and
- Having at least 7 years of professional geological work experience.[39]

Currently geologists are not among the professions defined as "design professionals" by s. 588.002, F.S.

Geologist Liability

Licensees may offer landscape geology services through a corporation or partnership.[40] Section 492.111(4), F.S., provides that:

[36] Section 481.309(1), F.S.
[37] Section 481.319(6), F.S.
[38] Section 481.319, F.S.
[39] Section 492.105, F.S.
[40] Section 481.319, F.S.

> The fact that a licensed professional geologist practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by her or him.

III. Effect of Proposed Changes:

The bill creates s. 558.0035, F.S., which permits a design professional employed by a business entity or an agent of the entity to be immune from tort liability for damages occurring within the course and scope of the performance of a professional services contract if:

- The contract is made between the business entity and a claimant or another entity for the provision of services to the claimant;
- The contract does not name the individual employee or agent who will perform the professional services as a party to the contract;
- The contract prominently states that an individual employee or agent may not be held individually liable for negligence;
- The business entity maintains any professional liability insurance required under the contract; and
- Any damages are solely economic in nature and do not extend to personal injuries or property not subject to the contract.

Because the bill permits the liability of a design professional to be limited by a contract between the design professional's employer and a client, the bill effectively overrules the holding of the Florida Supreme Court in *Witt v. La Gorce Country Club, Inc*.

The bill amends s. 558.0035, F.S., to, for purposes of that section, define the term "business entity" to mean "any corporation, limited liability company, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state."

Section 558.0035(1)(e), F.S., requires that the business entity must maintain professional liability insurance if such insurance is required under the contract. However, the bill does not require that the business entity maintain professional liability insurance.

If a claimant enters into a contract with a business entity and the contract meets the conditions set forth in the bill, a claimant may be barred from potential tort claims against a design professional employed by the business entity for the recovery of economic damages resulting from a construction defect.[41]

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[41] A "construction defect" is defined in s. 558.02(5), F.S., as a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- Defective material, products, or components used in the construction or remodeling;
- A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to the cause of action;
- A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or

The bill amends s. 588.002, F.S., to include geologists in the list of professions defined as "design professionals."

The bill amends ss. 471.023(3), F.S. (engineers), 472.021(3), F.S. (surveyors and mappers), 481.219(11), F.S. (architects and interior designers), 481.319(6), F.S. (landscape architects), and 492.111(4), F.S. (geologist), which describe the liability of design professionals in cases of negligence or wrongful acts, to incorporate the exception to liability created in s. 558.0035, F.S.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 21, Article I, of the Florida Constitution provides the constitutional right of access to court. It provides:

> The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

In *Johnson v. R. H. Donnelly Company*, the Florida Supreme Court held that the constitutional right of "access to courts guarantees the continuation of common law causes of action and those causes of action may be altered only if there is a reasonable substitution which protects the persons protected by the common law remedy."[42] In *Kluger v. White*, the Florida Supreme Court also held that the Legislature cannot abolish a common law cause of action "unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown."[43] However, this only applies to common law causes of action present before the adoption of the Florida Constitution in 1968.[44]

- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.

[42] *Johnson v. R. H. Donnelly Co.*, 402 So. 2d 518, 520 (Fla. 1981).
[43] *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).
[44] *Id.*

As noted in the Present Situation, in *Moransais v. Heathman*, the Florida Supreme Court stated that Florida's common law and statutory scheme recognizes tort claims against professionals for negligence based on the professional's violation of a duty of care to injured persons.[45]

As noted in the Present Situation, in *Witt v. La Gorce Country Club, Inc.*,[46] the Third District Court of Appeal held that a limitation of liability clause in the contract for the benefit of a third-party professional geologist was invalid and unenforceable as to a licensed professional. Consequently, the court refused to apply the economic loss rule to bar a negligence claim against the professional under the principle that claims of professional liability operate outside of the contract and cannot be waived.

By limiting negligence claims against licensed engineers, surveyors and mappers, architects, and landscape architects, the bill may implicate concerns relating to the constitutional right of access to courts to the extent that the bill limits causes of actions for professional negligence and professional malpractice. However, the effect of the bill is to not bar such claims in all instances. It permits a claimant, as defined in s. 558.02(3), F.S., and a business entity, as defined in the bill, to waive by contract professional liability of the business entity's employees and agents. In effect, the bill would reject the holding in *Witt*.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill limits the tort claims against a business entity's employees and agents, including licensed engineers, surveyors and mappers, architects, and landscape architects (design professionals). The design professionals affected by the bill may experience lower costs for professional liability insurance and may charge lower prices to their customers for their professional services as a consequence of the liability limitations that may be provided in a contract.

Parties to a contract who experience an economic loss that may be attributable to the professional negligence or professional malpractice of a design professional or by an employee or agent of a business entity may be limited to the remedies available under contract law, e.g., they may be barred from claims for negligence that resulted solely in economic harm to the extent that the contract does not authorize such claims.

C. Government Sector Impact:

None.

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[45] *Moransais v. Heathman*, 744 So. 2d 973, 975, 976 (Fla. 1999).
[46] *Witt* at 1039.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on March 6, 2013
The committee substitute adds geologists to list of professions defined as "design professionals" in s. 588.002, F.S. The committee substitute amends s. 492.111(4), F.S., which describes the liability of a geologist in cases of negligence or wrongful acts, to incorporate the exception to liability created in s. 558.0035, F.S. The committee substitute moves the definition of "business entity" from s. 588.002, F.S., to s. 588.0035, 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.

411316

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 43 - 47
and insert:
liability insurance required under the contract;
(e) Any damages are solely economic in nature and the damages do not extend to personal injuries or property not subject to the contract; and
(f) The business entity or its insurer pays the entire amount of any judgment due to breach of the professional services contract or resulting from negligence occurring within the course and scope of the professional services contract.

411316

13 (2) Upon an action being filed against a business entity
14 for breach of, or negligence occurring within the course and
15 scope of, a professional services contract, the statute of
16 limitations for filing an action against a design professional
17 who is an employee or agent of the business entity is tolled
18 until a final judgment is entered in favor of the business
19 entity, full payment of a judgment entered against the business
20 entity is made, or such case is dismissed.
21 (3) As used in this section, the term "business entity"
22
23 ========== T I T L E A M E N D M E N T ==========
24 And the title is amended as follows:
25 Between lines 9 and 10
26 insert:
27 providing for tolling of a statute of limitations;

By the Committee on Judiciary; and Senator Negron

590-01977-13 2013286c1

A bill to be entitled

An act relating to design professionals; amending s. 558.002, F.S.; redefining the term "design professional"; creating s. 558.0035, F.S.; specifying conditions under which a design professional employed by a business entity or an agent of the business entity may not be held individually liable for damages resulting from negligence occurring within the course and scope of a professional services contract; defining the term "business entity"; amending ss. 471.023, 472.021, 481.219, 481.319, and 492.111, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (7) of section 558.002, Florida Statutes, is amended to read:

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

(7) "Design professional" means a person, as defined in s. 1.01, licensed in this state as an architect, interior designer, landscape architect, engineer, ~~or~~ surveyor<u>, or geologist</u>.

Section 2. Section 558.0035, Florida Statutes, is created to read:

<u>558.0035 Design professionals; contractual limitation on liability.—</u>

<u>(1) A design professional employed by a business entity or an agent of the business entity is not individually liable for damages resulting from negligence occurring within the course</u>

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

30 and scope of a professional services contract if:
31 (a) The contract is made between the business entity and a
32 claimant or with another entity for the provision of
33 professional services to the claimant;
34 (b) The contract does not name as a party to the contract
35 the individual employee or agent who will perform the
36 professional services;
37 (c) The contract includes a prominent statement, in
38 uppercase font that is at least 5 point sizes larger than the
39 rest of the text, that, pursuant to this section, an individual
40 employee or agent may not be held individually liable for
41 negligence;
42 (d) The business entity maintains any professional
43 liability insurance required under the contract; and
44 (e) Any damages are solely economic in nature and the
45 damages do not extend to personal injuries or property not
46 subject to the contract.
47 (2) As used in this section, the term "business entity"
48 means any corporation, limited liability company, partnership,
49 limited partnership, proprietorship, firm, enterprise,
50 franchise, association, self-employed individual, or trust,
51 whether fictitiously named or not, doing business in this state.
52 Section 3. Subsection (3) of section 471.023, Florida
53 Statutes, is amended to read:
54 471.023 Certification of business organizations.—
55 (3) Except as provided in s. 558.0035, the fact that a
56 licensed engineer practices through a business organization does
57 not relieve the licensee from personal liability for negligence,
58 misconduct, or wrongful acts committed by him or her.

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

59 Partnerships and all partners shall be jointly and severally
60 liable for the negligence, misconduct, or wrongful acts
61 committed by their agents, employees, or partners while acting
62 in a professional capacity. Any officer, agent, or employee of a
63 business organization other than a partnership shall be
64 personally liable and accountable only for negligent acts,
65 wrongful acts, or misconduct committed by him or her or
66 committed by any person under his or her direct supervision and
67 control, while rendering professional services on behalf of the
68 business organization. The personal liability of a shareholder
69 or owner of a business organization, in his or her capacity as
70 shareholder or owner, shall be no greater than that of a
71 shareholder-employee of a corporation incorporated under chapter
72 607. The business organization shall be liable up to the full
73 value of its property for any negligent acts, wrongful acts, or
74 misconduct committed by any of its officers, agents, or
75 employees while they are engaged on its behalf in the rendering
76 of professional services.
77 Section 4. Subsection (3) of section 472.021, Florida
78 Statutes, is amended to read:
79 472.021 Certification of partnerships and corporations.—
80 (3) Except as provided in s. 558.0035, the fact that any
81 registered surveyor and mapper practices through a corporation
82 or partnership does ~~shall~~ not relieve the registrant from
83 personal liability for negligence, misconduct, or wrongful acts
84 committed by him or her. Partnerships and all partners shall be
85 jointly and severally liable for the negligence, misconduct, or
86 wrongful acts committed by their agents, employees, or partners
87 while acting in a professional capacity. An ~~Any~~ officer, agent,

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

88 or employee of a business organization other than a partnership
89 shall be personally liable and accountable only for negligent
90 acts, wrongful acts, or misconduct committed by him or her or
91 committed by a ~~any~~ person under his or her direct supervision
92 and control while rendering professional services on behalf of
93 the business organization. The personal liability of a
94 shareholder or owner of a business organization, in his or her
95 capacity as shareholder or owner, shall be no greater than that
96 of a shareholder-employee of a corporation incorporated under
97 chapter 607. The business organization shall be liable up to the
98 full value of its property for any negligent acts, wrongful
99 acts, or misconduct committed by any of its officers, agents, or
100 employees while they are engaged on its behalf in the rendering
101 of professional services.
102 Section 5. Subsection (11) of section 481.219, Florida
103 Statutes, is amended to read:
104 481.219 Certification of partnerships, limited liability
105 companies, and corporations.—
106 (11) No corporation, limited liability company, or
107 partnership shall be relieved of responsibility for the conduct
108 or acts of its agents, employees, or officers by reason of its
109 compliance with this section. However, except as provided in s.
110 558.0035, the architect who signs and seals the construction
111 documents and instruments of service shall be liable for the
112 professional services performed, and the interior designer who
113 signs and seals the interior design drawings, plans, or
114 specifications shall be liable for the professional services
115 performed.
116 Section 6. Subsection (6) of section 481.319, Florida

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

117 Statutes, is amended to read:
118 481.319 Corporate and partnership practice of landscape
119 architecture; certificate of authorization.—
120 (6) Except as provided in s. 558.0035, the fact that a
121 registered landscape architect practices ~~architects practice~~
122 landscape architecture through a corporation or partnership as
123 provided in this section does ~~shall~~ not relieve the ~~any~~
124 landscape architect from personal liability for his or her
125 professional acts.
126 Section 7. Subsection (4) of section 492.111, Florida
127 Statutes, is amended to read:
128 492.111 Practice of professional geology by a firm,
129 corporation, or partnership; certificate of authorization.—The
130 practice of, or offer to practice, professional geology by
131 individual professional geologists licensed under the provisions
132 of this chapter through a firm, corporation, or partnership
133 offering geological services to the public through individually
134 licensed professional geologists as agents, employees, officers,
135 or partners thereof is permitted subject to the provisions of
136 this chapter, provided that:
137 (4) Except as provided in s. 558.0035, the fact that a
138 licensed professional geologist practices through a corporation
139 or partnership does ~~shall~~ not relieve the registrant from
140 personal liability for negligence, misconduct, or wrongful acts
141 committed by her or him. The partnership and all partners are
142 ~~shall be~~ jointly and severally liable for the negligence,
143 misconduct, or wrongful acts committed by their agents,
144 employees, or partners while acting in a professional capacity.
145 Any officer, agent, or employee of a corporation is ~~shall be~~

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

146 personally liable and accountable only for negligent acts,
147 wrongful acts, or misconduct committed by her or him or
148 committed by any person under her or his direct supervision and
149 control, while rendering professional services on behalf of the
150 corporation. The personal liability of a shareholder of a
151 corporation, in her or his capacity as shareholder, may ~~shall~~ be
152 no greater than that of a shareholder-employee of a corporation
153 incorporated under chapter 607. The corporation is ~~shall be~~
154 liable up to the full value of its property for any negligent
155 acts, wrongful acts, or misconduct committed by any of its
156 officers, agents, or employees while they are engaged on behalf
157 of the corporation in the rendering of professional services.
158 Section 8. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: Design Professionals

Bill Number: 286 (if applicable)

Name: Richard Watson

Amendment Barcode: (if applicable)

Job Title: Legislative Counsel

Address: P.O. Box 10038
Street

Tallahassee, FL 32302
City State Zip

Phone: 850 222-0000

E-mail: richard@rwatsonandassociates.com

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

Representing: Associated Builders & Contractors

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: DESIGN PROFESSIONALS

Bill Number: 286 *(if applicable)*

Name: MIKE HUEY

Amendment Barcode: *(if applicable)*

Job Title:

Address: 301 S. BRONOUGH ST.
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone: 850-577-9090

E-mail:

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

Representing: FL ASSOCIATION of the AMERICAN INSTITUTE of ARCHITECTS

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: Design Professionals

Bill Number: 286 *(if applicable)*

Name: Warren Husband

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: Po Box 10909
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 8502059000

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: Fla. Associated General Contractors Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic _____

Bill Number 286 *(if applicable)*

Name Frank Rudd

Amendment Barcode _____ *(if applicable)*

Job Title Executive Director

Address 125 S. Gadsden St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850.224.7121

E-mail frudd@fleng.org

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

Representing Florida Engineering Society

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/14
Meeting Date

Topic: Design Professional liability

Bill Number: 286 *(if applicable)*

Name: DAVID DANIEL

Amendment Barcode: *(if applicable)*

Job Title:

Address: 311 EAST PARK AVENUE
Street

TALLAHASSEE, FLORIDA 32312
City *State* *Zip*

Phone: 224-5081

E-mail:

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

Representing: Florida Surveying and Mapping Society

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

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

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

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

S-001 (10/20/11)

WAIVE IN SUPPORT

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/2013
Meeting Date

Topic

Bill Number 286 (if applicable)

Name JIM HORNE

Amendment Barcode (if applicable)

Job Title

Address PO BOX 8339
Street

PLOMING ISLAND FL 32008
City State Zip

Phone 904-759-4596

E-mail jim@strategospublicaffairs.com

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

Representing RSH

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/2013
Meeting Date

Topic: Professional Liability

Bill Number: 286 *(if applicable)*

Name: Phil Leary

Amendment Barcode: _____ *(if applicable)*

Job Title: Lobbyist

Address: 1821 Carr St.
Street

Palatka, FL 32177
City *State* *Zip*

Phone: 386/937-7829

E-mail: plearyeLearyGAC.com

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

Representing: Florida Association of Professional Geologists

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/2013
Meeting Date

Topic: ~~SB~~ Professional liability

Bill Number: SB 286 *(if applicable)*

Name: Charles Drake

Amendment Barcode: _____ *(if applicable)*

Job Title: Hydrogeologist, professional geologist #37

Address: 1425 Conway Isle Circle
Street

Orlando FL 32809
City *State* *Zip*

Phone: 407.256.7715

E-mail: charles.drake@tetratech.com

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

Representing: self

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

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

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

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)

3/14/13
Meeting Date

Topic: DESIGN PROFESSIONALS

Bill Number: 286 *(if applicable)*

Name: MIKE HUEY

Amendment Barcode: 411316 *(if applicable)*

Job Title:

Address: 301 S. BRONOUGH ST.
Street

TALLAHASSEE, FL 32304
City, State, Zip

Phone: 850-577-9090

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: FL ASSOCIATION of the AMERICAN INSTITUTE of ARCHITECTS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON
32nd District

COMMITTEES:
Appropriations, *Chair*
Banking and Insurance
Rules

SELECT COMMITTEE:
Select Committee on Patient Protection and Affordable Care Act, *Chair*

JOINT COMMITTEE:
Joint Legislative Budget Commission, *Alternating Chair*

March 6, 2013

The Honorable Wilton Simpson, Chair
Committee on Community Affairs
315 Knott Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 286

Dear Chairman Simpson:

I would like to request Senate Bill 286 relating to design professionals be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 32

JN/hd
c: Tom Yeatman, Staff Director

REPLY TO:
❒ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
❒ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 444

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Domestic Wastewater Discharged Through Ocean Outfalls

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Favorable**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			AGG	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 444 allows utilities additional flexibility to meet the 60 percent reuse requirement. The bill allows utilities to continue to discharge peak flows up to five percent of utilities' baseline flows through ocean outfalls. Additionally, the bill requires utilities to include supplemental information on costs and options in their detailed plans necessary to achieve the requirements of s. 403.086(9), F.S. Finally, the bill requires the utilities, the Department of Environmental Protection (DEP, department) and the South Florida Water Management District (SFWMD) to evaluate the detailed plans and recommend adjustments to the Legislature, if necessary, to the reuse requirements in this section.

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

II. Present Situation:

There are six domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade Counties discharging approximately 300 million gallons per day of treated domestic wastewater directly

into the Atlantic Ocean through ocean outfalls.[1] The ocean outfall providing service to the cities of Boynton Beach and Delray Beach largely ceased discharges in early 2009.[2] Exceptions for this facility are allowed to handle peak wet weather flows, during integrity testing of deep well injection and for emergencies.

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

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

III. Effect of Proposed Changes:

Section 1 amends s. 403.086, F.S., to allow utilities to comply with the 60 percent reuse requirement from their entire service areas or by contract with another utility within Miami-Dade, Broward, or Palm Beach Counties rather than just from ocean outfalls by 2025. This provision will allow utilities the flexibility to find the most cost-effective method to achieve 60 percent reuse for their service areas. However, it may also reduce the percentage of reuse derived from ocean outfalls. The bill specifies that only facilities which shared a common ocean outfall as of July 1, 2008, are required to meet the 60 percent reuse requirement individually but may contract to share or transfer this responsibility with other utilities. The department must approve the apportionment of the reuse generated from the new or expanded reuse system for facilities that contract with another utility and the reuse apportioned to each utility's requirement may not exceed the total reuse generated by the new or expanded reuse system. A utility must provide the department a copy of any contract with another utility that reflects an agreement between the utilities regarding the apportionment of reuse.

---

[1] DEP, *Implementation of Chapter 2008-232, Laws of Florida Domestic Wastewater Ocean Outfalls* (June 2010), *available at* http://www.dep.state.fl.us/water/wastewater/docs/ocean-outfall-2010.pdf (last visited March 8, 2013).
[2] David Fleshler, *Flow of sewage to ocean ending*, Sun Sentinel (April 1, 2009), *available at* http://articles.sun-sentinel.com/2009-04-01/news/0903310461_1_outfall-pipe-treatment-plant (last visited March 8, 2013).
[3] *See* s. 403.086(9)(c), F.S.
[4] *See* ch. 2010-205, s. 38, Laws of Fla.
[5] *See* s. 403.086(9)(b), F.S.

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

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

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

The bill updates the requirements for the detailed plans that utilities must develop by July 1, 2013. The new information included in the plan must identify:

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

The plan must evaluate the demand for reuse in the context of future regional water supply demands, the availability of traditional sources of water, the need for alternative water supplies, the offset reuse will have on potable supplies and other factors contained in the SFWMD's Lower East Coast Regional Water Supply Plan.[6] The plan is due to the department by July 1, 2013, with an update due by July 1, 2016.

Finally, the bill requires the DEP, the SFWMD and affected utilities to evaluate the detailed plans and recommend adjustments to the Legislature, if necessary, to the reuse requirements in this bill. The report is due to the Legislature by February 15, 2015.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[6] SFWMD, *Lower East Coast Water Supply Plan* (2012), *available at* http://www.sfwmd.gov/portal/page/portal/xweb%20-%20release%203%20water%20supply/lower%20east%20coast%20plan (last visited March 8, 2013).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

Wastewater utilities may see significant cost reductions in implementing the 60 percent reuse requirements for ocean outfalls by utilizing their entire service areas rather than only flows discharged through ocean outfalls. Allowing utilities to continue backup discharges up to five percent of their peak flows will also save costs. Finally, exempting five percent of utilities' peak flows from AWT standards if those discharges meet statutory requirements and DEP rules on effluent limitations may also result in significant savings. The City of Hollywood, Broward County and Miami-Dade County have estimated that allowing peak flow discharges of five percent will save on capital costs of $150-200 million, $300 million, and $820 million, respectively.[7]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs on March 14, 2013:
The committee substitute requires a utility that contracts with another utility regarding apportionment of reuse to provide a copy of the contract to the Department of Environmental Protection. The CS also deletes an obsolete provision of law.

[7] Information provided by Broward and Miami-Dade Counties, the City of Hollywood and the City of Boca Raton (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Amendments:

None.

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

445660

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete line 141
4 and insert:
5 system. A utility shall provide the department a copy of any
6 contract with another utility that reflects an agreement between
7 the utilities which is subject to the requirements of this
8 subparagraph.
9
10 ========== T I T L E A M E N D M E N T ==========
11 And the title is amended as follows:
12 Delete line 19

445660

13 and insert:
14 functioning reuse system; requiring a facility that
15 contracts with another facility to provide a copy of
16 the contract to the department; revising provisions

197136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 219 - 229
and insert:

~~(h) By February 1, 2012, the department shall submit a report to the Governor and Legislature detailing the results and recommendations from phases 1 through 3 of its ongoing study on reclaimed water use.~~

(h) ~~(i)~~ The renewal of each permit that authorizes the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, must ~~shall~~ be accompanied by an order in accordance with s. 403.088(2)(e) and (f) which establishes an

197136

13 enforceable compliance schedule consistent with the requirements
14 of this subsection.
15 (i) ~~(j)~~ An entity that diverts wastewater flow from a
16 receiving
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete line 24
21 and insert:
22 certain information; deleting an obsolete provision;
23 requiring the Department of

By Senator Diaz de la Portilla

40-00534-13 2013444__

A bill to be entitled

An act relating to domestic wastewater discharged through ocean outfalls; amending s. 403.086, F.S.; revising the measurement standard for the wastewater flow; revising the requirements for installation of a functioning reuse system by a utility that had a permit for a domestic wastewater facility on a specified date to discharge through ocean outfall; revising the definition of the term “functioning reuse system”; changing the term “facility’s actual flow on an annual basis” to “baseline flow”; revising plan requirements for the elimination of ocean outfalls; providing that certain utilities that shared a common ocean outfall on a specified date are individually responsible for meeting the reuse requirement; requiring that the Department of Environmental Protection approve certain apportionment of reuse if a facility contracts with another facility to install a functioning reuse system; revising provisions authorizing the backup discharge of domestic wastewater through ocean outfalls; requiring a holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall to submit certain information; requiring the Department of Environmental Protection, the South Florida Water Management District, and affected utilities to consider certain information for the purpose of adjusting reuse requirements; requiring the department to submit a report to the Legislature; providing an

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

30 effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Subsection (9) of section 403.086, Florida
35 Statutes, is amended to read:
36 403.086 Sewage disposal facilities; advanced and secondary
37 waste treatment.—
38 (9) The Legislature finds that the discharge of domestic
39 wastewater through ocean outfalls wastes valuable water supplies
40 that should be reclaimed for beneficial purposes to meet public
41 and natural systems demands. The Legislature also finds that
42 discharge of domestic wastewater through ocean outfalls
43 compromises the coastal environment, quality of life, and local
44 economies that depend on those resources. The Legislature
45 declares that more stringent treatment and management
46 requirements for such domestic wastewater and the subsequent,
47 timely elimination of ocean outfalls as a primary means of
48 domestic wastewater discharge are in the public interest.
49 (a) The construction of new ocean outfalls for domestic
50 wastewater discharge and the expansion of existing ocean
51 outfalls for this purpose, along with associated pumping and
52 piping systems, are prohibited. Each domestic wastewater ocean
53 outfall shall be limited to the discharge capacity specified in
54 the department permit authorizing the outfall in effect on July
55 1, 2008, which discharge capacity shall not be increased.
56 Maintenance of existing, department-authorized domestic
57 wastewater ocean outfalls and associated pumping and piping
58 systems is allowed, subject to the requirements of this section.

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59 The department is directed to work with the United States
60 Environmental Protection Agency to ensure that the requirements
61 of this subsection are implemented consistently for all domestic
62 wastewater facilities in the state ~~Florida~~ which discharge
63 through ocean outfalls.
64 (b) The discharge of domestic wastewater through ocean
65 outfalls must ~~shall~~ meet advanced wastewater treatment and
66 management requirements by ~~no later than~~ December 31, 2018. For
67 purposes of this subsection, the term "advanced wastewater
68 treatment and management requirements" means the advanced waste
69 treatment requirements set forth in subsection (4), a reduction
70 in outfall baseline loadings of total nitrogen and total
71 phosphorus which is equivalent to that which would be achieved
72 by the advanced waste treatment requirements in subsection (4),
73 or a reduction in cumulative outfall loadings of total nitrogen
74 and total phosphorus occurring between December 31, 2008, and
75 December 31, 2025, which is equivalent to that which would be
76 achieved if the advanced waste treatment requirements in
77 subsection (4) were fully implemented beginning December 31,
78 2018, and continued through December 31, 2025. The department
79 shall establish the average baseline loadings of total nitrogen
80 and total phosphorus for each outfall using monitoring data
81 available for calendar years 2003 through 2007 and ~~shall~~
82 establish required loading reductions based on this baseline.
83 The baseline loadings and required loading reductions of total
84 nitrogen and total phosphorus shall be expressed as an average
85 annual daily loading value. The advanced wastewater treatment
86 and management requirements of this paragraph are ~~shall be~~
87 deemed ~~to be~~ met for any domestic wastewater facility

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88 discharging through an ocean outfall on July 1, 2008, which has
89 installed by ~~no later than~~ December 31, 2018, a fully
90 operational reuse system comprising 100 percent of the
91 facility's baseline flow on an annual basis ~~average daily flow~~
92 for reuse activities authorized by the department.
93 (c)1. Each utility that had a permit for a domestic
94 wastewater facility that discharged ~~discharges~~ through an ocean
95 outfall on July 1, 2008, must ~~shall~~ install, or cause to be
96 installed, a functioning reuse system within the utility's
97 service area or, by contract with another utility, within Miami-
98 Dade, Broward, or Palm Beach Counties by ~~no later than~~ December
99 31, 2025. For purposes of this subsection, a "functioning reuse
100 system" means an environmentally, economically, and technically
101 feasible system that provides a minimum of 60 percent of a ~~the~~
102 facility's baseline ~~actual~~ flow on an annual basis for
103 irrigation of public access areas, residential properties, or
104 agricultural crops; aquifer recharge; groundwater recharge;
105 industrial cooling; or other acceptable reuse purposes
106 authorized by the department. For purposes of this subsection,
107 the term "baseline flow" ~~"facility's actual flow on an annual~~
108 ~~basis"~~ means the annual average flow of domestic wastewater
109 discharging through the facility's ocean outfall, as determined
110 by the department, using monitoring data available for calendar
111 years 2003 through 2007.
112 2. Flows diverted from facilities to other facilities that
113 provide 100 percent reuse of the diverted flows before ~~prior to~~
114 December 31, 2025, are ~~shall be~~ considered to contribute to
115 meeting the ~~60 percent~~ reuse requirement. For utilities
116 operating more than one outfall, the reuse requirement may ~~can~~

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

117 be apportioned between the ~~met if the combined actual reuse~~
118 ~~flows from~~ facilities served by the outfalls ~~is at least 60~~
119 ~~percent of the sum of the total actual flows from the~~
120 ~~facilities~~, including flows diverted to other facilities for 100
121 percent reuse before ~~prior to~~ December 31, 2025. Utilities that
122 shared a common ocean outfall for the discharge of domestic
123 wastewater on July 1, 2008, regardless of which utility operates
124 the ocean outfall, are individually responsible for meeting the
125 reuse requirement and may enter into binding agreements to share
126 or transfer such responsibility among the utilities. If ~~In the~~
127 ~~event~~ treatment in addition to the advanced wastewater treatment
128 and management requirements described in paragraph (b) is needed
129 ~~in order~~ to support a functioning reuse system, the ~~such~~
130 treatment must ~~shall~~ be fully operational by ~~no later than~~
131 December 31, 2025.
132 3. If a facility that discharges through an ocean outfall
133 contracts with another utility to install a functioning reuse
134 system, the department must approve any apportionment of the
135 reuse generated from the new or expanded reuse system that is
136 intended to satisfy all or a portion of the reuse requirements
137 pursuant to subparagraph 1. If a contract is between two
138 utilities that have reuse requirements pursuant to subparagraph
139 1., the reuse apportioned to each utility's requirement may not
140 exceed the total reuse generated by the new or expanded reuse
141 system.
142 (d) The discharge of domestic wastewater through ocean
143 outfalls is prohibited after December 31, 2025, except as a
144 backup discharge that is part of a functioning reuse system or
145 other wastewater management system authorized by the department

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146 ~~as provided for in paragraph (c)~~. Except as otherwise provided
147 in this subsection, a backup discharge may occur only during
148 periods of reduced demand for reclaimed water in the reuse
149 system, such as periods of wet weather, or as the result of peak
150 flows from other wastewater management systems, and must ~~shall~~
151 comply with the advanced wastewater treatment and management
152 requirements of paragraph (b). Peak flow backup discharges from
153 other wastewater management systems may not cumulatively exceed
154 5 percent of a facility's baseline flow, measured as a 5-year
155 rolling average, and are subject to applicable secondary waste
156 treatment and water-quality-based effluent limitations specified
157 in department rules. If peak flow backup discharges are in
158 compliance with the effluent limitations, the discharges are
159 deemed to meet the advanced wastewater treatment and management
160 requirements of this subsection.
161 (e) The holder of a department permit authorizing the
162 discharge of domestic wastewater through an ocean outfall as of
163 July 1, 2008, shall submit the following to the secretary of the
164 department ~~the following~~:
165 1. A detailed plan to meet the requirements of this
166 subsection, including the identification of the technical,
167 environmental, and economic feasibility of various reuse
168 options; the ~~an~~ identification of each ~~all~~ land acquisition and
169 facility ~~facilities~~ necessary to provide for reuse of the
170 domestic wastewater; an analysis of the costs to meet the
171 requirements, including the level of treatment necessary to
172 satisfy state water quality requirements and local water quality
173 considerations and a cost comparison of reuse using flows from
174 ocean outfalls and flows from other domestic wastewater sources;

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175 and a financing plan for meeting the requirements, including
176 identifying any actions necessary to implement the financing
177 plan, such as bond issuance or other borrowing, assessments,
178 rate increases, fees, other charges, or other financing
179 mechanisms. The plan must evaluate reuse demand in the context
180 of future regional water supply demands, the availability of
181 traditional water supplies, the need for development of
182 alternative water supplies, the degree to which various reuse
183 options offset potable water supplies, and other factors
184 considered in the Lower East Coast Regional Water Supply Plan of
185 the South Florida Water Management District. The plan must ~~shall~~
186 include a detailed schedule for the completion of all necessary
187 actions and ~~shall~~ be accompanied by supporting data and other
188 documentation. The plan must ~~shall~~ be submitted by ~~no later than~~
189 July 1, 2013.
190 2. By ~~No later than~~ July 1, 2016, an update of the plan
191 required in subparagraph 1. documenting any refinements or
192 changes in the costs, actions, or financing necessary to
193 eliminate the ocean outfall discharge in accordance with this
194 subsection or a written statement that the plan is current and
195 accurate.
196 (f) By December 31, 2009, and by December 31 every 5 years
197 thereafter, the holder of a department permit authorizing the
198 discharge of domestic wastewater through an ocean outfall shall
199 submit to the secretary of the department a report summarizing
200 the actions accomplished to date and the actions remaining and
201 proposed to meet the requirements of this subsection, including
202 progress toward meeting the specific deadlines set forth in
203 paragraphs (b) through (e). The report shall include the

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204 detailed schedule for and status of the evaluation of reuse and
205 disposal options, preparation of preliminary design reports,
206 preparation and submittal of permit applications, construction
207 initiation, construction progress milestones, construction
208 completion, initiation of operation, and continuing operation
209 and maintenance.
210 (g) By ~~No later than~~ July 1, 2010, and by July 1 every 5
211 years thereafter, the department shall submit a report to the
212 Governor, the President of the Senate, and the Speaker of the
213 House of Representatives on the implementation of this
214 subsection. In the report, the department shall summarize
215 progress to date, including the increased amount of reclaimed
216 water provided and potable water offsets achieved, and identify
217 any obstacles to continued progress, including all instances of
218 substantial noncompliance.
219 (h) By February 1, 2012, the department shall submit a
220 report to the Governor and Legislature detailing the results and
221 recommendations from phases 1 through 3 of its ongoing study on
222 reclaimed water use.
223 (i) The renewal of each permit that authorizes the
224 discharge of domestic wastewater through an ocean outfall as of
225 July 1, 2008, must ~~shall~~ be accompanied by an order in
226 accordance with s. 403.088(2)(e) and (f) which establishes an
227 enforceable compliance schedule consistent with the requirements
228 of this subsection.
229 (j) An entity that diverts wastewater flow from a receiving
230 facility that discharges domestic wastewater through an ocean
231 outfall must meet the ~~60 percent~~ reuse requirement of paragraph
232 (c). Reuse by the diverting entity of the diverted flows shall

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233 be credited to the diverting entity. The diverted flow shall
234 also be correspondingly deducted from the receiving facility's
235 baseline ~~actual~~ flow ~~on an annual basis~~ from which the required
236 reuse is calculated pursuant to paragraph (c), and the receiving
237 facility's reuse requirement shall be recalculated accordingly.
238
239 The department, the South Florida Water Management District, and
240 the affected utilities must consider the information in the
241 detailed plan in paragraph (e) for the purpose of adjusting, as
242 necessary, the reuse requirements of this subsection. The
243 department shall submit a report to the Legislature by February
244 15, 2015, containing recommendations for any changes necessary
245 to the requirements of this subsection.
246 Section 2. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: OCEAN OUTFALLS

Bill Number: 444 *(if applicable)*

Name: STEPHEN JAMES

Amendment Barcode: *(if applicable)*

Job Title:

Address: 100 S. MONROE
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 850-922-4300

E-mail:

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

Representing: FLA. ASSOCIATION OF COUNTIES

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Ocean Outfalls

Bill Number: 444 *(if applicable)*

Name: Jason Unger

Amendment Barcode: _____ *(if applicable)*

Job Title: Attorney

Address: 301 S. Bronough St.
Street

TLH
City *State* *Zip*

Phone: 5779090

E-mail: junger@gray-robinson.com

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

Representing: CITY OF HOLLYWOOD

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Clean Outfalls

Bill Number: 444 *(if applicable)*

Name: Bob Harris

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2618 Centennial Place
Street

Tallahassee, FL 32308
City *State* *Zip*

Phone:

E-mail:

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

Representing: Diving Equipment and Marketing Assoc.

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

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

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

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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)

3-14-13
Meeting Date

Topic: Ocean Outfalls

Bill Number: 444 *(if applicable)*

Name: Lee Killinger

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 324 E. Virginia St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-322-8907

E-mail: lee@anfield florida.com

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

Representing: Fla. Section, American Water Works Association

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

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

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

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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)

3-14-2013
Meeting Date

Topic: Ocean Outfalls

Bill Number: 444 *(if applicable)*

Name: Eddy Labrador

Amendment Barcode: *(if applicable)*

Job Title: Director, Intergovernmental Affairs & Professional Standards

Address: 115 S. Andrews Avenue, Room 426
Street

Fort Lauderdale — *City* — FL — *State* — 33301 — *Zip*

Phone: 954-357-7135

E-mail: elabrador@broward.org

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

Representing: Broward County

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

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

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)

3/14/2013
Meeting Date

Topic: Ocean outfall

Bill Number: 444 (if applicable)

Name: Charles Drake

Amendment Barcode: (if applicable)

Job Title: Hydrogeologist

Address: 1425 Conway Isle Circle
Street

Orlando FL 32809
City State Zip

Phone: 407 256 7715

E-mail: charles.drake@tetratech.com

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

Representing: Self

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

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

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

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)

3-14-13
Meeting Date

Topic: OCEAN OUTFALLS

Bill Number: 444 *(if applicable)*

Name: DOUGLAS YODER

Amendment Barcode: *(if applicable)*

Job Title: DEPUTY DIRECTOR

Address: 3071 SW 38 AVE
Street

MIAMI, FL 33146
City, State, Zip

Phone: 786 552 8979

E-mail: yoderd@miamidade.gov

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

Representing: MIAMI DADE COUNTY WATER & SEWER DEPT

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Finance and Tax
Banking and Insurance
Children, Families, and Elder Affairs
Ethics and Elections
Rules
Transportation

JOINT COMMITTEE:
Joint Committee on Administrative Procedures

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

March 7, 2013

The Honorable Wilton Simpson
Chairman, Senate Community Affairs Committee

Via Email

Dear Chairman Simpson:

My Senate Bill 444, Ocean Outfalls, passed unanimously out of the Environmental Preservation Committee today.

The next committee of reference is Community Affairs. I respectfully request that you agenda the bill as soon as possible.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
Senator, District 40

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

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Finance and Tax
Banking and Insurance
Children, Families, and Elder Affairs
Ethics and Elections
Rules
Transportation

JOINT COMMITTEE:
Joint Committee on Administrative Procedures

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

March 13, 2013

The Honorable Wilton Simpson
Chair, Community Affairs

Via email

Dear Chairman Simpson:

My Senate Bill 444, Ocean Outfalls, is on the Community Affairs agenda March 14. Thank you for scheduling this good bill.

I regret that due to a personal business matter, I will need to be in Miami tomorrow.
I respectfully request that my legislative assistant, Pat Gosney, present the bill on my behalf.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator District 40

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

REPLY TO:
☐ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
☐ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 602

INTRODUCER: Senator Hukill

SUBJECT: Local Bids and Contracts for Public Construction Works

DATE: March 14, 2013 REVISED:

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

I. Summary:

SB 602 eliminates specified conditions under which a local government is exempt from the requirement to competitively award contracts. This bill will eliminate the exemption for local governments to not competitively award contracts when the governing body deems it in the public's best interest to use their own services, employees, and equipment.

This bill substantially amends section 255.20 of the Florida Statutes.

II. Present Situation:

Local bids and contracts for public construction works

A county, municipality, special district[1], or other political subdivision of the state[2] seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $300,000. For electrical work, the local government must competitively award to an appropriately licensed

[1] Section 189.403(1), F.S – "Special district" means a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199(1), special districts shall be treated as municipalities. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

[2] Section 1.01(8), F.S. – The words "public body," "body politic," or "political subdivision" include counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $75,000.

The term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. Current law expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. Cost includes the cost of all labor, except inmate labor, and the cost of equipment and materials to be used in the construction of the project.[3]

Exemption for Local Governments Who Use Own Services, Employees, and Equipment

If the governing board of the local government complies with all of the statutory requirements[4], conducts a public meeting under s. 286.011, F.S. after public notice, and finds by majority vote of the governing board that it is in the public's best interest to perform the project using its own services, employees, and equipment, then they are exempt from having to competitively award the contract. The public notice must be published at least 21 days before the date of the public meeting at which the governing board takes final action. The notice must identify the project, the components and scope of the work, and the estimated cost of the project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and materials. The notice must specify that the purpose for the public meeting is to consider whether it is in the public's best interest to perform the project using the local government's own services, employees, and equipment.

Upon publication of the public notice and for 21 days thereafter, the local government shall make available for public inspection, during normal business hours and at a location specified in the public notice, a detailed itemization of each component of the estimated cost of the project and documentation explaining the methodology used to arrive at the estimated cost. At the public meeting, any qualified contractor or vendor who could have been awarded the project had the project been competitively bid shall be provided with a reasonable opportunity to present evidence to the governing board regarding the project and the accuracy of the local government's estimated cost of the project.

In deciding whether it is in the public's best interest for the local government to perform a project using its own services, employees, and equipment, the governing board must consider the estimated cost of the project and the accuracy of the estimated cost in light of any other information that may be presented at the public meeting and whether the project requires an increase in the number of government employees or an increase in capital expenditures for public facilities, equipment, or other capital assets. The local government may further consider the impact on local economic development, the impact on small and minority business owners, the impact on state and local tax revenues, whether the private sector contractors provide health

[3] *See* s. 255.20, F.S.
[4] Section 255.20(1)(c)(9), F.S.

insurance and other benefits equivalent to those provided by the local government, and any other factor relevant to what is in the public's best interest.

III. Effect of Proposed Changes:

Section 1 amends s. 255.20, F.S., eliminating specified conditions under which a local government is exempt from the requirement to competitively award contracts.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates that impose negative fiscal consequences. Subsection (a) provides, "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds" unless certain requirements are met. However, several exemptions and exceptions exist.

Subsection (d) of Art. VII, Sec. 18, exempts those laws that have an insignificant fiscal impact from the requirements of the mandates provision. Whether a particular bill results in a significant impact must be determined on an aggregate, statewide basis. Laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 ($1.9 million for FY 2012-2013[5]), are exempt.[6]

Counties, municipalities, and special districts not already competitively awarding public construction works contracts over $300,000 and electrical contracts over $75,000 may incur additional expense if required to competitively award such contracts. The overall collective financial impact would appear unlikely to exceed $1.9 million per year in the aggregate, in light of the potential savings some counties, municipalities, and special districts may experience as a result of the influence of the competitive process. Accordingly, it would appear as if the bill is exempt from paragraph (a) because the bill's net aggregate fiscal impact on cities and counties does not exceed $1.9 million.

B. Public Records/Open Meetings Issues:

None.

---

[5] Based on the Demographic Estimating Conference's final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf (Last visited on March 5, 2013).

[6] *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Fiscal Impact*, (September 2011), available at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited on March 5, 2013).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By eliminating the exemption for local governments who use their own services, employees, and equipment it may result in more contracts for private contractors.

C. Government Sector Impact:

This bill will eliminate the exemption for local governments to not competitively award contracts when the governing body deems it in the public's best interest to use their own services, employees, and equipment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 100 - 193
and insert:
9. To an independent special district if the governing board of the independent special district ~~local government~~ complies with all of the requirements of this subparagraph, conducts a public meeting under s. 286.011 after public notice, and finds by majority vote of the governing board that it is in the public's best interest to perform the project using its own services, employees, and equipment. The public notice must be published at least 21 days before the date of the public meeting

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13 at which the governing board takes final action. The notice must
14 identify the project, the components and scope of the work, and
15 the estimated cost of the project using generally accepted cost-
16 accounting principles that fully account for all costs
17 associated with performing and completing the work, including
18 employee compensation and benefits, equipment cost and
19 maintenance, insurance costs, and materials. The notice must
20 specify that the purpose for the public meeting is to consider
21 whether it is in the public's best interest to perform the
22 project using the independent special district's ~~local~~
23 ~~government's~~ own services, employees, and equipment. Upon
24 publication of the public notice and for 21 days thereafter, the
25 independent special district ~~local government~~ shall make
26 available for public inspection, during normal business hours
27 and at a location specified in the public notice, a detailed
28 itemization of each component of the estimated cost of the
29 project and documentation explaining the methodology used to
30 arrive at the estimated cost. At the public meeting, any
31 qualified contractor or vendor who could have been awarded the
32 project had the project been competitively bid shall be provided
33 with a reasonable opportunity to present evidence to the
34 governing board regarding the project and the accuracy of the
35 independent special district's ~~local government's~~ estimated cost
36 of the project. In deciding whether it is in the public's best
37 interest for the independent special district ~~local government~~
38 to perform a project using its own services, employees, and
39 equipment, the governing board must consider the estimated cost
40 of the project and the accuracy of the estimated cost in light
41 of any other information that may be presented at the public

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42 meeting and whether the project requires an increase in the
43 number of district ~~government~~ employees or an increase in
44 capital expenditures for public facilities, equipment, or other
45 capital assets. The independent special district ~~local~~
46 ~~government~~ may further consider the impact on local economic
47 development, the impact on small and minority business owners,
48 the impact on state and local tax revenues, whether the private
49 sector contractors provide health insurance and other benefits
50 equivalent to those provided by the independent special district
51 ~~local government~~, and any other factor relevant to what is in
52 the public's best interest.
53 10. If the governing board of the local government
54 determines upon consideration of specific substantive criteria
55 that it is in the best interest of the local government to award
56 the project to an appropriately licensed private sector
57 contractor pursuant to administrative procedures established by
58 and expressly set forth in a charter, ordinance, or resolution
59 of the local government adopted before July 1, 1994. The
60 criteria and procedures must be set out in the charter,
61 ordinance, or resolution and must be applied uniformly by the
62 local government to avoid awarding a project in an arbitrary or
63 capricious manner. This exception applies only if all of the
64 following occur:
65 a. The governing board of the local government, after
66 public notice, conducts a public meeting under s. 286.011 and
67 finds by a two-thirds vote of the governing board that it is in
68 the public's best interest to award the project according to the
69 criteria and procedures established by charter, ordinance, or
70 resolution. The public notice must be published at least 14 days

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71 before the date of the public meeting at which the governing
72 board takes final action. The notice must identify the project,
73 the estimated cost of the project, and specify that the purpose
74 for the public meeting is to consider whether it is in the
75 public's best interest to award the project using the criteria
76 and procedures permitted by the preexisting charter, ordinance,
77 or resolution.
78 b. The project is to be awarded by any method other than a
79 competitive selection process, and the governing board finds
80 evidence that:
81 (I) There is one appropriately licensed contractor who is
82 uniquely qualified to undertake the project because that
83 contractor is currently under contract to perform work that is
84 affiliated with the project; or
85 (II) The time to competitively award the project will
86 jeopardize the funding for the project, materially increase the
87 cost of the project, or create an undue hardship on the public
88 health, safety, or welfare.
89 c. The project is to be awarded by any method other than a
90 competitive selection process, and the published notice clearly
91 specifies the ordinance or resolution by which the private
92 sector contractor will be selected and the criteria to be
93 considered.
94 d. The project is to be awarded by a method other than a
95 competitive selection process, and the architect or engineer of
96 record has provided a written recommendation that the project be
97 awarded to the private sector contractor without competitive
98 selection, and the consideration by, and the justification of,
99 the government body are documented, in writing, in the project

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100 file and are presented to the governing board prior to the
101 approval required in this paragraph.
102 11. To projects subject to chapter 36.
103
104 ========== T I T L E A M E N D M E N T ==========
105 And the title is amended as follows:
106 Delete lines 4 - 6
107 and insert:
108 removing an exemption of certain local government
109 entities from the requirement to competitively award
110 contracts for public construction; providing an
111 effective

By Senator Hukill

8-00987-13 2013602__

A bill to be entitled

An act relating to local bids and contracts for public construction works; amending s. 255.20, F.S.; eliminating specified conditions under which a local government is exempt from the requirement to competitively award contracts; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 255.20, Florida Statutes, is amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $300,000. For electrical work, the local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $75,000. As used in this section, the term “competitively award” means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This

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

30 subsection expressly allows contracts for construction
31 management services, design/build contracts, continuation
32 contracts based on unit prices, and any other contract
33 arrangement with a private sector contractor permitted by any
34 applicable municipal or county ordinance, by district
35 resolution, or by state law. For purposes of this section, cost
36 includes the cost of all labor, except inmate labor, and the
37 cost of equipment and materials to be used in the construction
38 of the project. Subject to the provisions of subsection (3), the
39 county, municipality, special district, or other political
40 subdivision may establish, by municipal or county ordinance or
41 special district resolution, procedures for conducting the
42 bidding process.
43 (c) The provisions of this subsection do not apply:
44 1. If the project is undertaken to replace, reconstruct, or
45 repair an existing public building, structure, or other public
46 construction works damaged or destroyed by a sudden unexpected
47 turn of events such as an act of God, riot, fire, flood,
48 accident, or other urgent circumstances, and such damage or
49 destruction creates:
50 a. An immediate danger to the public health or safety;
51 b. Other loss to public or private property which requires
52 emergency government action; or
53 c. An interruption of an essential governmental service.
54 2. If, after notice by publication in accordance with the
55 applicable ordinance or resolution, the governmental entity does
56 not receive any responsive bids or proposals.
57 3. To construction, remodeling, repair, or improvement to a
58 public electric or gas utility system if such work on the public

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59 utility system is performed by personnel of the system.
60 4. To construction, remodeling, repair, or improvement by a
61 utility commission whose major contracts are to construct and
62 operate a public electric utility system.
63 5. If the project is undertaken as repair or maintenance of
64 an existing public facility. For the purposes of this paragraph,
65 the term “repair” means a corrective action to restore an
66 existing public facility to a safe and functional condition and
67 the term “maintenance” means a preventive or corrective action
68 to maintain an existing public facility in an operational state
69 or to preserve the facility from failure or decline. Repair or
70 maintenance includes activities that are necessarily incidental
71 to repairing or maintaining the facility. Repair or maintenance
72 does not include the construction of any new building,
73 structure, or other public construction works or any substantial
74 addition, extension, or upgrade to an existing public facility.
75 Such additions, extensions, or upgrades shall be considered
76 substantial if the estimated cost of the additions, extensions,
77 or upgrades included as part of the repair or maintenance
78 project exceeds the threshold amount in subsection (1) and
79 exceeds 20 percent of the estimated total cost of the repair or
80 maintenance project using generally accepted cost-accounting
81 principles that fully account for all costs associated with
82 performing and completing the work, including employee
83 compensation and benefits, equipment cost and maintenance,
84 insurance costs, and materials. An addition, extension, or
85 upgrade shall not be considered substantial if it is undertaken
86 pursuant to the conditions specified in subparagraph 1. Repair
87 and maintenance projects and any related additions, extensions,

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88 or upgrades may not be divided into multiple projects for the
89 purpose of evading the requirements of this subparagraph.
90 6. If the project is undertaken exclusively as part of a
91 public educational program.
92 7. If the funding source of the project will be diminished
93 or lost because the time required to competitively award the
94 project after the funds become available exceeds the time within
95 which the funding source must be spent.
96 8. If the local government competitively awarded a project
97 to a private sector contractor and the contractor abandoned the
98 project before completion or the local government terminated the
99 contract.
100 ~~9. If the governing board of the local government complies~~
101 ~~with all of the requirements of this subparagraph, conducts a~~
102 ~~public meeting under s. 286.011 after public notice, and finds~~
103 ~~by majority vote of the governing board that it is in the~~
104 ~~public's best interest to perform the project using its own~~
105 ~~services, employees, and equipment. The public notice must be~~
106 ~~published at least 21 days before the date of the public meeting~~
107 ~~at which the governing board takes final action. The notice must~~
108 ~~identify the project, the components and scope of the work, and~~
109 ~~the estimated cost of the project using generally accepted cost-~~
110 ~~accounting principles that fully account for all costs~~
111 ~~associated with performing and completing the work, including~~
112 ~~employee compensation and benefits, equipment cost and~~
113 ~~maintenance, insurance costs, and materials. The notice must~~
114 ~~specify that the purpose for the public meeting is to consider~~
115 ~~whether it is in the public's best interest to perform the~~
116 ~~project using the local government's own services, employees,~~

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117 ~~and equipment. Upon publication of the public notice and for 21~~
118 ~~days thereafter, the local government shall make available for~~
119 ~~public inspection, during normal business hours and at a~~
120 ~~location specified in the public notice, a detailed itemization~~
121 ~~of each component of the estimated cost of the project and~~
122 ~~documentation explaining the methodology used to arrive at the~~
123 ~~estimated cost. At the public meeting, any qualified contractor~~
124 ~~or vendor who could have been awarded the project had the~~
125 ~~project been competitively bid shall be provided with a~~
126 ~~reasonable opportunity to present evidence to the governing~~
127 ~~board regarding the project and the accuracy of the local~~
128 ~~government's estimated cost of the project. In deciding whether~~
129 ~~it is in the public's best interest for the local government to~~
130 ~~perform a project using its own services, employees, and~~
131 ~~equipment, the governing board must consider the estimated cost~~
132 ~~of the project and the accuracy of the estimated cost in light~~
133 ~~of any other information that may be presented at the public~~
134 ~~meeting and whether the project requires an increase in the~~
135 ~~number of government employees or an increase in capital~~
136 ~~expenditures for public facilities, equipment, or other capital~~
137 ~~assets. The local government may further consider the impact on~~
138 ~~local economic development, the impact on small and minority~~
139 ~~business owners, the impact on state and local tax revenues,~~
140 ~~whether the private sector contractors provide health insurance~~
141 ~~and other benefits equivalent to those provided by the local~~
142 ~~government, and any other factor relevant to what is in the~~
143 ~~public's best interest.~~
144 9.~~10.~~ If the governing board of the local government
145 determines upon consideration of specific substantive criteria

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146 that it is in the best interest of the local government to award
147 the project to an appropriately licensed private sector
148 contractor pursuant to administrative procedures established by
149 and expressly set forth in a charter, ordinance, or resolution
150 of the local government adopted before July 1, 1994. The
151 criteria and procedures must be set out in the charter,
152 ordinance, or resolution and must be applied uniformly by the
153 local government to avoid awarding a project in an arbitrary or
154 capricious manner. This exception applies only if all of the
155 following occur:
156 a. The governing board of the local government, after
157 public notice, conducts a public meeting under s. 286.011 and
158 finds by a two-thirds vote of the governing board that it is in
159 the public's best interest to award the project according to the
160 criteria and procedures established by charter, ordinance, or
161 resolution. The public notice must be published at least 14 days
162 before the date of the public meeting at which the governing
163 board takes final action. The notice must identify the project,
164 the estimated cost of the project, and specify that the purpose
165 for the public meeting is to consider whether it is in the
166 public's best interest to award the project using the criteria
167 and procedures permitted by the preexisting charter, ordinance,
168 or resolution.
169 b. The project is to be awarded by any method other than a
170 competitive selection process, and the governing board finds
171 evidence that:
172 (I) There is one appropriately licensed contractor who is
173 uniquely qualified to undertake the project because that
174 contractor is currently under contract to perform work that is

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175 affiliated with the project; or
176 (II) The time to competitively award the project will
177 jeopardize the funding for the project, materially increase the
178 cost of the project, or create an undue hardship on the public
179 health, safety, or welfare.
180 c. The project is to be awarded by any method other than a
181 competitive selection process, and the published notice clearly
182 specifies the ordinance or resolution by which the private
183 sector contractor will be selected and the criteria to be
184 considered.
185 d. The project is to be awarded by a method other than a
186 competitive selection process, and the architect or engineer of
187 record has provided a written recommendation that the project be
188 awarded to the private sector contractor without competitive
189 selection, and the consideration by, and the justification of,
190 the government body are documented, in writing, in the project
191 file and are presented to the governing board prior to the
192 approval required in this paragraph.
193 10.~~11.~~ To projects subject to chapter 336.
194 Section 2. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic _____

Bill Number SB 602 *(if applicable)*

Name Craig Conn

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 301 S. Bronough
Street

Tall FL 32301
City *State* *Zip*

Phone 222 9684

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: Local Bills

Bill Number: 602 *(if applicable)*

Name: Warren Husband

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: PO Box 10909
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850 259 9000

E-mail: _____

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

Representing: Fla. Associated General Contractors Council

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 3/14/13
Meeting Date

Topic: Local Bids

Bill Number: 602 *(if applicable)*

Name: Richard Watson

Amendment Barcode: *(if applicable)*

Job Title: Legislative Counsel

Address: P.O. Box 10038
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850 222-0600

E-mail: rick@rwatsonandassociates.com

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

Representing: Associated Builders & Contractors of FL

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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 18, 2013

The Honorable Wilton Simpson
322 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

Senate Bill 602, relating to Local Bids and Contracts for Public Construction Works has been referred to the Community Affairs Committee. I am requesting your consideration on placing SB 602 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: Tom Yeatman, Staff Director of the Community Affairs Committee
Ann Whittaker, Administrative Assistant of the Community Affairs Committee

REPLY TO:
☐ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
☐ Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1118

INTRODUCER: Senator Hays

SUBJECT: Public Contracting

DATE: March 14, 2013 REVISED:

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

I. Summary:

SB 1118 prohibits a governmental unit that contracts for the construction, repair, remodeling, or improving of a facility from imposing certain conditions regarding collective bargaining organizations. The bill also prohibits a governmental unit from granting awards as a condition of specified contracts. The bill prohibits certain terms from being placed in bid specifications, project agreements, or other controlling documents.

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

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

II. Present Situation:

State and Federal Constitutional Issues

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

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

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

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

Federal Labor Law

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

---

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

Project Labor Agreements

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

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

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

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

Federal Wage Regulation

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

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

---

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

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

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

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

The FLSA provides that:

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

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

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

The FLSA also provides for enforcement in three separate ways:

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

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

State Wage Regulation

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

Local Bids and Contracts for Public Construction Works

Section 255.20, F.S., describes the process for bids and contracts for public construction works undertaken by counties, municipalities, special districts, and other political subdivisions of the state to award contracts for construction projects. Typically, any construction project with a cost in excess of $300,000, and any electrical project costing more than $75,000, must be competitively awarded. However, s. 255.20, F.S., lists 11 types of projects where a competitive

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

award is not required, such as emergency repair of facilities damaged by hurricanes, riots, or other "sudden unexpected turn of events."

Preference to State Residents

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

Administrative Protests of Contract Solicitations or Awards

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

III. Effect of Proposed Changes:

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

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

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

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

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

This section does not:

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

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

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

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

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Hays

11-00952-13 20131118__

A bill to be entitled

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

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

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

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

(b) “Governmental unit” means this state; a county, municipality, school district, Florida College System

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

30 institution, or public university that receives appropriations
31 from this state; or any agency, board, commission, authority, or
32 instrumentality of the state.
33 (2) A governmental unit may not enter into or expend funds
34 under a contract for the construction, repair, remodeling, or
35 demolition of a facility if the contract or a subcontract under
36 the contract contains a term that:
37 (a) Requires, prohibits, encourages, or discourages
38 bidders, contractors, or subcontractors from entering into or
39 adhering to agreements with a collective bargaining organization
40 relating to the construction project or other related
41 construction projects.
42 (b) Discriminates against bidders, contractors, or
43 subcontractors based on the status as a party or nonparty to, or
44 the willingness or refusal to enter into, an agreement with a
45 collective bargaining organization relating to the construction
46 project or other related construction projects.
47 (3) A governmental unit may not award a grant, tax
48 abatement, or tax credit that is conditioned upon a requirement
49 that the awardee include a term described in paragraph (2)(a) or
50 paragraph (2)(b) in a contract document for any construction,
51 improvement, maintenance, or renovation of real property or
52 fixtures that are the subject of the grant, tax abatement, or
53 tax credit. This section does not prohibit a governmental unit
54 from awarding a grant, tax abatement, or tax credit to a private
55 owner, bidder, contractor, or subcontractor who enters into or
56 who is party to an agreement with a collective bargaining
57 organization, if being or becoming a party or adhering to an
58 agreement with a collective bargaining organization is not a

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

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3-14-13
Meeting Date

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

Topic: Community Affairs

Bill Number: SB 1118 *(if applicable)*

Name: Mark A Boston

Amendment Barcode: _____ *(if applicable)*

Job Title: FARA V.P.

Address: 579 Nettles Blvd
Street

Jensen Beach, FL. 34957
City *State* *Zip*

Phone: 772-229-8237

E-mail: markmab.mab@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Public Contracting

Bill Number: 1118 *(if applicable)*

Name: EVELYN NAZARIO

Amendment Barcode: *(if applicable)*

Job Title: Bus Operator

Address: 1935 S Conway Rd R-5
Street

Orlando FL 32812
City *State* *Zip*

Phone: (321) 946-5490

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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)

3-14-13
Meeting Date

Topic: Public Contracting

Bill Number: SB 1118 *(if applicable)*

Name: Rosa I Bauza

Amendment Barcode: _____ *(if applicable)*

Job Title: Bus Driver

Address: 1935 S. Conway Rd E7
Street

Orlando FL 32812
City *State* *Zip*

Phone: 407-394 6940.

E-mail: rosiebauza@ Mercor

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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)

3-14-13
Meeting Date

Topic: Public Contracting

Bill Number: SB1118 *(if applicable)*

Name: Christine Saint Louis

Amendment Barcode: *(if applicable)*

Job Title: Bus Driver

Address: 2319 Meadow oak cir
Street

Kissimmee
City *State* *Zip*

Phone: 407-756-0334

E-mail: 6yersgirl@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: S/F

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

CC: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

Subject: Committee Agenda Request

Date: February 28, 2013

I respectfully request that **Senate Bill #1118**, relating to Public Contracting, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

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

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1766

INTRODUCER: Committee on Transportation

SUBJECT: Driver Licenses

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Eichin		**tr SPB 7022 as introduced**
2.	Anderson	Yeatman	CA	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

SB 1766 deletes a requirement that residents of foreign countries hold an international driving permit when operating a motor vehicle in this state.

This bill substantially amends section 322.04, Florida Statutes.

II. Present Situation:

Currently, a nonresident who is at least 16 years of age may operate a motor vehicle in Florida if the nonresident has in his or her immediate possession:

- A valid noncommercial driver license issued in his or her name from another U.S. state, or
- An International Driving Permit (IDP) issued in his or her name in his or her country of residence and a valid license issued in that country.

A Class E driver license allows for driving, "[a]ny non-commercial motor vehicles with Gross Vehicle Weight Rating (GVWR) less than 26,001 pounds, including passenger cars, 15 passenger vans including the driver, trucks or recreational vehicles and two or three wheel motor vehicles 50 cc or less, such as mopeds or small scooters. Farmers and drivers of authorized emergency vehicles who are exempt from obtaining a commercial driver license must obtain a Class E license."[1]

[1] Florida Department of Highway Safety and Motor Vehicles, *About Driver Licenses & ID Cards*, http://www.flhsmv.gov/ddl/dlclass.html (last visited March 10, 2013).

An IDP is essentially a bi- or multi-language translation of the permit-holder's normal driver license credential, complete with photograph and vital statistics.

The requirement for international visitors to possess an IDP was adopted during the 2012 legislative session, when the Florida Legislature amended s. 322.04, F.S. This change took effect January 1, 2013.

Subsequently, the Department of Highway Safety and Motor Vehicles (DHSMV) became aware that this requirement likely constitutes a violation of the Convention on Road Traffic (1949, 1968), an international treaty to which the United States is a signatory. Since the United States government does not require nonresidents to have an IDP, and international treaties preempt state laws in conflict with them, the Florida Highway Patrol (FHP) has deferred enforcement of violations of the amended statutory section.[2]

III. Effect of Proposed Changes:

SB 1766 restores s. 322.04, F.S., to its condition prior to the revisions made in 2012. As a result, no IDP will be required for nonresidents. Possession of a valid driver license remains a requirement.

The bill restores the provision that a nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or country, may operate a motor vehicle of the type for which a Class E driver license is required in this state.

The bill also restores the provision allowing a nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or country, to operate a motor vehicle, other than a commercial motor vehicle, in this state.

The bill would take effect upon becoming law and shall apply retroactively to January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[2] A non-resident visitor to Florida who wishes to drive in this state is required to have in his or her immediate possession a valid driver license issued in his or her name from another state or territory of the U.S. or from their country of residence. However, the FHP has deferred enforcement action based solely on the lack of an IDP.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Nonresident visitors will no longer be required to obtain an IDP in order to legally operate a motor vehicle in this state. Since IDPs are issued in the applicant's home country at various prices, the fiscal impact to individuals varies, but is neutral or positive.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By the Committee on Transportation

596-02062-13 20131766__

A bill to be entitled

An act relating to driver licenses; amending s. 322.04, F.S.; revising requirements relating to exemptions from licensure requirements for nonresidents; deleting a requirement that residents of foreign countries hold an International Driving Permit to be exempt; providing an effective date.

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

Section 1. Section 322.04, Florida Statutes, is amended to read:

322.04 Persons exempt from obtaining driver license.—

(1) The following persons are exempt from obtaining a driver license:

(a) Any employee of the United States Government, while operating a noncommercial motor vehicle owned by or leased to the United States Government and being operated on official business.

(b) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.

(c) A nonresident who is at least 16 years of age <u>and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country, may operate</u> ~~operating~~ a motor vehicle of the type for which a Class E driver license is required in this state ~~if the nonresident has in his or her immediate possession:~~

~~1. a valid noncommercial driver license issued in his or~~

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30 ~~her name from another state or territory of the United States;~~
31 ~~or~~
32 ~~2. An International Driving Permit issued in his or her~~
33 ~~name in his or her country of residence and a valid license~~
34 ~~issued in that country~~.
35 (d) A nonresident who is at least 18 years of age and who
36 has in his or her immediate possession a valid noncommercial
37 driver license issued to the nonresident in his or her home
38 state or country may operate a motor vehicle, other than a
39 commercial motor vehicle, in this state.
40 (e) ~~(d)~~ Any person operating a golf cart, as defined in s.
41 320.01, which is operated in accordance with the provisions of
42 s. 316.212.
43 (2) This section does not apply to any person to whom s.
44 322.031 applies.
45 (3) Any person working for a firm under contract to the
46 United States Government whose residence is outside this state
47 and whose main point of employment is outside this state may
48 drive a noncommercial vehicle on the public roads of this state
49 for periods up to 60 days while in this state on temporary duty,
50 if the person has a valid driver license from the state of the
51 person's residence.
52 Section 2. This act shall take effect upon becoming a law
53 and shall apply retroactively to January 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic _____

Bill Number 1766 *(if applicable)*

Name Leticia Adams

Amendment Barcode _____ *(if applicable)*

Job Title Director of Governance

Address 136 S. Bronough St.
Street

Tall FL 32301
City *State* *Zip*

Phone 850 544 6866

E-mail ladams@flchamber.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.

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)

3-14-13
Meeting Date

Topic: International Driving Permits

Bill Number: 1766 *(if applicable)*

Name: Karen MacFarland

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 309 Oaks Will Court
Street

Tallahassee, Fl 32312
City *State* *Zip*

Phone: 850-766-1026

E-mail: _____

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

Representing: AAA

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 534

INTRODUCER: Committee on Governmental Oversight and Accountability; and Senators Brandes and Bradley

SUBJECT: Publicly funded Defined Benefit Retirement Plans

DATE: March 9, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	**Fav/CS**
2.	Toman	Yeatman	CA	**Pre-meeting**
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 534 explicitly provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan. The bill also specifies additional reporting requirements for public pension plans, and provides that local plans, which do not comply with the reporting requirements, may jeopardize their revenue sharing funds.

This bill substantially amends sections 112.66 and 112.665 of the Florida Statutes, and creates section 112.664.

II. Present Situation:

Florida Local Retirement Systems and Plans

The Division of Retirement of the Department of Management Services (DMS) reports[1] that as of September 30, 2012, there are 492 defined benefit plans sponsored by 249 local governments

[1] Division of Management Services, *Florida Local Government Retirement Systems*, 2012 Annual Report, available online at: https://www.rol.frs.state.fl.us/forms/2012_Local_Report.pdf (last visited on March 10, 2013).

in Florida. The vast majority of the plans, 486, are local government defined benefit systems that provide benefits to 77,331 retirees, with 102,636 active employees, and total plan assets of $23.8 billion.[2] The average annual pension in these local defined benefit plans is $25,109, and the average annual required contribution rate as a percentage of payroll is 29.62 percent. The total unfunded actuarial accrued liability for all the defined benefit plans as of September 30, 2012, was $10 billion.

Actuarial Reporting for Public Pension Plans

Section 112.63, F.S., requires that public pension plans funded in whole or part by public plans must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary, at least every three years. The actuarial reports must include at least the following information:

- Adequacy of employer and employee contributions;
- A plan to amortize any unfunded liability, and a description of actions taken to reduce the unfunded liability;
- A description and explanation of actuarial assumptions;
- A schedule illustrating the amortization of unfunded liabilities, if any;
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports;
- A disclosure of the present value of the plan's accrued vested, nonvested, and total benefits, as adopted by the Financial Accounting Standards Board, using the Florida Retirement System's assumed rate of return; and
- A statement by the enrolled actuary that the report is complete and accurate and that the techniques and assumptions used are reasonable and meet the requirements of state law.

The actuarial cost methods used to establish the annual normal costs of the plans must be those methods approved in the Employee Retirement Income Security Act of 1974.

The actuarial reports must be submitted to the Department of Management Services, which must review the reports to determine whether the actuarial valuation is complete, accurate, or based on reasonable assumptions.[3]

Firefighter and Police Pension Plans

Sections 175.261 and 185.221, F.S., specify the financial reporting requirements for firefighter and municipal police pensions, respectively, which generally require an annual independent audit, and an actuarial valuation every three years. The reports must be submitted to DMS' Division of Retirement, which issues an annual report to the Legislature based upon the reporting from the plans.

Sections 175.051 and 185.04, F.S., state, in pertinent part, that actuarial deficits, if any, arising under plans under chapters 175 or 185, shall not be the obligation of the state.

[2] The other 6 plans are school board early retirement programs that provide benefits to 1,644 retirees, with active plan membership of 8,631, and total plan assets of $63.7 million.
[3] Section 112.63(4)(a), F.S.

Generally Accepted Accounting Principles

The Governmental Accounting Standards Board (GASB) is the independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. GASB was established in 1984 by agreement of the Financial Accounting Foundation and 10 national associations of state and local government officials. GASB is recognized by governments, the accounting industry, and the capital markets as the official source of generally accepted accounting principles for state and local governments.[4]

In June of 2012, GASB released Statement No. 67, *Financial Reporting for Pension Plans*, which establishes standards of financial reporting for separately issued financial reports and specifies the required approach to measuring the pension liability of employers and nonemployer contributing entities for benefits provided through the pension plan (the net pension liability), about which information is required to be presented. The provisions in Statement 67 are effective for financial statements for periods beginning after June 15, 2013.[5] The new Statements relate to accounting and financial reporting issues only—how pension costs and obligations are measured and reported in audited external financial reports. The Statements do not address how governments approach pension plan funding—a government's policy regarding how much money it will contribute to its pension plan each year.[6]

Actuarial Soundness and Minimum Funding Standards for Pensions

Article X, s. 14, Florida Constitution, requires public retirement benefits to be funded on a sound actuarial basis:

> SECTION 14: State retirement systems benefit changes.- A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.[7]

The "Florida Protection of Public Employee Retirement Benefits Act" located in part VII of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this act is to "prohibit the use of any procedure, methodology, or

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[4] From "Facts About GASB," available at http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824305999&blobheader=application%2Fpdf&blobcol=urldata&blobtable=MungoBlobs (last visited on March 10, 2013).
[5] Summary of Statement No. 67, available at http://www.gasb.org/cs/ContentServer?c=Pronouncement_C&pagename=GASB/Pronouncement_C/GASBSummaryPage&cid=1176160219444 (last visited on March 10, 2013).
[6] New GASB Pension Statements to Bring about Major Improvements in Financial Reporting, a June 2012 publication by GASB, available at http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824124337&blobheader=application%2Fpdf&blobcol=urldata&blobtable=MungoBlobs (last visited on February 18, 2013).
[7] Art. X, s. 14, Florida Constitution.

assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."[8]

Internal Revenue Code Section 430: Minimum Funding Standards for Single-Employer Defined Benefit Pension Plans

For actuarial determinations made pursuant to Section 430 of the Internal Revenue Code, the interest rate used in determining the present value of the liabilities of the plan must be a segmented corporate bond yield curve. The first segment consists of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year; the second segment consists of benefits reasonably determined to be payable between 5 and 20 years; and the third segment rate is benefits reasonably determined to be payable after 20 years.[9]

The table below[10] lists the 24-month average segment rates without adjustment for the applicable percentages of the 25-year average segment rates, and lists the 24-month average segment rates as adjusted by the applicable maximum and applicable minimum percentages of the 25-year average segment rates.

Funding Table 3							
For Plan Years Beginning In		24-Month Average Segment Rates Not Adjusted			Adjusted 24-Month Average Segment Rates, Based on Applicable Percentage of 25-Year Average Rates		
	Applicable Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2013	Feb-13	1.58	4.34	5.38	4.94	6.15	6.76
2013	Jan-13	1.62	4.40	5.45	4.94	6.15	6.76
2013	Dec-12	1.66	4.47	5.52	4.94	6.15	6.76
2013	Nov-12	1.69	4.53	5.60	4.94	6.15	6.76
2013	Oct-12	1.72	4.58	5.67	4.94	6.15	6.76
2013	Sep-12	1.75	4.62	5.72	4.94	6.15	6.76
	Applicable Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2012	Feb-13	1.58	4.34	5.38	5.54	6.85	7.52
2012	Jan-13	1.62	4.40	5.45	5.54	6.85	7.52
2012	Dec-12	1.66	4.47	5.52	5.54	6.85	7.52
2012	Nov-12	1.69	4.53	5.60	5.54	6.85	7.52
2012	Oct-12	1.72	4.58	5.67	5.54	6.85	7.52
2012	Sep-12	1.75	4.62	5.72	5.54	6.85	7.52
2012	Aug-12	1.77	4.67	5.78	5.54	6.85	7.52
2012	Jul-12	1.81	4.73	5.85	5.54	6.85	7.52
2012	Jun-12	1.84	4.79	5.90	5.54	6.85	7.52
2012	May-12	1.87	4.84	5.96	5.54	6.85	7.52
2012	Apr-12	1.90	4.90	6.01	5.54	6.85	7.52
2012	Mar-12	1.93	4.95	6.07	5.54	6.85	7.52
2012	Feb-12	1.96	5.01	6.13	5.54	6.85	7.52
2012	Jan-12	1.98	5.07	6.19	5.54	6.85	7.52

[8] Section 112.61, F.S.
[9] Section 430(h)(2)(C) of the Internal Revenue Code.
[10] This table is taken from Funding Yield Curve Segment Rates, available at http://www.irs.gov/Retirement-Plans/Funding-Yield-Curve-Segment-Rates (last visited March 10, 2013).

	Applicable Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2012	Dec-11	1.99	5.12	6.24	5.54	6.85	7.52
2012	Nov-11	2.01	5.16	6.28	5.54	6.85	7.52
2012	Oct-11	2.03	5.20	6.30	5.54	6.85	7.52
2012	Sep-11	2.06	5.25	6.32	5.54	6.85	7.52

Section 430(h)(3) of the Internal Revenue Code also provides that the Secretary must by regulation prescribe mortality tables to be used in determining any present value or making any computation under section 430 of the Code, implemented as the RP-2000 Mortality Tables.

III. Effect of Proposed Changes:

Section 1 amends s. 112.66, F.S., to specify that the state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

Section 2 creates s. 112.664, F.S., requiring additional reporting requirements for all publicly funded defined benefit retirement plans. The following information must be provided to DMS yearly, within 180 days after the close of the first plan year that ends after June 30, 2013, and thereafter in each year in which an actuarial valuation of the plan is done:

- The long-term funded ratio calculated in a manner similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any.
- The dollar value of the unfunded accrued liability, if any, of the plan.
- The number of months or years for which the current market value of assets is adequate to sustain the payment of expected retirement benefits.
- The recommended contributions to the plan under GASB No. 67 calculations, stated as an annual dollar value and a percentage of valuation payroll.

To determine the information above, each reporting plan must use the following assumptions and methods:

- The actuarial cost method must be the Entry Age Normal method.
- The assumed rate of return on investments and the assumed discount rate must be the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department of the Treasury.
- Preretirement mortality must be calculated using the RP-2000 Mortality Tables for male and female employees, which accounts for generational mortality improvements. Postretirement mortality must be calculated using the RP-2000 Mortality Tables for healthy white-collar employees, as projected from the year 2000 to the valuation year using Projection Scale AA.
- The asset valuation method must be the market value less the value of any deferred retirement option program accounts.
- The actuarial accrued liabilities, excluding the value of any deferred retirement option program accounts.
- All other assumptions and methods must be those used by the system or plan in its latest valuation.

Though it is a reporting requirement and not a funding requirement, the corporate bond assumed discount rate may produce lower funded ratios for most plans, since in the actuarial reporting the

plans are currently doing, the average assumed rate of return for local plans is approximately 7.7 percent.[11]

The information required by this bill must be provided by local government plan sponsors and the plans in the municipal budget disclosure required by s. 166.241(3), F.S., and on any websites that contain budget information, or actuarial or plan performance information. Each plan sponsor and plan that has a publicly available website must also provide the plan's most recent financial statement and actuarial valuation on the website.

Plans that fail to submit timely the required information within 30 days after receipt of the plan's actuarial report will be deemed to be in noncompliance. DMS may notify the Department of Revenue (DOR) and Department of Financial Services (DFS) of the noncompliance, and DOR and DFS must withhold funds payable to the plan sponsor, which are not pledged towards bond debt service. The bill gives plan sponsors administrative rights if these actions are taken.

Section 3 amends s. 112.665, F.S., to mandate that the DMS-produced local pension plan fact sheets must contain the additional reporting information required by this bill.

Section 4 is the legislative finding of an important state interest.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of s. 18(a) of Art. VII, State Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 4 of the bill), and one of the following relevant exceptions must be met:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

[11] Using data from the July 1, 2010, actuarial valuation of the FRS, a study was done in March 2011, to estimate the impact of changing the FRS investment return assumptions. The actuarial liability of the FRS was $134.2 billion; the investment return rate assumption was (and still is) 7.75 percent. The study found that changing the investment return assumption from 7.75 percent to 6 percent would increase actuarial liabilities by $36 billion; changing it to 5 percent would increase actuarial liabilities by $62.9 billion. Study available at http://www.floridahasarighttoknow.com/docs/StatePensionActuaryLetter.pdf, (last visited on March 10, 2013).

Since the provisions of the bill apply to municipalities and special districts alike, estimated expenditures required by the bill (see Government Sector Impact) are required by all persons similarly situated. Given this relevant exception, it appears that the mandate restriction does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not met to discuss the impact of the bill. The bill does require additional reporting requirements for local plans, which may incur additional costs in producing the required reporting. The exact cost of compliance with this bill is indeterminate, though last year DMS estimated that the cost of compliance for a local pension financial rating plan proposal that involved some similar reporting requirements could range from $1,000 to $5,000 per plan, per year.[12]

According to the Department of Management Services (department), the original filed version of the bill would increase administrative costs to the Division of Retirement (division), including staff and actuarial work, to comply with the reporting requirements in the bill. According to the department's bill analysis, it estimates that the fiscal impact would be as follows:[13]

The new disclosure requirements do not affect the actuarial contributions for funding purposes for the FRS; however, there will be an administrative cost associated with preparing the new disclosures. The consulting actuary estimates that the additional reporting requirement would cost about $20,000 in the first year and $10,000 in each subsequent year.

[12] Financial Rating of Local Government Defined Benefit Plans, January 25, 2012, by the Department of Management Services, on file with the Senate Governmental Oversight and Accountability Committee.
[13] Department of Management Services, Bill Analysis 2013, for SB 534/HB 599, dated February 8, 2013, on file with the Governmental Oversight and Accountability Committee.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	$20,000	$10,000	$10,000
Non-recurring	-	-	-

In addition, one additional government analyst position would be required to insure that implementing and maintaining the actuarial database with these additional disclosure items does not negatively impact the timely accomplishment of current statutory responsibilities.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	$57,693	$57,693	$57,693
Non-recurring	$3,762	-	-

Additionally, the actuarial costs for the chapter plans under chapters 175 and 185, F.S., are paid for from the police and firefighter's trust fund.[14] The bill creates an additional annual expenditure requirement for reporting in order to qualify for premium tax distributions.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	$30,000	$20,000	$20,000
Non-recurring	-	-	-

VI. Technical Deficiencies:

None.

VII. Related Issues:

On March 7, 1013, the Committee on Governmental Oversight and Accountability adopted two hand-written amendments (barcodes 592460 and 784588), now in CS/SB 534, which were intended to remove the Florida Retirement System from the provisions of the bill. Though the amendments physically removed references to the FRS from the bill, the reporting requirements of the bill are placed in part VII, ch. 112, F.S., which applies to defined benefit systems or plans supported in part or whole by public funds, which includes the FRS. The Legislature should explicitly exclude the FRS from the bill's requirements, if that is the intent of the Legislature.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/SB 534 by Governmental Oversight and Accountability on March 7, 2013:
The proposed committee substitute makes the following changes to the bill:

[14] The division conducts the actuarial valuations of chapter plans. *See* ss. 175.032(2) and 185.02(3), F.S.

- Adds a finding of important state interest;
- Clarifies that the mortality tables must account for generational mortality improvements;
- Excludes Deferred Retirement Option Program (DROP) assets and liabilities from the calculations;
- Provides that all plans must report for the first plan year ending on or after June 30, 2013, and in each subsequent year in which an actuarial valuation is completed;
- Provides that plans that do not comply with the reporting requirements may have their revenue sharing withheld, and specifies administrative procedures; and
- Requires that the yearly local plan fact sheets produced by the DMS must include the additional reporting requirements.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (f) and (g) of subsection (1) of section 112.63, Florida Statutes, are amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(1) Each retirement system or plan subject to the provisions of this act shall have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report shall consist of, but shall not be limited to,

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13 the following:
14 ~~(f) A disclosure of the present value of the plan's accrued~~
15 ~~vested, nonvested, and total benefits, as adopted by the~~
16 ~~Financial Accounting Standards Board, using the Florida~~
17 ~~Retirement System's assumed rate of return, in order to promote~~
18 ~~the comparability of actuarial data between local plans.~~
19 (f) ~~(g)~~ A statement by the enrolled actuary that the report
20 is complete and accurate and that in his or her opinion the
21 techniques and assumptions used are reasonable and meet the
22 requirements and intent of this act.
23
24 The actuarial cost methods utilized for establishing the amount
25 of the annual actuarial normal cost to support the promised
26 benefits shall only be those methods approved in the Employee
27 Retirement Income Security Act of 1974 and as permitted under
28 regulations prescribed by the Secretary of the Treasury.
29 Section 2. Subsection (14) is added to section 112.66,
30 Florida Statutes, to read:
31 112.66 General provisions.—The following general provisions
32 relating to the operation and administration of any retirement
33 system or plan covered by this part shall be applicable:
34 (14) The state is not liable for any obligation relating to
35 any current or future shortfall in any local government
36 retirement system or plan.
37 Section 3. Section 112.664, Florida Statutes, is created to
38 read:
39 112.664 Reporting standards for defined benefit retirement
40 plans or systems.—
41 (1) In addition to the other reporting requirements of this

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42 part, within 180 days after the close of the first plan year
43 that ends on or after June 30, 2013, and thereafter in each year
44 required under s. 112.63(2), each defined benefit retirement
45 system or plan, excluding the Florida Retirement System, shall
46 prepare and electronically report the following information to
47 the Department of Management Services in a format prescribed by
48 the department:
49 (a) Annual financial statements that are in compliance with
50 the requirements of the Government Accounting and Standard
51 Board's Statement No. 67, Financial Reporting for Pension Plans
52 and Statement No. 68, Accounting and Financial Reporting for
53 Pensions.
54 (b) Annual financial statements similar to those required
55 under paragraph (a), but which use an assumed rate of return on
56 investments and an assumed discount rate that are based on the
57 adjusted 24-month average corporate bond segment rates
58 determined by the Department of the Treasury under s.
59 430(h)(2)(c)(iv) of the Internal Revenue Code.
60 (c) Information indicating the number of months or years
61 for which the current market value of assets are adequate to
62 sustain the payment of expected retirement benefits as
63 determined in the plan's latest valuation and under the
64 financial statements prepared pursuant to paragraphs (a) and
65 (b).
66 (d) Information indicating the recommended contributions to
67 the plan based on the plan's latest valuation, and the
68 contributions necessary to fund the plan based on financial
69 statements prepared pursuant to paragraphs (a) and (b), stated
70 as an annual dollar value and a percentage of valuation payroll.

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71 (2) Each defined benefit retirement system or plan,
72 excluding the Florida Retirement System, and its plan sponsor:
73 (a) Shall provide the information required by this section
74 and the funded ratio of the system or plan as determined in the
75 most recent actuarial valuation as part of the disclosures
76 required under s. 166.241(3) and on any website that contains
77 budget information relating to the plan sponsor or actuarial or
78 performance information related to the system or plan.
79 (b) That have a publicly available website shall provide
80 the plan's most recent financial statement and actuarial
81 valuation on that website.
82 (3) The plan shall be deemed to be in noncompliance if it
83 has not submitted the required information to the Department of
84 Management Services within 60 days after receipt of the
85 certified actuarial report for the plan year for which the
86 information is required to be submitted to the department.
87 (a) The Department of Management Services may notify the
88 Department of Revenue and the Department of Financial Services
89 of the noncompliance, and the Department of Revenue and the
90 Department of Financial Services shall withhold any funds not
91 pledged for satisfaction of bond debt service and which are
92 payable to the plan sponsor until the information is provided to
93 the department. The department shall specify the date the
94 withholding is to begin and notify the Department of Revenue,
95 the Department of Financial Services, and the plan sponsor 30
96 days before the specified date.
97 (b) Within 21 days after receipt of the notice, the plan
98 sponsor may petition the Department of Management Services for a
99 hearing under ss. 120.569 and 120.57. The Department of Revenue

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100 and the Department of Financial Services may not be parties to
101 the hearing, but may request to intervene if requested by the
102 department or if the Department of Revenue or the Department of
103 Financial Services determines its interests may be adversely
104 affected by the hearing.
105 Section 4. Subsection (1) of section 112.665, Florida
106 Statutes, is amended to read:
107 112.665 Duties of Department of Management Services.—
108 (1) The Department of Management Services shall:
109 (a) Gather, catalog, and maintain complete, computerized
110 data information on all public employee retirement systems or
111 plans in the state~~,~~ based upon a review of audits, reports, and
112 other data pertaining to the systems or plans;
113 (b) Receive and comment upon all actuarial reviews of
114 retirement systems or plans maintained by units of local
115 government;
116 (c) Cooperate with local retirement systems or plans on
117 matters of mutual concern and provide technical assistance to
118 units of local government in the assessment and revision of
119 retirement systems or plans;
120 (d) Annually issue, by January 1 ~~annually~~, a report to the
121 President of the Senate and the Speaker of the House of
122 Representatives, which ~~report~~ details division activities,
123 findings, and recommendations concerning all governmental
124 retirement systems. The report may include legislation proposed
125 to carry out such recommendations;
126 (e) Provide a fact sheet for each participating local
127 government defined benefit pension plan which summarizes
128 ~~summarizing~~ the plan’s actuarial status. The fact sheet should

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129 provide a summary of the plan's most current actuarial data,
130 minimum funding requirements as a percentage of pay, and a 5-
131 year history of funded ratios. The fact sheet must include a
132 brief explanation of each element in order to maximize the
133 transparency of the local government plans. The fact sheet must
134 also contain the information specified in s. 112.664(1). These
135 documents shall be posted on the department's website. Plan
136 sponsors that have websites must provide a link to the
137 department's website;
138 (f) Annually issue, by January 1 ~~annually~~, a report to the
139 Special District Information Program of the Department of
140 Economic Opportunity which ~~that~~ includes the participation in
141 and compliance of special districts with the local government
142 retirement system provisions in s. 112.63 and the state-
143 administered retirement system provisions ~~as~~ specified in part I
144 of chapter 121; and
145 (g) Adopt reasonable rules to administer ~~the provisions of~~
146 this part.
147 Section 5. The Legislature finds that a proper and
148 legitimate state purpose is served when employees and retirees
149 of the state and its political subdivisions, and the dependents,
150 survivors, and beneficiaries of such employees and retirees, are
151 extended the basic protections afforded by governmental
152 retirement systems that provide fair and adequate benefits and
153 that are managed, administered, and funded in an actuarially
154 sound manner as required by s. 14, Article X of the State
155 Constitution and part VII of chapter 112, Florida Statutes.
156 Therefore, the Legislature determines and declares that this act
157 fulfills an important state interest.

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158 Section 6. This act shall take effect July 1, 2013.
159
160 ========== T I T L E A M E N D M E N T ==========
161 And the title is amended as follows:
162 Delete everything before the enacting clause
163 and insert:
164 A bill to be entitled
165 An act relating to publicly funded defined benefit
166 retirement plans; amending s. 112.63, F.S.; deleting
167 the requirement that required actuarial reports for
168 retirement plans include a disclosure of the present
169 value of the plan's benefits; amending s. 112.66,
170 F.S.; providing that the state is not liable for
171 shortfalls in local government retirement systems or
172 plans; creating s. 112.664, F.S.; requiring a defined
173 benefit system or plan to report certain information
174 to the Department of Management Services by a certain
175 date; requiring the plan sponsor to make certain
176 information available on certain websites; providing
177 consequences for failure to timely submit the required
178 information; providing a method for a plan sponsor to
179 request a hearing to contest such consequences;
180 amending s. 112.665, F.S.; requiring the department to
181 provide a fact sheet specifying certain information;
182 providing a declaration of important state interest;
183 providing an effective date.
184
185 WHEREAS, in 2012, there were 492 local government employee
186 defined benefit pension plans in Florida, providing pension

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187 benefits to approximately 79,000 retirees. The interests of
188 participants in many of these plans may have property rights
189 implications under state law, and
190 WHEREAS, local government employee defined benefit pension
191 plans are becoming a large financial burden on certain local
192 governments and have already resulted in tax increases and the
193 reduction of services, and
194 WHEREAS, the 2012 Florida Local Government Retirement
195 Systems Annual Report published by the Department of Management
196 Services specifies the total unfunded actuarial accrued
197 liability of all local government defined benefit pension plans
198 at approximately $10 billion, and
199 WHEREAS, some economists and observers have stated that the
200 extent to which state or local government employee defined
201 benefit pension plans are underfunded is obscured by
202 governmental accounting rules and practices, particularly as
203 they relate to the valuation of plan assets and liabilities.
204 This results in a misstatement of the value of plan assets and
205 an understatement of plan liabilities, a situation that poses a
206 significant threat to the soundness of state and local budgets,
207 and
208 WHEREAS, there is currently a lack of meaningful disclosure
209 regarding the value of state or local government employee
210 defined benefit pension plan assets and liabilities. This lack
211 of meaningful disclosure poses a direct and serious threat to
212 the financial stability of such plans and their sponsoring
213 governments, impairs the ability of state and local government
214 taxpayers and officials to understand the financial obligations
215 of their government, and reduces the likelihood that state and

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216 local government processes will be effective in assuring the
217 prudent management of their plans, and
218 WHEREAS, the financial health of state or local government
219 employee pension benefit plans can have statewide public
220 repercussions, and the meaningful disclosure of the value of
221 their assets and liabilities is necessary and desirable in order
222 to adequately protect plan participants and their beneficiaries
223 as well as the general public, and to further efforts to provide
224 for the general welfare and the free flow of commerce, NOW,
225 THEREFORE,

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LEGISLATIVE ACTION

Senate	.	House
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	.	
	.	

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

1 **Senate Amendment to Amendment (641930)**
2
3 Delete lines 57 - 59
4 and insert:
5 Florida Retirement System’s actuarial assumed rate of return.

By the Committee on Governmental Oversight and Accountability; and Senators Brandes and Bradley

585-02048-13 2013534c1

A bill to be entitled

An act relating to publicly funded defined benefit retirement plans; amending s. 112.66, F.S.; providing that the state is not liable for shortfalls in local government retirement systems or plans; creating s. 112.664, F.S.; requiring a defined benefit system or plan to report certain information to the Department of Management Services by a certain date and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make certain information available on certain websites; providing consequences for failure to timely submit the required information; providing a method for a plan sponsor to request a hearing to contest such consequences; amending s. 112.665, F.S.; requiring the department to provide a fact sheet specifying certain information; providing a declaration of important state interest; providing an effective date.

WHEREAS, in 2012, there were 492 local government employee defined benefit pension plans in Florida, providing pension benefits to approximately 79,000 retirees. The interests of participants in many of these plans may have property rights implications under state law, and

WHEREAS, local government employee defined benefit pension plans are becoming a large financial burden on certain local governments and have already resulted in tax increases and the reduction of services, and

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

30 WHEREAS, the 2012 Florida Local Government Retirement
31 Systems Annual Report published by the Department of Management
32 Services specifies the total unfunded actuarial accrued
33 liability of all local government defined benefit pension plans
34 at approximately $10 billion, and
35 WHEREAS, some economists and observers have stated that the
36 extent to which state or local government employee defined
37 benefit pension plans are underfunded is obscured by
38 governmental accounting rules and practices, particularly as
39 they relate to the valuation of plan assets and liabilities.
40 This results in a misstatement of the value of plan assets and
41 an understatement of plan liabilities, a situation that poses a
42 significant threat to the soundness of state and local budgets,
43 and
44 WHEREAS, there is currently a lack of meaningful disclosure
45 regarding the value of state or local government employee
46 defined benefit pension plan assets and liabilities. This lack
47 of meaningful disclosure poses a direct and serious threat to
48 the financial stability of such plans and their sponsoring
49 governments, impairs the ability of state and local government
50 taxpayers and officials to understand the financial obligations
51 of their government, and reduces the likelihood that state and
52 local government processes will be effective in assuring the
53 prudent management of their plans, and
54 WHEREAS, the financial health of state or local government
55 employee pension benefit plans can have statewide public
56 repercussions, and the meaningful disclosure of the value of
57 their assets and liabilities is necessary and desirable in order
58 to adequately protect plan participants and their beneficiaries

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59 as well as the general public, and to further efforts to provide
60 for the general welfare and the free flow of commerce, NOW,
61 THEREFORE,
62
63 Be It Enacted by the Legislature of the State of Florida:
64
65 Section 1. Subsection (14) is added to section 112.66,
66 Florida Statutes, to read:
67 112.66 General provisions.—The following general provisions
68 relating to the operation and administration of any retirement
69 system or plan covered by this part shall be applicable:
70 (14) The state is not liable for any obligation relating to
71 any current or future shortfall in any local government
72 retirement system or plan.
73 Section 2. Section 112.664, Florida Statutes, is created to
74 read:
75 112.664 Reporting standards for defined benefit retirement
76 plans or systems.—
77 (1) In addition to the other reporting requirements of this
78 part, within 180 days after the close of the first plan year
79 that ends on or after June 30, 2013, and thereafter in each year
80 required under s. 112.63(2), each defined benefit retirement
81 system or plan shall electronically report the following
82 information to the Department of Management Services in a format
83 prescribed by the department:
84 (a) The long-term funded ratio calculated in a manner
85 similar to the Government Accounting Standards Board's Statement
86 No. 67, Financial Reporting for Pension Plans, including the
87 market value of its assets, the value of its actuarial

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88 liabilities, and the amount of its unfunded accrued liability,
89 if any.
90 (b) The dollar value of the unfunded accrued liability, if
91 any, of the plan.
92 (c) The number of months or years for which the current
93 market value of assets are adequate to sustain the payment of
94 expected retirement benefits.
95 (d) The recommended contributions to the plan under the
96 calculations required under paragraph (a) stated as an annual
97 dollar value and a percentage of valuation payroll.
98 (2) Each defined benefit retirement system or plan shall
99 use the following assumptions and methods in determining the
100 information required under subsection (1):
101 (a) The actuarial cost method, which is the Entry Age
102 Normal method.
103 (b) The assumed rate of return on investments and the
104 assumed discount rate, which are the adjusted 24-month average
105 corporate bond segment rates determined under s.
106 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department
107 of the Treasury.
108 (c) Preretirement mortality calculated using the RP-2000
109 Mortality Tables for male and female employees which accounts
110 for generational mortality improvements. Postretirement
111 mortality is calculated using the RP-2000 Mortality Tables for
112 healthy white-collar employees, as projected from the year 2000
113 to the valuation year using Projection Scale AA.
114 (d) The asset valuation method, which is the market value
115 less the value of any deferred retirement option program
116 accounts.

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

117 (e) The actuarial accrued liabilities, excluding the value
118 of any deferred retirement option program accounts.
119 (f) All other assumptions and methods used by the system or
120 plan in its latest valuation.
121 (3) Each defined benefit retirement system or plan and its
122 plan sponsor:
123 (a) Shall provide the information required by this section
124 and the funded ratio of the system or plan as determined in the
125 most recent actuarial valuation as part of the disclosures
126 required under s. 166.241(3) and on any website that contains
127 budget information relating to the plan sponsor or actuarial or
128 performance information related to the system or plan.
129 (b) That have a publicly available website shall provide
130 the plan's most recent financial statement and actuarial
131 valuation on that website.
132 (4) The plan shall be deemed to be in noncompliance if it
133 has not submitted the required information to the Department of
134 Management Services within 30 days after receipt of the
135 certified actuarial report for the plan year for which the
136 information is required to be submitted to the department.
137 (a) The department may notify the Department of Revenue and
138 the Department of Financial Services of the noncompliance, and
139 the Department of Revenue and the Department of Financial
140 Services shall withhold any funds not pledged for satisfaction
141 of bond debt service and which are payable to the plan sponsor
142 until the information is provided to the department. The
143 department shall specify the date the withholding is to begin
144 and notify the Department of Revenue, the Department of
145 Financial Services, and the plan sponsor 30 days before the

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146 specified date.
147 (b) Within 21 days after receipt of the notice, the plan
148 sponsor may petition the department for a hearing under ss.
149 120.569 and 120.57. The Department of Revenue and the Department
150 of Financial Services may not be parties to the hearing, but may
151 request to intervene if requested by the Department of
152 Management Services or if the Department of Revenue or the
153 Department of Financial Services determines its interests may be
154 adversely affected by the hearing.
155 Section 3. Subsection (1) of section 112.665, Florida
156 Statutes, is amended to read:
157 112.665 Duties of Department of Management Services.—
158 (1) The Department of Management Services shall:
159 (a) Gather, catalog, and maintain complete, computerized
160 data information on all public employee retirement systems or
161 plans in the state~~,~~ based upon a review of audits, reports, and
162 other data pertaining to the systems or plans;
163 (b) Receive and comment upon all actuarial reviews of
164 retirement systems or plans maintained by units of local
165 government;
166 (c) Cooperate with local retirement systems or plans on
167 matters of mutual concern and provide technical assistance to
168 units of local government in the assessment and revision of
169 retirement systems or plans;
170 (d) Annually issue, by January 1 ~~annually~~, a report to the
171 President of the Senate and the Speaker of the House of
172 Representatives, which ~~report~~ details division activities,
173 findings, and recommendations concerning all governmental
174 retirement systems. The report may include legislation proposed

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175 to carry out such recommendations;
176 (e) Provide a fact sheet for each participating local
177 government defined benefit pension plan which summarizes
178 ~~summarizing~~ the plan's actuarial status. The fact sheet should
179 provide a summary of the plan's most current actuarial data,
180 minimum funding requirements as a percentage of pay, and a 5-
181 year history of funded ratios. The fact sheet must include a
182 brief explanation of each element in order to maximize the
183 transparency of the local government plans. The fact sheet must
184 also contain the information specified in s. 112.664(1). These
185 documents shall be posted on the department's website. Plan
186 sponsors that have websites must provide a link to the
187 department's website;
188 (f) Annually issue, by January 1 ~~annually~~, a report to the
189 Special District Information Program of the Department of
190 Economic Opportunity which ~~that~~ includes the participation in
191 and compliance of special districts with the local government
192 retirement system provisions in s. 112.63 and the state-
193 administered retirement system provisions ~~as~~ specified in part I
194 of chapter 121; and
195 (g) Adopt reasonable rules to administer ~~the provisions of~~
196 this part.
197 Section 4. The Legislature finds that a proper and
198 legitimate state purpose is served when employees and retirees
199 of the state and its political subdivisions, and the dependents,
200 survivors, and beneficiaries of such employees and retirees, are
201 extended the basic protections afforded by governmental
202 retirement systems that provide fair and adequate benefits and
203 that are managed, administered, and funded in an actuarially

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204 sound manner as required by s. 14, Article X of the State
205 Constitution and part VII of chapter 112, Florida Statutes.
206 Therefore, the Legislature determines and declares that this act
207 fulfills an important state interest.
208 Section 5. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

14 MARCH 2013
Meeting Date

Topic _____

Bill Number HB 534 *(if applicable)*

Name JESSIE CROSKEY

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 2065 N. HIGHLAND AVE
Street

CLEARWATER FLORIDA 33755
City *State* *Zip*

Phone (727) 565-9248

E-mail _____

Speaking: ☐ For ☑ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: Public-funded D.B. Plans

Bill Number: SB 534 (if applicable)

Name: Stephen Sarnoff

Amendment Barcode: (if applicable)

Job Title:

Address: 28806 Catherine Dr
Street

Clearwater FL 33759
City State Zip

Phone: 727-798-5228

E-mail: cwa31792@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Publicly funded Defined Ben. Retire.

Bill Number: SB531 *(if applicable)*

Name: Rosa I Bauza.

Amendment Barcode: *(if applicable)*

Job Title: Bus Driver.

Address: 1935 S. Conway Rd E7
Street

Orlando Fl
City *State* *Zip*

Phone: 407-394-6940.

E-mail: rosieb

Speaking: ☐ For ☒ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-2013
Meeting Date

Topic: Publicly-Funded Defined Benefit Retirement

Bill Number: SB534 *(if applicable)*

Name: Christine Saint Louis

Amendment Barcode: _____ *(if applicable)*

Job Title: Bus Driver

Address: 2319 Meadow oak cir
Street

Kissimmee, FL 34746
City, State, Zip

Phone: 407-756-0334

E-mail: 6yersgirl@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Publicly-Funded D.B. Retirement

Bill Number: SB 534 *(if applicable)*

Name: Ernie George

Amendment Barcode: *(if applicable)*

Job Title: Ex. Director Palm Beach Co. PBA.

Address: 2100 FL. MANGO Rd.
Street

W Palm Beach FL. 33409
City *State* *Zip*

Phone: 561-689-3745

E-mail: ernie@pbcpba.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: PBA.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Defined Benefit Retirement Plans

Bill Number: 0534 *(if applicable)*

Name: EVELYN NAZARIO

Amendment Barcode: *(if applicable)*

Job Title: Bus operator

Address: 1935 S Conway Rd R-5
Street

ORlando Fl 32812
City *State* *Zip*

Phone: (321) 946-9490

E-mail: EVELENAZARIO@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: PUBLICLY-FUNDED DEFINED BENEFITS

Bill Number: SB 534 *(if applicable)*

Name: ANTHONY MARCIANO

Amendment Barcode: *(if applicable)*

Job Title: SERGEANT BROWARD SHERIFF

Address: 10221 DORCHESTER DR.
Street

BOCA RATON FL 33428
City *State* *Zip*

Phone: 954 632 6878

E-mail: ANTHONY.MARCIANO@FEDERATIONMEMBERS.ORG

Speaking: ☐ For ☒ Against ☐ Information

Representing: MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.14.2013
Meeting Date

Topic: retirement

Bill Number: SB 534 *(if applicable)*

Name: Katherine Hiley

Amendment Barcode: *(if applicable)*

Job Title: CLERK (USPS)

Address: 657 SWEETBRIAR DRIVE
Street

Oldsmar, FL 34677
City, State, Zip

Phone: 813-748-5467

E-mail: kathyhiley@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Citizens

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03.14.13
Meeting Date

Topic: FRS

Bill Number: SB 534 *(if applicable)*

Name: JoAnne Alvarez

Amendment Barcode: *(if applicable)*

Job Title: Dispatcher / 911

Address: 16659 SW 6 St
Street

Pembroke Pines FL 33027
City *State* *Zip*

Phone: 954 629 9970

E-mail: joannealvarez@federationmembers.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-2013
Meeting Date

Topic: DD Plans

Bill Number: 534 *(if applicable)*

Name: Dwight Mattingly

Amendment Barcode: *(if applicable)*

Job Title:

Address: 8907 S.E. Pine Cone Ln
Street

Hobe Sound 71
City *State* *Zip*

Phone: 561-655-3315

E-mail: atu1577@bellsouth.net

Speaking: ☐ For ☐ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.14.13
Meeting Date

Topic: Publicly Funded Defined Benefits

Bill Number: SB 534 *(if applicable)*

Name: Nadezda Stefanovic

Amendment Barcode: ? *(if applicable)*

Job Title: Citizen

Address: 7188 NW 49 Place
Street

Ft Laud. Fl. 33319
City *State* *Zip*

Phone: 954.649.1960

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: FRS

Bill Number: 534 *(if applicable)*

Name: GLYNDA LINTON

Amendment Barcode: _____ *(if applicable)*

Job Title: Business Rep

Address: 1 SW 58 Ave
Street

Plantation, FL 33317
City, State, Zip

Phone: 954 648-5571

E-mail: glynda-linton@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: PENSION PLANS

Bill Number: 534 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR

Address: PO BOX 1766
Street

POMPANO BCH FLA
City State Zip

Phone: 954 850 4055

E-mail: workingfolk@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: COUNCIL of FLORIDA COMMUNICATIONS WORKERS OF AMERICA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic _____ Bill Number 534 *(if applicable)*

Name Leticia Adams Amendment Barcode _____ *(if applicable)*

Job Title Director of Governance Policy

Address 136 S. Bronough St.
Street

Tall FL 32301
City *State* *Zip*

Phone 850 5446866

E-mail ladams@flchamber.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.

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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)

3/14/13
Meeting Date

Topic: RETIREMENT REPORTING

Bill Number: 534 *(if applicable)*

Name: ROBERT SUAREZ

Amendment Barcode: *(if applicable)*

Job Title: VICE PRESIDENT, FLORIDA FIREFIGHTERS

Address: 345 W MADISON STREET
Street

TALLAHASSEE
City *State* *Zip*

Phone: 305 984 3299

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: FLORIDA PROFESSIONAL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic

Bill Number SB 534 (if applicable)

Name Kraig Conn

Amendment Barcode (if applicable)

Job Title

Address 301 S. Bronough
Street

Tall FL 32301
City State Zip

Phone 222 9684

E-mail

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: Pension Plans

Bill Number: 534 *(if applicable)*

Name: Rich Templin

Amendment Barcode: *(if applicable)*

Job Title:

Address: 135 S. Monroe
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-6526

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

3/14/13
Meeting Date

Topic: Actuary

Bill Number: 534 (if applicable)

Name: Lisa Henning

Amendment Barcode: (if applicable)

Job Title: Legislative Director

Address: 242 Office Plaza Dr
Street

Tallahassee, FL 32301
City State Zip

Phone:

E-mail:

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

Representing: Fraternal Order of Police

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13
Meeting Date

Topic: public pensions

Bill Number: S34 (if applicable)

Name: Doug Martin

Amendment Barcode: (if applicable)

Job Title: Legislative Dir.

Address: 3064 Highland Oaks Terr.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-212-7447

E-mail: dmartin@afscmefl.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: AFSCME Florida Council 79

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)

3/14/13
Meeting Date

Topic: RETIREMENT REPORTING

Bill Number: 534 *(if applicable)*

Name: ROBERT SUAREZ

Amendment Barcode: 798864 *(if applicable)*

Job Title: VICE PRESIDENT

Address: 345 N MADISON ST
Street

TALLAHASSEE
City *State* *Zip*

Phone: 305 9843299

E-mail:

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

Representing: FLORIDA PROFESSIONAL FIREFIGHTERS

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

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 7, 2013

I respectfully request that **Senate Bill #534**, relating to publicly-funded defined benefit retirement plans, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

Cc: Tom Yeatman

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1064

INTRODUCER: Senator Latvala

SUBJECT: Assessment of Residential and Nonhomestead Real Property

DATE: March 8, 2013 REVISED:

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

I. Summary:

SB 1064 implements a constitutional amendment approved by voters in the November 2008 General Election. This amendment added the following language to article VII, section 4 of the Florida Constitution:

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
> (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
> (2) The installation of a renewable energy source device.[1]

The constitutional amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated.

SB 1064 defines "changes or improvements made for the purpose of improving a property's resistance to wind damage" and "renewable energy source devices." When determining the assessed value of real property used for residential purposes, the property appraiser may not consider the just value of changes or improvements made for the purpose of improving a property's resistance to wind damage or the installation and operation of a renewable energy source device. The bill specifies that these provisions apply to changes or improvements made on or after January 1, 2013, to new and existing residential real property.

[1] FLA. CONST. art. VII, s. 4.

This bill creates s. 193.624, F.S., and repeals s. 196.175, F.S.

This bill substantially amends the following sections of the Florida Statutes: 193.155, 193.1551, 193.1554, 196.012, 196.121, 196.1995.

II. Present Situation:

Property Tax Assessments

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[2] Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property's just valuation.[3]

Exceptions to the just valuation requirement exist for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes. Each of these property categories may be assessed solely on the basis of their character or use.[4] Tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.[5] The State Constitution also limits the amount by which the assessed value may increase in a given year for certain classes of property.[6]

Article VII, sections 3 and 6, Florida Constitution, permit a number of ad valorem tax exemptions. These include exemptions for homesteads and for charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions. After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the property's taxable value.

Review of Late-Filed Property Exemption Applications

Section 196.011(1), F.S., requires every person or organization entitled to an exemption from taxation to file an application for the exemption with the county property appraiser on or before March 1 of each year.[7] Any applicant who is qualified to receive a property tax exemption and who fails to file an application by March 1 must file an application with the county property appraiser no later than 25 days after the property appraiser mails the Truth in Millage (TRIM) notice. The applicant must show that she or he was unable to apply timely for the exemption due

---

[2] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).
[3] *See* s. 193.011(5), F.S.
[4] FLA. CONST. art. VII, s. 4.
[5] Section 196.185, F.S.
[6] *See* FLA. CONST. art. VII, s. 4(d) and (g) (stating that the assessed value of homestead property may not increase over the prior year's assessment more than 3 percent or the percentage change in the Consumer Price Index, and levies for non-school tax purposes, the assessment of residential real property and non-residential real property may not increase more than 10 percent over the prior year).
[7] Section 196.011(1), F.S.

to extenuating circumstances, at which point the property appraiser has the discretion to grant the exemption.[8]

If the applicant is unable to show extenuating circumstances for his or her untimely application, as judged by the property appraiser, s. 196.011(8), F.S., allows the applicant to file a petition with the Value Adjustment Board (VAB), requesting that the exemption be granted. The petition must be filed no later than 25 days after the property appraiser mails the Truth in Millage notice, and the applicant must pay a nonrefundable $15 fee upon filing the petition. If the VAB determines that the person is qualified to receive the exemption, and demonstrates extenuating circumstances to warrant granting the petition, then the VAB may grant the property tax exemption for the current year.[9]

Early Efforts at Renewable Energy Source Incentives

Property tax incentives for renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to art. VII, s. 3(d), Florida Constitution:

> By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, for the period of time fixed by general law not to exceed ten years.[10]

During that same year, the Legislature enacted s. 196.175, F.S., to implement the constitutional amendment.[11] The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

The statute granting the exemption mirrored the 10-year time limit in the constitution. Specifically, the exemption period authorized was from January 1, 1980, through December 31, 1990. Therefore, any exemptions granted in December 1990 became, 10 years later in December 2000, the last exemptions to expire. At this point, the statute was rendered inoperative and art. VII, s. 3(d), Florida Constitution, unimplemented.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature enacted ch. 2008-227, L.O.F., (HB 7135) to remove the expiration date of the property tax exemption for renewable energy source devices. This allowed

[8] Section 196.011(8), F.S.
[9] *Id.*
[10] FLA. CONST. art. VII, s. 3.
[11] Section 196.175, F.S.

property owners to apply again for the exemption effective January 1, 2009, and once more bound it with a 10-year life span. The bill also revised the means for calculating the exemption limit. The exemption was no longer capped at 8 percent of assessed value. Instead, it was limited to the original cost of the renewable energy device, including the installation cost, but excluding the cost of replacing previously existing property.[12]

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
> (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
> (2) The installation of a renewable energy source device.[13]

The amendment was permissive and therefore did not require the Legislature to enact implementing legislation. The 2008 amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated. Although the constitutional provisions granting the ad valorem tax exemptions were repealed in 2008, the implementing language in s. 196.175, F.S., is still part of the Florida Statues.[14]

Florida Statutes currently do not provide property tax incentives for changes or improvements for wind damage resistance or for installation of a renewable energy source device. Bills were filed during the 2009, 2010, 2011 and 2012 legislative sessions to implement the changes made to the constitution in 2008; however, no legislation was passed.[15]

Hurricane Mitigation Discounts and Premium Credits

Since 2003, insurers have been required to provide premium credits or discounts for residential property insurance for properties on which construction techniques, which reduce the amount of loss in a windstorm, have been installed.[16] Typically, policyholders are responsible for substantiating to their insurers the existence of loss mitigation features in order to qualify for a mitigation discount. The Financial Services Commission (the Governor and Cabinet) adopted a uniform mitigation verification form in 2007 for use by all insurers to corroborate a home's

[12] Section 196.175, F.S.
[13] FLA. CONST. art. VII, s. 4.
[14] In 2010, HB 7005 was filed, repealing the obsolete language in ss. 196.175 and 196.12(14), F.S. This legislation passed the House on March 10, 2010, but died in messages.
[15] During the 2009 legislative session, SB 2454 and HB 7113 were filed; in 2010, SB 1164, HB 151, SB 1410, and SPB 7020; in 2011 SB 434, SB 732 and HB 531. CS/CS/HB 531 passed the House but died in messages. In 2012, CS/SB 156 and CS/HB 133both died in committee.
[16] The former Department of Community Affairs in cooperation with the Department of Insurance contracted with Applied Research Associates, Inc., for a public domain study to provide insurers data and information on estimated loss reduction for wind resistive building features in single-family residences. The study, entitled *Development of Loss Relativities for Wind Resistive Features of Residential Structures*, was completed in 2002. The study's mathematical results, termed "wind loss relativities," were the basis for calculating the specific mitigation discount amount on the wind premium for mitigation features contained by the property. The relativities applied only to the portion of a policy's wind premium associated with the dwelling, its contents, and loss of use.

mitigation features. An updated form was approved by the Financial Services Commission on March 9, 2010.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.[17] The report reviewed proposed legislation that was filed during the 2009 legislative session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.[18]

At the time of the interim report, 17 states had enacted property tax incentives for renewable energy equipment including devices related to solar, wind, and geothermal energy. Although the report noted that tax incentives for improvements related to disaster preparedness are less common, three states had enacted such laws.

III. Effect of Proposed Changes:

Section 1 creates s. 193.624, F.S., related to improvements to a property's resistance to wind damage and renewable energy source devices made or installed after January 1, 2013, to new and existing residential real property. The section provides that, when determining the assessed value of real property used for residential purposes, the property appraiser may not consider the just value of the following:

- Changes or improvements made for the purpose of improving a property's resistance to wind damage, which may include any of the following:
  - Improving the strength of the roof-deck attachment;
  - Creating a secondary water barrier to prevent water intrusion;
  - Installing wind-resistant shingles;
  - Installing gable-end bracing;
  - Reinforcing roof-to-wall connections;
  - Installing storm shutters; or
  - Installing opening protections.
- The installation and operation of a renewable energy source device, which means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy or energy derived from geothermal deposits:
  - Solar energy collectors, photovoltaic modules, and inverters;
  - Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
  - Rockbeds;
  - Thermostats and other control devices;
  - Heat exchange devices;
  - Pumps and fans;
  - Roof ponds;

[17] Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).
[18] *Id. citing State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).

- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, conventional backup systems of any type are not included in this definition;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; or
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The section provides that a parcel of residential property may not be assessed pursuant to this section unless an application is filed on or before March 1 of the first year the property owner claims a qualifying assessment reduction. The property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser with information to establish the just value of the renewable energy source devices, or changes or improvements made for the purpose of improving the property's resistance to wind damage.

Consistent with current law, the section provides the opportunity to file a late application with the property appraiser within 25 days following the mailing of the TRIM notice. If the property appraiser denies the exemption, the applicant may file a petition with the VAB, pursuant to s. 194.011(3), F.S. Upon filing the petition, the applicant must pay a non-refundable fee of $15.00. Upon reviewing the petition, if the property is qualified to be assessed under this section and the property owner demonstrates particular extenuating circumstances judged by the property appraiser or the VAB to warrant granting assessment under this section, the property appraiser shall calculate the assessment in accordance with the new section created by this bill (s. 193.624, F.S.).

Section 2 amends s. 193.155, F.S., relating to homestead assessments to make cross references which incorporate changes made by the bill.

Section 3 reenacts s. 193.1551, F.S., for the purpose of incorporating the amendment made by this bill in section 2.

Section 4 amends s. 193.1554, F.S., relating to nonhomestead assessments to make cross references which incorporate changes made by the bill.

Section 5 amends s. 196.012, F.S., to delete the existing definition for renewable energy source devices provided in subsection (14).

Section 6 amends s. 193.121, F.S., relating to homestead exemption forms to make cross references which incorporate changes made by the bill.

Section 7 amends s. 193.1995, F.S., relating to economic development ad valorem tax exemptions to make cross references which incorporate changes made by the bill.

Section 8 repeals s. 196.175, F.S., the provisions of which are obsolete as a result of the removal of the constitutional tax exemption for renewable energy source devices in 2008.

Section 9 provides that this act shall take effect on July 1, 2013, and shall apply to assessments beginning January 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. By reducing the tax base upon which counties and municipalities raise ad valorem revenue, this bill reduces their revenue-raising authority and may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide incentives for residential property owners and home builders to install renewable energy source devices or make changes and improvements to increase a property's wind resistance, since such devices and improvements will not increase the assessed value of the property.

C. Government Sector Impact:

The Revenue Estimating Conference has scheduled the bill for review, but they have not discussed it yet.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Latvala

20-00676A-13 20131064__

A bill to be entitled

An act relating to the assessment of residential and nonhomestead real property; creating s. 193.624, F.S.; providing definitions; excluding the value of certain installations, changes, or improvements made after a specified date from the assessed value of residential real property; providing for application; requiring the filing of applications by specified times in order for such installations, changes, or improvements to be excluded from the assessed value of residential real property; providing procedural requirements and limitations; requiring a nonrefundable filing fee for a petition to the value adjustment board; amending s. 193.155, F.S.; specifying additional exceptions to the assessment of homestead property at just value; reenacting s. 193.1551, F.S., relating to assessment of certain homestead property damaged in 2004 named storms, to incorporate the amendments made to s. 193.155, F.S., in a reference thereto; amending s. 193.1554, F.S.; specifying additional exceptions to assessment of nonhomestead property at just value; amending s. 196.012, F.S.; deleting the definition of the terms “renewable energy source device” and “device”; conforming cross-references; amending ss. 196.121 and 196.1995, F.S.; conforming cross-references; repealing s. 196.175, F.S., relating to the property tax exemption for renewable energy source devices; providing for application of the act; providing an effective date.

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

30

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

32

33 Section 1. Section 193.624, Florida Statutes, is created to
34 read:
35 193.624 Assessment of residential property improved to
36 resist wind damage; using renewable energy devices.—
37 (1) As used in this section, the term:
38 (a) "Changes or improvements made for the purpose of
39 improving a property's resistance to wind damage" means:
40 1. Improving the strength of the roof-deck attachment;
41 2. Creating a secondary water barrier to prevent water
42 intrusion;
43 3. Installing wind-resistant shingles;
44 4. Installing gable-end bracing;
45 5. Reinforcing roof-to-wall connections;
46 6. Installing storm shutters; or
47 7. Installing opening protections.
48 (b) "Renewable energy source device" means any of the
49 following equipment that collects, transmits, stores, or uses
50 solar energy, wind energy, or energy derived from geothermal
51 deposits:
52 1. Solar energy collectors, photovoltaic modules, and
53 inverters.
54 2. Storage tanks and other storage systems, excluding
55 swimming pools used as storage tanks.
56 3. Rockbeds.
57 4. Thermostats and other control devices.
58 5. Heat exchange devices.

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

59 6. Pumps and fans.
60 7. Roof ponds.
61 8. Freestanding thermal containers.
62 9. Pipes, ducts, refrigerant handling systems, and other
63 equipment used to interconnect such systems; however, such
64 equipment does not include conventional backup systems of any
65 type.
66 10. Windmills and wind turbines.
67 11. Wind-driven generators.
68 12. Power conditioning and storage devices that use wind
69 energy to generate electricity or mechanical forms of energy.
70 13. Pipes and other equipment used to transmit hot
71 geothermal water to a dwelling or structure from a geothermal
72 deposit.
73 (2) In determining the assessed value of real property used
74 for residential purposes, any increase in the just value of the
75 property attributable to the installation of a renewable energy
76 source device or changes or improvements made for the purpose of
77 improving a property's resistance to wind damage may not be
78 considered.
79 (3) For a parcel of residential property to be assessed
80 pursuant to this section, the owner of the property must file
81 with the county property appraiser an application on or before
82 March 1 of the first year such assessment is requested. The
83 property appraiser may require the taxpayer or the taxpayer's
84 representative to furnish the property appraiser such
85 information as may reasonably be required to establish the
86 increase in just value attributable to the renewable energy
87 source device or changes or improvements made for the purpose of

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88 improving the property's resistance to wind damage. Failure to
89 make timely application by March 1 constitutes a waiver of the
90 property owner to have his or her assessment calculated for that
91 year under this section. However, an applicant who fails to file
92 an application by March 1 may file a late application and may
93 file, pursuant to s. 194.011(3), a petition with the value
94 adjustment board requesting assessment under this section. The
95 petition must be filed on or before the 25th day after the
96 mailing of the notice by the property appraiser as provided in
97 s. 194.011(1). Notwithstanding s. 194.013, the applicant must
98 pay a nonrefundable fee of $15 upon filing the petition. Upon
99 reviewing the petition, if the property is qualified to be
100 assessed under this section and the property owner demonstrates
101 particular extenuating circumstances judged by the property
102 appraiser or the value adjustment board to warrant granting
103 assessment under this section, the property appraiser shall
104 calculate the assessment pursuant to this section.
105 (4) This section applies to the installation of a renewable
106 energy source device or changes or improvements made for the
107 purpose of improving a property's resistance to wind damage
108 installed or made on or after January 1, 2013, to new and
109 existing residential real property.
110 Section 2. Paragraph (a) of subsection (4) of section
111 193.155, Florida Statutes, is amended to read:
112 193.155 Homestead assessments.—Homestead property shall be
113 assessed at just value as of January 1, 1994. Property receiving
114 the homestead exemption after January 1, 1994, shall be assessed
115 at just value as of January 1 of the year in which the property
116 receives the exemption unless the provisions of subsection (8)

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117 apply.
118 (4)(a) Except as provided in paragraph (b) and s. 193.624,
119 changes, additions, or improvements to homestead property shall
120 be assessed at just value as of the first January 1 after the
121 changes, additions, or improvements are substantially completed.
122 Section 3. For the purpose of incorporating the amendment
123 made by this act to section 193.155, Florida Statutes, in a
124 reference thereto, section 193.1551, Florida Statutes, is
125 reenacted to read:
126 193.1551 Assessment of certain homestead property damaged
127 in 2004 named storms.—Notwithstanding the provisions of s.
128 193.155(4), the assessment at just value for changes, additions,
129 or improvements to homestead property rendered uninhabitable in
130 one or more of the named storms of 2004 shall be limited to the
131 square footage exceeding 110 percent of the homestead property's
132 total square footage. Additionally, homes having square footage
133 of 1,350 square feet or less which were rendered uninhabitable
134 may rebuild up to 1,500 total square feet and the increase in
135 square footage shall not be considered as a change, an addition,
136 or an improvement that is subject to assessment at just value.
137 The provisions of this section are limited to homestead
138 properties in which repairs are commenced by January 1, 2008,
139 and apply retroactively to January 1, 2005.
140 Section 4. Paragraph (a) of subsection (6) of section
141 193.1554, Florida Statutes, is amended to read:
142 193.1554 Assessment of nonhomestead residential property.—
143 (6)(a) Except as provided in paragraph (b) and s. 193.624,
144 changes, additions, or improvements to nonhomestead residential
145 property shall be assessed at just value as of the first January

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146 1 after the changes, additions, or improvements are
147 substantially completed.
148 Section 5. Subsections (14) through (20) of section
149 196.012, Florida Statutes, are amended to read:
150 196.012 Definitions.—For the purpose of this chapter, the
151 following terms are defined as follows, except where the context
152 clearly indicates otherwise:
153 ~~(14) "Renewable energy source device" or "device" means any~~
154 ~~of the following equipment which, when installed in connection~~
155 ~~with a dwelling unit or other structure, collects, transmits,~~
156 ~~stores, or uses solar energy, wind energy, or energy derived~~
157 ~~from geothermal deposits:~~
158 ~~(a) Solar energy collectors.~~
159 ~~(b) Storage tanks and other storage systems, excluding~~
160 ~~swimming pools used as storage tanks.~~
161 ~~(c) Rockbeds.~~
162 ~~(d) Thermostats and other control devices.~~
163 ~~(e) Heat exchange devices.~~
164 ~~(f) Pumps and fans.~~
165 ~~(g) Roof ponds.~~
166 ~~(h) Freestanding thermal containers.~~
167 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~
168 ~~equipment used to interconnect such systems; however,~~
169 ~~conventional backup systems of any type are not included in this~~
170 ~~definition.~~
171 ~~(j) Windmills.~~
172 ~~(k) Wind-driven generators.~~
173 ~~(l) Power conditioning and storage devices that use wind~~
174 ~~energy to generate electricity or mechanical forms of energy.~~

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175 ~~(m) Pipes and other equipment used to transmit hot~~
176 ~~geothermal water to a dwelling or structure from a geothermal~~
177 ~~deposit.~~
178 (14) ~~(15)~~ "New business" means:
179 (a)1. A business or organization establishing 10 or more
180 new jobs to employ 10 or more full-time employees in this state,
181 paying an average wage for such new jobs that is above the
182 average wage in the area, which principally engages in any one
183 or more of the following operations:
184 a. Manufactures, processes, compounds, fabricates, or
185 produces for sale items of tangible personal property at a fixed
186 location and which comprises an industrial or manufacturing
187 plant; or
188 b. Is a target industry business as defined in s.
189 288.106(2)(q);
190 2. A business or organization establishing 25 or more new
191 jobs to employ 25 or more full-time employees in this state, the
192 sales factor of which, as defined by s. 220.15(5), for the
193 facility with respect to which it requests an economic
194 development ad valorem tax exemption is less than 0.50 for each
195 year the exemption is claimed; or
196 3. An office space in this state owned and used by a
197 business or organization newly domiciled in this state; provided
198 such office space houses 50 or more full-time employees of such
199 business or organization; provided that such business or
200 organization office first begins operation on a site clearly
201 separate from any other commercial or industrial operation owned
202 by the same business or organization.
203 (b) Any business or organization located in an enterprise

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

204 zone or brownfield area that first begins operation on a site
205 clearly separate from any other commercial or industrial
206 operation owned by the same business or organization.
207 (c) A business or organization that is situated on property
208 annexed into a municipality and that, at the time of the
209 annexation, is receiving an economic development ad valorem tax
210 exemption from the county under s. 196.1995.
211 (15) ~~(16)~~ "Expansion of an existing business" means:
212 (a)1. A business or organization establishing 10 or more
213 new jobs to employ 10 or more full-time employees in this state,
214 paying an average wage for such new jobs that is above the
215 average wage in the area, which principally engages in any of
216 the operations referred to in subparagraph (14)(a)1. ~~(15)(a)1.~~;
217 or
218 2. A business or organization establishing 25 or more new
219 jobs to employ 25 or more full-time employees in this state, the
220 sales factor of which, as defined by s. 220.15(5), for the
221 facility with respect to which it requests an economic
222 development ad valorem tax exemption is less than 0.50 for each
223 year the exemption is claimed; provided that such business
224 increases operations on a site located within the same county,
225 municipality, or both colocated with a commercial or industrial
226 operation owned by the same business or organization under
227 common control with the same business or organization, resulting
228 in a net increase in employment of not less than 10 percent or
229 an increase in productive output or sales of not less than 10
230 percent.
231 (b) Any business or organization located in an enterprise
232 zone or brownfield area that increases operations on a site

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233 located within the same zone or area colocated with a commercial
234 or industrial operation owned by the same business or
235 organization under common control with the same business or
236 organization.
237 (16) ~~(17)~~ “Permanent resident” means a person who has
238 established a permanent residence as defined in subsection (17)
239 ~~(18)~~.
240 (17) ~~(18)~~ “Permanent residence” means that place where a
241 person has his or her true, fixed, and permanent home and
242 principal establishment to which, whenever absent, he or she has
243 the intention of returning. A person may have only one permanent
244 residence at a time; and, once a permanent residence is
245 established in a foreign state or country, it is presumed to
246 continue until the person shows that a change has occurred.
247 (18) ~~(19)~~ “Enterprise zone” means an area designated as an
248 enterprise zone pursuant to s. 290.0065. This subsection expires
249 on the date specified in s. 290.016 for the expiration of the
250 Florida Enterprise Zone Act.
251 (19) ~~(20)~~ “Ex-servicemember” means any person who has served
252 as a member of the United States Armed Forces on active duty or
253 state active duty, a member of the Florida National Guard, or a
254 member of the United States Reserve Forces.
255 Section 6. Subsection (2) of section 196.121, Florida
256 Statutes, is amended to read:
257 196.121 Homestead exemptions; forms.—
258 (2) The forms shall require the taxpayer to furnish certain
259 information to the property appraiser for the purpose of
260 determining that the taxpayer is a permanent resident as defined
261 in s. 196.012(16) ~~196.012(17)~~. Such information may include, but

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

262 need not be limited to, the factors enumerated in s. 196.015.
263 Section 7. Subsections (6) and (8), paragraph (d) of
264 subsection (9), and paragraph (d) of subsection (11) of section
265 196.1995, Florida Statutes, are amended to read:
266 196.1995 Economic development ad valorem tax exemption.—
267 (6) With respect to a new business as defined by s.
268 196.012(14)(c) ~~196.012(15)(c)~~, the municipality annexing the
269 property on which the business is situated may grant an economic
270 development ad valorem tax exemption under this section to that
271 business for a period that will expire upon the expiration of
272 the exemption granted by the county. If the county renews the
273 exemption under subsection (7), the municipality may also extend
274 its exemption. A municipal economic development ad valorem tax
275 exemption granted under this subsection may not extend beyond
276 the duration of the county exemption.
277 (8) Any person, firm, or corporation which desires an
278 economic development ad valorem tax exemption shall, in the year
279 the exemption is desired to take effect, file a written
280 application on a form prescribed by the department with the
281 board of county commissioners or the governing authority of the
282 municipality, or both. The application shall request the
283 adoption of an ordinance granting the applicant an exemption
284 pursuant to this section and shall include the following
285 information:
286 (a) The name and location of the new business or the
287 expansion of an existing business;
288 (b) A description of the improvements to real property for
289 which an exemption is requested and the date of commencement of
290 construction of such improvements;

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291 (c) A description of the tangible personal property for
292 which an exemption is requested and the dates when such property
293 was or is to be purchased;
294 (d) Proof, to the satisfaction of the board of county
295 commissioners or the governing authority of the municipality,
296 that the applicant is a new business or an expansion of an
297 existing business, as defined in s. 196.012~~(15) or (16)~~;
298 (e) The number of jobs the applicant expects to create
299 along with the average wage of the jobs and whether the jobs are
300 full-time or part-time;
301 (f) The expected time schedule for job creation; and
302 (g) Other information deemed necessary or appropriate by
303 the department, county, or municipality.
304 (9) Before it takes action on the application, the board of
305 county commissioners or the governing authority of the
306 municipality shall deliver a copy of the application to the
307 property appraiser of the county. After careful consideration,
308 the property appraiser shall report the following information to
309 the board of county commissioners or the governing authority of
310 the municipality:
311 (d) A determination as to whether the property for which an
312 exemption is requested is to be incorporated into a new business
313 or the expansion of an existing business, as defined in s.
314 196.012~~(15) or (16)~~, or into neither, which determination the
315 property appraiser shall also affix to the face of the
316 application. Upon the request of the property appraiser, the
317 department shall provide to him or her such information as it
318 may have available to assist in making such determination.
319 (11) An ordinance granting an exemption under this section

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320 shall be adopted in the same manner as any other ordinance of
321 the county or municipality and shall include the following:
322 (d) A finding that the business named in the ordinance
323 meets the requirements of s. 196.012(14) or (15) ~~196.012 (15) or~~
324 ~~(16)~~.
325 Section 8. Section 196.175, Florida Statutes, is repealed.
326 Section 9. This act shall take effect July 1, 2013, and
327 applies to assessments beginning January 1, 2014.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Residential Mitigation

Bill Number: SB 1064 *(if applicable)*

Name: KARI HEBRANK

Amendment Barcode: *(if applicable)*

Job Title:

Address: 113 EAST COLLEGE AVE. #200
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone: 566-7824

E-mail: khebrank@aol.com

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

Representing: FLORIDA HOME BUILDERS ASSOC.

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Environmental Preservation and Conservation
Gaming
Judiciary
Rules

SENATOR JACK LATVALA
20th District

February 25, 2013

The Honorable Wilton Simpson
Senate Committee on Community Affairs
404 S. Monroe St., 315 Knott Building
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that my bill, SB 1064/Assessment of Residential and Nonhomestead Real Property, be placed on the agenda of the Senate Committee on Community Affairs at the earliest possible time.

This bill implements the 2008 Constitutional Amendment which prohibits the consideration of any improvement for making residential property resistant to wind damage or the installation of a renewable energy source device in assessing the value of real property.

Please contact me if you have any questions. I appreciate your consideration.

Sincerely,

Jack Latvala

Jack Latvala
State Senator
District 20

JL:tc

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

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 Community Affairs

BILL: SB 1062

INTRODUCER: Senator Latvala

SUBJECT: Delinquent Real Property Taxes

DATE: March 11, 2013 REVISED:

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

I. Summary:

SB 1062 reduces the interest rate on delinquent real property taxes and tax certificates from 18 percent to 12 percent.

This bill substantially amends section 197.172 of the Florida Statutes.

II. Present Situation:

Tax Collections, Interest Rates, Sales and Liens

Chapter 197, Florida Statutes, governs tax collections, sales and liens. Pursuant to s. 197.322, F.S., the tax collector mails a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls. The notice states the amount due and advises the taxpayer of discounts provided for early payment.[1] This normally occurs around November 1. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent and begin accruing interest at the rate of 18 percent per year.[2]

On April 30, the tax collector sends an additional tax notice to each taxpayer whose payment has not been received notifying that taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.[3]

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

[2] *See* ss. 197.333, and 197.172, F.S. There is a minimum charge of 3 percent for delinquent taxes paid prior to the sale of a tax certificate.

[3] Section 197.343, F.S.

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes which "shall be struck off to the person who will pay the taxes, interest, cost and charges and will demand the lowest rate of interest under the maximum rate of interest."[4] Tax certificates that are not sold are issued to the county at the maximum interest rate of 18 percent.[5] The sale of the tax certificate acts as first lien on the property that is superior to all other liens; but it does not convey any property rights to the investor.[6]

A property owner can redeem a tax certificate anytime before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing the tax certificate is required to pay the investor or county "all taxes, interest, costs, charges, and [any] omitted taxes" and a $6.25 fee to the tax collector.[7]

The tax certificate holder is entitled to apply for a tax deed on the property on or after April 1 of the second year following the sale of the certificate and before the expiration of seven years from issuance, by filing the certificate with the county tax collector and paying all other tax certificates held on the same property, any current taxes that are due, and certain additional fees and costs. The tax collector is authorized to collect a tax application fee of $75 at the time of application for the tax deed.[8]

If the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on the list of lands available for sale.[9] Property that is placed on the list of lands available for sale, and is not sold three years after the public auction escheats to county in which the property is located, free and clear of all liens.[10] A tax certificate that is not redeemed or for which a tax deed has not been applied for after a period of seven years is considered to be null and void.

Tax Deferrals

Chapter 197, F.S., also provides certain instances in which a taxpayer can delay paying a portion of his or her combined taxes to a future date. Sections 197.252-197.3079, F.S., allow individual tax deferrals for taxpayers who are entitled to exemptions for homestead, recreational and commercial working waterfront, and affordable rental housing property. To qualify for a tax deferral, these classified property owners are required to file an annual tax deferral application with the county tax collector on or before January 31, following the year the property was assessed.

[4] Section 197.432(5), F.S.
[5] Section 197.172(2), F.S.
[6] Section 197.122, F.S., *see also* s. 197.432, F.S.
[7] Section 197.472, F.S.
[8] Section 197.502, F.S.
[9] *Id*.
[10] *Id*.

III. Effect of Proposed Changes:

Section 1 amends s. 197.172, F.S., to reduce the interest rate on delinquent real property taxes and tax certificates from 18 percent to 12 percent.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 or $1.9 million for FY 2012-13.[11] The Revenue Estimating Conference estimates a $1.6 million fiscal impact for the bill so it appears that this mandate exemption applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Property owners would pay 6 percent less interest when redeeming a tax certificate issued as a result of delinquent real property taxes.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) adopted a $1.6 million negative recurring impact for local governments as a result of the bill's effect on the value of tax certificates and lands available for taxes.[12]

---

[11] Based on the Demographic Estimating Conference's final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf.

[12] Office of Economic and Demographic Research, The Florida Legislature, *Analysis of HB 421: Interest Rate on Delinquent Taxes* (Feb. 22, 2013) *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page96-99.pdf (last visited Mar 11, 2013).

As part of its estimating process, the REC expressed uncertainty with regard to revenue collection from lands available from taxes as a result of the bill. How the reduced interest rate might affect the market for tax certificate sales, and the revenue these sales generate, would likely vary from county to county.

VI. Technical Deficiencies:

None.

VII. Related Issues:

With a July 1, 2013, effective date, the interest rate change would not apply to 2013 tax certificate sales which commence by June 1, 2013, per s. 197.402(3), F.S., and will be concluded by July 1, 2013.[13] The change would apply to supplemental 2013 sales and to 2014 tax certificate sales for the first time. As a result, the 12 percent interest rate will not take effect until then.

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

[13] Florida Department of Revenue, *Agency Analysis of SB 1062: Delinquent Real Property Taxes/Interest Rate Change* (Mar. 12, 2013) *available at* http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=1273 (last visited Mar. 12, 2013). The DOR analysis also cited ss. 197.4725, 197.542, and 197.582, F.S., as possibly affected by the bill.

By Senator Latvala

20-00582-13 20131062__

A bill to be entitled

An act relating to delinquent real property taxes; amending s. 197.172, F.S.; revising the interest rate applicable to delinquent real property taxes; providing an effective date.

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

Section 1. Section 197.172, Florida Statutes, is amended to read:

197.172 Interest rate; calculation and minimum.—

(1) Real property taxes shall bear interest at the rate of 12 ~~18~~ percent per year from the date of delinquency until a certificate is sold, except that the minimum charge for delinquent taxes paid before ~~prior to~~ the sale of a tax certificate shall be 3 percent.

(2) The maximum rate of interest on a tax certificate is 12 ~~18~~ percent per year. However, a tax certificate may not bear interest, and the mandatory interest as provided by s. 197.472(2) may not be levied during the 60-day period following the date of delinquency, except for the 3 percent mandatory interest charged under subsection (1).

(3) Personal property taxes shall bear interest at the rate of 18 percent per year from the date of delinquency until paid or barred under chapter 95.

(4) Interest shall be calculated from the first day of each month.

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Delinquent Real Property Taxes

Bill Number: SB 1062 *(if applicable)*

Name: Brad Westover

Amendment Barcode: _____ *(if applicable)*

Job Title: Executive Director

Address: 393 Tequesta Drive
Street

Tequesta, FL 33469
City, State, Zip

Phone: (561) 449-2484

E-mail: bpwestover@theNTLA.com

Speaking: ☐ For ☒ Against ☒ Information

Representing: National Tax Lien 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

Tallahassee, Florida 32399-1100

SENATOR JACK LATVALA
20th District

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Environmental Preservation and Conservation
Gaming
Judiciary
Rules

February 25, 2013

The Honorable Wilton Simpson
Senate Committee on Community Affairs
404 S. Monroe St., 315 Knott Building
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that my bill, SB 1062/Delinquent Property Taxes be placed on the agenda of the Senate Committee on Community Affairs at the earliest possible time.

This legislation would lower the interest rate on delinquent real property tax certificates from the current 18% down to 12%. The current interest rate of 18% was assessed in the 1970s when interest rates on loans and mortgages were exponentially higher than they are right now. By lowering the interest rate by 6%, families who are struggling to make payments on their delinquent property taxes would benefit from this interest rate reduction.

Please contact me if you have any questions. I appreciate your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

JL:tc

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

NTLA®
National Tax Lien Association™
"Investing in America's Communities"

Public Affairs Committee Meeting
2013 Regular Session
Tallahassee, Florida

March 14, 2013

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Senator Wilton Simpson—Chair
Senator Geraldine Thompson, VC

Senator Rob Bradley
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Senator Jack Latvalla
Senator Christopher Smith
Senator Darren Soto
Senator Kelli Stargel
Senator John Thrasher

NTLA HQ
PO Box 1491, Jupiter, FL 33468
(561) 449-2484 Phone
(561) 644-1109 Direct
(561) 449-2483 Fax

NTLA'S POINTS OF DISCUSSION

SB 1062 (LATVALA): DELINQUENT PROPERTY TAX

- **National Tax Lien Association Background**

Non-profit, non-partisan, established in 1997 to support America's tax lien investment community, based in Palm Beach County, Florida

- **Florida Tax Certificate Sale Background**

The Florida property tax certificate sale process is considered the "gold standard" among the 29 states that sell delinquent taxes. The gold standard because it benefits all involved: 1) Florida Counties, receive cash immediately to fund vital services, 2) Delinquent Taxpayers, receive the financial benefit of a bid down interest rate and a minimum of 24 months to pay the debt 3) Current Taxpayers which represent about 97% of Florida property owners, are assured that tax rates won't escalate due to non-payment from others and 4) Tax Certificate Investors receive a return on investment and the transfer of non-payment risk.

- **2012 Auction Results (see page 2)**

Twenty (20) County's Results Tabulated representing 33% of Florida's Population

$10.8 million sold over 12% interest (23,584 parcels) which is 4.6% of the total liens sold

NTLA estimates total sold over 12% in 2012 as $32 million (70,000+ parcels) for the entire State.

1,505 Homesteaded properties, as designated from the tax roll, were sold over 12% interest (4.7%)

- **2008 vs. 2012 Auction Results**

In the year 2008, due to tight capital markets, more than $200 million was sold over 12% interest

- **Federal Funding Rates or Libor Rates**

Over the past few years, investors have borrowed funds at very low interest rates. Someday however borrowing rates will escalate and a reduction in the Florida Statutory Rate could result in millions of unsold tax certificates penalizing Florida Counties and current taxpayers.

- **Why are liens sold at higher rates?**

It is very simple. Generally there is a history of several years of non-payment of property taxes. A delinquent taxpayer who has no prior history of delinquency is generally bid to very low interest. Others with a history of no property tax payments for several years i.e. 4, 5, 6 or more years is a much higher likelihood of never paying and thus bid at a much higher interest rate. Other factors which necessitate a higher bid rate include, poor property condition, vacant, rural or land-locked parcels, or environmentally sensitive parcels.

- **The Florida System Works ... just ask Ohio!**

In 1998 the State of Ohio changed legislation to allow tax lien sales as a way to recoup lost revenue from nonpayment of property taxes. Ohio legislators reviewed various methods of selling tax certificates from 28 other states. They settled on one model that they liked best which was the Florida "bid down" model as it benefits: the County, the delinquent taxpayer, the current taxpayer and the investor. Ohio has a maximum statutory rate of 18% which is bid down and a 6% minimum penalty.

- **Point of Contact from the NTLA**

We welcome the opportunity to discuss the Florida Tax Certificate process. If the committee is seeking additional research, we would be glad to facilitate those efforts. Please call Brad Westover, Executive Director of the National Tax Lien Association at (561) 449-2484 or via email at BPWestover@theNTLA.com

Florida Tax Lien Auction Analysis / Tax Sale Year 2012

Bid	Total		Residential		Commercial		Industrial		Vacant		Homestead	
Rate	Lien #	Lien $	#	$	#	$	#	$	#	$	#	$
18.00%	14,451	$5,689,574.35	2,753	$1,552,771.95	586	$497,085.96	28	$24,685.98	11,084	$3,615,030.46	347	$181,172.41
17.75%	1,007	$509,214.17	207	$131,774.04	65	$39,039.72	1	$955.30	734	$337,445.11	53	$25,573.75
17.50%	1,451	$594,884.32	701	$414,562.09	32	$15,441.61	0	$0.00	718	$164,880.62	142	$80,776.79
17.25%	503	$293,538.76	69	$45,966.17	9	$15,273.15	4	$6,120.26	421	$226,179.18	43	$15,919.66
17.00%	1,354	$675,279.39	430	$259,925.00	49	$48,195.53	2	$2,704.38	873	$364,454.48	190	$156,035.21
16.75%	867	$342,988.41	138	$65,386.88	32	$51,317.90	2	$1,142.69	695	$225,140.94	46	$18,759.83
16.50%	378	$159,829.77	124	$63,890.93	20	$8,978.45	0	$0.00	234	$86,960.39	93	$51,090.94
16.25%	196	$78,224.45	114	$43,403.87	11	$10,426.25	5	$1,237.34	66	$23,156.99	81	$28,217.51
16.00%	351	$191,470.01	119	$59,630.34	39	$21,885.71	6	$8,918.74	187	$101,035.22	69	$29,169.30
15.75%	289	$140,302.35	76	$41,170.93	9	$5,348.39	3	$11,422.40	201	$82,360.63	25	$13,569.20
15.50%	160	$59,600.03	34	$23,191.29	11	$3,011.88	1	$678.46	114	$32,718.40	16	$9,323.27
15.25%	46	$30,439.72	12	$7,839.70	2	$371.58	0	$0.00	32	$22,228.44	3	$1,464.47
15.00%	534	$449,740.15	84	$42,524.58	20	$16,109.93	3	$3,607.60	427	$387,498.04	60	$24,158.75
14.75%	287	$201,308.07	119	$72,326.91	22	$49,873.81	5	$7,106.54	141	$72,000.81	47	$22,883.16
14.50%	302	$110,037.90	36	$19,589.40	18	$10,551.49	4	$2,996.48	244	$76,900.53	29	$16,027.75
14.25%	11	$5,664.92	4	$2,844.83	2	$1,465.56	0	$0.00	5	$1,354.53	1	$506.32
14.00%	120	$109,026.68	63	$48,182.14	14	$4,378.90	0	$0.00	43	$56,465.64	15	$7,334.65
13.75%	429	$212,844.19	87	$53,503.20	42	$20,464.90	14	$53,546.73	286	$85,329.36	24	$13,560.96
13.50%	100	$492,475.23	58	$40,769.20	10	$436,499.14	1	$2,300.58	31	$12,906.31	23	$13,847.19
13.25%	124	$66,733.85	55	$45,217.92	6	$8,372.66	1	$445.20	62	$12,698.07	3	$991.35
13.00%	303	$268,941.53	25	$13,730.68	16	$8,382.92	0	$0.00	262	$246,827.93	15	$6,026.11
12.75%	76	$46,809.78	19	$12,536.59	4	$1,045.11	2	$4,345.16	51	$28,882.92	12	$8,003.56
12.50%	51	$22,491.30	8	$5,122.09	4	$3,076.32	0	$0.00	39	$14,292.89	5	$2,808.73
12.25%	194	$106,497.34	181	$101,508.81	0	$0.00	0	$0.00	13	$4,988.53	163	$87,010.06
12.00%	355	$179,875.50	242	$113,577.16	26	$33,998.34	0	$0.00	87	$32,300.00	119	$51,340.30
11.75%	548	$520,438.92	245	$135,002.20	121	$63,537.37	4	$19,072.98	178	$302,826.37	100	$48,004.53
11.50%	164	$85,565.93	105	$46,893.35	9	$10,069.00	0	$0.00	50	$28,603.58	82	$42,768.47
11.25%	116	$70,128.22	106	$63,428.09	2	$1,012.55	1	$880.03	7	$4,807.55	84	$49,083.30
11.00%	200	$178,354.39	151	$108,706.75	10	$15,886.62	0	$0.00	39	$53,761.02	95	$62,167.44
10.75%	348	$186,825.92	159	$75,599.44	12	$8,285.95	0	$0.00	177	$102,940.53	18	$9,886.95
10.50%	150	$126,646.01	90	$83,588.06	4	$5,438.81	1	$5,350.08	55	$32,269.06	37	$30,231.96
10.25%	142	$98,033.29	95	$58,863.93	7	$7,397.48	0	$0.00	40	$31,771.88	77	$40,124.16
10.00%	361	$214,637.26	140	$90,252.25	16	$22,949.16	1	$144.12	204	$101,291.73	75	$42,830.79
9.75%	701	$559,472.07	115	$75,404.08	28	$35,277.46	1	$3,102.42	557	$445,688.11	48	$33,385.33
9.50%	594	$451,380.96	316	$239,736.23	21	$10,997.63	4	$62,724.50	253	$137,922.60	99	$63,551.02
9.25%	325	$253,470.19	159	$102,802.90	16	$22,126.27	4	$45,176.04	146	$83,364.98	66	$39,780.13
9.00%	1,872	$1,503,376.32	494	$437,877.56	156	$208,173.46	14	$32,465.47	1,208	$824,859.83	70	$48,502.06
8.75%	1,617	$1,633,324.05	655	$439,041.57	197	$280,334.92	24	$54,035.51	741	$859,912.05	273	$131,876.62
8.50%	1,076	$858,027.21	752	$469,109.94	85	$120,444.56	27	$122,076.70	212	$146,396.01	432	$229,704.30
8.25%	1,410	$1,924,736.37	830	$868,266.51	167	$306,131.87	53	$117,895.92	360	$632,442.07	383	$396,996.12
8.00%	597	$1,147,675.22	409	$295,476.12	45	$46,930.22	3	$7,871.34	140	$797,397.54	236	$147,117.22
7.75%	650	$619,033.59	324	$230,224.37	51	$101,566.43	18	$35,804.25	257	$251,438.54	197	$103,479.06
7.50%	5,714	$2,966,099.59	2,012	$1,107,489.90	56	$48,588.00	8	$21,388.75	3,638	$1,788,632.94	1,697	$872,577.82
7.25%	6,664	$4,991,874.31	1,862	$1,402,437.23	65	$78,048.84	5	$5,882.51	4,732	$3,505,505.73	774	$468,121.50
7.00%	1,688	$1,687,244.39	465	$347,301.88	62	$45,822.11	6	$32,242.00	1,155	$1,261,878.40	274	$199,647.76
6.75%	1,987	$2,197,006.78	728	$452,978.01	85	$244,660.57	15	$59,935.65	1,159	$1,439,432.55	389	$251,463.48
6.50%	1,487	$1,678,764.27	593	$431,547.24	49	$86,170.88	15	$49,760.96	830	$1,111,285.19	205	$112,763.86
6.25%	682	$2,253,465.12	306	$240,648.87	32	$98,031.56	28	$78,508.50	316	$1,836,276.19	63	$38,972.34
6.00%	1,248	$2,337,334.58	616	$536,612.90	39	$87,354.79	13	$243,222.02	580	$1,470,144.87	104	$89,069.66
5.75%	1,929	$3,211,890.50	921	$745,865.56	114	$235,511.35	34	$149,790.49	860	$2,080,723.10	153	$101,233.71
5.50%	1,147	$1,766,059.86	865	$751,512.78	68	$439,778.52	35	$143,990.94	179	$430,777.62	53	$41,627.28
5.25%	415	$1,633,313.60	258	$248,665.44	28	$176,507.99	14	$122,265.34	115	$1,085,874.83	19	$29,241.86
5.00%	5,718	$5,602,082.03	4,961	$3,546,060.74	413	$869,680.36	61	$290,848.77	283	$895,492.16	2,046	$1,022,120.83
4.75%	5,242	$6,058,002.43	3,772	$3,156,439.73	557	$1,449,238.28	106	$491,445.55	807	$960,878.87	1,138	$747,103.66
4.50%	1,003	$2,140,542.10	549	$537,510.44	159	$546,726.03	8	$41,468.16	287	$1,014,837.47	158	$203,445.70
4.25%	629	$1,676,518.69	385	$415,493.53	69	$346,778.66	12	$185,278.12	163	$728,968.38	103	$103,013.96
4.00%	1,592	$3,382,323.11	764	$660,578.13	380	$1,420,719.18	21	$94,062.69	427	$1,206,963.11	424	$339,795.96
3.75%	1,127	$3,029,989.92	572	$627,263.04	316	$1,493,919.16	27	$213,604.24	212	$695,203.48	106	$102,831.15
3.50%	1,884	$5,149,103.14	1,506	$1,635,403.40	264	$2,659,638.37	34	$380,175.12	80	$473,886.25	71	$100,877.46
3.25%	466	$2,823,761.39	226	$362,529.65	154	$1,719,901.76	20	$211,095.12	66	$530,234.86	51	$99,886.50
3.00%	353	$1,109,862.95	56	$55,376.16	218	$758,076.38	60	$223,064.26	19	$73,346.15	24	$21,849.60
2.75%	256	$1,848,957.29	84	$79,912.26	143	$1,591,589.75	8	$84,419.65	21	$93,035.63	19	$22,069.62
2.50%	125	$397,013.60	36	$24,163.84	40	$231,224.27	6	$23,212.47	43	$118,413.02	8	$5,565.11
2.25%	3	$7,297.92	1	$749.78	0	$0.00	0	$0.00	2	$6,548.14	1	$749.78
1.00%	17	$17,423.16	6	$2,837.10	0	$0.00	0	$0.00	11	$14,586.06	2	$1,991.65
0.75%	25	$47,061.48	18	$14,025.29	3	$28,134.02	0	$0.00	4	$4,902.17	16	$13,512.85
0.50%	1	$17.03	1	$17.03	0	$0.00	0	$0.00	0	$0.00	1	$17.03
0.25%	57,066	$154,137,506.37	50,175	$100,315,245.60	4,504	$38,326,252.97	477	$4,334,175.03	1,910	$11,161,832.77	20,410	$40,331,924.01
0.00%	108	$194,372.27	63	$129,168.64	3	$5,769.53	1	$33,443.70	41	$25,990.40	18	$36,680.50
Grand Totals:	133,386	$233,813,805.97	82,704	$124,929,054.22	9,817	$55,565,278.30	1,251	$8,152,093.24	39,614	$45,167,380.21	32,323	$47,743,215.33
Total >12% Bid Rate:	23,584	$10,857,916.67	5,516	$3,167,369.54	1,023	$1,276,596.87	82	$132,213.84	16,963	$6,281,736.42	1,505	$814,230.93

Sample Size: 20 Florida Counties: Brevard, Columbia, Duval, Escambia, Flagler, Gadsden, Hendry, Hernando, Hillsborough, Levy, Orange, Polk, Putnam, Santa Rosa, Sarasota, Sumter, Suwannee, Taylor and Walton

Sample Population: 6,378,826 **Sample Percentage:** 33.0%

Florida State Population: 19,317,568

NTLA
National Tax Lien Association
"Investing in America's Communities"

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 Community Affairs

BILL: CS/SB 404

INTRODUCER: Judiciary Committee and Senator Stargel

SUBJECT: Real Property Liens and Conveyances

DATE: March 9, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Toman	Yeatman	CA	**Favorable**
3.			AFT	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 404 removes the requirement that the statutory warranty deed form include a blank space for the grantee's social security number.

The bill also provides that a lien for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities is valid and effectual in law or equity against a creditor or subsequent purchaser only if the lien is properly recorded in the county in which the property is located and contains:

- The name of the owner of record;
- A description or address of the property; and
- The tax or parcel identification number applicable to the property as of the date of recording.

This bill amends sections 689.02 and 695.01, Florida Statutes.

II. Present Situation:

Statutory Warranty Deed Form

A warranty deed is a "deed containing one or more covenants of title; esp[ecially], a deed that expressly guarantees the grantor's good, clear title and that contains covenants concerning the quality of title, including warranties of seisin, quiet enjoyment, right to convey, freedom from encumbrances, and defense of title against all claims."[1] In Florida, the common law warranty deed has been supplanted by the statutory warranty deed form.[2] The use of the statutory warranty deed conveys good title with all the covenants granted under common law.[3] A conveyance executed substantially in the statutory form required under s. 689.02, F.S., also conveys good title with all the covenants granted under common law.[4]

The statutory warranty deed form includes a blank space for the social security number of the individual acquiring the real property (the grantee).[5] The failure to include the social security number on a warranty deed does not affect the validity of the conveyance or the recordability of the deed.[6]

Hidden Liens

A lien is a charge or encumbrance upon property.[7] Liens include mortgages, construction liens, and other liens authorized by statute. Mortgages are liens on the property mortgaged.[8] Construction liens are authorized by statute.[9]

Florida has a recording statute which states:

> No conveyance, transfer, or mortgage of real property, or of any interest therein, nor any lease for a property, or of any interest therein, nor any lease for a term of 1 year or longer, shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law; nor shall any such instrument made or executed by virtue of any power of attorney be good or effectual in law or in equity against creditors or subsequent purchasers for a valuable consideration and without notice unless the power of attorney be recorded before the accruing of the right of such creditor or subsequent purchaser.[10]

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[1] BLACK'S LAW DICTIONARY (9th ed. 2009).
[2] 19 FLA. PRAC. SERIES s. 383:8 (2012-2013 ed.) and s. 689.02, F.S.
[3] Section 689.03, F.S.
[4] *Id.*
[5] Section 689.02(2), F.S.
[6] *Id.*
[7] BLACK'S LAW DICTIONARY (9th ed. 2009).
[8] Section 697.02, F.S.
[9] See chapter 713, F.S.
[10] Section 695.01, F.S.

Section 695.01, F.S., is a notice recording statute and "Florida courts over time have described and applied Florida's recording statute in a manner that is consistent with a 'notice' type of recording statute."[11] Under a notice type of recording statute, "a subsequent mortgagee of real property for value and without notice (actual and constructive)[12] of a prior mortgage of the real property will prevail against the prior mortgagee."[13]

Under Florida law, a mortgage is a specific lien on the property and not a conveyance of the legal title or the right to possession.[14] As a "lien theory" state, with a notice type recording statute, liens are generally afforded precedence based on whether subsequent purchasers have notice of the lien. The act of recording an instrument in compliance with s. 695.01, F.S., provides constructive notice of a prior encumbrance on the property which is the subject of the instrument.[15] Grantees by quitclaim are deemed and held to be bona fide purchasers without notice within the meaning of the recording acts.[16]

According to the Real Property, Probate, and Trust Law Section of The Florida Bar (RPPTL Section), liens assessed and maintained by a municipality or branch of a municipality often go undetected because:

- They are often unrecorded;
- Confusion often arises over determination of which branch of government has the right to impose the lien; and
- Confusion arises as to whom to contact to determine the existences of possible liens.[17]

Local governments may impose liens on real property for improvements, services, costs of repairs and associated penalties levied in accordance with local building code enforcement.[18] The state government may also file a notice of a lien on real property in some instances.[19] A lien, in some cases, may be legally enforceable although it is not recorded in the public records of the county in which the property is located.[20] This may be characterized as a "hidden lien" because the owner or other affected parties do not have actual notice and may not discover the existence of the lien through proper diligence by searching the public records in the county where the property is located.

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[11] *Argent Mortg. Co., LLC v. Wachovia Bank N.A.*, 52 So. 3d 796, 799 (Fla. 5th DCA 2010) (citation omitted).
[12] "Actual notice" means "notice expressly and actually given, and brought home to the party directly." BLACK'S LAW DICTIONARY 550 (Abridged 5th. ed.1983). The term, "constructive notice" means "information or knowledge of a fact imputed by law to a person (although he may not actually have it), because he could have discovered the fact by proper diligence, and his situation was such as to cast upon him the duty of inquiring into it." *Id.*
[13] *Argent Mortg. Co.*, 52 So. 3d at 799.
[14] Section 697.02, F.S.
[15] *Lafitte v. Gigliotti Pipeline, Inc.*, 624 So. 2d 844, 845 (Fla. 2d DCA 1993). *See also*, 37 FLA. JUR. 2D *Mortgages* s. 133 (2011).
[16] Section 695.01(2), F.S.
[17] The Real Property, Probate, and Trust Law Section of the Florida Bar, *White Paper: Fair Notice of Government of Governmental Liens* (2009) (on file with the Senate Committee on Judiciary).
[18] *See e.g.*, s. 162.09(3), F.S., which authorizes local governments to file a lien in the public records against land upon a valid order imposing a code enforcement fine.
[19] *See e.g.*, ss. 589.13, 589.14, 589.15, and 589.16, F.S.
[20] See *Dade County v. Certain Lands*, 247 So. 2d 787, 789-90 (Fla. 3d DCA 1971).

III. Effect of Proposed Changes:

Statutory Warranty Deed Form

The bill removes the requirement from the statutory warranty deed form to include a blank space for the grantee's social security number.

Hidden Liens

The bill amends s. 695.01, F.S., to provide that a lien for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities is valid and effectual in law or equity against a creditor or subsequent purchaser only if the lien is properly recorded in the county in which the property is located and contains:

- The name of the owner of record;
- A description or address of the property; and
- The tax or parcel identification number applicable to the property as of the date of recording.

The bill takes effect October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive impact on the private sector through greater certainty and notice of governmental liens. Committee staff does not have data specifying the number of governmental entities that are not currently recording all liens on real property or how many additional liens may be filed as a result of the requirements of the bill. Private parties that are buying and selling real property may benefit to the extent the bill provides additional information to such parties prior to entering into these transactions.

C. Government Sector Impact:

Committee staff does not have data specifying the number of governmental entities that are not recording all liens on real property that will be required to do so by the bill. Any additional costs associated with recording liens as required by the bill may be negated to the extent the governmental entities may more effectively enforce collection of such liens. To date, the Revenue Estimating Conference has not scheduled the bill for a determination of its potential impact.

The clerks of court may experience increased revenue attributed to increased filings of liens.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on March 6, 2013:
The committee substitute made the following changes (italics) to the bill:
"A lien by a governmental entity or quasi-governmental entity that attaches to real property for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities, is valid and effectual *in law or equity* against creditors *or* subsequent purchasers for a valuable consideration only if the lien is recorded in the official records of the county in which the property is located."

The committee substitute changes the word "and" to "or," such that certain liens are valid and effectual *in law and equity* against a creditor *or* subsequent purchaser only if the lien is recorded as required by the bill.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Stargel

590-01989-13 2013404c1

A bill to be entitled

An act relating to real property liens and conveyances; amending s. 689.02, F.S.; deleting a requirement that blank spaces be included on a warranty deed to allow for entry of social security numbers of grantees on the deed; conforming provisions; amending s. 695.01, F.S.; providing that certain types of governmental or quasi-governmental liens on real property are valid and effectual against certain creditors or purchasers only if recorded in a specified manner; providing an effective date.

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

Section 1. Subsection (2) of section 689.02, Florida Statutes, is amended to read:

689.02 Form of warranty deed prescribed.—

(2) The form for warranty deeds of conveyance to land shall include a blank space for the property appraiser's parcel identification number describing the property conveyed, which number, if available, shall be entered on the deed before it is presented for recording~~, and blank spaces for the social security numbers of the grantees named in the deed, if available, which numbers may be entered on the deed before it is presented for recording~~. The failure to include such blank space ~~spaces,~~ or the parcel identification number, ~~or any social security number,~~ or the inclusion of an incorrect parcel identification number ~~or social security number~~, does ~~shall~~ not affect the validity of the conveyance or the recordability of

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

30 the deed. Such parcel identification number is ~~shall~~ not
31 ~~constitute~~ a part of the legal description of the property
32 otherwise set forth in the deed and may ~~shall~~ not be used as a
33 substitute for the legal description of the property being
34 conveyed~~, nor shall a social security number serve as a~~
35 ~~designation of the grantee named in the deed~~.
36 Section 2. Subsection (3) is added to section 695.01,
37 Florida Statutes, to read:
38 695.01 Conveyances and liens to be recorded.—
39 (3) A lien by a governmental entity or quasi-governmental
40 entity that attaches to real property for an improvement,
41 service, fine, or penalty, other than a lien for taxes, non-ad
42 valorem or special assessments, or utilities, is valid and
43 effectual in law or equity against creditors or subsequent
44 purchasers for a valuable consideration only if the lien is
45 recorded in the official records of the county in which the
46 property is located. The recorded notice of lien must contain
47 the name of the owner of record, a description or address of the
48 property, and the tax or parcel identification number applicable
49 to the property as of the date of recording.
50 Section 3. This act shall take effect October 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/2013
Meeting Date

Topic: HIDDEN LIENS

Bill Number: SB 404 (if applicable)

Name: HOWARD E. "GENE" ADAMS

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 215 S. MONROE ST., 2ND FLOOR
Street

TALLAHASSEE FLA. 32301
City State Zip

Phone: 850-222-3533

E-mail: GENE@PENNINGTONLAW.COM

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

Representing: REAL PROPERTY, PROBATE + TRUST LAW SECTION, FLA. BAR

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 928

INTRODUCER: Community Affairs and Senator Simpson

SUBJECT: Community Development

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			AFT	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 928 modifies the process used by the Florida Housing Finance Corporation (FHFC) to allocate low-income housing tax credits and other federal and state resources. The bill revises FHFC annual reporting requirements, clarifies the information and reports included in its audited financial statements, and requires the Auditor General to conduct an operational audit of the corporation by the end of 2016. The bill also requires the FHFC to comply with state provisions on per diem and travel expenses.

The bill deletes an ad valorem tax exemption for certain limited partnerships that provide affordable housing, extends the Community Contribution Tax Credit to 2025, and repeals the statutory authority for the obsolete Homeownership and Opportunity for People Everywhere (HOPE) program.

In addition, the bill revises the housing development qualifications and loan-making eligibility parameters of Housing Finance Authorities.

This bill substantially amends the following sections of the Florida Statutes: 159.603, 159.608, 196.1978, 212.08, 220.183, 420.0003, 420.0006, 420.504, 420.506, 420.507, 420.5087, 420.511, and 624.5105,

This bill repeals section 420.5091 of the Florida Statutes.

II. Present Situation:

Florida Housing Finance Corporation

The FHFC is the state entity primarily responsible for encouraging the investment of private capital in residential housing and stimulating the construction and rehabilitation of affordable housing in Florida.[1] Originally, federal funds were the only resources that funded housing programs administered by the FHFC. To leverage these federal funds, in the late 1980s the Legislature appropriated funding for state programs. The FHFC administers a number of multifamily and single family housing programs, such as the State Apartment Incentive Loan Program, Florida Affordable Housing Guarantee Program, and the First Time Homebuyer Program, that assist Floridians in obtaining safe, decent affordable housing.

Chapter 2012-127, Law of Florida: Audit and Review of the FHFC
In 2012, the Legislature directed the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a joint audit and review of the programs and operations of the FHFC and to submit written reports to the Legislature no later than December 1, 2012.[2] Both reports were issued November 2012. The Auditor General's report addressed the FHFC's internal management and financial and operational controls and included recommendations. OPPAGA's report examined the corporation's governance structure, decision-making, and performance and identified areas for improvement.

Included in the Auditor General's report were recommendations that the FHFC revise its travel policy to conform to the requirements of state law and that the Legislature consider modifying s. 420.511(4), F.S., to identify specific FHFC programs that should be subject to an annual compliance audit.[3] Additional findings recommended the FHFC modify internal operations and/or procedures and did not require statutory modifications. The FHFC has either further explained the rationale for its operating procedures or has agreed with and adopted the Auditor General's recommendations.[4]

OPPAGA's report examined the FHFC's governance structure, decision-making, and performance and identifies areas for improvement.[5] OPPAGA report summary stated:

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[1] Section 420.502(7), F.S. The FHFC was created as a public corporation within the Department of Economic Opportunity (DEO). However, the FHFC is a separate budget entity and is not subject to the control, supervision, or direction of DEO.
[2] Section 3, ch. 2012-127, L.O.F.
[3] State of Florida, Auditor General, *Florida Housing Finance Corporation – Audit Performed Pursuant to Chapter 2012-127, L.O.F.*, Report No. 2013-047, November 2012, *available at* http://www.myflorida.com/audgen/pages/pdf_files/2013-047.pdf. (last visited Mar. 10, 2013).
[4] *Id*.
[5] The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *The Florida Housing Finance Corporation Could Improve Its Tax Credit Allocation Process and Develop Better Performance Measures*, November 2012,

The Florida Housing Finance Corporation's board and executive director, the Governor, and the Legislature have roles in overseeing and directing corporation programs and staff. We found no compelling reason to change the current governance structure. However, to expand its role and enhance communication with the corporation, the Legislature could consider amending state law to provide for board appointments by the President of the Senate and the Speaker of the House of Representatives.

A major focus of the corporation's decision-making is distributing federal low-income housing tax credits for affordable rental housing developments. To address concerns about the process, we suggest that the corporation consider reducing the frequency of rule development workshops; revising the time allowed for applicants to identify problems with each other's projects; and increasing the emphasis on considering market feasibility and project costs.

Most of the corporation's performance measures provide information on program outputs rather than program outcomes or cost-effectiveness. To enhance the quality and utility of the data the corporation reports, the Legislature could consider expanding the statutorily required performance measures.[6]

FHFC Powers Related to the Allocation of Low-income Housing Tax Credits, the State Apartment Incentive Loan Program, and Other Federal or State Resources

Florida law grants the FHFC specific powers necessary to carry out activities or implement programs to provide affordable housing.[7] Included in such authority is the FHFC's power to use up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program (SAIL)[8] funds appropriated by the Legislature. FHFC may allocate available funds by requests for proposals or other competitive solicitation for high-priority affordable housing projects, such as housing to support economic development and job-creation initiatives, housing for veterans and their families, and other special needs populations as determined by the FHFC on an annual basis.[9]

Additionally, the Legislature has granted authority to the FHFC to establish, by rule, the procedure for evaluating, scoring, and competitively ranking all applications based on the criteria established under the SAIL Program.[10]

Process for Awarding Low-Income Housing Tax Credits and Other Funds

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Report No. 2012-10, available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1210rpt.pdf (last visited Mar. 10, 2013).

[6] *Id*. at 1.

[7] *See* ss. 159.608 and 420.507, F.S.

[8] The SAIL Program annually provides low interest loans on a competitive basis to for-profit, nonprofit, and public entities to provide affordable housing to very-low-income persons. Program funds provide gap financing to allow developers to obtain the full financing needed to construct multifamily units. Special consideration is given to properties that target specific demographic groups such as the elderly, the homeless, families, and commercial fishing workers and farmworkers. *See* s. 420.5087, F.S., and Florida Housing Finance Corporation, *A Summary of Florida Housing's Programs*, *available at* http://www.floridahousing.org/FH-ImageWebDocs/AboutUS/ProgramSummaries.pdf (last visited Mar. 10 2013).

[9] Section 420.507(48), F.S.

[10] Section 420.507(22), F.S.

Currently, the FHFC allocates tax credits through a Universal Application Cycle that includes the allocation of other federal and state resources, depending on the availability of funds. In recent years, tax credits have provided the bulk of resources for rental housing developments.[11] According to the FHFC and documented by OPPAGA, the FHFC's process to allocate low-income housing tax credits occurs in four stages: rulemaking, application, underwriting, and construction and closing. For the last two cycles (2009 and 2011), the time taken to complete the process from the first rule development workshop hearing to the approval of final project rankings ranged from 12 to 14 months.[12] After the FHFC's Board of Directors approves final project rankings, developers are invited to credit underwriting, which can take an additional nine months.[13] The lengthy process increases the costs for both the FHFC and developers. According to OPPAGA, some stakeholders like the FHFC's open and transparent rulemaking and application process while others have expressed concern about the complexity of the process.[14]

FHFC Reporting Requirements: Business Plan, Strategic Plan, and Annual Report

The FHFC is required to develop a business plan for the provision of affordable housing in the state. The business plan must be consistent with the strategic plan[15] and must contain certain performance measures and specific performance targets.[16] A strategic plan for the provision of affordable housing relating to the state and regional planning requirements in ch. 186, F.S., is required to be developed annually, in equal partnership with DEO.

The FHFC is also required to submit to the Governor and the Legislature, within 2 months after the end of its fiscal year, a complete and detailed report, which provides the following information:[17]

- operations and accomplishments;
- receipts and expenditures during its fiscal year in accordance with the categories or classifications established by the FHFC for its operating and capital outlay purposes;
- assets and liabilities at the end of its fiscal year and the status of reserve, special, or other funds;
- a schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the principal amounts of bonds issued and redeemed during the fiscal year; and
- information relating to the FHFC's activities in implementing the SAIL Program, the Florida Homeownership Assistance Program (HAP),[18] and the Community Workforce Housing Innovation Pilot Program.[19]

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[11] *Supra* note 18 at 5.
[12] *Id*. at 6.
[13] *Id*.
[14] *Id.* at 7.
[15] "Strategic plans" in ch. 186, F.S., were renamed "long-range program plans" pursuant to ch. 2000-371, L.O.F. Each state agency is required to develop a long-range program plan on an annual basis. The plan must provide the framework and context for designing and interpreting the agency budget request. The plan will be developed through careful examination and justification of agency functions and their associated costs. It must be used by the agency to implement the state's goals and objectives. Indicators must be developed to measure service and activity performance. *See* s. 186.021, F.S.
[16] Section 420.511(1), F.S.
[17] Section 420.511(3)(a), F.S.
[18] *See* s. 420.5088, F.S.
[19] *See* s. 420.5095, F.S.

The report must include, but not be limited to:[20]

- the number of people served, delineated by income, age, family size, and racial characteristics;
- the number of units produced under each program;
- the average cost of producing units under each program;
- the average sales price of single-family units financed under the Florida Homeownership Assistance Program;
- the average amount of rent charged based on unit size on units financed under the SAIL Program;
- the number of persons in rural communities served under each program;
- the number of farmworkers served under each program;
- the number of homeless persons served under each program;
- the number of elderly persons served under each program;
- the extent to which geographic distribution has been achieved in accordance with the provisions of the SAIL Program;
- the success of the Community Workforce Housing Innovation Pilot Program in meeting the housing needs of eligible areas; and
- any other information the FHFC deems appropriate.

The FHFC must also submit a copy of an annual financial audit of its accounts and records and an annual compliance audit of its programs conducted by an independent certified public accountant performed in accordance with generally accepted auditing standards and government auditing standards.[21] Both FHFC's business plan and annual report must recognize the different fiscal periods under which the FHFC, the state, the Federal Government, and local governments operate.[22]

Affordable Housing Property Exemptions

The Florida Constitution provides no exception to the just value standard for assessment of property in affordable housing programs. Under s. 193.017, F.S., in assessing property in the Low-Income Housing Tax Credit Program, neither the tax credits nor the financing generated by the tax credits may be considered income to the property, and the actual rental income from rent-restricted units may be recognized by the property appraiser. Under s. 196.1978, F.S., property that provides affordable housing for income-eligible individuals and families and is owned entirely by a charitable nonprofit entity under federal criteria or by a Florida-based limited partnership, the sole general partner of which is a charitable nonprofit entity under federal criteria, is considered property owned by an exempt entity for charitable purposes, making it eligible for an ad valorem tax exemption to the extent authorized in s. 196.196, F.S.

A limited partnership is a type of partnership comprised of one or more general partners who manage a business and who are personally liable for partnership debts, and one or more limited partners who contribute capital and share in profits but who take no part in running the business and incur no liability with respect to partnership obligations beyond contributions.[23] The

[20] Section 420.511(3)(b), F.S.
[21] Section 420.511(4), F.S.
[22] Section 420.511(5), F.S.
[23] BLACK'S LAW DICTIONARY (6th ed. 1990).

provision of s. 196.1978, F.S., related to Florida-based limited partnerships was enacted by ch. 2009-96, Laws of Florida, and subsequently reenacted by ch. 2011-15, L.O.F. Since then, FHFC affordable housing developers have been able to replace an existing general partner with a separate and distinct limited liability company created to serve as a new charitable nonprofit general partner. The existing general partner is able to remain as a newly created special limited partner with existing guarantees and guarantors remaining in place.

Affordable Housing Funding Programs Serving Persons and Households with Special Needs
Applicants requesting tax credits from FHFC are offered incentives to set aside 10 percent of the total units for which they are applying for extremely low-income (ELI) households.[24] Through its Link Initiative, FHFC requires applicants to commit to reserving 50 percent of those ELI units for special needs households, defined as households consisting of homeless families, survivors of domestic violence, persons with a disability, or youth aging out of foster care.[25] Upon the awarding of a tax credit, a developer selects a special needs population to serve and contacts a FHFC sanctioned referral agency listed for that population. The referral agency ensures that special needs households targeted for the units are receiving community based supportive services; prepared to live in an independent living environment; and are able to pay the determined rent and other costs for the available unit.

HOPE Program
The Homeownership and Opportunity for People Everywhere (HOPE) program was created in 1990 by the Cranston-Gonzalez National Affordable Housing Act to help low-income people buy public housing units by providing funds that nonprofit organizations, resident groups, and other eligible grantees can use to develop and implement homeownership.[26] One part of this program provided funds through an annual national competition to provide for conversion of federally subsidized rental units and abandoned and vacant multifamily properties into home ownership units to be sold to very-low-income and low-income households. A 33 percent match of the federal funds was required to be provided by state or local government. Chapter 92-317, L.O.F., established the HOPE Program in s. 420.5091, F.S., and authorized the FHFC to promulgate rules for the funding match. HOPE was never funded.

Community Contribution Tax Credit Program

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program (Program) to encourage private sector participation in revitalization and housing projects.[27] The Program offers tax credits, in the form of a refund, to persons who donate to sponsors who have been approved to participate in the Program. Eligible project sponsors[28] under the Program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible

[24] Florida Housing Finance Corporation, *Special Needs Housing Website: Link Initiative, available at* http://www.floridahousing.org/SpecialNeeds/ (last visited Mar.11, 2013).
[25] *See* s. 420.0004, F.S.
[26] *See* United States Department of Housing and Urban Development, *HOPE VI, available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/hope6 (last visited Mar. 11, 2013) and Florida Housing Finance Corporation Staff Document (Mar. 11, 2013) (on file with the Senate Committee on Community Affairs).
[27] Chapter 80-249, L.O.F.
[28] *See* ss. 212.08(5)(p)2.c., F.S.; 220.183(2)(c), F.S.; and 624.5105(2), F.S.

projects[29] include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons. A community contribution must be in the form of cash or other liquid assets; real property; goods or inventory; or other physical resources as identified by the Department of Economic Opportunity (DEO).[30]

DEO is responsible for marketing the Program in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.[31] DEO is also responsible for administering the Program by reviewing sponsor project proposals and tax credit applications. To date, 131 sponsors have been approved to participate in the Program.[32] After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue (DOR).

The tax credits are equal to 50 percent of the amount donated up to $200,000 annually.[33] The tax credit may be applied toward the donor's sales and use, corporate, or insurance premium tax obligations.[34] The taxpayer may only apply the credits toward one tax obligation. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.[35] Unused credits against sales taxes may be carried forward for three years.[36]

The total amount of tax credits, which may be granted for the Community Contribution Tax Credit Program, is $10.5 million annually for projects that provide homeownership opportunities for low-income and very-low-income households and $3.5 million for all other projects.[37] During FY 2011-2012, 333 tax credit applications in 63 local governments were approved by DEO.[38]

The Florida Legislature has amended the dollar cap and the expiration date of the Program on numerous occasions. The Program began with an annual $3 million cap, is currently $14 million and has reached the cap every fiscal year. The Community Contribution Tax Credit Program expires June 30, 2015.

Housing Finance Authorities and Federal Low-Income Housing Credit

Housing Finance Authorities

Each county in Florida may create by ordinance a Housing Finance Authority (HFA) of the county.[39] An HFA is composed of not less than five uncompensated members appointed by the governing body of the county.[40] The powers of a HFA are vested in the members and include the

[29] *See* ss. 212.08(5)(p)2.b.; and 220.183(2)(d), F.S. *See* also s. 220.03(1)(t), F.S.
[30] Sections 212.08(5)(p)2.a., F.S.; 220.183(2)(a), F.S.; and 624.5105(5)(a), F.S.
[31] Section 220.183(4), F.S.
[32] Florida Department of Economic Opportunity, *Community Contribution Program Staff Document* (Jan 18, 2013) (on file the Senate Committee on Community Affairs).
[33] Sections 220.183 (1)(a) and (b), F.S.; 212.08(5)(p).
[34] *See* ss. 212.08(5)(p), F.S.; 220.183, F.S.; and 624.5105, F.S.
[35] Sections 220.183(1)(e), F.S.; and 624.5105, F.S.
[36] Section 212.08(5)(p)1.b., F.S.
[37] Sections 212.08(5)(p)1.e., F.S.; 220.183(1)(c), F.S.; and 624.5105(1)(c), F.S.
[38] *See* supra note 6.
[39] *See* s. 159.604, F.S.
[40] *See* s. 159.605, F.S. Nowhere in ch. 159, Part IV, F.S., are these "members" referred to as a "board."

power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments. Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area. [41]

HFA Qualifying Housing Developments
HFA housing developments are deemed "qualifying" if they provide residential housing for four or more families, at least 60 percent of whom are eligible persons. [42]Eligible persons are those determined by the HFA to be of low, moderate, or middle income and may include people earning up to 150 percent of the state or county median family income levels. In determining the income standards of eligible persons, an HFA may consider requirements mandated by federal law.

Federal Low-Income Housing Credit: 42(g) Internal Revenue Code
The internal revenue code on low income housing credit defines "qualified low-income housing project" to mean any project for residential rental property if:

- 20 percent or more of the units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income (20-50 test).
- 40 percent or more of the units in the project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income (60-40 test).[43]

III. Effect of Proposed Changes:

Section 1 amends s. 159.603, F.S., to expand the meaning of "qualifying housing development" to include a development that meets a definition under federal laws, regardless of whether the development meets the current 60 percent eligible persons requirement for HFAs. This exception to the 60 percent requirement applies to previous HFA developments as well.

Section 2 amends s. 159.608, F.S., to remove an income limit currently used to qualify persons for HFA loans. This section also replaces a statutory purchase price limitation for HFA home loans with purchase price limits mandated by federal law.

Section 3 amends s. 196.1978, F.S., to delete an ad valorem taxation exemption for property owned entirely by a Florida-based limited partnership, the sole general partner of which is a charitable nonprofit entity under federal criteria.

Section 4 amends s. 212.08, F.S., to extend the expiration date of the application of the community contribution tax credit against the sales and use tax to June 30, 2025.

Section 5 amends s. 220.183, F.S., to extend the expiration date of the application of the community contribution tax credit against the corporate income tax to June 30, 2025.

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[41] *See* s. 159.608, F.S.
[42] *See* ss. 159.603(6) and (7), F.S.
[43] 26 U.S.C. s. 42(g), *available at* http://www.law.cornell.edu/uscode/text/26/42 (last visited Mar. 14, 2013). No distinction is made between for-profit and exempt nonprofit housing entities.

Section 6 amends s. 624.5105, F.S., to extend the expiration date of the application of the community contribution tax credit against the insurance premium tax to June 30, 2025.

Section 7 amends s. 420.507, F.S., relating to the powers of the corporation, to clarify the procedure for competitively evaluating and selecting all applications for funding. This section also bifurcates the current 10 percent annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program funds dedicated to certain high priority housing projects. Five percent would continue to be reserved for projects that support economic development and job-creation initiatives, housing for veterans and their families, and other special needs populations.

The other five percent would be reserved for projects that target persons who have a disabling condition and their families. These allocations must prioritize projects or initiatives piloting or demonstrating cost effective, best practices that meet the housing needs and preferences of such persons. Any tax credits or funds not allocated because of a lack of eligible projects targeting persons who have a disabling condition shall be distributed by the FHFC for high-priority housing projects.

Section 8 amends s. 420.5087(6), F.S., relating to the SAIL Program, to clarify the procedure for competitively evaluating and selecting all applications for funding.

Section 9 amends s. 420.511, F.S., relating to the FHFC's annual reporting and auditing requirements, to require additional information for inclusion in the FHFC's annual report to the Governor and the Legislature including:

- households served, delineated by income, race, ethnicity, and age of the head of household,
- households served in large, medium, and small counties,
- homeless and special needs households served,
- by county, the average rent charged based on unit size,
- the number of rental units to which resources have been allocated,
- the estimated average cost of producing units,
- the percentage of homeownership loans that are in foreclosure,
- the percentage of properties in the corporation's rental portfolio which have an occupancy rate below 90 percent,
- the amount of economic stimulus created by affordable housing finance programs,
- a list of all closed loans outstanding at the end of the fiscal year for the SAIL program, and
- a list of all guaranteed loans for the Florida Affordable Housing Guarantee program

This section also revises provisions relating to the annual financial audit to specify what information must be included in the audited financial statements and requires the Auditor General to conduct an operational audit of the FHFC by the end of 2016. Per this section, FHFC reports and audits are due six months after the end of the fiscal year. Language made obsolete because of changes to s. 420.511, F.S., is removed.

Section 10 amends s. 420.0003, F.S., relating to the implementation of the housing strategy, to conform cross-references.

Section 11 amends s. 420.0006, F.S., relating to the authority to contract with the corporation; contract requirements; and nonperformance, to conform cross-references.

Section 12 amends s. 420.504 (1), F.S., relating to public corporation; creation; membership; terms; and expenses to conform cross-references.

Section 13 amends s. 420.506, F.S., relating to executive director; agents and employees; inspector general to require the FHFC to comply with state provisions on per diem and travel expenses as outlined in s. 112.061(6) and (7), F.S.

Section 14 repeals s. 420.5091, F.S., relating to the HOPE Program which has never been funded.

Section 15 provides that this act shall take effect upon becoming a law and shall first apply to the 2013 ad valorem tax rolls.

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:

Available tax credits under the Community Contribution Tax Credit Program may be taken against sales and use taxes, corporate income taxes, and insurance premium taxes. The bill may have a negative fiscal impact of up to $14 million annually for ten years beginning in FY 2015-16, depending on the use of the tax credits.

B. Private Sector Impact:

Eligible project sponsors in the Community Contribution Tax Credit Program may continue to receive contributions through 2025. Likewise, taxpayers may continue to receive tax credits for their contributions. The current program cap is $14 million.

Certain nonprofit Florida-based limited partnerships currently receiving ad valorem tax exemptions for their affordable housing projects would no longer receive such exemptions. The fiscal impact would vary with each project.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) met to review the impact of both the Community Contribution Tax Credit Program and the affordable housing tax exemption provisions made by the bill.

Community Contribution Tax Credit Program[44]
Extending tax credit program claims against sales and use tax, corporate income tax, or insurance premium tax is estimated to have a negative recurring impact of between the $12 million and $14 million. The table below details the negative recurring fiscal impact numbers.

	High Cash	High Recurring	Low Cash	Low Recurring
2013-14				
2014-15				
2015-16	($14 million)	($14 million)	($12 million)	($12 million)
2016-17	($14 million)	($14 million)	($12 million)	($12 million)
2017-18	($14 million)	($14 million)	($12 million)	($12 million)

Affordable Housing Property Tax Exemption[45]
Affordable housing developments financed partially by the FHFC are required to seek approval before they transfer housing interests to a non-profit, limited partnership. The REC estimated the tax loss to local governments and schools from eligible developments that could request the limited partnership status and qualify for the exemption. It is assumed that knowledge of this exemption and the subsequent transferring of the property to a limited-partnership would take time.

The bill's elimination of the property tax exemption for affordable housing owned by a Florida-based limited partnership is estimated to represent a positive fiscal impact to local governments and schools. The table below details the consensus positive recurring fiscal impact numbers.

	Local Cash	Local Recurring
2013-14	$23.4 million	$117.2 million
2014-15	$48.5 million	$121.3 million
2015-16	$75.7 million	$126.2 million
2016-17	$106 million	$132.5 million
2017-18	$140.9 million	$140.9 million

[44]Office of Economic and Demographic Research, The Florida Legislature, *Analysis of HB 437: Community Contributions Tax Credits Extension* (Feb. 11, 2013), *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page62-64.pdf (last visited Mar. 10, 2013).
[45] Office of Economic and Demographic Research, The Florida Legislature, *Analysis of SB 740: Affordable Housing* (Feb. 22, 2013), *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page92-95.pdf (last visited Mar. 10, 2013).

VI. Technical Deficiencies:

Lines 638-639 reference the "Department of Economic Services." This should be the "Department of Economic Opportunity."

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on March 14, 2013:

- Revises the definition of "qualifying housing developments" as used in ch.159, Part IV, Housing Finance Authorities.
- Revises the income eligibility purchase price limits HFAs utilize when making loans to persons for single-family residences.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
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	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Between lines 42 and 43
4 insert:
5 Section 1. Subsection (6) of section 159.603, Florida
6 Statutes, is amended to read:
7 159.603 Definitions.—As used in this part, the following
8 words and terms have the following meanings unless the context
9 indicates another or different meaning or intent.
10 (6) "Qualifying housing development" means any work or
11 improvement located or to be located in this ~~the~~ state,
12 including real property, buildings, and any other real and

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13 personal property, designed or intended for the primary purpose
14 of providing decent, safe, and sanitary residential housing for
15 four or more families, at least 60 percent of whom are eligible
16 persons, whether new construction, the acquisition of existing
17 residential housing, or the remodeling, improvement,
18 rehabilitation, or reconstruction of existing housing, together
19 with such related nonhousing facilities as the authority
20 determines to be necessary, convenient, or desirable.
21 (a) The term includes a housing development that meets the
22 definition of a "qualified low-income housing project" under s.
23 42(g) of the Internal Revenue Code, regardless of whether such
24 development meets the 60 percent eligible persons requirement
25 under this subsection.
26 (b) The exception provided under paragraph (a) applies to
27 all housing developments meeting the federal definition for
28 "qualified low-income housing project" as well as all
29 developments that previously qualified under the state
30 definition for "qualifying housing development." Housing finance
31 authorities may enter into regulatory agreement amendments as
32 necessary to accommodate housing developments that qualify under
33 paragraph (a).
34 Section 2. Subsection (8) of section 159.608, Florida
35 Statutes, is amended to read:
36 159.608 Powers of housing finance authorities.—A housing
37 finance authority shall constitute a public body corporate and
38 politic, exercising the public and essential governmental
39 functions set forth in this act, and shall exercise its power to
40 borrow only for the purpose as provided herein:
41 (8) To make loans directly to eligible persons ~~or families~~

631694

42 who otherwise cannot borrow from conventional lending sources
43 ~~and whose annual income does not exceed 80 percent of the median~~
44 ~~income based on a family of up to four persons for the county in~~
45 ~~which they seek to purchase a residence. The housing finance~~
46 ~~authority may adjust the annual income requirements for families~~
47 ~~of greater than four persons~~. Such loans must be secured by
48 ~~either~~ first mortgages or subordinated mortgages and must be
49 used to purchase, construct, rehabilitate, or refinance single-
50 family residences that have purchase prices that do not exceed
51 the purchase price limits of~~; however, the purchase price of any~~
52 ~~residence financed through such a loan may not exceed 90 percent~~
53 ~~of the median sales price for single-family homes in~~ the county
54 where the borrower's residence is to be located, as mandated by
55 federal law for tax-exempt single-family bond programs.
56
57 ========== T I T L E A M E N D M E N T ==========
58 And the title is amended as follows:
59 Delete line 3
60 and insert:
61 159.603, F.S.; modifying the definition of "qualifying
62 housing development"; amending s. 159.608, F.S.;
63 revising the power of a housing finance authority to
64 make loans directly to eligible persons; amending s.
65 196.1978, F.S.; deleting an ad valorem tax exemption

836864

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
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	.	

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

1 **Senate Amendment**
2
3 Delete line 639
4 and insert:
5 Opportunity.~~"Florida Housing Finance Corporation."~~ It is
6 declared
7

By Senator Simpson

18-00904A-13 2013928__

1 A bill to be entitled
2 An act relating to community development; amending s.
3 196.1978, F.S.; deleting an ad valorem tax exemption
4 for property owned by certain Florida-based limited
5 partnerships and used for affordable housing for
6 certain income-qualified persons; amending s. 212.08,
7 F.S.; revising criteria for community contribution tax
8 credit for donations; amending ss. 220.183 and
9 624.5105, F.S.; extending the expiration date
10 applicable to the granting of community contribution
11 tax credits against the sales and use tax, corporate
12 income tax, and insurance premium tax for
13 contributions to eligible sponsors of community
14 projects approved by the Department of Economic
15 Opportunity; amending s. 420.507, F.S.; revising the
16 powers of the Florida Housing Finance Corporation;
17 specifying how the corporation will allocate certain
18 funds; amending s. 420.5087, F.S.; revising provisions
19 relating to state apartment incentive loans to provide
20 for a competitive evaluation and selection process
21 with respect to loan applications; amending s.
22 420.511, F.S.; providing that the corporation's
23 strategic business plan must be consistent with a
24 long-range program plan relating to affordable
25 housing; deleting a requirement that the corporation
26 compile certain data; revising provisions relating to
27 the corporation's development of its long-range plan;
28 revising the required contents and information to be
29 included in the corporation's annual report; requiring

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

30 the corporation to submit separate audited financial
31 statements that include specified information and
32 incorporate certain reports; requiring the Auditor
33 General to conduct an operational audit of the
34 corporation and provide a written report to the
35 Legislature; amending ss. 420.0003, 420.0006, 420.504,
36 and 420.506, F.S.; conforming provisions to changes
37 made by this act; repealing s. 420.5091, F.S.,
38 relating to the HOPE program; providing for
39 retroactive application; providing an effective date.
40
41 Be It Enacted by the Legislature of the State of Florida:
42
43 Section 1. Section 196.1978, Florida Statutes, is amended
44 to read:
45 196.1978 Affordable housing property exemption.—Property
46 used to provide affordable housing to ~~serving~~ eligible persons
47 as defined under ~~by~~ s. 159.603~~(7)~~ and natural persons or
48 families meeting the extremely-low-income, very-low-income, low-
49 income, or moderate-income limits specified in s. 420.0004,
50 which ~~property~~ is owned entirely by a nonprofit entity that is a
51 corporation not for profit, qualified as charitable under s.
52 501(c)(3) of the Internal Revenue Code and in compliance with
53 Rev. Proc. 96-32, 1996-1 C.B. 717, is ~~or a Florida-based limited~~
54 ~~partnership, the sole general partner of which is a corporation~~
55 ~~not for profit which is qualified as charitable under s.~~
56 ~~501(c)(3) of the Internal Revenue Code and which complies with~~
57 ~~Rev. Proc. 96-32, 1996-1 C.B. 717, shall be~~ considered property
58 owned by an exempt entity and used for a charitable purpose, and

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59 those portions of the affordable housing property that ~~which~~
60 provide housing to natural persons or families classified as
61 extremely low income, very low income, low income, or moderate
62 income under s. 420.0004 are ~~shall be~~ exempt from ad valorem
63 taxation to the extent authorized under ~~in~~ s. 196.196. All
64 property identified in this section must ~~shall~~ comply with the
65 criteria provided under s. 196.195 for determining ~~determination~~
66 ~~of~~ exempt status and ~~to~~ be applied by property appraisers on an
67 annual basis ~~as defined in s. 196.195~~. The Legislature intends
68 that any property owned by a limited liability company ~~or~~
69 ~~limited partnership~~ which is disregarded as an entity for
70 federal income tax purposes pursuant to Treasury Regulation
71 301.7701-3(b)(1)(ii) ~~shall~~ be treated as owned by its sole
72 member ~~or sole general partner~~.
73 Section 2. Paragraph (p) of subsection (5) of section
74 212.08, Florida Statutes, is amended to read:
75 212.08 Sales, rental, use, consumption, distribution, and
76 storage tax; specified exemptions.—The sale at retail, the
77 rental, the use, the consumption, the distribution, and the
78 storage to be used or consumed in this state of the following
79 are hereby specifically exempt from the tax imposed by this
80 chapter.
81 (5) EXEMPTIONS; ACCOUNT OF USE.—
82 (p) *Community contribution tax credit for donations.*—
83 1. Authorization.—Persons who are registered with the
84 department under s. 212.18 to collect or remit sales or use tax
85 and who make donations to eligible sponsors are eligible for tax
86 credits against their state sales and use tax liabilities as
87 provided in this paragraph:

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88 a. The credit shall be computed as 50 percent of the
89 person's approved annual community contribution.
90 b. The credit shall be granted as a refund against state
91 sales and use taxes reported on returns and remitted in the 12
92 months preceding the date of application to the department for
93 the credit as required in sub-subparagraph 3.c. If the annual
94 credit is not fully used through such refund because of
95 insufficient tax payments during the applicable 12-month period,
96 the unused amount may be included in an application for a refund
97 made pursuant to sub-subparagraph 3.c. in subsequent years
98 against the total tax payments made for such year. Carryover
99 credits may be applied for a 3-year period without regard to any
100 time limitation that would otherwise apply under s. 215.26.
101 c. A person may not receive more than $200,000 in annual
102 tax credits for all approved community contributions made in any
103 one year.
104 d. All proposals for the granting of the tax credit require
105 the prior approval of the Department of Economic Opportunity.
106 e. The total amount of tax credits which may be granted for
107 all programs approved under this paragraph, s. 220.183, and s.
108 624.5105 is $10.5 million annually for projects that provide
109 homeownership opportunities for low-income or very-low-income
110 households as those terms are defined in s. 420.9071~~(19) and~~
111 ~~(28)~~ and $3.5 million annually for all other projects.
112 f. A person who is eligible to receive the credit provided
113 ~~for~~ in this paragraph, s. 220.183, or s. 624.5105 may receive
114 the credit only under the one section pursuant to ~~of~~ the
115 person's choice.
116 2. Eligibility requirements.—

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117 a. A community contribution by a person must be in the
118 following form:
119 (I) Cash or other liquid assets;
120 (II) Real property;
121 (III) Goods or inventory; or
122 (IV) Other physical resources ~~as~~ identified by the
123 Department of Economic Opportunity.
124 b. All community contributions must be reserved exclusively
125 for use in a project. As used in this sub-subparagraph, the term
126 "project" means ~~any~~ activity undertaken by an eligible sponsor
127 which is designed to construct, improve, or substantially
128 rehabilitate housing that is affordable to low-income or very-
129 low-income households as those terms are defined in s.
130 420.9071~~(19) and (28)~~; designed to provide commercial,
131 industrial, or public resources and facilities; or designed to
132 improve entrepreneurial and job-development opportunities for
133 low-income persons. A project may be the investment necessary to
134 increase access to high-speed broadband capability in rural
135 communities with enterprise zones, including projects that
136 result in improvements to communications assets that are owned
137 by a business. A project may include the provision of museum
138 educational programs and materials that are directly related to
139 a ~~any~~ project approved between January 1, 1996, and December 31,
140 1999, and located in an enterprise zone designated pursuant to
141 s. 290.0065. This paragraph does not preclude projects that
142 propose to construct or rehabilitate housing for low-income or
143 very-low-income households on scattered sites. With respect to
144 housing, contributions may be used to pay the following eligible
145 low-income and very-low-income housing-related activities:

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146 (I) Project development impact and management fees for low-
147 income or very-low-income housing projects;
148 (II) Down payment and closing costs for low-income persons
149 and very-low-income ~~eligible~~ persons, as those terms are defined
150 in s. 420.9071~~(19) and (28)~~;
151 (III) Administrative costs, including housing counseling
152 and marketing fees, not to exceed 10 percent of the community
153 contribution, directly related to low-income or very-low-income
154 projects; and
155 (IV) Removal of liens recorded against residential property
156 by municipal, county, or special district local governments if
157 ~~when~~ satisfaction of the lien is a necessary precedent to the
158 transfer of the property to a low-income person or very-low-
159 income ~~an eligible~~ person, as those terms are defined in s.
160 420.9071~~(19) and (28)~~, for the purpose of promoting home
161 ownership. Contributions for lien removal must be received from
162 a nonrelated third party.
163 c. The project must be undertaken by an "eligible sponsor,"
164 which includes:
165 (I) A community action program;
166 (II) A nonprofit community-based development organization
167 whose mission is the provision of housing for low-income or
168 very-low-income households or increasing entrepreneurial and
169 job-development opportunities for low-income persons;
170 (III) A neighborhood housing services corporation;
171 (IV) A local housing authority created under chapter 421;
172 (V) A community redevelopment agency created under s.
173 163.356;
174 (VI) A historic preservation district agency or

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175 organization;
176 (VII) A regional workforce board;
177 (VIII) A direct-support organization as provided in s.
178 1009.983;
179 (IX) An enterprise zone development agency created under s.
180 290.0056;
181 (X) A community-based organization incorporated under
182 chapter 617 which is recognized as educational, charitable, or
183 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
184 and whose bylaws and articles of incorporation include
185 affordable housing, economic development, or community
186 development as the primary mission of the corporation;
187 (XI) Units of local government;
188 (XII) Units of state government; or
189 (XIII) Any other agency that the Department of Economic
190 Opportunity designates by rule.
191
192 ~~In no event may~~ A contributing person may not have a financial
193 interest in the eligible sponsor.
194 d. The project must be located in an area designated an
195 enterprise zone or a Front Porch Florida Community, unless the
196 project increases access to high-speed broadband capability for
197 rural communities that have ~~with~~ enterprise zones but is
198 physically located outside the designated rural zone boundaries.
199 Any project designed to construct or rehabilitate housing for
200 low-income or very-low-income households as those terms are
201 defined in s. 420.9071~~(19) and (28)~~ is exempt from the area
202 requirement of this sub-subparagraph.
203 e.(I) If, during the first 10 business days of the state

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204 fiscal year, eligible tax credit applications for projects that
205 provide homeownership opportunities for low-income households or
206 very-low-income households as those terms are defined in s.
207 420.9071~~(19) and (28)~~ are received for less than the annual tax
208 credits available for those projects, the Department of Economic
209 Opportunity shall grant tax credits for those applications and
210 ~~shall~~ grant remaining tax credits on a first-come, first-served
211 basis for ~~any~~ subsequent eligible applications received before
212 the end of the state fiscal year. If, during the first 10
213 business days of the state fiscal year, eligible tax credit
214 applications for projects that provide homeownership
215 opportunities for low-income or very-low-income households ~~as~~
216 ~~defined in s. 420.9071(19) and (28)~~ are received for more than
217 the annual tax credits available for those projects, the
218 Department of Economic Opportunity shall grant the tax credits
219 for those applications as follows:
220 (A) If tax credit applications submitted for approved
221 projects of an eligible sponsor do not exceed $200,000 in total,
222 the credits shall be granted in full if the tax credit
223 applications are approved.
224 (B) If tax credit applications submitted for approved
225 projects of an eligible sponsor exceed $200,000 in total, the
226 amount of tax credits granted pursuant to sub-sub-sub-
227 subparagraph (A) shall be subtracted from the amount of
228 available tax credits, and the remaining credits shall be
229 granted to each approved tax credit application on a pro rata
230 basis.
231 (II) If, during the first 10 business days of the state
232 fiscal year, eligible tax credit applications for projects other

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233 than those that provide homeownership opportunities for low-
234 income households or very-low-income households as those terms
235 are defined in s. 420.9071~~(19) and (28)~~ are received for less
236 than the annual tax credits available for those projects, the
237 Department of Economic Opportunity shall grant tax credits for
238 those applications and ~~shall~~ grant remaining tax credits on a
239 first-come, first-served basis for ~~any~~ subsequent eligible
240 applications received before the end of the state fiscal year.
241 If, during the first 10 business days of the state fiscal year,
242 eligible tax credit applications for projects other than those
243 that provide homeownership opportunities for low-income or very-
244 low-income households ~~as defined in s. 420.9071(19) and (28)~~ are
245 received for more than the annual tax credits available for
246 those projects, the Department of Economic Opportunity shall
247 grant the tax credits for those applications on a pro rata
248 basis.
249 3. Application requirements.—
250 a. Any eligible sponsor seeking to participate in this
251 program must submit a proposal to the Department of Economic
252 Opportunity which sets forth the name of the sponsor, a
253 description of the project, and the area in which the project is
254 located, together with such supporting information as is
255 prescribed by rule. The proposal must also contain a resolution
256 from the local governmental unit in which the project is located
257 certifying that the project is consistent with local plans and
258 regulations.
259 b. Any person seeking to participate in this program must
260 submit an application for tax credit to the Department of
261 Economic Opportunity which sets forth the name of the sponsor, a

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262 description of the project, and the type, value, and purpose of
263 the contribution. The sponsor shall verify, in writing, the
264 terms of the application and indicate its receipt of the
265 contribution, which ~~verification~~ must ~~be in writing and~~
266 accompany the application for tax credit. The person must submit
267 a separate tax credit application to the department ~~of Economic~~
268 ~~Opportunity~~ for each individual contribution that it makes to
269 each individual project.
270 c. Any person who has received notification from the
271 Department of Economic Opportunity that a tax credit has been
272 approved must apply to the department to receive the refund.
273 Application must be made on the form prescribed for claiming
274 refunds of sales and use taxes and be accompanied by a copy of
275 the notification. A person may submit only one application for
276 refund to the department within a ~~any~~ 12-month period.
277 4. Administration.—
278 a. The Department of Economic Opportunity may adopt rules
279 ~~pursuant to ss. 120.536(1) and 120.54~~ necessary to administer
280 this paragraph, including rules for the approval or disapproval
281 of proposals by a person.
282 b. The decision of the Department of Economic Opportunity
283 must be in writing, and, if approved, the notification shall
284 state the maximum credit allowable to the person. Upon approval,
285 the department ~~of Economic Opportunity~~ shall transmit a copy of
286 the decision to the Department of Revenue.
287 c. The Department of Economic Opportunity shall
288 periodically monitor all projects in a manner consistent with
289 available resources to ensure that resources are used in
290 accordance with this paragraph; however, each project must be

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291 reviewed at least once every 2 years.
292 d. The Department of Economic Opportunity shall, in
293 consultation with the statewide and regional housing and
294 financial intermediaries, market the availability of the
295 community contribution tax credit program to community-based
296 organizations.
297 5. Expiration.—This paragraph expires June 30, 2025 ~~2015~~;
298 however, any accrued credit carryover that is unused on that
299 date may be used until the expiration of the 3-year carryover
300 period for such credit.
301 Section 3. Subsection (5) of section 220.183, Florida
302 Statutes, is amended to read:
303 220.183 Community contribution tax credit.—
304 (5) EXPIRATION.—The provisions of this section, except
305 paragraph (1)(e), ~~shall~~ expire and are ~~be~~ void on June 30, 2025
306 ~~2015~~.
307 Section 4. Subsection (6) of section 624.5105, Florida
308 Statutes, is amended to read:
309 624.5105 Community contribution tax credit; authorization;
310 limitations; eligibility and application requirements;
311 administration; definitions; expiration.—
312 (6) EXPIRATION.—The provisions of this section, except
313 paragraph (1)(e), ~~shall~~ expire and are ~~be~~ void on June 30, 2025
314 ~~2015~~.
315 Section 5. Paragraph (h) of subsection (22) and subsection
316 (48) of section 420.507, Florida Statutes, are amended to read:
317 420.507 Powers of the corporation.—The corporation shall
318 have all the powers necessary or convenient to carry out and
319 effectuate the purposes and provisions of this part, including

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320 the following powers, which are in addition to all other powers
321 granted by other provisions of this part:
322 (22) To develop and administer the State Apartment
323 Incentive Loan Program. In developing and administering that
324 program, the corporation may:
325 (h) Establish, by rule, the procedure for ~~evaluating,~~
326 ~~scoring, and~~ competitively evaluating and selecting ~~ranking~~ all
327 applications for funding based on the criteria set forth in s.
328 420.5087(6)(c), ~~;~~ determining actual loan amounts, ~~;~~ making and
329 servicing loans, ~~;~~ and exercising the powers authorized in this
330 subsection.
331 (48) To award ~~use up to 10 percent of~~ its annual allocation
332 of low-income housing tax credits, nontaxable revenue bonds, and
333 State Apartment Incentive Loan Program funds appropriated by the
334 Legislature and available to allocate by request for proposals
335 or other competitive solicitation. The corporation shall reserve
336 up to 5 percent of each allocation ~~funding~~ for high-priority
337 affordable housing projects, such as housing to support economic
338 development and job-creation initiatives, housing for veterans
339 and their families, and other special needs populations in
340 communities throughout the state as determined by the
341 corporation on an annual basis. The corporation shall reserve an
342 additional 5 percent of each allocation for affordable housing
343 projects that target persons who have a disabling condition as
344 defined in s. 420.0004 and their families. These allocations
345 must prioritize projects or initiatives piloting or
346 demonstrating cost effective, best practices that meet the
347 housing needs and preferences of such persons. Any tax credits
348 or funds not allocated because of a lack of eligible projects

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349 targeting persons who have a disabling condition shall be
350 distributed by the corporation for high-priority housing
351 projects.
352 Section 6. Paragraphs (c) and (f) of subsection (6) of
353 section 420.5087, Florida Statutes, are amended to read:
354 420.5087 State Apartment Incentive Loan Program.—There is
355 hereby created the State Apartment Incentive Loan Program for
356 the purpose of providing first, second, or other subordinated
357 mortgage loans or loan guarantees to sponsors, including for-
358 profit, nonprofit, and public entities, to provide housing
359 affordable to very-low-income persons.
360 (6) On all state apartment incentive loans, except loans
361 made to housing communities for the elderly to provide for
362 lifesafety, building preservation, health, sanitation, or
363 security-related repairs or improvements, the following
364 provisions shall apply:
365 (c) The corporation shall provide by rule for the
366 establishment of a review committee ~~composed of the department~~
367 ~~and corporation staff and shall establish by rule a scoring~~
368 ~~system~~ for the competitive evaluation and selection ~~competitive~~
369 ~~ranking~~ of applications submitted in this program, including,
370 but not limited to, the following criteria:
371 1. Tenant income and demographic targeting objectives of
372 the corporation.
373 2. Targeting objectives of the corporation which will
374 ensure an equitable distribution of loans between rural and
375 urban areas.
376 3. Sponsor’s agreement to reserve the units for persons or
377 families who have incomes below 50 percent of the state or local

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378 median income, whichever is higher, for a time period that
379 exceeds ~~to exceed~~ the minimum required by federal law or the
380 ~~provisions of~~ this part.
381 4. Sponsor’s agreement to reserve more than:
382 a. Twenty percent of the units in the project for persons
383 or families who have incomes that do not exceed 50 percent of
384 the state or local median income, whichever is higher; or
385 b. Forty percent of the units in the project for persons or
386 families who have incomes that do not exceed 60 percent of the
387 state or local median income, whichever is higher, without
388 requiring a greater amount of the loans as provided in this
389 section.
390 5. Provision for tenant counseling.
391 6. Sponsor’s agreement to accept rental assistance
392 certificates or vouchers as payment for rent.
393 7. Projects requiring the least amount of a state apartment
394 incentive loan compared to overall project cost, except that the
395 share of the loan attributable to units serving extremely-low-
396 income persons must ~~shall~~ be excluded from this requirement.
397 8. Local government contributions and local government
398 comprehensive planning and activities that promote affordable
399 housing.
400 9. Project feasibility.
401 10. Economic viability of the project.
402 11. Commitment of first mortgage financing.
403 12. Sponsor’s prior experience.
404 13. Sponsor’s ability to proceed with construction.
405 14. Projects that directly implement or assist welfare-to-
406 work transitioning.

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407 15. Projects that reserve units for extremely-low-income
408 persons.
409 16. Projects that include green building principles, storm-
410 resistant construction, or other elements that reduce long-term
411 costs relating to maintenance, utilities, or insurance.
412 17. Job-creation rate of the developer and general
413 contractor, as provided in s. 420.507(47).
414 (f) The review committee established by corporation rule
415 pursuant to this subsection shall make recommendations to the
416 board of directors of the corporation regarding program
417 participation under the State Apartment Incentive Loan Program.
418 The corporation board shall make the final ~~ranking and the~~
419 decisions regarding which applicants shall become program
420 participants based on the scores received in the competitive
421 process ~~ranking~~, further review of applications, and the
422 recommendations of the review committee. The corporation board
423 shall approve or reject applications for loans and shall
424 determine the tentative loan amount available to each applicant
425 selected for participation in the program. The actual loan
426 amount shall be determined pursuant to rule adopted pursuant to
427 s. 420.507(22)(h).
428 Section 7. Section 420.511, Florida Statutes, is amended to
429 read:
430 420.511 Strategic business plan; long-range program
431 ~~strategic~~ plan; annual report; audited financial statements.—
432 (1) The corporation shall develop a strategic business plan
433 for the provision of affordable housing for the state. The plan
434 must be consistent ~~shall not be inconsistent~~ with the long-range
435 program ~~strategic~~ plan prepared pursuant to subsection (2) and

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436 shall contain performance measures and specific performance
437 targets for the following:
438 (a) The ability of low-income and moderate-income
439 Floridians to access housing that is decent and affordable.
440 (b) The continued availability and affordability of housing
441 financed by the corporation to target populations.
442 (c) The availability of affordable financing programs,
443 including equity and debt products, and programs that reduce
444 gaps in conventional financing in order~~,~~ to increase individual
445 access to housing and stimulate private production of affordable
446 housing.
447 (d) The establishment and maintenance of efficiencies in
448 the delivery of affordable housing.
449 (e) Such other measures as directed by the corporation's
450 board of directors.
451
452 ~~The corporation shall also compile data on the stimulus of~~
453 ~~economic activity created by the affordable housing finance~~
454 ~~programs administered by the corporation.~~
455 (2) The corporation, in coordination ~~equal partnership~~ with
456 the department, shall ~~develop~~ annually develop a long-range
457 program ~~strategic~~ plan for the provision of affordable housing
458 in this state as ~~Florida as part of the department's agency~~
459 ~~strategic plan~~ required pursuant to chapter 186. In part, the
460 plan must ~~shall~~ include provisions that maximize the abilities
461 of the corporation ~~and the department~~ to implement the state
462 housing strategy established under s. 420.0003, to respond to
463 federal housing initiatives, and to develop programs in a manner
464 that is more responsive to the needs of public and private

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465 partners. The plan shall be developed on a schedule consistent
466 with that established by s. 186.021. For purposes of this
467 section ~~act~~, the executive director or his or her designee shall
468 serve as the corporation's representative to achieve a
469 coordinated and integrated planning relationship with the
470 department.
471 (3)~~(a)~~ The corporation shall submit to the Governor and the
472 presiding officers of each house of the Legislature, within 6 ~~2~~
473 months after the end of its fiscal year, a complete and detailed
474 report setting forth the corporation's state and federal program
475 accomplishments using the most recent available data. The report
476 must include, but is not limited to:
477 (a) The following tenant characteristics in the existing
478 rental units financed through corporation-administered programs:
479 1. The number of households served, delineated by income,
480 race, ethnicity, and age of the head of household.
481 2. The number of households served in large, medium, and
482 small counties as defined by s. 420.5087 and the extent to which
483 geographic distribution has been achieved in accordance with s.
484 420.5087.
485 3. The number of farmworker and commercial-fishing worker
486 households served.
487 4. The number of homeless households served.
488 5. The number of special needs households served.
489 6. By county, the average rent charged based on unit size.
490 (b) The number of rental units to which resources have been
491 allocated in the last fiscal year, including income and
492 demographic restrictions.
493 (c) The estimated average cost of producing units under

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494 each rental or homeownership unit financed under each program in
495 the last fiscal year.
496 (d) By county, the average sales price of homeownership
497 units financed in the last fiscal year.
498 (e) The number of households served by homeownership
499 programs in the last fiscal year, including the income, race,
500 ethnicity, and age of the homeowner of each household.
501 (f) The percentage of homeownership loans that are in
502 foreclosure.
503 (g) The percentage of properties in the corporation's
504 rental portfolio which have an occupancy rate below 90 percent.
505 (h) The amount of economic stimulus created by the
506 affordable housing finance programs administered by the
507 corporation for the most recent year available.
508 (i) For the State Apartment Incentive Loan Program (SAIL),
509 a comprehensive list of all closed loans outstanding at the end
510 of the most recent fiscal year, including, but not limited to,
511 development name, city, county, developer, set-aside type, set-
512 aside percentage, affordability term, total number of units,
513 number of set-aside units, lien position, original loan amount,
514 loan maturity date, loan balance at close of year, status of
515 loan, rate of interest, and interest paid.
516 (j) For the Florida Affordable Housing Guarantee Program, a
517 list of all guaranteed loans through the close of the most
518 recent fiscal year, including, but not limited to, development
519 name, city, county, developer, total number of units, issuer of
520 the bonds, loan maturity date, participation in the United
521 States Department of Housing and Urban Development Risk-Sharing
522 Program, original guarantee amount, guarantee amount at the

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523 close of the fiscal year, status of guaranteed loans, and total
524 outstanding Florida Housing Finance Corporation Affordable
525 Housing Guarantee Program revenue bonds at the close of the most
526 recent fiscal year.
527 (k) Any other information the corporation deems
528 appropriate.
529 ~~1. Its operations and accomplishments;~~
530 ~~2. Its receipts and expenditures during its fiscal year in~~
531 ~~accordance with the categories or classifications established by~~
532 ~~the corporation for its operating and capital outlay purposes;~~
533 ~~3. Its assets and liabilities at the end of its fiscal year~~
534 ~~and the status of reserve, special, or other funds;~~
535 ~~4. A schedule of its bonds outstanding at the end of its~~
536 ~~fiscal year, together with a statement of the principal amounts~~
537 ~~of bonds issued and redeemed during the fiscal year; and~~
538 ~~5. Information relating to the corporation's activities in~~
539 ~~implementing the provisions of ss. 420.5087, 420.5088, and~~
540 ~~420.5095.~~
541 ~~(b) The report shall include, but not be limited to:~~
542 ~~1. The number of people served, delineated by income, age,~~
543 ~~family size, and racial characteristics.~~
544 ~~2. The number of units produced under each program.~~
545 ~~3. The average cost of producing units under each program.~~
546 ~~4. The average sales price of single-family units financed~~
547 ~~under s. 420.5088.~~
548 ~~5. The average amount of rent charged based on unit size on~~
549 ~~units financed under s. 420.5087.~~
550 ~~6. The number of persons in rural communities served under~~
551 ~~each program.~~

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552 ~~7. The number of farmworkers served under each program.~~
553 ~~8. The number of homeless persons served under each~~
554 ~~program.~~
555 ~~9. The number of elderly persons served under each program.~~
556 ~~10. The extent to which geographic distribution has been~~
557 ~~achieved in accordance with the provisions of s. 420.5087.~~
558 ~~11. The success of the Community Workforce Housing~~
559 ~~Innovation Pilot Program in meeting the housing needs of~~
560 ~~eligible areas.~~
561 ~~12. Any other information the corporation deems~~
562 ~~appropriate.~~
563 (4) Within 6 months after the end of its fiscal year, the
564 corporation shall submit audited financial statements prepared
565 in accordance with generally accepted accounting principles
566 which include all assets, liabilities, revenues, and expenses of
567 the corporation, and a list of all bonds outstanding at the end
568 of its fiscal year. ~~with the annual report required by this~~
569 ~~section, a copy of an annual financial audit of its accounts and~~
570 ~~records and an annual compliance~~ The audit must be ~~of its~~
571 ~~programs~~ conducted by an independent certified public
572 accountant, performed in accordance with generally accepted
573 auditing standards and government auditing standards, and
574 incorporate all reports, including compliance reports, as
575 required by such auditing standards.
576 (5) The Auditor General shall conduct an operational audit
577 of the accounts and records of the corporation and provide a
578 written report on the audit to the President of the Senate and
579 the Speaker of the House of Representatives by December 1, 2016.
580 Both the corporation's business plan and annual report must

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581 ~~shall~~ recognize the different fiscal periods under which the
582 corporation, the state, the Federal Government, and local
583 governments operate.
584 Section 8. Paragraph (b) of subsection (4) of section
585 420.0003, Florida Statutes, is amended to read:
586 420.0003 State housing strategy.—
587 (4) IMPLEMENTATION.—The Department of Economic Opportunity
588 and the Florida Housing Finance Corporation in carrying out the
589 strategy articulated herein shall have the following duties:
590 (b) The long-range program ~~agency strategic~~ plan of the
591 Department of Economic Opportunity must ~~shall~~ include specific
592 goals, objectives, and strategies that implement the housing
593 policies in this section ~~and shall include the strategic plan~~
594 ~~for housing production prepared by the corporation pursuant to~~
595 ~~s. 420.511~~.
596 Section 9. Section 420.0006, Florida Statutes, is amended
597 to read:
598 420.0006 Authority to contract with corporation; contract
599 requirements; nonperformance.—The executive director of the
600 department shall contract, notwithstanding part I of chapter
601 287, with the Florida Housing Finance Corporation on a multiyear
602 basis to stimulate, provide, and foster affordable housing in
603 the state. The contract must incorporate the performance
604 measures required by s. 420.511 and ~~must~~ be consistent with ~~the~~
605 ~~provisions of~~ the corporation's strategic business plan prepared
606 in accordance with s. 420.511. The contract must provide that
607 if~~, in the event~~ the corporation fails to comply with ~~any of the~~
608 a performance measure ~~measures~~ required by s. 420.511, the
609 executive director shall notify the Governor and ~~shall~~ refer the

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

610 nonperformance to the department's inspector general for review
611 and determination as to whether such failure is due to forces
612 beyond the corporation's control or whether such failure is due
613 to inadequate management of the corporation's resources.
614 Advances shall continue to be made pursuant to s. 420.0005
615 during the pendency of the review ~~by the department's inspector~~
616 ~~general~~. If such failure is due to outside forces, it may ~~shall~~
617 not be deemed a violation of the contract. If such failure is
618 due to inadequate management, the department's inspector general
619 shall provide recommendations regarding solutions. The Governor
620 may ~~is authorized to~~ resolve ~~any~~ differences of opinion with
621 respect to performance under the contract and may request that
622 advances continue in the event of a failure under the contract
623 due to inadequate management. The Chief Financial Officer shall
624 approve the request absent a finding by the Chief Financial
625 Officer that continuing such advances would adversely impact the
626 state; however, ~~in any event~~ the Chief Financial Officer shall
627 provide advances sufficient to meet the debt service
628 requirements of the corporation and sufficient to fund contracts
629 committing funds from the State Housing Trust Fund if ~~so long as~~
630 such contracts are in accordance with the laws of this state.
631 Section 10. Subsection (1) of section 420.504, Florida
632 Statutes, is amended to read:
633 420.504 Public corporation; creation, membership, terms,
634 expenses.—
635 (1) ~~There is created within the Department of Economic~~
636 ~~Opportunity~~ A public corporation and a public body corporate and
637 politic, to be known as the "Florida Housing Finance
638 Corporation," is created within the Department of Economic

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639 Services.~~"Florida Housing Finance Corporation."~~ It is declared
640 to be the intent of and constitutional construction by the
641 Legislature that the Florida Housing Finance Corporation
642 constitutes an entrepreneurial public corporation organized to
643 provide and promote the public welfare by administering the
644 governmental function of financing or refinancing housing and
645 related facilities in this state ~~Florida~~ and that the
646 corporation is not a department of the executive branch of state
647 government within the scope and meaning of s. 6, Art. IV of the
648 State Constitution, but is functionally related to the
649 Department of Economic Opportunity in which it is placed. The
650 executive function of state government to be performed by the
651 executive director of the Department of Economic Opportunity in
652 the conduct of the business of the Florida Housing Finance
653 Corporation must be performed pursuant to a contract to monitor
654 and set performance standards for the implementation of the
655 business plan for the provision of housing approved for the
656 corporation as provided in s. 420.0006. This contract must ~~shall~~
657 include ~~the~~ performance standards for the provision of
658 affordable housing in this state ~~Florida~~ established in the
659 strategic business plan described in s. 420.511.
660 Section 11. Subsection (1) of section 420.506, Florida
661 Statutes, is amended to read:
662 420.506 Executive director; agents and employees; inspector
663 general.—
664 (1) The appointment and removal of an executive director
665 shall be by the executive director of the Department of Economic
666 Opportunity, with the advice and consent of the corporation's
667 board of directors. The executive director shall employ legal

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

668 and technical experts and such other agents and employees,
669 permanent and temporary, as the corporation may require, and
670 shall communicate with and provide information to the
671 Legislature with respect to the corporation's activities. ~~The~~
672 ~~board is authorized,~~ Notwithstanding ~~the provisions of~~ s.
673 216.262, the board may ~~to~~ develop and implement rules regarding
674 the employment of employees of the corporation and service
675 providers, including legal counsel. The board ~~of directors of~~
676 ~~the corporation~~ is entitled to establish travel procedures and
677 guidelines for employees of the corporation, subject to s.
678 112.061(6) and (7). The executive director's office and the
679 corporation's files and records must be located in Leon County.
680 Section 12. Section 420.5091, Florida Statutes, is
681 repealed.
682 Section 13. This act shall take effect upon becoming a law
683 and shall first apply to the 2013 ad valorem tax rolls.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic: Affordable Housing

Bill Number: SB- 928 *(if applicable)*

Name: Paula Collett

Amendment Barcode: *(if applicable)*

Job Title: Communications Manager

Address: 2404 Hubbard Street
Street

Jax, FL 32206
City *State* *Zip*

Phone: (904) 208-6631

E-mail: pcollett@habijax.org

Speaking: ☐ For ☐ Against ☑ Information

Representing: HabiJax

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

3-14-13
Meeting Date

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

Topic: Community Development

Bill Number: SB 928 *(if applicable)*

Name: KARI HEBRANK

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 113 EAST COLLEGE AVE. #200
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 566-7824

E-mail: Khebrank@wjkonmgmt.com

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

Representing: FLORIDA HOME BUILDERS ASSOC.

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

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

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

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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: Affordable Housing - Prop Tax

Bill Number: 928 (if applicable)

Name: Eric Poole

Amendment Barcode: _____ (if applicable)

Job Title: Asst. Leg Director

Address: 100 Monroe
Street

Tall FL
City State Zip

Phone: 922-4300

E-mail: _____

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

Representing: Florida Association of Counties

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13
Meeting Date

Topic _____ Bill Number SB 928 *(if applicable)*

Name Wellington Meffert Amendment Barcode _____ *(if applicable)*

Job Title General Counsel

Address 227 N. Bronough Street, Suite 5000 Phone _____
Street

Tallahassee FL 32301 E-mail _____
City *State* *Zip*

Speaking: [x] For (waive in support) [ ] Against [ ] Information

Representing Florida Housing Finance Corporation

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)

3-14-13
Meeting Date

Topic: Affordable Housing

Bill Number: 928 *(if applicable)*

Name: Marnie George

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 106 E. College Ave
Street

Tall FL 32301
City *State* *Zip*

Phone: 850-510-8866

E-mail: marnie@thegeorgegroup.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Habitat for Humanity of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/14/2013
Meeting Date

Topic: Community Development

Bill Number: SB 928 *(if applicable)*

Name: Vani Ungapen

Amendment Barcode: *(if applicable)*

Job Title: Director of Legislative Research

Address: 200 S. Monroe St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850 224 1400

E-mail:

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

Representing: Florida Realtors

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14
Meeting Date

Topic: COMMUNITY DEVELOPMENT

Bill Number: 928 *(if applicable)*

Name: BRECHT HEUCHAN

Amendment Barcode: 631694 *(if applicable)*

Job Title: GOV'T AFFAIRS

Address: PO BOX 10549
Street

TALLAHASSEE FL 32302
City *State* *Zip*

Phone: (850) 702-0144

E-mail:

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

Representing: THE RICHMAN GROUP

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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

March 14, 2013

Chairman Wilton Simpson
Community Affairs Committee
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully ask to be excused from the Community Affairs Committee being held on Thursday, March 14, 2013 at 8:00am. Due to a death in the family I will not be able to attend.

Thank you in advance for your consideration.

Sincerely,

Dorothy L. Hukill

cc: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

REPLY TO:
❒ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
❒ Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301 **Case:** **Type:**
Caption: Senate Community Affairs **Judge:**

Started: 3/14/2013 8:03:35 AM
Ends: 3/14/2013 9:35:07 AM Length: 01:31:33

8:03:54 AM	Secretary calls roll
8:05:01 AM	SB 1118 SB 602 Tp'd
8:05:14 AM	Tab 1 SB 726
8:05:19 AM	Speaker on SB 726 Pre emption - Bill
8:07:34 AM	Chairman - Questions on the bill
8:07:59 AM	Amendment 1 952590 Senator Latvala - Domestic Violence
8:09:31 AM	Questions on the amendment
8:09:42 AM	Amendment adopted
8:09:57 AM	Amendment 2 584330 Senator Latvala
8:10:14 AM	Substitute amendment 931520
8:12:17 AM	Senator Stargel question
8:12:43 AM	Response Senator Thrasher
8:13:08 AM	Response Senator Bradley
8:13:19 AM	Amendment adopted
8:13:29 AM	Speaker on SB 726 Maria McCluskey - Earned Sick Time
8:15:49 AM	Speaker Gail Marie Perry Representing Communications Workers of America
8:17:04 AM	Speaker Stephanie Kunkel Representing Organize Now
8:19:11 AM	Speaker Kraig Conn Representing Florida League of Cities
8:19:58 AM	Speaker Brecuster Beavis Representing Associated Industries of Florida
8:21:14 AM	Speaker Rick Templin Representing Florida AFL-CIO
8:23:30 AM	Senator Latvala
8:27:36 AM	Senator Soto Responds
8:28:37 AM	Senator Simmons Closes on the Bill
8:32:24 AM	Senator Bradley moves committee substitute
8:32:31 AM	Secretary calls Roll
8:32:44 AM	SB 726 reported favorably
8:32:59 AM	Tab 3 SB 286 Design Professional
8:33:02 AM	Senator Negron explains
8:34:22 AM	Questions on the bill
8:34:25 AM	Senator Smith
8:35:09 AM	Senator Negron
8:36:05 AM	Amendment 1 Late filed barcode 411316
8:36:29 AM	Senator Soto explains
8:37:06 AM	Senator Stargel questions
8:37:14 AM	Senator Soto responds
8:38:12 AM	Senator Negron
8:38:40 AM	Speaker Mike Huey Representing FL Association of the American Institute of Architects
8:38:58 AM	Senator Stargel
8:39:18 AM	Senator Stargel opposes
8:39:23 AM	Senator Thrasher opposes
8:39:50 AM	Senator Soto closes
8:40:43 AM	Amendment Failed
8:42:41 AM	Secretary calls roll SB 286 reported favorably
8:43:18 AM	Tab 2 848 Ms. Herron
8:43:57 AM	Amendment 1 barcode 411316
8:44:07 AM	Speaker Jerry
8:44:21 AM	Speaker Jerry Sansom Representing Titusville Cocoa Airport Authority
8:45:02 AM	Senator Soto
8:45:58 AM	Senator Thompson moves committee substitute
8:46:12 AM	Secretary calls roll SB 848 reported favorably
8:46:23 AM	Tab 7 SB 1766
8:46:30 AM	Senator Brandes

8:48:00 AM	Senator Smith responds
8:48:57 AM	Secretary calls role SB 1766 reported favorably
8:49:10 AM	Tab 8 SB 534 Senator Brandes
8:49:49 AM	Amendment 1 barcode 641930
8:51:58 AM	Late Filed Amendment barcode 798864
8:53:35 AM	Senator Latvala questions
8:54:29 AM	Senator Brandes responds
8:57:26 AM	Senator Latvala responds
8:58:48 AM	Senator Brandes responds
9:03:44 AM	Senator Soto responds
9:04:27 AM	Senator Brandes responds
9:04:38 AM	Senator Soto responds
9:06:11 AM	Senator Bradley responds
9:09:18 AM	Senator Brandes responds
9:11:49 AM	SB 534 Tp'd
9:12:58 AM	Tab 4 SB 444 Domestic Water
9:13:03 AM	Ms. Gosney explains SB 444
9:14:46 AM	Questions on the bill
9:14:50 AM	Amendment 1 barcode 445660
9:15:11 AM	Senator Latvala
9:15:23 AM	Ms. Gosney explains amendment 1
9:15:40 AM	Amendment 1 adopted
9:15:44 AM	Amendment 2 barcode 197136
9:15:58 AM	Senator Latvala
9:16:05 AM	Amendment 2 adopted
9:17:14 AM	Ms. Gosney waives close
9:17:22 AM	Senator Thompson moves committee substitute
9:17:25 AM	Secretary calls roll SB 444 reported favorably
9:17:53 AM	Tab 9 SB 1064
9:18:03 AM	Senator Latvala explains SB 1064
9:18:50 AM	Senator Soto
9:19:10 AM	Senator Latvala waives close
9:19:14 AM	Secretary calls roll SB 1064 reported favorably
9:19:38 AM	Tab 10 SB 1062
9:19:48 AM	Senator Latvala explains SB 1062
9:20:19 AM	Speaker Brad Westover Representing National Tax Lien Association
9:25:41 AM	Senator Bradley
9:25:51 AM	Speaker Westover
9:26:24 AM	Senator Simpson questions
9:27:39 AM	Senator Bradley
9:27:49 AM	Senator Latvala
9:28:08 AM	Staff analyst John
9:28:29 AM	Speaker Westover
9:29:03 AM	Senator Latvala waives close
9:29:11 AM	Secretary calls roll SB 1062 reported favorably
9:29:37 AM	Tab 11 404 Senator Stargel
9:30:08 AM	Secretary calls role SB 404 reported favorably
9:30:31 AM	Tab 12 SB 928 Senator Simpson
9:30:45 AM	Senator Simpson explains SB 928
9:32:13 AM	Amendment 1 barcode 631694 Senator Simpson explains
9:33:02 AM	Amendment 1 barcode 631694 adopted
9:33:20 AM	Amendment 2 barcode 836864 Technical amendment
9:34:33 AM	Secretary calls roll SB 928 reported favorably