The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Wednesday, March 20, 2013
TIME: 3:00 —5:30 p.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 1132** Brandes	Department of Transportation; Requiring the Transportation Commission to also monitor the Mid-Bay Bridge Authority; requiring that a local government ensure that noise compatible land-use planning is used in its jurisdiction; providing funding for space transportation projects from the State Transportation Trust Fund; creating ch. 345, F.S., relating to the Florida Regional Tollway Authority; providing for the transfer of the governance and control of the Mid-Bay Bridge Authority System to the Okaloosa-Bay Regional Tollway Authority, etc. TR 03/07/2013 Fav/7 Amendments CA 03/20/2013 Fav/CS ATD AP	Fav/CS Yeas 9 Nays 0
2	**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 CA 03/20/2013 Fav/CS AP	Fav/CS Yeas 5 Nays 3

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 1106** Agriculture / Hays (Similar CS/H 927)	Agritourism; Restricting a local government's ability to regulate agritourism activity on agricultural land; limiting the liability of an agritourism professional, his or her employer or employee, or the owner of the underlying land on which the agritourism activity occurs if certain conditions are met; requiring that signs and contracts notify participants of certain inherent risks and the assumption of that risk, etc. AG 03/11/2013 Fav/CS CA 03/20/2013 Favorable RC	Favorable Yeas 9 Nays 0
4	**SB 1352** Ring (Compare CS/CS/H 247, CS/H 249, Link CS/S 1260)	Paper Reduction; Providing that the uniform statewide voter registration application be designed to elicit the e-mail address of an applicant and whether the applicant desires to receive sample ballots by e-mail; authorizing the property appraiser to notify taxpayers of proposed property taxes by postcard or e-mail in lieu of first-class mail; permitting bonds to be posted in person or electronically at the election of the receiving agency; permitting a clerk of court to furnish certain required documents and notices relating to bond forfeitures by mail or electronic means, etc. EE 03/11/2013 Fav/1 Amendment CA 03/20/2013 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
5	**SB 1196** Richter (Identical H 885)	Independent Special Fire Control Districts; Clarifying provisions that authorize a district to levy non-ad valorem assessments to construct, operate, and maintain specified district facilities and services; revising provisions relating to district authority to provide for the levy of non-ad valorem assessments on lands within the district rather than benefited real property; eliminating provisions relating to rate of assessment for benefited real property, to conform, etc. CA 03/20/2013 Favorable AFT AP	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 1152** Margolis (Similar H 403)	Public Records/Financial Statement/Road or Public Works Project Proposal; Revising an exemption from public records requirements for any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or public works project; providing an exemption from public records requirements for any financial statement that a governmental entity or agency requires a prospective bidder to submit when bidding in response to an invitation to bid, submitting a letter of interest, or responding to a request for proposals or an invitation to negotiate pursuant to a public procurement, etc. CA 03/20/2013 Favorable GO RC	Favorable Yeas 7 Nays 1
7	**SB 788** Abruzzo (Similar H 407)	Criminal Gang Prevention; Providing enhanced criminal penalties for certain trespassing offenses in school safety zones by a person convicted of certain gang-related offenses and for a person who intentionally causes, encourages, solicits, or recruits another person under a specified age to become a criminal gang member in certain circumstances; revising the criteria for application of the sentencing multiplier for offenses related to criminal gangs, etc. CJ 03/11/2013 Favorable CA 03/20/2013 Favorable ACJ AP	Favorable Yeas 9 Nays 0
8	**SB 1718** Flores (Similar H 1295)	Discretionary Sales Surtaxes; Authorizing a county defined in s. 125.011(1), F.S., to levy a surtax up to a specified amount for the benefit of a Florida College System institution in the county pursuant to an ordinance conditioned to take effect upon approval in a county referendum; establishing an oversight board with specified duties, responsibilities, and procedures relating to the expenditure of surtax proceeds; providing that state funding may not be reduced because an institution receives surtax funds, etc. CA 03/20/2013 Fav/CS ED AFT AP	Fav/CS Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**CS/SB 1382** Ethics and Elections / Latvala (Similar CS/CS/CS/H 569)	Campaign Finance; Repealing provisions relating to the certification and political activities of committees of continuous existence; requiring the Division of Elections to provide certain notifications to committees of continuous existence; revising reporting requirements for political parties and affiliated party committees; requiring the Division of Elections to submit a proposal for a mandatory statewide electronic filing system for certain state and local candidates to the Legislature by a specified date, etc. EE 03/11/2013 Fav/CS CA 03/20/2013 Fav/CS AP	Fav/CS Yeas 9 Nays 0
10	**SB 972** Hukill (Compare CS/H 319)	Transportation Development; Providing that local governments that implement transportation concurrency must allow an applicant for a development agreement to satisfy transportation concurrency requirements if certain criteria are met; providing that a local government that repeals transportation concurrency may not deny a development based on the adoption of an alternative transportation system if the developer agrees to enter into an agreement to pay for identified impacts of the proposed development, etc. CA 03/20/2013 Fav/CS TR RC	Fav/CS Yeas 9 Nays 0
11	**SB 1252** Simpson (Similar H 1245)	Building Construction; Specifying that certain actions relating to onsite sewage treatment and removal are not required if a bedroom is not added during a remodeling addition or modification to a single-family home; authorizing a local building department to retain 75 percent of certain fines collected if it transmits 25 percent to the Department of Business and Professional Regulation; prohibiting any provision of the International Residential Code relating to mandated fire sprinklers from incorporation into the Florida Building Code, etc. CA 03/20/2013 Fav/CS RI AP	Fav/CS Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**CS/SB 1392** Governmental Oversight and Accountability / Simpson (Compare CS/CS/H 7011)	Retirement; Providing that a member initially enrolled in the Florida Retirement System after a certain date is vested in the pension plan after 10 years of creditable service; prohibiting members of the Elected Officers' Class from joining the Senior Management Service Class after a specified date; requiring certain employees initially enrolled in the Florida Retirement System on or after a specified date to be compulsory members of the investment plan; authorizing certain employees to elect to participate in the pension plan, rather than the default investment plan, within a specified time, etc. GO 03/14/2013 Fav/CS CA 03/20/2013 Favorable AP	Favorable Yeas 6 Nays 3
13	**SB 1122** Simpson (Similar H 971)	Florida Fire Prevention Code; Exempting certain local governments from specified minimum fire-flow requirements in the code; exempting certain businesses from a 2-hour or longer fire-rated wall requirement in the code; exempting certain agricultural operations from the code, etc. CA 03/20/2013 Not Considered GO RC	Not Considered
14	**SB 1200** Simpson (Identical H 1193)	Taxation of Property; Deleting authorization for a value adjustment board upon its own motion to review lands classified by a property appraiser as agricultural or nonagricultural; deleting a requirement that the property appraiser must reclassify as nonagricultural certain lands that have been zoned to a nonagricultural use; deleting authorization for a value adjustment board upon its own motion to review property granted or denied classification by a property appraiser as historic property that is being used for commercial or certain nonprofit purposes, etc. CA 03/20/2013 Favorable AG AFT AP	Favorable Yeas 9 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 Committee on Community Affairs

BILL: CS/SB 1132

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Department of Transportation

DATE: March 20, 2013 REVISED: 3/21/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/7 amendments**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			ATD	
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 1132 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT or department) and various transportation issues. Among those revisions, the bill:

- extends the Florida Transportation Commission's oversight of expressway and bridge authorities to regional tollway authorities created under a new ch. 345, F.S., and repeals provisions relating to the Florida Statewide Passenger Rail Commission;
- requires local governments to adopt noise compatible land use planning regulations as soon as practical, but no later than July 1, and to share equally with FDOT in all costs associated with providing noise mitigation under specified conditions;
- establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminates the current decal program for vehicles powered by alternative fuels, and repeals the Local Alternative Fuel User Fee Clearing Trust Fund;
- revises criteria to be met by certain air carriers to qualify for an exemption from the aviation fuel tax and provides for terminal suppliers and wholesalers to receive a credit or apply for a refund of aviation fuel tax previously paid;

- provides funding for space transportation projects from the State Transportation Trust Fund (STTF);
- authorizes FDOT to fund up to 100 percent of the cost of strategic airport investment projects under specified conditions;
- prohibits FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements;
- amends the process FDOT must follow relating to proposals to enter into a lease of FDOT property for joint public-private development or commercial development;
- revises provisions relating to installation of bus benches or transit shelters within the right-of-way of the State Highway System (SHS);
- revises provisions relating to the uses of fees generated from certain tolls to include the design and construction of a fire station; revises provisions relating to the transfer of certain excess revenues; and removes authority of a water management district to issue bonds or notes;
- revises provisions relating to metropolitan planning organization (MPO) designation to conform language to federal law, provides a cap on the number of voting members of an MPO re-designated as specified, provides that certain authorities or agencies in metropolitan areas may be provided voting membership on the MPO, and makes editorial changes to eliminate redundancy and provide clarity;
- authorizes Enterprise Florida, Inc., to be a consultant to FDOT for consideration of expenditures associated with and contracts for transportation projects and revises the requirements for economic development transportation project contracts between FDOT and a governmental entity;
- includes projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank;
- expands eligibility of intercity bus companies to compete for federal and state program funding;
- revises the types of eligible projects and criteria of the Intermodal Development Program;
- expressly authorizes FDOT to undertake ancillary development within FDOT-owned rail corridors;
- creates the Florida Regional Tollway Authority Act authorizing counties to form a regional tollway authority that can construct, maintain, and operate transportation projects in a region of the state;
- creates the Northwest Florida Regional Tollway Authority, the Okaloosa-Bay Regional Tollway Authority; and the Suncoast Regional Tollway Authority;
- provides for the transfer of the governance and control of the Mid-Bay Bridge Authority System to the Okaloosa-Bay Regional Tollway Authority;
- repeals obsolete language and clarifies ambiguous language; and,
- provides an effective date.

This bill amends the following sections of the Florida Statutes: 20.23, 110.205, 206.86, 206.87, 206.879, 206.91, 206.9825, 212.055, 212.08, 316.530, 316.545, 331.360, 332.007, 334.044, 337.11, 337.14, 337.168, 337.251, 337.408, 338.161, 338.165, 338.26, 339.175, 339.2821, 339.55, 341.031, 341.053, 341.302, 343.82, and 343.922.

The bill repeals the following sections of the Florida Statutes: 206.877, 206.89, and 316.530(3).

The bill creates the following sections of the Florida Statutes: 163.3176, 206.9951, 206.9952, 206.9955, 206.996, 206.9965, 206.998, and chapter 345, consisting of the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, 345.0014, 345.0015, 345.0016, and 345.0017.

II. Present Situation:

Mid-Bay Bridge Authority

The 1986 Legislature created the Mid-Bay Bridge Authority (MBBA)[1] as the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating, and maintaining a bridge over the Choctawhatchee Bay. The MBBA operates the tolled, 3.6-mile long Mid-Bay Bridge across the Choctawhatchee Bay and approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. 98 east of Destin, is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton Counties.[2]

FDOT, under the provisions of a lease-purchase agreement with the MBBA, maintains and operates the existing bridge and remits all of the tolls collected to the authority as lease payments. The term of the lease runs concurrently with the bonds issued by the MBBA, and when the bonds are matured and fully paid, FDOT will own the bridge. As of June 30, 2012, the MBBA's long-term debt obligation to FDOT for operations and maintenance pursuant to the existing agreement was $9.5 million. In accordance with bond covenants, this liability is payable from excess toll revenues, after debt service obligations have been met.

The Florida Turnpike Enterprise provides toll plaza operations for the MBBA. For the fiscal year ending September 2012, toll revenues amounted to $15,765,967. Earned investment income from Revenue and Reserve Funds of $1,395,789, plus $30,886 from SunPass collections, raised total revenue to $17,192,642.[3] Unlike other regional transportation, expressway, and bridge authorities, however, Florida law reflects no state entity currently charged with monitoring the efficiency, productivity, and management of the MBBA.

Overlapping Responsibility for Passenger Rail Systems

Florida Transportation Commission
The Florida Transportation Commission (FTC) has long been charged with periodically reviewing the status of the state transportation system, including rail and other component modes, and with recommending improvements to the system to the Governor and the Legislature. Beginning in 2007, the Legislature also directed the FTC in s. 20.23(2)(b)8., F.S., to:

[1] Re-created by special act, ch. 2000-411.
[2] Senate Issue Brief 2012-208, *Cost Effectiveness of Regional Expressway and Bridge Authorities*, (September 2011).
[3] *Traffic Engineers' Annual Report for Fiscal Year 2012*, prepared by URS for Mid-Bay Bridge Authority: http://www.mid-bay.com/pdfs/FY2012-Annual-Report.pdf. Retrieved February 23, 2013.

> Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349,[4] including any authority formed using the provisions of part I of chapter 348 and any authority formed under chapter 343 which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

The only publicly funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in ch. 343, F.S.

Florida Statewide Passenger Rail Commission
In 2009, the Florida Legislature provided a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network.[5] The Legislature created the Florida Rail Enterprise, modeled after the Florida Turnpike Enterprise, to coordinate the development and operation of passenger rail services statewide, and established the FSPRC to monitor, advise, and review publicly-funded passenger rail systems.[6]

Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC in s. 20.23(3)(b)1., F.S., with the function of:

> Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

State Public Transportation and Modal Administrator

FDOT recognizes a significant role played by freight mobility as an economic driver for the state and created in the recent past an Office of Freight, Logistics, and Passenger Operations, and the

[4] Chapter 343 entities include the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348 entities include the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349 establishes the Jacksonville Transportation Authority.
[5] Chapter 2011-271, L.O.F.
[6] The first phase (31 miles) of a commuter rail project, SunRail, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

2012 Legislature directed FDOT to develop a Freight Mobility and Trade Plan to assist in making freight mobility investments that contribute to the economic growth of the state.[7] As part of its focus on freight and intermodal issues, FDOT requested approval from the Department of Management Services (DMS) to change the title of an existing Senior Management Service class position, State Public Transportation and Modal Administrator, to State Freight and Logistics Administrator. DMS approved the requested change on September 2, 2011, but current law does not reflect the title change.[8]

Noise Abatement/Highway Projects

Section 335.17, F.S., requires FDOT to develop all highway projects, regardless of funding source, in conformity with the federal standards for noise abatement contained in 23 C.F.R. 772 as such regulations existed on July 13, 2011. FDOT is directed to make use of noise-control methods as part of highway construction projects involving new location or capacity expansion, with particular emphasis on those highways located in or near urban-residential developments that abut such highway rights-of-way. At a minimum, FDOT must comply with federal requirements for analysis of traffic noise impacts and abatement measures, noise abatement, information for local officials, traffic noise prediction, and construction noise.

Noise barriers are a significant additional cost for highway widening and other capacity improvement projects. FDOT advises that the average cost for one mile of noise barrier – based on a 16' high barrier at an average cost per square foot of $30 – is $2.53 million for one side of the road, or $5.07 million for both sides. FDOT is required to provide project noise study information to local governments per current law to assist local officials and private developers in promoting compatibility between land development and highways. FDOT asserts, however, that the information historically has not been used by local governments in the development of land use plans.

Going forward, FDOT advises that noise abatement will be required for most turnpike and several interstate widening projects unless subdivisions adjacent to these limited-access facilities are planned, permitted, and constructed considering land use controls to minimize the effects of noise from highway traffic.

Natural Gas

Due to increased domestic exploration and production, the supply of natural gas in the U.S. and in Florida is expanding. Expanded supply translates into a significant reduction in fuel costs and increased potential for recognized environmental benefits for both the private and public sector. The discussion surrounding the expansion of the use of natural gas as a motor fuel is in part a "chicken v. egg" dilemma, *i.e.*, which needs to come first: vehicles powered by natural gas, or natural gas refueling infrastructure? Spurred by the benefits of the use of natural gas, the discussion often focuses on the conversion of truck fleets to the use of natural gas and the corresponding, dependent need for natural gas refueling infrastructure.

[7] Chapter 2012-174, L.O.F.
[8] Section 110.205(2)(j), F.S.

The inherent benefits of natural gas, federal incentives, and favorable treatment of alternative fuel under current state law already appear to be having an impact on the supply of both refueling stations and natural gas powered vehicles. For example, one dealership reports selling as many natural gas vehicles in 2012 than it did in the previous two years combined.[9] According to Transport Topics magazine, LNG and CNG are increasingly found at more fuel islands at truck stops and travel plazas, and in June of last year, Shell Oil Co. announced plans to build more than 200 LNG lanes at approximately 100 locations throughout the country.[10] Similar evidence is found in Florida, where a Tampa-based beer distributor recently ordered 43 CNG tractors with plans to replace its entire 95-unit fleet within the next 36 months, in what is called "one of the first fair market value leases for a CNG vehicle in the United States."[11]

Benefits of Natural Gas

When compared using equivalent units of measure, natural gas is less expensive than gasoline or diesel. In the U.S. Department of Energy's Clean Cities Alternative Fuel Price Report for October 2012, the average price for gasoline in the Lower Atlantic states was $3.66, $3.96 for diesel, and $2.07 for a gasoline gallon equivalent of compressed natural gas (CNG). Natural gas, in this case, CNG,[12] is clearly cheaper than diesel or gasoline. The savings in fuel costs are, of course, offset to a degree by the incremental cost of a natural gas vehicle over a gasoline or diesel-powered vehicle.

Due to the substantially higher fuel usage and the larger fuel price differential associated with CNG-powered fleet trucks, the recovery of the incremental cost is substantially more rapid than for standard passenger vehicles. In a study prepared for the Florida Natural Gas Vehicle Coalition (FNGVC),[13] the incremental cost of a standard passenger vehicle powered by CNG, compared to a standard passenger vehicle powered by gasoline, ranges from $7,000 to $18,500.[14] Assuming each passenger vehicle consumes 531 gallons per year, and applying a gas-CNG price difference of $1.74, the payback period ranges from 7.6 years to 20 years.[15]

In contrast, the incremental cost of a truck powered by CNG over a diesel-powered truck is $76,100.[16] Assuming each vehicle consumes 11,706 gallons per year and assuming a price difference of $1.91, the payback period for conversion of a diesel-powered truck to a CNG-powered truck is only 3.4 years,[17] long before the expected useful life of a fleet truck expires. Further, reduced engine wear and extended service intervals also reduce maintenance costs for

[9] JSOnline website: http://www.jsonline.com/business/more-fleets-turning-to-compressed-natural-gas-bq8gtko-188512051.html. Retrieved February 18, 2013.
[10] Transport Topics, *Truck Stops Expanding Purchase Options at Fuel Islands to Speed Driver Transactions*, February 4, 2013, p.12.
[11] Market Watch, The Wall Street Journal online: http://www.tampabay.com/news/business/energy/trucks-fueled-by-natural-gas-are-on-a-roll-in-florida/1275519. Retrieved February 18, 2013.
[12] Cost factors, in general, may be different for liquefied natural gas (LNG) vehicles. See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.
[13] Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012.
[14] Id. at 17-18.
[15] Id.
[16] Id.
[17] Id.

CNG-powered vehicles.[18] Thus, so long as the cost of natural gas remains low, as is expected, the cost savings on fuel can more than offset and outweigh the added price paid for the purchase of CNG vehicles, prior to the application of any government incentives.

In addition, well-recognized environmental benefits are associated with the use of natural gas.

> "Natural gas, as the cleanest of the fossil fuels, can be used in many ways to help reduce emissions of pollutants into the atmosphere. Burning natural gas in the place of other fossil fuels emits fewer harmful pollutants, and an increased reliance on natural gas can potentially reduce the emission of many of these most harmful pollutants.
>
> "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues. These issues include:
>
> - Greenhouse Gas Emissions
> - Smog, Air Quality and Acid Rain
> - Industrial and Electric Generation Emissions
> - Pollution from the Transportation Sector – Natural Gas Vehicles"[19]

The FNGVC highlights the following benefits associated with the use of natural gas for fleet trucks:

- Natural gas vehicles can save a company 30 – 50 percent of its fuel costs.
- Central fuel and maintenance make fleets highly conductive to CNG fueling infrastructure.
- While it is true that Florida currently has relatively few natural gas fueling stations in place, several companies offer no-cost or low-cost options for construction and maintenance of such infrastructure.
- Maintenance on a natural gas vehicle is no more problematic and often easier than traditional diesel trucks. Mechanics can be trained quickly and easily for this purpose.
- The cost of converting to CNG is decreasing. In addition, such costs are offset by savings in direct fuel costs and possible financial incentives for the purchase of natural gas vehicles.20

The FNGVC study recommends resolving the chicken vs. egg dilemma by providing incentives to convert to CNG-powered truck fleets, thereby creating a demand for the re-fueling stations and producing significant stimulation of Florida's economy. In a February 7, 2013, memo[21] by the FNGVC, discussing an update of the 2012 study, the coalition indicates that "…new research reflects a dramatic increase in the positive economic impact of an incentive program targeted toward commercial fleets in one quarter of the previously calculated time: over 20,000 new jobs, $715 million in new wages, and $2.5 billion in economic output – all over a 5-year period rather

[18] See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.
[19] Naturalgas.org website: http://www.naturalgas.org/environment/naturalgas.asp. Retrieved February 15, 2013.
[20] FNGVC website: http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf. Retrieved February 15, 2013.
[21] On file with the Senate Transportation Committee.

than a 20-year period."[22] (The scenario assumed a $12 million per year incentive for 5 years with $30,000 for large trucks and $15,000 for small trucks.)

Existing Federal Incentives for Alternative Fuel under Federal Law
Research reveals existing federal incentives and laws related to natural gas.[23] Among the incentives and laws are the:

- Alternative Fuel Infrastructure Tax Credit - Fueling equipment for natural gas as defined in the bill and installed between January 1, 2006, and December 31, 2013, is eligible for a tax credit of 30 percent of the cost, not to exceed $30,000. If qualified equipment in installed at multiple sites, the fuel station owner may apply the $30,000 credit towards each location.24 Unused credits that qualify as general business tax credits, as defined by the Internal Revenue Service (IRS), may be carried backward one year and carried forward 20 years.
- Alternative Fuel Excise Tax Credit - A tax incentive is available for alternative fuel that is sold for use or used as a fuel to operate a motor vehicle. A tax credit in the amount of $0.50 per gallon is available for sale of alternative fuels as defined in the bill. For an entity to be eligible to claim the credit they must be liable for reporting and paying the federal excise tax on the sale or use of the fuel in a motor vehicle. Tax exempt entities such as state and local governments that dispense qualified fuel from an on-site fueling station for use in vehicles qualify for the incentive. Eligible entities must be registered with the Internal Revenue Service (IRS). The incentive must first be taken as a credit against the entity's alternative fuel tax liability; any excess over this fuel tax liability may be claimed as a direct payment from the IRS. This tax credit is applicable to fuel sold or used between January 1, 2005, and December 31, 2013.25
- Tax credit for purchase of alternative fuel vehicles - Federal law at one time also provided for an income tax credit for the purchase of a new, dedicated alternative fuel vehicle of 50 percent of the incremental cost of the vehicle. An additional 30 percent was allowed if the vehicle met certain tighter emission standards. Ranging from $2,500 to $32,000 depending on the size of the vehicle, the credit was effective after December 31, 2005, and expired on December 31, 2010. Congress did not extend the credit, but it did enact a new bonus depreciation provision that allowed companies to expense 100 percent of the cost of new capital equipment. The 100 percent depreciation level applied to equipment placed in service

[22] Certain assumptions in the original study appear to raise questions. For example, the original study on page 25 cites a 1.6 increase in "construction and ongoing clean fuel technology jobs for every truck provided as part of an alternative fuel network. The clean fuel technology jobs are related to vehicles (production, training, service, and operation), stations (construction, maintenance, and ongoing operation), facilities (upgrades of maintenance facilities for CNG as required by code), and exploration and production (gas demand met by local production)." However, this figure is based not just on operation of the vehicle, but on manufacturing of the truck, development of the fuel network (including temporary construction jobs), and exploration and production. Given that manufacture of natural gas-powered vehicles and exploration or production of natural gas has no significant presence in Florida, it is unclear whether the projected economic impacts will be realized within the State of Florida.
[23] U.S. Department of Energy: http://www.afdc.energy.gov/laws/laws/US/tech/3253. Retrieved February 17, 2013.
[24] A tax credit of up to $1,000 is also available to consumers who purchased qualified residential fueling equipment prior to December 31, 2013.
[25] Fishkind notes that the "fuel-excise tax credit has been one of the most successful programs in terms of driving large deployments of natural gas trucks. In addition, unlike grant funding, the value of a federal tax credit is not considered taxable income to a private entity. It is therefore equivalent to a cash rebate, or grant funding at 100% of the value. When the Federal Tax Credits are combined, expedited payback periods of less than two years can be realized on the incremental investment required for a natural gas truck." Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012, pp. 23-24.

after September 8, 2010, through 2011. For 2012 and through 2013, the bonus depreciation level is at 50 percent.26

Current State Taxation of Gasoline, Diesel, and Alternative Fuel

Motor Fuel

Section 206.41(1)(a), F.S., currently imposes an excise or license tax of 2 cents upon each net gallon of specified motor fuel,[27] designated as the "constitutional gas tax." Section 206.41(1), also imposes on each net gallon of motor fuel an additional 1 cent, designated as the "county fuel tax;" an additional 1 cent, designated as the "municipal fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (f); and an additional tax, designated as the "fuel sales tax," at a rate determined as specified in paragraph (g). An additional tax of 1 cent per net gallon may be imposed by each county, designated as the "ninth-cent fuel tax," as well as an additional tax of between 1 and 11 cents per net gallon, designated as the "local option fuel tax." The SCETS tax rate on motor fuel for 2013 is 5.9 cents and the fuel sales tax rate on motor fuel for 2013 is 12.9 cents.[28]

Diesel Fuel

Section 206.87(1)(a), F.S., currently imposes an excise tax of 4 cents upon each net gallon of specified diesel fuel,[29] except for alternative fuels, which are subject to the fee imposed by s. 206.877, F.S. Section 206.87(1), F.S., also imposes on each net gallon of diesel fuel subject to the tax, an additional 1 cent tax known as the "ninth-cent fuel tax;" an additional 6 cents tax known as the "local option fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate specified in paragraph (d); and an additional "fuel sales tax," at a rate determined as specified in paragraph (e). The SCETS Tax rate on diesel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.[30]

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by ch. 212, F.S.

With reference to the SCETS tax, note that s. 206.608, F.S., after deduction of the specified service charge and administrative costs, requires that 99.35 percent of the proceeds of the SCETS tax levied on *motor fuel* be transferred to State Transportation Trust Fund (STTF),[31] and *all of the proceeds from the SCETS tax on diesel fuel* be transferred to the STTF. These funds may be used only for transportation projects in the adopted work program in the Florida Department of

[26] NGVAmerica, citing Pub. L. no. 111-312 (2010) and Pub. L. no. 112-240 (2012): http://ngvamerica.org/incentives/federalTax.html. Retrieved February 17, 2013.

[27] Section 206.01(9), F.S., defines "motor fuel" or "fuel" to mean "all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle."

[28] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, 2013 *Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.

[29] Section 206.86(1), F.S., defines "diesel fuel" to mean "all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle."

[30] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, 2013 *Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.

[31] The Agricultural Emergency Eradication Trust Fund receives 0.35 percent of the proceeds of the SCETS tax on motor fuel.

Transportation (FDOT) district in which the tax proceeds are collected and, to the maximum extent feasible, shall be programmed for use in the county where collected.

Alternative Fuel

Section 206.86(4), F.S., currently defines "alternative fuel" to mean "any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance." The term includes any form of liquefied petroleum gas (*i.e.*, natural gas, butane gas, propane gas) or compressed natural gas. Section 206.86(5), F.S., currently defines "natural gasoline" as "a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.

Section 206.877, F.S., requires owners or operators of motor vehicles licensed in this state which are powered by alternative fuels to pay, in lieu of the 4 cents per gallon excise tax on diesel fuel, an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph. The taxes imposed on diesel fuel under s. 206.87, F.S., apply to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles that do not have the proper decal. In addition, the sale of alternative fuel is generally subject to sales tax imposed under ch. 212, F.S.[32]

A person fueling vehicles from his or her own facilities must, in addition, pay a local alternative fuel fee in lieu of each cent of excise tax levied by a county under s. 206.87(1)(b) and (c), F.S. Those who do not operate their own fueling facilities must pay the appropriate local fee for the particular county where the vehicles are predominantly used.

Generally, the Department of Revenue (DOR) issues an annual decal to be attached to the upper right corner of the front windshield on the motor vehicle for which the decal is issued, and it is unlawful to operate a vehicle that is required to have a decal unless the vehicle is titled outside the state. Each sale of alternative fuel placed in a motor vehicle displaying a decal must be documented on an invoice that includes the decal number, the motor vehicle license number, and the number of gallons placed into the motor vehicle. Any person who puts or causes to be put liquefied petroleum gas or compressed natural gas into a motor vehicle required to have a decal is guilty of a first degree misdemeanor unless the vehicle has the required attached decal. A state or local governmental agency is not required to obtain a decal and pay the annual decal fee for motor vehicles powered by alternative fuel and operated by the state or local governmental agency.

Section 206.89, F.S., provides that a person may not act as a retailer of alternative fuel unless he or she holds a valid retailer of alternative fuel license issued by DOR, and any person acting as such who does not hold a license must pay a penalty of 25 percent of the tax assessed on the total purchases. A filing fee of $5 is required at the time of filing an application for a license. Terminal suppliers, importers, and wholesalers must also provide a specified bond that must be filed with DOR to ensure payment to the state of the amount of tax, any penalties, and interest. Every person who operates as a retailer of alternative fuel, except those licensed under ch. 206,

[32] Fla. Admin. Code R. 12A-1.059.

F.S., including without limitation a state agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., are deposited into the State Alternative Fuel User Fee Clearing Trust Fund, and the revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are deposited into the Local Alternative Fuel User Fee Clearing Trust Fund, as provided in s. 206.879, F.S. After deducting the specified service charge, the proceeds from state alternative fuel fees are distributed as follows:

- one-half of the proceeds to the State Transportation Trust Fund (STTF);
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with Article XII, Section (9)(c), of the Florida Constitution (first call on the proceeds is to meet debt service requirements, if any, on local bond issues backed by the tax proceeds with the balance credited to the counties' transportation trust funds);
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities (distributed in accordance with criteria contained in ch. 218, F.S.); and
- the remaining 25 percent distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).

The revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are to be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds are returned monthly to the appropriate county.

Annual distributions to the STTF from the State Alternative Fuel User Fee Clearing Trust Fund reported by the Florida Department of Transportation for the current year and the previous 10 fiscal years are as shown below, suggesting an upward trend in the sale of alternative fuel decals in the more recent past.

Alt. Fuel Tax to STTF	
2003	$124,567.28
2004	$141,906.37
2005	$115,870.65
2006	$168,235.78
2007	$ 77,635.60
2008	$ 49,039.66
2009	$ 39,480.07
2010	$ 33,758.92
2011	$ 32,915.48
2012	$ 42,045.66
2013	$ 54,217.96

Aviation Fuel Tax Refunds

Section 206.9825(1), F.S., imposes an excise tax of 6.9 cents per gallon for every gallon of aviation fuel sold in this state or brought into this state for use. Any wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that

increases its Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions after January 1, 1996, is authorized to receive a credit or refund of the 6.9 cents per gallon, if the carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. If the number of full-time equivalent employees created or added to the air carrier's Florida workforce falls below 250 before July 1, 2001, the exemption does not apply during the period in which the carrier has fewer than the 250 additional employees.

Because the current language is tied to job creation for the five years after January 1, 1996, an air carrier that actually has been reducing its workforce since then could qualify for a refund because it employed more workers than it did before January 1, 1996, in numbers still sufficient to meet the thresholds. For five distributions during the current fiscal year, FDOT advises the aviation refund dollar amounts were higher than the incoming revenues and that the Department of Revenue (DOR) was forced to offset the aviation fuel tax refund from other tax sources, such as the motor fuel tax.

FDOT notes that through April 2012 distributions, most STTF tax sources are within a reasonable margin of error as compared to the estimate, but that aviation fuel tax deposited into the STTF is below the estimate by 51.5 percent.

Wrecker Permits/Disabled Vehicles

Current s. 316.515(8), F.S., allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over legal weight, provided that the wrecker is operating under a special use permit. This provision was passed during the 1997 session. During the same session, s. 316.550(5), F.S., was passed to authorize FDOT to issue such overweight permits.[33] However, s. 316.530(3), F.S., (originally passed as s. 316.205(3) in 1976) which allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, was inadvertently overlooked and still remains in current law, despite the direct conflict with subsequently passed legislation.

As the 1997 changes rendered the provisions of s. 316.530(3), F.S., obsolete, the last-passed provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have since that time been enforced.

Commercial Motor Vehicles/Auxiliary Power Units

Section 756 of the Energy Policy Act of 2005, "Idle Reduction and Energy Conservation Deployment Program," amended 23 U.S.C. 127(a)(12) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology ("auxiliary power units" or "APUs")[34] on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created by the 2010 Legislature to provide for a 400-pound

[33] These changes are consistent with federal law, specifically 23 U.S.C. 127(a) and 23 C.F.R. 658.17, which authorize states to permit nondivisible loads and vehicles (defined to include emergency response vehicles) exceeding maximum weight limits upon the issuance of special permits in accordance with state law.

[34] An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during resting periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants, as well as noise).

reduction in the gross weight of commercial motor vehicles equipped with idling reduction technology when calculating a penalty for exceeding maximum weight limits. The reauthorized Federal-aid highway program, Moving Ahead for Progress in the 21st Century (MAP-21) further amended 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight of APUs.

Space Transportation Facilities

FDOT and Space Florida are currently authorized to enter into a joint participation agreement to effectuate the provisions of ch. 331, F.S., and FDOT is authorized to allocate funds for such purposes in its five-year work program. FDOT is prohibited from funding the administrative or operational costs of Space Florida.

Space Florida is required to develop a spaceport master plan for expansion and modernization of space transportation facilities within defined spaceport territories, containing recommended projects, and is required to submit the plan to FDOT; and FDOT may include the plan within FDOT's five-year work program of qualifying aerospace discretionary capacity improvement projects. FDOT is authorized to participate in the capital cost of eligible spaceport discretionary capacity improvement projects, subject to the availability of appropriated funds. The plan is required to identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF. FDOT's annual LBR must be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.[35]

FDOT advises it programmed $16 million in spaceport projects in both FY 2011-2012 and 2012-2013. FDOT further advises its Tentative Work Program for Fiscal Years 2014-2018 will be submitted to the Governor, the Legislature, the FTC and the Department of Economic Opportunity (DEO) on February 19, 2013, and will reflect a minimum of $20 million a year for 5 years for Space Florida transportation projects.[36]

State Aviation Program

Section 332.007, F.S., requires FDOT to prepare and continuously update an aviation and airport work program that separately identifies development projects and discretionary capacity improvement projects. Subject to the availability of appropriated funds, FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects,[37] unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. FDOT is also authorized, subject to the availability of appropriated funds in addition to aviation fuel tax revenues, to participate in the capital cost of eligible public

[35] "Spaceport discretionary capacity improvement projects" is defined in s. 331.303(21), F.S., to mean capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.
[36] FDOT email, February 7, 2013, on file in the Senate Transportation Committee.
[37] In short, defined in s. 332.004(4), F.S., as "…any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof…."

airport and aviation discretionary capacity improvement projects,[38] again at percentage rates that vary. FDOT notes the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that FDOT does not have a similar investment initiative or authority for the Aviation Program.

Toll Authorities/Lease-Purchase Agreements

In addition to FDOT, various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of FDOT), most, but not all, of the toll authorities are established under ch. 348, F.S., entitled "Expressway and Bridge Authorities." Various sections of ch. 348, F.S., provide the toll authorities the ability to enter into lease-purchase agreements with FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities are authorized under ch. 343, F.S., to enter into lease-purchase agreements with FDOT, and a bridge authority established by special act of the Legislature is similarly authorized. FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows FDOT to lend or pay a portion of the operation and maintenance (O&M) and capital costs of any revenue-producing transportation project located on the SHS or that is demonstrated to relieve traffic congestion on the SHS. FDOT pays such costs using funds from the STTF.

In a typical lease-purchase agreement between FDOT and a toll authority, FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or R&R) costs of the associated toll facility. Upon completion of the lease-purchase agreement, ownership of the facility would be transferred to the State and FDOT would retain all revenues collected, as well as the O&M responsibility.

As required by existing agreements, FDOT paid $9.2 million in O&M expenses in FY 2011-2012 and an additional $32.8 million in R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. These funds accrue to an authority's long-term debt owed to FDOT. When O&M and R&R expenses are not reimbursed by the toll authority on a current basis, *e.g.*, monthly or annually, the STTF monetary advances are added to the authority's long-term debt due to FDOT. As of June 30, 2012, debt owed to FDOT from various toll authorities for expenses paid totaled approximately $419.7 million.

Vehicle Registration/FDOT Contractors

Section 320.02(1), F.S., provides that every owner or person in charge of a motor vehicle operated or driven on the roads of this state shall register the vehicle in this state, except as otherwise provided. Section 320.37, F.S., provides that the registration requirement (and license plate display requirements) does not apply to a motor vehicle owned by a nonresident if the nonresident has complied with the registration law of the foreign country, state, territory, or federal district of the owner's residence. However, s. 320.38, F.S., provides that if a nonresident

[38] Defined in s. 332.004(5), F.S., as "…capacity improvements … which enhance intercontinental capacity at [specified] airports…."

accepts employment or engages in any trade, profession, or occupation in this state, the nonresident must register his or her motor vehicle in this state within 10 days after beginning such employment.

Section 337.11(13), F.S., requires each road or bridge construction or maintenance contract let by FDOT to contain a provision requiring the contractor to provide proof to FDOT, in the form of a notarized affidavit from the contractor, that all motor vehicles that he or she operates or causes to be operated in this state are registered in compliance with ch. 320, F.S.

Transportation Projects/Prequalification/Bidding

Section 337.14(1), F.S., requires that persons "…desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified…." Section 337.14(2), F.S., provides: "Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than $250,000." The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "…with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."

This language could be interpreted as being tied to a bid amount, *i.e.*, so long as the *bid* is not in excess of $250,000, a person would not be required to first be certified prior to bidding. FDOT's bid solicitation notices, however, currently advise: "A prequalified contractor must have a current certificate of qualification in accordance with Rule Chapter 14-22, F.A.C., on the date of the letting to bid on construction projects over $250,000 as established by the Department's budget." Consequently, persons seeking to bid on construction contracts in excess of $250,000 are currently required to be qualified on the date of the letting.

For comparison, revisions to s. 337.14(1), F.S., during the last legislative session with respect to financial statements submitted in connection with the performance of construction contracts of less than $1 million expressly tied that submission to proposed budget estimates, rather than to the bid amount.

Public Records/Identities of Potential Bidders

Section 337.168(2), F.S., currently provides that a document revealing the identity of persons who have requested or obtained bid packages, plans, or specifications pertaining to any project to be let by the department is confidential and exempt from the provisions of s. 119.07(1) for the period which begins 2 working days prior to the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. FDOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.[39] In accordance with s. 337.168(2), F.S., FDOT's Central Office takes the lists down two working days prior to the deadline for obtaining bid packages, plans, or specifications. However,

[39] http://www.dot.state.fl.us/cc-admin/Letting_Project_Info.shtm: Retrieved March 1, 2013. To access a list, click on a letting date in the near future under "2013 Lettings" and then choose "Proposal Holders" under "Important Letting Documents."

the lists include the identity of persons who requested or obtained bid packages, plans, or specifications *before* the 2-day period of exemption begins.

The Florida Transportation Builders' Association advises that small contractors need and rely on access to the identities of potential bidders that are not made exempt under s. 337.168(2), F.S., for the purpose of submitting sub-contract bids to general contractors for their use in preparing bids for FDOT projects.

Unsolicited Lease Proposals

Section 337.251, F.S., *Lease of property for joint public-private development and areas above or below department property*, authorizes FDOT to request proposals for the lease of FDOT property for joint public-private development or commercial development. FDOT may also receive and consider unsolicited proposals for such uses. If FDOT receives an unsolicited proposal to negotiate a lease, FDOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. FDOT must also mail a copy of the notice to each local government in the affected area.

Any unsolicited lease proposal must be selected based on competitive bidding, and FDOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of FDOT by the lessee in lieu of direct revenue to FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, FDOT must determine that the property subject to the lease has a permanent transportation use related to FDOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses, and is therefore not available for sale as surplus property.

Section 334.30, F.S., *Public-private transportation facilities*, authorizes FDOT to lease certain toll facilities through public-private partnerships and also authorizes FDOT to receive unsolicited proposals. That section directs FDOT to establish by rule an application fee sufficient to pay the costs of evaluating a proposal. FDOT is further authorized to engage the services of private consultants to assist in the evaluation.

Unlike s. 337.251, F.S., before approving a proposal, FDOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the SHS; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by FDOT; would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by FDOT upon completion or termination of the agreement.[40] In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

[40] The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

If FDOT receives an unsolicited proposal for a lease through a public-private partnership, FDOT must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for two weeks stating that FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. FDOT must also mail a copy of the notice to each local government in the affected area.

Facilities in the Right-of-Way

Section 337.408, F.S., authorizes cities and counties to authorize the installation of bus benches and transit shelters for the comfort and convenience of the general public, or at designated stops on official bus routes. This authority includes installation within the right-of-way limits of any state road except a limited-access highway. FDOT was previously authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property were endangered or deemed a roadway safety hazard. After FDOT settled a lawsuit against it for failure of such installations to comply with the Americans with Disabilities Act (ADA), the 2012 Legislature amended the law to provide that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities and counties that authorize or have authorized a bench or transit shelter to be installed within the right of way limits of any road on the SHS are responsible for ensuring that the bench or transit shelter complies with all applicable laws and rules, including the ADA, or shall remove the bench or transit shelter. FDOT has no liability for any claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, or court costs relating to the installation, removal, or relocation of any benches or transit shelters authorized by a municipality or county.

A municipality or county that authorizes a bench or transit shelter to be installed within the right-of-way limits of any road on the SHS must require the qualified private supplier, or any other person under contract to install the bench or transit shelter, to indemnify, defend, and hold harmless FDOT in a notarized signed statement that this requirement has been met.

Municipalities and counties that have authorized the installation of benches or transit shelters within the right-of-way limits of any road on the SHS must remove or relocate, or cause the removal or relocation of, the installation at no cost to FDOT, within 60 days after written notice that the installation is unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the SHS road.

Toll Collection/Interoperable Facilities

During the 2012 Legislative Session, the Legislature passed both HB 599 and SB 1998, and both contained language relating to FDOT authority to enter into agreements with public or private transportation facility owners (whose systems become interoperable with FDOT's systems) for the use of FDOT systems to collect and enforce for the owner tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner's facility. The language, however, is not identical. Part of the last-passed version of the language contained in HB 599 is potentially ambiguous, leading to more than one possible interpretation, and part of needed language that passed in HB 599 was not included in SB 1998. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Beeline-East Expressway and Navarre Bridge

Section 338.165(4), F.S., authorizes FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in FDOT's adopted work program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.41 The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Alligator Alley Excess Revenues

Section 338.26, F.S., provides that any excess revenues from Alligator Alley, after facility operation and maintenance, contractual obligations, reconstruction and restoration, and the development and operation of a fire station at mile marker 63,[42] *may* be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

FDOT advises that operation of the fire station is expected to begin in Fiscal year 2014; and the FDOT finance plan, based on projections provided to FDOT, contains the following funding for operation of the fire station:[43]

2013	$0
2014	$1,200,000
2015	$1,242,000
2016	$1,285,470
2017	$1,330,461
2018	$1,377,028

With respect to transfers to SFWMD, FDOT and SFWMD entered into a memorandum of understanding on June 30, 1997,[44] under which FDOT agreed to a schedule of payments to SFWMD totaling $63,589,000. FDOT expects to be able to meet its obligations under the current payment schedule by Fiscal Year 2016 as follows:[45]

[41] See s. 338.165(10), F.S.
[42] FDOT indicates that the fire station is currently under construction, and construction is funded by FDOT. FDOT notes that another fire station is located on the Alley in Broward County. Broward County provided the funding for construction of that station and provides the funding for its operation.
[43] FDOT email, March 1, 2013, on file in the Senate Transportation Committee.
[44] On file in the Senate Transportation Committee.
[45] FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

2013	$4,400,000
2014	$5,000,000
2015	$8,000,000
2016	$7,064,000

The agreement further provides that prior to its expiration, FDOT and SFWMD will renegotiate the terms, conditions, and duration of the agreement, taking into account toll revenues from the Alley, future costs to operate and maintain the Alley, reconstruction and restoration activities of the Alley, the transportation funding needs of Broward and Collier counties pursuant to s. 338.165(2), F.S.,[46] and the continuing costs of the Everglades restoration projects.

Metropolitan Planning Organizations/Designation/Membership

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule (23 U.S.C. 134 and 23 C.F.R 450 Part C) require a metropolitan planning organization (MPO) to be designated for each urbanized area[47] or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Section 339.175(2)(a)2., F.S., currently provides that designation of an MPO be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the MPO jurisdiction, as defined by the United State Bureau of the Census, must be a party to such agreement. This language has been superseded by revisions to 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b), which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.[48] Re-designation of an MPO is required whenever the existing MPO proposes to make a substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general-purpose local government served by the MPO, and the State; or a

[46] That section requires that if a revenue-producing project is on the State Highway System, any remaining toll revenue after discharge of indebtedness related to such project must be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.
[47] An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.
[48] 23 C.F.R. 450.301(h) (2012).

substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under MPO bylaws.[49]

Current law does not authorize more than 19 members on an MPO in cases when the MPO is re-designated as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs within a single urbanized area, even if the membership is already at 19 members.

Economic Development Transportation Projects

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations. One such incentive exists in what is commonly referred to as the Road Fund, which is funded by a transfer from the STTF and used to assist local government in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year. The Legislature in 2012 repealed s. 288.063, F.S., in which the Road Fund was statutorily placed, and created s. 339.2821, F.S. The revisions did not change the purpose of the Road Fund but simply moved oversight of the fund from DEO to FDOT.[50]

FDOT, in consultation with DEO, is authorized under the new section to make and approve expenditures and contract with the appropriate government body for the direct costs of transportation projects. Enterprise Florida, Inc., is not currently included as a consultant. Section 339.2821, F.S., also contains requirements for inclusion in a contract between FDOT and a governmental body that include requiring that the governmental body provide FDOT with specified quarterly reports, that FDOT transfer of funds to the governmental body will occur not more than quarterly, that the governmental body expend funds received in a timely manner, and that FDOT may not transfer funds unless construction has begun on the facility of a business on whose behalf the award was made.

State-Funded Infrastructure Bank/Spaceports

Section 339.55, F.S., creates the state-funded infrastructure bank (SIB), which provides loans to government units and private entities to help fund transportation projects. The loans are repaid from revenues generated by the project, such as a toll road or other pledged resources. The repayments are then re-loaned to fund new transportation projects. The section authorizes the SIB to lend capital costs or provide credit enhancements for a transportation facility project on the SHS or for a project which provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals. Loans from the SIB may bear interest at or below market interest rates, as determined by FDOT. Repayment of any SIB loan must begin no later than 5 years after the project has been complete or, in the case of a highway project, the facility has opened to traffic, whichever is later, and must be repaid in 30 years. Unlike projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation

[49] 23 C.F.R. 450.301(k) (2012).
[50] Budget Committee Final Analysis of SB 1998: http://www.flsenate.gov/Session/Bill/2012/1998/Analyses/M6TO2qtoNCs60=PL=Y=PL=DT9BT2bnWNo=%7C11/Public/Bills/1900-1999/1998/Analysis/s1998z2.TEDAS.PDF.

terminals, projects that provide intermodal connectivity with spaceports are not currently included as projects eligible for SIB loans.

Intercity Bus Service/Funding Eligibility

The Federal Transit Administration's Intercity Bus Program (49 U.S.C. 5311(f)), is administered by FDOT. Its purpose is to support and maintain intercity bus services, in order to preserve service through rural areas of the state. FDOT provides matching funds as required by s. 339.135(4), F.S. Florida's statutory definition of "intercity bus service" is more restrictive than the federal definition, which limits the number of companies competing for funding.

Section 341.031(11), F.S., defines "intercity bus service" as regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains schedule information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Greyhound Bus Lines is currently the only private, for-profit company operating intercity bus services in Florida that meets the statutory definition to receive federal and state intercity bus program funding, as it is the only company in Florida that maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Intermodal Development Program

Section 341.053, F.S., was originally enacted in 1990 to create the Intermodal Development Program administered by FDOT to provide for major capital investments in fixed-guideway transportation systems, access to seaports, airports and other transportation terminals, and to assist in the development of dedicated bus lanes. The Legislature in 1999 added direction to FDOT to develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state.

Section 341.053(6), F.S., currently authorizes FDOT to fund projects including major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports, airports, and other transportation terminals; construction of intermodal or multimodal terminals; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods. Spaceport projects are not currently included.

Rail Corridors/Ancillary Development

FDOT is responsible for developing and implementing a statewide rail program. As part of that program, FDOT is authorized to acquire, operate, and manage rail corridors to provide new rail service. "Ancillary development" is defined in s. 341.301(1), F.S., to include any lessee or licensee of FDOT, including other governmental entities, vendors, retailers, restaurateurs, or

contract service providers, within an FDOT-owned rail corridor, except for providers of commuter rail service, intercity rail passenger service, or freight rail service; and includes air and subsurface rights, services that provide a local area network for devices for transmitting data over wireless networks, and advertising. The term "rail corridor" in s. 341.301(8), F.S., is specifically defined to include ancillary development within an FDOT-owned rail corridor. Further, FDOT is authorized in s. 341.302(17)(b), to purchase specified liability insurance which includes coverage for ancillary development. While ancillary development within an FDOT-owned rail corridor is implied, current language does not clearly and expressly authorize FDOT to engage in ancillary development. In contrast, FDOT is explicitly authorized to undertake similar development activities in an FDOT-owned high speed rail corridor under s. 341.836, F.S.

Toll Facilities Revolving Trust Fund/Obsolete References

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.[51] That section created the Toll Facilities Revolving Trust Fund, which was a loan program created to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike Enterprise. However, two references to the now repealed trust fund remain in statute.

Currently Established Toll Authorities

Aside from FDOT and Florida's Turnpike Enterprise, a number of authorities exist in Florida that operate toll facilities and collect and reinvest toll revenues.[52]

Miami-Dade Expressway Authority
The Miami-Dade Expressway Authority (MDX) governing body consists of 13 voting members. The Miami-Dade County Commission appoints seven members, the Governor appoints five members, and the FDOT district six secretary is the *ex-officio* member of the Board. Except for the secretary, all members must be residents of Miami-Dade County and each serves a four-year term and may be reappointed.[53]

MDX currently oversees, operates and maintains five tolled expressways constituting approximately 34 centerline-miles and 220 lane-miles of roadway in Miami-Dade County: Dolphin Expressway (SR 836); Airport Expressway (SR 112); Don Shula Expressway (SR 874); Gratigny Parkway (SR 924) and Snapper Creek Expressway (SR 878). MDX reported toll and fee revenue of $121.9 million (net of $2.8 million of allowance) in Fiscal Year (FY) 2011 based on 220 million transactions.[54] The FTC report indicates that approximately $45.5 million in outstanding debt ($6 million in loans from the now-repealed Toll Facilities Revolving Trust Fund and $39.5 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.[55]

Orlando-Orange County Expressway Authority

[51] Ch. 2012-128, L.O.F.
[52] The MBBA is also included among these authorities.
[53] s. 348.0003, F.S.
[54] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 22.
[55] Id.

The Orlando-Orange County Expressway Authority (OOCEA) governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four-year terms and may be reappointed. The Orange County mayor and FDOT's district five secretary are the two ex-officio members of the Board.[56]

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County: 22 miles of the Spessard L. Holland East-West Expressway (SR 408), 23 miles of the Martin Andersen Beachline Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414). OOCEA reported toll revenue of $260 million in FY 2011 based on 296 million transactions.[57] The FTC report indicates that approximately $270 million in outstanding debt ($221 million in advances for O&M expenses, $14 million in advances for completion of the East-West Expressway, and $34.8 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.[58]

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway and, pursuant to direction in SB 1998 (2012), OOCEA will repay FDOT for costs of operation and maintenance of the OOCEA system; FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates as specified; and ownership of the system remains with the OOCEA.

Santa Rosa Bay Bridge Authority
The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT district three secretary is an ex-officio member of the Board. Except for the secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.[59]

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.[60] Florida's Turnpike Enterprise provides toll operations for the SRBBA, and FDOT's district three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and O&M expenses, the costs of O&M are recorded as debt owed to FDOT. The FTC report indicates that the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund, and the balance of these liabilities on June 30, 2011, was $24.7 million.[61]

Tampa-Hillsborough County Expressway Authority
The Tampa-Hillsborough County Expressway Authority (THEA) governing body consists of seven members, four of which are appointed by the Governor and serve four-year terms. The

[56] s. 348.753, F.S.
[57] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 38.
[58] Id. at 39.
[59] Section 348.967, F.S.
[60] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, pp. 57-58.
[61] Id.

City of Tampa mayor, a member of the Board of County Commissioners selected by the board, and FDOT's district seven secretary are *ex-officio* members.[62]

THEA owns the four-lane Selmon Expressway, which is a 15-mile limited access toll road crossing the City of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The FTC report indicates that beginning in Fiscal Year 2001, THEA has reimbursed FDOT for annual O&M expenses pursuant to the adopted budget and that only renewal and replacement costs continue to be added to long-term debt. As of June 30, 2011, THEA owes FDOT approximately $200.7 million for O&M, renewal and replacement expense advances, and other FDOT loans.[63]

Northwest Florida Transportation Corridor Authority
The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. NFTCA is also authorized to issue bonds.[64] Eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties, are appointed by the Governor to serve four-year terms on the governing body. FDOT's district three secretary serves an as *ex-officio*, non-voting member.[65]

The NFTCA is not currently operating any facility. The FTC report indicates:

> As part of the Master Plan update, NFTCA's general consultant (HDR) is conducting a business case analysis to help the Authority in selecting and planning transportation projects by assessing their respective economic benefits, developing an investment plan and proposing viable funding strategies. The business case analysis includes an extensive public outreach program involving regional planning councils in the eight-county geographic area covered by NFTCA and a series of workshops involving other key stakeholders in the region.[66]

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, and regional transportation planning.[67]

Osceola County Expressway Authority
Created in 2010, the Osceola County Expressway Authority (OCX) governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.[68]

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[62] Section 348.52, F.S.
[63] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 73.
[64] Section 343.82, F.S.
[65] Section 343.81, F.S.
[66] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 160.
[67] Id.
[68] Section 348.9952, F.S.

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The FTC report indicates efforts in 2011 to finalize an agreement for $2.5 million in grant funding from FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.[69]

Tampa Bay Area Regional Transportation Authority
The Tampa Bay Area Regional Transportation Authority (TBARTA) is an agency of the state whose purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the seven-county Tampa Bay region.[70] TBARTA's governing body consists of 16 members: one elected official appointed by the respective County Commissions from Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee and Sarasota counties; one member appointed by the West Central Florida Metropolitan Planning Organization Chairs Coordinating Committee who must be a chair of one of the six Metropolitan Planning Organizations in the region; two members who are the mayor or the mayor's designee of the largest municipality within the area served by the Pinellas Suncoast Transit Authority and the Hillsborough Area Transit Authority; one member who is the mayor or the mayor's designee of the largest municipality within Manatee or Sarasota County, providing that the membership rotates every two years; four members who are business representatives appointed by the Governor, each of whom must resided in one of the seven counties of TBARTA; and one non-voting member who is the secretary of one of the FDOT districts within the seven-county area appointed by the FDOT secretary.[71]

TBARTA is not currently operating any facility. The FTC report indicates that "TBARTA is beginning to prioritize projects, develop financial strategies for implementation, coordinate the advancement of more detailed planning and environmental analysis for the prioritized projects, and continue public engagement and education efforts." The FTC report lists nine current TBARTA projects (evaluations and studies) funded by FDOT.[72] TBARTA also operates TBARTA Commuter Services, which is a free, online ride-matching program enabling commuters to connect with each other to share rides and is engaging in additional activities, such as identifying opportunities for collaboration and consolidation with other entities in the region, strengthening existing partnerships and examining the potential for new ones, identify short-term solutions to traffic congestion, and continuing to look for process improvements and potential cost savings.[73]

TBARTA and FDOT entered into an agreement under which, in 2009, FDOT advanced $500,000 from a $2 million appropriation to pay initial administrative expenses, and the 2009 and 2010 Legislature appropriated unspent funds from the $2 million to TBARTA. The

[69] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.
[70] Section 343.922, F.S.
[71] Section 343.92, F.S.
[72] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 177.
[73] Id. at 179.

Legislature in 2011 did not appropriate unspent funds to TBARTA and repealed TBARTA's authority to enter into lease-purchase agreements with FDOT.[74]

III. Effect of Proposed Changes:

Section 1: Amends s. 20.23, F.S., to require the FTC to monitor the efficiency, productivity, and management of regional tollway authorities created under a new ch. 345, F.S., and to repeal the Florida Statewide Passenger Rail Commission. Overlapping oversight of publicly-funded passenger rail systems is eliminated and remains solely with the FTC.

Section 2: Amends s. 110.205(2)(j) and (m), F.S., to change the title of FDOT's State Public Transportation and Modal Administrator to State Freight and Logistics Administrator.

Section 3: Creates s. 163.3176, F.S., to set forth Legislative findings regarding residential development of land adjacent to the rights-of-way of limited-access facilities; requires local governments to ensure that noise compatible land-use planning is employed in their jurisdictions in the development of land for residential use adjacent to right-of-way acquired for a limited-access facility, including incorporation of federal and state noise mitigation standards and guidelines in all local government land development regulations; and requires local governments to ensure that residential development proposed adjacent to a limited-access facility be planned and constructed in conformance with all such standards, guidelines, and regulations.
Local governments are required to:

- determine if existing land development regulations comply with federal and state noise mitigation standards and guidelines;
- ensure incorporation of compliant regulations in all local government comprehensive plans, amendments of adopted comprehensive plans, zoning plans, subdivision plat approvals, development permits, and building permits;
- consult with FDOT and DEO, as needed;
- adopt compliant regulations land development regulations as soon as practical but no later than July 1, 2014, if local government regulations do not comply; and,
- contribute 50 percent of FDOT's cost of providing the required noise mitigation if a local government fails to comply with this section and, as a result, FDOT is required to construct a noise wall or other noise mitigation in connection with a road improvement project.

Section 4: Amends s. 206.86, F.S., to remove the definitions of "alternative fuel" and "natural gasoline." Definitions are being provided in a new part V of ch. 206, F.S.

Section 5: Amends s. 206.87(1)(a), F.S., to remove the exception from the 4-cents-per-net-gallon excise tax for alternative fuels subject to the fee imposed by s. 206.877, F.S. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

Section 6: Repeals s. 206.877, F.S., relating to payment of annual decal fees in lieu of the tax imposed by s. 206.87, F.S., for motor vehicles fueled by liquefied petroleum gas or compressed natural gas. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

[74] SB 2152 (2011).

Section 7: Repeals s. 206.89, F.S., relating to retailer of alternative fuel licenses, applications for such licenses, DOR issuance, and monthly reports and payment of tax on all fuel purchases. The provisions of s. 206.89, F.S., are being moved to a new part V of ch. 206, F.S.

Section 8: Amends s. 206.91(1), to remove from required monthly reports to DOR information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of alternative fuel; and to make editorial changes. These reporting requirements are being moved to a new part V of ch. 206, F.S., to be applicable for natural gas fuel.

Section 9: Amends s. 206.9825(1), F.S., deleting the 1996 date certain, to provide that any air carrier that offers transcontinental jet service and has, *within the preceding five-year period* from January 1 of the year the exemption is being applied for, increased its Florida workforce by more than 1,000 percent and by 250 or more full-time employee positions as provided in reports required to be filed pursuant to s. 443.163, F.S.,[75] may purchase aviation fuel exempt from the 6.9 cents per gallon tax from terminal suppliers and wholesalers, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.

The bill:

- requires an air carrier to submit a specified written request to DOR to qualify for the exemption;
- provides that the exemption expires on December 31 of the year in which it was granted;
- disallows the exemption for any period prior to the effective date of the air carrier exemption letter issued by DOR;
- requires air carriers to submit a specified written request to DOR to renew the exemption;
- authorizes terminal suppliers and wholesalers to receive a credit or apply for a refund as specified;
- provides that if, during the one-year period the exemption is in place, the air carrier fails to maintain the required increase in its Florida workforce, the exemption will not apply during the period in which the air carrier was no longer qualified; and,
- authorizes DOR to adopt rules.

These revisions may facilitate stability in aviation fuel tax collections, refunds, and revenues by providing an air carrier exemption process on the front end and changing the qualifying status of any refund from an increase in workforce when compared to January 1, 1996, to an increase in workforce when compared to the five years prior to the period that the refund is being applied for. Qualifying air carriers may choose to seek the exemption upon becoming eligible, so that the tax is not collected from the carrier at the time of purchase, thereby reducing the need for refunds to wholesalers and terminal suppliers and facilitating improved revenue predictability. Providing a one-year period in which to apply for a refund eliminates applications for refunds for multiple years, thereby reducing the potential for refunds that exceed revenues. Air carriers may be rewarded for increasing their workforces within the reasonable past, rather than 17 years ago.

[75] Section 443.163, requires Employers Quarterly Reports from any employer who employed 10 or more employees in any quarter during the preceding state fiscal year, reflecting reporting and remitting of contributions and reimbursements for unemployment compensation purposes.

Section 10: Requests the Division of Law Revision and Information to create part V of ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled "NATURAL GAS FUEL."

Section 11: Creates s. 206.9951, F.S., entitled "Definitions," to define terms as follows:

- "Motor fuel equivalent gallon" means the volume of natural gas fuel it takes to equal the energy content of one gallon of fuel.
- "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. The term includes without limitation all forms of fuel commonly or commercially know or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. (This definition is all but identical to the definition of "alternative fuel" being deleted from s. 206.86, F.S.)
- "Natural gas fuel retailer" means any person who sells natural gas fuel to be placed into the fuel supply system of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance.
- "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel. (This definition is identical to the definition of "natural gasoline" being deleted from s. 206.86, F.S.)
- "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency, or a political subdivision of the state.

Section 12: Creates s. 206.9952, F.S., entitled "Application for license as a natural gas fuel retailer," to provide that it is unlawful for any person to engage in business as a natural gas fuel retailer within this state unless he or she is the holder of a valid license issued by DOR to engage in such business; to exempt from licensure a person who has facilities for placing natural gas fuel into the supply system of an internal combustion engine fueled by individual portable containers of 10 gallons or less, provided that the fuel is only used for exempt purposes; to require any person acting as a natural gas retailer without holding a valid natural gas fuel retailer license to pay a $200 penalty for each month of operation without a license; to require, effective January 1, 2019, any person acting as a natural gas fuel retailer without holding a valid natural gas fuel retailer license to pay a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period; to require a person to file an application and a bond with DOR on a form prescribed by DOR and to prohibit DOR from issuing a license unless the application is accompanied by a bond; to authorize DOR, if evidence warrants, to refuse to issue a license when a natural gas fuel retailer license application is filed by a person whose previous license was canceled for cause or when DOR believes that such application was not filed in good faith or is filed by another person as a subterfuge for the actual person in interest whose previous license has been canceled; to provide that a natural gas fuel retailer license issued by DOR remains in effect so long as the natural gas fuel retailer is in compliance with this part; to prohibit assigning a license and provide that the license is valid only for the natural gas fuel retailer in whose name the license is issued; to require the license be displayed conspicuously in the principal place of business for which the license was issued; to require each person who operates as a natural gas fuel retailer, except a state or federal agency or a political subdivision licensed under this chapter, to report monthly to DOR and pay a tax on all natural gas fuel purchases beginning January 1, 2019; to require a $5 license fee for the license application; to require annual renewal

of each license by submitting a reapplication and the $5 license fee to DOR; and to require payment of the license fee to DOR for deposit into the General Revenue Fund. These revisions primarily lift the provisions of s. 206.89, F.S., which are being repealed, and place them in the new part V of ch. 206, F.S.

Section 13: Creates s. 206.9955, entitled "Levy of natural gas fuel tax," to establish the motor fuel equivalent gallon for a compressed natural gas gallon (5.66 pounds, or per each 126.67 cubic feet), for a liquefied natural gas gallon (6.22 pounds), and for a liquefied petroleum gas gallon (1.35 gallons); to impose an excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel; to impose an additional 1 cent tax , designated as the "ninth-cent fuel tax;" to impose an additional 6 cents tax, designated as the "local option fuel tax;" to impose an additional tax designated as the "State Comprehensive Enhanced Transportation System Tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, by adjusting the initially established rate of 6.9 cents per gallon by the Consumer Price Index; to impose an additional tax for the privilege of selling natural gas fuel, designated as the "fuel sales tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, calculated by adjusting the initially established tax rate of 12.9 cents per gallon by the Consumer Price Index and authorizing DOR to adopt rules and publish forms to administer the fuel sales tax; and to impose the 4 cents excise tax and additional taxes on natural gas fuel when it is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance, and to impose liability for payment of the identified taxes on the person selling the fuel to the end user, where the fuel is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance. These taxes replace the annual decal fees in current s. 206.877, F.S., but are not effective until January 1, 2019. Natural gas fuel will be taxed in the same fashion as diesel fuel beginning January 1, 2019, except that natural gas fuel remains subject to the sales tax under ch. 212, F.S.

Section 14: Creates s. 206.996, entitled "Monthly reports by natural gas fuel retailers; deductions," to require each natural gas fuel retailer, beginning with February 2019 and each month thereafter, and for the purpose of determining the amount of taxes imposed by s. 206.9955, F.S., to file monthly electronic reports with DOR showing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month, no later than the 20th day of each month; to provide that if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, a return must be accepted if it is electronically filed on the next succeeding business day; to require the reports to include, or be verified by, a written declaration stating that such report is made under penalties of perjury; to require the natural gas fuel retailer to deduct from the amount of taxes shown by the report to be payable an amount equivalent to .67 percent of the taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e) [the 4 cents excise tax and the fuel sales tax] to compensate the retailer for services rendered and expenses incurred in complying with part V; to prohibit the deduction unless the natural gas fuel retailer has allowed 50 percent of the allowance provided to a purchaser that has a valid wholesaler or terminal supplier license; to prohibit the deduction unless payment of applicable taxes is made on or before the 20th day of the month; to prohibit any construction that would authorize a deduction from the constitutional gas tax or the fuel sales tax; to require each natural gas fuel retailer to pay DOR the full amount of natural gas fuel taxes for the preceding month, less the amount allowed the retailer for services and expenses, upon the

electronic filing of the monthly report; to provide that DOR may authorize a quarterly return and payment of taxes when the taxes remitted by the retailer for the preceding quarter did not exceed $100 and may authorize a semiannual return and payment when the taxes remitted for the preceding 6 months did not exceed $200; to authorize an additional retailer deduction of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and (c) [the ninth-cent fuel tax and the local option fuel tax] on account of services and expenses incurred in complying with part V; and to prohibit the deduction unless payment of the tax is made on or before the 20th day of the month. These requirements are virtually identical to those currently contained in s. 206.91, F.S., from which reference to alternative fuel is removed.

Section 15: Creates s. 206.9965, F.S., effective January 1, 2019, to authorize the purchase of tax-exempt natural gas fuel from natural gas fuel retailers when the fuel is used or purchased for:

- Exclusive use by the United States or its departments or agencies, defined to mean the consumption by the United States or its departments or agencies of the natural gas fuel in a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance;
- Use for an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance for agricultural purposes as defined in s. 206.41(c), F.S. [agricultural, aquacultural, commercial fishing, or commercial aviation purposes];
- Uses as provided in s. 206.874(3), F.S. [dyed diesel fuel];
- Use by vehicles operated by state and local government agencies;
- Individual use resulting from residential refueling devices located at a person's primary residence; and
- Purchases of natural gas fuel between licensed natural gas fuel retailers. A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer is authorized to take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26, F.S., ["Repayment of funds paid into the State Treasury through error"]. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller must retain a copy of the purchaser's natural gas fuel retailer license.

Section 16: Transfers and renumbers current s. 206.879, F.S., as s. 206.997, F.S.; revises and updates provisions governing distribution of state alternative fuel fee proceeds (does not change the distribution shares currently in place for the State Alternative Fuel User Fee Clearing Trust Fund but delays further distributions until the distribution for calendar year 2019); and repeals the provisions requiring revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., into the Local Alternative Fuel User Fee Clearing Trust Fund, to be returned monthly to the appropriate county after deducting the required service charge.

Section 17: Terminates the Local Alternative Fuel User Fee Clearing Trust Fund within DOR; directs DOR to pay any outstanding debts or obligations of the terminated fund as soon as practicable; and directs the Chief Financial Officer to close out and remove the terminated fund from various state accounting systems.

Section 18: Creates s. 206.998, F.S., entitled "Applicability of specified sections of parts I and II" of ch. 206, F.S., provides that the specified sections are applicable to the natural gas fuel tax; and provides that the specified statutes do not apply in the event of conflict with the new part V of ch. 206, F.S.

Section 19: Amends s. 212.055(2)(d), F.S., relating to the local government infrastructure surtax, to include "installation of systems for natural gas fuel as defined in s. 206.9951" in the definition of "energy efficiency improvement" and makes a grammatical change. This allows counties to use surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems.

Section 20: Amends s. 212.08(4), F.S., to exempt from ch. 212, F.S., sales tax natural gas fuel as defined in s. 206.9951(2), F.S., when placed into the fuel supply system of a motor vehicle.

Section 21: Repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, thereby removing a direct conflict with federal law and with subsequently passed state provisions that require issuance of a special use permit under such conditions.

Section 22: Amends s. 316.545(3)(c), F.S., to increase from 400 to 500 pounds the authorized maximum gross vehicle weight to compensate for the additional weight of auxiliary power units (or idle-reduction technology) installed on commercial motor vehicles, as authorized by recent federal law. If a person violates the overloading provisions of ch. 316, F.S., any penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 pounds, whichever is less.

Section 23: Amends s. 331.360, F.S., relating to the development and improvement of aerospace transportation facilities, to:

- require Space Florida to develop a spaceport system plan, rather than a master plan, as master plans are facility specific and not statewide in nature;
- require Space Florida to submit the system plan to MPOs and to FDOT;
- authorize FDOT to include those portions of the system plan relevant to FDOT's mission within FDOT's five-year work program of qualifying projects (rather than aerospace discretionary capacity improvement projects);
- require the system plan to identify appropriate funding levels for each project and eliminate requiring the plan to include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF;
- remove FDOT's authorization to participate in the capital cost of eligible spaceport discretionary capacity improvement projects subject to the availability of appropriated funds; and,
- remove the requirement that FDOT's legislative budget request be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.

Eligible projects are no longer limited to aerospace discretionary capacity improvement projects. Space Florida is required to identify appropriate funding levels for each project in the system plan but is no longer required to include in the plan recommendations on appropriate sources of revenue to contribute to the STTF.

In addition, beginning in FY 2013-2014, the changes authorize (but do not require) FDOT to make available from the STTF a minimum of $15 million annually from funds dedicated to

public transportation projects to fund space transportation projects and require Space Florida to provide project specific information to FDOT in order to demonstrate that the project includes transportation and aerospace benefits, including without limitation project description, characteristics, and scope; project funding sources and costs; project financing considerations with emphasis on federal, local, and private participation; financial feasibility and risk analysis, including efforts to protect the state's investment and ensure project goals are realized; and demonstration that the project will encourage, enhance, or create economic benefits. These revisions authorize FDOT to fund up to 50 percent of eligible project costs.

FDOT is authorized to fund up to 100 percent of eligible project costs if the project:

- provides important access and on-spaceport capacity improvements;
- provides capital improvements to strategically position the state to maximize opportunities in the aerospace industry or foster growth and development of a sustainable and world-leading aerospace industry in Florida;
- meets state goals of an integrated intermodal transportation system; and,
- demonstrates the feasibility and availability of matching funds through federal, local, or private partners.

To the extent that FDOT annually makes available the minimum $15 million, FDOT will be authorized to select for funding at up to 50 percent of eligible costs projects with demonstrated transportation and aerospace benefits based on the project specific information and will be authorized to select for funding at up to 100 percent of eligible costs projects that meet the specified criteria.

Section 24: Creates s. 332.007(11), F.S., to authorize FDOT to fund, at up to 100 percent of the project's cost, strategic airport investment projects that:

- provide important access and on-airport capacity improvements;
- provide capital improvements to strategically position the state to maximize opportunities in international trade, logistics, and the aviation industry;
- achieve state goals of an integrated intermodal transportation system; and,
- demonstrate the feasibility and availability of matching funds through federal, local, or private partners.

Presumably, this new language captures for possible full funding potential development projects not currently captured under FDOT's authority in s. 332.007(6)(d), F.S., to fund up to 100 percent of the cost of an eligible development project that is statewide in scope or that involves more than one county where no other governmental entity or appropriate jurisdiction exists, and also allows FDOT to fund up to 100 percent of discretionary capacity improvement projects that meet the specified criteria.

Section 25: Amends s. 334.044(16), F.S., effective July 1, 2013, to prohibit FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity; to provide that specified lease-purchase agreements are not invalidated; and to specify that FDOT's authority under s. 334.30, F.S., is not limited. These provisions have

no effect on the existing lease-purchase agreements but prohibit any new agreements beginning July 1, 2013.

Section 26: Amends s. 337.11(13), F.S., to require each road or bridge construction contract or maintenance contract let by FDOT to require all motor vehicles operated by the contractor in this state to be registered in compliance with ch. 320, F.S., thereby eliminating the requirement of proof to FDOT in the form a notarized affidavit from the contractor.

Section 27: Amends s. 337.14(1), F.S., to clarify that:

- any person desiring to bid for the performance of any construction contract *with a proposed budget estimate* in excess of $250,000 must first be certified as qualified;
- FDOT's rules are to address qualification of persons to bid on construction contracts *with a proposed budget estimate* in excess of $250,000; and,
- a person seeking qualification to bid on construction contracts *with proposed budget estimates* in excess of $250,000 is required to furnish specified information on the application for qualification.

As no change in current practice results, the revisions simply provide internal statute consistency and consistency between statute and rule, thereby avoiding any potential confusion.

Section 28: Amends s. 337.168(2), F.S., to clarify an existing public records exemption by providing that a document that reveals the identity of a person who has requested or obtained from FDOT, a bid package, plan, or specifications pertaining to any project to be let by FDOT *before* the two working days before the deadline for obtaining such materials remains a public record. Presumably, a list of potential bidders who requested or obtained bid packages from FDOT for a given project before the two-day period of exemption begins will remain posted on FDOT's website.

Section 29: Amends s. 337.251(2), F.S., relating to the lease of property for joint public-private development, to:

- require that if FDOT receives a proposal for a lease (rather than to negotiate a lease) of particular property FDOT desires to consider, it shall publish the currently required newspaper notice stating that FDOT will accept for 120 (rather than 60) days other proposals for lease of the particular property;
- direct FDOT to establish by rule an application fee for the submission of proposals under s. 337.251, F.S., sufficient to pay the anticipated costs of evaluating the proposals;
- authorize FDOT to engage the services of private consultants to assist in the evaluations; and,
- require FDOT, before approval of any proposal, to determine that the proposed lease is in the public's best interest, would not require state funds to be used, and would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

These revisions bring the process under s. 337.251, F.S., closer to that under s. 334.30, F.S., with the primary difference being that FDOT is not required, as is the case under s. 334.30, F.S., to provide an independent analysis that demonstrates the cost-effectiveness and overall public benefit of the proposed lease.

Section 30: Amends s. 3347.408(1), F.S., providing that a person who installs a transit shelter or a bus bench in the right-of-way limits of any road on the SHS is responsible for ensuring that the bench or transit shelter complies with applicable laws and rules, including the Americans with Disabilities Act, or shall remove the bench or shelter. The bill also:

- authorizes a bench or shelter owner to remove the bench or shelter, or bring the bench or shelter into compliance, if FDOT determines that an installation within the right-of-way is noncompliant;
- authorizes FDOT to remove a bench or shelter and assess the cost of the removal against the bench or shelter owner;
- requires each owner of a bench or shelter installed within the right-of-way of any road on the SHS to provide FDOT with a written inventory of the location of each bench or shelter no later than December 31, 2013;
- effective July 1, 2013, requires each owner installing a bench or shelter on the SHS to identify in writing the location of the installation before installing the bench or shelter;
- authorizes FDOT, effective January 1, 2014, to remove any unidentified bench or transit shelter on the SHS and to assess the cost of removal against the bench or shelter owner; and
- requires a city or county, effective July 1, 2013, that authorizes installation of a bench or shelter on the SHS to require any person authorized, in addition to holding FDOT harmless from any liability, to maintain $1 million in liability insurance, with an additional $4 million in supplemental liability insurance, specifically including coverage for any alleged violation of applicable law, with FDOT as an additional named insured.

These provisions do not apply to transit shelters installed by public transit providers at designated stops on official transit routes.

Section 31: Amends s. 338.161(5), F.S., to replace the potentially ambiguous language regarding agreements for use of FDOT toll collection systems that passed in HB 599 and SB 1998 during the 2012 Legislative Session, thereby avoiding any confusion that might result from ambiguous language or from statutory construction rules.

Section 32: Amends s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by FDOT.

Section 33: Amends s. 338.26(3) and (4), F.S., relating to the Alligator Alley toll road, to:

- authorize use of excess toll revenues from Alligator Alley, after specified payments, to design and construct, rather than develop and operate, a fire station at mile marker 63 on Alligator Alley;

- authorize use of the fire station by Collier County or other appropriate local governmental entity;
- authorize transfer, after specified payments, of any such excess revenues to SFWMD in accordance with the June 30, 1997, memorandum of understanding between SFWMD and FDOT; and,
- remove SFWMD authorization to issue bonds or notes secured by a pledge of the transfers from the Alligator Alley toll revenues as security for such bonds or notes.

These revisions remove the obligations of Alligator Alley toll revenues to operate the fire station at mile marker 63 and the transfer of annual excess revenue to SFWMD beyond that which is agreed upon in memorandum of understanding, and repeals SFWMD's authority to issue bonds or notes and pledge the revenues from the transfers.

Section 34: Amends s. 339.175, F.S., relating to MPOs, to:

- revise provisions relating to designation of MPOs to conform to changed federal terminology;
- provide that the voting membership of an MPO re-designated after the bill's effective date as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOS within a single urbanized area may consist of no more than 25 members;
- encourage inclusion of new urbanized areas within existing MPOs or consolidation of existing MPOs in areas already having 19 members and to provide local flexibility to identify appropriate representation; e.g., transit providers or airport authorities.
- provide, in metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing those functions that are not under the jurisdiction of a general-purpose local government represented on the MPO, those entities may (rather than shall) be provided voting member on the MPO, thereby allowing local decisions as to appropriate representation; and,
- relocate and revise existing language to eliminate redundancy and provide clarity.

Section 35: Amends s. 339.2821, F.S., to include Enterprise Florida, Inc., as an FDOT consultant in making and approving economic development transportation project contracts; to remove the requirement that *quarterly* progress reports be provided to FDOT; to remove the prohibition against more than quarterly transfers and the direction to expend funds received from FDOT in a timely manner; to provide that if construction of the transportation project does not begin within four years after the date of the initial grant award, the grant award is terminated; and to expand the types of authorized projects beyond those meeting the definition of a transportation facility.

Section 36: Amends s. 339.55, F.S., to include projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank, as are projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals.

Section 37: Amends s. 341.031(11), F.S., expanding eligibility for intercity bus companies to compete for federal and state program funding by removing from the definition of "intercity bus

service" the requirement that the carrier maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Section 38: Amends s. 341.053, F.S., expanding the types of projects and activities eligible for funding under the Intermodal Development Program, by:

- adding to the types of projects included in the program access to spaceports and planning or funding construction of airport, spaceport, seaport, transit and rail projects that facilitate the intermodal or multimodal movement of people and goods;
- deleting language requiring development of a proposed intermodal development plan and provide a link to current policy documents by requiring the program to be used for projects that support statewide goals as outlined in the Florida Transportation Plan, the Freight Mobility and Trade Plan, or the appropriate FDOT modal plan;
- removing a cap on receipt of funds; and,
- including in the list of projects eligible for funding planning studies; major capital investments in freight facilities and systems that provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between spaceports and intermodal logistics centers; and construction of intermodal or multimodal terminals, including projects on airports, spaceports, intermodal logistics centers or seaports which assist in the movement or transfer of people or goods.

Section 39: Amends s. 341.302(17), F.S., to expressly authorize FDOT to undertake any ancillary development FDOT determines to be appropriate as a source of revenue for the establishment, construction, operation, or maintenance of any rail corridor owned by the State and to require such developments to be consistent, to the extent feasible, with applicable local government comprehensive plans and local land development regulations and otherwise be incompliance with ss. 341.302-341.303, F.S.

Section 40: Amends s. 343.82(3)(d), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 41: Amends s. 343.922(4), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 42: Creates chapter 345, F.S., to authorize the formation of regional tollway authorities, consisting of sections 345.0001 – 345.0017, F.S., to:

- authorize a county, or two or more contiguous counties, after approval of the Legislature, to form a regional toll way authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state to be governed in accordance with ch. 345, F.S.;
- prohibit creation of an authority without the approval of the Legislature and the county commission of each county that will part of the authority;
- prohibit creation of an authority to serve a particular area if a regional toll way authority has been created and is operating within all or a portion of the same area served pursuant to an

act of the Legislature; and provide that each authority shall be the only authority created and operating pursuant to ch. 345 within the area served by the authority;

- provide for the composition and appointment of an authority governing board, as well as the terms of office, vacancies, member reimbursement for per diem and other expenses, and quorum requirements, etc.;
- direct an authority created and established, or governed, by the act to plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority; prohibit an authority from exercising such powers with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity; and provide that an authority inherits and assumes all rights, assets, appropriations, privileges, and obligations of an existing authority if an authority acquires, purchases, or inherits an existing authority;
- provide for the powers and duties of an authority, including without limitation the power to fix, alter, charge, establish and collect rates, fees, rental, and other charges for use of an authority system, which power may be assigned or delegated to FDOT, and to borrow money and issue bonds or other forms of indebtedness to finance an authority system and to secure payment of the bonds by a pledge of its revenues;
- require a resolution authorizing bond issuance and pledging revenues to require periodic system revenue deposits into appropriate accounts sufficient to cover operations and maintenance of the system and to reimburse FDOT for any unreimbursed costs of O&M from prior fiscal years before revenues of the system are deposited; and prohibit the use or pledge of state funds to pay the principal or interest of any authority bonds and require all bonds to contain a statement as to the prohibition;
- require FDOT to furnish an FDOT employee to act as the executive director of an authority upon the request of an authority;
- provide for the rights and remedies of bondholders in addition to those granted by a resolution or indenture providing for the issuance of bonds, etc;
- provide for the appointment of a trustee and for the powers and duties of the trustee; and provide for appointment of a receiver and for the powers and duties of the receiver;
- provide that FDOT is the agent of each authority for the purpose of performing all phases of a project, including without limitation, constructing improvements and extensions to the system; require provision to FDOT of complete copies of specified documents; require the Division of Bond Finance (DBF) and the authority to request that FDOT perform the construction work, including the planning, surveying, design, and actual construction of the completion, extensions, and improvements to the system; require DBF and the authority, after bond issuance to finance construction, to transfer to the credit of an FDOT account in the State Treasury the necessary funds for construction; direct FDOT to proceed with construction; and alternatively authorize an authority, with FDOT's consent and approval, to appoint a local agency certified by FDOT to administer federal aid projects as the authority's agency for the purpose of performing each phase of a project;
- provide that FDOT is the agent of each authority for the purpose of operating and maintaining the system; direct FDOT to operate and maintain the system; require the costs incurred by FDOT for O&M be reimbursed from system revenues; provide that appointment of FDOT as agent for each authority does not create an independent obligation of FDOT to operate and maintain a system; provide that each authority remains obligated as principal to

operate and maintain its system; and provide that an authority's bondholders do not have an independent right to compel FDOT to operate or maintain the authority's system;

- authorize FDOT, at the request of an authority, to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of an authority project or system, subject to appropriation by the Legislature; authorize FDOT to use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct specified feasibility studies; authorize FDOT to require money contributed by FDOT to be repaid from tolls of the project on which the money was spent, other revenue of the authority, or other sources of funds; and require that FDOT receive from an authority a specified share of the authority's net revenues, as defined;
- authorize an authority to acquire specified private or public property and property rights by gift, devise, purchase, condemnation by eminent domain proceedings, or transfer from another political subdivision of the state; and provide for liability related to preexisting soil or groundwater contamination;
- provide exemption from certain taxation for an authority; and,
- create as agencies of the state, with the purposes and powers identified in the new act for the area served by an authority, the Northwest Florida Regional Tollway Authority serving Escambia and Santa Rosa counties; the Okaloosa-Bay Regional Tollway Authority (OBRTA) serving Okaloosa, Walton, and Bay counties; and the Suncoast Regional Tollway Authority serving Citrus, Levy, Marion, and Alachua counties.

Section 43: Transfers to the OBRTA the governance and control of the MBBA, including the assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the MBBA, including the bridge system operated by the authority; and:

- provides that all powers of the MBBA shall succeed to the OBRTA and operations and maintenance of the bridge system shall be under the control of the OBRTA; provides that revenues collected on the bridge system may be considered OBRTA revenues, and the Mid-Bay Bridge system may be considered part of the OBRTA system, if bonds of the bridge authority are not outstanding; provides that the OBRTA assumes all liability for bonds of the MBBA as specified; and provides that the OBRTA may review other contracts, financial obligations, and contractual obligations and liabilities of the MBBA and may assume legal liability for the obligations that are determined necessary for the continued operation of the bridge system;
- provides that the transfer is subject to the terms and covenants provided for the protection of the holders of the MBBA bonds in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds; provides that FDOT shall operate and maintain the bridge system and any other facilities of the MBBA in accordance with the bond resolutions and lease-purchase agreement, after the transfer and until the bonds of the MBBA are fully defeased or paid in full; and directs FDOT, as the agent of the OBRTA, to collect toll revenues and apply them to the payment of debt service as provided in the bond resolution securing the bonds;
- requires that the OBRTA expressly assume all obligations relating to the bonds to ensure that the transfer will have no adverse impact on the security for the MBBA bonds; provides that the transfer does not make the obligation to pay the principal and interest on the bonds a general liability of the OBRTA or pledge the OBRTA system revenues to payment of the

MBBA bonds; provides that revenues that are generated by the bridge system and other facilities of the MBBA and that were pledged by the MBBA to the payment of the bonds remain subject to the pledge for the benefit of the bondholders; and provides that the transfer does not modify or eliminate any prior FDOT obligation to pay certain costs of the bridge system from sources other than revenues of the bridge system; and,

- with regard to the MBBA's current long-term debt of $9.5 million due to FDOT as of June 30, 2012, provides, to the extent permitted by the bond resolutions and lease-purchase agreement, that the OBRTA shall make payment annually to the STTF, for the purpose of repaying the MBBA's long-term debt due to FDOT, from any bridge system revenues obtained under this section which remain after the payment of the costs of operations, maintenance, renewal, and replacement of the bridge system, the payment of current debt service, and other payments required in relation to the bonds; directs the OBRTA to make the annual payments, not to exceed $1 million per year, to the STTF until all remaining MBBA long-term debt due to FDOT has been repaid; and requires that any remaining toll revenue from MBBA facilities collected by the OBRTA after meeting the specified requirements be used for the construction, maintenance, or improvement of any toll facility of the OBRTA within the county or counties in which the revenue was collected.

Section 44: Provides that the bill takes effect upon becoming law, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has analyzed the fiscal impact of the natural gas provisions of this bill. See Private and Government Sector Impact sections.

B. Private Sector Impact:

Section 3: Developers constructing residential units abutting a limited-access facility may incur unquantifiable expenses if local government regulations require the developers to implement noise compatible development strategies or noise abatement measures to

minimize noise impacts on residential dwellings, which costs may result in higher prices to home purchasers.

Sections 4 – 8 and 10 – 20: Purchasers of natural gas fuel may experience increased savings. Conversion of vehicle fleets from traditional fuels to natural gas fuel, as well as an increase in natural gas refueling infrastructure, may be facilitated.

Section 9: Some air carriers that currently qualify for a refund of the aviation tax may no longer qualify, and some carriers that do not currently qualify may become eligible.

Section 22: The increased allowable weight of APUs decreases the potential fine for a commercial motor vehicle overweight violation by no more than $7.50.

Section 25: Motor fuel tax funds paid by citizens and businesses in a particular locality may be at less risk of diversion to a different area of the state in a manner contrary to the statutory allocation for those funds if the funds were expended by FDOT through its normal work program process, rather than through a lease-purchase agreement.

Section 29: Those wishing to submit proposals for lease of FDOT property that FDOT wishes to consider will be subject to an application fee sufficient to pay the anticipated cost of evaluating the proposal, to be established by FDOT rule. Opportunities for private consultant contracts with FDOT are authorized.

Section 30: Private owners of bus benches or transit shelters installed in the right-of-way of the SHS will incur indeterminate expenses related to:

- preparation and ongoing maintenance of the required written inventory;
- removal of, or bringing into compliance with applicable laws, installations within the right-of-way of the SHS,
- the purchase of the required insurance;
- potential litigation expenses; and
- should FDOT choose to remove a noncompliant bench or shelter and assess the costs against the bench or shelter owner, the cost of removal.

Section 37: Revision of the definition of "intercity bus service" allows companies other than Greyhound Bus Lines to compete for federal and state program funds.

C. Government Sector Impact:

Section 1: The FTC will experience a negative impact from expenses associated with monitoring the regional tollway authorities, which expenses are expected to be absorbed within existing resources. However, the FTC notes that, depending on the number of authorities eventually established, additional FTE(s) may be needed to effectively conduct its responsibility. Potentially duplicative administrative expenses associated with the overlapping responsibility of the FTC and the FSPRC are eliminated.

Section 3: Local governments will experience a negative impact from unknown expenses associated with review of their existing regulations, any needed consultation with DEO

and FDOT, and with adopting the required regulations if none are in place. FDOT and DEO will likewise incur unknown expenses associated with any consultation. If a local government fails to adopt the required regulations, the local government will be required to contribute 50 percent of FDOT's costs to provide required noise mitigation. The state may experience a positive impact from unquantifiable savings in future highway improvement projects where noise mitigation was considered and adequately provided for in the planning and construction of residential developments abutting limited access.

Sections 4 – 8 and 10 – 20: With respect to the natural gas provisions, on March 8, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund and a ($0.3) million impact to state trust funds. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be $0.1 million to the General Revenue Fund and ($0.1) million state trust funds. The Revenue Estimating Conference also estimated that in FY 2013-14, there will be no impact to local government and slightly negative impacts in the subsequent four years of ($0.1) million annually. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be $0.4 million to local government.

Section 9: The fiscal impact of the revisions to the aviation fuel tax is indeterminate, but the revisions may provide greater predictability and certainty with regard to aviation fuel tax revenues and may result in additional transportation projects. The need to periodically revise the existing static date in statute is eliminated by the proposed rolling five-year period during which to measure job creation.

Section 21: Removing the obsolete language regarding wrecker permits will avoid any negative impact to the state from a potential federal funds penalty for failure to comply with federal commercial motor vehicle requirements, as giving effect to the obsolete provisions would render the state noncompliant with federal law.

Section 22: The increased allowable weight of APUs decreases a potential fine by no more than $7.50.

Section 23: Space Florida will experience a negative impact from unknown expenses to develop the required spaceport system plan. Spaceport project eligibility is expanded and spaceport funding is increased. Whether these revisions will have any impact on other program funding is unclear.

Section 24: Certain airport projects may become eligible for FDOT to fund up to 100 percent of project costs, possibly resulting in earlier delivery of projects. Whether this revision will have any impact on airport projects that are eligible for funding at only 50 percent is unclear.

Section 25: Prohibiting FDOT from entering new lease-purchase agreements may help to ensure that new transportation systems developed by the toll authorities are capable of being self-sustaining, as opposed to relying on a long-term commitment of STTF funds to pay a toll authority's O&M costs. A positive fiscal impact to the state is expected.

Section 29: FDOT's costs associated with evaluating lease proposals pursuant to s. 337.251, F.S., would presumably be covered by the application fee FDOT is required to establish by rule, particularly if the fee includes the cost of private consultants FDOT is authorized to engage to assist in its evaluations.

Section 30: The revisions to the bus bench and shelter provisions shift potential liability from the cities and counties to the private owners of the benches and shelters.

Section 33: The obligations of Alligator Alley toll revenues to operate a local fire station and of FDOT to transfer excess Alley revenues to the Everglades Restoration Fund beyond that which is agreed to in the Memorandum of Understanding between FDOT and SFWMD, are removed. A positive fiscal impact to the state is expected.

Section 36: Whether including projects that provide intermodal connectivity with spaceports as eligible for State-funded Infrastructure Bank loans will have an impact on such loans for projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals is unclear.

Section 38: Whether adding projects that provide access to spaceports will have an impact on projects that provide access to seaports, airports, and other transportation terminals is unclear. Similarly, whether the authorization to plan or fund construction of airport, spaceport, seaport, intermodal logistics centers, transit, and rail projects will have an impact on other program funding is unclear.

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 20, 2013:
The committee adopted four amendments at its meeting and incorporated them, along with seven traveling amendments, into a committee substitute. The committee substitute:

- removes reference to the Mid-Bay Bridge Authority and inserts a reference to the new ch. 345, F.S., in s. 20.23, F.S. The bill also transfers the Mid-Bay Bridge Authority to

the Okaloosa-Bay Regional Tollway Authority, which is governed by the provisions of the new ch. 345, F.S. The reference to the new ch. 345, F.S., subjects the Okaloosa-Bay Regional Tollway Authority, and any other regional tollway authority created in the bill or subsequently created under provisions in the new ch. 345, F.S., to oversight and monitoring by the Florida Transportation Commission, as are various other expressway, road and bridge, and regional transportation authorities. The amendment also strikes a phrase referencing subsection (3), which subsection establishes the Florida Statewide Passenger Rail Commission, as the bill also repeals the Florida Statewide Passenger Rail Commission;

- provides that the $15 million minimum annual funding authorized to be made available from the State Transportation Trust Fund for space transportation projects shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3), F.S.;
- removes from the bill provisions for the "Spaceport Investment Program," which required allocation of $5 million annually, for up to 30 years, for the purpose of funding any spaceport project identified in FDOT's Adopted Work Program; and authorized the revenues to be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or other forms of indebtedness issued by Space Florida, or used to purchase credit support to permit such borrowings;
- removes from the bill authorization for installation of parking meters or other time-limit devices within the right-of-way limits of a state road if permitted by FDOT; removes direction requiring each county and municipality to promptly remit to FDOT 50 percent of the revenue generated from the fees collected by a parking meter or other time-limit device installed or already existing within the right-of-way limits of a state road under FDOT's jurisdiction; and removes the requirements that funds received by FDOT to be deposited into the STTF and used in accordance with s. 339.08, F.S.
- adds to the bill the provisions of CS/SB 579, establishing a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminating the current decal program for vehicles powered by alternative fuels, and repealing the Local Alternative Fuel User Fee Clearing Trust Fund;
- adds to the bill the revised bus bench and bus shelter language shifting liability from the cities and counties to the private owner installers of bus benches and bus shelters within the right-of-way of the SHS; and
- makes technical changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

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

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 467 - 538
4 and insert:
5 Section 4. Section 206.86, Florida Statutes, is amended to
6 read:
7 206.86 Definitions.—As used in this part:
8 (1) “Diesel fuel” means all petroleum distillates commonly
9 known as diesel #2, biodiesel, or any other product blended with
10 diesel or any product placed into the storage supply tank of a
11 diesel-powered motor vehicle.
12 (2) “Taxable diesel fuel” or “fuel” means any diesel fuel

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13 not held in bulk storage at a terminal ~~and~~ which has not been
14 dyed for exempt use in accordance with Internal Revenue Code
15 requirements.
16 (3) "User" includes any person who uses diesel fuels within
17 this state for the propulsion of a motor vehicle on the public
18 highways of this state, even though the motor is also used for a
19 purpose other than the propulsion of the vehicle.
20 ~~(4) "Alternative fuel" means any liquefied petroleum gas~~
21 ~~product or compressed natural gas product or combination thereof~~
22 ~~used in an internal combustion engine or motor to propel any~~
23 ~~form of vehicle, machine, or mechanical contrivance. This term~~
24 ~~includes, but is not limited to, all forms of fuel commonly or~~
25 ~~commercially known or sold as natural gasoline, butane gas,~~
26 ~~propane gas, or any other form of liquefied petroleum gas or~~
27 ~~compressed natural gas.~~
28 ~~(5) "Natural gasoline" is a liquid hydrocarbon that is~~
29 ~~produced by natural gas and must be blended with other liquid~~
30 ~~petroleum products to produce motor fuel.~~
31 (4) ~~(6)~~ "Removal" means any physical transfer of diesel fuel
32 and any use of diesel fuel other than as a material in the
33 production of diesel fuel.
34 (5) ~~(7)~~ "Blender" means any person who ~~that~~ produces blended
35 diesel fuel outside the bulk transfer/terminal system.
36 (6) ~~(8)~~ "Colorless marker" means material that is not
37 perceptible to the senses until the diesel fuel into which it is
38 introduced is subjected to a scientific test.
39 (7) ~~(9)~~ "Dyed diesel fuel" means diesel fuel that is dyed in
40 accordance with United States Environmental Protection Agency or
41 Internal Revenue Service requirements for high sulfur diesel

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42 fuel or low sulfur diesel fuel.
43 (8) ~~(10)~~ "Ultimate vendor" means a licensee that sells
44 undyed diesel fuel to the United States or its departments or
45 agencies in bulk lots of not less than 500 gallons in each
46 delivery or to the user of the diesel fuel for use on a farm for
47 farming purposes.
48 (9) ~~(11)~~ "Local government user of diesel fuel" means any
49 county, municipality, or school district licensed by the
50 department to use untaxed diesel fuel in motor vehicles.
51 (10) ~~(12)~~ "Mass transit system" means any licensed local
52 transportation company providing local bus service that is open
53 to the public and that travels regular routes.
54 (11) ~~(13)~~ "Diesel fuel registrant" means anyone required by
55 this chapter to be licensed to remit diesel fuel taxes,
56 including, but not limited to, terminal suppliers, importers,
57 local government users of diesel fuel, and mass transit systems.
58 (12) ~~(14)~~ "Biodiesel" means any product made from
59 nonpetroleum-based oils or fats which is suitable for use in
60 diesel-powered engines. Biodiesel is also referred to as alkyl
61 esters.
62 (13) ~~(15)~~ "Biodiesel manufacturer" means those industrial
63 plants, regardless of capacity, where organic products are used
64 in the production of biodiesel. This includes businesses that
65 process or blend organic products that are marketed as
66 biodiesel.
67 Section 5. Paragraph (a) of subsection (1) of section
68 206.87, Florida Statutes, is amended to read:
69 206.87 Levy of tax.—
70 (1)(a) An excise tax of 4 cents per gallon is ~~hereby~~

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71 imposed upon each net gallon of diesel fuel subject to the tax
72 under subsection (2)~~, except alternative fuels which are subject~~
73 ~~to the fee imposed by s. 206.877~~.
74 Section 6. Section 206.877, Florida Statutes, is repealed.
75 Section 7. Section 206.89, Florida Statutes, is repealed.
76 Section 8. Subsection (1) of section 206.91, Florida
77 Statutes, is amended to read:
78 206.91 Tax reports; computation and payment of tax.—
79 (1) For the purpose of determining the amount of taxes
80 imposed by s. 206.87, each diesel fuel registrant shall, not
81 later than the 20th day of each calendar month, mail to the
82 department, on forms prescribed by the department, monthly
83 reports that provide ~~which shall show such~~ information on
84 inventories, purchases, nontaxable disposals, and taxable sales
85 in gallons of diesel fuel ~~and alternative fuel,~~ for the
86 preceding calendar month ~~as may be~~ required by the department.
87 However, if the 20th day falls on a Saturday, a Sunday, or a
88 federal or state legal holiday, returns shall be accepted if
89 postmarked on the next succeeding workday. The reports must
90 include, ~~shall contain~~ or be verified by, a written declaration
91 stating that they are ~~such report is~~ made under the penalties of
92 perjury. The diesel fuel registrant shall deduct from the amount
93 of taxes shown by the report to be payable an amount equivalent
94 to .67 percent of the taxes on diesel fuel imposed by s.
95 206.87(1)(a) and (e), which deduction is ~~hereby~~ allowed to the
96 diesel fuel registrant on account of services and expenses in
97 complying with the provisions of this part. The allowance on
98 taxable gallons of diesel fuel sold to persons licensed under
99 this chapter is not ~~shall not be~~ deductible unless the diesel

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100 fuel registrant has allowed 50 percent of the allowance provided
101 by this section to a purchaser with a valid wholesaler or
102 terminal supplier license. This allowance is not ~~shall not be~~
103 deductible unless payment of the taxes is made on or before the
104 20th day of the month as ~~herein~~ required in this subsection.
105 ~~Nothing in~~ This subsection does not ~~shall be construed to~~
106 authorize a deduction from the constitutional fuel tax or fuel
107 sales tax.
108 Section 9. Subsection (1) of section 206.9825, Florida
109 Statutes, is amended to read:
110 206.9825 Aviation fuel tax.—
111 (1)(a) Except as otherwise provided in this part, an excise
112 tax of 6.9 cents per gallon of aviation fuel is imposed upon
113 every gallon of aviation fuel sold in this state, or brought
114 into this state for use, upon which such tax has not been paid
115 or the payment thereof has not been lawfully assumed by some
116 person handling the same in this state. Fuel taxed pursuant to
117 this part shall not be subject to the taxes imposed by ss.
118 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).
119 (b) Any ~~licensed wholesaler or terminal supplier that~~
120 ~~delivers aviation fuel to an~~ air carrier that offers ~~offering~~
121 transcontinental jet service and that has, within the preceding
122 5-year period from January 1 of the year the exemption is being
123 applied for, increased its ~~that, after January 1, 1996,~~
124 ~~increases the air carrier's~~ Florida workforce by more than 1,000
125 ~~1000~~ percent and by 250 or more full-time equivalent employee
126 positions as provided in reports that must be filed pursuant to
127 s. 443.163, may purchase ~~receive a credit or refund as the~~
128 ~~ultimate vendor of the~~ aviation fuel exempt from ~~for~~ the 6.9

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129 cents per gallon tax imposed by this part from terminal
130 suppliers and wholesalers, provided that the air carrier has no
131 facility for fueling highway vehicles from the tank in which the
132 aviation fuel is stored. To qualify for the exemption, an air
133 carrier must submit a written request to the department stating
134 that it meets the requirements of this paragraph. The exemption
135 under this paragraph expires on December 31 of the year it was
136 granted. The exemption is not allowed for any period before the
137 effective date of the air carrier exemption letter issued by the
138 department. To renew the exemption, the air carrier must submit
139 a written request to the department stating that it meets the
140 requirements of this paragraph. Terminal suppliers and
141 wholesalers may receive a credit or may apply for a refund, as
142 the ultimate vendor of the 6.9 cents per gallon aviation fuel
143 tax previously paid, within 1 year after the date the right to
144 the refund has accrued ~~excise tax previously paid, provided that~~
145 ~~the air carrier has no facility for fueling highway vehicles~~
146 ~~from the tank in which the aviation fuel is stored~~. In
147 calculating the new or additional Florida full-time equivalent
148 employee positions, any full-time equivalent employee positions
149 of parent or subsidiary corporations which existed before the
150 preceding 5-year period from January 1 of the year the
151 application for exemption or renewal is being applied for, may
152 ~~January 1, 1996, shall~~ not be counted toward reaching the
153 Florida employment increase thresholds. The refund allowed under
154 this paragraph is in furtherance of the goals and policies of
155 the State Comprehensive Plan set forth in s. 187.201(16)(a),
156 (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1.,
157 2., 4., 7., 9., and 12.

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158 (c) If, during the 1-year period in which the exemption is
159 in place ~~before July 1, 2001~~, the air carrier fails to maintain
160 the increase in its Florida workforce by more than 1,000 percent
161 and by 250 or more full-time equivalent employees ~~number of~~
162 ~~full-time equivalent employee positions created or added to the~~
163 ~~air carrier's Florida workforce falls below 250~~, the exemption
164 granted pursuant to this section does ~~shall~~ not apply during the
165 period in which the air carrier was no longer qualified to
166 receive the exemption ~~has fewer than the 250 additional~~
167 ~~employees~~.
168 (d) The exemption taken by credit or refund pursuant to
169 paragraph (b) applies ~~shall apply~~ only under the terms and
170 conditions set forth in this paragraph ~~therein~~. If any part of
171 the ~~that~~ paragraph is judicially declared to be unconstitutional
172 or invalid, the validity of any provisions taxing aviation fuel
173 is ~~shall~~ not ~~be~~ affected and all fuel exempted pursuant to
174 paragraph (b) shall be subject to tax as if the exemption was
175 never enacted. Each ~~Every~~ person who benefits ~~benefiting~~ from
176 the ~~such~~ exemption is ~~shall be~~ liable for and must make payment
177 of all taxes for which a credit or refund was granted.
178 (e) The department may adopt rules to administer this
179 subsection.
180 Section 10. The Division of Law Revision and Information is
181 requested to create part V of chapter 206, Florida Statutes,
182 consisting of ss. 206.9951-206.998, entitled "NATURAL GAS FUEL."
183 Section 11. Section 206.9951, Florida Statutes, is created
184 to read:
185 206.9951 Definitions.—As used in this part, the term:
186 (1) "Motor fuel equivalent gallon" means the volume of

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187 natural gas fuel it takes to equal the energy content of 1
188 gallon of motor fuel.
189 (2) “Natural gas fuel” means any liquefied petroleum gas
190 product, compressed natural gas product, or combination thereof
191 used in a motor vehicle as defined in s. 206.01(23). This term
192 includes, but is not limited to, all forms of fuel commonly or
193 commercially known or sold as natural gasoline, butane gas,
194 propane gas, or any other form of liquefied petroleum gas,
195 compressed natural gas, or liquefied natural gas.
196 (3) “Natural gas fuel retailer” means any person who sells
197 natural gas fuel for use in a motor vehicle as defined in s.
198 206.01(23).
199 (4) “Natural gasoline” is a liquid hydrocarbon that is
200 produced by natural gas and must be blended with other liquid
201 petroleum products to produce motor fuel.
202 (5) “Person” means a natural person, corporation,
203 copartnership, firm, company, agency, or association; a state
204 agency; a federal agency; or a political subdivision of the
205 state.
206 Section 12. Section 206.9952, Florida Statutes, is created
207 to read:
208 206.9952 Application for license as a natural gas fuel
209 retailer.—
210 (1) It is unlawful for any person to engage in business as
211 a natural gas fuel retailer within this state unless he or she
212 is the holder of a valid license issued by the department to
213 engage in such business.
214 (2) A person who has facilities for placing natural gas
215 fuel into the supply system of an internal combustion engine

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216 fueled by individual portable containers of 10 gallons or less
217 is not required to be licensed as a natural gas fuel retailer,
218 provided that the fuel is only used for exempt purposes.
219 (3)(a) Any person who acts as a natural gas retailer and
220 does not hold a valid natural gas fuel retailer license shall
221 pay a penalty of $200 for each month of operation without a
222 license. This paragraph expires December 31, 2018.
223 (b) Effective January 1, 2019, any person who acts as a
224 natural gas fuel retailer and does not hold a valid natural gas
225 fuel retailer license shall pay a penalty of 25 percent of the
226 tax assessed on the total purchases made during the unlicensed
227 period.
228 (4) To procure a natural gas fuel retailer license, a
229 person shall file an application and a bond with the department
230 on a form prescribed by the department. The department may not
231 issue a license upon the receipt of any application unless it is
232 accompanied by a bond.
233 (5) When a natural gas fuel retailer license application is
234 filed by a person whose previous license was canceled for cause
235 by the department or the department believes that such
236 application was not filed in good faith or is filed by another
237 person as a subterfuge for the actual person in interest whose
238 previous license has been canceled, the department may, if
239 evidence warrants, refuse to issue a license for such an
240 application.
241 (6) Upon the department's issuance of a natural gas fuel
242 retailer license, such license remains in effect so long as the
243 natural gas fuel retailer is in compliance with the requirements
244 of this part.

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245 (7) Such license may not be assigned and is valid only for
246 the natural gas fuel retailer in whose name the license is
247 issued. The license shall be displayed conspicuously by the
248 natural gas fuel retailer in the principal place of business for
249 which the license was issued.
250 (8) With the exception of a state or federal agency or a
251 political subdivision licensed under this chapter, each person,
252 as defined in this part, who operates as a natural gas fuel
253 retailer shall report monthly to the department and pay a tax on
254 all natural gas fuel purchases beginning January 1, 2019.
255 (9) The license application requires a license fee of $5.
256 Each license shall be renewed annually by submitting a
257 reapplication and the license fee to the department. The license
258 fee shall be paid to the department for deposit into the General
259 Revenue Fund.
260 Section 13. Section 206.9955, Florida Statutes, is created
261 to read:
262 206.9955 Levy of natural gas fuel tax.—
263 (1) The motor fuel equivalent gallon means the following
264 for:
265 (a) Compressed natural gas gallon: 5.66 pounds, or per each
266 126.67 cubic feet.
267 (b) Liquefied natural gas gallon: 6.22 pounds.
268 (c) Liquefied petroleum gas gallon: 1.35 gallons.
269 (2) Effective January 1, 2019, the following taxes shall be
270 imposed:
271 (a) An excise tax of 4 cents upon each motor fuel
272 equivalent gallon of natural gas fuel.
273 (b) An additional tax of 1 cent upon each motor fuel

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274 equivalent gallon of natural gas fuel, which is designated as
275 the "ninth-cent fuel tax."
276 (c) An additional tax of 6 cents on each motor fuel
277 equivalent gallon of natural gas fuel by each county, which is
278 designated as the "local option fuel tax."
279 (d) An additional tax on each motor fuel equivalent gallon
280 of natural gas fuel, which is designated as the "State
281 Comprehensive Enhanced Transportation System Tax," at a rate
282 determined pursuant to this paragraph. Each calendar year, the
283 department shall determine the tax rate applicable to the sale
284 of natural gas fuel for the following 12-month period beginning
285 January 1, rounded to the nearest tenth of a cent, by adjusting
286 the initially established tax rate of 7.1 cents per gallon by
287 the percentage change in the average of the Consumer Price Index
288 issued by the United States Department of Labor for the most
289 recent 12-month period ending September 30.
290 (e)1. An additional tax is imposed on each motor fuel
291 equivalent gallon of natural gas fuel for the privilege of
292 selling natural gas fuel and is designated as the "fuel sales
293 tax." Each calendar year, the department shall determine the tax
294 rate applicable to the sale of natural gas fuel, rounded to the
295 nearest tenth of a cent, for the following 12-month period
296 beginning January 1. The tax rate is calculated by adjusting the
297 initially established tax rate of 12.9 cents per gallon by the
298 percentage change in the average of the Consumer Price Index
299 issued by the United States Department of Labor for the most
300 recent 12-month period ending September 30.
301 2. The department is authorized to adopt rules and publish
302 forms to administer this paragraph.

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303 (3) Unless otherwise provided by this chapter, the taxes
304 specified in subsection (2) are imposed on natural gas fuel when
305 it is placed into the fuel supply tank of a motor vehicle as
306 defined in s. 206.01(23). The person liable for payment of the
307 taxes imposed by this section is the person selling the fuel to
308 the end user, for use in the fuel supply tank of a motor vehicle
309 as defined in s. 206.01(23).
310 Section 14. Section 206.996, Florida Statutes, is created
311 to read:
312 206.996 Monthly reports by natural gas fuel retailers;
313 deductions.—
314 (1) For the purpose of determining the amount of taxes
315 imposed by s. 206.9955, each natural gas fuel retailer shall
316 file beginning February 2019, and each month thereafter, no
317 later than the 20th day of each month, monthly reports
318 electronically with the department showing information on
319 inventory, purchases, nontaxable disposals, and taxable sales in
320 gallons of natural gas fuel for the preceding month. However, if
321 the 20th day of the month falls on a Saturday, Sunday, or
322 federal or state legal holiday, a return must be accepted if it
323 is electronically filed on the next succeeding business day. The
324 reports must include, or be verified by, a written declaration
325 stating that such report is made under the penalties of perjury.
326 The natural gas fuel retailer shall deduct from the amount of
327 taxes shown by the report to be payable an amount equivalent to
328 0.67 percent of the taxes on natural gas fuel imposed by s.
329 206.9955(2)(a) and (e), which deduction is allowed to the
330 natural gas fuel retailer to compensate it for services rendered
331 and expenses incurred in complying with the requirements of this

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332 part. This allowance is not deductible unless payment of
333 applicable taxes is made on or before the 20th day of the month.
334 This subsection may not be construed as authorizing a deduction
335 from the constitutional fuel tax or the fuel sales tax.
336 (2) Upon the electronic filing of the monthly report, each
337 natural gas fuel retailer shall pay the department the full
338 amount of natural gas fuel taxes for the preceding month at the
339 rate provided in s. 206.9955, less the amount allowed the
340 natural gas fuel retailer for services and expenses as provided
341 in subsection (1).
342 (3) The department may authorize a quarterly return and
343 payment of taxes when the taxes remitted by the natural gas fuel
344 retailer for the preceding quarter did not exceed $100, and the
345 department may authorize a semiannual return and payment of
346 taxes when the taxes remitted by the natural gas fuel retailer
347 for the preceding 6 months did not exceed $200.
348 (4) In addition to the allowance authorized by subsection
349 (1), every natural gas fuel retailer is entitled to a deduction
350 of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and
351 (c), on account of services and expenses incurred due to
352 compliance with the requirements of this part. This allowance
353 may not be deductible unless payment of the tax is made on or
354 before the 20th day of the month.
355 Section 15. Section 206.9965, Florida Statutes, is created
356 to read:
357 206.9965 Exemptions and refunds; natural gas fuel
358 retailers.—Natural gas fuel may be purchased from natural gas
359 fuel retailers exempt from the tax imposed by this part when
360 used or purchased for the following:

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361 (1) Exclusive use by the United States or its departments
362 or agencies. Exclusive use by the United States or its
363 departments and agencies means the consumption by the United
364 States or its departments or agencies of the natural gas fuel in
365 a motor vehicle as defined in s. 206.01(23).
366 (2) Use for agricultural purposes as defined in s.
367 206.41(4)(c).
368 (3) Uses as provided in s. 206.874(3).
369 (4) Used to propel motor vehicles operated by state and
370 local government agencies.
371 (5) Individual use resulting from residential refueling
372 devices located at a person's primary residence.
373 (6) Purchases of natural gas fuel between licensed natural
374 gas fuel retailers. A natural gas fuel retailer that sells tax-
375 paid natural gas fuel to another natural gas fuel retailer may
376 take a credit on its monthly return or may file a claim for
377 refund with the Chief Financial Officer pursuant to s. 215.26.
378 All sales of natural gas fuel between natural gas fuel retailers
379 must be documented on invoices or other evidence of the sale of
380 such fuel and the seller shall retain a copy of the purchaser's
381 natural gas fuel retailer license.
382 Section 16. Section 206.879, Florida Statutes, is
383 transferred and renumbered as section 206.997, Florida Statutes,
384 and amended to read:
385 206.997 ~~206.879~~ State and local alternative fuel user fee
386 clearing trust funds; distribution.—
387 ~~(1)~~ Notwithstanding the provisions of s. 206.875, the
388 revenues from the natural gas fuel tax imposed by s. 206.9955
389 ~~state alternative fuel fees imposed by s. 206.877~~ shall be

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390 deposited into the State Alternative Fuel User Fee Clearing
391 Trust Fund, which is hereby created. After deducting the service
392 charges provided in s. 215.20, the proceeds in this trust fund
393 shall be distributed as follows: one-half of the proceeds in
394 calendar year 2019 and ~~one-fifth of the proceeds in calendar~~
395 ~~year 1991, one-third of the proceeds in calendar year 1992,~~
396 ~~three-sevenths of the proceeds in calendar year 1993, and one-~~
397 ~~half of the proceeds in each calendar year~~ thereafter shall be
398 transferred to the State Transportation Trust Fund; the
399 remainder shall be distributed as follows: 50 percent shall be
400 transferred to the State Board of Administration for
401 distribution according to the provisions of s. 16, Art. IX of
402 the State Constitution of 1885, as amended; 25 percent shall be
403 transferred to the Revenue Sharing Trust Fund for
404 Municipalities; and the remaining 25 percent shall be
405 distributed using the formula contained in s. 206.60(1).
406 ~~(2) Notwithstanding the provisions of s. 206.875, the~~
407 ~~revenues from the local alternative fuel fees imposed in lieu of~~
408 ~~s. 206.87(1)(b) or (c) shall be deposited into The Local~~
409 ~~Alternative Fuel User Fee Clearing Trust Fund, which is hereby~~
410 ~~created. After deducting the service charges provided in s.~~
411 ~~215.20, the proceeds in this trust fund shall be returned~~
412 ~~monthly to the appropriate county.~~
413 Section 17. (1) The Local Alternative Fuel User Fee
414 Clearing Trust Fund within the Department of Revenue is
415 terminated.
416 (2) The Department of Revenue shall pay any outstanding
417 debts or obligations of the terminated fund as soon as
418 practicable, and the Chief Financial Officer shall close out and

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419 remove the terminated fund from various state accounting systems
420 using generally accepted accounting principles concerning
421 warrants outstanding, assets, and liabilities.
422 Section 18. Section 206.998, Florida Statutes, is created
423 to read:
424 206.998 Applicability of specified sections of parts I and
425 II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,
426 206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,
427 206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
428 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
429 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,
430 206.27, 206.28, 206.405, 206.406, 206.41, 206.413, 206.43,
431 206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,
432 206.608, and 206.61 of part I of this chapter and ss. 206.86,
433 206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part
434 II of this chapter shall, as far as lawful or practicable, be
435 applicable to the tax levied and imposed and to the collection
436 thereof as if fully set out in this part. However, any provision
437 of any such section does not apply if it conflicts with any
438 provision of this part.
439 Section 19. Paragraph (d) of subsection (2) of section
440 212.055, Florida Statutes, is amended to read:
441 212.055 Discretionary sales surtaxes; legislative intent;
442 authorization and use of proceeds.—It is the legislative intent
443 that any authorization for imposition of a discretionary sales
444 surtax shall be published in the Florida Statutes as a
445 subsection of this section, irrespective of the duration of the
446 levy. Each enactment shall specify the types of counties
447 authorized to levy; the rate or rates which may be imposed; the

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448 maximum length of time the surtax may be imposed, if any; the
449 procedure which must be followed to secure voter approval, if
450 required; the purpose for which the proceeds may be expended;
451 and such other requirements as the Legislature may provide.
452 Taxable transactions and administrative procedures shall be as
453 provided in s. 212.054.
454 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—
455 (d) The proceeds of the surtax authorized by this
456 subsection and any accrued interest shall be expended by the
457 school district, within the county and municipalities within the
458 county, or, in the case of a negotiated joint county agreement,
459 within another county, to finance, plan, and construct
460 infrastructure; to acquire land for public recreation,
461 conservation, or protection of natural resources; to provide
462 loans, grants, or rebates to residential or commercial property
463 owners who make energy efficiency improvements to their
464 residential or commercial property, if a local government
465 ordinance authorizing such use is approved by referendum; or to
466 finance the closure of county-owned or municipally owned solid
467 waste landfills that have been closed or are required to be
468 closed by order of the Department of Environmental Protection.
469 Any use of the proceeds or interest for purposes of landfill
470 closure before July 1, 1993, is ratified. The proceeds and any
471 interest may not be used for the operational expenses of
472 infrastructure, except that a county that has a population of
473 fewer than 75,000 and that is required to close a landfill may
474 use the proceeds or interest for long-term maintenance costs
475 associated with landfill closure. Counties, as defined in s.
476 125.011, and charter counties may, in addition, use the proceeds

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477 or interest to retire or service indebtedness incurred for bonds
478 issued before July 1, 1987, for infrastructure purposes, and for
479 bonds subsequently issued to refund such bonds. Any use of the
480 proceeds or interest for purposes of retiring or servicing
481 indebtedness incurred for refunding bonds before July 1, 1999,
482 is ratified.
483 1. For the purposes of this paragraph, the term
484 “infrastructure” means:
485 a. Any fixed capital expenditure or fixed capital outlay
486 associated with the construction, reconstruction, or improvement
487 of public facilities that have a life expectancy of 5 or more
488 years and any related land acquisition, land improvement,
489 design, and engineering costs.
490 b. A fire department vehicle, an emergency medical service
491 vehicle, a sheriff’s office vehicle, a police department
492 vehicle, or any other vehicle, and the equipment necessary to
493 outfit the vehicle for its official use or equipment that has a
494 life expectancy of at least 5 years.
495 c. Any expenditure for the construction, lease, or
496 maintenance of, or provision of utilities or security for,
497 facilities, as defined in s. 29.008.
498 d. Any fixed capital expenditure or fixed capital outlay
499 associated with the improvement of private facilities that have
500 a life expectancy of 5 or more years and that the owner agrees
501 to make available for use on a temporary basis as needed by a
502 local government as a public emergency shelter or a staging area
503 for emergency response equipment during an emergency officially
504 declared by the state or by the local government under s.
505 252.38. Such improvements are limited to those necessary to

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506 comply with current standards for public emergency evacuation
507 shelters. The owner must enter into a written contract with the
508 local government providing the improvement funding to make the
509 private facility available to the public for purposes of
510 emergency shelter at no cost to the local government for a
511 minimum of 10 years after completion of the improvement, with
512 the provision that the obligation will transfer to any
513 subsequent owner until the end of the minimum period.
514 e. Any land acquisition expenditure for a residential
515 housing project in which at least 30 percent of the units are
516 affordable to individuals or families whose total annual
517 household income does not exceed 120 percent of the area median
518 income adjusted for household size, if the land is owned by a
519 local government or by a special district that enters into a
520 written agreement with the local government to provide such
521 housing. The local government or special district may enter into
522 a ground lease with a public or private person or entity for
523 nominal or other consideration for the construction of the
524 residential housing project on land acquired pursuant to this
525 sub-subparagraph.
526 2. For the purposes of this paragraph, the term “energy
527 efficiency improvement” means any energy conservation and
528 efficiency improvement that reduces consumption through
529 conservation or a more efficient use of electricity, natural
530 gas, propane, or other forms of energy on the property,
531 including, but not limited to, air sealing; installation of
532 insulation; installation of energy-efficient heating, cooling,
533 or ventilation systems; installation of solar panels; building
534 modifications to increase the use of daylight or shade;

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535 replacement of windows; installation of energy controls or
536 energy recovery systems; installation of electric vehicle
537 charging equipment; installation of systems for natural gas fuel
538 as defined in s. 206.9951; and installation of efficient
539 lighting equipment.
540 3. Notwithstanding any other provision of this subsection,
541 a local government infrastructure surtax imposed or extended
542 after July 1, 1998, may allocate up to 15 percent of the surtax
543 proceeds for deposit into ~~in~~ a trust fund within the county's
544 accounts created for the purpose of funding economic development
545 projects having a general public purpose of improving local
546 economies, including the funding of operational costs and
547 incentives related to economic development. The ballot statement
548 must indicate the intention to make an allocation under the
549 authority of this subparagraph.
550 Section 20. Subsection (4) of section 212.08, Florida
551 Statutes, is amended to read:
552 212.08 Sales, rental, use, consumption, distribution, and
553 storage tax; specified exemptions.—The sale at retail, the
554 rental, the use, the consumption, the distribution, and the
555 storage to be used or consumed in this state of the following
556 are hereby specifically exempt from the tax imposed by this
557 chapter.
558 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—
559 (a) Also exempt are:
560 1. Water delivered to the purchaser through pipes or
561 conduits or delivered for irrigation purposes. The sale of
562 drinking water in bottles, cans, or other containers, including
563 water that contains minerals or carbonation in its natural state

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564 or water to which minerals have been added at a water treatment
565 facility regulated by the Department of Environmental Protection
566 or the Department of Health, is exempt. This exemption does not
567 apply to the sale of drinking water in bottles, cans, or other
568 containers if carbonation or flavorings, except those added at a
569 water treatment facility, have been added. Water that has been
570 enhanced by the addition of minerals and that does not contain
571 any added carbonation or flavorings is also exempt.
572 2. All fuels used by a public or private utility, including
573 any municipal corporation or rural electric cooperative
574 association, in the generation of electric power or energy for
575 sale. Fuel other than motor fuel and diesel fuel is taxable as
576 provided in this chapter with the exception of fuel expressly
577 exempt herein. Natural gas fuel as defined in s. 206.9951(2) is
578 exempt from the tax imposed by this chapter when placed into the
579 fuel supply system of a motor vehicle. Motor fuels and diesel
580 fuels are taxable as provided in chapter 206, with the exception
581 of those motor fuels and diesel fuels used by railroad
582 locomotives or vessels to transport persons or property in
583 interstate or foreign commerce, which are taxable under this
584 chapter only to the extent provided herein. The basis of the tax
585 shall be the ratio of intrastate mileage to interstate or
586 foreign mileage traveled by the carrier’s railroad locomotives
587 or vessels that were used in interstate or foreign commerce and
588 that had at least some Florida mileage during the previous
589 fiscal year of the carrier, such ratio to be determined at the
590 close of the fiscal year of the carrier. However, during the
591 fiscal year in which the carrier begins its initial operations
592 in this state, the carrier’s mileage apportionment factor may be

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593 determined on the basis of an estimated ratio of anticipated
594 miles in this state to anticipated total miles for that year,
595 and subsequently, additional tax shall be paid on the motor fuel
596 and diesel fuels, or a refund may be applied for, on the basis
597 of the actual ratio of the carrier's railroad locomotives' or
598 vessels' miles in this state to its total miles for that year.
599 This ratio shall be applied each month to the total Florida
600 purchases made in this state of motor and diesel fuels to
601 establish that portion of the total used and consumed in
602 intrastate movement and subject to tax under this chapter. The
603 basis for imposition of any discretionary surtax shall be set
604 forth in s. 212.054. Fuels used exclusively in intrastate
605 commerce do not qualify for the proration of tax.
606 3. The transmission or wheeling of electricity.
607 (b) Alcoholic beverages and malt beverages are not exempt.
608 The terms "alcoholic beverages" and "malt beverages" as used in
609 this paragraph have the same meanings ascribed to them in ss.
610 561.01(4) and 563.01, respectively. It is determined by the
611 Legislature that the classification of alcoholic beverages made
612 in this paragraph for the purpose of extending the tax imposed
613 by this chapter is reasonable and just, and it is intended that
614 such tax be separate from, and in addition to, any other tax
615 imposed on alcoholic beverages.
616
617 ========== T I T L E A M E N D M E N T ==========
618 And the title is amended as follows:
619 Delete lines 21 - 28
620 and insert:
621 206.86, F.S.; deleting definitions for the terms

189066

622 "alternative fuel" and "natural gasoline"; amending s.
623 206.87, F.S.; conforming a cross-reference; repealing
624 s. 206.877, F.S., relating to the annual decal fee
625 program for motor vehicles powered by alternative
626 fuels; repealing s. 206.89, F.S., relating to the
627 requirements for alternative fuel retailer licenses;
628 amending s. 206.91, F.S.; making grammatical and
629 technical changes; providing a directive to the
630 Division of Law Revision and Information; amending s.
631 206.9825, F.S.; revising the criteria that certain air
632 carriers must meet to qualify for an exemption to the
633 aviation fuel tax; providing remedies for failure by
634 an air carrier to meet the standards; authorizing
635 terminal suppliers and wholesalers to receive a
636 credit, or apply, for a refund of aviation fuel tax
637 previously paid; conforming terminology; authorizing
638 the Department of Revenue to adopt rules; creating s.
639 206.9951, F.S.; providing definitions; creating s.
640 206.9952, F.S.; establishing requirements for natural
641 gas fuel retailer licenses; providing penalties for
642 certain licensure violations; creating s. 206.9955,
643 F.S.; providing calculations for a motor fuel
644 equivalent gallon; providing for the levy of the
645 natural gas fuel tax; authorizing the Department of
646 Revenue to adopt rules; creating s. 206.996, F.S.;
647 establishing requirements for monthly reports of
648 natural gas fuel retailers; providing that reports are
649 made under the penalties of perjury; allowing natural
650 gas fuel retailers to seek a deduction of the tax

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651 levied under specified conditions; creating s.
652 206.9965, F.S.; providing exemptions and refunds from
653 the natural gas fuel tax; transferring, renumbering,
654 and amending s.206.879, F.S; revising provisions
655 relating to the State Alternative Fuel User Fee
656 Clearing Trust Fund; terminating the Local Alternative
657 Fuel User Fee Clearing Trust Fund within the
658 Department of Revenue; prescribing procedures for the
659 termination of the trust fund; creating s. 206.998,
660 F.S.; providing for the applicability of specified
661 sections of parts I and II of ch. 206, F.S.; amending
662 s. 212.055, F.S.; conforming a cross-reference;
663 amending s. 212.08, F.S.; providing an exemption from
664 taxes for natural gas fuel under certain
665 circumstances; repealing s.

187994

LEGISLATIVE ACTION

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

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

1 **Senate Amendment to Amendment (189066)**
2
3 Delete line 195
4 and insert:
5 compressed natural gas, or liquefied natural gas. The term does
6 not include natural gas or liquefied petroleum placed in a
7 separate tank of a motor vehicle for cooking, heating, water
8 heating, or electric generation.

972224

LEGISLATIVE ACTION

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

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 840 - 901
4 and insert:
5 (1)(a) Benches or transit shelters, including advertising
6 displayed on benches or transit shelters, may be installed
7 within the right-of-way limits of any municipal, county, or
8 state road, except a limited access highway, provided that the
9 ~~such~~ benches or transit shelters are for the comfort or
10 convenience of the general public or are at designated stops on
11 official bus routes and provided that written authorization has
12 been given to a qualified private supplier of the ~~such~~ service

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13 by the municipal government within whose incorporated limits the
14 ~~such~~ benches or transit shelters are installed or by the county
15 government within whose unincorporated limits the ~~such~~ benches
16 or transit shelters are installed. A municipality or county may
17 authorize the installation, without public bid, of benches and
18 transit shelters together with advertising displayed thereon
19 within the right-of-way limits of the ~~such~~ roads. All
20 installations must ~~shall~~ be in compliance with all applicable
21 laws and rules, including, without limitation, the Americans
22 with Disabilities Act. A person who installs or has installed a
23 transit shelter or a bus bench ~~Municipalities and counties that~~
24 ~~authorize or have authorized a bench or transit shelter to be~~
25 ~~installed~~ within the right-of-way limits of any road on the
26 State Highway System is ~~shall be~~ responsible for ensuring that
27 the bench or transit shelter complies with the ~~all~~ applicable
28 laws and rules, including, without limitation, the Americans
29 with Disabilities Act, or shall remove the bench or transit
30 shelter. The department is not liable ~~shall have no liability~~
31 for any claims, losses, costs, charges, expenses, damages,
32 liabilities, attorney fees, or court costs relating to the
33 installation, removal, or relocation of any benches or transit
34 shelters authorized by a municipality or county. If the
35 department determines that a bench or transit shelter
36 installation within the right-of-way limits of any road on the
37 State Highway System does not comply with the applicable laws
38 and rules, the owner of the bench or transit shelter shall
39 remove the bench or transit shelter or bring the bench or
40 shelter installation into compliance within 60 days after
41 receiving notice from the department. If the bench or transit

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42 shelter is not removed, the department may, but is not required
43 to, remove the bench or transit shelter and assess the cost of
44 the removal against the owner of the bench or transit shelter.
45 (b) On or before December 31, 2013, each owner of a bench
46 or transit shelter installed at any location within the right-
47 of-way limits of any road on the State Highway System must
48 provide to the department a written inventory of the location of
49 each bench or transit shelter. On and after July 1, 2013, each
50 owner of a new bench or transit shelter that will be installed
51 within the right-of-way limits of any road on the State Highway
52 System shall identify, in writing, the location of the new
53 installation to the department before installing the bench or
54 transit shelter. On or after January 1, 2014, the department
55 may, but is not required to, remove any unidentified bench or
56 transit shelter within the right-of-way limits of any road on
57 the State Highway System, and assess the cost of removal against
58 the owner of the bench or transit shelter.
59 (c) On and after July 1, 2013 ~~2012~~, a municipality or
60 county that authorizes a bench or transit shelter to be
61 installed within the right-of-way limits of any road on the
62 State Highway System must require the qualified private
63 supplier, or any other person under contract to install the
64 bench or transit shelter, to indemnify, defend, and hold
65 harmless the department from any suits, actions, proceedings,
66 claims, losses, costs, charges, expenses, damages, liabilities,
67 attorney fees, and court costs relating to the installation,
68 removal, or relocation of such installations, and to maintain
69 liability insurance in the minimum amount of $1 million with
70 supplemental liability insurance in the minimum amount of an

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71 additional $4 million. Each insurance policy must name the
72 department as an additional insured and a certificate of
73 insurance shall be furnished to the department before the
74 installation of any bench or transit shelter, and annually after
75 the initial installation. The certificate of insurance must
76 provide that the policy may not be modified, cancelled, or non-
77 renewed without providing to the department and to the
78 municipality or county written notice 45 days before the
79 modification, cancellation, or non-renewal. Each insurance
80 policy must specifically include coverage for any alleged
81 violation of applicable law, including, but not limited to, the
82 Americans with Disabilities Act. The requirements of this
83 paragraph do not apply to transit shelters installed by public
84 transit providers at designated stops on official transit routes
85 ~~shall annually certify to the department in a notarized signed~~
86 ~~statement that this requirement has been met~~. ~~The certification~~
87 ~~shall include the name and address of each person responsible~~
88 ~~for indemnifying the department for an authorized installation.~~
89 (d) Municipalities and counties that have authorized the
90 installation of benches or transit shelters within the right-of-
91 way limits of any road on the State Highway System must remove
92 or relocate, or cause the removal or relocation of, the
93 installation at no cost to the department within 60 days after
94 written notice by the department that the installation is
95 unreasonably interfering in any way with the convenient, safe,
96 or continuous use of or the maintenance, improvement, extension,
97 or expansion of the State Highway System road.
98 (e) Any contract for the installation of benches or transit
99 shelters or advertising on benches or transit shelters which was

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100 entered into before April 8, 1992, without public bidding is
101 ratified and affirmed. The ~~Such~~ benches or transit shelters may
102 not interfere with right-of-way preservation and maintenance.
103 (f) Any bench or transit shelter located on a sidewalk
104 within the right-of-way limits of any road on the State Highway
105 System or the county road system must ~~shall~~ be located so as to
106 leave at least 36 inches of clearance for pedestrians and
107 persons in wheelchairs. The ~~Such~~ clearance must ~~shall~~ be
108 measured in a direction perpendicular to the centerline of the
109 road.
110
111 ========== T I T L E A M E N D M E N T ==========
112 And the title is amended as follows:
113 Delete line 69
114 and insert:
115 of-way; providing that persons who install a transit
116 shelter or bus bench on certain right-of-ways are
117 responsible for ensuring that the bench or transit
118 shelter complies with applicable laws and rules;
119 providing for the disposition of a bench or transit
120 shelter that is not in compliance with applicable laws
121 or rules; requiring owners of a bench or transit
122 shelter to provide the department with a written
123 inventory of locations; requiring the owner of a bench
124 or transit shelter to maintain a liability insurance
125 policy naming the department as an additional insured;
126 specifying requirements for the policy; providing
127 criteria for notice of modification, cancellation, or
128 nonrenewal of an insurance policy; providing

972224

129 exceptions; requiring each county or municipality to
130 remit

312864

LEGISLATIVE ACTION

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

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

1 **Senate Amendment**
2
3 Delete line 2339
4 and insert:
5 discharged insofar as the rights vested in the authority and the
6 department affect the

By Senator Brandes

22-00495B-13 20131132__

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; requiring the Transportation
4 Commission to also monitor the Mid-Bay Bridge
5 Authority; deleting provisions relating to the Florida
6 Statewide Passenger Rail Commission; amending s.
7 110.205, F.S.; changing to the State Freight and
8 Logistics Administrator from the State Public
9 Transportation and Modal Administrator, which is an
10 exempt position not covered under career service;
11 creating s. 163.3176, F.S.; providing legislative
12 intent; requiring that a local government ensure that
13 noise compatible land-use planning is used in its
14 jurisdiction; providing guidelines; providing for the
15 sharing of related costs of construction if a local
16 government does not comply with the noise mitigation
17 requirements; requiring that local governments consult
18 with the Department of Transportation and the
19 Department of Economic Opportunity in the formulation
20 of noise mitigation requirements; amending s.
21 206.9825, F.S.; revising the criteria that certain air
22 carriers must meet to qualify for an exemption to the
23 aviation fuel tax; providing remedies for failure by
24 an air carrier to meet the standards; authorizing
25 terminal suppliers and wholesalers to receive a
26 credit, or apply, for a refund of aviation fuel tax
27 previously paid; conforming terminology; authorizing
28 the Department of Revenue to adopt rules; repealing s.
29 316.530(3), F.S., relating to load limits for certain

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30 towed vehicles; amending s. 316.545, F.S.; increasing
31 the weight amount used for penalty calculations;
32 conforming terminology; amending s. 331.360, F.S.;
33 reordering provisions; providing for a spaceport
34 system plan; providing funding for space
35 transportation projects from the State Transportation
36 Trust Fund; requiring Space Florida to provide the
37 Department of Transportation with specific project
38 information and to demonstrate transportation and
39 aerospace benefits; specifying the information to be
40 provided; providing funding criteria; providing
41 criteria for the Spaceport Investment Program;
42 providing for funding; authorizing the use of revenues
43 for the payment of forms of indebtedness issued by
44 Space Florida; providing restrictions and criteria for
45 the use of certain revenues; amending s. 332.007,
46 F.S.; authorizing the Department of Transportation to
47 fund strategic airport investments; providing
48 criteria; amending s. 334.044, F.S.; prohibiting the
49 department from entering into a lease-purchase
50 agreement with certain transportation authorities
51 after a specified time; amending s. 337.11, F.S.;
52 removing the requirement that a contractor provide a
53 notarized affidavit as proof of registration; amending
54 s. 337.14, F.S.; revising the criteria for bidding
55 certain construction contracts to require a proposed
56 budget estimate if a contract is more than a specified
57 amount; amending s. 337.168, F.S.; providing that a
58 document that reveals the identity of a person who has

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59 requested or received certain information before a
60 certain time is a public record; amending s. 337.251,
61 F.S.; revising criteria for leasing particular
62 department property; increasing the time the
63 department must accept proposals for lease after a
64 notice is published; authorizing the department to
65 establish an application fee by rule; providing
66 criteria for the fee; providing criteria that the
67 lease must meet; amending s. 337.408, F.S.; providing
68 regulations for parking meters and spaces in rights-
69 of-way; requiring each county or municipality to remit
70 certain revenue to the department; directing the
71 department to deposit the funds into the State
72 Transportation Trust Fund; amending s. 338.161, F.S.;
73 authorizing the department to enter into agreements
74 with owners of public or private transportation
75 facilities rather than entities that use the
76 department's electronic toll collection and video
77 billing systems to collect certain charges; amending
78 s. 338.165, F.S.; removing the Beeline-East Expressway
79 and the Navarre Bridge from the list of facilities
80 that have toll revenues to secure their bonds;
81 amending s. 338.26, F.S.; revising the uses of fees
82 that are generated from tolls to include the design
83 and construction of a fire station that may be used by
84 certain local governments in accordance with a
85 specified memorandum; removing authority of a district
86 to issue bonds or notes; amending s. 339.175, F.S.;
87 revising the criteria that qualify a local government

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88 for participation in a metropolitan planning
89 organization; revising the criteria to determine
90 voting membership of a metropolitan planning
91 organization; providing that each metropolitan
92 planning organization shall review its membership and
93 reapportion it as necessary; providing criteria;
94 removing the requirement that the Governor review and
95 apportion the voting membership among the various
96 governmental entities within the metropolitan planning
97 area; amending s. 339.2821, F.S.; authorizing
98 Enterprise Florida, Inc., to be a consultant to the
99 Department of Transportation for consideration of
100 expenditures associated with and contracts for
101 transportation projects; revising the requirements for
102 economic development transportation project contracts
103 between the department and a governmental entity;
104 amending s. 339.55, F.S.; adding spaceports to the
105 list of facility types for which the state-funded
106 infrastructure bank may lend capital costs or provide
107 credit enhancements; amending s. 341.031, F.S.;
108 revising the definition of the term “intercity bus
109 service”; amending s. 341.053, F.S.; revising the
110 types of eligible projects and criteria of the
111 intermodal development program; amending s. 341.302,
112 F.S.; authorizing the Department of Transportation to
113 undertake ancillary development for appropriate
114 revenue sources to be used for state-owned rail
115 corridors; amending ss. 343.82 and 343.922, F.S.;
116 removing reference to advances from the Toll

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117 Facilities Revolving Trust Fund as a source of funding
118 for certain projects by an authority; creating ch.
119 345, F.S., relating to the Florida Regional Tollway
120 Authority; creating s. 345.0001, F.S.; providing a
121 short title; creating s. 345.0002, F.S.; providing
122 definitions; creating s. 345.0003, F.S.; authorizing
123 counties to form a regional tollway authority that can
124 construct, maintain, or operate transportation
125 projects in a region of the state; providing for
126 governance of the authority; creating s. 345.0004,
127 F.S.; providing for the powers and duties of a
128 regional tollway authority; limiting an authority's
129 power with respect to an existing system; prohibiting
130 an authority from pledging the credit or taxing power
131 of the state or any political subdivision or agency of
132 the state; requiring that an authority comply with
133 certain reporting and documentation requirements;
134 creating s. 345.0005, F.S.; authorizing the authority
135 to issue bonds; providing that the issued bonds must
136 meet certain requirements; providing that the
137 resolution that authorizes the issuance of bonds meet
138 certain requirements; authorizing an authority to
139 enter into security agreements for issued bonds with a
140 bank or trust company; providing that the issued bonds
141 are negotiable instruments and have certain qualities;
142 providing that a resolution authorizing the issuance
143 of bonds and pledging of revenues of the system must
144 contain certain requirements; prohibiting the use or
145 pledge of state funds to pay principal or interest of

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146 an authority's bonds; creating s. 345.0006, F.S.;
147 providing for the rights and remedies granted to
148 certain bondholders; providing the actions a trustee
149 may take on behalf of the bondholders; providing for
150 the appointment of a receiver; providing for the
151 authority of the receiver; providing limitations to
152 the receiver's authority; creating s. 345.0007, F.S.;
153 providing that the Department of Transportation is the
154 agent of each authority for specified purposes;
155 providing for the administration and management of
156 projects by the department; providing limits on the
157 department as an agent; providing for the fiscal
158 responsibilities of the authority; creating s.
159 345.0008, F.S.; authorizing the department to provide
160 for or commit its resources for an authority project
161 or system, if approved by the Legislature; providing
162 for payment of expenses incurred by the department on
163 behalf of an authority; requiring the department to
164 receive a share of the revenue from the authority;
165 providing calculations for disbursement of revenues;
166 creating s. 345.0009, F.S.; authorizing the authority
167 to acquire private or public property and property
168 rights for a project or plan; authorizing the
169 authority to exercise the right of eminent domain;
170 providing for the rights and liabilities and remedial
171 actions relating to property acquired for a
172 transportation project or corridor; creating s.
173 345.0010, F.S.; providing for contracts between
174 governmental entities and an authority; creating s.

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175 345.0011, F.S.; providing that the state will not
176 limit or alter the vested rights of a bondholder with
177 regard to any issued bonds or rights relating to the
178 bonds under certain conditions; creating s. 345.0012,
179 F.S.; relieving the authority from the obligation of
180 paying certain taxes or assessments for property
181 acquired or used for certain public purposes or for
182 revenues received relating to the issuance of bonds;
183 providing exceptions; creating s. 345.0013, F.S.;
184 providing that the bonds or obligations issued are
185 legal investments of specified entities; creating s.
186 345.0014, F.S.; providing applicability; creating s.
187 345.0015, F.S.; creating the Northwest Florida
188 Regional Tollway Authority; creating s. 345.0016,
189 F.S.; creating the Okaloosa-Bay Regional Tollway
190 Authority; creating s. 345.0017, F.S.; creating the
191 Suncoast Regional Tollway Authority; providing for the
192 transfer of the governance and control of the Mid-Bay
193 Bridge Authority System to the Okaloosa-Bay Regional
194 Tollway Authority; providing for the disposition of
195 bonds, the protection of the bondholders, the effect
196 on the rights and obligations under a contract or the
197 bonds, and the revenues associated with the bonds;
198 providing effective dates.
199
200 Be It Enacted by the Legislature of the State of Florida:
201
202 Section 1. Paragraph (b) of subsection (2) and subsection
203 (3) of section 20.23, Florida Statutes, are amended, and present

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204 subsections (4) through (7) of that subsection are renumbered as
205 subsections (3) through (6), to read:
206 20.23 Department of Transportation.—There is created a
207 Department of Transportation which shall be a decentralized
208 agency.
209 (2)
210 (b) The commission shall ~~have the primary functions to~~:
211 1. Recommend major transportation policies for the
212 Governor's approval, and assure that approved policies and any
213 revisions ~~thereto~~ are properly executed.
214 2. Periodically review the status of the state
215 transportation system including highway, transit, rail, seaport,
216 intermodal development, and aviation components of the system
217 and recommend improvements therein to the Governor and the
218 Legislature.
219 3. Perform an in-depth evaluation of the annual department
220 budget request, the Florida Transportation Plan, and the
221 tentative work program for compliance with all applicable laws
222 and established departmental policies. Except as specifically
223 provided in s. 339.135(4)(c)2., (d), and (f), the commission may
224 not consider individual construction projects, but shall
225 consider methods of accomplishing the goals of the department in
226 the most effective, efficient, and businesslike manner.
227 4. Monitor the financial status of the department on a
228 regular basis to assure that the department is managing revenue
229 and bond proceeds responsibly and in accordance with law and
230 established policy.
231 5. Monitor on at least a quarterly basis, the efficiency,
232 productivity, and management of the department, using

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

233 performance and production standards developed by the commission
234 pursuant to s. 334.045.
235 6. Perform an in-depth evaluation of the factors causing
236 disruption of project schedules in the adopted work program and
237 recommend to the Legislature and the Governor methods to
238 eliminate or reduce the disruptive effects of these factors.
239 7. Recommend to the Governor and the Legislature
240 improvements to the department's organization in order to
241 streamline and optimize the efficiency of the department. In
242 reviewing the department's organization, the commission shall
243 determine if the current district organizational structure is
244 responsive to Florida's changing economic and demographic
245 development patterns. The initial report by the commission must
246 be delivered to the Governor and Legislature by December 15,
247 2000, and each year thereafter, as appropriate. The commission
248 may retain ~~such~~ experts that ~~as~~ are reasonably necessary to
249 effectuate this subparagraph, and the department shall pay the
250 expenses of the ~~such~~ experts.
251 8. Monitor the efficiency, productivity, and management of
252 the authorities created under chapters 348 and 349, including
253 any authority formed using the provisions of part I of chapter
254 348, the Mid-Bay Bridge Authority created pursuant to chapter
255 2000-411, Laws of Florida, and any authority formed under
256 chapter 343 which is not monitored under subsection (3). The
257 commission shall also conduct periodic reviews of each
258 authority's operations and budget, acquisition of property,
259 management of revenue and bond proceeds, and compliance with
260 applicable laws and generally accepted accounting principles.
261 ~~(3) There is created the Florida Statewide Passenger Rail~~

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262 ~~Commission.~~
263 ~~(a)1. The commission shall consist of nine voting members~~
264 ~~appointed as follows:~~
265 ~~a. Three members shall be appointed by the Governor, one of~~
266 ~~whom must have a background in the area of environmental~~
267 ~~concerns, one of whom must have a legislative background, and~~
268 ~~one of whom must have a general business background.~~
269 ~~b. Three members shall be appointed by the President of the~~
270 ~~Senate, one of whom must have a background in civil engineering,~~
271 ~~one of whom must have a background in transportation~~
272 ~~construction, and one of whom must have a general business~~
273 ~~background.~~
274 ~~c. Three members shall be appointed by the Speaker of the~~
275 ~~House of Representatives, one of whom must have a legal~~
276 ~~background, one of whom must have a background in financial~~
277 ~~matters, and one of whom must have a general business~~
278 ~~background.~~
279 ~~2. The initial term of each member appointed by the~~
280 ~~Governor shall be for 4 years. The initial term of each member~~
281 ~~appointed by the President of the Senate shall be for 3 years.~~
282 ~~The initial term of each member appointed by the Speaker of the~~
283 ~~House of Representatives shall be for 2 years. Succeeding terms~~
284 ~~for all members shall be for 4 years.~~
285 ~~3. A vacancy occurring during a term shall be filled by the~~
286 ~~respective appointing authority in the same manner as the~~
287 ~~original appointment and only for the balance of the unexpired~~
288 ~~term. An appointment to fill a vacancy shall be made within 60~~
289 ~~days after the occurrence of the vacancy.~~
290 ~~4. The commission shall elect one of its members as chair~~

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291 ~~of the commission. The chair shall hold office at the will of~~
292 ~~the commission. Five members of the commission shall constitute~~
293 ~~a quorum, and the vote of five members shall be necessary for~~
294 ~~any action taken by the commission. The commission may meet upon~~
295 ~~the constitution of a quorum. A vacancy in the commission does~~
296 ~~not impair the right of a quorum to exercise all rights and~~
297 ~~perform all duties of the commission.~~
298 ~~5. The members of the commission are not entitled to~~
299 ~~compensation but are entitled to reimbursement for travel and~~
300 ~~other necessary expenses as provided in s. 112.061.~~
301 ~~(b) The commission shall have the primary functions of:~~
302 ~~1. Monitoring the efficiency, productivity, and management~~
303 ~~of all publicly funded passenger rail systems in the state,~~
304 ~~including, but not limited to, any authority created under~~
305 ~~chapter 343, chapter 349, or chapter 163 if the authority~~
306 ~~receives public funds for the provision of passenger rail~~
307 ~~service. The commission shall advise each monitored authority of~~
308 ~~its findings and recommendations. The commission shall also~~
309 ~~conduct periodic reviews of each monitored authority's passenger~~
310 ~~rail and associated transit operations and budget, acquisition~~
311 ~~of property, management of revenue and bond proceeds, and~~
312 ~~compliance with applicable laws and generally accepted~~
313 ~~accounting principles. The commission may seek the assistance of~~
314 ~~the Auditor General in conducting such reviews and shall report~~
315 ~~the findings of such reviews to the Legislature. This paragraph~~
316 ~~does not preclude the Florida Transportation Commission from~~
317 ~~conducting its performance and work program monitoring~~
318 ~~responsibilities.~~
319 ~~2. Advising the department on policies and strategies used~~

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320 ~~in planning, designing, building, operating, financing, and~~
321 ~~maintaining a coordinated statewide system of passenger rail~~
322 ~~services.~~
323 ~~3. Evaluating passenger rail policies and providing advice~~
324 ~~and recommendations to the Legislature on passenger rail~~
325 ~~operations in the state.~~
326 ~~(c) The commission or a member of the commission may not~~
327 ~~enter into the day-to-day operation of the department or a~~
328 ~~monitored authority and is specifically prohibited from taking~~
329 ~~part in:~~
330 ~~1. The awarding of contracts.~~
331 ~~2. The selection of a consultant or contractor or the~~
332 ~~prequalification of any individual consultant or contractor.~~
333 ~~However, the commission may recommend to the secretary standards~~
334 ~~and policies governing the procedure for selection and~~
335 ~~prequalification of consultants and contractors.~~
336 ~~3. The selection of a route for a specific project.~~
337 ~~4. The specific location of a transportation facility.~~
338 ~~5. The acquisition of rights-of-way.~~
339 ~~6. The employment, promotion, demotion, suspension,~~
340 ~~transfer, or discharge of any department personnel.~~
341 ~~7. The granting, denial, suspension, or revocation of any~~
342 ~~license or permit issued by the department.~~
343 ~~(d) The commission is assigned to the Office of the~~
344 ~~Secretary of the Department of Transportation for administrative~~
345 ~~and fiscal accountability purposes, but it shall otherwise~~
346 ~~function independently of the control and direction of the~~
347 ~~department except that reasonable expenses of the commission~~
348 ~~shall be subject to approval by the Secretary of Transportation.~~

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349 ~~The department shall provide administrative support and service~~
350 ~~to the commission.~~
351 Section 2. Paragraphs (j) and (m) of subsection (2) of
352 section 110.205, Florida Statutes, are amended to read:
353 110.205 Career service; exemptions.—
354 (2) EXEMPT POSITIONS.—The exempt positions that are not
355 covered by this part include the following:
356 (j) The appointed secretaries and the State Surgeon
357 General, assistant secretaries, deputy secretaries, and deputy
358 assistant secretaries of all departments; the executive
359 directors, assistant executive directors, deputy executive
360 directors, and deputy assistant executive directors of all
361 departments; the directors of all divisions and those positions
362 determined by the department to have managerial responsibilities
363 comparable to such positions, which positions include, but are
364 not limited to, program directors, assistant program directors,
365 district administrators, deputy district administrators, the
366 Director of Central Operations Services of the Department of
367 Children and Family Services, the State Transportation
368 Development Administrator, State Freight and Logistics ~~Public~~
369 ~~Transportation and Modal~~ Administrator, district secretaries,
370 district directors of transportation development, transportation
371 operations, transportation support, and the managers of the
372 offices specified in s. 20.23(3)(b) ~~20.23(4)(b)~~, of the
373 Department of Transportation. Unless otherwise fixed by law, the
374 department shall set the salary and benefits of these positions
375 in accordance with the rules of the Senior Management Service;
376 and the county health department directors and county health
377 department administrators of the Department of Health.

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378 (m) All assistant division director, deputy division
379 director, and bureau chief positions in any department, and
380 those positions determined by the department to have managerial
381 responsibilities comparable to such positions, which include,
382 but are not limited to:
383 1. Positions in the Department of Health and the Department
384 of Children and Family Services that are assigned primary duties
385 of serving as the superintendent or assistant superintendent of
386 an institution.
387 2. Positions in the Department of Corrections that are
388 assigned primary duties of serving as the warden, assistant
389 warden, colonel, or major of an institution or that are assigned
390 primary duties of serving as the circuit administrator or deputy
391 circuit administrator.
392 3. Positions in the Department of Transportation that are
393 assigned primary duties of serving as regional toll managers and
394 managers of offices, as defined in s. 20.23(3)(b) and (4)(c)
395 ~~20.23(4)(b) and (5)(c)~~.
396 4. Positions in the Department of Environmental Protection
397 that are assigned the duty of an Environmental Administrator or
398 program administrator.
399 5. Positions in the Department of Health that are assigned
400 the duties of Environmental Administrator, Assistant County
401 Health Department Director, and County Health Department
402 Financial Administrator.
403
404 Unless otherwise fixed by law, the department shall set the
405 salary and benefits of the positions listed in this paragraph in
406 accordance with the rules established for the Selected Exempt

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407 Service.
408 Section 3. Section 163.3176, Florida Statutes, is created
409 to read:
410 163.3176 Legislative findings; noise mitigation
411 requirements in development plans for land abutting the right-
412 of-way of a limited access facility; compliance required of
413 local governments.—
414 (1) The Legislature finds that incompatible residential
415 development of land adjacent to the rights-of-way of limited
416 access facilities and the failure to provide protections related
417 to noise abatement have not been in the best interest of the
418 public welfare or the economic health of the state. The
419 Legislature finds that the costs of transportation projects are
420 significantly increased by the added expense of required noise
421 abatement and by the delay of other potential and needed
422 transportation projects. The Legislature finds that limited
423 access facilities generate traffic noise due to the high speed
424 and high volumes of vehicular traffic on these important
425 highways. The Legislature finds that important state interests,
426 including, but not limited to, the protection of future
427 residential property owners, will be served by ensuring that
428 local governments have land development ordinances that promote
429 residential land-use planning and development that is noise
430 compatible with adjacent limited access facilities, and by
431 avoiding future noise abatement problems and the related state
432 expense to provide noise mitigation for residential dwellings
433 constructed after notice of a planned limited access facility is
434 made public. Additionally, the Legislature finds that, with
435 future potential population growth and the resulting need for

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436 future capacity improvements to limited access facilities, noise
437 compatible residential land-use planning must take into
438 consideration an evaluation of future impacts of traffic noise
439 on proposed residential developments that are adjacent to
440 limited access facilities.
441 (2) Each local government shall ensure that noise
442 compatible land-use planning is used in its jurisdictions in the
443 development of land for residential use which is adjacent to
444 right-of-way acquired for a limited access facility. The
445 measures must include the incorporation of federal and state
446 noise mitigation standards and guidelines in all local
447 government land development regulations and be reflected in and
448 carried out in the local government comprehensive plans,
449 amendments of adopted comprehensive plans, zoning plans,
450 subdivision plat approvals, development permits, and building
451 permits. Each local government shall ensure that residential
452 development proposed adjacent to a limited access facility is
453 planned and constructed in conformance with all noise mitigation
454 standards, guidelines, and regulations. A local government shall
455 share equally with the Department of Transportation all related
456 costs of construction if the local government does not comply
457 with this section and, as a result, the department is required
458 to construct a noise wall or other noise mitigation in
459 connection with a road improvement project.
460 (3) A local government shall consult with the Department of
461 Economic Opportunity and the department, as needed, in the
462 formulation and establishment of adequate noise mitigation
463 requirements in the respective land development regulations as
464 mandated in this section. A local government shall adopt land

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465 development regulations that are consistent with this section,
466 as soon as practicable, but not later than July 1, 2014.
467 Section 4. Subsection (1) of section 206.9825, Florida
468 Statutes, is amended to read:
469 206.9825 Aviation fuel tax.—
470 (1)(a) Except as otherwise provided in this part, an excise
471 tax of 6.9 cents per gallon of aviation fuel is imposed upon
472 every gallon of aviation fuel sold in this state, or brought
473 into this state for use, upon which such tax has not been paid
474 or the payment thereof has not been lawfully assumed by some
475 person handling the same in this state. Fuel taxed pursuant to
476 this part shall not be subject to the taxes imposed by ss.
477 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).
478 (b) Any ~~licensed wholesaler or terminal supplier that~~
479 ~~delivers aviation fuel to an~~ air carrier that offers ~~offering~~
480 transcontinental jet service and that has, within the preceding
481 5-year period from January 1 of the year the exemption is being
482 applied for, increased its ~~that, after January 1, 1996,~~
483 ~~increases the air carrier's~~ Florida workforce by more than 1,000
484 ~~1000~~ percent and by 250 or more full-time equivalent employee
485 positions as provided in reports that must be filed pursuant to
486 s. 443.163, may purchase ~~receive a credit or refund as the~~
487 ~~ultimate vendor of the~~ aviation fuel exempt from ~~for~~ the 6.9
488 cents per gallon tax imposed by this part from terminal
489 suppliers and wholesalers, provided that the air carrier has no
490 facility for fueling highway vehicles from the tank in which the
491 aviation fuel is stored. To qualify for the exemption, an air
492 carrier must submit a written request to the department stating
493 that it meets the requirements of this paragraph. The exemption

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494 under this paragraph expires on December 31 of the year it was
495 granted. The exemption is not allowed for any period before the
496 effective date of the air carrier exemption letter issued by the
497 department. To renew the exemption, the air carrier must submit
498 a written request to the department stating that it meets the
499 requirements of this paragraph. Terminal suppliers and
500 wholesalers may receive a credit or may apply for a refund, as
501 the ultimate vendor of the 6.9 cents per gallon aviation fuel
502 tax previously paid, within 1 year after the date the right to
503 the refund has accrued ~~excise tax previously paid, provided that~~
504 ~~the air carrier has no facility for fueling highway vehicles~~
505 ~~from the tank in which the aviation fuel is stored~~. In
506 calculating the new or additional Florida full-time equivalent
507 employee positions, any full-time equivalent employee positions
508 of parent or subsidiary corporations which existed before the
509 preceding 5-year period from January 1 of the year the
510 application for exemption or renewal is being applied for, may
511 ~~January 1, 1996, shall~~ not be counted toward reaching the
512 Florida employment increase thresholds. The refund allowed under
513 this paragraph is in furtherance of the goals and policies of
514 the State Comprehensive Plan set forth in s. 187.201(16)(a),
515 (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1.,
516 2., 4., 7., 9., and 12.
517 (c) If, during the 1-year period in which the exemption is
518 in place ~~before July 1, 2001~~, the air carrier fails to maintain
519 the increase in its Florida workforce by more than 1,000 percent
520 and by 250 or more full-time equivalent employees ~~number of~~
521 ~~full-time equivalent employee positions created or added to the~~
522 ~~air carrier's Florida workforce falls below 250~~, the exemption

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523 granted pursuant to this section does ~~shall~~ not apply during the
524 period in which the air carrier was no longer qualified to
525 receive the exemption ~~has fewer than the 250 additional~~
526 ~~employees~~.
527 (d) The exemption taken by credit or refund pursuant to
528 paragraph (b) applies ~~shall apply~~ only under the terms and
529 conditions set forth in this paragraph ~~therein~~. If any part of
530 the ~~that~~ paragraph is judicially declared to be unconstitutional
531 or invalid, the validity of any provisions taxing aviation fuel
532 is ~~shall~~ not ~~be~~ affected and all fuel exempted pursuant to
533 paragraph (b) shall be subject to tax as if the exemption was
534 never enacted. Each ~~Every~~ person who benefits ~~benefiting~~ from
535 the ~~such~~ exemption is ~~shall be~~ liable for and must make payment
536 of all taxes for which a credit or refund was granted.
537 (e) The department may adopt rules to administer this
538 subsection.
539 Section 5. Subsection (3) of section 316.530, Florida
540 Statutes, is repealed.
541 Section 6. Subsection (3) of section 316.545, Florida
542 Statutes, is amended to read:
543 316.545 Weight and load unlawful; special fuel and motor
544 fuel tax enforcement; inspection; penalty; review.—
545 (3) Any person who violates the overloading provisions of
546 this chapter shall be conclusively presumed to have damaged the
547 highways of this state by reason of such overloading, which
548 damage is hereby fixed as follows:
549 (a) If ~~When~~ the excess weight is 200 pounds or less than
550 the maximum ~~herein~~ provided by this chapter, the penalty is
551 ~~shall be~~ $10;

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552 (b) Five cents per pound for each pound of weight in excess
553 of the maximum ~~herein~~ provided in this chapter if ~~when~~ the
554 excess weight exceeds 200 pounds. However, if ~~whenever~~ the gross
555 weight of the vehicle or combination of vehicles does not exceed
556 the maximum allowable gross weight, the maximum fine for the
557 first 600 pounds of unlawful axle weight is ~~shall be~~ $10;
558 (c) For a vehicle equipped with fully functional idle-
559 reduction technology, any penalty shall be calculated by
560 reducing the actual gross vehicle weight or the internal bridge
561 weight by the certified weight of the idle-reduction technology
562 or by 550 ~~400~~ pounds, whichever is less. The vehicle operator
563 must present written certification of the weight of the idle-
564 reduction technology and must demonstrate or certify that the
565 idle-reduction technology is fully functional at all times. This
566 calculation is not allowed for vehicles described in s.
567 316.535(6);
568 (d) An apportioned motor vehicle, as defined in s. 320.01,
569 operating on the highways of this state without being properly
570 licensed and registered shall be subject to the penalties as
571 ~~herein~~ provided in this section; and
572 (e) Vehicles operating on the highways of this state from
573 nonmember International Registration Plan jurisdictions which
574 are not in compliance with the provisions of s. 316.605 shall be
575 subject to the penalties as ~~herein~~ provided in this section.
576 Section 7. Section 331.360, Florida Statutes, is reordered
577 and amended, and subsection (5) is added to that section, to
578 read:
579 331.360 ~~Joint participation agreement or assistance;~~
580 Spaceport system ~~master~~ plan.—

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581 (2)~~(1)~~ ~~It shall be the duty, function, and responsibility~~
582 ~~of~~ The department shall ~~of Transportation to~~ promote the further
583 development and improvement of aerospace transportation
584 facilities; to address intermodal requirements and impacts of
585 the launch ranges, spaceports, and other space transportation
586 facilities; to assist in the development of joint-use facilities
587 and technology that support aviation and aerospace operations;
588 to coordinate and cooperate in the development of spaceport
589 infrastructure and related transportation facilities contained
590 in the Strategic Intermodal System Plan; to encourage, where
591 appropriate, the cooperation and integration of airports and
592 spaceports in order to meet transportation-related needs; and to
593 facilitate and promote cooperative efforts between federal and
594 state government entities to improve space transportation
595 capacity and efficiency. In carrying out this duty and
596 responsibility, the department may assist and advise, cooperate
597 with, and coordinate with federal, state, local, or private
598 organizations and individuals. The department may
599 administratively house its space transportation responsibilities
600 within an existing division or office.
601 (3)~~(2)~~ Notwithstanding any other provision of law, the
602 department ~~of Transportation~~ may enter into an ~~a joint~~
603 ~~participation~~ agreement with, or otherwise assist, Space Florida
604 as necessary to effectuate the provisions of this chapter and
605 may allocate funds for such purposes in its 5-year work program.
606 However, the department may not fund the administrative or
607 operational costs of Space Florida.
608 (1)~~(3)~~ Space Florida shall develop a spaceport system
609 ~~master~~ plan that identifies statewide spaceport goals and the

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610 need for expansion and modernization of space transportation
611 facilities within spaceport territories as defined in s.
612 331.303. The plan must ~~shall~~ contain recommended projects that
613 ~~to~~ meet current and future commercial, national, and state space
614 transportation requirements. Space Florida shall submit the plan
615 to each ~~any~~ appropriate metropolitan planning organization for
616 review of intermodal impacts. Space Florida shall submit the
617 spaceport system ~~master~~ plan to the department ~~of~~
618 ~~Transportation~~, which may include those portions of the system
619 plan which are relevant to the Department of Transportation's
620 mission ~~and such plan may be included~~ within the department's 5-
621 year work program of qualifying projects ~~aerospace discretionary~~
622 ~~capacity improvement under subsection (4)~~. The plan must ~~shall~~
623 identify appropriate funding levels for each project ~~and include~~
624 ~~recommendations on appropriate sources of revenue that may be~~
625 ~~developed to contribute to the State Transportation Trust Fund~~.
626 (4)(a) Beginning in the 2013-2014 fiscal year, a minimum of
627 $15 million may be made annually available from the State
628 Transportation Trust Fund to fund space transportation projects.
629 (b) Before executing an agreement, Space Florida must
630 provide project-specific information to the department in order
631 to demonstrate that the project includes transportation and
632 aerospace benefits. The project-specific information must
633 include, but need not be limited to:
634 1. The description, characteristics, and scope of the
635 project.
636 2. The funding sources for and costs of the project.
637 3. The financing considerations that emphasize federal,
638 local, and private participation.

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639 4. A financial feasibility and risk analysis, including a
640 description of the efforts to protect the state's investment and
641 to ensure that project goals are realized.
642 5. A demonstration that the project will encourage,
643 enhance, or create economic benefits for the state.
644 (c) The department may fund up to 50 percent of eligible
645 project costs. If the project meets the following criteria, the
646 department may fund up to 100 percent of eligible project costs.
647 The project must:
648 1. Provide important access and on-spaceport capacity
649 improvements;
650 2. Provide capital improvements to strategically position
651 the state to maximize opportunities in the aerospace industry or
652 foster growth and development of a sustainable and world-leading
653 aerospace industry in the state;
654 3. Meet state goals of an integrated intermodal
655 transportation system; and
656 4. Demonstrate the feasibility and availability of matching
657 funds through federal, local, or private partners ~~Subject to the~~
658 ~~availability of appropriated funds, the department may~~
659 ~~participate in the capital cost of eligible spaceport~~
660 ~~discretionary capacity improvement projects. The annual~~
661 ~~legislative budget request shall be based on the proposed~~
662 ~~funding requested for approved spaceport discretionary capacity~~
663 ~~improvement projects~~.
664 (5) Beginning in the 2013-2014 fiscal year and annually for
665 up to 30 years thereafter, $5 million shall be allocated for the
666 purpose of funding any spaceport project identified in the
667 adopted work program of the department, to be known as the

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668 Spaceport Investment Program. The revenues may be assigned,
669 pledged, or set aside as a trust for the payment of principal or
670 interest on bonds, tax anticipation certificates, or other forms
671 of indebtedness issued by Space Florida, or used to purchase
672 credit support to permit such borrowings. However, the debt is
673 not a general obligation of the state. The state covenants with
674 holders of the revenue bonds or other instruments of
675 indebtedness issued pursuant to this subsection that the state
676 will not repeal, impair, or amend this subsection in any manner
677 that materially or adversely affects the rights of holders if
678 the bonds authorized by this subsection are outstanding. The
679 proceeds of any bonds or other indebtedness secured by a pledge
680 of the funding, after payment of costs of issuance and
681 establishment of any required reserves, must be invested in
682 projects approved by the department and included in the
683 department's adopted work program, by amendment if necessary.
684 Any revenues that are not pledged to the repayment of bonds as
685 authorized by this subsection may be used for other eligible
686 projects. This revenue source is in addition to any amounts
687 provided for and appropriated in accordance with subsection (4).
688 Revenue bonds shall be issued by the Division of Bond Finance at
689 the request of the department pursuant to the State Bond Act.
690 Section 8. Subsection (11) is added to section 332.007,
691 Florida Statutes, to read:
692 332.007 Administration and financing of aviation and
693 airport programs and projects; state plan.—
694 (11) The department may fund strategic airport investment
695 projects at up to 100 percent of the project's cost if all the
696 following criteria are met:

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697 (a) Important access and on-airport capacity improvements
698 are provided.
699 (b) Capital improvements that strategically position the
700 state to maximize opportunities in international trade,
701 logistics, and the aviation industry are provided.
702 (c) Goals of an integrated intermodal transportation system
703 for the state are achieved.
704 (d) Feasibility and availability of matching funds through
705 federal, local, or private partners are demonstrated.
706 Section 9. Subsection (16) of section 334.044, Florida
707 Statutes, is amended to read:
708 334.044 Department; powers and duties.—The department shall
709 have the following general powers and duties:
710 (16) To plan, acquire, lease, construct, maintain, and
711 operate toll facilities; to authorize the issuance and refunding
712 of bonds; and to fix and collect tolls or other charges for
713 travel on any such facilities. Effective July 1, 2013, and
714 notwithstanding any other law to the contrary, the department
715 may not enter into a lease-purchase agreement with an expressway
716 authority, regional transportation authority, or other entity.
717 This provision does not invalidate a lease-purchase agreement
718 authorized under chapter 348 or chapter 2000-411, Laws of
719 Florida, and existing as of July 1, 2013, and does not limit the
720 department's authority under s. 334.30.
721 Section 10. Subsection (13) of section 337.11, Florida
722 Statutes, is amended to read:
723 337.11 Contracting authority of department; bids; emergency
724 repairs, supplemental agreements, and change orders; combined
725 design and construction contracts; progress payments; records;

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726 requirements of vehicle registration.—
727 (13) Each contract let by the department for the
728 performance of road or bridge construction or maintenance work
729 shall require ~~contain a provision requiring the contractor to~~
730 ~~provide proof to the department, in the form of a notarized~~
731 ~~affidavit from the contractor, that~~ all motor vehicles that the
732 contractor ~~he or she~~ operates or causes to be operated in this
733 state to be ~~are~~ registered in compliance with chapter 320.
734 Section 11. Subsection (1) of section 337.14, Florida
735 Statutes, is amended to read:
736 337.14 Application for qualification; certificate of
737 qualification; restrictions; request for hearing.—
738 (1) A ~~Any~~ person who desires ~~desiring~~ to bid for the
739 performance of any construction contract with a proposed budget
740 estimate in excess of $250,000 which the department proposes to
741 let must first be certified by the department as qualified
742 pursuant to this section and rules of the department. The rules
743 of the department must ~~shall~~ address the qualification of a
744 person ~~persons~~ to bid on construction contracts with a proposed
745 budget estimate that is in excess of $250,000 and must ~~shall~~
746 include requirements with respect to the equipment, past record,
747 experience, financial resources, and organizational personnel of
748 the applicant necessary to perform the specific class of work
749 for which the person seeks certification. The department may
750 limit the dollar amount of any contract upon which a person is
751 qualified to bid or the aggregate total dollar volume of
752 contracts such person may ~~is allowed to~~ have under contract at
753 any one time. Each applicant who seeks ~~seeking~~ qualification to
754 bid on construction contracts with a proposed budget estimate in

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755 excess of $250,000 must ~~shall~~ furnish the department a statement
756 under oath, on such forms as the department may prescribe,
757 setting forth detailed information as required on the
758 application. Each application for certification must ~~shall~~ be
759 accompanied by the latest annual financial statement of the
760 applicant completed within the last 12 months. If the
761 application or the annual financial statement shows the
762 financial condition of the applicant more than 4 months before
763 ~~prior to~~ the date on which the application is received by the
764 department, ~~then~~ an interim financial statement must be
765 submitted and be accompanied by an updated application. The
766 interim financial statement must cover the period from the end
767 date of the annual statement and must show the financial
768 condition of the applicant no more than 4 months before ~~prior to~~
769 the date the interim financial statement is received by the
770 department. However, upon request by the applicant, an
771 application and accompanying annual or interim financial
772 statement received by the department within 15 days after either
773 4-month period provided pursuant to ~~under~~ this subsection must
774 ~~shall~~ be considered timely. Each required annual or interim
775 financial statement must be audited and accompanied by the
776 opinion of a certified public accountant. An applicant desiring
777 to bid exclusively for the performance of construction contracts
778 with proposed budget estimates of less than $1 million may
779 submit reviewed annual or reviewed interim financial statements
780 prepared by a certified public accountant. The information
781 required by this subsection is confidential and exempt from the
782 provisions of s. 119.07(1). The department shall act upon the
783 application for qualification within 30 days after the

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784 department determines that the application is complete. The
785 department may waive the requirements of this subsection for
786 projects having a contract price of $500,000 or less if the
787 department determines that the project is of a noncritical
788 nature and the waiver will not endanger public health, safety,
789 or property.
790 Section 12. Subsection (2) of section 337.168, Florida
791 Statutes, is amended to read:
792 337.168 Confidentiality of official estimates, identities
793 of potential bidders, and bid analysis and monitoring system.—
794 (2) A document that reveals ~~revealing~~ the identity of a
795 person who has ~~persons who have~~ requested or obtained a bid
796 package, plan ~~packages, plans~~, or specifications pertaining to
797 any project to be let by the department is confidential and
798 exempt from the provisions of s. 119.07(1) for the period that
799 ~~which~~ begins 2 working days before ~~prior to~~ the deadline for
800 obtaining bid packages, plans, or specifications and ends with
801 the letting of the bid. A document that reveals the identity of
802 a person who has requested or obtained a bid package, plan, or
803 specifications pertaining to any project to be let by the
804 department before the 2 working days before the deadline for
805 obtaining bid packages, plans, or specifications remains a
806 public record subject to the provisions of s. 119.07(1).
807 Section 13. Subsection (2) of section 337.251, Florida
808 Statutes, is amended to read:
809 337.251 Lease of property for joint public-private
810 development and areas above or below department property.—
811 (2) The department may request proposals for the lease of
812 such property or, if the department receives a proposal for ~~to~~

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813 ~~negotiate~~ a lease of a particular department property that the
814 department desires to consider, the department must ~~it shall~~
815 publish a notice in a newspaper of general circulation at least
816 once a week for 2 weeks, stating that it has received the
817 proposal and will accept, for 120 ~~60~~ days after the date of
818 publication, other proposals for lease of the particular
819 property ~~use of the space~~. A copy of the notice must be mailed
820 to each local government in the affected area. The department
821 shall, by rule, establish an application fee for the submission
822 of proposals pursuant to this section. The fee must be
823 sufficient to pay the anticipated costs of evaluating the
824 proposals. The department may engage the services of private
825 consultants to assist in the evaluation. Before approval, the
826 department must determine that the proposed lease:
827 (a) Is in the public's best interest;
828 (b) Does not require state funds to be used; and
829 (c) Has adequate safeguards in place to ensure that no
830 additional costs are borne and no service disruptions are
831 experienced by the traveling public and residents of the state
832 in the event of default by the private lessee or upon
833 termination or expiration of the lease.
834 Section 14. Section 337.408, Florida Statutes, is amended
835 to read:
836 337.408 Regulation of bus stops, benches, transit shelters,
837 street light poles, parking meters, parking spaces, waste
838 disposal receptacles, and modular news racks within rights-of-
839 way.—
840 (1) Benches or transit shelters, including advertising
841 displayed on benches or transit shelters, may be installed

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842 within the right-of-way limits of any municipal, county, or
843 state road, except a limited access highway, provided that the
844 ~~such~~ benches or transit shelters are for the comfort or
845 convenience of the general public or are at designated stops on
846 official bus routes and provided that written authorization has
847 been given to a qualified private supplier of the ~~such~~ service
848 by the municipal government within whose incorporated limits the
849 ~~such~~ benches or transit shelters are installed or by the county
850 government within whose unincorporated limits the ~~such~~ benches
851 or transit shelters are installed. A municipality or county may
852 authorize the installation, without public bid, of benches and
853 transit shelters together with advertising displayed thereon
854 within the right-of-way limits of the ~~such~~ roads. All
855 installations must ~~shall~~ be in compliance with all applicable
856 laws and rules, including, without limitation, the Americans
857 with Disabilities Act. Municipalities and counties that
858 authorize or have authorized a bench or transit shelter to be
859 installed within the right-of-way limits of any road on the
860 State Highway System are ~~shall be~~ responsible for ensuring that
861 the bench or transit shelter complies with all applicable laws
862 and rules, including, without limitation, the Americans with
863 Disabilities Act, or shall remove the bench or transit shelter.
864 The department is not liable ~~shall have no liability~~ for any
865 claims, losses, costs, charges, expenses, damages, liabilities,
866 attorney fees, or court costs relating to the installation,
867 removal, or relocation of any benches or transit shelters
868 authorized by a municipality or county. On and after July 1,
869 2012, a municipality or county that authorizes a bench or
870 transit shelter to be installed within the right-of-way limits

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871 of any road on the State Highway System must require the
872 qualified private supplier, or any other person under contract
873 to install the bench or transit shelter, to indemnify, defend,
874 and hold harmless the department from any suits, actions,
875 proceedings, claims, losses, costs, charges, expenses, damages,
876 liabilities, attorney fees, and court costs relating to the
877 installation, removal, or relocation of such installations, and
878 shall annually certify to the department in a notarized signed
879 statement that this requirement has been met. The certification
880 must ~~shall~~ include the name and address of each person
881 responsible for indemnifying the department for an authorized
882 installation. Municipalities and counties that have authorized
883 the installation of benches or transit shelters within the
884 right-of-way limits of any road on the State Highway System must
885 remove or relocate, or cause the removal or relocation of, the
886 installation at no cost to the department within 60 days after
887 written notice by the department that the installation is
888 unreasonably interfering in any way with the convenient, safe,
889 or continuous use of or the maintenance, improvement, extension,
890 or expansion of the State Highway System road. Any contract for
891 the installation of benches or transit shelters or advertising
892 on benches or transit shelters which was entered into before
893 April 8, 1992, without public bidding is ratified and affirmed.
894 The ~~such~~ benches or transit shelters may not interfere with
895 right-of-way preservation and maintenance. Any bench or transit
896 shelter located on a sidewalk within the right-of-way limits of
897 any road on the State Highway System or the county road system
898 must ~~shall~~ be located so as to leave at least 36 inches of
899 clearance for pedestrians and persons in wheelchairs. The ~~Such~~

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900 clearance must ~~shall~~ be measured in a direction perpendicular to
901 the centerline of the road.
902 (2) Waste disposal receptacles of less than 110 gallons in
903 capacity, including advertising displayed on such waste disposal
904 receptacles, may be installed within the right-of-way limits of
905 any municipal, county, or state road, except a limited access
906 highway, provided that written authorization has been given to a
907 qualified private supplier of the ~~such~~ service by the
908 appropriate municipal or county government. A municipality or
909 county may authorize the installation, without public bid, of
910 waste disposal receptacles together with advertising displayed
911 thereon within the right-of-way limits of such roads. The ~~Such~~
912 waste disposal receptacles may not interfere with right-of-way
913 preservation and maintenance.
914 (3) Modular news racks, including advertising thereon, may
915 be located within the right-of-way limits of any municipal,
916 county, or state road, except a limited access highway, provided
917 the municipal government within whose incorporated limits the
918 ~~such~~ racks are installed or the county government within whose
919 unincorporated limits the ~~such~~ racks are installed has passed an
920 ordinance regulating the placement of modular news racks within
921 the right-of-way and has authorized a qualified private supplier
922 of modular news racks to provide such service. The modular news
923 rack or advertising thereon must ~~shall~~ not exceed a height of 56
924 inches or a total advertising space of 56 square feet. No later
925 than 45 days before the ~~prior to~~ installation of modular news
926 racks, the private supplier shall provide a map of proposed
927 locations and typical installation plans to the department for
928 approval. If the department does not respond within 45 days

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929 after receipt of the submitted plans, installation may proceed.
930 (4) The department may ~~has the authority to~~ direct the
931 immediate relocation or removal of any bus stop, bench, transit
932 shelter, waste disposal receptacle, public pay telephone, or
933 modular news rack that endangers life or property or that is
934 otherwise not in compliance with applicable laws and rules,
935 except that transit bus benches that were placed in service
936 before April 1, 1992, are not required to comply with bench size
937 and advertising display size requirements established by the
938 department before March 1, 1992. The department may adopt rules
939 relating to the regulation of bench size and advertising display
940 size requirements. If a municipality or county within which a
941 bench is to be located has adopted an ordinance or other
942 applicable regulation that establishes bench size or advertising
943 display sign requirements different from requirements specified
944 in department rule, the local government requirement applies
945 within the respective municipality or county. Placement of a ~~any~~
946 bench or advertising display on the National Highway System
947 under a local ordinance or regulation adopted under this
948 subsection is subject to approval of the Federal Highway
949 Administration.
950 (5) A bus stop, bench, transit shelter, waste disposal
951 receptacle, public pay telephone, or modular news rack, or
952 advertising thereon, may not be erected or placed on the right-
953 of-way of any road in a manner that conflicts with the
954 requirements of federal law, regulations, or safety standards,
955 thereby causing the state or any political subdivision the loss
956 of federal funds. Competition among persons seeking to provide
957 bus stop, bench, transit shelter, waste disposal receptacle,

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958 public pay telephone, or modular news rack services or
959 advertising on such benches, shelters, receptacles, public pay
960 telephone, or news racks may be regulated, restricted, or denied
961 by the appropriate local governmental ~~government~~ entity
962 consistent with this section.
963 (6) Street light poles, including attached public service
964 messages and advertisements, may be located within the right-of-
965 way limits of municipal and county roads in the same manner as
966 benches, transit shelters, waste disposal receptacles, and
967 modular news racks as provided in this section and in accordance
968 with municipal and county ordinances. Public service messages
969 and advertisements may be installed on street light poles on
970 roads on the State Highway System in accordance with height,
971 size, setback, spacing distance, duration of display, safety,
972 traffic control, and permitting requirements established by
973 administrative rule of the Department of Transportation. Public
974 service messages and advertisements are ~~shall be~~ subject to
975 bilateral agreements, where applicable, to be negotiated with
976 the owner of the street light poles, which must ~~shall~~ consider,
977 among other things, power source rates, design, safety,
978 operational and maintenance concerns, and other matters of
979 public importance. For the purposes of this section, the term
980 "street light poles" does not include electric transmission or
981 distribution poles. The department may ~~shall have authority to~~
982 adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~ to implement
983 ~~the provisions of~~ this section. ~~No~~ Advertising on light poles is
984 not ~~shall be~~ permitted on the Interstate Highway System. ~~No~~
985 Permanent structures that carry ~~carrying~~ advertisements attached
986 to light poles are not ~~shall be~~ permitted on the National

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987 Highway System.
988 (7) A public pay telephone, including advertising displayed
989 thereon, may be installed within the right-of-way limits of any
990 municipal, county, or state road, except on a limited access
991 highway, if the pay telephone is installed by a provider duly
992 certificated ~~authorized~~ and regulated by the Public Service
993 Commission under s. 364.3375, if the pay telephone is operated
994 in accordance with the ~~all~~ applicable state and federal
995 telecommunications regulations, and if written authorization has
996 been given to a public pay telephone provider by the appropriate
997 municipal or county government. Each advertisement must be
998 limited to a size no greater than 8 square feet, and a public
999 pay telephone booth may not display more than three
1000 advertisements at any given time. An advertisement is not
1001 allowed on public pay telephones located in rest areas, welcome
1002 centers, or other such facilities located on an interstate
1003 highway.
1004 (8) Parking meters or other time-limit parking devices that
1005 regulate designated parking spaces located within the right-of-
1006 way limits of a state road may be installed if permitted by the
1007 department. Each county and municipality shall promptly remit to
1008 the department 50 percent of the revenue generated from the fees
1009 collected by a parking meter or other time-limit parking device
1010 installed or already existing within the right-of-way limits of
1011 a state road that is under the department's jurisdiction. Funds
1012 received by the department must be deposited into the State
1013 Transportation Trust Fund and used in accordance with s. 339.08.
1014 (9) If ~~Wherever~~ the provisions of this section are
1015 inconsistent with other provisions of this chapter or with the

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1016 provisions of chapter 125, chapter 335, chapter 336, or chapter
1017 479, the provisions of this section ~~shall~~ prevail.
1018 Section 15. Subsection (5) of section 338.161, Florida
1019 Statutes, is amended to read:
1020 338.161 Authority of department or toll agencies to
1021 advertise and promote electronic toll collection; expanded uses
1022 of electronic toll collection system; authority of department to
1023 collect tolls, fares, and fees for private and public entities.—
1024 (5) If the department finds that it can increase nontoll
1025 revenues or add convenience or other value for its customers,
1026 and if a public or private transportation facility owner agrees
1027 that its facility will become interoperable with the
1028 department's electronic toll collection and video billing
1029 systems, the department may ~~is authorized to~~ enter into an
1030 agreement with the owner of such facility under which the
1031 department uses ~~private or public entities for the department's~~
1032 ~~use of~~ its electronic toll collection and video billing systems
1033 to collect and enforce for the owner tolls, fares,
1034 administrative fees, and other applicable charges due ~~imposed~~ in
1035 connection with use of the owner's facility ~~transportation~~
1036 ~~facilities of the private or public entities that become~~
1037 ~~interoperable with the department's electronic toll collection~~
1038 ~~system~~. The department may modify its rules regarding toll
1039 collection procedures and the imposition of administrative
1040 charges to be applicable to toll facilities that are not part of
1041 the turnpike system or otherwise owned by the department. This
1042 subsection may not be construed to limit the authority of the
1043 department under any other provision of law or under any
1044 agreement entered into before ~~prior to~~ July 1, 2012.

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1045 Section 16. Subsection (4) of section 338.165, Florida
1046 Statutes, is amended to read:
1047 338.165 Continuation of tolls.—
1048 (4) Notwithstanding any other law to the contrary, pursuant
1049 to s. 11, Art. VII of the State Constitution, and subject to the
1050 requirements of subsection (2), the Department of Transportation
1051 may request the Division of Bond Finance to issue bonds secured
1052 by toll revenues collected on the Alligator Alley, the Sunshine
1053 Skyway Bridge, ~~the Beeline-East Expressway, the Navarre Bridge,~~
1054 and the Pinellas Bayway to fund transportation projects located
1055 within the county or counties in which the revenue-producing
1056 project is located and contained in the adopted work program of
1057 the department.
1058 Section 17. Subsections (3) and (4) of section 338.26,
1059 Florida Statutes, are amended to read:
1060 338.26 Alligator Alley toll road.—
1061 (3) Fees generated from tolls shall be deposited in the
1062 State Transportation Trust Fund, and any amount of funds
1063 generated annually in excess of that required to reimburse
1064 outstanding contractual obligations, to operate and maintain the
1065 highway and toll facilities, including reconstruction and
1066 restoration, to pay for those projects that are funded with
1067 Alligator Alley toll revenues and that are contained in the
1068 1993-1994 adopted work program or the 1994-1995 tentative work
1069 program submitted to the Legislature on February 22, 1994, and
1070 to design and construct ~~develop and operate~~ a fire station at
1071 mile marker 63 on Alligator Alley, which may be used by Collier
1072 County or other appropriate local governmental entity to provide
1073 fire, rescue, and emergency management services ~~to the adjacent~~

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1074 ~~counties~~ along Alligator Alley, may be transferred to the
1075 Everglades Fund of the South Florida Water Management District
1076 in accordance with the memorandum of understanding of June 30,
1077 1997, between the district and the department. The South Florida
1078 Water Management District shall deposit funds for projects
1079 undertaken pursuant to s. 373.4592 in the Everglades Trust Fund
1080 pursuant to s. 373.45926(4)(a). Any funds remaining in the
1081 Everglades Fund may be used for environmental projects to
1082 restore the natural values of the Everglades, subject to
1083 compliance with any applicable federal laws and regulations.
1084 Projects must ~~shall~~ be limited to:
1085 (a) Highway redesign to allow for improved sheet flow of
1086 water across the southern Everglades.
1087 (b) Water conveyance projects to enable more water
1088 resources to reach Florida Bay to replenish marine estuary
1089 functions.
1090 (c) Engineering design plans for wastewater treatment
1091 facilities as recommended in the Water Quality Protection
1092 Program Document for the Florida Keys National Marine Sanctuary.
1093 (d) Acquisition of lands to move STA 3/4 out of the Toe of
1094 the Boot, provided such lands are located within 1 mile of the
1095 northern border of STA 3/4.
1096 (e) Other Everglades Construction Projects as described in
1097 the February 15, 1994, conceptual design document.
1098 ~~(4) The district may issue revenue bonds or notes under s.~~
1099 ~~373.584 and pledge the revenue from the transfers from the~~
1100 ~~Alligator Alley toll revenues as security for such bonds or~~
1101 ~~notes. The proceeds from such revenue bonds or notes shall be~~
1102 ~~used for environmental projects; at least 50 percent of said~~

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1103 ~~proceeds must be used for projects that benefit Florida Bay, as~~
1104 ~~described in this section subject to resolutions approving such~~
1105 ~~activity by the Board of Trustees of the Internal Improvement~~
1106 ~~Trust Fund and the governing board of the South Florida Water~~
1107 ~~Management District and the remaining proceeds must be used for~~
1108 ~~restoration activities in the Everglades Protection Area.~~
1109 Section 18. Subsections (2) through (4) of section 339.175,
1110 Florida Statutes, are amended to read:
1111 339.175 Metropolitan planning organization.—
1112 (2) DESIGNATION.—
1113 (a)1. An M.P.O. shall be designated for each urbanized area
1114 of the state; however, this does not require that an individual
1115 M.P.O. be designated for each such area. The M.P.O. ~~Such~~
1116 designation shall be accomplished by agreement between the
1117 Governor and units of general-purpose local government that
1118 together represent ~~representing~~ at least 75 percent of the
1119 population, including the largest incorporated municipality,
1120 based on population, ~~of the urbanized area; however, the unit of~~
1121 ~~general-purpose local government that represents the central~~
1122 ~~city or cities within the M.P.O. jurisdiction,~~ as named ~~defined~~
1123 by the United States Bureau of the Census~~, must be a party to~~
1124 ~~such agreement~~.
1125 2. To the extent possible, only one M.P.O. shall be
1126 designated for each urbanized area or group of contiguous
1127 urbanized areas. More than one M.P.O. may be designated within
1128 an existing urbanized area only if the Governor and the existing
1129 M.P.O. determine that the size and complexity of the existing
1130 urbanized area makes the designation of more than one M.P.O. for
1131 the area appropriate.

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1132 (b) Each M.P.O. designated in a manner prescribed by Title
1133 23 of the United States Code shall be created and operated under
1134 the provisions of this section pursuant to an interlocal
1135 agreement entered into pursuant to s. 163.01. The signatories to
1136 the interlocal agreement shall be the department and the
1137 governmental entities designated by the Governor for membership
1138 on the M.P.O. Each M.P.O. shall be considered separate from the
1139 state or the governing body of a local government that is
1140 represented on the governing board of the M.P.O. or that is a
1141 signatory to the interlocal agreement creating the M.P.O. and
1142 shall have such powers and privileges that are provided under s.
1143 163.01. If there is a conflict between this section and s.
1144 163.01, this section prevails.
1145 (c) The jurisdictional boundaries of an M.P.O. shall be
1146 determined by agreement between the Governor and the applicable
1147 M.P.O. The boundaries must include at least the metropolitan
1148 planning area, which is the existing urbanized area and the
1149 contiguous area expected to become urbanized within a 20-year
1150 forecast period, and may encompass the entire metropolitan
1151 statistical area or the consolidated metropolitan statistical
1152 area.
1153 (d) In the case of an urbanized area designated as a
1154 nonattainment area for ozone or carbon monoxide under the Clean
1155 Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the
1156 metropolitan planning area in existence as of the date of
1157 enactment of this paragraph shall be retained, except that the
1158 boundaries may be adjusted by agreement of the Governor and
1159 affected metropolitan planning organizations in the manner
1160 described in this section. If more than one M.P.O. has authority

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1161 within a metropolitan area or an area that is designated as a
1162 nonattainment area, each M.P.O. shall consult with other
1163 M.P.O.'s designated for such area and with the state in the
1164 coordination of plans and programs required by this section.
1165 (e) The governing body of the M.P.O. shall designate, at a
1166 minimum, a chair, vice chair, and agency clerk. The chair and
1167 vice chair shall be selected from among the member delegates
1168 comprising the governing board. The agency clerk shall be
1169 charged with the responsibility of preparing meeting minutes and
1170 maintaining agency records. The clerk shall be a member of the
1171 M.P.O. governing board, an employee of the M.P.O., or other
1172 natural person.
1173
1174 Each M.P.O. required under this section must be fully operative
1175 no later than 6 months following its designation.
1176 (3) VOTING MEMBERSHIP.—
1177 (a) The voting membership of an M.P.O. shall consist of not
1178 fewer than 5 or more than 19 apportioned members, the exact
1179 number to be determined on an equitable geographic-population
1180 ratio ~~basis by the Governor~~, based on an agreement among the
1181 affected units of general-purpose local government <u>and the</u>
1182 <u>Governor</u> as required by federal ~~rules and~~ regulations. <u>The</u>
1183 <u>voting membership of an M.P.O. that is redesignated after the</u>
1184 <u>effective date of this act as a result of the expansion of the</u>
1185 <u>M.P.O. to include a new urbanized area or the consolidation of</u>
1186 <u>two or more M.P.O.'s within a single urbanized area may consist</u>
1187 <u>of no more than 25 members.</u> The Governor, in accordance with 23
1188 U.S.C. s. 134, may also provide for M.P.O. members who represent
1189 municipalities to alternate with representatives from other

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1190 municipalities within the metropolitan planning area that do not
1191 have members on the M.P.O. County commission members shall
1192 compose not less than one-third of the M.P.O. membership, except
1193 for an M.P.O. with more than 15 members located in a county with
1194 a 5-member county commission or an M.P.O. with 19 members
1195 located in a county with no more than 6 county commissioners, in
1196 which case county commission members may compose less than one-
1197 third percent of the M.P.O. membership, but all county
1198 commissioners must be members. All voting members shall be
1199 elected officials of general-purpose local governments, except
1200 that an M.P.O. may include, as part of its apportioned voting
1201 members, a member of a statutorily authorized planning board, an
1202 official of an agency that operates or administers a major mode
1203 of transportation, or an official of Space Florida. As used in
1204 this section, the term "elected officials of a general-purpose
1205 local government" excludes ~~shall exclude~~ constitutional
1206 officers, including sheriffs, tax collectors, supervisors of
1207 elections, property appraisers, clerks of the court, and similar
1208 types of officials. County commissioners shall compose not less
1209 than 20 percent of the M.P.O. membership if an official of an
1210 agency that operates or administers a major mode of
1211 transportation has been appointed to an M.P.O.
1212 (b) In metropolitan areas in which authorities or other
1213 agencies have been or may be created by law to perform
1214 transportation functions and are performing transportation
1215 functions that are not under the jurisdiction of a general-
1216 purpose local government represented on the M.P.O., they may
1217 ~~shall~~ be provided voting membership on the M.P.O. In all other
1218 M.P.O.'s where transportation authorities or agencies are to be

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1219 represented by elected officials from general-purpose local
1220 governments, the M.P.O. shall establish a process by which the
1221 collective interests of such authorities or other agencies are
1222 expressed and conveyed.
1223 (c) Any other provision of this section to the contrary
1224 notwithstanding, a chartered county with a population of more
1225 than ~~over~~ 1 million ~~population~~ may elect to reapportion the
1226 membership of an M.P.O. whose jurisdiction is wholly within the
1227 county. The charter county may exercise the provisions of this
1228 paragraph if:
1229 1. The M.P.O. approves the reapportionment plan by a three-
1230 fourths vote of its membership;
1231 2. The M.P.O. and the charter county determine that the
1232 reapportionment plan is needed to fulfill specific goals and
1233 policies applicable to that metropolitan planning area; and
1234 3. The charter county determines the reapportionment plan
1235 otherwise complies with all federal requirements pertaining to
1236 M.P.O. membership.
1237
1238 A ~~Any~~ charter county that elects to exercise the provisions of
1239 this paragraph shall notify the Governor in writing.
1240 (d) Any other provision of this section to the contrary
1241 notwithstanding, a ~~any~~ county chartered under s. 6(e), Art. VIII
1242 of the State Constitution may elect to have its county
1243 commission serve as the M.P.O., if the M.P.O. jurisdiction is
1244 wholly contained within the county. A ~~Any~~ charter county that
1245 elects to exercise the provisions of this paragraph shall so
1246 notify the Governor in writing. Upon receipt of the ~~such~~
1247 notification, the Governor must designate the county commission

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1248 as the M.P.O. The Governor must appoint four additional voting
1249 members to the M.P.O., one of whom must be an elected official
1250 representing a municipality within the county, one of whom must
1251 be an expressway authority member, one of whom must be a person
1252 who does not hold elected public office and who resides in the
1253 unincorporated portion of the county, and one of whom must be a
1254 school board member.
1255 (4) APPORTIONMENT.—
1256 (a) Each M.P.O. in the state shall review the composition
1257 of its membership in conjunction with the decennial census, as
1258 prepared by the United States Department of Commerce, Bureau of
1259 the Census, and, with the agreement of the affected units of
1260 general-purpose local government, reapportion the membership as
1261 necessary to comply with subsection (3) ~~The Governor shall, with~~
1262 ~~the agreement of the affected units of general-purpose local~~
1263 ~~government as required by federal rules and regulations,~~
1264 ~~apportion the membership on the applicable M.P.O. among the~~
1265 ~~various governmental entities within the area~~.
1266 (b) At the request of a majority of the affected units of
1267 general-purpose local government comprising an M.P.O., the
1268 Governor and a majority of units of general-purpose local
1269 government serving on an M.P.O. shall cooperatively agree upon
1270 and prescribe who may serve as an alternate member and a method
1271 for appointing alternate members who may vote at any M.P.O.
1272 meeting that an alternate member attends in place of a regular
1273 member. The method must ~~shall~~ be set forth as a part of the
1274 interlocal agreement describing the M.P.O.'s membership or in
1275 the M.P.O.'s operating procedures and bylaws. The governmental
1276 entity so designated shall appoint the appropriate number of

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1277 members to the M.P.O. from eligible officials. Representatives
1278 of the department shall serve as nonvoting advisers to the
1279 M.P.O. governing board. Additional nonvoting advisers may be
1280 appointed by the M.P.O. as deemed necessary; however, to the
1281 maximum extent feasible, each M.P.O. shall seek to appoint
1282 nonvoting representatives of various multimodal forms of
1283 transportation not otherwise represented by voting members of
1284 the M.P.O. An M.P.O. shall appoint nonvoting advisers
1285 representing major military installations located within the
1286 jurisdictional boundaries of the M.P.O. upon the request of the
1287 aforesaid major military installations and subject to the
1288 agreement of the M.P.O. All nonvoting advisers may attend and
1289 participate fully in governing board meetings but may not vote
1290 or be members of the governing board. ~~The Governor shall review~~
1291 ~~the composition of the M.P.O. membership in conjunction with the~~
1292 ~~decennial census as prepared by the United States Department of~~
1293 ~~Commerce, Bureau of the Census, and reapportion it as necessary~~
1294 ~~to comply with subsection (3).~~
1295 (c) ~~(b)~~ Except for members who represent municipalities on
1296 the basis of alternating with representatives from other
1297 municipalities that do not have members on the M.P.O. as
1298 provided in paragraph (3)(a), the members of an M.P.O. shall
1299 serve 4-year terms. Members who represent municipalities on the
1300 basis of alternating with representatives from other
1301 municipalities that do not have members on the M.P.O. as
1302 provided in paragraph (3)(a) may serve terms of up to 4 years as
1303 further provided in the interlocal agreement described in
1304 paragraph (2)(b). The membership of a member who is a public
1305 official automatically terminates upon the member’s leaving his

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1306 or her elective or appointive office for any reason, or may be
1307 terminated by a majority vote of the total membership of the
1308 entity's governing board represented by the member. A vacancy
1309 shall be filled by the original appointing entity. A member may
1310 be reappointed for one or more additional 4-year terms.
1311 (d) ~~(c)~~ If a governmental entity fails to fill an assigned
1312 appointment to an M.P.O. within 60 days after notification by
1313 the Governor of its duty to appoint, that appointment must ~~shall~~
1314 be made by the Governor from the eligible representatives of
1315 that governmental entity.
1316 Section 19. Paragraph (a) of subsection (1) and subsections
1317 (4) and (5) of section 339.2821, Florida Statutes, are amended
1318 to read:
1319 339.2821 Economic development transportation projects.—
1320 (1)(a) The department, in consultation with the Department
1321 of Economic Opportunity and Enterprise Florida, Inc., may make
1322 and approve expenditures and contract with the appropriate
1323 governmental body for the direct costs of transportation
1324 projects. The Department of Economic Opportunity and the
1325 Department of Environmental Protection may formally review and
1326 comment on recommended transportation projects, although the
1327 department has final approval authority for any project
1328 authorized under this section.
1329 (4) A contract between the department and a governmental
1330 body for a transportation project must:
1331 (a) Specify that the transportation project is for the
1332 construction of a new or expanding business and specify the
1333 number of full-time permanent jobs that will result from the
1334 project.

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1335 (b) Identify the governmental body and require that the
1336 governmental body award the construction of the particular
1337 transportation project to the lowest and best bidder in
1338 accordance with applicable state and federal statutes or rules
1339 unless the transportation project can be constructed using
1340 existing local governmental employees within the contract period
1341 specified by the department.
1342 (c) Require that the governmental body provide the
1343 department with ~~quarterly~~ progress reports. Each ~~quarterly~~
1344 progress report must contain:
1345 1. A narrative description of the work completed and
1346 whether the work is proceeding according to the transportation
1347 project schedule;
1348 2. A description of each change order executed by the
1349 governmental body;
1350 3. A budget summary detailing planned expenditures compared
1351 to actual expenditures; and
1352 4. The identity of each small or minority business used as
1353 a contractor or subcontractor.
1354 (d) Require that the governmental body make and maintain
1355 records in accordance with accepted governmental accounting
1356 principles and practices for each progress payment made for work
1357 performed in connection with the transportation project, each
1358 change order executed by the governmental body, and each payment
1359 made pursuant to a change order. The records are subject to
1360 financial audit as required by law.
1361 (e) Require that the governmental body, upon completion and
1362 acceptance of the transportation project, certify to the
1363 department that the transportation project has been completed in

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1364 compliance with the terms and conditions of the contract between
1365 the department and the governmental body and meets the minimum
1366 construction standards established in accordance with s.
1367 336.045.
1368 (f) Specify that ~~the department transfer~~ funds will not be
1369 transferred to the governmental body unless construction has
1370 begun on the facility of the ~~not more often than quarterly, upon~~
1371 ~~receipt of a request for funds from the governmental body and~~
1372 ~~consistent with the needs of the transportation project. The~~
1373 ~~governmental body shall expend funds received from the~~
1374 ~~department in a timely manner. The department may not transfer~~
1375 ~~funds unless construction has begun on the facility of a~~
1376 business on whose behalf the award was made. If construction of
1377 the transportation project does not begin within 4 years after
1378 the date of the initial grant award, the grant award is
1379 terminated ~~A contract totaling less than $200,000 is exempt from~~
1380 ~~the transfer requirement~~.
1381 (g) Require that funds be used only on a transportation
1382 project that has been properly reviewed and approved in
1383 accordance with the criteria set forth in this section.
1384 (h) Require that the governing board of the governmental
1385 body adopt a resolution accepting future maintenance and other
1386 attendant costs occurring after completion of the transportation
1387 project if the transportation project is constructed on a county
1388 or municipal system.
1389 (5) For purposes of this section, Space Florida may serve
1390 as the governmental body or as the contracting agency for a
1391 ~~transportation~~ project within a spaceport territory as defined
1392 by s. 331.304.

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1393 Section 20. Paragraphs (a) and (c) of subsection (2) and
1394 paragraph (i) of subsection (7) of section 339.55, Florida
1395 Statutes, are amended to read:
1396 339.55 State-funded infrastructure bank.—
1397 (2) The bank may lend capital costs or provide credit
1398 enhancements for:
1399 (a) A transportation facility project that is on the State
1400 Highway System or that provides for increased mobility on the
1401 state's transportation system or provides intermodal
1402 connectivity with airports, seaports, spaceports, rail
1403 facilities, and other transportation terminals, pursuant to s.
1404 341.053, for the movement of people and goods.
1405 (c)1. Emergency loans for damages incurred to public-use
1406 commercial deepwater seaports, public-use airports, public-use
1407 spaceports, and other public-use transit and intermodal
1408 facilities that are within an area that is part of an official
1409 state declaration of emergency pursuant to chapter 252 and all
1410 other applicable laws. Such loans:
1411 a. May not exceed 24 months in duration except in extreme
1412 circumstances, for which the Secretary of Transportation may
1413 grant up to 36 months upon making written findings specifying
1414 the conditions requiring a 36-month term.
1415 b. Require application from the recipient to the department
1416 that includes documentation of damage claims filed with the
1417 Federal Emergency Management Agency or an applicable insurance
1418 carrier and documentation of the recipient's overall financial
1419 condition.
1420 c. Are subject to approval by the Secretary of
1421 Transportation and the Legislative Budget Commission.

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1422 2. Loans provided under this paragraph must be repaid upon
1423 receipt by the recipient of eligible program funding for damages
1424 in accordance with the claims filed with the Federal Emergency
1425 Management Agency or an applicable insurance carrier, but no
1426 later than the duration of the loan.
1427 (7) The department may consider, but is not limited to, the
1428 following criteria for evaluation of projects for assistance
1429 from the bank:
1430 (i) The extent to which the project will provide for
1431 connectivity between the State Highway System and airports,
1432 seaports, spaceports, rail facilities, and other transportation
1433 terminals and intermodal options pursuant to s. 341.053 for the
1434 increased accessibility and movement of people and goods.
1435 Section 21. Subsection (11) of section 341.031, Florida
1436 Statutes, is amended to read:
1437 341.031 Definitions relating to Florida Public Transit
1438 Act.—As used in ss. 341.011-341.061, the term:
1439 (11) "Intercity bus service" means regularly scheduled bus
1440 service for the general public which operates with limited stops
1441 over fixed routes connecting two or more urban areas not in
1442 close proximity; has the capacity for transporting baggage
1443 carried by passengers; and makes meaningful connections with
1444 scheduled intercity bus service to more distant points, if such
1445 service is available~~; maintains scheduled information in the~~
1446 ~~National Official Bus Guide; and provides package express~~
1447 ~~service incidental to passenger transportation~~.
1448 Section 22. Section 341.053, Florida Statutes, is amended
1449 to read:
1450 341.053 Intermodal Development Program; administration;

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1451 eligible projects; limitations.—
1452 (1) There is created within the Department of
1453 Transportation an Intermodal Development Program to provide for
1454 major capital investments in fixed-guideway transportation
1455 systems, access to seaports, airports, spaceports, and other
1456 transportation terminals, providing for the construction of
1457 intermodal or multimodal terminals; and to plan or fund
1458 construction of airport, spaceport, seaport, transit, and rail
1459 projects that ~~otherwise~~ facilitate the intermodal or multimodal
1460 movement of people and goods.
1461 (2) The Intermodal Development Program shall be used for
1462 projects that support statewide goals as outlined in the Florida
1463 Transportation Plan, the Strategic Intermodal System Plan, the
1464 Freight Mobility and Trade Plan, or the appropriate department
1465 modal plan ~~In recognition of the department's role in the~~
1466 ~~economic development of this state, the department shall develop~~
1467 ~~a proposed intermodal development plan to connect Florida's~~
1468 ~~airports, deepwater seaports, rail systems serving both~~
1469 ~~passenger and freight, and major intermodal connectors to the~~
1470 ~~Strategic Intermodal System highway corridors as the primary~~
1471 ~~system for the movement of people and freight in this state in~~
1472 ~~order to make the intermodal development plan a fully integrated~~
1473 ~~and interconnected system~~. ~~The intermodal development plan must:~~
1474 ~~(a) Define and assess the state's freight intermodal~~
1475 ~~network, including airports, seaports, rail lines and terminals,~~
1476 ~~intercity bus lines and terminals, and connecting highways.~~
1477 ~~(b) Prioritize statewide infrastructure investments,~~
1478 ~~including the acceleration of current projects, which are found~~
1479 ~~by the Freight Stakeholders Task Force to be priority projects~~

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1480 ~~for the efficient movement of people and freight.~~
1481 ~~(c) Be developed in a manner that will assure maximum use~~
1482 ~~of existing facilities and optimum integration and coordination~~
1483 ~~of the various modes of transportation, including both~~
1484 ~~government-owned and privately owned resources, in the most~~
1485 ~~cost-effective manner possible.~~
1486 (3) The Intermodal Development Program shall be
1487 administered by the department.
1488 (4) The department shall review funding requests from a
1489 rail authority created pursuant to chapter 343. The department
1490 may include projects of the authorities, including planning and
1491 design, in the tentative work program.
1492 (5) ~~No single transportation authority operating a fixed-~~
1493 ~~guideway transportation system, or single fixed-guideway~~
1494 ~~transportation system not administered by a transportation~~
1495 ~~authority, receiving funds under the Intermodal Development~~
1496 ~~Program shall receive more than 33 1/3 percent of the total~~
1497 ~~intermodal development funds appropriated between July 1, 1990,~~
1498 ~~and June 30, 2015. In determining the distribution of funds~~
1499 ~~under the Intermodal Development Program in any fiscal year, the~~
1500 ~~department shall assume that future appropriation levels will be~~
1501 ~~equal to the current appropriation level.~~
1502 ~~(6)~~ The department may ~~is authorized to~~ fund projects
1503 within the Intermodal Development Program, which are consistent,
1504 to the maximum extent feasible, with approved local government
1505 comprehensive plans of the units of local government in which
1506 the project is located. Projects that are eligible for funding
1507 under this program include planning studies, major capital
1508 investments in public rail and fixed-guideway transportation or

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1509 freight facilities and systems which provide intermodal access;
1510 road, rail, intercity bus service, or fixed-guideway access to,
1511 from, or between seaports, airports, spaceports, intermodal
1512 logistics centers, and other transportation terminals;
1513 construction of intermodal or multimodal terminals, including
1514 projects on airports, spaceports, intermodal logistics centers,
1515 or seaports which assist in the movement or transfer of people
1516 or goods; development and construction of dedicated bus lanes;
1517 and projects which otherwise facilitate the intermodal or
1518 multimodal movement of people and goods.
1519 Section 23. Subsection (17) of section 341.302, Florida
1520 Statutes, is amended to read:
1521 341.302 Rail program; duties and responsibilities of the
1522 department.—The department, in conjunction with other
1523 governmental entities, including the rail enterprise and the
1524 private sector, shall develop and implement a rail program of
1525 statewide application designed to ensure the proper maintenance,
1526 safety, revitalization, and expansion of the rail system to
1527 assure its continued and increased availability to respond to
1528 statewide mobility needs. Within the resources provided pursuant
1529 to chapter 216, and as authorized under federal law, the
1530 department shall:
1531 (17) In conjunction with the acquisition, ownership,
1532 construction, operation, maintenance, and management of a rail
1533 corridor~~, have the authority to~~:
1534 (a) Assume obligations pursuant to the following:
1535 1.a. The department may assume the obligation by contract
1536 to forever protect, defend, indemnify, and hold harmless the
1537 freight rail operator, or its successors, from whom the

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1538 department has acquired a real property interest in the rail
1539 corridor, and that freight rail operator's officers, agents, and
1540 employees, from and against any liability, cost, and expense,
1541 including, but not limited to, commuter rail passengers and rail
1542 corridor invitees in the rail corridor, regardless of whether
1543 the loss, damage, destruction, injury, or death giving rise to
1544 any such liability, cost, or expense is caused in whole or in
1545 part, and to whatever nature or degree, by the fault, failure,
1546 negligence, misconduct, nonfeasance, or misfeasance of such
1547 freight rail operator, its successors, or its officers, agents,
1548 and employees, or any other person or persons whomsoever; or
1549 b. The department may assume the obligation by contract to
1550 forever protect, defend, indemnify, and hold harmless National
1551 Railroad Passenger Corporation, or its successors, and officers,
1552 agents, and employees of National Railroad Passenger
1553 Corporation, from and against any liability, cost, and expense,
1554 including, but not limited to, commuter rail passengers and rail
1555 corridor invitees in the rail corridor, regardless of whether
1556 the loss, damage, destruction, injury, or death giving rise to
1557 any such liability, cost, or expense is caused in whole or in
1558 part, and to whatever nature or degree, by the fault, failure,
1559 negligence, misconduct, nonfeasance, or misfeasance of National
1560 Railroad Passenger Corporation, its successors, or its officers,
1561 agents, and employees, or any other person or persons
1562 whomsoever.
1563 2. The assumption of liability of the department by
1564 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
1565 1.b. may not in any instance exceed the following parameters of
1566 allocation of risk:

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1567 a. The department may be solely responsible for any loss,
1568 injury, or damage to commuter rail passengers, or rail corridor
1569 invitees, or trespassers, regardless of circumstances or cause,
1570 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
1571 6.
1572 b.(I) In the event of a limited covered accident, the
1573 authority of the department to protect, defend, and indemnify
1574 the freight operator for all liability, cost, and expense,
1575 including punitive or exemplary damages, in excess of the
1576 deductible or self-insurance retention fund established under
1577 paragraph (b) and actually in force at the time of the limited
1578 covered accident exists only if the freight operator agrees,
1579 with respect to the limited covered accident, to protect,
1580 defend, and indemnify the department for the amount of the
1581 deductible or self-insurance retention fund established under
1582 paragraph (b) and actually in force at the time of the limited
1583 covered accident.
1584 (II) In the event of a limited covered accident, the
1585 authority of the department to protect, defend, and indemnify
1586 National Railroad Passenger Corporation for all liability, cost,
1587 and expense, including punitive or exemplary damages, in excess
1588 of the deductible or self-insurance retention fund established
1589 under paragraph (b) and actually in force at the time of the
1590 limited covered accident exists only if National Railroad
1591 Passenger Corporation agrees, with respect to the limited
1592 covered accident, to protect, defend, and indemnify the
1593 department for the amount of the deductible or self-insurance
1594 retention fund established under paragraph (b) and actually in
1595 force at the time of the limited covered accident.

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1596 3. If ~~When~~ only one train is involved in an incident, the
1597 department may be solely responsible for any loss, injury, or
1598 damage if the train is a department train or other train
1599 pursuant to subparagraph 4., but only if:
1600 a. If ~~When~~ an incident occurs with only a freight train
1601 involved, including incidents with trespassers or at grade
1602 crossings, the freight rail operator is solely responsible for
1603 any loss, injury, or damage, except for commuter rail passengers
1604 and rail corridor invitees; or
1605 b. If ~~When~~ an incident occurs with only a National Railroad
1606 Passenger Corporation train involved, including incidents with
1607 trespassers or at grade crossings, National Railroad Passenger
1608 Corporation is solely responsible for any loss, injury, or
1609 damage, except for commuter rail passengers and rail corridor
1610 invitees.
1611 4. For the purposes of this subsection:
1612 a. A ~~Any~~ train involved in an incident which ~~that~~ is not
1613 ~~neither~~ the department's train or ~~nor~~ the freight rail
1614 operator's train, hereinafter referred to in this subsection as
1615 an "other train," may be treated as a department train, solely
1616 for purposes of any allocation of liability between the
1617 department and the freight rail operator only, but only if the
1618 department and the freight rail operator share responsibility
1619 equally as to third parties outside the rail corridor who incur
1620 loss, injury, or damage as a result of any incident involving
1621 both a department train and a freight rail operator train, and
1622 the allocation as between the department and the freight rail
1623 operator, regardless of whether the other train is treated as a
1624 department train, shall remain one-half each as to third parties

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1625 outside the rail corridor who incur loss, injury, or damage as a
1626 result of the incident. The involvement of any other train does
1627 ~~shall~~ not alter the sharing of equal responsibility as to third
1628 parties outside the rail corridor who incur loss, injury, or
1629 damage as a result of the incident; or
1630 b. A ~~Any~~ train involved in an incident that is not ~~neither~~
1631 the department's train or ~~nor~~ the National Railroad Passenger
1632 Corporation's train, hereinafter referred to in this subsection
1633 as an "other train," may be treated as a department train,
1634 solely for purposes of any allocation of liability between the
1635 department and National Railroad Passenger Corporation only, but
1636 only if the department and National Railroad Passenger
1637 Corporation share responsibility equally as to third parties
1638 outside the rail corridor who incur loss, injury, or damage as a
1639 result of any incident involving both a department train and a
1640 National Railroad Passenger Corporation train, and the
1641 allocation as between the department and National Railroad
1642 Passenger Corporation, regardless of whether the other train is
1643 treated as a department train, shall remain one-half each as to
1644 third parties outside the rail corridor who incur loss, injury,
1645 or damage as a result of the incident. The involvement of any
1646 other train does ~~shall~~ not alter the sharing of equal
1647 responsibility as to third parties outside the rail corridor who
1648 incur loss, injury, or damage as a result of the incident.
1649 5. If ~~When~~ more than one train is involved in an incident:
1650 a.(I) If only a department train and freight rail
1651 operator's train, or only an other train as described in sub-
1652 subparagraph 4.a. and a freight rail operator's train, are
1653 involved in an incident, the department may be responsible for

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1654 its property and all of its people, all commuter rail
1655 passengers, and rail corridor invitees, but only if the freight
1656 rail operator is responsible for its property and all of its
1657 people, and the department and the freight rail operator each
1658 share one-half responsibility as to trespassers or third parties
1659 outside the rail corridor who incur loss, injury, or damage as a
1660 result of the incident; or
1661 (II) If only a department train and a National Railroad
1662 Passenger Corporation train, or only an other train as described
1663 in sub-subparagraph 4.b. and a National Railroad Passenger
1664 Corporation train, are involved in an incident, the department
1665 may be responsible for its property and all of its people, all
1666 commuter rail passengers, and rail corridor invitees, but only
1667 if National Railroad Passenger Corporation is responsible for
1668 its property and all of its people, all National Railroad
1669 Passenger Corporation's rail passengers, and the department and
1670 National Railroad Passenger Corporation each share one-half
1671 responsibility as to trespassers or third parties outside the
1672 rail corridor who incur loss, injury, or damage as a result of
1673 the incident.
1674 b.(I) If a department train, a freight rail operator train,
1675 and any other train are involved in an incident, the allocation
1676 of liability between the department and the freight rail
1677 operator, regardless of whether the other train is treated as a
1678 department train, shall remain one-half each as to third parties
1679 outside the rail corridor who incur loss, injury, or damage as a
1680 result of the incident; the involvement of any other train does
1681 ~~shall~~ not alter the sharing of equal responsibility as to third
1682 parties outside the rail corridor who incur loss, injury, or

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1683 damage as a result of the incident; and, if the owner, operator,
1684 or insurer of the other train makes any payment to injured third
1685 parties outside the rail corridor who incur loss, injury, or
1686 damage as a result of the incident, the allocation of credit
1687 between the department and the freight rail operator as to such
1688 payment does ~~shall~~ not in any case reduce the freight rail
1689 operator's third-party-sharing allocation of one-half under this
1690 paragraph to less than one-third of the total third party
1691 liability; or
1692 (II) If a department train, a National Railroad Passenger
1693 Corporation train, and any other train are involved in an
1694 incident, the allocation of liability between the department and
1695 National Railroad Passenger Corporation, regardless of whether
1696 the other train is treated as a department train, shall remain
1697 one-half each as to third parties outside the rail corridor who
1698 incur loss, injury, or damage as a result of the incident; the
1699 involvement of any other train does ~~shall~~ not alter the sharing
1700 of equal responsibility as to third parties outside the rail
1701 corridor who incur loss, injury, or damage as a result of the
1702 incident; and, if the owner, operator, or insurer of the other
1703 train makes any payment to injured third parties outside the
1704 rail corridor who incur loss, injury, or damage as a result of
1705 the incident, the allocation of credit between the department
1706 and National Railroad Passenger Corporation as to such payment
1707 does ~~shall~~ not in any case reduce National Railroad Passenger
1708 Corporation's third-party-sharing allocation of one-half under
1709 this sub-subparagraph to less than one-third of the total third
1710 party liability.
1711 6. Any such contractual duty to protect, defend, indemnify,

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1712 and hold harmless such a freight rail operator or National
1713 Railroad Passenger Corporation shall expressly include a
1714 specific cap on the amount of the contractual duty, which amount
1715 may ~~shall~~ not exceed $200 million without prior legislative
1716 approval, and the department to purchase liability insurance and
1717 establish a self-insurance retention fund in the amount of the
1718 specific cap established under this subparagraph, provided that:
1719 a. A ~~No such~~ contractual duty may not ~~shall~~ in any case be
1720 effective or ~~nor~~ otherwise extend the department's liability in
1721 scope and effect beyond the contractual liability insurance and
1722 self-insurance retention fund required pursuant to this
1723 paragraph; and
1724 b.(I) The freight rail operator's compensation to the
1725 department for future use of the department's rail corridor
1726 shall include a monetary contribution to the cost of such
1727 liability coverage for the sole benefit of the freight rail
1728 operator.
1729 (II) National Railroad Passenger Corporation's compensation
1730 to the department for future use of the department's rail
1731 corridor shall include a monetary contribution to the cost of
1732 such liability coverage for the sole benefit of National
1733 Railroad Passenger Corporation.
1734 (b) Purchase liability insurance, which amount may ~~shall~~
1735 not exceed $200 million, and establish a self-insurance
1736 retention fund for the purpose of paying the deductible limit
1737 established in the insurance policies it may obtain, including
1738 coverage for the department, any freight rail operator as
1739 described in paragraph (a), National Railroad Passenger
1740 Corporation, commuter rail service providers, governmental

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1741 entities, or any ancillary development, which self-insurance
1742 retention fund or deductible may ~~shall~~ not exceed $10 million.
1743 The insureds shall pay a reasonable monetary contribution to the
1744 cost of such liability coverage for the sole benefit of the
1745 insured. Such insurance and self-insurance retention fund may
1746 provide coverage for all damages, including, but not limited to,
1747 compensatory, special, and exemplary, and be maintained to
1748 provide an adequate fund to cover claims and liabilities for
1749 loss, injury, or damage arising out of or connected with the
1750 ownership, operation, maintenance, and management of a rail
1751 corridor.
1752 (c) Incur expenses for the purchase of advertisements,
1753 marketing, and promotional items.
1754 (d) Undertake any ancillary development that the department
1755 determines to be appropriate as a source of revenue for the
1756 establishment, construction, operation, or maintenance of any
1757 rail corridor owned by the state. The ancillary development must
1758 be consistent, to the extent feasible, with applicable local
1759 government comprehensive plans and local land development
1760 regulations and otherwise be in compliance with ss. 341.302-
1761 341.303.
1762
1763 ~~Neither~~ The assumption by contract to protect, defend,
1764 indemnify, and hold harmless; the purchase of insurance; or ~~nor~~
1765 the establishment of a self-insurance retention fund may not
1766 ~~shall~~ be deemed to be a waiver of any defense of sovereign
1767 immunity for torts nor deemed to increase the limits of the
1768 department's or the governmental entity's liability for torts as
1769 provided in s. 768.28. The requirements of s. 287.022(1) do

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1770 ~~shall~~ not apply to the purchase of any insurance under this
1771 subsection. The provisions of this subsection ~~shall~~ apply and
1772 inure fully as to any other governmental entity providing
1773 commuter rail service and constructing, operating, maintaining,
1774 or managing a rail corridor on publicly owned right-of-way under
1775 contract by the governmental entity with the department or a
1776 governmental entity designated by the department.
1777 Notwithstanding any law to the contrary, procurement for the
1778 construction, operation, maintenance, and management of any rail
1779 corridor described in this subsection, whether by the
1780 department, a governmental entity under contract with the
1781 department, or a governmental entity designated by the
1782 department, must ~~shall~~ be pursuant to s. 287.057 and must ~~shall~~
1783 include, but not be limited to, criteria for the consideration
1784 of qualifications, technical aspects of the proposal, and price.
1785 Further, a ~~any such~~ contract for design-build shall be procured
1786 pursuant to the criteria in s. 337.11(7).
1787 Section 24. Paragraph (d) of subsection (3) of section
1788 343.82, Florida Statutes, is amended to read:
1789 343.82 Purposes and powers.—
1790 (3)
1791 (d) The authority may undertake projects or other
1792 improvements in the master plan in phases as particular projects
1793 or segments thereof become feasible, as determined by the
1794 authority. In carrying out its purposes and powers, the
1795 authority may request funding and technical assistance from the
1796 department and appropriate federal and local agencies,
1797 including, but not limited to, state infrastructure bank loans~~,~~
1798 ~~advances from the Toll Facilities Revolving Trust Fund,~~ and from

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1799 any other sources.
1800 Section 25. Subsection (4) of section 343.922, Florida
1801 Statutes, is amended to read:
1802 343.922 Powers and duties.—
1803 (4) The authority may undertake projects or other
1804 improvements in the master plan in phases as particular projects
1805 or segments become feasible, as determined by the authority. The
1806 authority shall coordinate project planning, development, and
1807 implementation with the applicable local governments. The
1808 authority's projects that are transportation oriented shall be
1809 consistent to the maximum extent feasible with the adopted local
1810 government comprehensive plans at the time they are funded for
1811 construction. Authority projects that are not transportation
1812 oriented and meet the definition of development pursuant to s.
1813 380.04 shall be consistent with the local comprehensive plans.
1814 In carrying out its purposes and powers, the authority may
1815 request funding and technical assistance from the department and
1816 appropriate federal and local agencies, including, but not
1817 limited to, state infrastructure bank loans~~, advances from the~~
1818 ~~Toll Facilities Revolving Trust Fund,~~ and funding and technical
1819 assistance from any other source.
1820 Section 26. Chapter 345, Florida Statutes, consisting of
1821 sections 345.0001, 345.0002, 345.0003, 345.0004, 345.0005,
1822 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011,
1823 345.0012, 345.0013, 345.0014, 345.0015, 345.0016, and 345.0017,
1824 is created to read:
1825 345.0001 Short title.—This act may be cited as the "Florida
1826 Regional Tollway Authority Act."
1827 345.0002 Definitions.—As used in this chapter, the term:

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1828 (1) “Agency of the state” means the state and any
1829 department of, or any corporation, agency, or instrumentality
1830 heretofore or hereafter created, designated, or established by,
1831 the state.
1832 (2) “Area served” means the geographical area of the
1833 counties for which an authority is established.
1834 (3) “Authority” means a regional tollway authority, a body
1835 politic and corporate, and an agency of the state, established
1836 pursuant to the Florida Regional Tollway Authority Act.
1837 (4) “Bonds” means the notes, bonds, refunding bonds, or
1838 other evidences of indebtedness or obligations, in temporary or
1839 definitive form, which an authority may issue pursuant to this
1840 act.
1841 (5) “Department” means the Department of Transportation of
1842 Florida and any successor thereto.
1843 (6) “Division” means the Division of Bond Finance of the
1844 State Board of Administration.
1845 (7) “Federal agency” means the United States, the President
1846 of the United States, and any department of, or any bureau,
1847 corporation, agency, or instrumentality heretofore or hereafter
1848 created, designated, or established by, the United States.
1849 (8) “Members” means the governing body of an authority, and
1850 the term “member” means one of the individuals constituting such
1851 governing body.
1852 (9) “Regional system” or “system” means, generally, a
1853 modern tolled highway system of roads, bridges, causeways, and
1854 tunnels within any area of the authority, with access limited or
1855 unlimited as an authority may determine, and the buildings and
1856 structures and appurtenances and facilities related to the

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1857 system, including all approaches, streets, roads, bridges, and
1858 avenues of access for the system.
1859 (10) "Revenues" means the tolls, revenues, rates, fees,
1860 charges, receipts, rentals, contributions, and other income
1861 derived from or in connection with the operation or ownership of
1862 a regional system, including the proceeds of any use and
1863 occupancy insurance on any portion of the system but excluding
1864 state funds available to an authority and any other municipal or
1865 county funds available to an authority under an agreement with a
1866 municipality or county.
1867 345.0003 Tollway authority; formation; membership.—
1868 (1) A county, or two or more contiguous counties, may,
1869 after the approval of the Legislature, form a regional tollway
1870 authority for the purposes of constructing, maintaining, and
1871 operating transportation projects in a region of this state. An
1872 authority shall be governed in accordance with the provisions of
1873 this chapter. An authority may not be created without the
1874 approval of the Legislature and the approval of the county
1875 commission of each county that will be a part of the authority.
1876 An authority may not be created to serve a particular area of
1877 this state as provided by this subsection if a regional tollway
1878 authority has been created and is operating within all or a
1879 portion of the same area served pursuant to an act of the
1880 Legislature. Each authority shall be the only authority created
1881 and operating pursuant to this chapter within the area served by
1882 the authority.
1883 (2) The governing body of an authority shall consist of a
1884 board of voting members as follows:
1885 (a) The county commission of each county in the area served

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1886 by the authority shall each appoint a member who must be a
1887 resident of the county from which he or she is appointed. If
1888 possible, the member must represent the business and civic
1889 interests of the community.
1890 (b) The Governor shall appoint an equal number of members
1891 to the board as those appointed by the county commissions. The
1892 members appointed by the Governor must be residents of the area
1893 served by the authority.
1894 (c) The secretary of the Department of Transportation shall
1895 appoint one of the district secretaries, or his or her designee,
1896 for the districts within which the area served by the authority
1897 is located.
1898 (3) The term of office of each member shall be for 4 years
1899 or until his or her successor is appointed and qualified.
1900 (4) A member may not hold an elected office.
1901 (5) A vacancy occurring in the governing body before the
1902 expiration of the member's term shall be filled by the
1903 respective appointing authority in the same manner as the
1904 original appointment and only for the balance of the unexpired
1905 term.
1906 (6) Each member, before entering upon his or her official
1907 duties, must take and subscribe to an oath before an official
1908 authorized by law to administer oaths that he or she will
1909 honestly, faithfully, and impartially perform the duties
1910 devolving upon him or her in office as a member of the governing
1911 body of the authority and that he or she will not neglect any
1912 duties imposed upon him or her by this chapter.
1913 (7) A member of an authority may be removed from office by
1914 the Governor for misconduct, malfeasance, misfeasance, or

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1915 nonfeasance in office.
1916 (8) The members of the authority shall designate one of its
1917 members as chair.
1918 (9) The members of the authority shall serve without
1919 compensation, but shall be entitled to reimbursement for per
1920 diem and other expenses in accordance with s. 112.061 while in
1921 performance of their duties.
1922 (10) A majority of the members of the authority constitutes
1923 a quorum, and resolutions enacted or adopted by a vote of a
1924 majority of the members present and voting at any meeting become
1925 effective without publication, posting, or any further action of
1926 the authority.
1927 345.0004 Powers and duties.—
1928 (1)(a) An authority created and established, or governed,
1929 by the Florida Regional Tollway Authority Act shall plan,
1930 develop, finance, construct, reconstruct, improve, own, operate,
1931 and maintain a regional system in the area served by the
1932 authority.
1933 (b) An authority may not exercise the powers in paragraph
1934 (a) with respect to an existing system for transporting people
1935 and goods by any means that is owned by another entity without
1936 the consent of that entity. If an authority acquires, purchases,
1937 or inherits an existing entity, the authority shall also inherit
1938 and assume all rights, assets, appropriations, privileges, and
1939 obligations of the existing entity.
1940 (2) Each authority may exercise all powers necessary,
1941 appurtenant, convenient, or incidental to the carrying out of
1942 the purposes of this section, including, but not limited to, the
1943 following rights and powers:

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1944 (a) To sue and be sued, implead and be impleaded, and
1945 complain and defend in all courts in its own name.
1946 (b) To adopt and use a corporate seal.
1947 (c) To have the power of eminent domain, including the
1948 procedural powers granted under chapters 73 and 74.
1949 (d) To acquire, purchase, hold, lease as a lessee, and use
1950 any property, real, personal, or mixed, tangible or intangible,
1951 or any interest therein, necessary or desirable for carrying out
1952 the purposes of the authority.
1953 (e) To sell, convey, exchange, lease, or otherwise dispose
1954 of any real or personal property acquired by the authority,
1955 including air rights.
1956 (f) To fix, alter, charge, establish, and collect rates,
1957 fees, rentals, and other charges for the use of any system owned
1958 or operated by the authority, which rates, fees, rentals, and
1959 other charges must always be sufficient to comply with any
1960 covenants made with the holders of any bonds issued pursuant to
1961 this act; however, such right and power may be assigned or
1962 delegated by the authority to the department.
1963 (g) To borrow money, make and issue negotiable notes,
1964 bonds, refunding bonds, and other evidences of indebtedness or
1965 obligations, in temporary or definitive form, for the purpose of
1966 financing all or part of the improvement of the authority's
1967 system and appurtenant facilities, including the approaches,
1968 streets, roads, bridges, and avenues of access for the system
1969 and for any other purpose authorized by this chapter, the bonds
1970 to mature in not exceeding 30 years after the date of the
1971 issuance thereof, and to secure the payment of such bonds or any
1972 part thereof by a pledge of its revenues, rates, fees, rentals,

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1973 or other charges, including municipal or county funds received
1974 by the authority pursuant to the terms of an agreement between
1975 the authority and a municipality or county; and, in general, to
1976 provide for the security of the bonds and the rights and
1977 remedies of the holders of the bonds; however, municipal or
1978 county funds may not be pledged for the construction of a
1979 project for which a toll is to be charged unless the anticipated
1980 tolls are reasonably estimated by the governing board of the
1981 municipality or county, at the date of its resolution pledging
1982 said funds, to be sufficient to cover the principal and interest
1983 of such obligations during the period when the pledge of funds
1984 is in effect.
1985 1. An authority shall reimburse a municipality or county
1986 for sums expended from municipal or county funds used for the
1987 payment of the bond obligations.
1988 2. If an authority determines to fund or refund any bonds
1989 issued by the authority before the maturity of the bonds, the
1990 proceeds of the funding or refunding bonds shall, pending the
1991 prior redemption of the bonds to be funded or refunded, be
1992 invested in direct obligations of the United States, and the
1993 outstanding bonds may be funded or refunded by the issuance of
1994 bonds pursuant to this chapter.
1995 (h) To make contracts of every name and nature, including,
1996 but not limited to, partnerships providing for participation in
1997 ownership and revenues, and to execute each instrument necessary
1998 or convenient for the conduct of its business.
1999 (i) Without limitation of the foregoing, to cooperate with,
2000 to borrow money and accept grants from, and to enter into
2001 contracts or other transactions with any federal agency, the

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2002 state, or any agency or any other public body of the state.
2003 (j) To employ an executive director, attorney, staff, and
2004 consultants. Upon the request of an authority, the department
2005 shall furnish the services of a department employee to act as
2006 the executive director of the authority.
2007 (k) To enter into joint development agreements.
2008 (l) To accept funds or other property from private
2009 donations.
2010 (m) To do all acts and things necessary or convenient for
2011 the conduct of its business and the general welfare of the
2012 authority, in order to carry out the powers granted to it by
2013 this act or any other law.
2014 (3) An authority does not have the power at any time or in
2015 any manner to pledge the credit or taxing power of the state or
2016 any political subdivision or agency thereof. Obligations of the
2017 authority may not be deemed to be obligations of the state or of
2018 any other political subdivision or agency thereof. The state or
2019 any political subdivision or agency thereof, except the
2020 authority, is not liable for the payment of the principal of or
2021 interest on such obligations.
2022 (4) An authority has no power, other than by consent of the
2023 affected county or an affected municipality, to enter into an
2024 agreement that would legally prohibit the construction of a road
2025 by the county or the municipality.
2026 (5) An authority formed pursuant to this chapter shall
2027 comply with the statutory requirements of general application
2028 which relate to the filing of a report or documentation required
2029 by law, including the requirements of ss. 189.4085, 189.415,
2030 189.417, and 189.418.

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2031 345.0005 Bonds.—
2032 (1)(a) Bonds may be issued on behalf of an authority
2033 pursuant to the State Bond Act.
2034 (b) An authority may also issue bonds in such principal
2035 amount as is necessary, in the opinion of the authority, to
2036 provide sufficient moneys for achieving its corporate purposes,
2037 including construction, reconstruction, improvement, extension,
2038 repair, maintenance and operation of the system, the cost of
2039 acquisition of all real property, interest on bonds during
2040 construction and for a reasonable period thereafter,
2041 establishment of reserves to secure bonds, and other
2042 expenditures of the authority incident, and necessary or
2043 convenient, to carry out its corporate purposes and powers.
2044 (2)(a) Bonds issued by an authority pursuant to paragraph
2045 (1)(a) or paragraph (1)(b) must be authorized by resolution of
2046 the members of the authority and must bear such date or dates;
2047 mature at such time or times, not exceeding 30 years after their
2048 respective dates; bear interest at such rate or rates, not
2049 exceeding the maximum rate fixed by general law for authorities;
2050 be in such denominations; be in such form, either coupon or
2051 fully registered; carry such registration, exchangeability and
2052 interchangeability privileges; be payable in such medium of
2053 payment and at such place or places; be subject to such terms of
2054 redemption; and be entitled to such priorities of lien on the
2055 revenues and other available moneys as such resolution or any
2056 resolution subsequent to the bonds' issuance may provide. The
2057 bonds must be executed by manual or facsimile signature by such
2058 officers as the authority shall determine, provided that such
2059 bonds bear at least one signature that is manually executed on

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2060 the bond. The coupons attached to the bonds must bear the
2061 facsimile signature or signatures of the officer or officers as
2062 shall be designated by the authority. The bonds must have the
2063 seal of the authority affixed, imprinted, reproduced, or
2064 lithographed thereon.
2065 (b) Bonds issued pursuant to paragraph (1)(a) or paragraph
2066 (1)(b) must be sold at public sale in the same manner provided
2067 in the State Bond Act. Pending the preparation of definitive
2068 bonds, temporary bonds or interim certificates may be issued to
2069 the purchaser or purchasers of such bonds and may contain such
2070 terms and conditions as the authority may determine.
2071 (3) A resolution that authorizes any bonds may contain
2072 provisions that must be part of the contract with the holders of
2073 the bonds, as to:
2074 (a) The pledging of all or any part of the revenues,
2075 available municipal or county funds, or other charges or
2076 receipts of the authority derived from the regional system.
2077 (b) The construction, reconstruction, improvement,
2078 extension, repair, maintenance, and operation of the system, or
2079 any part or parts of the system, and the duties and obligations
2080 of the authority with reference thereto.
2081 (c) Limitations on the purposes to which the proceeds of
2082 the bonds, then or thereafter issued, or of any loan or grant by
2083 any federal agency or the state or any political subdivision of
2084 the state may be applied.
2085 (d) The fixing, charging, establishing, revising,
2086 increasing, reducing, and collecting of tolls, rates, fees,
2087 rentals, or other charges for use of the services and facilities
2088 of the system or any part of the system.

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2089 (e) The setting aside of reserves or of sinking funds and
2090 the regulation and disposition of the reserves or sinking funds.
2091 (f) Limitations on the issuance of additional bonds.
2092 (g) The terms and provisions of any deed of trust or
2093 indenture securing the bonds, or under which the bonds may be
2094 issued.
2095 (h) Any other or additional matters, of like or different
2096 character, which in any way affect the security or protection of
2097 the bonds.
2098 (4) The authority may enter into any deeds of trust,
2099 indentures, or other agreements with any bank or trust company
2100 within or without the state, as security for such bonds, and
2101 may, under such agreements, assign and pledge any of the
2102 revenues and other available moneys, including any available
2103 municipal or county funds, pursuant to the terms of this
2104 chapter. The deed of trust, indenture, or other agreement may
2105 contain provisions that are customary in such instruments or
2106 that the authority may authorize, including, but without
2107 limitation, provisions that:
2108 (a) Pledge any part of the revenues or other moneys
2109 lawfully available therefor.
2110 (b) Apply funds and safeguard funds on hand or on deposit.
2111 (c) Provide for the rights and remedies of the trustee and
2112 the holders of the bonds.
2113 (d) Provide for the terms and provisions of the bonds or
2114 for resolutions authorizing the issuance of the bonds.
2115 (e) Provide for any other or additional matters, of like or
2116 different character, which affect the security or protection of
2117 the bonds.

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2118 (5) Any bonds issued pursuant to this act are negotiable
2119 instruments and have all the qualities and incidents of
2120 negotiable instruments under the law merchant and the negotiable
2121 instruments law of the state.
2122 (6) A resolution that authorizes the issuance of authority
2123 bonds and pledges the revenues of the system must require that
2124 revenues of the system be periodically deposited into
2125 appropriate accounts in such sums as are sufficient to pay the
2126 costs of operation and maintenance of the system for the current
2127 fiscal year as set forth in the annual budget of the authority
2128 and to reimburse the department for any unreimbursed costs of
2129 operation and maintenance of the system from prior fiscal years
2130 before revenues of the system are deposited into accounts for
2131 the payment of interest or principal owing or that may become
2132 owing on such bonds.
2133 (7) State funds may not be used or pledged to pay the
2134 principal or interest of any authority bonds, and all such bonds
2135 must contain a statement on their face to this effect.
2136 345.0006 Remedies of bondholders.—
2137 (1) The rights and the remedies granted to authority
2138 bondholders under this chapter are in addition to and not in
2139 limitation of any rights and remedies lawfully granted to such
2140 bondholders by the resolution or indenture providing for the
2141 issuance of bonds, or by any deed of trust, indenture, or other
2142 agreement under which the bonds may be issued or secured. If an
2143 authority defaults in the payment of the principal of or
2144 interest on any of the bonds issued pursuant to this chapter
2145 after such principal of or interest on the bonds becomes due,
2146 whether at maturity or upon call for redemption, as provided in

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2147 the resolution or indenture, and such default continues for 30
2148 days, or in the event that the authority fails or refuses to
2149 comply with the provisions of this chapter or any agreement made
2150 with, or for the benefit of, the holders of the bonds, the
2151 holders of 25 percent in aggregate principal amount of the bonds
2152 then outstanding shall be entitled as of right to the
2153 appointment of a trustee to represent such bondholders for the
2154 purposes of the default provided that the holders of 25 percent
2155 in aggregate principal amount of the bonds then outstanding
2156 first gave written notice of their intention to appoint a
2157 trustee, to the authority and to the department.
2158 (2) The trustee, and any trustee under any deed of trust,
2159 indenture, or other agreement, may, and upon written request of
2160 the holders of 25 percent, or such other percentages specified
2161 in any deed of trust, indenture, or other agreement, in
2162 principal amount of the bonds then outstanding, shall, in any
2163 court of competent jurisdiction, in his, her, or its own name:
2164 (a) By mandamus or other suit, action, or proceeding at
2165 law, or in equity, enforce all rights of the bondholders,
2166 including the right to require the authority to fix, establish,
2167 maintain, collect, and charge rates, fees, rentals, and other
2168 charges, adequate to carry out any agreement as to, or pledge
2169 of, the revenues, and to require the authority to carry out any
2170 other covenants and agreements with or for the benefit of the
2171 bondholders, and to perform its and their duties under this
2172 chapter.
2173 (b) Bring suit upon the bonds.
2174 (c) By action or suit in equity, require the authority to
2175 account as if it were the trustee of an express trust for the

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2176 bondholders.
2177 (d) By action or suit in equity, enjoin any acts or things
2178 that may be unlawful or in violation of the rights of the
2179 bondholders.
2180 (3) A trustee, if appointed pursuant to this section or
2181 acting under a deed of trust, indenture, or other agreement, and
2182 whether or not all bonds have been declared due and payable,
2183 shall be entitled as of right to the appointment of a receiver.
2184 The receiver may enter upon and take possession of the system or
2185 the facilities or any part or parts of the system, the revenues
2186 and other pledged moneys, for and on behalf of and in the name
2187 of, the authority and the bondholders. The receiver may collect
2188 and receive all revenues and other pledged moneys in the same
2189 manner as the authority might do. The receiver shall deposit all
2190 such revenues and moneys in a separate account and apply all
2191 such revenues and moneys remaining after allowance for payment
2192 of all costs of operation and maintenance of the system in such
2193 manner as the court directs. In a suit, action, or proceeding by
2194 the trustee, the fees, counsel fees, and expenses of the
2195 trustee, and said receiver, if any, and all costs and
2196 disbursements allowed by the court must be a first charge on any
2197 revenues after payment of the costs of operation and maintenance
2198 of the system. The trustee also has all other powers necessary
2199 or appropriate for the exercise of any functions specifically
2200 set forth in this section or incident to the representation of
2201 the bondholders in the enforcement and protection of their
2202 rights.
2203 (4) This section or any other section of this chapter does
2204 not authorize a receiver appointed pursuant to this section for

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2205 the purpose of operating and maintaining the system or any
2206 facilities or parts thereof to sell, assign, mortgage, or
2207 otherwise dispose of any of the assets belonging to the
2208 authority. The powers of such receiver are limited to the
2209 operation and maintenance of the system, or any facility or
2210 parts thereof and to the collection and application of revenues
2211 and other moneys due the authority, in the name and for and on
2212 behalf of the authority and the bondholders, and a holder of
2213 bonds or any trustee does not have the right in any suit,
2214 action, or proceeding at law, or in equity, to compel a
2215 receiver, or any receiver may not be authorized or any court may
2216 not be empowered to direct the receiver, to sell, assign,
2217 mortgage, or otherwise dispose of any assets of whatever kind or
2218 character belonging to the authority.
2219 345.0007 Department to construct, operate, and maintain
2220 facilities.—
2221 (1) The department is the agent of each authority for the
2222 purpose of performing all phases of a project, including, but
2223 not limited to, constructing improvements and extensions to the
2224 system. The division and the authority shall provide to the
2225 department complete copies of the documents, agreements,
2226 resolutions, contracts, and instruments that relate to the
2227 project and shall request that the department perform the
2228 construction work, including the planning, surveying, design,
2229 and actual construction of the completion, extensions, and
2230 improvements to the system. After the issuance of bonds to
2231 finance construction of an improvement or addition to the
2232 system, the division and the authority shall transfer to the
2233 credit of an account of the department in the State Treasury the

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2234 necessary funds for construction. The department shall proceed
2235 with construction and use the funds for the purpose authorized
2236 and as otherwise provided by law for construction of roads and
2237 bridges. An authority may alternatively, with the consent and
2238 approval of the department, elect to appoint a local agency
2239 certified by the department to administer federal aid projects
2240 in accordance with federal law as the authority's agent for the
2241 purpose of performing each phase of a project.
2242 (2) Notwithstanding the provisions of subsection (1), the
2243 department is the agent of each authority for the purpose of
2244 operating and maintaining the system. The department shall
2245 operate and maintain the system, and the costs incurred by the
2246 department for operation and maintenance shall be reimbursed
2247 from revenues of the system. The appointment of the department
2248 as agent for each authority does not create an independent
2249 obligation of the department to operate and maintain a system.
2250 Each authority shall remain obligated as principal to operate
2251 and maintain its system, and an authority's bondholders do not
2252 have an independent right to compel the department to operate or
2253 maintain the authority's system.
2254 (3) Each authority shall fix, alter, charge, establish, and
2255 collect tolls, rates, fees, rentals, and other charges for the
2256 authority's facilities, as otherwise provided in this chapter.
2257 345.0008 Department contributions to authority projects.—
2258 (1) The department may, at the request of an authority,
2259 provide for or contribute to the payment of costs of financial
2260 or engineering and traffic feasibility studies and the design,
2261 financing, acquisition, or construction of an authority project
2262 or system, subject to appropriation by the Legislature.

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2263 (2) The department may use its engineering and other
2264 personnel, including consulting engineers and traffic engineers,
2265 to conduct feasibility studies pursuant to subsection (1).
2266 (3) An obligation or expense incurred by the department
2267 under this section is a part of the cost of the authority
2268 project for which the obligation or expense was incurred. The
2269 department may require money contributed by the department under
2270 this section to be repaid from tolls of the project on which the
2271 money was spent, other revenue of the authority, or other
2272 sources of funds.
2273 (4) The department shall receive from an authority a share
2274 of the authority's net revenues equal to the ratio of the
2275 department's total contributions to the authority under this
2276 section to the sum of: the department's total contributions
2277 under this section; contributions by any local government to the
2278 cost of revenue producing authority projects; and the sale
2279 proceeds of authority bonds after payment of costs of issuance.
2280 For the purpose of this subsection, net revenues are gross
2281 revenues of an authority after payment of debt service,
2282 administrative expenses, operations and maintenance expenses,
2283 and all reserves required to be established under any resolution
2284 under which authority bonds are issued.
2285 345.0009 Acquisition of lands and property.—
2286 (1) For the purposes of this chapter, an authority may
2287 acquire private or public property and property rights,
2288 including rights of access, air, view, and light, by gift,
2289 devise, purchase, condemnation by eminent domain proceedings, or
2290 transfer from another political subdivision of the state, as the
2291 authority may deem necessary for any of the purposes of this

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2292 chapter, including, but not limited to, any lands reasonably
2293 necessary for securing applicable permits, areas necessary for
2294 management of access, borrow pits, drainage ditches, water
2295 retention areas, rest areas, replacement access for landowners
2296 whose access is impaired due to the construction of a facility,
2297 and replacement rights-of-way for relocated rail and utility
2298 facilities; for existing, proposed, or anticipated
2299 transportation facilities on the system or in a transportation
2300 corridor designated by the authority; or for the purposes of
2301 screening, relocation, removal, or disposal of junkyards and
2302 scrap metal processing facilities. Each authority shall also
2303 have the power to condemn any material and property necessary
2304 for such purposes.
2305 (2) An authority shall exercise the right of eminent domain
2306 conferred under this section in the manner provided by law.
2307 (3) If an authority acquires property for a transportation
2308 facility or in a transportation corridor, it is not subject to
2309 any liability imposed by chapter 376 or chapter 403 for
2310 preexisting soil or groundwater contamination due solely to its
2311 ownership. This section does not affect the rights or
2312 liabilities of any past or future owners of the acquired
2313 property or affect the liability of any governmental entity for
2314 the results of its actions which create or exacerbate a
2315 pollution source. An authority and the Department of
2316 Environmental Protection may enter into interagency agreements
2317 for the performance, funding, and reimbursement of the
2318 investigative and remedial acts necessary for property acquired
2319 by the authority.
2320 345.0010 Cooperation with other units, boards, agencies,

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

2321 and individuals.—A county, municipality, drainage district, road
2322 and bridge district, school district, or any other political
2323 subdivision, board, commission, or individual in, or of, the
2324 state may make and enter into a contract, lease, conveyance,
2325 partnership, or other agreement with an authority within the
2326 provisions and purposes of this chapter. Each authority may make
2327 and enter into contracts, leases, conveyances, partnerships, and
2328 other agreements with any political subdivision, agency, or
2329 instrumentality of the state and any federal agency,
2330 corporation, and individual, to carry out the purposes of this
2331 chapter.
2332 345.0011 Covenant of the state.—The state pledges to, and
2333 agrees with, any person, firm, or corporation, or federal or
2334 state agency subscribing to, or acquiring the bonds to be issued
2335 by an authority for the purposes of this chapter that the state
2336 will not limit or alter the rights vested by this chapter in the
2337 authority and the department until all bonds at any time issued,
2338 together with the interest thereon, are fully paid and
2339 discharged insofar as the payment and discharge affect the
2340 rights of the holders of bonds issued pursuant to this chapter.
2341 The state further pledges to, and agrees with, the United States
2342 that if a federal agency constructs or contributes any funds for
2343 the completion, extension, or improvement of the system, or any
2344 parts of the system, the state will not alter or limit the
2345 rights and powers of the authority and the department in any
2346 manner that is inconsistent with the continued maintenance and
2347 operation of the system or the completion, extension, or
2348 improvement of the system, or which would be inconsistent with
2349 the due performance of any agreements between the authority and

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

2350 any such federal agency, and the authority and the department
2351 shall continue to have and may exercise all powers granted in
2352 this section, so long as the powers are necessary or desirable
2353 to carry out the purposes of this chapter and the purposes of
2354 the United States in the completion, extension, or improvement
2355 of the system, or any part of the system.
2356 345.0012 Exemption from taxation.—The authority created
2357 under this chapter is for the benefit of the people of the
2358 state, for the increase of their commerce and prosperity, and
2359 for the improvement of their health and living conditions, and
2360 because the authority will be performing essential governmental
2361 functions pursuant to this chapter, the authority is not
2362 required to pay any taxes or assessments of any kind or nature
2363 whatsoever upon any property acquired or used by it for such
2364 purposes, or upon any rates, fees, rentals, receipts, income, or
2365 charges received by it, and the bonds issued by the authority,
2366 their transfer and the income from their issuance, including any
2367 profits made on the sale of the bonds, shall be free from
2368 taxation by the state or by any political subdivision, taxing
2369 agency, or instrumentality of the state. The exemption granted
2370 by this section does not apply to any tax imposed by chapter 220
2371 on interest, income, or profits on debt obligations owned by
2372 corporations.
2373 345.0013 Eligibility for investments and security.—Any
2374 bonds or other obligations issued pursuant to this chapter are
2375 legal investments for banks, savings banks, trustees, executors,
2376 administrators, and all other fiduciaries, and for all state,
2377 municipal, and other public funds and are also securities
2378 eligible for deposit as security for all state, municipal, or

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

2379 other public funds, notwithstanding the provisions of any other
2380 law to the contrary.
2381 345.0014 Applicability.—
2382 (1) The powers conferred by this chapter are in addition to
2383 the powers conferred by other law and do not repeal the
2384 provisions of any other general or special law or local
2385 ordinance, but supplement such other laws in the exercise of the
2386 powers provided in this chapter, and provide a complete method
2387 for the exercise of the powers granted in this chapter. The
2388 extension and improvement of a system, and the issuance of bonds
2389 pursuant to this chapter to finance all or part of the cost
2390 thereof, may be accomplished upon compliance with the provisions
2391 of this chapter without regard to or necessity for compliance
2392 with the provisions, limitations, or restrictions contained in
2393 any other general, special, or local law, including, but not
2394 limited to, s. 215.821, and approval of any bonds issued under
2395 this act by the qualified electors or qualified electors who are
2396 freeholders in the state or in any political subdivision of the
2397 state is not required for the issuance of such bonds pursuant to
2398 this chapter.
2399 (2) This act does not repeal, rescind, or modify any other
2400 law or laws relating to the State Board of Administration, the
2401 Department of Transportation, or the Division of Bond Finance of
2402 the State Board of Administration, but supersedes any other law
2403 that is inconsistent with the provisions of this chapter,
2404 including, but not limited to, s. 215.821.
2405 345.0015 Northwest Florida Regional Tollway Authority.—
2406 (1) There is hereby created and established a body politic
2407 and corporate, an agency of the state, to be known as the

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

2408 Northwest Florida Regional Tollway Authority, hereinafter
2409 referred to as the "authority."
2410 (2) The area served by the authority shall be Escambia and
2411 Santa Rosa Counties.
2412 (3) The purposes and powers of the authority are as
2413 identified in the Florida Regional Tollway Authority Act for the
2414 area served by the authority, and the authority operates in the
2415 manner provided by the Florida Regional Tollway Authority Act.
2416 345.0016 Okaloosa-Bay Regional Tollway Authority.—
2417 (1) There is hereby created and established a body politic
2418 and corporate, an agency of the state, to be known as the
2419 Okaloosa-Bay Regional Tollway Authority, hereinafter referred to
2420 as the "authority."
2421 (2) The area served by the authority shall be Okaloosa,
2422 Walton, and Bay Counties.
2423 (3) The purposes and powers of the authority are as
2424 identified in the Florida Regional Tollway Authority Act for the
2425 area served by the authority, and the authority operates in the
2426 manner provided by the Florida Regional Tollway Authority Act.
2427 345.0017 Suncoast Regional Tollway Authority.—
2428 (1) There is hereby created and established a body politic
2429 and corporate, an agency of the state, to be known as the
2430 Suncoast Regional Tollway Authority, hereinafter referred to as
2431 the "authority."
2432 (2) The area served by the authority shall be Citrus, Levy,
2433 Marion, and Alachua Counties.
2434 (3) The purposes and powers of the authority are as
2435 identified in the Florida Regional Tollway Authority Act for the
2436 area served by the authority, and the authority operates in the

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

2437 manner provided by the Florida Regional Tollway Authority Act.
2438 Section 27. Transfer to the Okaloosa-Bay Regional Tollway
2439 Authority.—The governance and control of the Mid-Bay Bridge
2440 Authority System, created pursuant to chapter 2000-411, Laws of
2441 Florida, is transferred to the Okaloosa-Bay Regional Tollway
2442 Authority.
2443 (1) The assets, facilities, tangible and intangible
2444 property and any rights in such property, and any other legal
2445 rights of the bridge authority, including the bridge system
2446 operated by the authority, are transferred to the regional
2447 tollway authority. All powers of the bridge authority shall
2448 succeed to the regional tollway authority, and the operations
2449 and maintenance of the bridge system shall be under the control
2450 of the regional tollway authority, pursuant to this section.
2451 Revenues collected on the bridge system may be considered
2452 regional tollway authority revenues, and the Mid-Bay Bridge may
2453 be considered part of the regional tollway authority system, if
2454 bonds of the bridge authority are not outstanding. The regional
2455 tollway authority also assumes all liability for bonds of the
2456 bridge authority pursuant to the provisions of subsection (2).
2457 The regional tollway authority may review other contracts,
2458 financial obligations, and contractual obligations and
2459 liabilities of the bridge authority and may assume legal
2460 liability for the obligations that are determined to be
2461 necessary for the continued operation of the bridge system.
2462 (2) The transfer pursuant to this section is subject to the
2463 terms and covenants provided for the protection of the holders
2464 of the Mid-Bay Bridge Authority bonds in the lease-purchase
2465 agreement and the resolutions adopted in connection with the

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

2466 issuance of the bonds. Further, the transfer does not impair the
2467 terms of the contract between the bridge authority and the
2468 bondholders, does not act to the detriment of the bondholders,
2469 and does not diminish the security for the bonds. After the
2470 transfer, until the bonds of the bridge authority are fully
2471 defeased or paid in full, the department shall operate and
2472 maintain the bridge system and any other facilities of the
2473 authority in accordance with the terms, conditions, and
2474 covenants contained in the bond resolutions and lease-purchase
2475 agreement securing the bonds of the bridge authority. The
2476 Department of Transportation, as the agent of the regional
2477 tollway authority, shall collect toll revenues and apply them to
2478 the payment of debt service as provided in the bond resolution
2479 securing the bonds. The regional tollway authority shall
2480 expressly assume all obligations relating to the bonds to ensure
2481 that the transfer will have no adverse impact on the security
2482 for the bonds of the bridge authority. The transfer does not
2483 make the obligation to pay the principal and interest on the
2484 bonds a general liability of the regional tollway authority or
2485 pledge the regional tollway authority system revenues to payment
2486 of the bridge authority bonds. Revenues that are generated by
2487 the bridge system and other facilities of the bridge authority
2488 and that were pledged by the bridge authority to the payment of
2489 the bonds remain subject to the pledge for the benefit of the
2490 bondholders. The transfer does not modify or eliminate any prior
2491 obligation of the Department of Transportation to pay certain
2492 costs of the bridge system from sources other than revenues of
2493 the bridge system. With regard to the bridge authority's current
2494 long-term debt of $16.1 million due to the department as of June

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

2495 30, 2011, and to the extent permitted by the bond resolutions
2496 and lease-purchase agreement securing the bonds, the regional
2497 tollway authority shall make payment annually to the State
2498 Transportation Trust Fund, for the purpose of repaying the
2499 bridge authority's long-term debt due to the department, from
2500 any bridge system revenues obtained under this section which
2501 remain after the payment of the costs of operations,
2502 maintenance, renewal, and replacement of the bridge system; the
2503 payment of current debt service; and other payments required in
2504 relation to the bonds. The regional tollway authority shall make
2505 the annual payments, not to exceed $1 million per year, to the
2506 State Transportation Trust Fund until all remaining authority
2507 long-term debt due to the department has been repaid.
2508 (3) Any remaining toll revenue from the facilities of the
2509 Mid-Bay Bridge Authority collected by the Okaloosa-Bay Regional
2510 Tollway Authority after meeting the requirements of subsections
2511 (1) and (2) shall be used for the construction, maintenance, or
2512 improvement of any toll facility of the Okaloosa-Bay Regional
2513 Tollway Authority within the county or counties in which the
2514 revenue was collected.
2515 Section 28. Except as otherwise expressly provided in this
2516 act, this act shall take effect upon becoming a law.

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Ì167046/Î167046

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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	.	
	.	

The Committee on Transportation (Brandes) recommended the following:

Senate Amendment

Delete lines 626 - 628
and insert:
(4)(a) Beginning in fiscal year 2013-2014, a minimum of $15 million annually is authorized to be made available from the State Transportation Trust Fund to fund space transportation projects. The funds for this initiative shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3).

Ì185716:Î185716

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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The Committee on Transportation (Brandes) recommended the following:

1 **Senate Amendment (with directory and title amendments)**
2
3 Delete lines 664 - 689.
4
5 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
6 And the directory clause is amended as follows:
7 Delete line 577
8 and insert:
9 and amended to
10
11 ================= T I T L E A M E N D M E N T ================
12 And the title is amended as follows:

Ì185716:Î185716

13 Delete lines 42 - 45
14 and insert:
15 providing for funding; amending s. 332.007, F.S.;

Ì5843365Î584336

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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The Committee on Transportation (Brandes) recommended the following:

1 **Senate Amendment**
2
3 Delete line 1260
4 and insert:
5 general-purpose local government and the Governor, reapportion
6 the membership as

Ì302118~Î302118

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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	.	
	.	

The Committee on Transportation (Brandes) recommended the following:

1 **Senate Amendment**
2
3 Delete line 1533
4 and insert:
5 corridor, have the authority to:

Ì430408ÊÎ430408

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
	.	
	.	
	.	

The Committee on Transportation (Brandes) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 2212 - 2216
4 and insert:
5 behalf of the authority and the bondholders. A holder of bonds
6 or any trustee does not have the right in any suit, action, or
7 proceeding, at law or in equity, to compel a receiver, or a
8 receiver may not be authorized or a court may not direct a
9 receiver to, sell, assign,

Ì439862DÎ439862

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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	.	
	.	

The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 252 - 256
and insert:
the authorities created under chapters 345, 348, and 349, including any authority formed using the provisions of part I of chapter 348, and any authority formed under chapter 343 ~~which is not monitored under subsection (3)~~. The

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 4 - 5

Ì439862DÎ439862

13 and insert:
14 Commission to also monitor ch. 345, F.S., relating to
15 the Florida Regional Tollway Authority; deleting
16 provisions relating to the Florida

Ì866526=Î866526

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
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	.	

The Committee on Transportation (Margolis) recommended the following:

Senate Substitute for Amendment (507082) (with title amendment)

Delete lines 834 - 1017
and insert:
(Nothing)

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 67 - 72
and insert:
lease must meet; amending s. 338.161, F.S.,

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Transportation

Bill Number: 1132 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 S. Bronough Street
Street

Tallahassee — *City*
FL — *State*
32301 — *Zip*

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Traveling Amendment by Margolis

Bill Number: ~~[illegible]~~ 1132 *(if applicable)*

Name: Arthur Noriega

Amendment Barcode: *(if applicable)*

Job Title: CEO, Miami Parking Authority

Address: 40 NW 3 Street, Suite 1103
Street

Miami, FL 33149
City *State* *Zip*

Phone: 305-373-6789

E-mail: ANORIEGA@miamiparking.com

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

Representing: Miami Parking Authority

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Traveling amendment by Sen. Margolis

Bill Number: SB 1132 *(if applicable)*

Name: Chris Moya

Amendment Barcode: *(if applicable)*

Job Title: Lobbyist

Address: 200 West College
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850.321.6692

E-mail: chrismoya@themoyagroup.com

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

Representing: Miami Parking 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.

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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)

3/20/13
Meeting Date

Topic _____

Bill Number SB 1132 *(if applicable)*

Name HOWARD SCHIEFFENDECKER

Amendment Barcode _____ *(if applicable)*

Job Title MAYOR

Address 1776 INDEPENDENCE LANE
Street

HAITLAND FLORIDA 32751
City *State* *Zip*

Phone (407) 702-3131

E-mail HAschieff@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing CITY OF HAITLAND

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic: Ancillary Development in Rail Corridor

Bill Number: 1132 (if applicable)

Name: Joe Kilsheimer

Amendment Barcode: (if applicable)

Job Title: Commissioner City of Apopka

Address: 2377 Home Again Rd (Street)

Phone:

Apopka (City) FL (State) 32703 (Zip)

E-mail: Joe@jkconsultingine.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.

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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)

3/20/13
Meeting Date

Topic _____ Bill Number 1132 *(if applicable)*

Name Colleen Hufford Amendment Barcode _____ *(if applicable)*

Job Title Casselberry City Commissioner

Address 527 Queens Mirror
Street

Casselberry FL 32707
City *State* *Zip*

Phone 407.699.9194

E-mail colleenhufford@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of City Advocacy Team

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Transportation

Bill Number: 1132 (if applicable)

Name: Eric Poole

Amendment Barcode: _____ (if applicable)

Job Title: Asst. Leg Dir.

Address: 100 Monroe (Street)

Tall Fl (City, State, Zip)

Phone: 922-4300

E-mail: _____

Speaking: ☐ For ☐ Against ☒ Information

Representing: Florida Assoc. Counties

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)

3/20/13
Meeting Date

Topic: Spaceports.

Bill Number: SB1132 *(if applicable)*

Name: Chris Snow

Amendment Barcode: *(if applicable)*

Job Title: Senior Director of Government Relations

Address: 1580 Waldo Palmer Lane
Street

Tallahassee, FL
City, State, Zip

Phone: 321 474 9754

E-mail: csnow@spaceflorida.gov

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

Representing: Space 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)

3/20/13
Meeting Date

Topic: Dept. of Transp.

Bill Number: SB 1132 (if applicable)

Name: Ryan Padgett

Amendment Barcode: (if applicable)

Job Title: Asst. General Counsel

Address: P.O. Box 1757
Street

Tallahassee FL 32302
City State Zip

Phone: 222-3616

E-mail: rpadgett@floridaleagueofcities.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Fla. 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)

3/20/13
Meeting Date

Topic: Cossidoo Plan Coordination

Bill Number: 1132 *(if applicable)*

Name: CHARLES PATTISON

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT

Address: 308 N. MONROE
Street

TALLAHASSEE
City *State* *Zip*

Phone: 222-6277

E-mail: cpattison@1000fof.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: 1000 FRIENDS OF FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: TRANSPORTATION DEVELOPMENT

Bill Number: SB 1132 *(if applicable)*

Name: JOE DURSO

Amendment Barcode: *(if applicable)*

Job Title: COMMISSIONER - CITY OF LONGWOOD

Address: 301 TULLIS AVE
Street

LONGWOOD, FL 32750
City, State, Zip

Phone: 407-722-1155

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: CITY OF LONGWOOD

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)

3/20/13
Meeting Date

Topic: Ancillary Development

Bill Number: 1132 (if applicable)

Name: Louis Rotundo

Amendment Barcode: (if applicable)

Job Title:

Address: 302 Pinestraw Circle
Street

Altamonte Springs 32714
City State Zip

Phone: 407-699-9361

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: City of Altamonte Springs
City of Maitland

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)

3-20-13
Meeting Date

Topic: Transportation / Bus Benches

Bill Number: 1132 *(if applicable)*

Name: Marty Cassini

Amendment Barcode: 972224 *(if applicable)*

Job Title: Legislative Counsel

Address: 115 S. Andrews Ave 426
Street

Fort Lauderdale FL 33301
City *State* *Zip*

Phone: 954-357-7575

E-mail: mcassini@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)

3-20-13
Meeting Date

Topic _____ Bill Number 1132

Name Dale Calhoun Amendment Barcode 187994 *(if applicable)*, 189066 *(if applicable)*

Job Title _____

Address 214 S Monroe St
Street

Tallahassee FL
City *State* *Zip*

Phone 8506810496

E-mail _____

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

Representing Florida Natural Gas Association

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

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 #1132**, relating to the Department of Transportation, 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: CS/CS/SB 534

INTRODUCER: Community Affairs Committee; Governmental Oversight and Accountability Committee; and Senators Brandes and Bradley

SUBJECT: Publicly-funded Defined Benefit Retirement Plans

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	**Fav/CS**
2.	Toman	Yeatman	CA	**Fav/CS**
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/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 - excluding the Florida Retirement System - and provides that local plans, which do not comply with the reporting requirements, may jeopardize their revenue sharing funds.

This bill substantially amends sections 112.63, 112.66 and 112.665 of the Florida Statutes, and creates section 112.664, Florida Statutes.

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 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]

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[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).
[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.

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.

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*, and Statement No. 68, *Accounting and Financial Reporting for Pensions*, which establish standards of financial reporting for separately issued financial reports and specify 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; for Statement No. 68 for periods beginning after June 15, 2014.[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]

Mortality Tables

Section 430 of the Internal Revenue Code (IRC) outlines minimum funding standards for single-employer defined benefit pension plans. Section 430(h)(3) of the IRC provides that the Secretary

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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 20, 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 . Summary of Statement No. 68, available at http://www.gasb.org/cs/ContentServer?site=GASB&c=Pronouncement_C&pagename=GASB%2FPronouncement_C%2FGASBSummaryPage&cid=1176160219492 (last visited on March 20, 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 March 20, 2013).

of the Treasury 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.[7]

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.[8]

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 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."[9]

III. Effect of Proposed Changes:

Section 1 amends s. 112.63, F.S., to eliminate a requirement for a retirement system or plan to report present value information, as adopted by the Financial Accounting Standards Board, using the Florida Retirement System (FRS) assumed rate of return.

Section 2 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 3 creates s. 112.664, F.S., requiring additional reporting requirements for all publicly funded defined benefit retirement plans other than the FRS. 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:

- Annual financial statements in compliance with the requirements of the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans and Statement No. 68 Accounting and Financial Reporting for Pensions using RP-2000 Combined Healthy Participant Mortality Tables, by gender, with generational projection by Scale AA.
- Annual financial statements similar to GASB, but which use an assumed rate of return and assumed discount rate 200 basis points less than a plan's assumed rate of return.

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[7] RP-2000 Mortality Tables are available at http://www.pensionsoft.com/references_mort_other.html (last visited on March 20, 2013).
[8] Art. X, s. 14, Florida Constitution.
[9] Section 112.61, F.S.

- 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 based on financial statements stated as an annual dollar value and a percentage of valuation payroll.

Though it is a reporting requirement and not a funding requirement, utilizing an assumed discount rate of 200 basis points less than a plan's assumed rate of return 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.[10]

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 60 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 4 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 5 is the legislative finding of an important state interest.

Section 6 provides that 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;

[10] 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).

- 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.

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.[11]

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

[11] 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.

in the bill. According to the department's bill analysis, it estimates that the fiscal impact would be as follows:[12]

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.

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.[13] 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:

None.

[12] 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.
[13] The division conducts the actuarial valuations of chapter plans. *See* ss. 175.032(2) and 185.02(3), F.S.

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 534 by Community Affairs on March 20, 2013:
The proposed committee substitute makes the following changes to the bill:

- Eliminates a current requirement for defined benefit plans to report information using the FRS rate of return assumption.
- Specifically excludes the FRS from the reporting requirements of the bill.
- Requires defined benefit retirement plans to report certain data consistent with financial reporting standards adopted by GASB.
- Requires reporting of information similar to GASB which uses an assumed rate of return and assumed discount rate 200 basis points less than a plan's assumed rate of return.
- Extends the time period for reporting plan information to DFS from 30 days to 60 days after receipt of the certified actuarial plan year report.

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

- 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.

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LEGISLATIVE ACTION

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

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,

945938

LEGISLATIVE ACTION

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

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

1 **Senate Amendment to Amendment (641930)**
2
3 Delete lines 54 - 59
4 and insert:
5 (b) Annual financial statements similar to those required
6 under paragraph (a), but which use an assumed rate of return on
7 investments and an assumed discount rate that are equal to 200
8 basis points less than the plan’s assumed rate of return.

798864

LEGISLATIVE ACTION

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

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.

891420

LEGISLATIVE ACTION

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

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

1 **Senate Amendment to Amendment (641930)**
2
3 Delete line 53
4 and insert:
5 Pensions, using RP-2000 Combined Healthy Participant Mortality
6 Tables, by gender, with generational projection by Scale AA.

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

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

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

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

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)

3/20/13
Meeting Date

Topic: LOCAL RETIREMENT

Bill Number: 534 STRIKE ALL (if applicable)

Name: ROBERT SUAREZ

Amendment Barcode: 641930 (if applicable)

Job Title: VICE PRESIDENT

Address: 345 W MADISON ST
Street

TALLAHASSEE FL
City State Zip

Phone: 305 984 3299

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: FLORIDA PROFESSIONAL FIREFIGHTERS

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)

3/20/13
Meeting Date

Topic: PENSION DISCLOSURES

Bill Number: SB 534

Name: JIM RIZZO

Amendment Barcode: ~~891400~~ *(if applicable)* ~~945938~~ *(if applicable)* ~~798864~~ 641930

Job Title: SENIOR CONSULTANT & ACTUARY

Address: 5821 SW 37 AVE
Street

FORT LAUDERDALE FL 33312
City *State* *Zip*

Phone: 954-699-4750

E-mail: Jim.Rizzo@gabrielroeder.com

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)

20-March-13
Meeting Date

Topic: Retirement Systems

Bill Number: SB534 (if applicable)

Name: David Murrell

Amendment Barcode: (if applicable)

Job Title: Director of Legislative Services

Address: 300 E. Brevard St
Street

Tallahassee, Florida 32301
City State Zip

Phone: 850-222-3329

E-mail: davidm@flpba.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida Police Benevolent 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)

3/20
Meeting Date

Topic _____

Bill Number SB 534 *(if applicable)*

Name GARY RAINEY

Amendment Barcode _____ *(if applicable)*

Job Title President

Address 345 W MADISON ST.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 305 525 7722

E-mail raineyg@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Professional Firefighters

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)

3/20/13
Meeting Date

Topic: Public retirement plans

Bill Number: 534 (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

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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)

3/20/13
Meeting Date

Topic: Retirement / Pensions

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: 850-224-6926

E-mail:

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

Representing: Florida AFL-CIO

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

Lobbyist registered with Legislature: [X] 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)

3/20/13
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)

3/20/13
Meeting Date

Topic: LOCAL RETIREMENT

Bill Number: 534 BILL (if applicable)

Name: ROBERT SUAREZ

Amendment Barcode: (if applicable)

Job Title: VICE PRESIDENT

Address: 345 W. MADISON STREET
Street

TALLAHASSEE FL
City State Zip

Phone: 305 984 3299

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: FLORIDA PROFESSIONAL FIREFIGHTERS

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)

3/20/13
Meeting Date

Topic: Publicly Funded Defined Benefit Retirement Plans

Bill Number: 534 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 S. Bronough Street
Street

Tallahassee — *City*
FL — *State*
32301 — *Zip*

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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

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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)

3-20-13
Meeting Date

Topic _____

Bill Number 534 *(if applicable)*

Name Jane Roach

Amendment Barcode _____ *(if applicable)*

Job Title Jane Roach

Address 12401 NE 139th Pl.
Street

Ft Mc Coy Fl. 32134
City *State* *Zip*

Phone 352-236-2036

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)

3-20-13
Meeting Date

Topic: FRS

Bill Number: 534 *(if applicable)*

Name: Robert Livingston

Amendment Barcode: *(if applicable)*

Job Title:

Address: 274 Galbraith Av.
Street

Oak Hill Fl. 32759
City *State* *Zip*

Phone:

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)

3/20/13
Meeting Date

Topic: DEFINED BENEFIT RETIREMENT

Bill Number: SB 0534 *(if applicable)*

Name: WILLIAM WETHMAN

Amendment Barcode: *(if applicable)*

Job Title: MACHINIST

Address: 4636 PHILIPS MANOR PLACE
Street

FERNANDINA BEACH, FL. 32034
City *State* *Zip*

Phone: (904) 277-4935

E-mail: WILLIAM.WETHMAN@NAVY.M

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)

3/20/13
Meeting Date

Topic: Defined Benefit Pensions

Bill Number: SB 534 *(if applicable)*

Name: Andres Trujillo

Amendment Barcode: *(if applicable)*

Job Title: State Legislative Director

Address: 9011 SW 142 Ave #1414
Street

Miami FL 33186
City *State* *Zip*

Phone: 786-348-5771

E-mail: FLtrujillo@UNoaola

Speaking: ☐ For ☒ Against ☐ Information

Representing: United Transportation Union

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)

3/20/13
Meeting Date

Topic: Defined Benefit Retirement

Bill Number: SB0534 *(if applicable)*

Name: Linda M. Donoghue

Amendment Barcode: *(if applicable)*

Job Title: Machinist

Address: 5235 Florida Palm Ave
Street

Cocoa, FL 32927
City, State, Zip

Phone: 321-544-0213

E-mail: BoohmD@AOL.Co

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2013
Meeting Date

Topic: F.R.S.

Bill Number: S.B 534 *(if applicable)*

Name: JAVIER ALMAZAN

Amendment Barcode: *(if applicable)*

Job Title: UNION ORGANIZER / Business Rep

Address: 125 N.W. 2nd AVE
Street

South Bay, FL 33493
City *State* *Zip*

Phone: 321-652-2184

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)

3-20-13
Meeting Date

Topic: Defined Benefit Retirement

Bill Number: 0534 *(if applicable)*

Name: Nina Cranston

Amendment Barcode: _____ *(if applicable)*

Job Title: Correctional Officer Sgt.

Address: 5235 Florida Palm Ave
Street

Cocoa, Fl. 32927
City *State* *Zip*

Phone: 321-501-3597

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)

20 March 2013
Meeting Date

Topic: Defined Benefit Retirement

Bill Number: SB0534 *(if applicable)*

Name: Sabrina S-White

Amendment Barcode: *(if applicable)*

Job Title: EISM Worker leader

Address: 54226 Vikki Rd
Street

Callahan, FL 32011
City, State, Zip

Phone: 904 879 7461

E-mail: Hiyama20@AOL.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Retirement

Bill Number: SB 0534 *(if applicable)*

Name: Dr. Irene Lipof

Amendment Barcode: *(if applicable)*

Job Title: retired

Address: 3748 NE 209th Terrace
Street

Miami, FL 33180
City *State* *Zip*

Phone: (305) 710-4160

E-mail: ilipof@comcast.net

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)

3-20-13
Meeting Date

Topic: Pension -

Bill Number: ~~SB~~ 534 *(if applicable)*

Name: MaryAnn Taylor

Amendment Barcode: _____ *(if applicable)*

Job Title: Driver

Address: 10730 Windsor PL
Street

Orlando, FL 32821
City, State, Zip

Phone: _____

E-mail: FST@CFL.RR.COM

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)

3/20/2013
Meeting Date

Topic: Retirement

Bill Number: 0534 *(if applicable)*

Name: Dr. Ana Cierezko

Amendment Barcode: _____ *(if applicable)*

Job Title: Leg. Director UFMDC

Address: 11420 SW 88 St. Ste 107
Street

Miami, FL 33176
City, State, Zip

Phone: 305 321 0016

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)

3/20/13
Meeting Date

Topic: Defined Benefit

Bill Number: ~~[illegible]~~ 534 *(if applicable)*

Name: Micheal Dickens

Amendment Barcode: _____ *(if applicable)*

Job Title: Diesel Tech

Address: 420 MT Vernon Ct.
Street

EUSTIS, FL 32726
City *State* *Zip*

Phone: 407 756-0333

E-mail: Vpmaint@cfl.rr.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.

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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)

3-20-13
Meeting Date

Topic: Florida Retirement system

Bill Number: SB534 *(if applicable)*

Name: John Navarra

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 168 springwood Drive
Street

Daytona Beach FL 32119
City *State* *Zip*

Phone: 386 760-9698

E-mail: africanit444@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Representing: Volusia Teachers organization

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)

3-20-13
Meeting Date

Topic: Retirement Plans

Bill Number: SB 0594 *(if applicable)*

Name: Elizabeth Engelma

Amendment Barcode: _____ *(if applicable)*

Job Title: teacher

Address: PO Box 2633
Street

Bunnell, FL 32110
City *State* *Zip*

Phone: 386-527-2160

E-mail: elizabethengelman@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Volusia Teachers ~~Assoc~~ Organization

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)

3-20-13
Meeting Date

Topic: Publicly-funded Defined Benefits

Bill Number: 534 *(if applicable)*

Name: Jorge Lugo

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 5004 Citrus Manor SW
Street

Vero Beach, FL 32968
City, State, Zip

Phone: (772) 584-2777

E-mail: jlugo71@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)

3-20-13
Meeting Date

Topic: Defined Benefits Plans

Bill Number: 534 *(if applicable)*

Name: Richard Smith

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 4250 Sterling St.
Street

Mims Fl 32754
City *State* *Zip*

Phone: 321-749-4130

E-mail: Kingofsail@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Brevard Federation of Teachers

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)

3-20-13
Meeting Date

Topic: Defined Benefits

Bill Number: 534 *(if applicable)*

Name: Anthony Calvico

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 3620 Sawgrass Dr
Street

Titusville, FL 32796
City *State* *Zip*

Phone:

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: Brevard Federation of Teachers

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)

3-20-13
Meeting Date

Topic: Pension

Bill Number: 534 *(if applicable)*

Name: Jim Jurecko

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 701 NE 67th St. #1
Street

Miami, FL 33138
City, State, Zip

Phone: 407-346-3525

E-mail: Jim.Jurecko@yah...

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2013
Meeting Date

Topic: Publicly-Funded Defined Benefit

Bill Number: SB 534 (if applicable)

Name: Mike Phillips

Amendment Barcode: (if applicable)

Job Title:

Address: 6084 Kocol Lane
Street

Cocoa, FL 32927
City, State, Zip

Phone: 321. 504-7907

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Public Defined Benefit

Bill Number: 534 (if applicable)

Name: Michael Stovall

Amendment Barcode: (if applicable)

Job Title:

Address: 1294 STIMSON ST
Street

JACKSONVILLE FL 32205
City State Zip

Phone: 904-401-4825

E-mail: STOVALL74@gmail.com

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)

3/20/13
Meeting Date

Topic: Pension Reform

Bill Number: 534 (if applicable)

Name: David Bryant

Amendment Barcode: (if applicable)

Job Title: Electrician

Address: 8853 Atter Lane
Street

Jacksonville, FL 32216
City, State, Zip

Phone: 904-928-3244

E-mail: davidbryant177@gmail.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)

3/20/2013
Meeting Date

Topic: FRS and Defined Benefit Plans

Bill Number: 534 *(if applicable)*

Name: Pat Dix

Amendment Barcode: *(if applicable)*

Job Title: Legislative specialist

Address: 213 S. Adams Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-274-8781

E-mail: pat.dix@floridaea.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: FL Education Assn

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)

3/20/2013
Meeting Date

Topic: SB534

Bill Number: SB534 *(if applicable)*

Name: Sammie Lee Jones, III

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 4521 NW 21st Drive
Street

Gainesville, FL 32605
City *State* *Zip*

Phone: (904) 861-8524

E-mail: sammicjay357@gmail.com

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)

3/20/13
Meeting Date

Topic: SB 534

Bill Number: SB 534 *(if applicable)*

Name: Richard Boyd

Amendment Barcode: *(if applicable)*

Job Title:

Address: 3351 SW 42nd pl
Street

Gainesville, FL 32608
City *State* *Zip*

Phone: 352-534-4571

E-mail: rboyd111@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Local Benefit Plan

Bill Number: 534 (if applicable)

Name: STEVE RICHARDS

Amendment Barcode: _____ (if applicable)

Job Title: TEACHER

Address: 2823 Bolton Rd. #101 (Street)

Orange Park (City) FL (State) 32073 (Zip)

Phone: 904-214-4321

E-mail: ccea2011@gmail.co

Speaking: ☐ For ☑ Against ☐ Information

Representing: CCEA/FEA

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)

3/20/13
Meeting Date

Topic: PENSIONS

Bill Number: 534 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR, COUNCIL of FLORIDA

Address: PO BOX 1766
Street

POMPANO BCH FL 33061
City State Zip

Phone: 954 850 4035

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

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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)

3/20/13
Meeting Date

Topic: PENSIONS

Bill Number: SB534 *(if applicable)*

Name: JAVIER ORTIZ

Amendment Barcode: *(if applicable)*

Job Title: MIAMI FOP PRESIDENT

Address: 710 SW 12 AVE
Street

MIAMI, FL
City *State* *Zip*

Phone: 7862901183

E-mail: ORTIZ@FOPMIAMI.COM

Speaking: ☐ For ☒ Against ☐ Information

Representing: MIAMI 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)

3/20/13
Meeting Date

Topic: PENSION

Bill Number: SB 53Y *(if applicable)*

Name: ROBERT JENKINS

Amendment Barcode: *(if applicable)*

Job Title: FOP DIR. 6

Address: 999 11th ST
Street

MIAMI BEACH
City *State* *Zip*

Phone: 954-257.5229

E-mail: RGAIY@AOL.COM

Speaking: ☐ For ☑ Against ☐ Information

Representing: FOP

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

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: CS/SB 1106

INTRODUCER: Agriculture Committee and Senator Hays

SUBJECT: Agritourism

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	**Fav/CS**
2.	Anderson	Yeatman	CA	**Favorable**
3.			RC	
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 1106 states that it is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism. It prohibits a local government to adopt ordinances, regulations, rules, or policies that prohibit, restrict, regulate or otherwise limit an agritourism activity on land that has been classified as agricultural by a property appraiser. The bill clarifies the definition of "agritourism activity" and creates a new definition for "inherent risk of an agritourism activity." It establishes a limitation on liability from inherit risks for the land owner, agritourism professional, and employees if a notice of risk is posted on the land, with exceptions. The bill provides the specific warning language that must be posted in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. Each agritourism contract with the participant must also include the warning language in clearly readable print. Finally, the bill denies use of the limited liability defense if the owner, agritourism professional, or employee fails to post the sign as required by this act or fails to place it in the contract.

This bill amends sections 570.96 and 570.961 of the Florida Statutes. This bill creates sections 570.963 and 570.964 of the Florida Statutes.

II. Present Situation:

Agritourism

Agritourism is the practice of attracting visitors and travelers to agricultural areas, generally for educational and recreational purposes. For many farmers, the only way to continue farming is to find ways to diversify and expand their incomes, either through new enterprises on the farm or off-farm employment. One diversification strategy some U.S. farmers are beginning to explore is the "cultivation" of tourists in addition to growing crops. Referred to as "agriturismo" in Italy, "sleeping in the straw" in Switzerland, "farmstays" in New Zealand, and "farm holidays" in England, agritourism is well established throughout Europe and in many other countries.[1]

Agritourism has an extensive history in the United States. Farm-related recreation and tourism can be traced back to the late 1800s, when families visited farming relatives in an attempt to escape from the city's summer heat. Visiting the country became even more popular with the widespread use of the automobile in the 1920s. Rural recreation gained interest again in the 1930s and 1940s by people seeking an escape from the stresses of the Great Depression and World War II. These demands for rural recreation led to widespread interest in horseback riding, farm petting zoos, and farm nostalgia during the 1960s and 1970s. Farm vacations, bed and breakfasts, and commercial farm tours were popularized in the 1980s and 1990s.[2]

Agritourism allows people who have little knowledge of agricultural lands to experience intrinsic agricultural practices and the culture of those lands. Agritourism can help people reconnect with agricultural practices that have changed with the rise of heavily-industrialized farming methods and can build relationships between the producer and consumer. This type of tourism could include farm tours or farm stays, fishing, hunting, festivals, historical recreations, workshops/educational activities, wildlife study, horseback riding, cannery tours, cooking classes, wine tastings, barn dances, and harvest-your-own activities. The use of these resources can have a positive effect on both the agricultural enterprise and the surrounding community. Not only does this tourism have the potential to add value to the operations themselves, but it also creates an awareness in people about the importance of agriculture.[3]

Under Florida's Greenbelt Law, properties that are bona fide agricultural operations are taxed according to the "use" value of those operations, rather than the development value. The property appraiser of each county in Florida must classify every piece of land in their county as agricultural or non-agricultural in order to get the bona fide status. This is known as the land's "Greenbelt" assessment.[4] To make this determination, the appraiser must consider factors such as the length of time the land has been used for its current purpose, whether that use has been continuous, the price paid for the land, the size of the land in relation to its specific agricultural use, the effort made to care sufficiently and adequately for the land, whether the land is leased, and if so, the terms of the lease, and finally, any other factors that may become applicable.

---

[1] Curtis E. Beus, "Agritourism: Cultivating Tourists on the Farm," (July 2008): 5.
[2] Considering an Agritainment Enterprise in Tennessee? (Agricultural Extension Service, The University of Tennessee, PB 1648).
[3] Analysis of SB 2754, (2007).
[4] Section 193.461, F.S.

When a piece of land is classified as agricultural/Greenbelt, it is given a property value based upon its agricultural use rather than the market value of the land. Such a classification provides the property with a lower property tax assessment. The type of agricultural use also impacts the assessment within the Greenbelt classification. This means that land used to grow pine trees may receive a different value than land used to produce fruit, so different types of agriculture receive different property value levels.

The 2007 Legislature passed House Bill 1427 which authorized the Department of Agriculture and Consumer Services to assist agritourism operators with marketing and permitted the conducting of agritourism activity on a bona fide farm or on agricultural lands classified as such pursuant to s. 193.461, F.S. It also specified that the practice of agritourism shall not limit, restrict, or divest the land of that classification.[5]

Agritourism in Other States

Several states have enacted laws that support farmers involved in agritourism. For instance, Louisiana passed a law in 2008 that affords limited liability protection to agritourism operators. Oklahoma currently has a bill before the Legislature cited as the "Oklahoma Agritourism Activities Liability Limitations Act." Agritourism operators in Florida do not have a statutory defense for injuries occurring from inherent risks. These risks involve dangers associated with natural conditions of premises, natural responses of animals, and ordinary dangers of structures and equipment.

The 2011 General Assembly in North Carolina passed legislation allowing "Bona Fide Farm Operators" located within the extraterritorial jurisdiction to be exempt from zoning regulation by city governments.[6] County governments were already unable to zone Bona Fide Farm Operators. At this time, Florida law only promotes the use of land for agritourism activities. It does not provide for a preemption of local governments, an affirmative defense for agritourism activities, or a specific limitation on liability for agritourism activities.

Legal Duties for Landowners Towards Persons on Their Land

In a negligence action, to be entitled to certain remedies, a plaintiff must prove:

- a lawful duty exists;
- the duty was breached; and
- damages were suffered as a result of the breach.

Current tort law in Florida related to landowners' duty to persons on their land is governed by the status of the person and the duty of care owed by the landowner to the person.[7] There are two basic categories of persons on land, invitees and trespassers.

[5] Section 570.962, F.S.
[6] S.L. 2011-34 and S.L. 2011-363 (N.C. Sess. Laws).
[7] Thomas D. Sawaya, 6 Fla. Prac., Personal Injury & Wrongful Death Actions § 10:6 Invitees (2011-2012 ed.).

Generally, an invitee is a person who was invited to enter the land.[8] Section 768.075(3)(a)1., F.S., defines "invitation" to mean, "the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs." Landowners owe certain duties to invitees and can be sued in tort if an injury is caused by a breach of a duty. The duties owed to invitees are:

- to use reasonable care to keep and maintain property in reasonably safe condition; and
- to warn of concealed dangers that are known or should be known to the landowner and that the invitee cannot discover through the exercise of due care.[9]

A trespasser [10]can either be a "discovered trespasser" or an "undiscovered trespasser." A discovered trespasser is a person who did not have an express or implied invitation and whose actual presence was discovered in the preceding 24 hours before an injury occurred.[11] An undiscovered trespasser is a person whose actual presence was not discovered in the preceding 24 hours before an injury occurred.[12] "An owner cannot, however, be held liable for a negligent condition as to an undiscovered trespasser who chooses to come upon his property without his knowledge."[13] To avoid liability to an undiscovered trespasser, a property owner must not engage in intentional misconduct that causes the injury.[14] The duty owed to a discovered trespasser is broader and includes:

- refraining from gross negligence or intentional misconduct that causes the injury; and
- warning the trespasser of hidden dangerous conditions.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 570.96, F.S., to provide that it is the Legislature's intent to eliminate duplication of regulatory authority over agritourism. It prohibits a local government to adopt ordinances, regulations, rules, or policies that prohibit, restrict, regulate or otherwise limit an agritourism activity on land that has been classified as agricultural by a property appraiser. However, it does not prohibit a local government to address an emergency.

Section 2 amends s. 570.961, F.S., to clarify the definition of "agritourism activity" and create a new definition for "inherent risk of an agritourism activity."

Section 3 creates s. 570.963, F.S., to establish limitation on liability for the land owner, agritourism professional and their employee if a notice of risk is posted on the land. With certain exceptions, a person may not maintain an action against or recover from a land owner,

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[8] *Id.* (citing *Wood v. Camp*, 284 So. 2d 691 (Fla. 1973) which expand[s] the definition of invitee to include social guests which the court referred to as 'licensees by invitation.' After *Wood*, invitees are defined as those persons who come on the property at the invitation of the landowner.").
[9] Thomas D. Sawaya, 6 Fla. Prac., Personal Injury & Wrongful Death Actions § 10:6 Invitees (2011-2012 ed.).
[10] "A trespasser is one who enters the owners (sic) property for his own convenience without right or authority." Thomas D. Sawaya, 6 Fla. Prac., Personal Injury & Wrongful Death Actions § 10:4 Trespassers (2011-12 ed.).
[11] Section 768.075 (3)(a)2., F.S.
[12] Section 768.075(3)(a)3., F.S.
[13] Sections 768.075(3)(a) and (b), F.S., *See also Wood*, 284 So. 2d at 693-694.
[14] *Id.*
[15] *Id. See also*, *Florida East Coast Ry. Co. v. Gonsiorowski*, 418 So. 2d 382, 384 (Fla. 4th DCA 1982).

agritourism professional or their employee for the injury or death of, or damage or loss to, an agritourism participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages, it requires a pleading of the affirmative defense of assumption of risk by the owner, agritourism professional, or employee.

The criteria above do not prevent or limit the liability of a land owner, agritourism professional or their employee if he or she:

- Commits an act that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;
- Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant; or
- Intentionally injuries the participant.

Section 4 creates s. 570.964, F.S., to provide the specific warning language that must be posted in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. Each agritourism contract with the participant must also include the warning language in clearly readable print. The bill denies use of the limited liability defense if the owner, agritourism professional, or employee fails to post the sign as required by this act or fails to place it in the contract.

Section 5 provides that this act shall take 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill lessens the regulations on agricultural producers who engage in agritourism activities.

C. Government Sector Impact:

Local government impact by the provisions of the bill is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Agriculture on March 11, 2013:
It emphasizes that immunity does not apply when the land owner, the agritourism professional, or an employee:

- negligently injures the participant;
- knows of a dangerous condition that causes injury because the participant was not alerted; or
- intentionally injures the participant.

B. Amendments:

None.

By the Committee on Agriculture; and Senator Hays

575-02199-13 20131106c1

A bill to be entitled

An act relating to agritourism; amending s. 570.96, F.S.; providing legislative intent; restricting a local government's ability to regulate agritourism activity on agricultural land; amending s. 570.961, F.S.; revising the definition of the term "agritourism activity" and adding a definition of the term "inherent risks of agritourism activity"; creating s. 570.963, F.S.; limiting the liability of an agritourism professional, his or her employer or employee, or the owner of the underlying land on which the agritourism activity occurs if certain conditions are met; creating s. 570.964, F.S.; requiring that signs and contracts notify participants of certain inherent risks and the assumption of that risk; preventing an agritourism professional, his or her employer, and any employee, and the owner of the underlying land from invoking the privileges of immunity if certain conditions are not met; providing criteria for the notice; providing an effective date.

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

Section 1. Section 570.96, Florida Statutes, is amended to read:

570.96 Agritourism.—

<u>(1) It is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism as expressed in this section. Except as otherwise provided for in</u>

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

30 this section, and notwithstanding any other provision of law, a
31 local government may not adopt an ordinance, regulation, rule,
32 or policy that prohibits, restricts, regulates, or otherwise
33 limits an agritourism activity on land classified as
34 agricultural land under s. 193.461. This subsection does not
35 limit the powers and duties of a local government to address an
36 emergency as provided in chapter 252.
37 (2) The Department of Agriculture and Consumer Services may
38 provide marketing advice, technical expertise, promotional
39 support, and product development related to agritourism to
40 assist the following in their agritourism initiatives:
41 Enterprise Florida, Inc.; convention and visitor bureaus;
42 tourist development councils; economic development
43 organizations; and local governments. In carrying out this
44 responsibility, the department shall focus its agritourism
45 efforts on rural and urban communities.
46 Section 2. Section 570.961, Florida Statutes, is amended to
47 read:
48 570.961 Definitions.—As used in ss. 570.96-570.964 ~~570.96-~~
49 ~~570.962~~, the term:
50 (1) "Agritourism activity" means any activity consistent
51 with a bona fide ~~carried out on a~~ farm or ranch or in a working
52 forest that allows members of the general public, for
53 recreational, entertainment, or educational purposes, to view or
54 enjoy agricultural-related ~~rural~~ activities, including, but not
55 limited to, farming, ranching, historical, cultural, or harvest-
56 your-own~~, or nature-based~~ activities and attractions. An
57 activity is an agritourism activity whether or not the
58 participant paid to participate in the activity.

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

59 (2) “Agritourism professional” means any person who is
60 engaged in the business of providing one or more agritourism
61 activities, whether or not for compensation.
62 (3) “Farm” means the land, buildings, support facilities,
63 machinery, and other appurtenances used in the production of
64 farm or aquaculture products, including land used to display
65 plants, animals, farm products, or farm equipment to the public.
66 (4) “Farm operation” has the same meaning as defined in s.
67 823.14.
68 (5) “Inherent risks of agritourism activity” means those
69 dangers or conditions that are an integral part of an
70 agritourism activity including certain hazards, such as surface
71 and subsurface conditions, natural conditions of land,
72 vegetation, and waters; the behavior of wild or domestic
73 animals; and the ordinary dangers of structures or equipment
74 ordinarily used in farming and ranching operations. The term
75 also includes the potential of a participant to act in a
76 negligent manner that may contribute to the injury of the
77 participant or others, including failing to follow the
78 instructions given by the agritourism professional or failing to
79 exercise reasonable caution while engaging in the agritourism
80 activity.
81 Section 3. Section 570.963, Florida Statutes, is created to
82 read:
83 570.963 Liability.—
84 (1) Except as provided in subsection (2), an agritourism
85 professional, his or her employer or employee, or the owner of
86 the underlying land on which the agritourism occurs are not
87 liable for injury or death of, or damage or loss to, a

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

88 participant resulting from the inherent risks of agritourism
89 activities if the notice of risk required under s. 570.964 is
90 posted as required. Except as provided in subsection (2), a
91 participant, or a participant's representative, may not maintain
92 an action against or recover from an agritourism professional,
93 his or her employer or employee, and the owner of the underlying
94 land on which the agritourism occurs for the injury or death of,
95 or damage or loss to, an agritourism participant resulting
96 exclusively from any of the inherent risks of agritourism
97 activities. In any action for damages against an agritourism
98 professional, his or her employer or employee, and the owner of
99 the underlying land on which the agritourism occurs for
100 agritourism activity, the agritourism professional, his or her
101 employer or employee, and the owner of the underlying land on
102 which the agritourism occurs must plead the affirmative defense
103 of assumption of the risk of agritourism activity by the
104 participant.
105 (2) In the event of the injury or death of, or damage or
106 loss to, an agritourism participant, subsection (1) does not
107 prevent or limit the liability of an agritourism professional or
108 his or her employer or employee or the owner of the underlying
109 land on which the agritourism occurs if he or she:
110 (a) Commits an act that constitutes negligence or willful
111 or wanton disregard for the safety of the participant, and that
112 act or omission proximately causes injury, damage, or death to
113 the participant;
114 (b) Has actual knowledge or reasonably should have known of
115 a dangerous condition on the land or in the facilities or
116 equipment used in the activity does not make the danger known to

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

117 the participant, and the danger proximately causes injury,
118 damage, or death to the participant; or
119 (c) Intentionally injures the participant.
120 (3) The limitation on legal liability afforded by this
121 section to an agritourism professional or his or her employer or
122 employee or the owner of the underlying land on which the
123 agritourism occurs is in addition to any limitations of legal
124 liability otherwise provided by law.
125 Section 4. Section 570.964, Florida Statutes, is created to
126 read:
127 570.964 Posting and notification.—
128 (1)(a) Each agritourism professional shall post and
129 maintain signs that contain the notice of inherent risk
130 specified in subsection (2). A sign shall be placed in a clearly
131 visible location at the entrance to the agritourism location and
132 at the site of the agritourism activity. The notice of inherent
133 risk must consist of a sign in black letters, with each letter a
134 minimum of 1 inch in height, with sufficient color contrast to
135 be clearly visible.
136 (b) Each written contract entered into by an agritourism
137 professional for the providing of professional services,
138 instruction, or the rental of equipment to a participant,
139 regardless of whether the contract involves agritourism
140 activities on or off the location or at the site of the
141 agritourism activity, must contain in clearly readable print the
142 notice of inherent risk specified in subsection (2).
143 (2) The sign and contract required under subsection (1)
144 must contain the following notice of inherent risk:
145

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146 WARNING
147
148 Under Florida law, an agritourism professional is not
149 liable for injury or death of, or damage or loss to, a
150 participant in an agritourism activity conducted at
151 this agritourism location if such injury, death,
152 damage, or loss results from the inherent risks of the
153 agritourism activity. Inherent risks of agritourism
154 activities include, among others, risks of injury
155 inherent to land, equipment, and animals, as well as
156 the potential for you to act in a negligent manner
157 that may contribute to your injury, death, damage, or
158 loss. You are assuming the risk of participating in
159 this agritourism activity.
160
161 (3) Failure to comply with the requirements of this
162 subsection prevents an agritourism professional, his or her
163 employer or employee, or the owner of the underlying land on
164 which the agritourism occurs from invoking the privileges of
165 immunity provided by this section.
166 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)

3/20/13
Meeting Date

Topic: AGRITOURISM

Bill Number: 1106 *(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: ☐ For ☒ Against ☐ Information

Representing: FLA. ASSOCIATION OF COUNTIES

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)

3/20/13
Meeting Date

Topic: Agritourism

Bill Number: SB 1106 *(if applicable)*

Name: Adam Basford

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of State Legislative Affairs, Florida Farm Bureau

Address: 315 S. Calhoun St. Suite 830
Street

Tallahassee FL
City *State* *Zip*

Phone: _____

E-mail: _____

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

Representing: Florida Farm Bureau

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)

3/20/13
Meeting Date

Topic: Agritourism

Bill Number: SB 1106 *(if applicable)*

Name: David Cruz

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Advocate

Address: P.O. Box 1757
Street

Tally, FL 32302
City *State* *Zip*

Phone: 701-3676

E-mail: _____

Speaking: ☐ 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)

3-26-13
Meeting Date

Topic: Agri Tourism

Bill Number: CS/SB 1106 *(if applicable)*

Name: Doug Mann

Amendment Barcode: *(if applicable)*

Job Title: —

Address: 310 W. College Ave.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 222-2535

E-mail: doug@tallahassemann.com

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

Representing: ATF

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: March 12, 2013

I respectfully request that **Senate Bill #1106**, relating to Agritourism, 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: CS/SB 1352

INTRODUCER: Community Affairs Committee and Senator Ring

SUBJECT: Paper Reduction

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	**Fav/1 amendment**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			ATD	
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 1352 addresses the stated goal of the State of Florida to decrease the paperwork burden associated with the conduct of state business. This bill furthers that goal by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings. The bill:

- Requires the statewide voter registration application to elicit the voter registration applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.
- Authorizes the supervisor of elections to provide electronic sample ballots to electors if certain requirements are met.
- Requires the clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances, and requires the Department to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk.
- Permits the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the board's decision in certain hearings if electronic means is selected by the taxpayer.

- Authorizes the property appraiser to notify taxpayers by postcard or electronically that proposed property tax rates and non-ad valorem assessments are available on the property appraiser's website.
- Requires the property appraiser to prepare and make available certain tax information on his or her office's website.

This bill substantially amends the following sections of the Florida Statutes: ss. 97.052, 101.20, 125.66, 194.034, 200.069, F.S.

II. Present Situation:

The Florida Legislature has on various occasions expressed that the reduction of the use of paper, where feasible, is the policy of the state.[1] This bill furthers the goal of lowering the use of paper by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings.

Voter Registration and Sample Ballots

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application.[2] The application must elicit certain information from the voter applicant, such as the applicant's name, date of birth, and address of legal residence.[3] The application does not request a voter's e-mail address.

Current law also requires the supervisor of elections to publish a sample ballot in a newspaper of general circulation in the county, prior to the day of the election. If the county has an addressograph or similar system, the supervisor may mail a sample ballot to each registered elector in lieu of publication. The sample ballot must be mailed at least seven days prior to any election.[4]

Transmittal of Enacted Ordinances

Current law provides requirements for counties to adhere to when exercising the ordinance-making powers conferred by the State Constitution.[5] It establishes the following regular enactment procedure:

> The board of county commissioners at any regular or special meeting may enact or amend any ordinance … if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. A copy of such notice shall

[1] *See* sections 23.20-23.22, F.S. "The state must minimize the paperwork burden by evaluating its need for information, determining whether it already has access to the necessary information, and coordinating data collection initiatives at their source." Section 23.20(4), F.S. *See also* section 120.74(1)(e), F.S. "[E]ach agency shall perform a formal review of its rules every 2 years. In the review, each agency must [s]eek to improve efficiency, reduce paperwork, or decrease costs to government and the private sector."
[2] Section 97.052(1), F.S.
[3] Section 97.052(2), F.S.
[4] Section 101.20(2), F.S.
[5] Section 125.66(1), F.S.

> be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.[6]

Certified copies of ordinances or amendments thereto must be filed with the Department of State by the clerk of the board of county commissioners within 10 days after enactment by the board. The ordinances or amendments take effect upon filing with the Department of State, unless the ordinance prescribes a later effective date.[7]

Value Adjustment Boards

Value adjustment boards are constituted in each county to conduct administrative hearings relating to assessments, complaints relating to homestead exemptions, appeals from tax exemptions denied, and appeals concerning ad valorem deferrals and classifications.[8] The value adjustment board must render a written decision within 20 calendar days after the last day the board is in session. The clerk must then provide notice of the board's decision by first-class mail.[9]

Property Appraisers

Current law requires each property appraiser to provide notice of proposed property taxes and non-ad valorem assessments by first-class mail to each taxpayer listed on the current year's assessments. Elements that must be included on such notice are prescribed by statute.[10]

III. Effect of Proposed Changes:

Voter Registration and Sample Ballots (Sections 1 - 2)

The bill requires the statewide voter registration application to include a field for an applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.

The bill permits a supervisor of elections to provide electronic sample ballots to electors who have provided e-mail addresses and opted into the electronic ballot delivery system. It allows a supervisor of elections to mail or e-mail sample ballots to registered electors in lieu of publishing such ballots in a newspaper of general circulation in the county.

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[6] Section 125.66(2)(a), F.S.
[7] Section 125.66(2)(b), F.S.
[8] Section 194.032(1)(a), F.S.
[9] Section 194.034(2), F.S.
[10] Section 200.069, F.S.

Transmittal of Enacted Ordinances (Section 3)

The bill requires a clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances. It requires the Department of State to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk of the board of county commissioners.

Value Adjustment Boards (Section 4)

The bill permits the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the value adjustment board's decision in a hearing held pursuant to s. 194.034, F.S., if electronic means is selected by the taxpayer on the originally filed petition.

Property Appraisers (Section 5)

The bill authorizes a property appraiser to notify taxpayers by postcard that the notice of proposed property taxes and non-ad valorem assessments is available for viewing and download at the appraiser's website. The bill provides approved language for such postcards. It also authorizes a property appraiser to provide notification by e-mail to property owners or other interested parties who have registered an e-mail address with the appraiser.

The property appraiser must prepare and make available on his or her office's website a notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll as a separate web page, link, attachment, or document. Such online notice from the appraiser must meet specified criteria, including, but not limited to, specifying all substantive elements required for such notice. The property appraiser may display the required substantive elements in a format different from that prescribed by the Department of Revenue only upon receiving prior written permission from the executive director of the Department. The format may contain additional substantive elements deemed important by the appraiser, in addition to the elements provided for by law.

Section 6 provides an effective date of October 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[11]), are exempt.[12]

This bill could cause counties to incur additional expenses associated with the requirement that the property appraiser post certain tax information on his or her office's website. The overall collective financial impact would appear unlikely to exceed $1.9 million per year in the aggregate. Accordingly, it would appear as if the bill is exempt from paragraph (a).

The mandates provision does not apply to the changes being made to ss. 97.052 and 101.20, F.S., because subsection 18(d) of Article VII, Fla. Const., explicitly exempts election laws from the mandates provision.

B. Public Records/Open Meetings Issues:

Current law provides a public record exemption for certain information held by an agency for purposes of voter registration.[13] SB 1260 is the public records bill linked to SB 1352 expanding the current public records exemption for voter registration information to include e-mail addresses of a voter registration applicant or voter.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Preclearance Requirement

The Department of State provided the following comments regarding preclearance:

> Under section 5 of the Voting Rights Act, new statewide legislation that implements a voting change, including but not limited to, a change in the manner of voting, change in registration, balloting, and the counting of votes, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting the creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice or the federal District Court for the District of Columbia. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry,

[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 (Last visited on March 15, 2013).
[12] *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 15, 2013).
[13] Section 97.0585, F.S.

Hillsborough, and Monroe counties. Until precleared by federal authorities, the legislation is unenforceable in these five counties.14

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State does not anticipate any fiscal impact associated with modifying the uniform statewide voter application.

There may be a fiscal impact on supervisors of elections associated with maintaining the e-mail address of voters and voter registration applicants, and with monitoring which registered voters wish to receive sample ballots electronically. Additionally, there may be costs to supervisors of elections related to establishing a system to send sample ballots electronically. However, it is anticipated that some, if not most, of these costs may be offset by savings resulting from the electronic provision of sample ballots.

There may be a fiscal impact on property appraisers associated with the requirement that a property appraiser prepare and make available on his or her office's website notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll.

VI. Technical Deficiencies:

According to the Department of Revenue's analysis of SB 1352, "It is not clear how the property appraisers will prove compliance with ss. 200.065 and 200.069, F.S., when electronic notification is used."[15]

Also, s. 200.065, F.S., refers to the mailing of the TRIM Notice with regard to the TRIM timeline and the deadline for filing VAB petitions. This section would have to be updated to refer to the posting of the notices online.[16]

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[14] Department of State, *Analysis on Senate Bill 1352* (March 4, 2013) (on file with the staff of the Senate Community Affairs Committee).
[15] Department of Revenue, *Analysis on Senate Bill 1352* (March 12, 2013) (on file with the staff of the Senate Community Affairs Committee).
[16] *Id.*

VII. Related Issues:

According to the Department of Revenue's analysis of SB 1352, "Section 4 of this bill would require amendments to the VAB petition form, DR-486, and Rule 12D-9.015, F.A.C."[17]

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 20, 2013:
The committee substitute removes the portions of the bill dealing with bail bondsman, and changes the effective date to October 1, 2013.

B. Amendments:

None.

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

[17] *Id.*

776996

LEGISLATIVE ACTION

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

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 404 - 600.
4
5 ========== T I T L E A M E N D M E N T ==========
6 And the title is amended as follows:
7 Delete lines 24 - 53
8 and insert:
9 requirements; providing an effective

541032

LEGISLATIVE ACTION

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

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

1 **Senate Amendment (with title amendment)**
2
3 Before line 404
4 insert:
5 Section 6. Section 440.103, Florida Statutes, is repealed.
6
7 ========== T I T L E A M E N D M E N T ==========
8 And the title is amended as follows:
9 Delete line 24
10 and insert:
11 requirements; repealing s. 440.103, F.S., relating to
12 certificates of coverage of a minimum premium policy;

541032

13 amending s. 648.421, F.S.; requiring a

908496

LEGISLATIVE ACTION

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

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

1 **Senate Amendment**
2
3 Delete line 601
4 and insert:
5 Section 16. This act shall take effect October 1, 2013.

425730

LEGISLATIVE ACTION

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

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

1 **Senate Substitute for Amendment (475764) (with title**
2 **amendment)**
3
4 Delete lines 404 - 601
5 and insert:
6 Section 6. This act shall take effect October 1, 2013.
7
8 ========== T I T L E A M E N D M E N T ==========
9 And the title is amended as follows:
10 Delete lines 24 - 53
11 and insert:
12 requirements; providing an effective

By Senator Ring

29-00456A-13 20131352__

1 A bill to be entitled
2 An act relating to paper reduction; amending s.
3 97.052, F.S.; providing that the uniform statewide
4 voter registration application be designed to elicit
5 the e-mail address of an applicant and whether the
6 applicant desires to receive sample ballots by e-mail;
7 amending s. 101.20, F.S.; authorizing a supervisor of
8 elections to send a sample ballot to a registered
9 elector by e-mail under certain circumstances;
10 amending s. 125.66, F.S.; requiring the clerk of a
11 board of county commissioners to electronically
12 transmit enacted ordinances, amendments, and emergency
13 ordinances to the Department of State; amending s.
14 194.034, F.S.; permitting a value adjustment board to
15 electronically provide the taxpayer and property
16 appraiser with notice of the decision of the board;
17 amending s. 200.069, F.S.; authorizing the property
18 appraiser to notify taxpayers of proposed property
19 taxes by postcard or e-mail in lieu of first-class
20 mail; providing notice language; authorizing the
21 property appraiser to prepare and make available on
22 the appraiser’s website the notice of proposed
23 property taxes; providing additional notice
24 requirements; amending s. 648.421, F.S.; requiring a
25 licensed bail bond agent to provide notice of a change
26 of e-mail address to specified entities; amending s.
27 648.43, F.S.; requiring a bail bond agent who executes
28 or countersigns a transfer bond to indicate the
29 agent’s e-mail address; amending s. 648.44, F.S.;

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30 providing that a bail bond agent's e-mail address is
31 permissible print advertising in certain places;
32 creating s. 903.012, F.S.; permitting bonds to be
33 posted in person or electronically at the election of
34 the receiving agency; permitting the electronic
35 transmission of bonds between certain entities;
36 amending s. 903.101, F.S.; providing that every
37 licensed surety shall have equal access to jails for
38 the purpose of making bonds either in person or
39 electronically; amending s. 903.14, F.S.; requiring a
40 surety who submits an affidavit pertaining to any bond
41 to file an affidavit in the same manner as the bond;
42 amending s. 903.26, F.S.; authorizing a clerk of court
43 to mail or electronically transmit a notice relating
44 to a bond forfeiture proceeding; amending s. 903.27,
45 F.S.; permitting a clerk of court to furnish certain
46 required documents and notices relating to bond
47 forfeitures by mail or electronic means; deleting an
48 outdated provision; amending s. 903.31, F.S.;
49 providing that a certificate of cancellation of an
50 original bond may be furnished by mail or
51 electronically; amending s. 903.36, F.S.; providing
52 that traffic arrest bond certificates may be presented
53 in person or electronically; providing an effective
54 date.
55
56 Be It Enacted by the Legislature of the State of Florida:
57
58 Section 1. Paragraphs (e) through (t) of subsection (2) of

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59 section 97.052, Florida Statutes, are redesignated as paragraphs
60 (f) through (u), respectively, and a new paragraph (e) is added
61 to that section, to read:
62 97.052 Uniform statewide voter registration application.—
63 (2) The uniform statewide voter registration application
64 must be designed to elicit the following information from the
65 applicant:
66 (e) E-mail address and whether the applicant wishes to
67 receive sample ballots by e-mail.
68
69 The registration application must be in plain language and
70 designed so that convicted felons whose civil rights have been
71 restored and persons who have been adjudicated mentally
72 incapacitated and have had their voting rights restored are not
73 required to reveal their prior conviction or adjudication.
74 Section 2. Subsection (2) of section 101.20, Florida
75 Statutes, is amended to read:
76 101.20 Publication of ballot form; sample ballots.—
77 (2) Upon completion of the list of qualified candidates, a
78 sample ballot shall be published by the supervisor of elections
79 in a newspaper of general circulation in the county, before
80 ~~prior to~~ the day of election. In lieu of publication, a
81 supervisor may send a sample ballot to each registered elector
82 by e-mail at least 7 days before any election if an e-mail
83 address has been provided and the elector has opted to receive a
84 sample ballot by electronic delivery. If an e-mail address has
85 not been provided, or if the elector has not opted for
86 electronic delivery ~~If the county has an addressograph or~~
87 ~~equivalent system for mailing to registered electors~~, a sample

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88 ballot may be mailed to each registered elector or to each
89 household in which there is a registered elector, in lieu of
90 publication, at least 7 days before ~~prior to~~ any election.
91 Section 3. Paragraph (b) of subsection (2) and subsection
92 (3) of section 125.66, Florida Statutes, are amended to read:
93 125.66 Ordinances; enactment procedure; emergency
94 ordinances; rezoning or change of land use ordinances or
95 resolutions.—
96 (2)
97 (b) Certified copies of ordinances or amendments thereto
98 enacted under this regular enactment procedure shall be filed
99 with the Department of State by the clerk of the board of county
100 commissioners within 10 days after enactment by said board and
101 shall take effect upon filing with the Department of State.
102 However, any ordinance may prescribe a later effective date. In
103 lieu of delivery of the certified copies of the enacted
104 ordinances or amendments by first-class mail, the clerk of the
105 board of county commissioners shall transmit the enacted
106 ordinances or amendments to the department by e-mail. The
107 department shall confirm by e-mail the receipt and effective
108 date of the ordinances or amendments with the clerk of the board
109 of county commissioners.
110 (3) The emergency enactment procedure shall be as follows:
111 The board of county commissioners at any regular or special
112 meeting may enact or amend any ordinance with a waiver of the
113 notice requirements of subsection (2) by a four-fifths vote of
114 the membership of such board, declaring that an emergency exists
115 and that the immediate enactment of said ordinance is necessary.
116 However, no emergency ordinance or resolution shall be enacted

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29-00456A-13 20131352__

117 which establishes or amends the actual zoning map designation of
118 a parcel or parcels of land or changes the actual list of
119 permitted, conditional, or prohibited uses within a zoning
120 category. Emergency enactment procedures for land use plans
121 adopted pursuant to part II of chapter 163 shall be pursuant to
122 that part. Certified copies of ordinances or amendments thereto
123 enacted under this emergency enactment procedure by a county
124 shall be filed with the Department of State by the clerk of the
125 board of county commissioners as soon after enactment by said
126 board as is practicable. An emergency ordinance enacted under
127 this procedure shall be transmitted by the clerk of the board of
128 county commissioners by e-mail to the Department of State. It
129 shall be deemed to be filed and shall take effect when a copy
130 has been accepted and confirmed by the department by e-mail
131 ~~deemed to be filed and shall take effect when a copy has been~~
132 ~~accepted by the postal authorities of the Government of the~~
133 ~~United States for special delivery by certified mail to the~~
134 ~~Department of State~~.
135 Section 4. Subsection (2) of section 194.034, Florida
136 Statutes, is amended to read:
137 194.034 Hearing procedures; rules.—
138 (2) In each case, except if the complaint is withdrawn by
139 the petitioner or if the complaint is acknowledged as correct by
140 the property appraiser, the value adjustment board shall render
141 a written decision. All such decisions shall be issued within 20
142 calendar days after the last day the board is in session under
143 s. 194.032. The decision of the board must contain findings of
144 fact and conclusions of law and must include reasons for
145 upholding or overturning the determination of the property

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146 appraiser. If a special magistrate has been appointed, the
147 recommendations of the special magistrate shall be considered by
148 the board. The clerk, upon issuance of a decision, shall, on a
149 form provided by the Department of Revenue, notify each taxpayer
150 and the property appraiser of the decision of the board. This
151 notification shall be by first-class mail or by electronic means
152 if selected by the taxpayer on the originally filed petition
153 ~~each taxpayer and the property appraiser of the decision of the~~
154 ~~board~~. If requested by the Department of Revenue, the clerk
155 shall provide to the department a copy of the decision or
156 information relating to the tax impact of the findings and
157 results of the board as described in s. 194.037 in the manner
158 and form requested.
159 Section 5. Section 200.069, Florida Statutes, is amended to
160 read:
161 200.069 Notice of proposed property taxes and non-ad
162 valorem assessments.—Pursuant to s. 200.065(2)(b), the property
163 appraiser, in the name of the taxing authorities and local
164 governing boards levying non-ad valorem assessments within his
165 or her jurisdiction and at the expense of the county, shall
166 prepare and deliver by first-class mail to each taxpayer to be
167 listed on the current year's assessment roll a notice of
168 proposed property taxes, which notice shall contain the elements
169 and use the format provided in the following form.
170 Notwithstanding the provisions of s. 195.022, no county officer
171 shall use a form other than that provided herein. The Department
172 of Revenue may adjust the spacing and placement on the form of
173 the elements listed in this section as it considers necessary
174 based on changes in conditions necessitated by various taxing

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175 authorities. If the elements are in the order listed, the
176 placement of the listed columns may be varied at the discretion
177 and expense of the property appraiser, and the property
178 appraiser may use printing technology and devices to complete
179 the form, the spacing, and the placement of the information in
180 the columns. A county officer may use a form other than that
181 provided by the department for purposes of this part, but only
182 if his or her office pays the related expenses and he or she
183 obtains prior written permission from the executive director of
184 the department; however, a county officer may not use a form the
185 substantive content of which is at variance with the form
186 prescribed by the department. The county officer may continue to
187 use such an approved form until the law that specifies the form
188 is amended or repealed or until the officer receives written
189 disapproval from the executive director. In lieu of delivery of
190 the notice of proposed property taxes by first-class mail, the
191 property appraiser may prepare and mail a postcard to each
192 taxpayer listed on the current year's assessment roll, which
193 shall contain at a minimum the following statement:
194 ATTENTION PROPERTY OWNER
195 This postcard is your official notification pursuant
196 to sections 192.0105 and 200.069, Florida Statutes,
197 that your notice of proposed property taxes and non-ad
198 valorem assessments is available for viewing and
199 download on my website at ...(website address).... If
200 you are unable to access my website, you are entitled
201 to have a copy of your notice mailed to you for free
202 by contacting my office at ... (telephone number)....
203 Please note: your final tax bill may contain non-ad

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204 valorem assessments that may not be reflected on your
205 notice, such as assessments for roads, fire, garbage,
206 lighting, drainage, water, sewer, or other
207 governmental services and facilities that may be
208 levied by your county, city, or special district.
209
210 The property appraiser may also provide notification by e-mail
211 to property owners or other interested parties who have
212 registered an e-mail address with the property appraiser that
213 the notice of proposed property taxes and non-ad valorem
214 assessments is available for viewing and download on the
215 property appraiser office's website. The property appraiser
216 shall prepare and make available for viewing, printing, and
217 downloading on the property appraiser office's website a notice
218 of proposed property taxes and non-ad valorem assessments for
219 each taxpayer to be listed on the current year's assessment
220 roll, which shall be a separate web page, weblink, attachment,
221 or document, and shall contain all the substantive elements as
222 outlined in this section. The property appraiser may use a
223 format for web display of all substantive elements as outlined
224 in this section other than that provided by the department for
225 purposes of this part, but only if the property appraiser's
226 office obtains prior written permission from the executive
227 director of the department. The format may contain substantive
228 elements deemed important by the property appraiser, in addition
229 to the elements outlined in this section. The property appraiser
230 may continue to use the approved format until the law that
231 specifies the form is amended or repealed or until the officer
232 receives written disapproval from the executive director of the

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233 department.
234 (1) The first page of the notice shall read:
235
236 NOTICE OF PROPOSED PROPERTY TAXES
237 DO NOT PAY—THIS IS NOT A BILL
238
239 The taxing authorities which levy property taxes against
240 your property will soon hold PUBLIC HEARINGS to adopt budgets
241 and tax rates for the next year.
242 The purpose of these PUBLIC HEARINGS is to receive opinions
243 from the general public and to answer questions on the proposed
244 tax change and budget PRIOR TO TAKING FINAL ACTION.
245 Each taxing authority may AMEND OR ALTER its proposals at
246 the hearing.
247 (2)(a) The notice shall include a brief legal description
248 of the property, the name and mailing address of the owner of
249 record, and the tax information applicable to the specific
250 parcel in question. The information shall be in columnar form.
251 There shall be seven column headings which shall read: “Taxing
252 Authority,” “Your Property Taxes Last Year,” “Last Year’s
253 Adjusted Tax Rate (Millage),” “Your Taxes This Year IF NO Budget
254 Change Is Adopted,” “Tax Rate This Year IF PROPOSED Budget Is
255 Adopted (Millage),” “Your Taxes This Year IF PROPOSED Budget
256 Change Is Adopted,” and “A Public Hearing on the Proposed Taxes
257 and Budget Will Be Held:.”
258 (b) As used in this section, the term “last year’s adjusted
259 tax rate” means the rolled-back rate calculated pursuant to s.
260 200.065(1).
261 (3) There shall be under each column heading an entry for

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262 the county; the school district levy required pursuant to s.
263 1011.60(6); other operating school levies; the municipality or
264 municipal service taxing unit or units in which the parcel lies,
265 if any; the water management district levying pursuant to s.
266 373.503; the independent special districts in which the parcel
267 lies, if any; and for all voted levies for debt service
268 applicable to the parcel, if any.
269 (4) For each entry listed in subsection (3), there shall
270 appear on the notice the following:
271 (a) In the first column, a brief, commonly used name for
272 the taxing authority or its governing body. The entry in the
273 first column for the levy required pursuant to s. 1011.60(6)
274 shall be “By State Law.” The entry for other operating school
275 district levies shall be “By Local Board.” Both school levy
276 entries shall be indented and preceded by the notation “Public
277 Schools:”. For each voted levy for debt service, the entry shall
278 be “Voter Approved Debt Payments.”
279 (b) In the second column, the gross amount of ad valorem
280 taxes levied against the parcel in the previous year. If the
281 parcel did not exist in the previous year, the second column
282 shall be blank.
283 (c) In the third column, last year’s adjusted tax rate or,
284 in the case of voted levies for debt service, the tax rate
285 previously authorized by referendum.
286 (d) In the fourth column, the gross amount of ad valorem
287 taxes which will apply to the parcel in the current year if each
288 taxing authority levies last year’s adjusted tax rate or, in the
289 case of voted levies for debt service, the amount previously
290 authorized by referendum.

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291 (e) In the fifth column, the tax rate that each taxing
292 authority must levy against the parcel to fund the proposed
293 budget or, in the case of voted levies for debt service, the tax
294 rate previously authorized by referendum.
295 (f) In the sixth column, the gross amount of ad valorem
296 taxes that must be levied in the current year if the proposed
297 budget is adopted.
298 (g) In the seventh column, the date, the time, and a brief
299 description of the location of the public hearing required
300 pursuant to s. 200.065(2)(c).
301 (5) Following the entries for each taxing authority, a
302 final entry shall show: in the first column, the words “Total
303 Property Taxes:” and in the second, fourth, and sixth columns,
304 the sum of the entries for each of the individual taxing
305 authorities. The second, fourth, and sixth columns shall,
306 immediately below said entries, be labeled Column 1, Column 2,
307 and Column 3, respectively. Below these labels shall appear, in
308 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.
309 (6)(a) The second page of the notice shall state the
310 parcel’s market value and for each taxing authority that levies
311 an ad valorem tax against the parcel:
312 1. The assessed value, value of exemptions, and taxable
313 value for the previous year and the current year.
314 2. Each assessment reduction and exemption applicable to
315 the property, including the value of the assessment reduction or
316 exemption and tax levies to which they apply.
317 (b) The reverse side of the second page shall contain
318 definitions and explanations for the values included on the
319 front side.

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320 (7) The following statement shall appear after the values
321 listed on the front of the second page:
322
323 If you feel that the market value of your property is inaccurate
324 or does not reflect fair market value, or if you are entitled to
325 an exemption or classification that is not reflected above,
326 contact your county property appraiser at ...(phone number)...
327 or ...(location)....
328 If the property appraiser's office is unable to resolve the
329 matter as to market value, classification, or an exemption, you
330 may file a petition for adjustment with the Value Adjustment
331 Board. Petition forms are available from the county property
332 appraiser and must be filed ON OR BEFORE ...(date)....
333 (8) The reverse side of the first page of the form shall
334 read:
335 EXPLANATION
336
337 *COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"
338 This column shows the taxes that applied last year to your
339 property. These amounts were based on budgets adopted last year
340 and your property's previous taxable value.
341 *COLUMN 2—"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"
342 This column shows what your taxes will be this year IF EACH
343 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These
344 amounts are based on last year's budgets and your current
345 assessment.
346 *COLUMN 3—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"
347 This column shows what your taxes will be this year under the
348 BUDGET ACTUALLY PROPOSED by each local taxing authority. The

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349 proposal is NOT final and may be amended at the public hearings
350 shown on the front side of this notice. The difference between
351 columns 2 and 3 is the tax change proposed by each local taxing
352 authority and is NOT the result of higher assessments.
353
354 *Note: Amounts shown on this form do NOT reflect early payment
355 discounts you may have received or may be eligible to receive.
356 (Discounts are a maximum of 4 percent of the amounts shown on
357 this form.)
358 (9) The bottom portion of the notice shall further read in
359 bold, conspicuous print:
360
361 "Your final tax bill may contain non-ad valorem assessments
362 which may not be reflected on this notice such as assessments
363 for roads, fire, garbage, lighting, drainage, water, sewer, or
364 other governmental services and facilities which may be levied
365 by your county, city, or any special district."
366 (10)(a) If requested by the local governing board levying
367 non-ad valorem assessments and agreed to by the property
368 appraiser, the notice specified in this section may contain a
369 notice of proposed or adopted non-ad valorem assessments. If so
370 agreed, the notice shall be titled:
371
372 NOTICE OF PROPOSED PROPERTY TAXES
373 AND PROPOSED OR ADOPTED
374 NON-AD VALOREM ASSESSMENTS
375 DO NOT PAY—THIS IS NOT A BILL
376
377 There must be a clear partition between the notice of proposed

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378 property taxes and the notice of proposed or adopted non-ad
379 valorem assessments. The partition must be a bold, horizontal
380 line approximately 1/8-inch thick. By rule, the department shall
381 provide a format for the form of the notice of proposed or
382 adopted non-ad valorem assessments which meets the following
383 minimum requirements:
384 1. There must be subheading for columns listing the levying
385 local governing board, with corresponding assessment rates
386 expressed in dollars and cents per unit of assessment, and the
387 associated assessment amount.
388 2. The purpose of each assessment must also be listed in
389 the column listing the levying local governing board if the
390 purpose is not clearly indicated by the name of the board.
391 3. Each non-ad valorem assessment for each levying local
392 governing board must be listed separately.
393 4. If a county has too many municipal service benefit units
394 or assessments to be listed separately, it shall combine them by
395 function.
396 5. A brief statement outlining the responsibility of the
397 tax collector and each levying local governing board as to any
398 non-ad valorem assessment must be provided on the form,
399 accompanied by directions as to which office to contact for
400 particular questions or problems.
401 (b) If the notice includes all adopted non-ad valorem
402 assessments, the provisions contained in subsection (9) shall
403 not be placed on the notice.
404 Section 6. Section 648.421, Florida Statutes, is amended to
405 read:
406 648.421 Notice of change of address or telephone number.—

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407 Each licensee under this chapter shall notify in writing the
408 department, insurer, managing general agent, and the clerk of
409 each court in which the licensee is registered within 10 working
410 days after a change in the licensee's principal business
411 address, e-mail address, or telephone number. The licensee shall
412 also notify the department within 10 working days after a change
413 of the name, address, or telephone number of each agency or firm
414 for which he or she writes bonds and any change in the
415 licensee's name, home address, e-mail address, or telephone
416 number.
417 Section 7. Subsection (3) of section 648.43, Florida
418 Statutes, is amended to read:
419 648.43 Power of attorney; to be approved by department;
420 filing of copies; notification of transfer bond.—
421 (3) Every bail bond agent who executes or countersigns a
422 transfer bond shall indicate in writing on the bond the name,
423 ~~and~~ address, and e-mail address of the referring bail bond
424 agent.
425 Section 8. Paragraph (b) of subsection (1) of section
426 648.44, Florida Statutes, is amended to read:
427 648.44 Prohibitions; penalty.—
428 (1) A bail bond agent or temporary bail bond agent may not:
429 (b) Directly or indirectly solicit business in or on the
430 property or grounds of a jail, prison, or other place where
431 prisoners are confined or in or on the property or grounds of
432 any court. The term "solicitation" includes the distribution of
433 business cards, print advertising, or other written or oral
434 information directed to prisoners or potential indemnitors,
435 unless a request is initiated by the prisoner or a potential

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436 indemnitor. Permissible print advertising in the jail is
437 strictly limited to a listing in a telephone directory and the
438 posting of the bail bond agent's or agency's name, address, e-
439 mail address, and telephone number in a designated location
440 within the jail.
441 Section 9. Section 903.012, Florida Statutes, is created to
442 read:
443 903.012 Posting and transmittal of bonds.—Bonds may be
444 posted in person or electronically at the election of the
445 receiving agency. Bonds may be transmitted electronically
446 between the sheriff's office and the office of the clerk of
447 court.
448 Section 10. Section 903.101, Florida Statutes, is amended
449 to read:
450 903.101 Sureties; licensed persons; to have equal access.—
451 Subject to rules adopted by the Department of Financial Services
452 and by the Financial Services Commission, every surety who meets
453 the requirements of ss. 903.05, 903.06, 903.08, and 903.09, and
454 every person who is currently licensed by the Department of
455 Financial Services and registered as required by s. 648.42 shall
456 have equal access to the jails of this state for the purpose of
457 making bonds either in person or electronically.
458 Section 11. Subsection (1) of section 903.14, Florida
459 Statutes, is amended to read:
460 903.14 Contracts to indemnify sureties.—
461 (1) A surety shall file with the bond an affidavit stating
462 the amount and source of any security or consideration which the
463 surety or anyone for his or her use has received or been
464 promised for the bond. The affidavit shall be filed in the same

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465 manner as the bond.
466 Section 12. Paragraph (b) of subsection (1), paragraph (a)
467 of subsection (2), and subsection (3) of section 903.26, Florida
468 Statutes, are amended to read:
469 903.26 Forfeiture of the bond; when and how directed;
470 discharge; how and when made; effect of payment.—
471 (1) A bail bond shall not be forfeited unless:
472 (b) The clerk of court gave the surety at least 72 hours'
473 notice, exclusive of Saturdays, Sundays, and holidays, before
474 the time of the required appearance of the defendant. Notice
475 shall not be necessary if the time for appearance is within 72
476 hours from the time of arrest, or if the time is stated on the
477 bond. Such notice may be mailed or electronically transmitted.
478 (2)(a) If there is a breach of the bond, the court shall
479 declare the bond and any bonds or money deposited as bail
480 forfeited. The clerk of the court shall mail or electronically
481 transmit a notice to the surety agent and surety company ~~in~~
482 ~~writing~~ within 5 days after ~~of~~ the forfeiture. A certificate
483 signed by the clerk of the court or the clerk's designee,
484 certifying that the notice required herein was mailed or
485 electronically transmitted on a specified date and accompanied
486 by a copy of the required notice, shall constitute sufficient
487 proof that such mailing or electronic transmission was properly
488 accomplished as indicated therein. If such mailing or electronic
489 transmission was properly accomplished as evidenced by such
490 certificate, the failure of the surety agent, of a company, or
491 of a defendant to receive such ~~mail~~ notice shall not constitute
492 a defense to such forfeiture and shall not be grounds for
493 discharge, remission, reduction, set aside, or continuance of

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

494 such forfeiture. The forfeiture shall be paid within 60 days of
495 the date the notice was mailed or electronically transmitted.
496 (3) Sixty days after the forfeiture notice has been mailed
497 or electronically transmitted:
498 (a) State and county officials having custody of forfeited
499 money shall deposit the money in the fine and forfeiture fund
500 established pursuant to s. 142.01.~~;~~
501 (b) Municipal officials having custody of forfeited money
502 shall deposit the money in a designated municipal fund.~~;~~
503 (c) Officials having custody of bonds as authorized by s.
504 903.16 shall transmit the bonds to the clerk of the circuit
505 court who shall sell them at market value and disburse the
506 proceeds as provided in paragraphs (a) and (b).
507 Section 13. Subsections (1), (2), and (6) of section
508 903.27, Florida Statutes, are amended to read:
509 903.27 Forfeiture to judgment.—
510 (1) If the forfeiture is not paid or discharged by order of
511 a court of competent jurisdiction within 60 days and the bond is
512 secured other than by money and bonds authorized in s. 903.16,
513 the clerk of the circuit court for the county where the order
514 was made shall enter a judgment against the surety for the
515 amount of the penalty and issue execution. However, in any case
516 in which the bond forfeiture has been discharged by the court of
517 competent jurisdiction conditioned upon the payment by the
518 surety of certain costs or fees as allowed by statute, the
519 amount for which judgment may be entered may not exceed the
520 amount of the unpaid fees or costs upon which the discharge had
521 been conditioned. Judgment for the full amount of the forfeiture
522 shall not be entered if payment of a lesser amount will satisfy

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523 the conditions to discharge the forfeiture. Within 10 days, the
524 clerk shall furnish the Department of Financial Services and the
525 Office of Insurance Regulation of the Financial Services
526 Commission with a certified copy of the judgment docket and
527 shall furnish the surety company at its home office a copy of
528 the judgment, which shall include the power of attorney number
529 of the bond and the name of the executing agent. If the judgment
530 is not paid within 35 days, the clerk shall furnish the
531 Department of Financial Services, the Office of Insurance
532 Regulation, and the sheriff of the county in which the bond was
533 executed, or the official responsible for operation of the
534 county jail, if other than the sheriff, two copies of the
535 judgment and a certificate stating that the judgment remains
536 unsatisfied. When and if the judgment is properly paid or an
537 order to vacate the judgment has been entered by a court of
538 competent jurisdiction, the clerk shall immediately notify the
539 sheriff, or the official responsible for the operation of the
540 county jail, if other than the sheriff, and the Department of
541 Financial Services and the Office of Insurance Regulation, if
542 the department and office had been previously notified of
543 nonpayment, of such payment or order to vacate the judgment. The
544 clerk may furnish documents or give notice as required in this
545 subsection by mail or electronic means. The clerk shall also
546 immediately prepare and record in the public records a
547 satisfaction of the judgment or record the order to vacate
548 judgment. If the defendant is returned to the county of
549 jurisdiction of the court, whenever a motion to set aside the
550 judgment is filed, the operation of this section is tolled until
551 the court makes a disposition of the motion.

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

552 (2) A certificate signed by the clerk of the court or her
553 or his designee, certifying that the notice required in
554 subsection (1) was mailed or electronically delivered on a
555 specified date, and accompanied by a copy of the required notice
556 constitutes sufficient proof that such mailing or electronic
557 delivery was properly accomplished as indicated therein. If such
558 mailing or electronic delivery was properly accomplished as
559 evidenced by such certificate, the failure of a company to
560 receive a copy of the judgment as prescribed in subsection (1)
561 does not constitute a defense to the forfeiture and is not a
562 ground for the discharge, remission, reduction, set-aside, or
563 continuance of such forfeiture.
564 ~~(6) The failure of a state attorney to file, or of the~~
565 ~~clerk of the circuit court to make, a certified copy of the~~
566 ~~order of forfeiture as required by law applicable prior to July~~
567 ~~1, 1982, shall not invalidate any judgment entered by the clerk~~
568 ~~prior to June 12, 1981.~~
569 Section 14. Subsection (1) of section 903.31, Florida
570 Statutes, is amended to read:
571 903.31 Canceling the bond.—
572 (1) Within 10 business days after the conditions of a bond
573 have been satisfied or the forfeiture discharged or remitted,
574 the court shall order the bond canceled and, if the surety has
575 attached a certificate of cancellation to the original bond, the
576 clerk of the court shall mail or electronically furnish an
577 executed certificate of cancellation to the surety without cost.
578 An adjudication of guilt or innocence, an acquittal, or a
579 withholding of an adjudication of guilt shall satisfy the
580 conditions of the bond. The original appearance bond shall

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

581 expire 36 months after such bond has been posted for the release
582 of the defendant from custody. This subsection does not apply to
583 cases in which a bond has been declared forfeited.
584 Section 15. Subsection (2) of section 903.36, Florida
585 Statutes, is amended to read:
586 903.36 Guaranteed arrest bond certificates as cash bail.—
587 (2) The execution of a bail bond by a licensed general
588 lines agent of a surety insurer for the automobile club or
589 association member identified in the guaranteed traffic arrest
590 bond certificate, as provided in s. 627.758(4), shall be
591 accepted as bail in an amount not to exceed $5,000 for the
592 appearance of the person named in the certificate in any court
593 to answer for the violation of a provision of chapter 316 or a
594 similar traffic law or ordinance, except driving under the
595 influence of alcoholic beverages, chemical substances, or
596 controlled substances, as prohibited by s. 316.193. Presentation
597 of the guaranteed traffic arrest bond certificate and a power of
598 attorney from the surety insurer for its licensed general lines
599 agents is authorization for such agent to execute the bail bond.
600 Presentation may be made in person or by electronic means.
601 Section 16. This act shall take effect July 1, 2013.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/12/2013	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Latvala) recommended the following:

1 **Senate** ~~Substitute for~~ **Amendment** ~~(130626)~~ **(with title**
2 **amendment)**
3
4 Delete lines 425 - 601
5 and insert:
6 Section 8. Effective July 1, 2014, paragraph (b) of
7 subsection (1) of section 648.44, Florida Statutes, is amended
8 to read:
9 648.44 Prohibitions; penalty.—
10 (1) A bail bond agent or temporary bail bond agent may not:
11 (b) Directly or indirectly solicit business in or on the
12 property or grounds of a jail, prison, or other place where

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13 prisoners are confined or in or on the property or grounds of
14 any court. The term “solicitation” includes the distribution of
15 business cards, print advertising, or other written or oral
16 information directed to prisoners or potential indemnitors,
17 unless a request is initiated by the prisoner or a potential
18 indemnitor. Permissible print advertising in the jail is
19 strictly limited to a listing in a telephone directory and the
20 posting of the bail bond agent’s or agency’s name, address, e-
21 mail address, and telephone number in a designated location
22 within the jail.
23 Section 9. Effective July 1, 2014, section 903.012, Florida
24 Statutes, is created to read:
25 903.012 Posting and transmittal of bonds.—Bonds may be
26 posted in person or electronically at the election of the
27 receiving agency. Bonds may be transmitted electronically
28 between the sheriff’s office and the office of the clerk of
29 court.
30 Section 10. Effective July 1, 2014, section 903.101,
31 Florida Statutes, is amended to read:
32 903.101 Sureties; licensed persons; to have equal access.—
33 Subject to rules adopted by the Department of Financial Services
34 and by the Financial Services Commission, every surety who meets
35 the requirements of ss. 903.05, 903.06, 903.08, and 903.09, and
36 every person who is currently licensed by the Department of
37 Financial Services and registered as required by s. 648.42 shall
38 have equal access to the jails of this state for the purpose of
39 making bonds either in person or electronically.
40 Section 11. Effective July 1, 2014, subsection (1) of
41 section 903.14, Florida Statutes, is amended to read:

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42 903.14 Contracts to indemnify sureties.—
43 (1) A surety shall file with the bond an affidavit stating
44 the amount and source of any security or consideration which the
45 surety or anyone for his or her use has received or been
46 promised for the bond. The affidavit shall be filed in the same
47 manner as the bond.
48 Section 12. Effective July 1, 2014, paragraph (b) of
49 subsection (1), paragraph (a) of subsection (2), and subsection
50 (3) of section 903.26, Florida Statutes, are amended to read:
51 903.26 Forfeiture of the bond; when and how directed;
52 discharge; how and when made; effect of payment.—
53 (1) A bail bond shall not be forfeited unless:
54 (b) The clerk of court gave the surety at least 72 hours'
55 notice, exclusive of Saturdays, Sundays, and holidays, before
56 the time of the required appearance of the defendant. Notice
57 shall not be necessary if the time for appearance is within 72
58 hours from the time of arrest, or if the time is stated on the
59 bond. Such notice may be mailed or electronically transmitted.
60 (2)(a) If there is a breach of the bond, the court shall
61 declare the bond and any bonds or money deposited as bail
62 forfeited. The clerk of the court shall mail or electronically
63 transmit a notice to the surety agent and surety company ~~in~~
64 ~~writing~~ within 5 days after ~~of~~ the forfeiture. A certificate
65 signed by the clerk of the court or the clerk's designee,
66 certifying that the notice required herein was mailed or
67 electronically transmitted on a specified date and accompanied
68 by a copy of the required notice, shall constitute sufficient
69 proof that such mailing or electronic transmission was properly
70 accomplished as indicated therein. If such mailing or electronic

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71 transmission was properly accomplished as evidenced by such
72 certificate, the failure of the surety agent, of a company, or
73 of a defendant to receive such ~~mail~~ notice shall not constitute
74 a defense to such forfeiture and shall not be grounds for
75 discharge, remission, reduction, set aside, or continuance of
76 such forfeiture. The forfeiture shall be paid within 60 days of
77 the date the notice was mailed or electronically transmitted.
78 (3) Sixty days after the forfeiture notice has been mailed
79 or electronically transmitted:
80 (a) State and county officials having custody of forfeited
81 money shall deposit the money in the fine and forfeiture fund
82 established pursuant to s. 142.01.~~;~~
83 (b) Municipal officials having custody of forfeited money
84 shall deposit the money in a designated municipal fund.~~;~~
85 (c) Officials having custody of bonds as authorized by s.
86 903.16 shall transmit the bonds to the clerk of the circuit
87 court who shall sell them at market value and disburse the
88 proceeds as provided in paragraphs (a) and (b).
89 Section 13. Effective July 1, 2014, subsections (1), (2),
90 and (6) of section 903.27, Florida Statutes, are amended to
91 read:
92 903.27 Forfeiture to judgment.—
93 (1) If the forfeiture is not paid or discharged by order of
94 a court of competent jurisdiction within 60 days and the bond is
95 secured other than by money and bonds authorized in s. 903.16,
96 the clerk of the circuit court for the county where the order
97 was made shall enter a judgment against the surety for the
98 amount of the penalty and issue execution. However, in any case
99 in which the bond forfeiture has been discharged by the court of

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100 competent jurisdiction conditioned upon the payment by the
101 surety of certain costs or fees as allowed by statute, the
102 amount for which judgment may be entered may not exceed the
103 amount of the unpaid fees or costs upon which the discharge had
104 been conditioned. Judgment for the full amount of the forfeiture
105 shall not be entered if payment of a lesser amount will satisfy
106 the conditions to discharge the forfeiture. Within 10 days, the
107 clerk shall furnish the Department of Financial Services and the
108 Office of Insurance Regulation of the Financial Services
109 Commission with a certified copy of the judgment docket and
110 shall furnish the surety company at its home office a copy of
111 the judgment, which shall include the power of attorney number
112 of the bond and the name of the executing agent. If the judgment
113 is not paid within 35 days, the clerk shall furnish the
114 Department of Financial Services, the Office of Insurance
115 Regulation, and the sheriff of the county in which the bond was
116 executed, or the official responsible for operation of the
117 county jail, if other than the sheriff, two copies of the
118 judgment and a certificate stating that the judgment remains
119 unsatisfied. When and if the judgment is properly paid or an
120 order to vacate the judgment has been entered by a court of
121 competent jurisdiction, the clerk shall immediately notify the
122 sheriff, or the official responsible for the operation of the
123 county jail, if other than the sheriff, and the Department of
124 Financial Services and the Office of Insurance Regulation, if
125 the department and office had been previously notified of
126 nonpayment, of such payment or order to vacate the judgment. <u>The</u>
127 <u>clerk may furnish documents or give notice as required in this</u>
128 <u>subsection by mail or electronic means.</u> The clerk shall also

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129 immediately prepare and record in the public records a
130 satisfaction of the judgment or record the order to vacate
131 judgment. If the defendant is returned to the county of
132 jurisdiction of the court, whenever a motion to set aside the
133 judgment is filed, the operation of this section is tolled until
134 the court makes a disposition of the motion.
135 (2) A certificate signed by the clerk of the court or her
136 or his designee, certifying that the notice required in
137 subsection (1) was mailed or electronically delivered on a
138 specified date, and accompanied by a copy of the required notice
139 constitutes sufficient proof that such mailing or electronic
140 delivery was properly accomplished as indicated therein. If such
141 mailing or electronic delivery was properly accomplished as
142 evidenced by such certificate, the failure of a company to
143 receive a copy of the judgment as prescribed in subsection (1)
144 does not constitute a defense to the forfeiture and is not a
145 ground for the discharge, remission, reduction, set-aside, or
146 continuance of such forfeiture.
147 ~~(6) The failure of a state attorney to file, or of the~~
148 ~~clerk of the circuit court to make, a certified copy of the~~
149 ~~order of forfeiture as required by law applicable prior to July~~
150 ~~1, 1982, shall not invalidate any judgment entered by the clerk~~
151 ~~prior to June 12, 1981.~~
152 Section 14. Effective July 1, 2014, subsection (1) of
153 section 903.31, Florida Statutes, is amended to read:
154 903.31 Canceling the bond.—
155 (1) Within 10 business days after the conditions of a bond
156 have been satisfied or the forfeiture discharged or remitted,
157 the court shall order the bond canceled and, if the surety has

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158 attached a certificate of cancellation to the original bond, the
159 clerk of the court shall mail or electronically furnish an
160 executed certificate of cancellation to the surety without cost.
161 An adjudication of guilt or innocence, an acquittal, or a
162 withholding of an adjudication of guilt shall satisfy the
163 conditions of the bond. The original appearance bond shall
164 expire 36 months after such bond has been posted for the release
165 of the defendant from custody. This subsection does not apply to
166 cases in which a bond has been declared forfeited.
167 Section 15. Effective July 1, 2014, subsection (2) of
168 section 903.36, Florida Statutes, is amended to read:
169 903.36 Guaranteed arrest bond certificates as cash bail.—
170 (2) The execution of a bail bond by a licensed general
171 lines agent of a surety insurer for the automobile club or
172 association member identified in the guaranteed traffic arrest
173 bond certificate, as provided in s. 627.758(4), shall be
174 accepted as bail in an amount not to exceed $5,000 for the
175 appearance of the person named in the certificate in any court
176 to answer for the violation of a provision of chapter 316 or a
177 similar traffic law or ordinance, except driving under the
178 influence of alcoholic beverages, chemical substances, or
179 controlled substances, as prohibited by s. 316.193. Presentation
180 of the guaranteed traffic arrest bond certificate and a power of
181 attorney from the surety insurer for its licensed general lines
182 agents is authorization for such agent to execute the bail bond.
183 Presentation may be made in person or by electronic means.
184 Section 16. Except as otherwise expressly provided, this
185 act shall take effect October 1, 2013.
186

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187 ========== T I T L E A M E N D M E N T ==========
188 And the title is amended as follows:
189 Delete lines 53 - 54
190 and insert:
191 in person or electronically; providing effective
192 dates.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: Paper Reduction

Bill Number: 1352 *(if applicable)*

Name: Marty Cassini

Amendment Barcode: *(if applicable)*

Job Title: Legislative Counsel

Address: 115 S. Andrews Ave, 426
Street

Fort Lauderdale FL 33301
City *State* *Zip*

Phone: 954-357-7575

E-mail: mcassini@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.

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)

3/20/13
Meeting Date

Topic: Paper Reduction

Bill Number: 1352 (if applicable)

Name: Pamela Burch Fort

Amendment Barcode: (if applicable)

Job Title:

Address: 104 S. Monroe
Street

Tall FL 32301
City State Zip

Phone: 850-425-1344

E-mail: TcgLobby@aol.com

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

Representing: ACLU of FL

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 1196

INTRODUCER: Senator Richter

SUBJECT: Independent Special Fire Control Districts

DATE: March 16, 2013 REVISED:

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

I. Summary:

SB 1196 clarifies provisions that authorize a fire control district to levy non-ad valorem assessments to construct, operate, and maintain specified district facilities and services. This bill also revises provisions relating to district authority to provide for the levy of non-ad valorem assessments on lands within the district rather than benefited real property.

This bill amends the following sections of the Florida Statutes: 191.009 and 191.011.

II. Present Situation:

Chapter 191, F.S., the "Independent Special Fire Control District Act"

An "independent special fire control district" is defined as an independent special district[1] created by a special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district.[2] Currently, there are 52 such districts in Florida.[3] Chapter 191, F.S., the "Independent Special Fire Control District Act" (Fire Control Act) provides general and special powers for fire control districts, and addresses district creation, expansion and merger, and funding mechanisms.

---

[1] *See*, s. 189.403, F.S., for a definition of "independent special district."

[2] Section 191.003(5), F.S. The term does not include a municipality, a county, a dependent special district as defined in s. 189.403, F.S., a district providing primarily emergency medical services, a community development district established under ch. 190, F.S., or any other multiple-power district performing fire suppression and related services in addition to other services.

[3] Florida Department of Economic Opportunity, Special District Information Program, *Official List of Special Districts Online*, *available at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm (last visited Mar. 16, 2013).

Unless otherwise exempted by special or general law, this 1997 act requires each district to comply with its provisions. The act further provides that it is the intent of the Legislature that the act supersedes all special acts or general laws of local application provisions that contain the charter of a district and which address the same subjects as the act, except where such laws address district boundaries and geographical subdistricts for the election of governing board members. Chapter 191, F.S., also does not repeal any authorizations providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees or other charges.

District Funding Mechanisms

Section 191.009, F.S., authorizes special fire control districts to levy ad valorem taxes, non-ad valorem assessments, user charges, and impact fees.[4] They are also authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidences of indebtedness.[5]

Ad Valorem Taxes
An elected board may levy ad valorem taxes on all taxable property in the district to construct, operate and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied and collected in the same manner as county taxes.

Non-Ad valorem Assessments
Section 191.009(2), F.S., authorizes a district to levy non-ad valorem assessments to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years.

Proposed non-ad valorem assessments, which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum.

User Charges
A district may provide a reasonable schedule of user charges for the following services:

[4] An ad valorem tax may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act.
[5] *See*, s. 191.012, F.S.

- special emergency services, including firefighting occurring in structures outside the district,
- fighting fires occurring in or at refuse dumps or as a result of an illegal burn,
- responding to or assisting or mitigating emergencies that could threaten the health and safety of persons, property or the environment, to which the district has been called, including a charge for responding to false alarms, and
- inspecting structures, plans and equipment to determine compliance with fire safety standards.

Impact Fees
If the general purpose local government has not adopted an impact fee for fire services, which is distributed to the district for construction within its jurisdictional boundaries, a district may establish a schedule of impact fees to pay for the cost of new facilities and equipment. A district also may enter into agreements with general purpose local governments to share the revenues from fire protection impact fees.

Statutory Definitions of Emergency Related Services

"Emergency medical services" is defined in s. 401.107, F.S., to mean "the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state.[6] The singular "emergency medical service" is defined in the Fire Control Act and "emergency rescue services" is referenced in the Act's section on general powers.[7]

Special Assessments, Benefited Property and Emergency Medical Services

In *Lake County v. Water Oak Management Corp.,* the Florida Supreme Court reiterated the test for determining the validity of a special assessment:

> In reviewing a special assessment, a two-prong test must be addressed: (1) whether the services at issue provide a special benefit to the assessed property; and (2) whether the assessment for the services is properly apportioned.[8]

The Court traditionally defers to the legislative body's determination of special benefits as one of fact for the body and the apportionment of the assessments is deemed a legislative function.[9]

In *SMM Properties v. City of North Lauderdale*, the 4th DCA concluded that the city's integrated fire rescue and emergency medical services program did not provide a special benefit to the assessed property because such services benefit *people*, not *property.*[10] This decision was upheld

[6] Chapter 401, Part II, F.S., is known as the "Florida Emergency Medical Services Act."
[7] *See* ss. 191.003 and 196.006, F.S.
[8] *Lake County v. Water Oak Management Corp.,* 695 So. 2d 667, 669 (Fla.1997).
[9] *See City of Boca Raton v. State,* 595 So. 2d 25, 30 (Fla.1992); *South Trail Fire Control Dist. v. State,* 273 So. 2d 380, 383 (Fla.1973).
[10] *SMM Properties, Inc. v. City of North Lauderdale,* 760 So. 2d 998 (Fla. 4th DCA 2000). Emphasis added. The court stated there was no evidence that the availability of emergency medical services decreased insurance premiums or enhanced the value of real property.

upon appeal to the Florida Supreme Court. [11]In the opinion, the Court cited a test for determining whether a special benefit is conferred to property as set out in *Lake County:*

> In evaluating whether a special benefit is conferred to property by the services for which the assessment is imposed, the test is not whether the services confer a "unique" benefit or are different in type or degree from the benefit provided to the community as a whole; rather the test is whether there is a "logical relationship" between the services provided and the benefit to real property.[12]

The opinion also cited distinctions between a special assessment and a tax and how benefit and improvement relate to an assessment:

> *A special assessment* is like a tax in that it is an enforced contribution from the property owner, it may possess other points of similarity to a tax but it is inherently different and governed by entirely different principles. *It is imposed upon the theory that that portion of the community which is required to bear it receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special assessment.* It is limited to the property benefitted, is not governed by uniformity and may be determined legislatively or judicially.[13]

III. Effect of Proposed Changes:

Section 1 amends s. 191.009, F.S., on fire control district non-ad valorem assessments to clarify that an independent special fire control district may levy non-ad valorem assessments consistent with existing laws, the district's general and special powers, the district's enabling legislation and assessments related to emergency rescue services, first response medical aid, emergency medical services, and emergency transport services.

Section 2 amends s. 191.011, F.S., on fire control district levy and collection procedures for non-ad valorem assessments to have assessments apply to lands within the district rather than to benefited real property. The section recognizes that the provision of emergency rescue services, first response medical aid, emergency medical services, and emergency transport services constitutes a benefit to real property the same as any other improvement performed by a district.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[11] *City of North Lauderdale v. SMM Properties, Inc* 825 So. 2d 343 (Fla. 2002).
[12] *See Whisnant v. Stringfellow,* 50 So. 2d 885 (Fla.1951); *Crowder v. Phillips,* 146 Fla. 440, 1 So. 2d 629 (1941) (on rehearing).
[13] *See Klemm v. Davenport,* 100 Fla. 627, 631-34, 129 So. 904, 907-08 (1930). Emphasis in *City of North Lauderdale v. SMM Properties, Inc*.

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:

Residents in fire control districts may be subject to non-ad valorem assessments for the provision of emergency rescue services, first response medical aid, emergency medical services, and emergency transport services. Existing referendum provisions for such assessments would apply.

C. Government Sector Impact:

Fire control districts may consider levying non-ad valorem assessments for the provision of emergency rescue services, first response medical aid, emergency medical services, and emergency transport services. Such assessments would be subject to current referendum provisions.

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.

By Senator Richter

23-01385-13 20131196__

A bill to be entitled

An act relating to independent special fire control districts; amending s. 191.009, F.S.; clarifying provisions that authorize a district to levy non-ad valorem assessments to construct, operate, and maintain specified district facilities and services; amending s. 191.011, F.S.; revising provisions relating to district authority to provide for the levy of non-ad valorem assessments on lands within the district rather than benefited real property; eliminating provisions relating to rate of assessment for benefited real property, to conform; providing an effective date.

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

Section 1. Subsection (2) of section 191.009, Florida Statutes, is amended to read:

191.009 Taxes; non-ad valorem assessments; impact fees and user charges.—

(2) NON-AD VALOREM ASSESSMENTS.—A district may levy non-ad valorem assessments as defined in s. 197.3632 to construct, operate, and maintain <u>those</u> district facilities and services <u>provided pursuant to the general powers listed in s. 191.006, the special powers listed in s. 191.008, any applicable general laws of local application, and a district's enabling legislation, including emergency rescue services, first response medical aid, emergency medical services, and emergency transport services</u>. The rate of such assessments must be fixed by

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

30 resolution of the board pursuant to the procedures contained in
31 s. 191.011. Non-ad valorem assessment rates set by the board may
32 exceed the maximum rates established by special act, county
33 ordinance, the previous year's resolution, or referendum in an
34 amount not to exceed the average annual growth rate in Florida
35 personal income over the previous 5 years. Non-ad valorem
36 assessment rate increases within the personal income threshold
37 are deemed to be within the maximum rate authorized by law at
38 the time of initial imposition. Proposed non-ad valorem
39 assessment increases that ~~which~~ exceed the rate set the previous
40 fiscal year or the rate previously set by special act or county
41 ordinance, whichever is more recent, by more than the average
42 annual growth rate in Florida personal income over the last 5
43 years, or the first-time levy of non-ad valorem assessments in a
44 district, must be approved by referendum of the electors of the
45 district. The referendum on the first-time levy of an assessment
46 shall include a notice of the future non-ad valorem assessment
47 rate increases permitted by this act without a referendum. Non-
48 ad valorem assessments shall be imposed, collected, and enforced
49 pursuant to s. 191.011.
50 Section 2. Subsection (1) of section 191.011, Florida
51 Statutes, is amended to read:
52 191.011 Procedures for the levy and collection of non-ad
53 valorem assessments.—
54 (1) A district may provide for the levy of non-ad valorem
55 assessments under this act on the lands within the district for
56 ~~and real estate benefited by~~ the exercise of the powers
57 authorized by this act, or any part thereof, for all or any part
58 of the cost thereof. It is recognized that the provision of

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

59 emergency rescue services, first response medical aid, emergency
60 medical services, and transport services constitutes a benefit
61 to real property the same as any other improvement performed by
62 a district, such as fire suppression services, fire protection
63 services, and fire prevention services. ~~Non-ad valorem~~
64 ~~assessments may be levied only on benefited real property at a~~
65 ~~rate of assessment based on the special benefit accruing to such~~
66 ~~property from such services or improvements.~~ The district may
67 use any assessment apportionment methodology that meets fair
68 apportionment standards.
69 Section 3. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

March 7, 2013

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

Dear Chair Simpson:

Senate Bill 1196 relating to Independent Special Control Fire Districts has been reffered to Community Affairs as its first committee of reference. I would appreciate the placing of this bill on the committee's next available agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Tom Yeatman, Staff Director

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

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1152

INTRODUCER: Senator Margolis

SUBJECT: Public Records/Financial Statement/Road or Public Works Project Proposal

DATE: March 20, 2013 REVISED:

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

I. Summary:

SB 1152 revises an exemption from public records requirements for any financial statement that a governmental entity or agency requires a prospective bidder to submit when bidding in response to an invitation to bid, submitting a letter of interest, or responding to a request for proposals or an invitation to negotiate pursuant to a public procurement. The bill provides an exemption from public records requirements for financial information that a governmental entity requires a person to submit when responding to a solicitation.

The bill is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill substantially amends section 119.071 of the Florida Statutes.

II. Present Situation:

Public Records and Meetings Requirements

The Florida Constitution specifies requirements for public access to government records and meetings. It provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.[1] The records of the legislative, executive, and judicial branches are specifically included.[2] The Florida Constitution also requires all meetings of any

[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.

collegial public body of the executive branch of state government or of any local government, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be open and noticed to the public.[3]

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act[4] guarantees every person's right to inspect and copy any state or local government public record[5] at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[6] The Sunshine Law[7] requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.[8]

Only the Legislature may create an exemption to public records or public meetings requirements.[9] Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.[10] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[11] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[12]

Exemptions are subject to the Open Government Sunset Review Act,[13] which prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.[14] It requires the automatic repeal of such exemption on October 2 of the

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[3] FLA. CONST., art. I, s. 24(b).
[4] Chapter 119, F.S.
[5] Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992).
[6] Section 119.07(1)(a), F.S.
[7] Section 286.011, F.S.
[8] Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in Art. III, s. 4(e) of the Florida Constitution. That section requires the rules of procedure of each house to provide that:

- All legislative committee and subcommittee meetings of each house and of joint conference committee meetings must be open and noticed to the public; and
- All prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

[9] FLA. CONST., art. I, s. 24(c).
[10] FLA. CONST., art. I, s. 24(c).
[11] The bill may, however, contain multiple exemptions that relate to one subject.
[12] FLA. CONST., art. I, s. 24(c).
[13] Section 119.15, F.S.
[14] Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the

fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[15]

Public Records Exemption - Bids

Current law defines "competitive solicitation" as the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.[16] Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from disclosure requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.[17] If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from disclosure requirements until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.[18]

Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from disclosure requirements.[19]

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., revising an exemption from public records requirements for any financial statement that a governmental entity or agency requires a prospective bidder to submit when bidding in response to an invitation to bid, submitting a letter of interest, or responding to a request for proposals or an invitation to negotiate pursuant to a public procurement. The proposed changes expand the scope of the exemption by referencing all competitive solicitations rather than just proposals for a road or any other public works project.

The bill provides an exemption from public records requirements for financial information that a governmental entity requires a person to submit when responding to a solicitation. This subparagraph does not apply to publicly traded companies and nonprofit organizations.

The bill is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a public necessity statement as required by the Florida Constitution.

Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

[15] Section 119.15(3), F.S.

[16] Section 119.071(1)(b)1, F.S.

[17] Section 119.071(1)(b)2, F.S.

[18] Section 119.071(1)(b)3, F.S.

[19] Section 119.071(1)(c), F.S.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement
Section 24(c), Art. I of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly created public records or public meetings exemption. Because this bill creates new public records exemptions, it requires a two-thirds vote for passage.

Public Necessity Statement
Section 24(c), Art. I of the Florida Constitution requires a public necessity statement for a newly created public records or public meetings exemption. Because this bill creates new public records exemptions, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will create a minimal fiscal impact on agencies as staff responsible for complying with public records requests will require training related to the expansion of the exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Department of Management Services analysis on a substantially similar bill, "[i]ncluding a requirement for bidders to submit redacted proposals and replies would assist

governmental entities and agencies in responding to public records requests by placing the responsibility on the bidders to protect their information. The Division of State Purchasing suggests the following conclusion to the proposed language in subsection (c)1., 'provided the bidder submits a redacted proposal or reply to the governmental entity or agency identifying its financial statement as exempt under this section.'"[20]

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.

[20] Department of Management Services, *Bill Analysis HB 403*, (February 5, 2013)(on file with the staff of the Senate Community Affairs Committee).

By Senator Margolis

35-00698A-13 20131152__

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; revising an exemption from public records requirements for any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or public works project; providing an exemption from public records requirements for any financial statement that a governmental entity or agency requires a prospective bidder to submit when bidding in response to an invitation to bid, submitting a letter of interest, or responding to a request for proposals or an invitation to negotiate pursuant to a public procurement; providing an exemption from public records requirements for financial information that a governmental entity requires a person to submit when responding to a solicitation; providing an exception; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

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

30 (1) AGENCY ADMINISTRATION.—
31 (c)1. A ~~Any~~ financial statement that a governmental entity
32 or ~~an~~ agency requires a prospective bidder to submit when ~~in~~
33 ~~order to prequalify for~~ bidding in response to an invitation to
34 bid, submitting a letter of interest, or ~~for~~ responding to a
35 request for proposals or an invitation to negotiate pursuant to
36 a public procurement ~~proposal for a road or any other public~~
37 ~~works project~~ is exempt from s. 119.07(1) and s. 24(a), Art. I
38 of the State Constitution.
39 2. Any financial information that a governmental entity or
40 agency requires a person to submit when responding to a
41 solicitation or otherwise is exempt from s. 119.07(1) and s.
42 24(a), Art. I of the State Constitution. This subparagraph does
43 not apply to publicly traded companies and nonprofit
44 organizations.
45 3. This paragraph is subject to the Open Government Sunset
46 Review Act in accordance with s. 119.15 and shall stand repealed
47 on October 2, 2018, unless reviewed and saved from repeal
48 through reenactment by the Legislature.
49 Section 2. It is the finding of the Legislature that it is
50 a public necessity that a financial statement that a
51 governmental entity or agency requires a prospective bidder to
52 submit when bidding in response to an invitation to bid,
53 submitting a letter of interest, or responding to a request for
54 proposals or an invitation to negotiate pursuant to a public
55 procurement be held exempt from public records requirements.
56 Although it is important to demonstrate financial stability to a
57 governmental entity or agency making a selection from among
58 bidders responding to an invitation to bid, individuals and

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

59 entities submitting letters of interest, and respondents to
60 requests for proposals and invitations to negotiate pursuant to
61 a public procurement, public disclosure of the financial
62 statement of a prospective bidder or respondent creates an
63 unfair business advantage for competing firms. Because private
64 companies and individuals must be able to bid on and compete for
65 projects without concern that their financial records could be
66 subject to public scrutiny and, consequently, the scrutiny of
67 their competitors, it is the finding of the Legislature that a
68 financial statement that a governmental entity or agency
69 requires a prospective bidder to submit when bidding in response
70 to an invitation to bid, submitting a letter of interest, or
71 responding to a request for proposals or an invitation to
72 negotiate pursuant to a public procurement be made exempt from
73 public records requirements.
74 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)

3/20
Meeting Date

Topic: Public Records Exemp S

Bill Number: SB 1152 *(if applicable)*

Name: Cynthia Henderson

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 108 E Jefferson St #A
Street

_____
City *State* *Zip*

Phone: 8502105385

E-mail: cyhenderson@me.com

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

Representing: myself

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

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 2, 2013

I respectfully request that **1152**, relating to Financial Exemptions, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Gwen Margolis

Senator Gwen Margolis
Florida Senate, District 35

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 788

INTRODUCER: Senator Abruzzo

SUBJECT: Criminal Gang Prevention

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.	Anderson	Yeatman	CA	**Favorable**
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

SB 788 does the following to enhance criminal gang intervention and prevention:

- Increases the misdemeanor criminal penalties for specified trespassing offenses in school safety zones by a person convicted of gang-related offenses (becomes a first instead of a second degree misdemeanor);
- Increases the felony criminal penalties for intentionally causing, encouraging, soliciting, or recruiting a person under 13 years of age to become a gang member (becomes a second instead of a third degree felony, except if it is a second or subsequent recruiting conviction, it becomes a first degree felony);
- Authorizes a county or municipal detention facility to designate a person to be responsible for assessing whether an inmate is a criminal gang member or associate and if so, report it to the arresting law enforcement agency;
- Amends the criminal gang multiplier in s. 921.0024, F.S., so that the multiplier will be able to be applied with a finding by the judge (rather than the jury) that the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang in instances where the lowest permissible sentence does not exceed the statutory maximum sentence for the offense; and
- Makes technical and conforming changes.

This bill substantially amends the following sections of the Florida Statutes: 810.0975, 874.05, 951.23, and 921.0024. Sections 435.04 and 921.0022, Florida Statutes, are amended to conform to changes made by the bill.

II. Present Situation:

School Safety Zones

A "school safety zone" is defined as being in, on, or within 500 feet of real property owned by or leased to any public or private elementary, middle, or high school or school board which is used for elementary, middle, or high school education.[1] Principals are required to notify law enforcement to prohibit persons who have no legitimate business or any other authorization from loitering in a school safety zone.[2]

Section 810.0975, F.S., criminalizes trespassing within a school safety zone or remaining there with no legitimate business between a certain time period as a misdemeanor offense. It is a second degree misdemeanor,[3] during the school session and one hour before and after the school session, for a person to trespass within a school safety zone or to remain there when the person does not have legitimate business to conduct or any other authorization to be in the school safety zone.[4]

It is also a second degree misdemeanor for a person, with no legitimate business to conduct or having no other authorization within a school safety zone, to willfully fail to leave when requested to do so by the principal who has a reasonable belief that the person is going to commit a crime or intimidate or harass students within the school safety zone.[5]

Criminal Gang Enforcement and Prevention

Chapter 874, F.S., governs criminal gang enforcement and prevention, including in part, statutes that do the following: set forth definitions of criminal gangs, criminal gang-related activities, criminal gang member, and criminal gang associate; establish a statewide criminal gang database within the Florida Department of Law Enforcement (FDLE)[6]; provide enhanced penalties for gang-related offenses; and proscribe encouraging, soliciting, or recruiting criminal gang membership.[7]

Currently, it is a third degree felony[8] for committing a first offense of intentionally causing, encouraging, soliciting, or recruiting another person to become a gang member if membership is dependent upon the commission or continued commission of any crime.[9] This offense is ranked

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[1] Section 810.0975(1), F.S.
[2] Section 810.0975(2)(a), F.S.
[3] A second degree misdemeanor is punishable by potentially serving up to 60 days in county jail and paying up to $500 in fines. Sections 775.082 and 775.083, F.S.
[4] Section 810.0975(2)(b), F.S.
[5] Section 810.0975(2)(c), F.S.
[6] Pursuant to s. 874.09, F.S., the Florida Department of Law Enforcement manages a statewide criminal gang database where gang intelligence information is shared among all law enforcement agencies statewide. Information is entered into the database by local law enforcement agencies who, after carrying out any arrest of any individual whom they believe is a member or associate of a criminal gang, may create or update that individual's electronic file within the database.
[7] Sections 874.03, 874.09, 874.04, and 874.05, F.S.
[8] A third degree felony is punishable by potentially serving up to five years in prison and paying up to $5,000 in fines. Sections 775.082 and 775.083, F.S.
[9] Section 874.05(1), F.S.

in Level 4 (22 sentencing points) of the offense severity ranking chart (ranking chart).[10] However, the commission of this crime a second or subsequent time results in a second degree felony penalty,[11] ranked in Level 5 (28 sentencing points) of the ranking chart.

County and Municipal Detention Facilities

Section 951.23, F.S., includes the following as it relates to county and municipal detention facilities: definitions; authorization for an inmate commissary and welfare fund; prohibitions against violating jail rules; and model standards and requirements for sheriffs and chief correctional officers operating county and municipal detention facilities.[12] There is currently no statutory provision addressing gang prevention in a county or municipal detention facility.

Criminal Gang Offenses and the Sentencing Multiplier

Criminal offenses are ranked in the ranking chart from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant's sentence is calculated based on points, which are assigned for factors such as: the offense for which the defendant is being sentenced; victim injury; the defendant's prior record and other aggravating factors. The points are added in order to determine the "lowest permissible sentence" for the offense. The Criminal Punishment Code worksheet, found in s. 921.0024, F.S., is used to compute a defendant's total sentence points.

The Criminal Punishment Code worksheet contains a variety of sentencing multipliers that act to multiply a defendant's sentencing points by a certain number, thereby increasing the defendant's lowest permissible sentence. The worksheet currently contains a criminal gang multiplier that multiplies a defendant's sentence points by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang as prohibited under s. 874.04, F.S.

Section 874.04, F.S., provides that upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang, the penalty for such offense can be enhanced. The statute specifies the extent to which such enhancement can be made and mandates each of the findings required as a basis for such enhancement to be found beyond a reasonable doubt.

As noted above, the criminal gang multiplier in the worksheet multiplies a defendant's sentence points by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang *as prohibited under s. 874.04, F.S.* Section 874.04, F.S., requires the factfinder (i.e., the jury) to find that a defendant committed the offense for such

[10] Criminal offenses are ranked in the "offense severity ranking chart" from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant's sentence is calculated based on points, which are assigned for factors including: the offense for which the defendant is being sentenced; victim injury; the defendant's prior record and other aggravating factors. The points are added in order to determine the "lowest permissible sentence" for the offense. If the total sentence points equals or is less than 44 points, the lowest permissible sentence is a non-state prison sanction (i.e., jail). If the total sentence points exceed 44 points, a prison sentence is the lowest permissible sentence.
[11] Section 874.05(2), F.S. A second degree felony is punishable by potentially serving up to 15 years in prison and paying up to $10,000 in fines. Sections 775.082 and 775.083, F.S.
[12] Section 951.23(1), (4), (9), (10), F.S.

purposes. This limits the instances in which the criminal gang multiplier can be used to those instances in which the jury has made the required finding. If the reference to s. 874.04, F.S., were removed from the multiplier, a *judge* could make the required finding so long as the lowest permissible sentence does not exceed the statutory maximum sentence for the charged offense.[13]

III. Effect of Proposed Changes:

School Safety Zones (Section 1)

The bill enhances criminal penalties from a second degree misdemeanor to a first degree misdemeanor[14] if a person trespasses or remains with no legitimate business to conduct or willfully fails to leave when requested to do so by the principal within a school safety zone and such person has previously been convicted of a gang-related offense under s. 874, F.S.

Criminal Gang Enforcement and Prevention (Section 2)

The bill also enhances criminal penalties for intentionally causing, encouraging, soliciting, or recruiting a person younger than 13 years of age to become a gang member. The penalty goes from a third degree felony to a second degree felony,[15] unless it is the second or subsequent violation. If it is a second or subsequent violation of recruiting a gang member, it becomes a first degree felony[16] rather than a second degree felony under the bill.

County and Municipal Detention Facilities (Section 3)

The bill adds a subsection to s. 951.23, F.S., authorizing a county or municipal detention facility to designate a person to be responsible for assessing whether an inmate is a criminal gang member or associate by using the criteria found in s. 874.03, F.S. (The criteria defines a criminal gang member, a criminal gang associate, and criminal gang-related activity.) The bill also provides that such designated person should at least once every two weeks transmit information on inmates believed to be gang members or associates to the arresting law enforcement agency.

Criminal Gang-Related Offenses and Sentencing Multipliers (Section 6)

The bill amends the criminal gang multiplier in s. 921.0024, F.S., to specify that a defendant's sentence points are multiplied by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang *as defined in s. 874.03, F.S.* As a result, the multiplier will be able to be applied without a finding by the jury that the defendant committed the offense for the purposes of benefitting, promoting, or furthering the interests of a criminal gang so long as the lowest permissible sentence does not exceed the statutory maximum sentence for the offense.

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[13] *See Mathew v. State*, 837 So. 2d 1167 (Fla. 4th DCA 2003); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).
[14] A first degree misdemeanor is punishable by potentially serving up to one year in jail and paying up to $1,000 in fines. Sections 775.082 and 775.083, F.S.
[15] See *supra* note 11.
[16] A first degree felony is punishable by potentially serving up to 30 years in prison and paying up to $10,000 in fines. Sections 775.082 and 775.083, F.S.

Miscellaneous (Section 4&5)

The bill also makes some technical and conforming changes by revising the level 2 screening standards in s. 435.04, F.S., and the Criminal Punishment Code in s. 921.0975, F.S.

Section 7 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Art. VII, s. 18, State Constitution, because it is a criminal law.

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:

Persons who trespass or remain with no legitimate business within a school safety zone and have a prior conviction for a gang-related offense are subject to a first degree misdemeanor penalty (serving up to potentially one year in jail and paying up to $1,000 in fines).

Persons who intentionally recruit someone younger than 13 to become a gang member are subject to a second degree felony (serving up to potentially 15 years in prison and paying up to $10,000 in fines), unless it is a second or subsequent offense. If it is a second or subsequent offense, it becomes a first degree felony, punishable by serving up to potentially 30 years in prison and paying up to $10,000 in fines.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on February 27, 2013, and found that this bill will have an insignificant impact on prison beds.

Enhancing the misdemeanor penalty from a second to a first degree misdemeanor may result in a fiscal impact upon local jails because of increased incarceration.

A local law enforcement agency choosing to designate a person within its county or municipal detention facility to assess gang members may incur some additional expenses, but the bill does not mandate this requirement on any agency.

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 Abruzzo

25-01301-13 2013788__

A bill to be entitled

An act relating to criminal gang prevention; amending s. 810.0975, F.S.; providing enhanced criminal penalties for certain trespassing offenses in school safety zones by a person convicted of certain gang-related offenses; amending s. 874.05, F.S.; providing enhanced criminal penalties for a person who intentionally causes, encourages, solicits, or recruits another person under a specified age to become a criminal gang member in certain circumstances; amending s. 951.23, F.S.; authorizing county and municipal detention facilities to designate an individual to be responsible for assessing whether each inmate is a criminal gang member or associate; providing duties of such individuals; amending ss. 435.04 and 921.0022, F.S.; conforming cross-references and assigning offense severity rankings for violations of s. 874.05, F.S.; amending s. 921.0024, F.S.; revising the criteria for application of the sentencing multiplier for offenses related to criminal gangs; limiting application of the multiplier if application would result in the lowest permissible sentence exceeding the statutory maximum sentence; providing an effective date.

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

Section 1. Section 810.0975, Florida Statutes, is amended to read:

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30 810.0975 School safety zones; definition; trespass
31 prohibited; penalty.—
32 (1) For the purposes of this section, the term "school
33 safety zone" means in, on, or within 500 feet of any real
34 property owned by or leased to any public or private elementary,
35 middle, or high school or school board and used for elementary,
36 middle, or high school education.
37 (2)(a) Each principal or designee of each public or private
38 school in this state shall notify the appropriate law
39 enforcement agency to prohibit any person from loitering in the
40 school safety zone who does not have legitimate business in the
41 school safety zone or any other authorization, or license to
42 enter or remain in the school safety zone or does not otherwise
43 have invitee status in the designated safety zone.
44 (b)1. During the period from 1 hour prior to the start of a
45 school session until 1 hour after the conclusion of a school
46 session, it is unlawful for any person to enter the premises or
47 trespass within a school safety zone or to remain on such
48 premises or within such school safety zone when that person does
49 not have legitimate business in the school safety zone or any
50 other authorization, license, or invitation to enter or remain
51 in the school safety zone.
52 2.a. Except as provided in sub-subparagraph b., a ~~Any~~
53 person who violates this subsection commits a misdemeanor of the
54 second degree, punishable as provided in s. 775.082 or s.
55 775.083.
56 b. A person who violates this subsection and who has been
57 previously convicted of any offense contained in chapter 874
58 commits a misdemeanor of the first degree, punishable as

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59 provided in s. 775.082 or s. 775.083.
60 (c)1. Except as provided in subparagraph 2., a ~~Any~~ person
61 who does not have legitimate business in the school safety zone
62 or any other authorization, license, or invitation to enter or
63 remain in the school safety zone who shall willfully fail to
64 remove himself or herself from the school safety zone after the
65 principal or designee, having a reasonable belief that he or she
66 will commit a crime or is engaged in harassment or intimidation
67 of students entering or leaving school property, requests him or
68 her to leave the school safety zone commits a misdemeanor of the
69 second degree, punishable as provided in s. 775.082 or s.
70 775.083.
71 2. A person who violates subparagraph 1. and who has been
72 previously convicted of any offense contained in chapter 874
73 commits a misdemeanor of the first degree, punishable as
74 provided in s. 775.082 or s. 775.083.
75 (3) ~~Nothing in~~ This section does not ~~shall be construed to~~
76 abridge or infringe upon the right of any person to peaceably
77 assemble and protest.
78 (4)~~(3)~~ This section does not apply to residents or persons
79 engaged in the operation of a licensed commercial business
80 within the school safety zone.
81 Section 2. Section 874.05, Florida Statutes, is amended to
82 read:
83 874.05 Causing, encouraging, soliciting, or recruiting
84 criminal gang membership.—
85 (1)(a) Except as provided in paragraph (b) ~~subsection (2)~~,
86 a person who intentionally causes, encourages, solicits, or
87 recruits another person to become a criminal gang member where a

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88 condition of membership or continued membership is the
89 commission of any crime commits a felony of the third degree,
90 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
91 (b) ~~(2)~~ A person who commits a second or subsequent
92 violation of this subsection commits a felony of the second
93 degree, punishable as provided in s. 775.082, s. 775.083, or s.
94 775.084.
95 (2)(a) Except as provided in paragraph (b), a person who
96 intentionally causes, encourages, solicits, or recruits another
97 person under 13 years of age to become a criminal gang member
98 where a condition of membership or continued membership is the
99 commission of any crime commits a felony of the second degree,
100 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
101 (b) A person who commits a second or subsequent violation
102 of this subsection commits a felony of the first degree,
103 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
104 Section 3. Subsection (11) is added to section 951.23,
105 Florida Statutes, to read:
106 951.23 County and municipal detention facilities;
107 definitions; administration; standards and requirements.—
108 (11) GANG STATUS OF INMATES.—A county or municipal
109 detention facility may designate an individual to be responsible
110 for assessing whether each current inmate is a criminal gang
111 member or associate using the criteria in s. 874.03. The
112 individual should at least once biweekly transmit information on
113 inmates believed to be criminal gang members or associates to
114 the arresting law enforcement agency.
115 Section 4. Paragraph (qq) of subsection (2) of section
116 435.04, Florida Statutes, is amended to read:

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117 435.04 Level 2 screening standards.—
118 (2) The security background investigations under this
119 section must ensure that no persons subject to the provisions of
120 this section have been arrested for and are awaiting final
121 disposition of, have been found guilty of, regardless of
122 adjudication, or entered a plea of nolo contendere or guilty to,
123 or have been adjudicated delinquent and the record has not been
124 sealed or expunged for, any offense prohibited under any of the
125 following provisions of state law or similar law of another
126 jurisdiction:
127 (qq) Section 874.05~~(1)~~, relating to encouraging or
128 recruiting another to join a criminal gang.
129 Section 5. Paragraphs (d), (e), and (g) of subsection (3)
130 of section 921.0022, Florida Statutes, are amended to read:
131 921.0022 Criminal Punishment Code; offense severity ranking
132 chart.—
133 (3) OFFENSE SEVERITY RANKING CHART
134 (d) LEVEL 4
135

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree

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		papers.
499.0051(2)	3rd	Failure to authenticate pedigree papers.
499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.

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784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the

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		Internet; property stolen $300 or more.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.

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843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

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918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.3671(2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another

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		harvester.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.

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790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015(8)	3rd	Retail theft; property stolen is valued at $300 or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or

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		trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more individuals.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.

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219

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

220

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

221

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

222

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

223

843.01	3rd	Resist officer with violence to person; resist arrest with violence.

224

847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.

225

847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.

226

847.0138	3rd	Transmission of material harmful to

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(2) & (3)		minors to a minor by electronic device or equipment.
874.05(1)(b) ~~874.05(2)~~	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting a person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b),

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

(g) LEVEL 7

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Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.

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247
456.065(2) 3rd Practicing a health care profession without a license.
248
456.065(2) 2nd Practicing a health care profession without a license which results in serious bodily injury.
249
458.327(1) 3rd Practicing medicine without a license.
250
459.013(1) 3rd Practicing osteopathic medicine without a license.
251
460.411(1) 3rd Practicing chiropractic medicine without a license.
252
461.012(1) 3rd Practicing podiatric medicine without a license.
253
462.17 3rd Practicing naturopathy without a license.
254
463.015(1) 3rd Practicing optometry without a license.
255
464.016(1) 3rd Practicing nursing without a license.
256
465.015(2) 3rd Practicing pharmacy without a license.
257
466.026(1) 3rd Practicing dentistry or dental hygiene

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		without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.

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266

560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.

267

655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.

268

775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

269

775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.

270

775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

271

782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

272

782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

273

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782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent

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		predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver

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		hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender

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		less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd

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		degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value

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		$100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.

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322

838.016	2nd	Unlawful compensation or reward for official behavior.

323

838.021(3)(a)	2nd	Unlawful harm to a public servant.

324

838.22	2nd	Bid tampering.

325

847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

326

847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

327

872.06	2nd	Abuse of a dead human body.

328

874.05(2)(b)	1st	Encouraging or recruiting a person under 13 years of age to join a criminal gang; second or subsequent offense.

329

874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

330

331

893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s.

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		893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

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338

893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.

339

893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

340

893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

341

893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

342

893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

343

893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

344

893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.

345

896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.

346

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896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.

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354

944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.

355
356
357
358
359
360
361 Section 6. Paragraph (b) of subsection (1) of section
362 921.0024, Florida Statutes, is amended to read:
363 921.0024 Criminal Punishment Code; worksheet computations;
364 scoresheets.—
365 (1)
366 (b) WORKSHEET KEY:
367
368 Legal status points are assessed when any form of legal status

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369 existed at the time the offender committed an offense before the
370 court for sentencing. Four (4) sentence points are assessed for
371 an offender's legal status.
372
373 Community sanction violation points are assessed when a
374 community sanction violation is before the court for sentencing.
375 Six (6) sentence points are assessed for each community sanction
376 violation and each successive community sanction violation,
377 unless any of the following apply:
378 1. If the community sanction violation includes a new
379 felony conviction before the sentencing court, twelve (12)
380 community sanction violation points are assessed for the
381 violation, and for each successive community sanction violation
382 involving a new felony conviction.
383 2. If the community sanction violation is committed by a
384 violent felony offender of special concern as defined in s.
385 948.06:
386 a. Twelve (12) community sanction violation points are
387 assessed for the violation and for each successive violation of
388 felony probation or community control where:
389 (I) The violation does not include a new felony conviction;
390 and
391 (II) The community sanction violation is not based solely
392 on the probationer or offender's failure to pay costs or fines
393 or make restitution payments.
394 b. Twenty-four (24) community sanction violation points are
395 assessed for the violation and for each successive violation of
396 felony probation or community control where the violation
397 includes a new felony conviction.

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398

399 Multiple counts of community sanction violations before the
400 sentencing court shall not be a basis for multiplying the
401 assessment of community sanction violation points.
402
403 Prior serious felony points: If the offender has a primary
404 offense or any additional offense ranked in level 8, level 9, or
405 level 10, and one or more prior serious felonies, a single
406 assessment of thirty (30) points shall be added. For purposes of
407 this section, a prior serious felony is an offense in the
408 offender’s prior record that is ranked in level 8, level 9, or
409 level 10 under s. 921.0022 or s. 921.0023 and for which the
410 offender is serving a sentence of confinement, supervision, or
411 other sanction or for which the offender’s date of release from
412 confinement, supervision, or other sanction, whichever is later,
413 is within 3 years before the date the primary offense or any
414 additional offense was committed.
415
416 Prior capital felony points: If the offender has one or more
417 prior capital felonies in the offender’s criminal record, points
418 shall be added to the subtotal sentence points of the offender
419 equal to twice the number of points the offender receives for
420 the primary offense and any additional offense. A prior capital
421 felony in the offender’s criminal record is a previous capital
422 felony offense for which the offender has entered a plea of nolo
423 contendere or guilty or has been found guilty; or a felony in
424 another jurisdiction which is a capital felony in that
425 jurisdiction, or would be a capital felony if the offense were
426 committed in this state.

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427

428 Possession of a firearm, semiautomatic firearm, or machine gun:
429 If the offender is convicted of committing or attempting to
430 commit any felony other than those enumerated in s. 775.087(2)
431 while having in his or her possession: a firearm as defined in
432 s. 790.001(6), an additional eighteen (18) sentence points are
433 assessed; or if the offender is convicted of committing or
434 attempting to commit any felony other than those enumerated in
435 s. 775.087(3) while having in his or her possession a
436 semiautomatic firearm as defined in s. 775.087(3) or a machine
437 gun as defined in s. 790.001(9), an additional twenty-five (25)
438 sentence points are assessed.
439
440 Sentencing multipliers:
441
442 Drug trafficking: If the primary offense is drug trafficking
443 under s. 893.135, the subtotal sentence points are multiplied,
444 at the discretion of the court, for a level 7 or level 8
445 offense, by 1.5. The state attorney may move the sentencing
446 court to reduce or suspend the sentence of a person convicted of
447 a level 7 or level 8 offense, if the offender provides
448 substantial assistance as described in s. 893.135(4).
449
450 Law enforcement protection: If the primary offense is a
451 violation of the Law Enforcement Protection Act under s.
452 775.0823(2), (3), or (4), the subtotal sentence points are
453 multiplied by 2.5. If the primary offense is a violation of s.
454 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
455 are multiplied by 2.0. If the primary offense is a violation of

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456 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
457 Protection Act under s. 775.0823(10) or (11), the subtotal
458 sentence points are multiplied by 1.5.
459
460 Grand theft of a motor vehicle: If the primary offense is grand
461 theft of the third degree involving a motor vehicle and in the
462 offender's prior record, there are three or more grand thefts of
463 the third degree involving a motor vehicle, the subtotal
464 sentence points are multiplied by 1.5.
465
466 Offense related to a criminal gang: If the offender is convicted
467 of the primary offense and committed that offense for the
468 purpose of benefiting, promoting, or furthering the interests of
469 a criminal gang as defined in s. 874.03 ~~prohibited under s.~~
470 ~~874.04~~, the subtotal sentence points are multiplied by 1.5. If
471 applying the multiplier results in the lowest permissible
472 sentence exceeding the statutory maximum sentence for the
473 primary offense under chapter 775, the court may not apply the
474 multiplier and must sentence the defendant to the statutory
475 maximum sentence.
476
477 Domestic violence in the presence of a child: If the offender is
478 convicted of the primary offense and the primary offense is a
479 crime of domestic violence, as defined in s. 741.28, which was
480 committed in the presence of a child under 16 years of age who
481 is a family or household member as defined in s. 741.28(3) with
482 the victim or perpetrator, the subtotal sentence points are
483 multiplied by 1.5.
484 Section 7. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 12th, 2013

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

Dear Chair Simpson:

I respectfully request that Senate Bill 788, relating to Criminal Gang Prevention, be placed on the Community Affairs agenda. This legislation includes key components to prevent gang recruitment and activity.

Thank you for your consideration. Please let me know if I can provide further information.

Sincerely,

Senator Joseph Abruzzo

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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 1718

INTRODUCER: Community Affairs Committee; and Senator Flores and others

SUBJECT: Discretionary Sales Surtaxes

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			ED	
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 1718 authorizes a new discretionary sales surtax known as the Florida College Surtax. Under the bill, a county as defined in section 125.011(1), Florida Statutes, may levy a voter-approved discretionary sales surtax of up to 0.5 percent for the benefit of a Florida College System institution. The bill also establishes procedures and requirements for surtax deposits, investments and usage. An independent oversight board approves college funding allocation plans. Any approved surtax expires after 5 years.

This bill amends section 212.055 of the Florida Statutes.

II. Present Situation:

Local Discretionary Sales Surtax

A "surtax" is an extra tax or charge.[1] Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.

[1] Black's Law Dictionary (9th ed., 2009), tax.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions and on communications services, defined in ch. 202, F.S.[2] The eight surtaxes are:

- the charter county and regional transportation system surtax,
- the local government infrastructure surtax,
- the small county surtax,
- the county public hospital surtax,
- the school capital outlay surtax,
- the voter-approved indigent care surtax,
- the emergency fire rescue services, and
- the facilities surtax.

The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S. Currently, the maximum surtax actually imposed is 1.5 percent in several counties;[3] however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county. In general, the levy of a particular tax is subject to county voter approval.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state tax. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. The surtax does not apply to a sales amount above $5,000 on any item of tangible personal property. This $5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

Miami-Dade currently imposes two local discretionary surtaxes: the Charter County Transit System Surtax at a 0.5 percent rate and the County Public Hospital Surtax at a 0.5 percent rate.[4]

Postsecondary Educational Institutions

Section 1000.21, F.S., provides system-wide definitions as used in the Florida K-20 Education Code. There are 28 postsecondary educational institutions in the Florida College System designated as Florida College System institutions.[5] Among them is Miami Dade College, which serves Miami-Dade County.

The term "State university" includes the following institutions:

---

[2] The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

[3] See Florida Department of Revenue, *Discretionary Sales Surtax Information: Calendar Year 2013, available at* http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf (last visited Mar. 15, 2013).

[4] Florida Department of Revenue, History of Local Sales Tax and Current Rates by County (last updated January 1, 2013) *available at* https://revenuelaw.state.fl.us/LawLibraryDocuments/2012/12/OTH-111189_History%20of%20sales%20tax,%201-01-13.pdf#search.

[5] Prior to the 2011, these institutions were known as "Florida colleges" or "community colleges." See Chapter 2011-5, s. 7, Laws of Fla.

- The University of Florida;
- The Florida State University;
- The Florida Agricultural and Mechanical University;
- The University of South Florida;
- The Florida Atlantic University;
- The University of West Florida;
- The University of Central Florida;
- The University of North Florida;
- The Florida International University;
- The Florida Gulf Coast University;
- New College of Florida; and
- The Florida Polytechnic University.[6]

Home-Rule Charter Counties

Section 125.011(1), F.S., defines a county as:

> . . . any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, if the county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county.

The local governments authorized to operate under a home rule charter in the State Constitutions of 1885 and 1968 are the city of Key West and Monroe County, Dade County, and Hillsborough County. Of these, only Miami-Dade County operates under a home-rule charter, which was adopted under this constitutional provision on May 21, 1957. In the future, it would be possible for Key West/Monroe County and Hillsborough County to adopt charters under the authorization in the Constitution. To do so, the city of Key West and Monroe County would have to consolidate and adopt a home-rule charter. Hillsborough County would have to abolish the charter it adopted in 1985 under the Optional Charter County Law in Part IV of ch. 125, F.S., and adopt in its place a charter as authorized under the Constitution.[7]

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F.S., to add a ninth discretionary sales surtax, known as the Florida College Surtax, authorizing a county as defined in s. 125.011(1), F.S., to levy up to 0.5 percent for the benefit of a Florida College System institution (institution) located in the county. The surtax requires an ordinance conditioned upon approval by a majority of county electors voting in a referendum.

The ordinance must outline a plan for permissible uses of surtax proceeds developed by the institution's board of trustees. Proceeds must be set aside and invested as permitted by law, with

[6] Section 1000.21(6), F.S.
[7] This discussion is drawn from Florida Senate Policy and Steering Committee on Ways and Means, *CS/SB 1576 Analysis: Discretionary Sales Surtax* (April 10, 2009) (on file with the Senate Committee on Community Affairs).

the principal and income used for purposes including but not limited to academic workforce training programs, capital expenditures and infrastructure projects, and campus fixed capital costs.

The expense of a referendum called for by the institution can only be paid with private source or college auxiliary funds and any referendum must be preceded by 30 days' notice. Referendum ballot guidelines are specified and include a question format currently utilized for other discretionary surtax referenda. Proceeds from the surtax must be deposited into a Florida Prime[8] account managed by the Florida State Board of Administration.

Upon approval of a referendum, an independent oversight review board is charged with approving surtax proceeds expenditures. All expenditures must be outlined by the institution in an annual allocation spending plan. Various appointments to the seven-member board are made by the trustees of the institution, the county legislative delegation, the Greater Miami Chamber of Commerce, the United Way of Miami-Dade County and the Beacon Council.[9] Oversight board member terms are four years in length.

An institution's annual apportionment of state funds may not be reduced because the institution has received Florida College Surtax funds. Any discretionary sales surtax approved by voters expires after 5 years.

Section 2 provides that the bill takes 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.

D. Other Constitutional Issues:

This bill may be constitutionally challenged under Art. III, s. 11(a)(2), State Constitution, by alleging that the proposed legislation is a special law or general law of local application relating to taxes. Art. III, s. 11(a)(2), State Constitution, prohibits a special law or general law of local application pertaining to the assessment or collection of taxes. Pursuant to Art. VII, s. 9(a), State Constitution, counties may levy non-ad valorem taxes as authorized under general law.

[8] Florida Prime is the state's Local Government Surplus Funds Trust Fund.
[9] Beacon Council is Miami-Dade County's official economic development partnership.

The courts have defined a general law to mean "[a] statute relating to subdivisions of the state or to subjects, persons or things of a class, based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the classification."[10] A general law may contain classifications, and the legislature has wide discretion in making such classifications, if they are reasonable.[11] In order for a classification to meet the requirements of a general law, the classification: (1) may not be simply a descriptive technique used to identify particular subdivisions to which the statute applies, (2) must operate uniformly among similar situated subdivisions, and (3) may not be arbitrary.[12] When a classification is made by the Legislature in the enactment of general laws, the presumption is in favor of the classification's reasonableness.[13]

This bill authorizes counties, as defined in s. 125.011(1), F.S., to levy a non-ad valorem surtax under certain circumstances. Three counties are potentially eligible to levy the bill's newly created surtax in the future; however, only Miami-Dade County is currently eligible to levy the surtax. In *Metropolitan Dade County v. Golden Nugget Group*, the court found, in pertinent part, that an act, which authorized counties, as defined in s. 125.011(1), F.S., to levy a convention development tax on specified rentals or leases, was not a general law of local application notwithstanding that only Miami Dade County was authorized to levy the tax.[14] Similarly, this bill defines authorized counties in a manner that is identical to the classification scheme upheld in *Metropolitan Dade County v. Golden Nugget Group*. However, the court noted in that case that the classification was reasonable because the affected counties each have substantial tourist-oriented economies and the tax's purpose was to construct or improve convention centers for promoting tourism.[15] Accordingly, the court has not addressed whether the classification based on a home-rule charter was an impermissible closed class because it potentially applied to only three counties.[16]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The sales tax would increase in Miami-Dade County if the county approves an ordinance and Miami-Dade County voters approve the ordinance.

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[10] *See Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515, 519 (Fla. 3rd DCA 1984), *aff'd*, 464 So. 2d 535 (Fla. 1985).
[11] *Id.*
[12] *See City of Miami v. McGrath*, 824 So. 2d 143, 150-151 (Fla. 2002).
[13] *See Metropolitan Dade County*, *supra* note 1, at 519.
[14] *See id* at 19-20.
[15] *See Golden Nugget Group v. Metropolitan Dade County*, 464 So. 2d 535, 537 (Fla. 1985).
[16] *City of Miami v. McGrath*, 824 So. 2d at 152.

C. Government Sector Impact:

Miami Dade College would be the recipient of sales surtax proceeds if the county approves an ordinance and Miami-Dade County voters approve the ordinance.

VI. Technical Deficiencies:

To address Department of Revenue (DOR) implementation concerns (see Related Issues section) the department recommended replacing line 85 of the bill with the following:[17]

> surtax must be *transferred* by the Department of Revenue into a

VII. Related Issues:

According to a DOR analysis of the bill, the department cannot make deposits directly into a Florida Prime Account.[18] Instead, DOR would have to generate a check to the State Board of Administration for these proceeds. A possible remedy for this issue is provided in the Technical Deficiencies section.

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 20, 2013:

- Removes student scholarships and financial aid and land acquisition from the stated permissible uses of surtax funds.
- Revises who appoints the oversight board.
- Reduces board terms of service to 4 years.
- Limits the surtax to a length of 5 years.

B. Amendments:

None.

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

[17] Florida Department of Revenue, 2013 Bill Analysis, *SB 1718: Discretionary Sales Surtaxes* (Mar.8, 2013) *available at* http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=1383 (last visited Mar. 15, 2013).
[18] *Id.*

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LEGISLATIVE ACTION

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

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 54 - 134
4 and insert:
5 enhancements; capital expenditures and infrastructure projects;
6 fixed capital costs associated with the construction,
7 reconstruction, renovation, maintenance, or improvement of
8 facilities and campuses that have a useful life expectancy of at
9 least 5 years; deferred maintenance; land improvement, design,
10 and engineering costs related thereto; and the expansion and
11 enhancement of facilities at all institution sites within the
12 county. The proceeds of the surtax must be set aside and

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13 invested as permitted by law, with the principal and income to
14 be used for the purposes listed in this subsection as
15 administered by the board of trustees.
16 (b) If the county, at the request of a Florida College
17 System institution in the county, calls for a referendum, the
18 expense of holding the referendum may not be paid with student
19 fees or moneys that the institution receives from the state, but
20 shall be paid only with funds received from private sources or
21 with college auxiliary funds. The county shall provide at least
22 30 days' notice of the election as provided under s. 100.342.
23 (c) The referendum providing for the imposition of the
24 surtax must include a statement that provides a brief and
25 general description of the purposes for which the proceeds of
26 the surtax may be used, conform to the requirements of s.
27 101.161, and be placed on the ballot by the governing body of
28 the county. The following questions shall be placed on the
29 ballot:
30
31 FOR THE. . . .CENTS TAX
32 AGAINST THE. . . .CENTS TAX
33
34 (d) Upon approval of the referendum, proceeds from the
35 surtax must be deposited by the Department of Revenue into a
36 Florida Prime account managed by the Florida State Board of
37 Administration and used only for the operation, maintenance, and
38 administration of the Florida College System institution within
39 that county.
40 (e) Upon approval of the referendum, an oversight board
41 shall be established to review, accept, or amend expenditures of

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42 the proceeds of the surtax and to review the plan prepared by
43 the board of trustees pursuant to paragraph (f). Annually, or as
44 needed, the oversight board shall meet to approve the proposed
45 spending plan.
46 1. The board shall be composed of seven members who are
47 residents of the county and appointed as follows:
48 a. Two members appointed by the board of trustees of the
49 Florida College System institution, who may not be members of
50 the board of trustees.
51 b. Two members appointed by the chair of the county
52 legislative delegation.
53 c. One member appointed by the board of directors of the
54 Greater Miami Chamber of Commerce.
55 d. One member appointed by the board of directors of the
56 United Way of Miami-Dade County, who must be a member of the
57 board of directors.
58 e. One member appointed by the Beacon Council, Miami-Dade
59 County's official economic development partnership.
60 2. Initial appointments to the oversight board shall be
61 made by the respective entities within 60 days after the passage
62 of the referendum. Each member shall be appointed for a 4-year
63 term. A vacancy on the board shall be filled for the unexpired
64 portion of the term in the same manner as the original
65 appointment. A member appointed to fill a vacancy may not serve
66 for more than the remaining portion of the unexpired term.
67 (f) Consistent with the purposes stated in the plan
68 included in the ordinance under paragraph (a), the board of
69 trustees of the Florida College System institution shall
70 annually prepare a plan that specifies how the board of trustees

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71 intends to allocate and expend the funds for the institution's
72 upcoming fiscal year and submit such plan to the oversight board
73 for approval.
74 (g) The annual apportionment of state funds for the support
75 of a Florida College System institution allocated under general
76 law may not be reduced because the institution has received
77 funds pursuant to a sales surtax levied under this subsection.
78 (h) A surtax imposed under this subsection expires 5 years
79 after the effective date of the surtax.
80
81 ========== T I T L E A M E N D M E N T ==========
82 And the title is amended as follows:
83 Delete lines 22 - 23
84 and insert:
85 surtax; providing an effective date.

By Senator Flores

37-01000C-13 20131718__

A bill to be entitled

An act relating to discretionary sales surtaxes; amending s. 212.055, F.S.; authorizing a county defined in s. 125.011(1), F.S., to levy a surtax up to a specified amount for the benefit of a Florida College System institution in the county pursuant to an ordinance conditioned to take effect upon approval in a county referendum; requiring the ordinance to include a plan for the use of the proceeds; providing referendum requirements and procedures; requiring that the proceeds from the surtax be deposited and managed in a specified manner; establishing an oversight board with specified duties, responsibilities, and procedures relating to the expenditure of surtax proceeds; providing for the appointment of members of the oversight board; requiring that the board of trustees of a college receiving surtax proceeds prepare an annual plan for submission to the oversight board for approval; providing that state funding may not be reduced because an institution receives surtax funds; providing for the scheduled expiration of the surtax unless reenacted by an ordinance approved at a subsequent referendum; providing an effective date.

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

Section 1. Subsection (9) is added to section 212.055, Florida Statutes, to read:

212.055 Discretionary sales surtaxes; legislative intent;

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

30 authorization and use of proceeds.—It is the legislative intent
31 that any authorization for imposition of a discretionary sales
32 surtax shall be published in the Florida Statutes as a
33 subsection of this section, irrespective of the duration of the
34 levy. Each enactment shall specify the types of counties
35 authorized to levy; the rate or rates which may be imposed; the
36 maximum length of time the surtax may be imposed, if any; the
37 procedure which must be followed to secure voter approval, if
38 required; the purpose for which the proceeds may be expended;
39 and such other requirements as the Legislature may provide.
40 Taxable transactions and administrative procedures shall be as
41 provided in s. 212.054.
42 (9) FLORIDA COLLEGE SURTAX.—A county as defined in s.
43 125.011(1) may levy a surtax of up to 0.5 percent for the
44 benefit of a Florida College System institution as defined in s.
45 1000.21, located in the county, pursuant to an ordinance that is
46 conditioned to take effect only upon approval by a majority vote
47 of the electors of the county voting in a referendum.
48 (a) The ordinance must set forth a plan for using the
49 surtax proceeds for the benefit of the Florida College System
50 institution by the institution's board of trustees. Such plan
51 must provide for the permissible uses of the surtax proceeds,
52 including, but not limited to, the maintenance, improvement, and
53 expansion of academic and workforce training programs; teaching
54 enhancements; student scholarships and other financial aid;
55 capital expenditures and infrastructure projects; fixed capital
56 costs associated with the construction, reconstruction,
57 renovation, maintenance, or improvement of facilities and
58 campuses that have a useful life expectancy of at least 5 years;

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

59 deferred maintenance; land acquisition, land improvement,
60 design, and engineering costs related thereto; and the expansion
61 and enhancement of services, programs, and facilities at all
62 institution sites within the county. The proceeds of the surtax
63 must be set aside and invested as permitted by law, with the
64 principal and income to be used for the purposes listed in this
65 subsection as administered by the board of trustees.
66 (b) If the county, at the request of a Florida College
67 System institution in the county, calls for a referendum, the
68 expense of holding the referendum may not be paid with student
69 fees or moneys that the institution receives from the state, but
70 shall be paid only with funds received from private sources or
71 with college auxiliary funds. The county must provide at least
72 30 days' notice of the election as provided under s. 100.342.
73 (c) The referendum providing for the imposition of the
74 surtax shall include a statement that provides a brief and
75 general description of the purposes for which the proceeds of
76 the surtax may be used, conform to the requirements of s.
77 101.161, and be placed on the ballot by the governing body of
78 the county. The following questions shall be placed on the
79 ballot:
80
81 FOR THE. . . .CENTS TAX
82 AGAINST THE. . . .CENTS TAX
83
84 (d) Upon approval of the referendum, proceeds from the
85 surtax must be deposited by the Department of Revenue into a
86 Florida Prime account managed by the Florida State Board of
87 Administration and used only for the operation, maintenance, and

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

88 administration of the Florida College System institution within
89 that county.
90 (e) Upon approval of the referendum, an oversight board
91 shall be established to review and provide guidance,
92 transparency, and accountability for the expenditure of the
93 proceeds of the surtax and to review the plan prepared by the
94 board of trustees pursuant to paragraph (f). Annually, the
95 oversight board may approve the proposed spending plan or may
96 disapprove elements of the spending plan and request the board
97 of trustees of the Florida College System institution to make
98 specific changes and resubmit to the oversight board for
99 reconsideration and approval. Decisions by the oversight board
100 regarding approval of plans to spend funds derived from the
101 proceeds of the surtax must be adopted by a super majority of
102 the board's members.
103 1. The board shall be composed of seven members who are
104 residents of the county and appointed as follows:
105 a. Two members appointed by the President of the Senate.
106 b. Two members appointed by the Speaker of the House of
107 Representatives.
108 c. Two members appointed by the board of trustees of the
109 Florida College System institution.
110 d. One member appointed by the chair of the county
111 legislative delegation.
112 2. Initial appointments to the oversight board shall be
113 made by the respective entities within 60 days after the passage
114 of the referendum. Each member shall be appointed for a 4-year
115 term. A vacancy on the board shall be filled for the unexpired
116 portion of the term in the same manner as the original

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

117 appointment. No member may serve for more than the remaining
118 portion of a previous member's unexpired term, plus two
119 consecutive 4-year terms.
120 (f) Consistent with the purposes set forth in the plan
121 included in the ordinance under paragraph (a), the board of
122 trustees of the Florida College System institution shall
123 annually prepare a plan that specifies how the board of trustees
124 intends to allocate and expend the funds for the institution's
125 upcoming fiscal year and submit such plan to the oversight board
126 for approval.
127 (g) The annual apportionment of state funds for the support
128 of a Florida College System institution allocated under general
129 law may not be reduced because the institution has received
130 funds pursuant to a sales surtax levied under this subsection.
131 (h) A surtax imposed under this subsection expires 10 years
132 after the effective date of the surtax unless reenacted by an
133 ordinance that is subject to approval by a majority of the
134 electors of the county voting in a subsequent referendum.
135 Section 2. This act shall take effect upon becoming a law.

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

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 12, 2013

I respectfully request that **Senate Bill #1718**, relating to Discretionary Sales Surtax, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Local Referendum

Bill Number: 1718 (if applicable)

Name: Dr. Eduardo Padron

Amendment Barcode: _____ (if applicable)

Job Title: President Miami Dade College

Address: 300 NE 2 Ave (Street)

Phone: 305-237-3404

Miami FL 33132 (City, State, Zip)

E-mail: _____

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

Representing: MIAMI DADE COLLEGE

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

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

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

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

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/CS/SB 1382

INTRODUCER: Community Affairs Committee; Ethics and Elections Committee; and Senator Latvala

SUBJECT: Campaign Finance

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
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/CS/SB 1382 is a multipurpose campaign finance bill with the following major provisions:

- Eliminates committees of continuous existence (CCE) and provides for an orderly transition process through de-certification on September 30, 2013; however, the bill retains the $250 aggregate reporting limit for former CCEs reporting "multiple uniform contributions" (formerly "member dues") as a political committee (PC).
- Removes the "3-pack" exemption that allows PCs to run political advertisements jointly endorsing 3 or more candidates outside the scope of the contribution limits in Chapter 106.
- Provides for unlimited contributions to PCs supporting/opposing candidates, in lieu of the current $500/election limit.
- Returns individual candidate contribution limits per election from a flat $500 to a *tiered* system, similar to the one in place prior to 1992 ($3,000, statewide and Supreme Court; $2,000, DCA judges; $500, all others — including legislative).
- Authorizes *county* political party executive committees to contribute an aggregate of $50,000 to each *non-statewide* candidate, in addition to the aggregate limit of $50,000 for *all* other political party contributions.
- Limits political party turn backs from candidate surplus funds to $25,000.

- Increases the frequency of campaign finance reporting.
- Requires persons seeking a publicly-elected political party executive committee position *who receive contributions or make expenditures* to file *a single* campaign finance report on the Friday immediately preceding the primary election.
- Prohibits candidates who switch races from "double-dipping" contributors for maximum contributions in *both* races.
- Increases the amount certain successful candidates can contribute to an office account, and expands the permissible uses of such funds.
- Allows a successful state candidate to retain up to $20,000 of campaign funds for reelection.
- Incorporates the PC expenditure ban from CS/SB 2 into Chapter 106, by limiting the permissible type of expenditures and authorizing a personal treble civil penalty for violations.
- Removes the requirement for petition candidates to pay a deferred 1 percent election assessment before disposing of surplus funds, transferring funds to an office account, or rolling over funds for reelection.
- Reinstates sponsorship identification disclaimers for campaign fund raiser tickets and advertising.
- Modifies the titling of campaign depositories and associated checks and debit cards.

This bill creates numbered and unnumbered sections, republishes sections, makes technical and cross-referencing changes to sections, repeals s. 106.04, and substantively amends the following sections of the Florida Statutes: 106.011, 106.021, 106.025, 106.07, 106.0703, 106.08, 106.11, 106.141, 106.29.

II. Present Situation:

The present situation is discussed below in **Effect of Proposed Changes** in this bill analysis.

III. Effect of Proposed Changes:

Elimination of Committees of Continuous Existence (CCEs)

Current Situation

CCEs were created in Florida law in 1973.[1] A CCE is a group, organization, association, or other such entity that is involved in making contributions to candidates, PCs, electioneering communications organizations (ECOs), other CCEs, or political parties.[2]

A CCE must register with the Division of Elections and provide a copy of its bylaws and membership dues structure. It must report contributions and expenditures on the same schedule as a comparable political committee, though there are some differences in how certain items are reported.[3] A CCE is statutorily prohibited from making independent expenditures or

[1] Ch. 73-128, § 6, LAWS OF FLA.
[2] § 106.04(1), F.S.
[3] For example, CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than $250 per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members. § 106.04(4)(c)1., F.S.

electioneering communications, though it may contribute to an electioneering communications organization.

CCEs amass funds through dues collected from a membership base, which, in turn enables a CCE to collect additional contributions without limitation as to individual amount, *provided at least 25 percent of the CCE's overall income is attributable to member dues*. Thus, the more money a CCE receives in member dues the more it can collect in non-member contributions, thereby enhancing its so-called political "clout."

Due to its membership structure, CCEs have historically been the permanent, ongoing campaign finance vehicle of choice for *groups* and *organizations*. In the early to mid 2000s, Florida saw the emergence of "elected officer" CCEs, CCEs created and controlled by *individual* public officials or legislators. Public officers establishing these CCEs have reportedly used funds for a variety of purposes, including funding future legislative leadership battles and, in some of the worst-reported recent cases, wining and dining colleagues on a regular basis or paying for personal expenses of the individual legislator and/or friends, family, and colleagues (sometimes colloquially referred to as "living out of your CCE").

Effect of Proposed Changes **(Sections 1-2)**

CS/CS/SB 1382 eliminates CCEs, and provides for an orderly transition process.

As of August 1, 2013, CCEs are no longer allowed to accept contributions; on September 30, 2013, all CCE certifications are revoked by operation of law. Before revocation, CCEs must disburse all funds as currently authorized by law. In order to provide sufficient notice to CCEs in advance of revocation, the Division of Elections is required to notify CCEs of the new laws by July 15, 2013. Even though CCE certifications are revoked on September 30, 2013, CCEs must still file required campaign finance reports, including the quarterly report due by October 10 for the third quarter of 2013. PCs or ECOs established, maintained, or controlled by the same person or group as the de-certified CCE that also received funds from the CCE are liable for any ch. 106, F.S., penalty or fine incurred or payable by the defunct CCE after September 30; in the absence of any such organization, the officers of the former CCE are jointly and severally liable.

The following table describes the current law and the effect of the bill's proposed changes:

Committees of Continuous Existence		
	Current Law[4]	**Effect of Proposed Changes**
Political Purpose	To make contributions to candidates, political committees, political parties, CCEs, or ECOs.[5]	This bill
Limits on Contributions ***to*** a CCE	There are no limits, *provided* at least 25 percent of the CCE's income, excluding interest, comes from member dues.	

[4] §106.04, F.S.
[5] CCE-to-CCE contributions and contributions from CCEs to ECOs are authorized pursuant to s. 106.011(3)(b), F.S., which defines the term "contribution" to include transfers of funds between these entities.

Limits on Contributions ***made by*** a CCE	•$500, to each candidate or political committee supporting *candidates*.[6] •Unlimited, for contributions to ECOs, CCEs, or political parties. •Unlimited, for contributions to political committees supporting or opposing ballot *issues*, *provided* such contributions aggregate to no more than 25 percent of the CCE's annual income for the prior year.[7]	eliminates CCEs.
Permissible and Prohibited Activities	•May contribute to candidates, ECOs, CCEs, political committees, and political parties. •May not make direct electioneering communications or independent expenditures. •In order to directly support or oppose an issue, a CCE must register as a political committee.	

Frequency of Committee Campaign Finance Reports

Present Situation

Pursuant to s. 106.011(16), F.S., individuals running for a political party executive committee position are specifically excluded from the definition of the word "candidate" for Chapter 106 purposes, and as such are not required to file campaign finance reports.

PCs, ECOs, CCEs, and most other candidates are required to file periodic campaign finance reports consisting principally of contributions received and expenditures made. CCEs, however, are not required to provide a detailed list of members paying dues so long as each member pays no more than $250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.[8]

Except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of *each calendar quarter* from the time a campaign treasurer is appointed.[9] Quarterly reports must include all contributions received and expenditures made during the quarter. In an election year, reports must also be filed every other week on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions must file weekly reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election. In addition, there are different filing requirements during special elections.

State and county executive committees of a political party and Affiliated Party Committees (APCs) are *only* required to file periodic reports of contributions received and expenditures made on a quarterly basis and on the Friday (4th day) immediately preceding a special primary, primary, special general or general election.[10]

Although all final campaign finance reports are due on the Friday (4th day) immediately preceding an election, ECOs and CCEs can raise contributions and spend those contributions

[6] § 106.08(1), F.S.
[7] § 106.04(1)(b), F.S.
[8] § 106.04(4)(c)1., F.S.
[9] §§ 106.04(4)(b)1.; 106.07(1); 106.0703(1), F.S. Quarterly reports are due on the 10th day after the quarter, unless the 10th day is a Saturday, Sunday, or legal holiday, in which case the report is due on the next business day.
[10] § 106.29(1), F.S.

right up to and including election day; only candidates,[11] political committees,[12] and political parties[13] are prohibited from obligating or expending contributions raised in the 5 days before an election for *that* upcoming election.[14]

Reports are filed either with the Division of Elections or a local filing officer, typically the county Supervisor of Elections, as follows:

- *Candidates*: Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections do so through the Electronic Filing System.
- *Political Committees*: Reports are electronically filed with the Division of Elections if the PC supports or opposes statewide, legislative, or multicounty candidates or issues; reports are filed with the county supervisor of elections if the PC supports or opposes solely candidates or issues in a countywide or less than a countywide election, or if a municipality contracts with the supervisor to run the city's elections (common).
- *Committees of Continuous Existence*: Reports are filed electronically with the Division of Elections.
- *Electioneering Communications Organizations*: Reports are electronically filed with the Division of Elections if the ECO's communications involve statewide, legislative, or multicounty candidates; reports are filed with the county supervisor of elections if the ECO's communications involve solely candidates or issues in a countywide or less than a countywide election, or if a municipality contracts with the supervisor to run the city's elections (common).
- *Political Party Executive Committees/APCs*: *State* political party executive committees and APC must file electronically with the Division of Elections; *county* political party executive committees file with the county Supervisor of Elections.

Reports filed with the Division of Elections are submitted electronically, while reports filed at the local level are typically filed on paper forms.

Effect of Proposed Changes **(Sections 9-11, 16)**

For <u>statewide candidates and committees that file electronically with the Division of Elections</u> (state political party executive committees and APCs, certain PCs and ECOs), the bill mandates:

- ***Monthly*** campaign finance reports until the 60th day before the primary (7 days after qualifying ends in June for most non-federal candidates);
- ***Weekly*** reports beginning on the 60th day before the primary, with the last weekly report due on the 11th day before the general election; and,

[11] § 106.08(3)(a), F.S.
[12] § 106.08(4), F.S.
[13] § 106.29(4), F.S.
[14] Candidates are required to return the contribution; political committees and political parties can retain the contribution for use in future elections. §§ 106.08(3)(a), (4); 106.29(4), F.S. *But see*, *Worley v. Detzner*, No.4:10-cv-00423-RH-CAS, at pp. 14-17 (N.D. Fla., July 2, 2012) (enjoining on First Amendment grounds the statutory prohibition barring a political committee from using contributions received in the last 5 days before an election provided, *before the contribution is spent, the committee fully discloses the contribution in an <u>electronic</u> filing with the Division*).

- ***Daily*** reports beginning on the 10th day before the general election, with the last report due on the ***4th day before*** the general election (last report for ECOs is due on the *day before* the general election).

For all other candidates reporting pursuant to Chapter 106 and local committees (county political party executive committees and PCs/ ECOs that file reports with a supervisor of elections or municipal clerk), the bill requires:

- ***Monthly*** campaign finance reports until the 60th day before the primary (7 days after qualifying ends in June for most non-federal candidates); and,
- ***Bi-Weekly*** reports every other Friday beginning on the 60th day before the primary through the Friday (4th day) before the general election, with an additional report due on the 25th and 11th days before the primary and general election.

For persons seeking a publicly-elected political party executive committee position who receive contributions or make expenditures, the bill requires the filing of a single campaign finance report on the Friday immediately preceding the primary election. The reporting scheme is patterned on local candidate reporting pursuant to s. 106.07, F.S., with the attendant criminal penalties for willfully reporting incorrect, false, or incomplete information as well as administrative fines for late filings.

The bill provides for aggregate reporting by PCs of uniform, multiple contributions from the same person totaling less than $250 annually that are collected by PC "affiliated sponsors," mirroring in large measure the current $250 aggregate reporting exemption for CCE dues. The PC, however, must report the identities of such systematic contributors annually.

Finally, the bill requires the Division of Elections to submit to the Florida Legislature, by December 1, 2013, a proposal for creating a mandatory electronic filing system for *state and local campaign filings* required under the Florida Election Code. **(Section 17)**

Contribution Limits

Present Situation

Candidate and Political Committees

In 1991, the Legislature significantly reduced most of Florida's candidate and political committee contribution limits to the current level: **$500 per election/$1,000 per election *cycle*,**[15] regardless of the office sought. [16] The 1991 Act barred PCs, CCEs, and adult individuals from contributing more than $500/election to any candidate or to a political committee supporting or opposing candidates; contributions from unemancipated minors under 18 years of age were capped at $100.[17]

[15] A primary election and general election are considered separate elections for purposes of the $500 contribution limits, unless a candidate is unopposed. § 106.08(1)(c), F.S.
[16] Ch. 91-107, § 11, at 886-87, LAWS OF FLA.
[17] *Id.* In August 2012, a federal district judge in south Florida preliminarily enjoined the Florida Elections Commission from enforcing the $100 contribution limit on minors, based on a substantial likelihood that it unconstitutionally curtailed First

Before the Act took effect in 1992, Florida followed a "tiered" approach; contribution limits for each election increased commensurate with the stature and scope of the office sought. An individual or group could contribute:

1. Up to ***$3,000*** to candidates for statewide office and to Supreme Court justices in a retention election;
2. Up to ***$2,000*** to district court of appeal judges in a retention election; and,
3. Up to ***$1,000*** to a PC supporting or opposing candidates, and to candidates for all other elected offices:
    a. State legislators and multicounty office.
    b. Circuit and county court judge.
    c. Countywide or less than countywide office.

Political Party Contributions to Non-Statewide Candidates

Legislative and other non-statewide candidates may accept an aggregate of $50,000 from all political party sources, including national, state, or county committees, including subordinate committees, and APCs.[18] In addition, political party committees can also provide candidates with unlimited polling services, research services, campaign staff, professional consulting services, and telephone calls (so-called "nonallocables").[19]

Effect of Proposed Changes **(Section 13)**

Candidate and Political Committees

The bill re-adopts Florida's retro, *tiered*-limits approach to individual contributions to *candidates*, except that the bottom tier remains at the current $500/election instead of $1,000/election as existed pre-1992; the constitutionally-suspect $100 contribution limit applicable to minors is repealed.[20]

The *candidate* limits in the bill are as follows:

1. Up to ***$3,000*** to candidates for statewide office and to Supreme Court justices in a retention election;
2. Up to ***$2,000*** to district court of appeal judges in a retention election; and,
3. Up to ***$500*** to candidates for all other elected offices:
    a. State legislators and multicounty office.
    b. Circuit and county court judge.
    c. Countywide or less than countywide office.

Amendment rights of free speech and association. *Towbin v. Antonacci*, Case No. 12-80069-CV-WILLIAMS (S.D. Fla., Aug 6, 2012).

[18] § 106.08(2)(a), F.S.

[19] § 106.08(2)(b), F.S.

[20] *See supra* note 17 and accompanying text (discussing constitutionality of unemancipated minor contribution limit).

Further, the bill provides for *unlimited* contributions to PCs supporting or opposing candidates instead of the current $500/election.

Political Party Contributions to Non-Statewide Candidates

CS/CS/SB 1382 allows *county* political party committees to contribute an aggregate of $50,000 to non-statewide candidates, in addition to the current $50,000 aggregate which *all* other political party committees may collectively contribute.

The table below summarizes Florida's current campaign contribution limits and the effect of the bill's proposed changes:

CAMPAIGN CONTRIBUTION LIMITS IN FLORIDA[21]			
	Current Limits		**Proposed Limits**
Candidates	From any person, PC, or CCE.	$500/election	• Statewide or supreme court candidates: $3,000/election. • DCA candidates: $2,000/election. • Legislative and other candidates: *No change.* No CCE contributions, because CCEs are eliminated by this bill.
	From PPs and APCs to a statewide candidate	$250,000, aggregate from all	*No change*.
	From PPs and APCs to any other candidate	$50,000, aggregate from all	$50,000 aggregate from a *county* PP executive committee; $50,000 aggregate from all *other* party committees and APCs.
Political Committees (PCs)	To a PC supporting or opposing *issues only*	No limit	*No change.*
	To a PC *supporting or opposing candidate(s)*	$500/election	No limit.
Electioneering Communications Organizations (ECOs)	No limit on any contributions to an ECO.		*No change.*
Committees of Continuous Existence (CCEs)	No limit on any contributions to a CCE, *provided* at least 25 percent of the CCE's income comes from membership dues.		This bill eliminates CCEs.
Political Party Executive Committee (PP) or Affiliated Party Committee (APC)	No limit on contributions to a PP.		*No change.*

[21] § 106.08, F.S.

Political Committee Depository and Expenditures

Present Situation

Political committees must set-up and make expenditures exclusively from a primary campaign depository.[22] The depository must be designated specifically as "...(name of the candidate or committee.)... Campaign Account." [23] Checks and debit cards for expenditures from the depository must contain the statement "...(name of candidate or political committee.)... Campaign Account."[24]

An "expenditure" is defined as a:

> [P]urchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value *made for the purpose of influencing the results of an election* or *making an electioneering communication*.[25] (emphasis added)

Effect of Proposed Changes **(Section 8, 14)**

CS/CS/SB 1382 removes the specific-wording requirements for the titles of campaign depositories along with the words that must appear on checks and debit cards, requiring only the name of the candidate or committee.

The bill further limits political committee expenditures to those that are:

> [P]rimarily related to raising or making a contribution, influencing the results of an election, making an electioneering communication, or other political activity authorized by this chapter [106].

Persons making expenditures in violation of this provision are subject to the personal treble civil penalty provided in s. 106.19(2), F.S.

This provision of the bill is similar to the PC/CCE total gift prohibition in CS/SB 2 (Ethics), though it only reaches the person *making* the expenditure on behalf of the CCE.

Race Switching

Present Situation

Florida law provides that any candidate who changes the office that he or she is seeking must offer in writing to return funds received *pro rata* to contributors, and upon request of the contributor must do so; the candidate may use contributions that are not requested to be returned

[22] §§ 106.021(1), 106.11(1)(a), F.S.
[23] § 106.05, F.S.
[24] § 106.11(1)(b)1., (2)(a)2., F.S.
[25] § 106.011(4)(a), F.S.

for the newly-designated office.[26] A candidate may receive up to $500 per non-political-party contributor, per election.[27]

The current statute allows a candidate to "double-dip" certain contributors, collecting the maximum $500 contribution for the original race, using that contribution (or part thereof) for advertising to get the candidate's name out, rolling over any *pro rata* amount not requested to be returned, and then tapping the *same* contributor for up to $1,000 in *additional* contributions ($500 for the primary, $500 for the general election) for the newly-designated office — thereby, arguably, circumventing the $500/election limit in spirit if not in actual practice.

Effect of Proposed Changes **(Section 4)**

The bill provides that the total amount of the contribution for the original office counts toward the contribution limits for the newly-designated office. For example, if a candidate were to raise $500 from a contributor for a House seat and subsequently qualify for a contested Senate seat, the $500 contributed in the House race would port over to the Senate race and allow the candidate to collect only an additional $500 from *that* contributor for the Senate run (total of $1,000 for both elections).

Further, because the bill adopts a variable, ***tiered*** contribution limit system for candidates ($3,000/$2,000/$500 depending on the office sought), the bill provides that a candidate moving from a race with a higher contribution limit to one with a lower limit may only "roll down" funds that have not been requested to be returned *up to the maximum of the lower contribution limit*, and *must* dispose of excess contributions as if they were surplus funds.[28]

Surplus Campaign Funds

Present Situation

Sections 106.11(5) and 106.141, F.S., govern the disposal of surplus campaign funds. Those sections require a candidate to dispose of all funds remaining in his or her campaign account and file a report within 90 days after the candidate is elected or eliminated, becomes unopposed, or withdraws from the election. A candidate may dispose of surplus funds in any of the following ways, or any combination thereof:[29]

1. Purchase "thank you" advertising for up to 75 days;
2. Pay for items which were obligated before the candidate withdrew, became unopposed, or was eliminated or elected;
3. Make expenditures to close the campaign office and prepare final campaign reports;
4. Return funds on a *pro rata* basis to each contributor;

[26] § 106.021(1)(a), F.S.
[27] § 106.08(1), F.S.
[28] A candidate may dispose of excess contributions by: paying for items obligated before the candidate switched offices; paying for necessary expenditures to close down the campaign office and prepare final campaign reports; returning contributions *pro rata* to contributors; donating to a charity or 501(c)(3) organization; or, depositing in the state's General Revenue Fund (state candidates) or the general revenue fund of the applicable political subdivision (local candidates).
[29] §§ 106.11(5); 106.141(4)(a), F.S.

5. Donate funds to s. 501(c)(3) charitable organizations;
6. Contribute *unlimited* funds to an affiliated party committee or the candidate's political party ("turn backs");[30]
7. For statewide candidates, give funds to the state for use in the Election Campaign Financing Trust Fund or the General Revenue Fund;
8. For candidates for office in a political subdivision, give funds to the political subdivision for deposit in the general fund; or,
9. Transfer funds to an office account (see *infra*, section heading ***"Office Accounts"***).[31]

Florida law does not allow successful candidates to "roll over" campaign funds for reelection from one election to the next.

Prior to making certain dispositions or transferring funds to an office account, any candidate who filed an oath stating that he or she was unable to pay the election assessment[32] or fee for verification of petition signatures without imposing an undue burden on his or her personal resources, or who qualified by the petition process and was not required to pay an election assessment, is required to reimburse the state or local governmental entity, whichever is applicable, for the waived assessment or fee or both.[33]

Effect of Proposed Changes **(Section 15)**

Political Party Turn Backs

CS/CS/SB 1382 limits political party turn backs from surplus campaign funds to $25,000 per candidate.

"Roll Over" Campaign Funds

In addition to the current methods of disposing of surplus campaign funds, the bill allows a winning candidate for state office to retain up to $20,000 in the candidate's campaign account (or transfer it to another interest-bearing account) for use in the candidate's reelection to the same office,[34] *provided* the candidate has paid any outstanding amounts owed for petition signature verification or any unpaid political party assessment.[35] Candidates who do not qualify for

[30] Political party turn backs from surplus funds were first authorized in 1982; they remained *unlimited* until January 1, 1999, when the Legislature adopted a $10,000 maximum turn back as part of an omnibus 1997 election reform bill. Ch. 97-13, § 16, LAWS OF FLA.; Ch 82-404, § 1, LAWS OF FLA. In 2004, the limit expanded to $30,000 *for Senate candidates only*. Ch. 04-252, § 20, LAWS OF FLA. In 2011, the Legislature returned to *unlimited* turn backs for the 2012 election cycle and beyond. Ch. 11-40, § 65, LAWS OF FLA.

[31] Section 106.141(5), F.S., permits a candidate elected to office to transfer surplus campaign funds to an office account (after certain requirements are met), which may be used for "legitimate expenses in connection with the candidate's public office." The amount that may be transferred to an office account varies depending upon the office to which the candidate is elected.

[32] The election assessment is 1 percent of the annual salary of the office sought, and is ultimately deposited into the Florida Elections Commission Trust Fund. § 99.092(1), F.S.

[33] § 106.141(6), F.S.

[34] To deal with candidates running to represent different districts, and changing district numbers associated with reapportionment, the term "same office" with respect to a *legislative* office means an office in the same legislative *body*, irrespective of district number, designation, or geographic boundary.

[35] These conditions would only impact candidates who qualified by the petition method; candidates paying the qualifying fee would have no preconditions to rolling over funds.

reelection to the same office must dispose of the retained funds within 90 days pursuant to the surplus funds' statutes.

Election Assessment Fee

The bill eliminates the requirement that candidates who are excused from paying an election assessment *at the time of qualifying* because they qualified by petition, or because they claimed a financial hardship, pay back the election assessment before making certain dispositions of surplus funds, transferring funds to an office account, or, as newly-authorized in the bill, rolling over up to $20,000 for reelection.

Office Accounts

Present Situation

A successful or unopposed candidate may transfer surplus funds from his or her campaign account to an office account; the maximum amount that can be transferred depends on the elected office (see chart in Effect of Proposed Changes section below, detailing current amounts).[36]

Office account funds must be separate from any personal or other account, and can only be used for "legitimate expenses in connection with the candidate's public office." Some specific examples of such "legitimate expenses" are detailed in the law:

- Travel expenses incurred by the officer or a staff member;
- Personal taxes payable on office account funds by the candidate or elected public official;
- Expenses incurred in the operation of the elected public official's office, including the employment of additional staff.

Division of Elections Opinion 78-50 offers only minimal guidance as to what activities or expenses are permissible or "legitimate:"[37]

> Provided the activity or responsibility is something which is generated due to and with regard to a person's public position, rather than something personal in nature, expenses associated with that activity or responsibility could be paid with these retained funds.

[36] § 106.141(5), F.S.

[37] Given the dearth of specific guidance from the executive and legislative branches, the Senate has developed a list of other permissible office account expenditures. Florida Senate, *Senate Administrative Policies and Procedures* (Dec. 2012) (Senate Policy 2.05, Separate Office Account). The House of Representatives addresses the issue in multiple policies, and handles member questions on an *ad hoc* basis through written decisions of the General Counsel. *See e.g.*, House of Representatives, *Administrative Policy Manual* (November 2012) (Policy Nos. 1.3, 2.3, 2.7, 2.15,2.19, 3.2, 3.3, 3.7); House Legislative Conduct Opinions 00-02, 02-05 , 01-10, 00-02, 97-02, 95-12, *available at*: http://www.myfloridahouse.gov/FileStores/Adhoc/LegislativeConduct/LegislativeConduct.pdf (last visited Feb. 20, 2012).

Effect of Proposed Changes **(Section 15)**

The following chart summarizes the current law and the bill's changes with respect to the amount that certain successful candidates can retain in an office account:

Office Accounts, Maximum Amounts		
Public Officer Candidates	**Current Law[38]**	**Effect of Proposed Changes**
Statewide Officers[39]	$20,000	$50,000
Multicounty Office	$5,000	$10,000
Legislative	$5,000, multiplied by the number of years in the term of office for which elected	$10,000, multiplied by the number of years in the term of office for which elected
County office, or for a candidate in any election conducted on less than a countywide basis	$2,500, multiplied by the number of years in the term of office for which elected	$5,000, multiplied by the number of years in the term of office for which elected
Supreme Court Justice	$6,000	*No change*.
District Court of Appeal Judge	$3,000	*No change.*
Circuit/County Court Judge	$1,500	$3,000

Further, the bill expands the statutory list of "legitimate expenses" for which office funds can be used, namely:

- Professional services provided by a certified public accountant or attorney for preparation of an elected public official's annual financial disclosure filing;[40]
- Costs associated with holiday cards and constituent newsletters that don't constitute campaign literature;
- Fees or dues payable to religious, civic, or charitable organizations of which the officer is a member;
- Modestly-priced items such as flowers, greeting cards, or personal notes given in connection with a constituent's special life event — like the birth of a child, graduation, wedding, or funeral; and,
- Personal expenses incurred by the official in connection with attending a constituent meeting or event where public policy is discussed, *provided* such meetings or events are limited to no more than once a week.

Campaign Fund Raiser Disclaimers

Present Situation

Prior to 2011, two disclaimers were required on fund raiser tickets and advertising:

[38] §106.141(5), F.S.
[39] Governor and Lieutenant Governor considered separate candidates. Section 106.141(5)(a), F.S.
[40] This new authorization is tied to provisions in CS/SB 2 (Ethics) by Rules, Ethics and Elections and Senator Latvala, creating a limited "safe harbor" for elected public officers who use a certified public accountant or lawyer to prepare and file their financial disclosure forms.

> Any tickets or advertising for such a campaign fund raiser shall contain the following statement: "The purchase of a ticket for, or a contribution to, the campaign fund raiser is a contribution to the campaign of ...(name of the candidate for whose benefit the campaign fund raiser is held)...." Such tickets or advertising shall also comply with other provisions of this chapter relating to political advertising.[41]

Both disclaimers appear to have been inadvertently repealed in 2011, and a provision erroneously added specifically *exempting* campaign fund raiser tickets and advertising from the general political advertisement disclaimer requirements in s. 106.143, F.S.;[42] there are currently no sponsorship disclaimer requirements for campaign fund raiser materials.

Effect of Proposed Changes **(Sections 6)**

The bill reinstates the requirement that campaign fund raiser tickets and advertising include the general sponsorship disclaimer for political advertisements in s. 106.143, F.S.

Effective Date (Section 37)

Except as otherwise expressly provided, the act takes effect November 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 increased frequency of campaign finance reporting may result in additional preparation costs for candidates seeking public office and private entities operating as PCs or ECOs, as well as for political party executive committees.

[41] § 106.025(1)(c), F.S. (2010)
[42] Ch. 2011-40, § 56, LAWS OF FLA.

Also, reducing political party turn backs to $25,000 per candidate will likely force parties to seek those lost funds elsewhere.

C. Government Sector Impact:

1. Revenue

Florida Elections Commission: Eliminating the current requirement that petition candidates and others pay back the 1 percent election assessment prior to disposing of surplus funds will result in lost revenue to the Florida Elections Commission. The amount of lost revenue will vary depending primarily on the number of, and offices sought by, candidates that qualify by the petition method.

2. Expenditures

Department of State: According to the Department of State, under the *prior* committee substitute, the increase in the number of campaign finance reports filed with the Division of Elections would have increased their workload, requiring two FTEs and a recurring fiscal impact of $85,000. The Department asserted that, "[t]he increase in reports would cause an increase in fail to file letters, fine letters, incomplete report letters and Election Commission referrals. All of these documents must be scanned and posted to the web. One entry level FTE would be required to handle incomplete letters and Election Commission referrals. One additional FTE would be required to handle fail to file letters, scanning and posting the letters to the web and to handle the increased traffic on the help desk answering phone calls. In total if you take an average salary of $30,000 for each FTE plus benefits would total $85,000."

The current committee substitute reduces the number of reports required of most non-statewide candidates by about 25 percent. It is unclear at this time what impact this reduction will have, if any, on the Department's fiscal analysis.

On another note, the Department intends to produce the report on the feasibility of a statewide database using current resources, so production of the report should not have a fiscal impact on the department.

Florida Elections Commission: According to the Florida Elections Commission (Commission), under the *prior* committee substitute, the increase in campaign finance reports filed would have increased the number of cases against candidates, political committees, and electioneering communications organizations that fail to file reports. The Commission also expected the increase in reports would increase the number of cases appealing fines imposed for late filing of reports. According to the Commission, investigating and preparing these cases for presentation to the Commission would have required one additional FTE at a salary of $33,000, plus benefits for a total cost of $42,900.

The current committee substitute reduces the number of reports required of most non-statewide candidates and local PCs/ECOs by about 25 percent. It is unclear at this time what impact this reduction will have, if any, on the Commission's fiscal analysis.

Supervisors of Elections (and some municipal clerks): The Supervisors of Elections and municipal clerks will receive and process more campaign finance reports, but the fiscal impact is indeterminate at this time.

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 20, 2013:
The committee substitute materially differs from the prior committee substitute in that it: removes the contribution/expenditure exemption for PCs running "3-pack" joint endorsement political advertisements; corrects a timing glitch to allow CCEs to transfer unlimited funds to PCs upon the bill becoming law, to allow for transfers of funds during the CCE de-certification transition period; reduces the number of campaign finance reports most candidates, county political party committees, and local PCs/ECOs must file; and, reinstates a Chapter 106 exemption for persons seeking political party executive committee office, while requiring such persons seeking publicly-elected office who raise contributions or make expenditures to file a single report immediately preceding the primary.

CS by Ethics and Elections on March 11, 2013:
The committee substitute materially differs from the original bill in that it: reduces the number of candidates that must file daily campaign finance reports immediately preceding the general election; incorporates the PC expenditure ban in CS/SB 2 into Chapter 106, F.S., by limiting the permissible type of expenditures; modifies the titling of campaign depositories and associated checks and debit cards; authorizes payments to lawyers from office account funds for preparation of financial disclosure forms; removes the requirement for petition candidates to pay back the 1 percent election assessment before disposing of surplus funds; and reinstates political advertising sponsorship disclaimers for campaign fund raiser tickets and advertising.

B. Amendments:

None.

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

585942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with directory and title amendments)**
2
3 Between lines 529 and 530
4 insert:
5 (3) No contribution or expenditure, including contributions
6 or expenditures of a candidate or of the candidate's family,
7 shall be directly or indirectly made or received in furtherance
8 of the candidacy of any person for nomination or election to
9 political office in the state or on behalf of any political
10 committee except through the duly appointed campaign treasurer
11 of the candidate or political committee, subject to the
12 following exceptions:

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13 (d) Expenditures made directly by any ~~political committee,~~
14 affiliated party committee~~,~~ or political party regulated by
15 chapter 103 for obtaining time, space, or services in or by any
16 communications medium for the purpose of jointly endorsing three
17 or more candidates, and any such expenditure may ~~shall~~ not be
18 considered a contribution or expenditure to or on behalf of any
19 such candidates for the purposes of this chapter.
20
21 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
22 And the directory clause is amended as follows:
23 Delete lines 464 - 465
24 and insert:
25 Section 4. Paragraph (a) of subsection (1) and paragraph (d) of
26 subsection (3) of section 106.021, Florida Statutes, are amended
27 to read:
28
29 ================ T I T L E A M E N D M E N T ================
30 And the title is amended as follows:
31 Delete line 26
32 and insert:
33 or her candidacy to a different office; prohibiting a
34 political committee from making an expenditure for the
35 purpose of jointly endorsing three or more candidates
36 outside the scope of the requirements of ch. 106,
37 F.S.; amending s.

836076

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete line 125
4 and insert:
5 (4) Notwithstanding any other provision of law, a committee
6 of continuous existence may make unlimited contributions to a
7 political committee.
8 (5) This section shall be effective upon this act becoming
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 15

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13 and insert:
14 committee of continuous existence; authorizing a
15 committee of continuous existence to make unlimited
16 contributions to a political committee; amending and

574514

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 684 - 689
4 and insert:
5 (b) Any other candidate or a political committee required
6 to file reports with a filing officer other than the division
7 must file reports on the 60th day immediately preceding the
8 primary election, and biweekly on each Friday thereafter through
9 and including the 4th day immediately preceding the general
10 election, with additional reports due on the 25th and 11th days
11 before the primary election and the general election ~~Any~~
12 ~~statewide candidate who has requested to~~

635506

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 999 - 1004
4 and insert:
5 (c) For an electioneering communications organization
6 required to file reports with a filing officer other than the
7 division, reports must be filed on the 60th day immediately
8 preceding the primary election, and biweekly on each Friday
9 thereafter through and including the 4th day immediately
10 preceding the general election, with additional reports due on
11 the 25th and 11th days before the primary election and the
12 general election.

676618

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 295 - 376
4 and insert:
5 (7) ~~(6)~~ "Election" means a ~~any~~ primary election, special
6 primary election, general election, special election, or
7 municipal election held in this state for the purpose of
8 nominating or electing candidates to public office, choosing
9 delegates to the national nominating conventions of political
10 parties, selecting a member of a political party executive
11 committee, or submitting an issue to the electors for their
12 approval or rejection.

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13 (13)~~(7)~~ "Issue" means a ~~any~~ proposition that ~~which~~ is
14 required by the State Constitution, by law or resolution of the
15 Legislature, or by the charter, ordinance, or resolution of a
16 ~~any~~ political subdivision of this state to be submitted to the
17 electors for their approval or rejection at an election, or a
18 ~~any~~ proposition for which a petition is circulated in order to
19 have such proposition placed on the ballot at an ~~any~~ election.
20 (14)~~(8)~~ "Person" means an individual or a corporation,
21 association, firm, partnership, joint venture, joint stock
22 company, club, organization, estate, trust, business trust,
23 syndicate, or other combination of individuals having collective
24 capacity. The term includes a political party, affiliated party
25 committee, or political committee~~, or committee of continuous~~
26 ~~existence~~.
27 (2)~~(9)~~ "Campaign treasurer" means an individual appointed
28 by a candidate or political committee as provided in this
29 chapter.
30 (17)~~(10)~~ "Public office" means a ~~any~~ state, county,
31 municipal, or school or other district office or position that
32 ~~which~~ is filled by vote of the electors.
33 (1)~~(11)~~ "Campaign fund raiser" means an ~~any~~ affair held to
34 raise funds to be used in a campaign for public office.
35 (6)~~(12)~~ "Division" means the Division of Elections of the
36 Department of State.
37 (4)~~(13)~~ "Communications media" means broadcasting stations,
38 newspapers, magazines, outdoor advertising facilities, printers,
39 direct mail, advertising agencies, the Internet, and telephone
40 companies; but with respect to telephones, an expenditure is
41 ~~shall be~~ deemed to be an expenditure for the use of

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42 communications media only if made for the costs of telephones,
43 paid telephonists, or automatic telephone equipment to be used
44 by a candidate or a political committee to communicate with
45 potential voters but excluding the ~~any~~ costs of telephones
46 incurred by a volunteer for use of telephones by such volunteer;
47 however, with respect to the Internet, an expenditure is ~~shall~~
48 ~~be~~ deemed an expenditure for use of communications media only if
49 made for the cost of creating or disseminating a message on a
50 computer information system accessible by more than one person
51 but excluding internal communications of a campaign or of any
52 group.
53 (11) ~~(14)~~ "Filing officer" means the person before whom a
54 candidate qualifies~~,~~ or the agency or officer with whom a
55 political committee or an electioneering communications
56 organization registers~~, or the agency by whom a committee of~~
57 ~~continuous existence is certified~~.
58 (18) ~~(15)~~ "Unopposed candidate" means a candidate for
59 nomination or election to an office who, after the last day on
60 which a ~~any~~ person, including a write-in candidate, may qualify,
61 is without opposition in the election at which the office is to
62 be filled or who is without such opposition after such date as a
63 result of a ~~any~~ primary election or of withdrawal by other
64 candidates seeking the same office. A candidate is not an
65 unopposed candidate if there is a vacancy to be filled under s.
66 100.111(3), if there is a legal proceeding pending regarding the
67 right to a ballot position for the office sought by the
68 candidate, or if the candidate is seeking retention as a justice
69 or judge.
70 (3) ~~(16)~~ "Candidate" means a ~~any~~ person to whom any ~~one or~~

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71 ~~more~~ of the following applies ~~apply~~:
72 (a) A ~~Any~~ person who seeks to qualify for nomination or
73 election by means of the petitioning process.
74 (b) A ~~Any~~ person who seeks to qualify for election as a
75 write-in candidate.
76 (c) A ~~Any~~ person who receives contributions or makes
77 expenditures, or consents for any other person to receive
78 contributions or make expenditures, with a view to bring about
79 his or her nomination or election to, or retention in, public
80 office.
81 (d) A ~~Any~~ person who appoints a treasurer and designates a
82 primary depository.
83 (e) A ~~Any~~ person who files qualification papers and
84 subscribes to a candidate's oath as required by law.
85
86 However, this definition does not include any candidate for a
87 political party executive committee. Expenditures related to
88
89 ========== T I T L E A M E N D M E N T ==========
90 And the title is amended as follows:
91 Delete lines 20 - 22
92 and insert:
93 the act; revising the definition of the term
94 "election" to include the selection of members of
95 political party executive committees; conforming
96 cross-

917064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 967 and 968
4 insert:
5 Section 10. Section 106.0702, Florida Statutes, is created
6 to read:
7 106.0702 Reporting; political party executive committee
8 candidates.—
9 (1) An individual seeking a publicly-elected position on a
10 political party executive committee who receives a contribution
11 or makes an expenditure shall file a report of all contributions
12 received, and all expenditures made. The report shall be filed

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13 on the 4th day immediately preceding the primary election.
14 (2)(a) The report shall be filed with the supervisor of
15 elections of the appropriate county. Reports shall be filed no
16 later than 5 p.m. of the day designated; however, any report
17 postmarked by the United States Postal Service by the day
18 designated shall be deemed to have been filed in a timely
19 manner. Any report received by the filing officer within 5 days
20 after the designated due date shall be deemed timely filed
21 unless it has a postmark that indicates that the report was
22 mailed after the designated due date. A certificate of mailing
23 obtained from and dated by the United States Postal Service at
24 the time of mailing, or a receipt from an established courier
25 company, which bears a date on or before the date on which the
26 report is due is proof of mailing in a timely manner. The report
27 filed must contain information of all contributions received and
28 expenditures made as of the day preceding the designated due
29 date. All such reports must be open to public inspection.
30 (b) A reporting individual may submit the report required
31 under this section through an electronic filing system, if used
32 by the supervisor for other candidates, in order to satisfy the
33 filing requirement. Such reports shall be completed and filed
34 through the electronic filing system not later than midnight on
35 the 4th day immediately preceding the primary election.
36 (3)(a) A report that is deemed to be incomplete by the
37 supervisor shall be accepted on a conditional basis. The
38 supervisor shall send a notice to the reporting individual by
39 certified mail or by another method using a common carrier that
40 provides proof of delivery as to why the report is incomplete.
41 Within 7 days after receipt of such notice, the reporting

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42 individual must file an addendum to the report providing all
43 information necessary to complete the report in compliance with
44 this section. Failure to file a complete report after such
45 notice constitutes a violation of this chapter.
46 (b) Notice is deemed complete upon proof of delivery of a
47 written notice to the mailing or street address which is on
48 record with the supervisor.
49 (4)(a) Each report required by this section must contain:
50 1. The full name, address, and occupation of each person
51 who has made one or more contributions to or for the reporting
52 individual within the reporting period, together with the amount
53 and date of such contributions. For corporations, the report
54 must provide as clear a description as practicable of the
55 principal type of business conducted by the corporations.
56 However, if the contribution is $100 or less or is from a
57 relative, as defined in s. 112.312, provided that the
58 relationship is reported, the occupation of the contributor or
59 the principal type of business need not be listed.
60 2. The name and address of each political committee from
61 which the reporting individual has received, or to which the
62 reporting individual has made, any transfer of funds within the
63 reporting period, together with the amounts and dates of all
64 transfers.
65 3. Each loan for campaign purposes from any person or
66 political committee within the reporting period, together with
67 the full name, address, and occupation, and principal place of
68 business, if any, of the lender and endorser, if any, and the
69 date and amount of such loans.
70 4. A statement of each contribution, rebate, refund, or

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71 other receipt not otherwise listed under subparagraphs 1.-3.
72 5. The total sums of all loans, in-kind contributions, and
73 other receipts by or for such reporting individual during the
74 reporting period. The reporting forms shall be designed to
75 elicit separate totals for in-kind contributions, loans, and
76 other receipts.
77 6. The full name and address of each person to whom
78 expenditures have been made by or on behalf of the reporting
79 individual within the reporting period; the amount, date, and
80 purpose of each such expenditure; and the name and address of,
81 and office sought by, each reporting individual on whose behalf
82 such expenditure was made.
83 7. The amount and nature of debts and obligations owed by
84 or to the reporting individual which relate to the conduct of
85 any political campaign.
86 8. Transaction information for each credit card purchase.
87 Receipts for each credit card purchase shall be retained by the
88 reporting individual.
89 9. The amount and nature of any separate interest-bearing
90 accounts or certificates of deposit and identification of the
91 financial institution in which such accounts or certificates of
92 deposit are located.
93 (b) The supervisor shall make available to any reporting
94 individual a reporting form that the reporting individual may
95 use to indicate contributions received by the reporting
96 individual but returned to the contributor before deposit.
97 (5) The reporting individual shall certify as to the
98 correctness of the report and shall bear the responsibility for
99 the accuracy and veracity of each report. Any reporting

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100 individual who willfully certifies the correctness of the report
101 while knowing that such report is incorrect, false, or
102 incomplete commits a misdemeanor of the first degree, punishable
103 as provided in s. 775.082 or s. 775.083.
104 (6) Notwithstanding any other provisions of this chapter,
105 the filing of the required report is waived if the reporting
106 individual has not received contributions or expended any
107 reportable funds.
108 (7)(a) A reporting individual who fails to file a report on
109 the designated due date is subject to a fine, and such fine
110 shall be paid only from personal funds of the reporting
111 individual. The fine shall be $50 per day for the first 3 days
112 late and, thereafter, $500 per day for each late day, not to
113 exceed 25 percent of the total receipts or expenditures,
114 whichever is greater. The fine shall be assessed by the
115 supervisor, and the moneys collected shall be deposited into the
116 general revenue fund of the political subdivision.
117 (b) The supervisor shall determine the amount of the fine
118 due based upon the earliest of the following:
119 1. When the report is actually received by the supervisor.
120 2. When the report is postmarked;
121 3. When the certificate of mailing is dated;
122 4. When the receipt from an established courier company is
123 dated; or
124 5. When the report is completed and filed through the
125 electronic filing system, if applicable.
126
127 Such fine shall be paid to the supervisor within 20 days after
128 receipt of the notice of payment due unless appeal is made to

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129 the Florida Elections Commission pursuant to paragraph (c).
130 Notice is deemed complete upon proof of delivery of written
131 notice to the mailing or street address on record with the
132 supervisor. Such fine may not be an allowable campaign
133 expenditure and shall be paid only from personal funds of the
134 reporting individual.
135 (c) A reporting individual may appeal or dispute the fine,
136 based upon, but not limited to, unusual circumstances
137 surrounding the failure to file on the designated due date, and
138 may request and is entitled to a hearing before the Florida
139 Elections Commission, which has the authority to waive the fine
140 in whole or in part. The Florida Elections Commission must
141 consider the mitigating and aggravating circumstances contained
142 in s. 106.265(2) when determining the amount of a fine, if any,
143 to be waived. Any such request shall be made within 20 days
144 after receipt of the notice of payment due. In such case, the
145 reporting individual must, within 20 days after receipt of the
146 notice, notify the supervisor in writing of his or her intention
147 to bring the matter before the commission.
148 (d) The appropriate supervisor shall notify the Florida
149 Elections Commission of the late filing by a reporting
150 individual, the failure of a reporting individual to file a
151 report after notice, or the failure to pay the fine imposed. The
152 commission shall investigate only those alleged late filing
153 violations specifically identified by the supervisor and as set
154 forth in the notification. Any other alleged violations must be
155 separately stated and reported by the division to the commission
156 under s. 106.25(2).
157

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158 ========== T I T L E A M E N D M E N T ==========
159 And the title is amended as follows:
160 Delete line 39
161 and insert:
162 committees; conforming a cross-reference; creating s.
163 106.0702, F.S.; requiring certain individuals seeking
164 a publicly-elected position on a political party
165 executive committee to file a report with the
166 supervisor of elections before the primary election;
167 providing filing and notice requirements; specifying
168 the contents of the report; requiring the supervisor
169 to make a specified form available to a reporting
170 individual; requiring the reporting individual to
171 certify to the correctness of the report; providing
172 criminal penalties for a reporting individual who
173 willfully files an incorrect, false, or incomplete
174 report; providing for a fine under specified
175 conditions; authorizing a reporting individual to
176 appeal a fine to the Florida Elections Commission;
177 requiring the supervisor to notify the commission of
178 specified violations; amending s.

By the Committee on Ethics and Elections; and Senator Latvala

582-02216-13 20131382c1

A bill to be entitled

An act relating to campaign finance; repealing s. 106.04, F.S., relating to the certification and political activities of committees of continuous existence; prohibiting a committee of continuous existence from accepting a contribution after a certain date; providing for revocation of the certification of each committee of continuous existence on a certain date; requiring the Division of Elections to provide certain notifications to committees of continuous existence; providing procedures for disposition of funds and closing of the committee account; providing penalties; providing for the applicability of penalties incurred by the committee of continuous existence; amending and reordering s. 106.011, F.S., relating to definitions applicable to provisions governing campaign financing; deleting the definition of the term “committee of continuous existence” to conform to changes made by the act; revising the definition of the term “candidate” to include a candidate for a political party executive committee; conforming cross-references; amending s. 106.021, F.S.; providing requirements and restrictions on the use of contributions received before a candidate changes his or her candidacy to a different office; amending s. 106.022, F.S.; conforming a provision to changes made by the act; amending s. 106.025, F.S.; providing that tickets or advertising for a campaign fundraiser must

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30 comply with the requirements of political
31 advertisements circulated before an election; amending
32 s. 106.03, F.S.; conforming provisions and cross-
33 references to changes made by the act; amending s.
34 106.05, F.S.; revising the information that is
35 required to appear on a bank account for deposit of
36 funds; reenacting and amending s. 106.07, F.S.,
37 relating to reports by campaign treasurers; revising
38 reporting requirements for candidates and political
39 committees; conforming a cross-reference; amending s.
40 106.0703, F.S.; revising reporting requirements for
41 electioneering communications organizations;
42 reenacting and amending s. 106.0705, F.S., relating to
43 the electronic filing of campaign treasurer's reports;
44 conforming provisions and cross-references to changes
45 made by the act; amending s. 106.08, F.S.; increasing
46 the limitations on contributions made to certain
47 candidates and political committees; removing a
48 limitation on contributions made by specified minors;
49 revising limitations on contributions to non-statewide
50 candidates from specified political party committees;
51 conforming provisions and cross-references to changes
52 made by the act; reenacting and amending s. 106.11,
53 F.S.; specifying restrictions on expenditures by
54 political committees; providing a penalty; revising
55 the information that is required to appear on bank
56 account checks of candidates or political committees;
57 revising information used to determine when debit
58 cards are considered bank checks; amending s. 106.141,

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59 F.S.; prohibiting a candidate from giving more than a
60 specified amount of surplus funds to an affiliated
61 party committee or political party; increasing the
62 amount of funds that certain candidates may transfer
63 to an office account; specifying permissible expenses
64 with office account funds; defining the term “same
65 office”; modifying requirements and conditions for
66 disposing of and transferring surplus funds;
67 authorizing certain candidates to retain a specified
68 amount of funds for reelection to the same office;
69 establishing requirements and conditions for retained
70 funds; providing procedures for disposition of
71 retained funds in certain circumstances; making
72 changes to conform to the act; reenacting and amending
73 s. 106.29, F.S.; revising reporting requirements for
74 political parties and affiliated party committees;
75 requiring the Division of Elections to submit a
76 proposal for a mandatory statewide electronic filing
77 system for certain state and local candidates to the
78 Legislature by a specified date; amending ss. 101.62,
79 102.031, 106.087, 106.12, 106.147, 106.17, 106.23,
80 106.265, 106.27, 106.32, 106.33, 111.075, 112.3148,
81 112.3149, 1004.28, 1004.70, and 1004.71, F.S.;
82 conforming provisions and cross-references to changes
83 made by the act; reenacting s. 106.075(2), F.S.,
84 relating to contributions made to pay back campaign
85 loans incurred, to incorporate the amendment made to
86 s. 106.08, F.S., in a reference thereto; reenacting s.
87 106.19, F.S., relating to criminal and enhanced civil

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88 penalties for certain campaign finance violations, to
89 incorporate the amendments made to ss. 106.08 and
90 106.11, F.S., in references thereto; providing
91 effective dates.
92
93 Be It Enacted by the Legislature of the State of Florida:
94
95 Section 1. Section 106.04, Florida Statutes, is repealed.
96 Section 2. (1) Effective August 1, 2013, a committee of
97 continuous existence may not accept a contribution as defined in
98 s. 106.011, Florida Statutes. By July 15, 2013, the Division of
99 Elections of the Department of State shall notify each committee
100 of continuous existence of the prohibition on accepting such a
101 contribution as provided under this subsection.
102 (2) Effective September 30, 2013, the certification of each
103 committee of continuous existence is revoked and all committee
104 accounts must have a zero balance. By July 15, 2013, the
105 Division of Elections of the Department of State shall notify
106 each committee of continuous existence of the revocation of its
107 certification pursuant to this subsection. Following the
108 revocation of certification, each committee of continuous
109 existence shall file any outstanding report as required by law.
110 (3)(a) A violation of this section or any other provision
111 of chapter 106 constitutes a violation of chapter 106 regardless
112 of whether the committee of continuous existence is legally
113 dissolved.
114 (b) A political committee or electioneering communications
115 organization that has received funds from a committee of
116 continuous existence whose certification has been revoked and

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117 that is directly or indirectly established, maintained, or
118 controlled by the same individual or group as the former
119 committee of continuous existence, is responsible for any unpaid
120 fine or penalty incurred by the former committee of continuous
121 existence. If no such political committee or electioneering
122 communications organization exists, the principal officers of
123 the former committee of continuous existence shall be jointly
124 and severally liable for any fine or penalty.
125 (4) This section shall be effective upon this act becoming
126 a law.
127 Section 3. Section 106.011, Florida Statutes, is reordered
128 and amended to read:
129 106.011 Definitions.—As used in this chapter, the following
130 terms have the following meanings unless the context clearly
131 indicates otherwise:
132 (16)~~(1)~~(a) "Political committee" means:
133 1. A combination of two or more individuals, or a person
134 other than an individual, that, in an aggregate amount in excess
135 of $500 during a single calendar year:
136 a. Accepts contributions for the purpose of making
137 contributions to any candidate, political committee, ~~committee~~
138 ~~of continuous existence,~~ affiliated party committee, or
139 political party;
140 b. Accepts contributions for the purpose of expressly
141 advocating the election or defeat of a candidate or the passage
142 or defeat of an issue;
143 c. Makes expenditures that expressly advocate the election
144 or defeat of a candidate or the passage or defeat of an issue;
145 or

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146 d. Makes contributions to a common fund, other than a joint
147 checking account between spouses, from which contributions are
148 made to any candidate, political committee, ~~committee of~~
149 ~~continuous existence,~~ affiliated party committee, or political
150 party;
151 2. The sponsor of a proposed constitutional amendment by
152 initiative who intends to seek the signatures of registered
153 electors.
154 (b) Notwithstanding paragraph (a), the following entities
155 are not considered political committees for purposes of this
156 chapter:
157 1. ~~Organizations which are certified by~~ ~~the Department of~~
158 ~~State as committees of continuous existence pursuant to s.~~
159 ~~106.04,~~ National political parties, the state and county
160 executive committees of political parties, and affiliated party
161 committees regulated by chapter 103.
162 2. Corporations regulated by chapter 607 or chapter 617 or
163 other business entities formed for purposes other than to
164 support or oppose issues or candidates, if their political
165 activities are limited to contributions to candidates, political
166 parties, affiliated party committees, or political committees or
167 expenditures in support of or opposition to an issue from
168 corporate or business funds and if no contributions are received
169 by such corporations or business entities.
170 3. Electioneering communications organizations as defined
171 in subsection (9) ~~(19)~~.
172 ~~(2) "Committee of continuous existence" means any group,~~
173 ~~organization, association, or other such entity which is~~
174 ~~certified pursuant to the provisions of s. 106.04.~~

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175 (5)~~(3)~~ “Contribution” means:
176 (a) A gift, subscription, conveyance, deposit, loan,
177 payment, or distribution of money or anything of value,
178 including contributions in kind having an attributable monetary
179 value in any form, made for the purpose of influencing the
180 results of an election or making an electioneering
181 communication.
182 (b) A transfer of funds between political committees,
183 ~~between committees of continuous existence,~~ between
184 electioneering communications organizations, or between any
185 combination of these groups.
186 (c) The payment, by a ~~any~~ person other than a candidate or
187 political committee, of compensation for the personal services
188 of another person which are rendered to a candidate or political
189 committee without charge to the candidate or committee for such
190 services.
191 (d) The transfer of funds by a campaign treasurer or deputy
192 campaign treasurer between a primary depository and a separate
193 interest-bearing account or certificate of deposit, and the term
194 includes ~~any~~ interest earned on such account or certificate.
195
196 Notwithstanding the foregoing meanings of “contribution,” the
197 term may not be construed to include services, including, but
198 not limited to, legal and accounting services, provided without
199 compensation by individuals volunteering a portion or all of
200 their time on behalf of a candidate or political committee or
201 editorial endorsements.
202 (10)~~(4)~~(a) “Expenditure” means a purchase, payment,
203 distribution, loan, advance, transfer of funds by a campaign

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204 treasurer or deputy campaign treasurer between a primary
205 depository and a separate interest-bearing account or
206 certificate of deposit, or gift of money or anything of value
207 made for the purpose of influencing the results of an election
208 or making an electioneering communication. However,
209 “expenditure” does not include a purchase, payment,
210 distribution, loan, advance, or gift of money or anything of
211 value made for the purpose of influencing the results of an
212 election when made by an organization, in existence before ~~prior~~
213 ~~to~~ the time during which a candidate qualifies or an issue is
214 placed on the ballot for that election, for the purpose of
215 printing or distributing such organization’s newsletter,
216 containing a statement by such organization in support of or
217 opposition to a candidate or issue, which newsletter is
218 distributed only to members of such organization.
219 (b) As used in this chapter, an “expenditure” for an
220 electioneering communication is made when the earliest of the
221 following occurs:
222 1. A person enters into a contract for applicable goods or
223 services;
224 2. A person makes payment, in whole or in part, for the
225 production or public dissemination of applicable goods or
226 services; or
227 3. The electioneering communication is publicly
228 disseminated.
229 (12)~~(5)~~(a) “Independent expenditure” means an expenditure
230 by a person for the purpose of expressly advocating the election
231 or defeat of a candidate or the approval or rejection of an
232 issue, which expenditure is not controlled by, coordinated with,

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233 or made upon consultation with, any candidate, political
234 committee, or agent of such candidate or committee. An
235 expenditure for such purpose by a person having a contract with
236 the candidate, political committee, or agent of such candidate
237 or committee in a given election period is ~~shall~~ not ~~be deemed~~
238 an independent expenditure.
239 (b) An expenditure for the purpose of expressly advocating
240 the election or defeat of a candidate which is made by the
241 national, state, or county executive committee of a political
242 party, including any subordinate committee of the political
243 party, an affiliated party committee, a political committee, ~~a~~
244 ~~committee of continuous existence,~~ or any other person is ~~shall~~
245 not ~~be~~ considered an independent expenditure if the committee or
246 person:
247 1. Communicates with the candidate, the candidate's
248 campaign, or an agent of the candidate acting on behalf of the
249 candidate, including a ~~any~~ pollster, media consultant,
250 advertising agency, vendor, advisor, or staff member, concerning
251 the preparation of, use of, or payment for, the specific
252 expenditure or advertising campaign at issue; ~~or~~
253 2. Makes a payment in cooperation, consultation, or concert
254 with, at the request or suggestion of, or pursuant to a ~~any~~
255 general or particular understanding with the candidate, the
256 candidate's campaign, a political committee supporting the
257 candidate, or an agent of the candidate relating to the specific
258 expenditure or advertising campaign at issue; ~~or~~
259 3. Makes a payment for the dissemination, distribution, or
260 republication, in whole or in part, of a ~~any~~ broadcast or a ~~any~~
261 written, graphic, or other form of campaign material prepared by

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262 the candidate, the candidate's campaign, or an agent of the
263 candidate, including a ~~any~~ pollster, media consultant,
264 advertising agency, vendor, advisor, or staff member; ~~or~~
265 4. Makes a payment based on information about the
266 candidate's plans, projects, or needs communicated to a member
267 of the committee or person by the candidate or an agent of the
268 candidate, provided the committee or person uses the information
269 in any way, in whole or in part, either directly or indirectly,
270 to design, prepare, or pay for the specific expenditure or
271 advertising campaign at issue; ~~or~~
272 5. After the last day of the qualifying period prescribed
273 for the candidate, consults about the candidate's plans,
274 projects, or needs in connection with the candidate's pursuit of
275 election to office and the information is used in any way to
276 plan, create, design, or prepare an independent expenditure or
277 advertising campaign, with:
278 a. An ~~Any~~ officer, director, employee, or agent of a
279 national, state, or county executive committee of a political
280 party or an affiliated party committee that has made or intends
281 to make expenditures in connection with or contributions to the
282 candidate; or
283 b. A ~~Any~~ person whose professional services have been
284 retained by a national, state, or county executive committee of
285 a political party or an affiliated party committee that has made
286 or intends to make expenditures in connection with or
287 contributions to the candidate; ~~or~~
288 6. After the last day of the qualifying period prescribed
289 for the candidate, retains the professional services of a ~~any~~
290 person also providing those services to the candidate in

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291 connection with the candidate's pursuit of election to office;
292 or
293 7. Arranges, coordinates, or directs the expenditure, in
294 any way, with the candidate or an agent of the candidate.
295 (7) ~~(6)~~ "Election" means a ~~any~~ primary election, special
296 primary election, general election, special election, or
297 municipal election held in this state for the purpose of
298 nominating or electing candidates to public office, choosing
299 delegates to the national nominating conventions of political
300 parties, or submitting an issue to the electors for their
301 approval or rejection.
302 (13) ~~(7)~~ "Issue" means a ~~any~~ proposition that ~~which~~ is
303 required by the State Constitution, by law or resolution of the
304 Legislature, or by the charter, ordinance, or resolution of a
305 ~~any~~ political subdivision of this state to be submitted to the
306 electors for their approval or rejection at an election, or a
307 ~~any~~ proposition for which a petition is circulated in order to
308 have such proposition placed on the ballot at an ~~any~~ election.
309 (14) ~~(8)~~ "Person" means an individual or a corporation,
310 association, firm, partnership, joint venture, joint stock
311 company, club, organization, estate, trust, business trust,
312 syndicate, or other combination of individuals having collective
313 capacity. The term includes a political party, affiliated party
314 committee, or political committee~~, or committee of continuous~~
315 ~~existence~~.
316 (2) ~~(9)~~ "Campaign treasurer" means an individual appointed
317 by a candidate or political committee as provided in this
318 chapter.
319 (17) ~~(10)~~ "Public office" means a ~~any~~ state, county,

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320 municipal, or school or other district office or position that
321 ~~which~~ is filled by vote of the electors.
322 (1) ~~(11)~~ "Campaign fund raiser" means an ~~any~~ affair held to
323 raise funds to be used in a campaign for public office.
324 (6) ~~(12)~~ "Division" means the Division of Elections of the
325 Department of State.
326 (4) ~~(13)~~ "Communications media" means broadcasting stations,
327 newspapers, magazines, outdoor advertising facilities, printers,
328 direct mail, advertising agencies, the Internet, and telephone
329 companies; but with respect to telephones, an expenditure is
330 ~~shall be~~ deemed to be an expenditure for the use of
331 communications media only if made for the costs of telephones,
332 paid telephonists, or automatic telephone equipment to be used
333 by a candidate or a political committee to communicate with
334 potential voters but excluding the ~~any~~ costs of telephones
335 incurred by a volunteer for use of telephones by such volunteer;
336 however, with respect to the Internet, an expenditure is ~~shall~~
337 ~~be~~ deemed an expenditure for use of communications media only if
338 made for the cost of creating or disseminating a message on a
339 computer information system accessible by more than one person
340 but excluding internal communications of a campaign or of any
341 group.
342 (11) ~~(14)~~ "Filing officer" means the person before whom a
343 candidate qualifies~~,~~ or the agency or officer with whom a
344 political committee or an electioneering communications
345 organization registers~~, or the agency by whom a committee of~~
346 ~~continuous existence is certified~~.
347 (18) ~~(15)~~ "Unopposed candidate" means a candidate for
348 nomination or election to an office who, after the last day on

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349 which a ~~any~~ person, including a write-in candidate, may qualify,
350 is without opposition in the election at which the office is to
351 be filled or who is without such opposition after such date as a
352 result of a ~~any~~ primary election or of withdrawal by other
353 candidates seeking the same office. A candidate is not an
354 unopposed candidate if there is a vacancy to be filled under s.
355 100.111(3), if there is a legal proceeding pending regarding the
356 right to a ballot position for the office sought by the
357 candidate, or if the candidate is seeking retention as a justice
358 or judge.
359 (3) ~~(16)~~ "Candidate" means a ~~any~~ person to whom any ~~one or~~
360 ~~more~~ of the following applies ~~apply~~:
361 (a) A ~~Any~~ person who seeks to qualify for nomination or
362 election by means of the petitioning process.
363 (b) A ~~Any~~ person who seeks to qualify for election as a
364 write-in candidate.
365 (c) A ~~Any~~ person who receives contributions or makes
366 expenditures, or consents for any other person to receive
367 contributions or make expenditures, with a view to bring about
368 his or her nomination or election to, or retention in, public
369 office.
370 (d) A ~~Any~~ person who appoints a treasurer and designates a
371 primary depository.
372 (e) A ~~Any~~ person who files qualification papers and
373 subscribes to a candidate's oath as required by law.
374
375 ~~However, this definition does not include any candidate for a~~
376 ~~political party executive committee.~~ Expenditures related to
377 potential candidate polls as provided in s. 106.17 are not

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378 contributions or expenditures for purposes of this subsection.
379 (15) ~~(17)~~ "Political advertisement" means a paid expression
380 in a ~~any~~ communications media prescribed in subsection (4) ~~(13)~~,
381 whether radio, television, newspaper, magazine, periodical,
382 campaign literature, direct mail, or display or by means other
383 than the spoken word in direct conversation, which expressly
384 advocates the election or defeat of a candidate or the approval
385 or rejection of an issue. However, political advertisement does
386 not include:
387 (a) A statement by an organization, in existence before
388 ~~prior to~~ the time during which a candidate qualifies or an issue
389 is placed on the ballot for that election, in support of or
390 opposition to a candidate or issue, in that organization's
391 newsletter, which newsletter is distributed only to the members
392 of that organization.
393 (b) Editorial endorsements by a ~~any~~ newspaper, a radio or
394 television station, or any other recognized news medium.
395 (8) ~~(18)~~(a) "Electioneering communication" means ~~any~~
396 communication that is publicly distributed by a television
397 station, radio station, cable television system, satellite
398 system, newspaper, magazine, direct mail, or telephone and that:
399 1. Refers to or depicts a clearly identified candidate for
400 office without expressly advocating the election or defeat of a
401 candidate but that is susceptible of no reasonable
402 interpretation other than an appeal to vote for or against a
403 specific candidate;
404 2. Is made within 30 days before a primary or special
405 primary election or 60 days before any other election for the
406 office sought by the candidate; and

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407 3. Is targeted to the relevant electorate in the geographic
408 area the candidate would represent if elected.
409 (b) The term “electioneering communication” does not
410 include:
411 1. A communication disseminated through a means of
412 communication other than a television station, radio station,
413 cable television system, satellite system, newspaper, magazine,
414 direct mail, telephone, or statement or depiction by an
415 organization, in existence before ~~prior to~~ the time during which
416 a candidate named or depicted qualifies for that election, made
417 in that organization’s newsletter, which newsletter is
418 distributed only to members of that organization.
419 2. A communication in a news story, commentary, or
420 editorial distributed through the facilities of a ~~any~~ radio
421 station, television station, cable television system, or
422 satellite system, unless the facilities are owned or controlled
423 by a ~~any~~ political party, political committee, or candidate. A
424 news story distributed through the facilities owned or
425 controlled by a ~~any~~ political party, political committee, or
426 candidate may nevertheless be exempt if it represents a bona
427 fide news account communicated through a licensed broadcasting
428 facility and the communication is part of a general pattern of
429 campaign-related news accounts that give reasonably equal
430 coverage to all opposing candidates in the area.
431 3. A communication that constitutes a public debate or
432 forum that includes at least two opposing candidates for an
433 office or one advocate and one opponent of an issue, or that
434 solely promotes such a debate or forum and is made by or on
435 behalf of the person sponsoring the debate or forum, provided

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436 that:
437 a. The staging organization is either:
438 (I) A charitable organization that does not make other
439 electioneering communications and does not otherwise support or
440 oppose any political candidate or political party; or
441 (II) A newspaper, radio station, television station, or
442 other recognized news medium; and
443 b. The staging organization does not structure the debate
444 to promote or advance one candidate or issue position over
445 another.
446 (c) For purposes of this chapter, an expenditure made for,
447 or in furtherance of, an electioneering communication is ~~shall~~
448 not ~~be~~ considered a contribution to or on behalf of any
449 candidate.
450 (d) For purposes of this chapter, an electioneering
451 communication does ~~shall~~ not constitute an independent
452 expenditure and is not ~~nor be~~ subject to the limitations
453 applicable to independent expenditures.
454 (9) ~~(19)~~ "Electioneering communications organization" means
455 any group, other than a political party, affiliated party
456 committee, or political committee, ~~or committee of continuous~~
457 ~~existence,~~ whose election-related activities are limited to
458 making expenditures for electioneering communications or
459 accepting contributions for the purpose of making electioneering
460 communications and whose activities would not otherwise require
461 the group to register as a political party~~,~~ or political
462 committee~~, or committee of continuous existence~~ under this
463 chapter.
464 Section 4. Paragraph (a) of subsection (1) of section

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465 106.021, Florida Statutes, is amended to read:
466 106.021 Campaign treasurers; deputies; primary and
467 secondary depositories.—
468 (1)(a) Each candidate for nomination or election to office
469 and each political committee shall appoint a campaign treasurer.
470 Each person who seeks to qualify for nomination or election to,
471 or retention in, office shall appoint a campaign treasurer and
472 designate a primary campaign depository before ~~prior to~~
473 qualifying for office. Any person who seeks to qualify for
474 election or nomination to any office by means of the petitioning
475 process shall appoint a treasurer and designate a primary
476 depository on or before the date he or she obtains the
477 petitions. ~~Each candidate shall~~ At the same time a candidate ~~he~~
478 ~~or she~~ designates a campaign depository and appoints a
479 treasurer, the candidate shall also designate the office for
480 which he or she is a candidate. If the candidate is running for
481 an office that ~~which~~ will be grouped on the ballot with two or
482 more similar offices to be filled at the same election, the
483 candidate must indicate for which group or district office he or
484 she is running. ~~Nothing in~~ This subsection does not ~~shall~~
485 prohibit a candidate, at a later date, from changing the
486 designation of the office for which he or she is a candidate.
487 However, if a candidate changes the designated office for which
488 he or she is a candidate, the candidate must notify all
489 contributors in writing of the intent to seek a different office
490 and offer to return pro rata, upon their request, those
491 contributions given in support of the original office sought.
492 This notification shall be given within 15 days after the filing
493 of the change of designation and shall include a standard form

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494 developed by the Division of Elections for requesting the return
495 of contributions. The notice requirement does ~~shall~~ not apply to
496 any change in a numerical designation resulting solely from
497 redistricting. If, within 30 days after being notified by the
498 candidate of the intent to seek a different office, the
499 contributor notifies the candidate in writing that the
500 contributor wishes his or her contribution to be returned, the
501 candidate shall return the contribution, on a pro rata basis,
502 calculated as of the date the change of designation is filed. Up
503 to a maximum of the contribution limits specified in s. 106.08,
504 a candidate who runs for an office other than the office
505 originally designated may use any contribution that a donor does
506 not request ~~Any contributions not requested to~~ be returned
507 within the 30-day period for the newly designated office,
508 provided the candidate disposes of any amount exceeding the
509 contribution limit pursuant to the options in s. 106.11(5)(b)
510 and (c) or s. 106.141(4)(a)1., s. 106.141(4)(a)2., or s.
511 106.141(4)(a)4.; notwithstanding, the full amount of the
512 contribution for the original office shall count toward the
513 contribution limits specified in s. 106.08 for the newly
514 designated office ~~may be used by the candidate for the newly~~
515 ~~designated office~~. A ~~No~~ person may not ~~shall~~ accept any
516 contribution or make any expenditure with a view to bringing
517 about his or her nomination, election, or retention in public
518 office, or authorize another to accept such contributions or
519 make such expenditure on the person’s behalf, unless such person
520 has appointed a campaign treasurer and designated a primary
521 campaign depository. A candidate for an office voted upon
522 statewide may appoint not more than 15 deputy campaign

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523 treasurers, and any other candidate or political committee may
524 appoint not more than 3 deputy campaign treasurers. The names
525 and addresses of the campaign treasurer and deputy campaign
526 treasurers so appointed shall be filed with the officer before
527 whom such candidate is required to qualify or with whom such
528 political committee is required to register pursuant to s.
529 106.03.
530 Section 5. Subsection (1) of section 106.022, Florida
531 Statutes, is amended to read:
532 106.022 Appointment of a registered agent; duties.—
533 (1) Each political committee~~, committee of continuous~~
534 ~~existence,~~ or electioneering communications organization shall
535 have and continuously maintain in this state a registered office
536 and a registered agent and must file with the filing officer a
537 statement of appointment for the registered office and
538 registered agent. The statement of appointment must:
539 (a) Provide the name of the registered agent and the street
540 address and phone number for the registered office;
541 (b) Identify the entity for whom the registered agent
542 serves;
543 (c) Designate the address the registered agent wishes to
544 use to receive mail;
545 (d) Include the entity’s undertaking to inform the filing
546 officer of any change in such designated address;
547 (e) Provide for the registered agent’s acceptance of the
548 appointment, which must confirm that the registered agent is
549 familiar with and accepts the obligations of the position as set
550 forth in this section; and
551 (f) Contain the signature of the registered agent and the

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552 entity engaging the registered agent.
553 Section 6. Paragraph (c) of subsection (1) of section
554 106.025, Florida Statutes, is amended to read:
555 106.025 Campaign fund raisers.—
556 (1)
557 (c) Any tickets or advertising for ~~such~~ a campaign fund
558 raiser must comply with ~~is exempt from~~ the requirements of s.
559 106.143.
560 Section 7. Paragraph (b) of subsection (1) and subsection
561 (2) of section 106.03, Florida Statutes, are amended to read:
562 106.03 Registration of political committees and
563 electioneering communications organizations.—
564 (1)
565 (b)1. Each group shall file a statement of organization as
566 an electioneering communications organization within 24 hours
567 after the date on which it makes expenditures for an
568 electioneering communication in excess of $5,000, if such
569 expenditures are made within the timeframes specified in s.
570 106.011(8)(a)2. ~~106.011(18)(a)2.~~ If the group makes expenditures
571 for an electioneering communication in excess of $5,000 before
572 the timeframes specified in s. 106.011(8)(a)2. ~~106.011(18)(a)2.~~,
573 it shall file the statement of organization within 24 hours
574 after the 30th day before a primary or special primary election,
575 or within 24 hours after the 60th day before any other election,
576 whichever is applicable.
577 2.a. In a statewide, legislative, or multicounty election,
578 an electioneering communications organization shall file a
579 statement of organization with the Division of Elections.
580 b. In a countywide election or any election held on less

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581 than a countywide basis, except as described in sub-subparagraph
582 c., an electioneering communications organization shall file a
583 statement of organization with the supervisor of elections of
584 the county in which the election is being held.
585 c. In a municipal election, an electioneering
586 communications organization shall file a statement of
587 organization with the officer before whom municipal candidates
588 qualify.
589 d. Any electioneering communications organization that
590 would be required to file a statement of organization in two or
591 more locations need only file a statement of organization with
592 the Division of Elections.
593 (2) The statement of organization shall include:
594 (a) The name, mailing address, and street address of the
595 committee or electioneering communications organization;
596 (b) The names, street addresses, and relationships of
597 affiliated or connected organizations, including any affiliated
598 sponsors;
599 (c) The area, scope, or jurisdiction of the committee or
600 electioneering communications organization;
601 (d) The name, mailing address, street address, and position
602 of the custodian of books and accounts;
603 (e) The name, mailing address, street address, and position
604 of other principal officers, including the treasurer and deputy
605 treasurer, if any;
606 (f) The name, address, office sought, and party affiliation
607 of:
608 1. Each candidate whom the committee is supporting;
609 2. Any other individual, if any, whom the committee is

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610 supporting for nomination for election, or election, to any
611 public office whatever;
612 (g) Any issue or issues the committee is supporting or
613 opposing;
614 (h) If the committee is supporting the entire ticket of any
615 party, a statement to that effect and the name of the party;
616 (i) A statement of whether the committee is a continuing
617 one;
618 (j) Plans for the disposition of residual funds which will
619 be made in the event of dissolution;
620 (k) A listing of all banks, safe-deposit boxes, or other
621 depositories used for committee or electioneering communications
622 organization funds;
623 (l) A statement of the reports required to be filed by the
624 committee or the electioneering communications organization with
625 federal officials, if any, and the names, addresses, and
626 positions of such officials; and
627 (m) A statement of whether the electioneering
628 communications organization was formed as a newly created
629 organization during the current calendar quarter or was formed
630 from an organization existing prior to the current calendar
631 quarter. For purposes of this subsection, calendar quarters end
632 the last day of March, June, September, and December.
633 Section 8. Section 106.05, Florida Statutes, is amended to
634 read:
635 106.05 Deposit of contributions; statement of campaign
636 treasurer.—All funds received by the campaign treasurer of any
637 candidate or political committee shall, prior to the end of the
638 5th business day following the receipt thereof, Saturdays,

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639 Sundays, and legal holidays excluded, be deposited in a campaign
640 depository designated pursuant to s. 106.021, in an account that
641 contains the ~~designated "...(~~name of the candidate or
642 committee.~~)... Campaign Account."~~ Except for contributions to
643 political committees made by payroll deduction, all deposits
644 shall be accompanied by a bank deposit slip containing the name
645 of each contributor and the amount contributed by each. If a
646 contribution is deposited in a secondary campaign depository,
647 the depository shall forward the full amount of the deposit,
648 along with a copy of the deposit slip accompanying the deposit,
649 to the primary campaign depository prior to the end of the 1st
650 business day following the deposit.
651 Section 9. Section 106.07, Florida Statutes, is reenacted
652 and amended to read:
653 106.07 Reports; certification and filing.—
654 (1) Each campaign treasurer designated by a candidate or
655 political committee pursuant to s. 106.021 shall file regular
656 reports of all contributions received, and all expenditures
657 made, by or on behalf of such candidate or political committee.
658 Except as provided in paragraphs (a) and (b) ~~for the third~~
659 ~~calendar quarter immediately preceding a general election~~,
660 reports shall be filed on the 10th day following the end of each
661 calendar month ~~quarter~~ from the time the campaign treasurer is
662 appointed, except that, if the 10th day following the end of a
663 calendar month ~~quarter~~ occurs on a Saturday, Sunday, or legal
664 holiday, the report shall be filed on the next following day
665 that ~~which~~ is not a Saturday, Sunday, or legal holiday. Monthly
666 ~~Quarterly~~ reports shall include all contributions received and
667 expenditures made during the calendar month ~~quarter~~ which have

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668 not otherwise been reported pursuant to this section.
669 (a) A statewide candidate or a political committee required
670 to file reports with the division must file reports:
671 1. On the 60th day immediately preceding the primary
672 election, and each week thereafter, with the last weekly report
673 being filed on the 11th day immediately preceding the general
674 election.
675 2. On the 10th day immediately preceding the general
676 election, and each day thereafter, with the last daily report
677 being filed the 4th day before the general election ~~Except as~~
678 ~~provided in paragraph (b), the reports shall also be filed on~~
679 ~~the 32nd, 18th, and 4th days immediately preceding the primary~~
680 ~~and on the 46th, 32nd, 18th, and 4th days immediately preceding~~
681 ~~the election, for a candidate who is opposed in seeking~~
682 ~~nomination or election to any office, for a political committee,~~
683 ~~or for a committee of continuous existence~~.
684 (b) Any other candidate or a political committee required
685 to file reports with a filing officer other than the division
686 must file reports on the 60th day immediately preceding the
687 primary election, and each week thereafter, with the last weekly
688 report being filed on the 4th day immediately preceding the
689 general election ~~Any statewide candidate who has requested to~~
690 ~~receive contributions pursuant to the Florida Election Campaign~~
691 ~~Financing Act or any statewide candidate in a race with a~~
692 ~~candidate who has requested to receive contributions pursuant to~~
693 ~~the act shall also file reports on the 4th, 11th, 18th, 25th,~~
694 ~~and 32nd days prior to the primary election, and on the 4th,~~
695 ~~11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the~~
696 ~~general election~~.

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697 (c) Following the last day of qualifying for office, any
698 unopposed candidate need only file a report within 90 days after
699 the date such candidate became unopposed. Such report shall
700 contain all previously unreported contributions and expenditures
701 as required by this section and shall reflect disposition of
702 funds as required by s. 106.141.
703 (d)1. When a special election is called to fill a vacancy
704 in office, all political committees making contributions or
705 expenditures to influence the results of such special election
706 or the preceding special primary election shall file campaign
707 treasurers' reports with the filing officer on the dates set by
708 the Department of State pursuant to s. 100.111.
709 2. When an election is called for an issue to appear on the
710 ballot at a time when no candidates are scheduled to appear on
711 the ballot, all political committees making contributions or
712 expenditures in support of or in opposition to such issue shall
713 file reports on the 18th and 4th days before ~~prior to~~ such
714 election.
715 (e) The filing officer shall provide each candidate with a
716 schedule designating the beginning and end of reporting periods
717 as well as the corresponding designated due dates.
718 (2)(a)1. All reports required of a candidate by this
719 section shall be filed with the officer before whom the
720 candidate is required by law to qualify. All candidates who file
721 with the Department of State shall file their reports pursuant
722 to s. 106.0705. Except as provided in s. 106.0705, reports shall
723 be filed not later than 5 p.m. of the day designated; however,
724 any report postmarked by the United States Postal Service no
725 later than midnight of the day designated is ~~shall be~~ deemed to

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726 have been filed in a timely manner. Any report received by the
727 filing officer within 5 days after the designated due date that
728 was delivered by the United States Postal Service is ~~shall be~~
729 deemed timely filed unless it has a postmark that indicates that
730 the report was mailed after the designated due date. A
731 certificate of mailing obtained from and dated by the United
732 States Postal Service at the time of mailing, or a receipt from
733 an established courier company, which bears a date on or before
734 the date on which the report is due, suffices as ~~shall be~~ proof
735 of mailing in a timely manner. Reports must ~~shall~~ contain
736 information on ~~of~~ all previously unreported contributions
737 received and expenditures made as of the preceding Friday,
738 except that the report filed on the Friday immediately preceding
739 the election must ~~shall~~ contain information on ~~of~~ all previously
740 unreported contributions received and expenditures made as of
741 the day preceding that designated due date. All such reports are
742 ~~shall be~~ open to public inspection.
743 2. This subsection does not prohibit the governing body of
744 a political subdivision, by ordinance or resolution, from
745 imposing upon its own officers and candidates electronic filing
746 requirements not in conflict with s. 106.0705. Expenditure of
747 public funds for such purpose is deemed to be for a valid public
748 purpose.
749 (b)1. Any report that is deemed to be incomplete by the
750 officer with whom the candidate qualifies must ~~shall~~ be accepted
751 on a conditional basis. The campaign treasurer shall be notified
752 by certified mail or by another method using a common carrier
753 that provides a proof of delivery of the notice as to why the
754 report is incomplete and within 7 days after receipt of such

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755 notice must file an addendum to the report providing all
756 information necessary to complete the report in compliance with
757 this section. Failure to file a complete report after such
758 notice constitutes a violation of this chapter.
759 2. Notice is deemed complete upon proof of delivery of a
760 written notice to the mailing or street address of the campaign
761 treasurer or registered agent of record with the filing officer.
762 (3) Reports required of a political committee shall be
763 filed with the agency or officer before whom such committee
764 registers pursuant to s. 106.03(3) and shall be subject to the
765 same filing conditions as established for candidates' reports.
766 Incomplete reports by political committees shall be treated in
767 the manner provided for incomplete reports by candidates in
768 subsection (2).
769 (4)(a) Except as provided in paragraph (b), each report
770 required by this section must contain:
771 1. The full name, address, and occupation, if any of each
772 person who has made one or more contributions to or for such
773 committee or candidate within the reporting period, together
774 with the amount and date of such contributions. For
775 corporations, the report must provide as clear a description as
776 practicable of the principal type of business conducted by the
777 corporation. However, if the contribution is $100 or less or is
778 from a relative, as defined in s. 112.312, provided that the
779 relationship is reported, the occupation of the contributor or
780 the principal type of business need not be listed.
781 2. The name and address of each political committee from
782 which the reporting committee or the candidate received, or to
783 which the reporting committee or candidate made, any transfer of

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784 funds, together with the amounts and dates of all transfers.
785 3. Each loan for campaign purposes to or from any person or
786 political committee within the reporting period, together with
787 the full names, addresses, and occupations, and principal places
788 of business, if any, of the lender and endorsers, if any, and
789 the date and amount of such loans.
790 4. A statement of each contribution, rebate, refund, or
791 other receipt not otherwise listed under subparagraphs 1.
792 through 3.
793 5. The total sums of all loans, in-kind contributions, and
794 other receipts by or for such committee or candidate during the
795 reporting period. The reporting forms shall be designed to
796 elicit separate totals for in-kind contributions, loans, and
797 other receipts.
798 6. The full name and address of each person to whom
799 expenditures have been made by or on behalf of the committee or
800 candidate within the reporting period; the amount, date, and
801 purpose of each such expenditure; and the name and address of,
802 and office sought by, each candidate on whose behalf such
803 expenditure was made. However, expenditures made from the petty
804 cash fund provided by s. 106.12 need not be reported
805 individually.
806 7. The full name and address of each person to whom an
807 expenditure for personal services, salary, or reimbursement for
808 authorized expenses as provided in s. 106.021(3) has been made
809 and which is not otherwise reported, including the amount, date,
810 and purpose of such expenditure. However, expenditures made from
811 the petty cash fund provided for in s. 106.12 need not be
812 reported individually. Receipts for reimbursement for authorized

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813 expenditures shall be retained by the treasurer along with the
814 records for the campaign account.
815 8. The total amount withdrawn and the total amount spent
816 for petty cash purposes pursuant to this chapter during the
817 reporting period.
818 9. The total sum of expenditures made by such committee or
819 candidate during the reporting period.
820 10. The amount and nature of debts and obligations owed by
821 or to the committee or candidate, which relate to the conduct of
822 any political campaign.
823 11. Transaction information for each credit card purchase.
824 Receipts for each credit card purchase shall be retained by the
825 treasurer with the records for the campaign account.
826 12. The amount and nature of any separate interest-bearing
827 accounts or certificates of deposit and identification of the
828 financial institution in which such accounts or certificates of
829 deposit are located.
830 13. The primary purposes of an expenditure made indirectly
831 through a campaign treasurer pursuant to s. 106.021(3) for goods
832 and services such as communications media placement or
833 procurement services, campaign signs, insurance, and other
834 expenditures that include multiple components as part of the
835 expenditure. The primary purpose of an expenditure shall be that
836 purpose, including integral and directly related components,
837 that comprises 80 percent of such expenditure.
838 (b) Multiple uniform contributions from the same person,
839 aggregating no more than $250 per calendar year, collected by an
840 organization that is the affiliated sponsor of a political
841 committee, may be reported by the political committee in an

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842 aggregate amount listing the number of contributors together
843 with the amount contributed by each and the total amount
844 contributed during the reporting period. The identity of each
845 person making such uniform contribution must be reported to the
846 filing officer as provided in subparagraph (a)1. by July 1 of
847 each calendar year, or, in a general election year, no later
848 than the 60th day immediately preceding the primary election.
849 (c) ~~(b)~~ The filing officer shall make available to any
850 candidate or committee a reporting form which the candidate or
851 committee may use to indicate contributions received by the
852 candidate or committee but returned to the contributor before
853 deposit.
854 (5) The candidate and his or her campaign treasurer, in the
855 case of a candidate, or the political committee chair and
856 campaign treasurer of the committee, in the case of a political
857 committee, shall certify as to the correctness of each report;
858 and each person so certifying shall bear the responsibility for
859 the accuracy and veracity of each report. Any campaign
860 treasurer, candidate, or political committee chair who willfully
861 certifies the correctness of any report while knowing that such
862 report is incorrect, false, or incomplete commits a misdemeanor
863 of the first degree, punishable as provided in s. 775.082 or s.
864 775.083.
865 (6) The records maintained by the campaign depository with
866 respect to any campaign account regulated by this chapter are
867 subject to inspection by an agent of the Division of Elections
868 or the Florida Elections Commission at any time during normal
869 banking hours, and such depository shall furnish certified
870 copies of any of such records to the Division of Elections or

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871 Florida Elections Commission upon request.
872 (7) Notwithstanding any other provisions of this chapter,
873 in any reporting period during which a candidate or~~,~~ political
874 committee~~, or committee of continuous existence~~ has not received
875 funds, made any contributions, or expended any reportable funds,
876 the filing of the required report for that period is waived.
877 However, the next report filed must specify that the report
878 covers the entire period between the last submitted report and
879 the report being filed, and any candidate or~~,~~ political
880 committee~~, or committee of continuous existence~~ not reporting by
881 virtue of this subsection on dates prescribed elsewhere in this
882 chapter shall notify the filing officer in writing on the
883 prescribed reporting date that no report is being filed on that
884 date.
885 (8)(a) Any candidate or political committee failing to file
886 a report on the designated due date is subject to a fine as
887 provided in paragraph (b) for each late day, and, in the case of
888 a candidate, such fine shall be paid only from personal funds of
889 the candidate. The fine shall be assessed by the filing officer
890 and the moneys collected shall be deposited:
891 1. In the General Revenue Fund, in the case of a candidate
892 for state office or a political committee that registers with
893 the Division of Elections; or
894 2. In the general revenue fund of the political
895 subdivision, in the case of a candidate for an office of a
896 political subdivision or a political committee that registers
897 with an officer of a political subdivision.
898
899 No separate fine shall be assessed for failure to file a copy of

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900 any report required by this section.
901 (b) Upon determining that a report is late, the filing
902 officer shall immediately notify the candidate or chair of the
903 political committee as to the failure to file a report by the
904 designated due date and that a fine is being assessed for each
905 late day. The fine is ~~shall be~~ $50 per day for the first 3 days
906 late and, thereafter, $500 per day for each late day, not to
907 exceed 25 percent of the total receipts or expenditures,
908 whichever is greater, for the period covered by the late report.
909 However, for the reports immediately preceding each special
910 primary election, special election, primary election, and
911 general election, the fine is ~~shall be~~ $500 per day for each
912 late day, not to exceed 25 percent of the total receipts or
913 expenditures, whichever is greater, for the period covered by
914 the late report. For reports required under s. 106.141(8)
915 ~~106.141(7)~~, the fine is $50 per day for each late day, not to
916 exceed 25 percent of the total receipts or expenditures,
917 whichever is greater, for the period covered by the late report.
918 Upon receipt of the report, the filing officer shall determine
919 the amount of the fine which is due and shall notify the
920 candidate or chair or registered agent of the political
921 committee. The filing officer shall determine the amount of the
922 fine due based upon the earliest of the following:
923 1. When the report is actually received by such officer.
924 2. When the report is postmarked.
925 3. When the certificate of mailing is dated.
926 4. When the receipt from an established courier company is
927 dated.
928 5. When the electronic receipt issued pursuant to s.

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929 106.0705 or other electronic filing system authorized in this
930 section is dated.
931
932 Such fine shall be paid to the filing officer within 20 days
933 after receipt of the notice of payment due, unless appeal is
934 made to the Florida Elections Commission pursuant to paragraph
935 (c). Notice is deemed complete upon proof of delivery of written
936 notice to the mailing or street address on record with the
937 filing officer. In the case of a candidate, such fine is ~~shall~~
938 not ~~be~~ an allowable campaign expenditure and shall be paid only
939 from personal funds of the candidate. An officer or member of a
940 political committee is ~~shall~~ not ~~be~~ personally liable for such
941 fine.
942 (c) Any candidate or chair of a political committee may
943 appeal or dispute the fine, based upon, but not limited to,
944 unusual circumstances surrounding the failure to file on the
945 designated due date, and may request and shall be entitled to a
946 hearing before the Florida Elections Commission, which shall
947 have the authority to waive the fine in whole or in part. The
948 Florida Elections Commission must consider the mitigating and
949 aggravating circumstances contained in s. 106.265(2) when
950 determining the amount of a fine, if any, to be waived. Any such
951 request shall be made within 20 days after receipt of the notice
952 of payment due. In such case, the candidate or chair of the
953 political committee shall, within the 20-day period, notify the
954 filing officer in writing of his or her intention to bring the
955 matter before the commission.
956 (d) The appropriate filing officer shall notify the Florida
957 Elections Commission of the repeated late filing by a candidate

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958 or political committee, the failure of a candidate or political
959 committee to file a report after notice, or the failure to pay
960 the fine imposed. The commission shall investigate only those
961 alleged late filing violations specifically identified by the
962 filing officer and as set forth in the notification. Any other
963 alleged violations must be separately stated and reported by the
964 division to the commission under s. 106.25(2).
965 (9) The Department of State may prescribe by rule the
966 requirements for filing campaign treasurers' reports as set
967 forth in this chapter.
968 Section 10. Section 106.0703, Florida Statutes, is
969 reenacted and amended to read:
970 106.0703 Electioneering communications organizations;
971 reporting requirements; certification and filing; penalties.—
972 (1)(a) Each electioneering communications organization
973 shall file regular reports of all contributions received and all
974 expenditures made by or on behalf of the organization. Except as
975 provided in paragraphs (b) and (c), reports must ~~shall~~ be filed
976 on the 10th day following the end of each calendar month ~~quarter~~
977 from the time the organization is registered. However, if the
978 10th day following the end of a calendar month ~~quarter~~ occurs on
979 a Saturday, Sunday, or legal holiday, the report must ~~shall~~ be
980 filed on the next following day that is not a Saturday, Sunday,
981 or legal holiday. Monthly ~~Quarterly~~ reports must ~~shall~~ include
982 all contributions received and expenditures made during the
983 calendar month ~~quarter~~ that have not otherwise been reported
984 pursuant to this section.
985 (b) For an electioneering communications organization
986 required to file reports with the division, reports must be

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987 filed:
988 1. On the 60th day immediately preceding the primary
989 election, and each week thereafter, with the last weekly report
990 being filed on the 11th day immediately preceding the general
991 election.
992 2. On the 10th day immediately preceding the general
993 election, and every day thereafter, with the last daily report
994 being filed the day before the general election ~~Following the~~
995 ~~last day of candidates qualifying for office, the reports shall~~
996 ~~be filed on the 32nd, 18th, and 4th days immediately preceding~~
997 ~~the primary election and on the 46th, 32nd, 18th, and 4th days~~
998 ~~immediately preceding the general election~~.
999 (c) For an electioneering communications organization
1000 required to file reports with a filing officer other than the
1001 division, reports must be filed on the 60th day immediately
1002 preceding the primary election, and each week thereafter, with
1003 the last weekly report being filed on the 4th day immediately
1004 preceding the general election.
1005 (d) ~~(c)~~ When a special election is called to fill a vacancy
1006 in office, all electioneering communications organizations
1007 making contributions or expenditures to influence the results of
1008 the special election shall file reports with the filing officer
1009 on the dates set by the Department of State pursuant to s.
1010 100.111.
1011 (e) ~~(d)~~ In addition to the reports required by paragraph
1012 (a), an electioneering communications organization that is
1013 registered with the Department of State and that makes a
1014 contribution or expenditure to influence the results of a county
1015 or municipal election that is not being held at the same time as

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1016 a state or federal election must file reports with the county or
1017 municipal filing officer on the same dates as county or
1018 municipal candidates or committees for that election. The
1019 electioneering communications organization must also include the
1020 expenditure in the next report filed with the Division of
1021 Elections pursuant to this section following the county or
1022 municipal election.
1023 (f) ~~(e)~~ The filing officer shall make available to each
1024 electioneering communications organization a schedule
1025 designating the beginning and end of reporting periods as well
1026 as the corresponding designated due dates.
1027 (2)(a) Except as provided in s. 106.0705, the reports
1028 required of an electioneering communications organization shall
1029 be filed with the filing officer not later than 5 p.m. of the
1030 day designated. However, any report postmarked by the United
1031 States Postal Service no later than midnight of the day
1032 designated shall be deemed to have been filed in a timely
1033 manner. Any report received by the filing officer within 5 days
1034 after the designated due date that was delivered by the United
1035 States Postal Service shall be deemed timely filed unless it has
1036 a postmark that indicates that the report was mailed after the
1037 designated due date. A certificate of mailing obtained from and
1038 dated by the United States Postal Service at the time of
1039 mailing, or a receipt from an established courier company, which
1040 bears a date on or before the date on which the report is due,
1041 shall be proof of mailing in a timely manner. Reports shall
1042 contain information of all previously unreported contributions
1043 received and expenditures made as of the preceding Friday,
1044 except that the report filed on the Friday immediately preceding

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1045 the election shall contain information of all previously
1046 unreported contributions received and expenditures made as of
1047 the day preceding the designated due date. All such reports
1048 shall be open to public inspection.
1049 (b)1. Any report that is deemed to be incomplete by the
1050 officer with whom the electioneering communications organization
1051 files shall be accepted on a conditional basis. The treasurer of
1052 the electioneering communications organization shall be
1053 notified, by certified mail or other common carrier that can
1054 establish proof of delivery for the notice, as to why the report
1055 is incomplete. Within 7 days after receipt of such notice, the
1056 treasurer must file an addendum to the report providing all
1057 information necessary to complete the report in compliance with
1058 this section. Failure to file a complete report after such
1059 notice constitutes a violation of this chapter.
1060 2. Notice is deemed sufficient upon proof of delivery of
1061 written notice to the mailing or street address of the treasurer
1062 or registered agent of the electioneering communication
1063 organization on record with the filing officer.
1064 (3)(a) Each report required by this section must contain:
1065 1. The full name, address, and occupation, if any, of each
1066 person who has made one or more contributions to or for such
1067 electioneering communications organization within the reporting
1068 period, together with the amount and date of such contributions.
1069 For corporations, the report must provide as clear a description
1070 as practicable of the principal type of business conducted by
1071 the corporation. However, if the contribution is $100 or less,
1072 the occupation of the contributor or the principal type of
1073 business need not be listed.

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1074 2. The name and address of each political committee from
1075 which or to which the reporting electioneering communications
1076 organization made any transfer of funds, together with the
1077 amounts and dates of all transfers.
1078 3. Each loan for electioneering communication purposes to
1079 or from any person or political committee within the reporting
1080 period, together with the full names, addresses, and occupations
1081 and principal places of business, if any, of the lender and
1082 endorsers, if any, and the date and amount of such loans.
1083 4. A statement of each contribution, rebate, refund, or
1084 other receipt not otherwise listed under subparagraphs 1.-3.
1085 5. The total sums of all loans, in-kind contributions, and
1086 other receipts by or for such electioneering communications
1087 organization during the reporting period. The reporting forms
1088 shall be designed to elicit separate totals for in-kind
1089 contributions, loans, and other receipts.
1090 6. The full name and address of each person to whom
1091 expenditures have been made by or on behalf of the
1092 electioneering communications organization within the reporting
1093 period and the amount, date, and purpose of each expenditure.
1094 7. The full name and address of each person to whom an
1095 expenditure for personal services, salary, or reimbursement for
1096 expenses has been made and that is not otherwise reported,
1097 including the amount, date, and purpose of the expenditure.
1098 8. The total sum of expenditures made by the electioneering
1099 communications organization during the reporting period.
1100 9. The amount and nature of debts and obligations owed by
1101 or to the electioneering communications organization that relate
1102 to the conduct of any electioneering communication.

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1103 10. Transaction information for each credit card purchase.
1104 Receipts for each credit card purchase shall be retained by the
1105 electioneering communications organization.
1106 11. The amount and nature of any separate interest-bearing
1107 accounts or certificates of deposit and identification of the
1108 financial institution in which such accounts or certificates of
1109 deposit are located.
1110 12. The primary purposes of an expenditure made indirectly
1111 through an electioneering communications organization for goods
1112 and services, such as communications media placement or
1113 procurement services and other expenditures that include
1114 multiple components as part of the expenditure. The primary
1115 purpose of an expenditure shall be that purpose, including
1116 integral and directly related components, that comprises 80
1117 percent of such expenditure.
1118 (b) The filing officer shall make available to any
1119 electioneering communications organization a reporting form
1120 which the electioneering communications organization may use to
1121 indicate contributions received by the electioneering
1122 communications organization but returned to the contributor
1123 before deposit.
1124 (4) The treasurer of the electioneering communications
1125 organization shall certify as to the correctness of each report,
1126 and each person so certifying shall bear the responsibility for
1127 the accuracy and veracity of each report. Any treasurer who
1128 willfully certifies the correctness of any report while knowing
1129 that such report is incorrect, false, or incomplete commits a
1130 misdemeanor of the first degree, punishable as provided in s.
1131 775.082 or s. 775.083.

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1132 (5) The electioneering communications organization
1133 depository shall provide statements reflecting deposits and
1134 expenditures from the account to the treasurer, who shall retain
1135 the records pursuant to s. 106.06. The records maintained by the
1136 depository with respect to the account shall be subject to
1137 inspection by an agent of the Division of Elections or the
1138 Florida Elections Commission at any time during normal banking
1139 hours, and such depository shall furnish certified copies of any
1140 such records to the Division of Elections or the Florida
1141 Elections Commission upon request.
1142 (6) Notwithstanding any other provisions of this chapter,
1143 in any reporting period during which an electioneering
1144 communications organization has not received funds, made any
1145 contributions, or expended any reportable funds, the treasurer
1146 shall file a written report with the filing officer by the
1147 prescribed reporting date that no reportable contributions or
1148 expenditures were made during the reporting period.
1149 (7)(a) Any electioneering communications organization
1150 failing to file a report on the designated due date shall be
1151 subject to a fine as provided in paragraph (b) for each late
1152 day. The fine shall be assessed by the filing officer, and the
1153 moneys collected shall be deposited:
1154 1. In the General Revenue Fund, in the case of an
1155 electioneering communications organization that registers with
1156 the Division of Elections; or
1157 2. In the general revenue fund of the political
1158 subdivision, in the case of an electioneering communications
1159 organization that registers with an officer of a political
1160 subdivision.

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1162 No separate fine shall be assessed for failure to file a copy of
1163 any report required by this section.
1164 (b) Upon determining that a report is late, the filing
1165 officer shall immediately notify the electioneering
1166 communications organization as to the failure to file a report
1167 by the designated due date and that a fine is being assessed for
1168 each late day. The fine shall be $50 per day for the first 3
1169 days late and, thereafter, $500 per day for each late day, not
1170 to exceed 25 percent of the total receipts or expenditures,
1171 whichever is greater, for the period covered by the late report.
1172 However, for the reports immediately preceding each primary and
1173 general election, the fine shall be $500 per day for each late
1174 day, not to exceed 25 percent of the total receipts or
1175 expenditures, whichever is greater, for the period covered by
1176 the late report. Upon receipt of the report, the filing officer
1177 shall determine the amount of the fine which is due and shall
1178 notify the electioneering communications organization. The
1179 filing officer shall determine the amount of the fine due based
1180 upon the earliest of the following:
1181 1. When the report is actually received by such officer.
1182 2. When the report is postmarked.
1183 3. When the certificate of mailing is dated.
1184 4. When the receipt from an established courier company is
1185 dated.
1186 5. When the electronic receipt issued pursuant to s.
1187 106.0705 or other electronic filing system authorized in this
1188 section is dated.
1189

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1190 Such fine shall be paid to the filing officer within 20 days
1191 after receipt of the notice of payment due, unless appeal is
1192 made to the Florida Elections Commission pursuant to paragraph
1193 (c). Notice is deemed sufficient upon proof of delivery of
1194 written notice to the mailing or street address on record with
1195 the filing officer. An officer or member of an electioneering
1196 communications organization shall not be personally liable for
1197 such fine.
1198 (c) The treasurer of an electioneering communications
1199 organization may appeal or dispute the fine, based upon, but not
1200 limited to, unusual circumstances surrounding the failure to
1201 file on the designated due date, and may request and shall be
1202 entitled to a hearing before the Florida Elections Commission,
1203 which shall have the authority to waive the fine in whole or in
1204 part. The Florida Elections Commission must consider the
1205 mitigating and aggravating circumstances contained in s.
1206 106.265(2) when determining the amount of a fine, if any, to be
1207 waived. Any such request shall be made within 20 days after
1208 receipt of the notice of payment due. In such case, the
1209 treasurer of the electioneering communications organization
1210 shall, within the 20-day period, notify the filing officer in
1211 writing of his or her intention to bring the matter before the
1212 commission.
1213 (d) The appropriate filing officer shall notify the Florida
1214 Elections Commission of the repeated late filing by an
1215 electioneering communications organization, the failure of an
1216 electioneering communications organization to file a report
1217 after notice, or the failure to pay the fine imposed. The
1218 commission shall investigate only those alleged late filing

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1219 violations specifically identified by the filing officer and as
1220 set forth in the notification. Any other alleged violations must
1221 be stated separately and reported by the division to the
1222 commission under s. 106.25(2).
1223 (8) Electioneering communications organizations shall not
1224 use credit cards.
1225 Section 11. Section 106.0705, Florida Statutes, is
1226 reenacted and amended to read:
1227 106.0705 Electronic filing of campaign treasurer's
1228 reports.—
1229 (1) As used in this section, "electronic filing system"
1230 means an Internet system for recording and reporting campaign
1231 finance activity by reporting period.
1232 (2)(a) Each individual who is required to file reports with
1233 the division pursuant to s. 106.07 or s. 106.141 must file such
1234 reports by means of the division's electronic filing system.
1235 (b) Each political committee, ~~committee of continuous~~
1236 ~~existence,~~ electioneering communications organization,
1237 affiliated party committee, or state executive committee that is
1238 required to file reports with the division under ~~s. 106.04,~~ s.
1239 106.07, s. 106.0703, or s. 106.29, as applicable, must file such
1240 reports with the division by means of the division's electronic
1241 filing system.
1242 (c) Each person or organization that is required to file
1243 reports with the division under s. 106.071 must file such
1244 reports by means of the division's electronic filing system.
1245 (3) Reports filed pursuant to this section shall be
1246 completed and filed through the electronic filing system not
1247 later than midnight of the day designated. Reports not filed by

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1248 midnight of the day designated are late filed and are subject to
1249 the penalties under ~~s. 106.04(9),~~ s. 106.07(8), s. 106.0703(7),
1250 or s. 106.29(3), as applicable.
1251 (4) Each report filed pursuant to this section is
1252 considered to be under oath by the candidate and treasurer, the
1253 chair and treasurer, the treasurer under s. 106.0703, or the
1254 leader and treasurer under s. 103.092, whichever is applicable,
1255 and such persons are subject to the provisions of ~~s.~~
1256 ~~106.04(4)(d),~~ s. 106.07(5), s. 106.0703(4), or s. 106.29(2), as
1257 applicable. Persons given a secure sign-on to the electronic
1258 filing system are responsible for protecting such from
1259 disclosure and are responsible for all filings using such
1260 credentials, unless they have notified the division that their
1261 credentials have been compromised.
1262 (5) The electronic filing system developed by the division
1263 must:
1264 (a) Be based on access by means of the Internet.
1265 (b) Be accessible by anyone with Internet access using
1266 standard web-browsing software.
1267 (c) Provide for direct entry of campaign finance
1268 information as well as upload of such information from campaign
1269 finance software certified by the division.
1270 (d) Provide a method that prevents unauthorized access to
1271 electronic filing system functions.
1272 (6) The division shall adopt rules ~~pursuant to ss.~~
1273 ~~120.536(1) and 120.54~~ to administer this section and provide for
1274 the reports required to be filed pursuant to this section. Such
1275 rules shall, at a minimum, provide:
1276 (a) Alternate filing procedures in case the division’s

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1277 electronic filing system is not operable.
1278 (b) For the issuance of an electronic receipt to the person
1279 submitting the report indicating and verifying that the report
1280 has been filed.
1281 Section 12. Section 106.08, Florida Statutes, is amended to
1282 read:
1283 106.08 Contributions; limitations on.—
1284 (1)(a) Except for political parties or affiliated party
1285 committees, no person or~~,~~ political committee~~, or committee of~~
1286 ~~continuous existence~~ may, in any election, make contributions in
1287 excess of the following amounts: ~~in excess of $500 to any~~
1288 ~~candidate for election to or retention in office or to any~~
1289 ~~political committee supporting or opposing one or more~~
1290 ~~candidates.~~
1291 1. To a candidate for statewide office or for retention as
1292 a justice of the Supreme Court, $3,000. Candidates for the
1293 offices of Governor and Lieutenant Governor on the same ticket
1294 are considered a single candidate for the purpose of this
1295 subparagraph ~~section~~.
1296 2. To a candidate for retention as a judge of a district
1297 court of appeal, $2,000.
1298 3. To a candidate for legislative or multicounty office; a
1299 candidate for countywide office or in any election conducted on
1300 less than a countywide basis; or a candidate for county court
1301 judge or circuit judge, $500.
1302 (b)~~1.~~ The contribution limits provided in this subsection
1303 do not apply to contributions made by a state or county
1304 executive committee of a political party or affiliated party
1305 committee regulated by chapter 103 or to amounts contributed by

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1306 a candidate to his or her own campaign.
1307 ~~2. Notwithstanding the limits provided in this subsection,~~
1308 ~~an unemancipated child under the age of 18 years of age may not~~
1309 ~~make a contribution in excess of $100 to any candidate or to any~~
1310 ~~political committee supporting one or more candidates.~~
1311 (c) The contribution limits of this subsection apply to
1312 each election. For purposes of this subsection, the primary
1313 election and general election are separate elections so long as
1314 the candidate is not an unopposed candidate as defined in s.
1315 106.011 ~~106.011(15)~~. However, for the purpose of contribution
1316 limits with respect to candidates for retention as a justice or
1317 judge, there is only one election, which is the general
1318 election.
1319 (2)(a) A candidate may not accept contributions from a
1320 county executive committee of a political party whose
1321 contributions in the aggregate exceed $50,000, or from the
1322 national~~,~~ or state~~, or county~~ executive committees of a
1323 political party, including any subordinate committee of such
1324 political party or affiliated party committees, whose ~~which~~
1325 contributions in the aggregate exceed $50,000.
1326 (b) A candidate for statewide office may not accept
1327 contributions from national, state, or county executive
1328 committees of a political party, including any subordinate
1329 committee of the political party, or affiliated party
1330 committees, which contributions in the aggregate exceed
1331 $250,000. Polling services, research services, costs for
1332 campaign staff, professional consulting services, and telephone
1333 calls are not contributions to be counted toward the
1334 contribution limits of paragraph (a) or this paragraph. Any item

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1335 not expressly identified in this paragraph as nonallocable is a
1336 contribution in an amount equal to the fair market value of the
1337 item and must be counted as allocable toward the contribution
1338 limits of paragraph (a) or this paragraph. Nonallocable, in-kind
1339 contributions must be reported by the candidate under s. 106.07
1340 and by the political party or affiliated party committee under
1341 s. 106.29.
1342 (3)(a) Any contribution received by a candidate with
1343 opposition in an election or by the campaign treasurer or a
1344 deputy campaign treasurer of such a candidate on the day of that
1345 election or less than 5 days before ~~prior to~~ the day of that
1346 election must be returned by him or her to the person or
1347 committee contributing it and may not be used or expended by or
1348 on behalf of the candidate.
1349 (b) Any contribution received by a candidate or by the
1350 campaign treasurer or a deputy campaign treasurer of a candidate
1351 after the date at which the candidate withdraws his or her
1352 candidacy, or after the date the candidate is defeated, becomes
1353 unopposed, or is elected to office must be returned to the
1354 person or committee contributing it and may not be used or
1355 expended by or on behalf of the candidate.
1356 (4) Any contribution received by the chair, campaign
1357 treasurer, or deputy campaign treasurer of a political committee
1358 supporting or opposing a candidate with opposition in an
1359 election or supporting or opposing an issue on the ballot in an
1360 election on the day of that election or less than 5 days before
1361 ~~prior to~~ the day of that election may not be obligated or
1362 expended by the committee until after the date of the election.
1363 (5)(a) A person may not make any contribution through or in

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1364 the name of another, directly or indirectly, in any election.
1365 (b) Candidates, political committees, affiliated party
1366 committees, and political parties may not solicit contributions
1367 from any religious, charitable, civic, or other causes or
1368 organizations established primarily for the public good.
1369 (c) Candidates, political committees, affiliated party
1370 committees, and political parties may not make contributions, in
1371 exchange for political support, to any religious, charitable,
1372 civic, or other cause or organization established primarily for
1373 the public good. It is not a violation of this paragraph for:
1374 1. A candidate, political committee, affiliated party
1375 committee, or political party executive committee to make gifts
1376 of money in lieu of flowers in memory of a deceased person;
1377 2. A candidate to continue membership in, or make regular
1378 donations from personal or business funds to, religious,
1379 political party, affiliated party committee, civic, or
1380 charitable groups of which the candidate is a member or to which
1381 the candidate has been a regular donor for more than 6 months;
1382 or
1383 3. A candidate to purchase, with campaign funds, tickets,
1384 admission to events, or advertisements from religious, civic,
1385 political party, affiliated party committee, or charitable
1386 groups.
1387 (6)(a) A political party or affiliated party committee may
1388 not accept any contribution that has been specifically
1389 designated for the partial or exclusive use of a particular
1390 candidate. Any contribution so designated must be returned to
1391 the contributor and may not be used or expended by or on behalf
1392 of the candidate. Funds contributed to an affiliated party

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1393 committee may ~~shall~~ not be ~~deemed as~~ designated for the partial
1394 or exclusive use of a leader as defined in s. 103.092.
1395 (b)1. A political party or affiliated party committee may
1396 not accept any in-kind contribution that fails to provide a
1397 direct benefit to the political party or affiliated party
1398 committee. A "direct benefit" includes, but is not limited to,
1399 fundraising or furthering the objectives of the political party
1400 or affiliated party committee.
1401 2.a. An in-kind contribution to a state political party may
1402 be accepted only by the chairperson of the state political party
1403 or by the chairperson's designee or designees whose names are on
1404 file with the division in a form acceptable to the division
1405 before ~~prior to~~ the date of the written notice required in sub-
1406 subparagraph b. An in-kind contribution to a county political
1407 party may be accepted only by the chairperson of the county
1408 political party or by the county chairperson's designee or
1409 designees whose names are on file with the supervisor of
1410 elections of the respective county before ~~prior to~~ the date of
1411 the written notice required in sub-subparagraph b. An in-kind
1412 contribution to an affiliated party committee may be accepted
1413 only by the leader of the affiliated party committee as defined
1414 in s. 103.092 or by the leader's designee or designees whose
1415 names are on file with the division in a form acceptable to the
1416 division before ~~prior to~~ the date of the written notice required
1417 in sub-subparagraph b.
1418 b. A person making an in-kind contribution to a state or
1419 county political party or affiliated party committee must
1420 provide prior written notice of the contribution to a person
1421 described in sub-subparagraph a. The prior written notice must

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1422 be signed and dated and may be provided by an electronic or
1423 facsimile message. However, prior written notice is not required
1424 for an in-kind contribution that consists of food and beverage
1425 in an aggregate amount not exceeding $1,500 which is consumed at
1426 a single sitting or event if such in-kind contribution is
1427 accepted in advance by a person specified in sub-subparagraph a.
1428 c. A person described in sub-subparagraph a. may accept an
1429 in-kind contribution requiring prior written notice only in a
1430 writing that is dated before the in-kind contribution is made.
1431 Failure to obtain the required written acceptance of an in-kind
1432 contribution to a state or county political party or affiliated
1433 party committee constitutes a refusal of the contribution.
1434 d. A copy of each prior written acceptance required under
1435 sub-subparagraph c. must be filed at the time the regular
1436 reports of contributions and expenditures required under s.
1437 106.29 are filed by the state executive committee, county
1438 executive committee, and affiliated party committee. A state
1439 executive committee and an affiliated party committee must file
1440 with the division. A county executive committee must file with
1441 the county's supervisor of elections.
1442 e. An in-kind contribution may not be given to a state or
1443 county political party or affiliated party committee unless the
1444 in-kind contribution is made as provided in this subparagraph.
1445 (7)(a) Any person who knowingly and willfully makes or
1446 accepts no more than one contribution in violation of subsection
1447 (1) or subsection (5), or any person who knowingly and willfully
1448 fails or refuses to return any contribution as required in
1449 subsection (3), commits a misdemeanor of the first degree,
1450 punishable as provided in s. 775.082 or s. 775.083. If any

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1451 corporation, partnership, or other business entity or any
1452 political party, affiliated party committee, political
1453 committee, ~~committee of continuous existence,~~ or electioneering
1454 communications organization is convicted of knowingly and
1455 willfully violating any provision punishable under this
1456 paragraph, it shall be fined not less than $1,000 and not more
1457 than $10,000. If it is a domestic entity, it may be ordered
1458 dissolved by a court of competent jurisdiction; if it is a
1459 foreign or nonresident business entity, its right to do business
1460 in this state may be forfeited. Any officer, partner, agent,
1461 attorney, or other representative of a corporation, partnership,
1462 or other business entity, or of a political party, affiliated
1463 party committee, political committee, ~~committee of continuous~~
1464 ~~existence,~~ electioneering communications organization, or
1465 organization exempt from taxation under s. 527 or s. 501(c)(4)
1466 of the Internal Revenue Code, who aids, abets, advises, or
1467 participates in a violation of any provision punishable under
1468 this paragraph commits a misdemeanor of the first degree,
1469 punishable as provided in s. 775.082 or s. 775.083.
1470 (b) Any person who knowingly and willfully makes or accepts
1471 two or more contributions in violation of subsection (1) or
1472 subsection (5) commits a felony of the third degree, punishable
1473 as provided in s. 775.082, s. 775.083, or s. 775.084. If any
1474 corporation, partnership, or other business entity or any
1475 political party, affiliated party committee, political
1476 committee, ~~committee of continuous existence,~~ or electioneering
1477 communications organization is convicted of knowingly and
1478 willfully violating any provision punishable under this
1479 paragraph, it shall be fined not less than $10,000 and not more

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1480 than $50,000. If it is a domestic entity, it may be ordered
1481 dissolved by a court of competent jurisdiction; if it is a
1482 foreign or nonresident business entity, its right to do business
1483 in this state may be forfeited. Any officer, partner, agent,
1484 attorney, or other representative of a corporation, partnership,
1485 or other business entity, or of a political committee, ~~committee~~
1486 ~~of continuous existence,~~ political party, affiliated party
1487 committee, or electioneering communications organization, or
1488 organization exempt from taxation under s. 527 or s. 501(c)(4)
1489 of the Internal Revenue Code, who aids, abets, advises, or
1490 participates in a violation of any provision punishable under
1491 this paragraph commits a felony of the third degree, punishable
1492 as provided in s. 775.082, s. 775.083, or s. 775.084.
1493 (8) Except when otherwise provided in subsection (7), any
1494 person who knowingly and willfully violates any provision of
1495 this section shall, in addition to any other penalty prescribed
1496 by this chapter, pay to the state a sum equal to twice the
1497 amount contributed in violation of this chapter. Each campaign
1498 treasurer shall pay all amounts contributed in violation of this
1499 section to the state for deposit in the General Revenue Fund.
1500 (9) This section does not apply to the transfer of funds
1501 between a primary campaign depository and a savings account or
1502 certificate of deposit or to any interest earned on such account
1503 or certificate.
1504 (10) Contributions to a political committee ~~or committee of~~
1505 ~~continuous existence~~ may be received by an affiliated
1506 organization and transferred to the bank account of the
1507 political committee ~~or committee of continuous existence~~ via
1508 check written from the affiliated organization if such

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1509 contributions are specifically identified as intended to be
1510 contributed to the political committee ~~or committee of~~
1511 ~~continuous existence~~. All contributions received in this manner
1512 shall be reported pursuant to s. 106.07 by the political
1513 committee ~~or committee of continuous existence~~ as having been
1514 made by the original contributor.
1515 Section 13. Section 106.11, Florida Statutes, is reenacted
1516 and amended to read:
1517 106.11 Expenses of and expenditures by candidates and
1518 political committees.—Each candidate and each political
1519 committee which designates a primary campaign depository
1520 pursuant to s. 106.021(1) shall make expenditures from funds on
1521 deposit in such primary campaign depository only in the
1522 following manner, with the exception of expenditures made from
1523 petty cash funds provided by s. 106.12:
1524 (1)(a)1. The campaign treasurer or deputy campaign
1525 treasurer of a candidate or political committee shall make
1526 expenditures from funds on deposit in the primary campaign
1527 depository only by means of a bank check drawn upon the campaign
1528 account of the candidate or political committee. The campaign
1529 account shall be separate from any personal or other account and
1530 shall be used only for the purpose of depositing contributions
1531 and making expenditures for the candidate or political
1532 committee.
1533 2. An expenditure by a political committee must also be
1534 primarily related to raising or making a contribution,
1535 influencing the results of an election, making an electioneering
1536 communication, or other political activity authorized by this
1537 chapter. A violation of this subparagraph is punishable solely

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1538 as provided in s. 106.19(2).
1539 (b) The checks for such account shall contain, as a
1540 minimum, the following information:
1541 1. The ~~statement "...(~~name of the campaign account of the
1542 candidate or political committee.~~)... Campaign Account."~~
1543 2. The account number and the name of the bank.
1544 3. The exact amount of the expenditure.
1545 4. The signature of the campaign treasurer or deputy
1546 treasurer.
1547 5. The exact purpose for which the expenditure is
1548 authorized.
1549 6. The name of the payee.
1550 (2)(a) For purposes of this section, debit cards are
1551 considered bank checks, if:
1552 1. Debit cards are obtained from the same bank that has
1553 been designated as the candidate's or political committee's
1554 primary campaign depository.
1555 2. Debit cards are issued in the name of the treasurer,
1556 deputy treasurer, or authorized user and contain the ~~state~~
1557 ~~"...(~~name of the campaign account of the candidate or political
1558 committee.~~)... Campaign Account."~~
1559 3. No more than three debit cards are requested and issued.
1560 4. The person using the debit card does not receive cash as
1561 part of, or independent of, any transaction for goods or
1562 services.
1563 5. All receipts for debit card transactions contain:
1564 a. The last four digits of the debit card number.
1565 b. The exact amount of the expenditure.
1566 c. The name of the payee.

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1567 d. The signature of the campaign treasurer, deputy
1568 treasurer, or authorized user.
1569 e. The exact purpose for which the expenditure is
1570 authorized.
1571
1572 Any information required by this subparagraph but not included
1573 on the debit card transaction receipt may be handwritten on, or
1574 attached to, the receipt by the authorized user before
1575 submission to the treasurer.
1576 (b) Debit cards are not subject to the requirements of
1577 paragraph (1)(b).
1578 (3) The campaign treasurer, deputy treasurer, or authorized
1579 user who signs the check shall be responsible for the
1580 completeness and accuracy of the information on such check and
1581 for insuring that such expenditure is an authorized expenditure.
1582 (4) No candidate, campaign manager, treasurer, deputy
1583 treasurer, or political committee or any officer or agent
1584 thereof, or any person acting on behalf of any of the foregoing,
1585 shall authorize any expenses, nor shall any campaign treasurer
1586 or deputy treasurer sign a check drawn on the primary campaign
1587 account for any purpose, unless there are sufficient funds on
1588 deposit in the primary depository account of the candidate or
1589 political committee to pay the full amount of the authorized
1590 expense, to honor all other checks drawn on such account, which
1591 checks are outstanding, and to meet all expenses previously
1592 authorized but not yet paid. However, an expense may be incurred
1593 for the purchase of goods or services if there are sufficient
1594 funds on deposit in the primary depository account to pay the
1595 full amount of the incurred expense, to honor all checks drawn

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1596 on such account, which checks are outstanding, and to meet all
1597 other expenses previously authorized but not yet paid, provided
1598 that payment for such goods or services is made upon final
1599 delivery and acceptance of the goods or services; and an
1600 expenditure from petty cash pursuant to the provisions of s.
1601 106.12 may be authorized, if there is a sufficient amount of
1602 money in the petty cash fund to pay for such expenditure.
1603 Payment for credit card purchases shall be made pursuant to s.
1604 106.125. Any expense incurred or authorized in excess of such
1605 funds on deposit shall, in addition to other penalties provided
1606 by law, constitute a violation of this chapter. As used in this
1607 subsection, the term "sufficient funds on deposit in the primary
1608 depository account of the candidate or political committee"
1609 means that the funds at issue have been delivered for deposit to
1610 the financial institution at which such account is maintained.
1611 The term shall not be construed to mean that such funds are
1612 available for withdrawal in accordance with the deposit rules or
1613 the funds availability policies of such financial institution.
1614 (5) A candidate who withdraws his or her candidacy, becomes
1615 an unopposed candidate, or is eliminated as a candidate or
1616 elected to office may expend funds from the campaign account to:
1617 (a) Purchase "thank you" advertising for up to 75 days
1618 after he or she withdraws, becomes unopposed, or is eliminated
1619 or elected.
1620 (b) Pay for items which were obligated before he or she
1621 withdrew, became unopposed, or was eliminated or elected.
1622 (c) Pay for expenditures necessary to close down the
1623 campaign office and to prepare final campaign reports.
1624 (d) Dispose of surplus funds as provided in s. 106.141.

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1625 (6) A candidate who makes a loan to his or her campaign and
1626 reports the loan as required by s. 106.07 may be reimbursed for
1627 the loan at any time the campaign account has sufficient funds
1628 to repay the loan and satisfy its other obligations.
1629 Section 14. Section 106.141, Florida Statutes, is amended
1630 to read:
1631 106.141 Disposition of surplus funds by candidates.—
1632 (1) Except as provided in subsection (6), each candidate
1633 who withdraws his or her candidacy, becomes an unopposed
1634 candidate, or is eliminated as a candidate or elected to office
1635 shall, within 90 days, dispose of the funds on deposit in his or
1636 her campaign account and file a report reflecting the
1637 disposition of all remaining funds. Such candidate may ~~shall~~ not
1638 accept any contributions, nor may ~~shall~~ any person accept
1639 contributions on behalf of such candidate, after the candidate
1640 withdraws his or her candidacy, becomes unopposed, or is
1641 eliminated or elected. However, if a candidate receives a refund
1642 check after all surplus funds have been disposed of, the check
1643 may be endorsed by the candidate and the refund disposed of
1644 under this section. An amended report must be filed showing the
1645 refund and subsequent disposition.
1646 (2) Any candidate required to dispose of funds pursuant to
1647 this section may, before ~~prior to~~ such disposition, be
1648 reimbursed by the campaign, in full or in part, for any reported
1649 contributions by the candidate to the campaign.
1650 (3) The campaign treasurer of a candidate who withdraws his
1651 or her candidacy, becomes unopposed, or is eliminated as a
1652 candidate or elected to office and who has funds on deposit in a
1653 separate interest-bearing account or certificate of deposit

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1654 shall, within 7 days after the date of becoming unopposed or the
1655 date of such withdrawal, elimination, or election, transfer such
1656 funds and the accumulated interest earned thereon to the
1657 campaign account of the candidate for disposal under this
1658 section. However, if the funds are in an account in which
1659 penalties will apply for withdrawal within the 7-day period, the
1660 campaign treasurer shall transfer such funds and the accumulated
1661 interest earned thereon as soon as the funds can be withdrawn
1662 without penalty, or within 90 days after the candidate becomes
1663 unopposed, withdraws his or her candidacy, or is eliminated or
1664 elected, whichever comes first.
1665 (4)(a) Except as provided in paragraph (b), any candidate
1666 required to dispose of funds pursuant to this section shall, at
1667 the option of the candidate, dispose of such funds by any of the
1668 following means, or any combination thereof:
1669 1. Return pro rata to each contributor the funds that have
1670 not been spent or obligated.
1671 2. Donate the funds that have not been spent or obligated
1672 to a charitable organization or organizations that meet the
1673 qualifications of s. 501(c)(3) of the Internal Revenue Code.
1674 3. Give <u>not more than $25,000 of</u> the funds that have not
1675 been spent or obligated to the affiliated party committee or
1676 political party of which such candidate is a member.
1677 4. Give the funds that have not been spent or obligated:
1678 a. In the case of a candidate for state office, to the
1679 state, to be deposited in either the Election Campaign Financing
1680 Trust Fund or the General Revenue Fund, as designated by the
1681 candidate; or
1682 b. In the case of a candidate for an office of a political

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1683 subdivision, to such political subdivision, to be deposited in
1684 the general fund thereof.
1685 (b) Any candidate required to dispose of funds pursuant to
1686 this section who has received contributions pursuant to the
1687 Florida Election Campaign Financing Act shall, after all
1688 monetary commitments pursuant to s. 106.11(5)(b) and (c) have
1689 been met, return all surplus campaign funds to the General
1690 Revenue Fund.
1691 (5) A candidate elected to office or a candidate who will
1692 be elected to office by virtue of his or her being unopposed
1693 may, in addition to the disposition methods provided in
1694 subsection (4), transfer from the campaign account to an office
1695 account any amount of the funds on deposit in such campaign
1696 account up to:
1697 (a) Fifty ~~Twenty~~ thousand dollars, for a candidate for
1698 statewide office. The Governor and Lieutenant Governor shall be
1699 considered separate candidates for the purpose of this section.
1700 (b) Ten ~~Five~~ thousand dollars, for a candidate for
1701 multicounty office.
1702 (c) Ten ~~Five~~ thousand dollars multiplied by the number of
1703 years in the term of office for which elected, for a candidate
1704 for legislative office.
1705 (d) Five thousand ~~Two thousand five hundred~~ dollars
1706 multiplied by the number of years in the term of office for
1707 which elected, for a candidate for county office or for a
1708 candidate in any election conducted on less than a countywide
1709 basis.
1710 (e) Six thousand dollars, for a candidate for retention as
1711 a justice of the Supreme Court.

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1712 (f) Three thousand dollars, for a candidate for retention
1713 as a judge of a district court of appeal.
1714 (g) Three thousand ~~One thousand five hundred~~ dollars, for a
1715 candidate for county court judge or circuit judge.
1716
1717 The office account established pursuant to this subsection shall
1718 be separate from any personal or other account. Any funds so
1719 transferred by a candidate shall be used only for legitimate
1720 expenses in connection with the candidate's public office. Such
1721 expenses may include travel expenses incurred by the officer or
1722 a staff member; ~~,~~ personal taxes payable on office account funds
1723 by the candidate or elected public official; professional
1724 services provided by a certified public accountant or attorney
1725 for preparation of the elected public official's financial
1726 disclosure filing pursuant to s. 112.3144 or s. 112.3145; costs
1727 to prepare, print, produce, and mail holiday cards or
1728 newsletters about the elected public official's public business
1729 to constituents, if such correspondence does not constitute a
1730 political advertisement, independent expenditure, or
1731 electioneering communication as provided in s. 106.011; fees or
1732 dues to religious, civic, or charitable organizations of which
1733 the elected public official is a member; items of modest value
1734 such as flowers, greeting cards, or personal notes given as a
1735 substitute for, or in association with, an elected public
1736 official's personal attendance at a constituent's special event
1737 or family occasion, such as the birth of a child, graduation,
1738 wedding, or funeral; personal expenses incurred by the elected
1739 public official in connection with attending a constituent
1740 meeting or event where public policy is discussed, if such

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1741 meetings or events are limited to no more than once a week;~~,~~ or
1742 expenses incurred in the operation of the elected public
1743 official's ~~his or her~~ office, including the employment of
1744 additional staff. The funds may be deposited in a savings
1745 account; however, all deposits, withdrawals, and interest earned
1746 thereon shall be reported at the appropriate reporting period.
1747 If a candidate is reelected to office or elected to another
1748 office and has funds remaining in his or her office account, he
1749 or she may transfer surplus campaign funds to the office
1750 account. At no time may the funds in the office account exceed
1751 the limitation imposed by this subsection. Upon leaving public
1752 office, any person who has funds in an office account pursuant
1753 to this subsection remaining on deposit shall give such funds to
1754 a charitable organization that meets ~~or organizations which meet~~
1755 the requirements of s. 501(c)(3) of the Internal Revenue Code
1756 or, in the case of a state officer, to the state to be deposited
1757 in the General Revenue Fund or, in the case of an officer of a
1758 political subdivision, to the political subdivision to be
1759 deposited in the general fund thereof.
1760 (6)(a) For purposes of this subsection, the term "same
1761 office" with respect to legislative office means an office in
1762 the same legislative body, irrespective of district number or
1763 designation or geographic boundary.
1764 (b) A candidate elected to state office or a candidate who
1765 will be elected to state office by virtue of his or her being
1766 unopposed after candidate qualifying ends, may retain up to
1767 $20,000 in his or her campaign account, or in an interest-
1768 bearing account or certificate of deposit, for use in his or her
1769 next campaign for the same office, in addition to the

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1770 disposition methods provided in subsections (4) and (5). All
1771 requirements applicable to candidate campaign accounts under
1772 this chapter, including disclosure requirements applicable to
1773 candidate campaign accounts, limitations on expenditures, and
1774 limitations on contributions, apply to any retained funds.
1775 (c) If a candidate who has retained funds under this
1776 subsection does not qualify as a candidate for reelection to the
1777 same office, all retained funds shall be disposed of as
1778 otherwise required by this section or s. 106.11(5) within 90
1779 days after the last day of candidate qualifying for that office.
1780 Requirements in this section applicable to the disposal of
1781 surplus funds, including reporting requirements, are applicable
1782 to the disposal of retained funds.
1783 (7) ~~(6)~~ Before ~~Prior to~~ disposing of funds pursuant to
1784 subsection (4), ~~or~~ transferring funds into an office account
1785 pursuant to subsection (5), or retaining funds for reelection
1786 pursuant to subsection (6), any candidate who filed an oath
1787 stating that he or she was unable to pay the ~~election assessment~~
1788 ~~or~~ fee for verification of petition signatures without imposing
1789 an undue burden on his or her personal resources or on resources
1790 otherwise available to him or her~~, or who filed both such oaths,~~
1791 ~~or who qualified by the petition process and was not required to~~
1792 ~~pay an election assessment,~~ shall reimburse the state or local
1793 governmental entity, whichever is applicable, for such waived
1794 ~~assessment or~~ fee ~~or both~~. ~~Such reimbursement shall be made~~
1795 ~~first for the cost of petition verification and then, if funds~~
1796 ~~are remaining, for the amount of the election assessment.~~ If
1797 there are insufficient funds in the account to pay the full
1798 amount of ~~either the assessment or~~ the fee ~~or both~~, the

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1799 remaining funds shall be disbursed in the above manner until no
1800 funds remain. All funds disbursed pursuant to this subsection
1801 shall be remitted to the qualifying officer. Any reimbursement
1802 for petition verification costs which are reimbursable by the
1803 state shall be forwarded by the qualifying officer to the state
1804 for deposit in the General Revenue Fund. ~~All reimbursements for~~
1805 ~~the amount of the election assessment shall be forwarded by the~~
1806 ~~qualifying officer to the Department of State for deposit in the~~
1807 ~~General Revenue Fund.~~
1808 (8)(a) ~~(7)(a)~~ Any candidate required to dispose of campaign
1809 funds pursuant to this section shall do so within the time
1810 required by this section and ~~shall~~, on or before the date by
1811 which such disposition is to have been made, shall file with the
1812 officer with whom reports are required to be filed pursuant to
1813 s. 106.07 a form prescribed by the Division of Elections
1814 listing:
1815 1. The name and address of each person or unit of
1816 government to whom any of the funds were distributed and the
1817 amounts thereof;
1818 2. The name and address of each person to whom an
1819 expenditure was made, together with the amount thereof and
1820 purpose therefor; ~~and~~
1821 3. The amount of such funds transferred to an office
1822 account by the candidate, together with the name and address of
1823 the bank, savings and loan association, or credit union in which
1824 the office account is located; and
1825 4. The amount of such funds retained pursuant to subsection
1826 (6), together with the name and address of the bank, savings and
1827 loan association, or credit union in which the retained funds

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1828 are located.
1829
1830 Such report shall be signed by the candidate and the campaign
1831 treasurer and certified as true and correct pursuant to s.
1832 106.07.
1833 (b) The filing officer shall notify each candidate at least
1834 14 days before the date the report is due.
1835 (c) Any candidate failing to file a report on the
1836 designated due date shall be subject to a fine as provided in s.
1837 106.07 for submitting late termination reports.
1838 (9) ~~(8)~~ Any candidate elected to office who transfers
1839 surplus campaign funds into an office account pursuant to
1840 subsection (5) shall file a report on the 10th day following the
1841 end of each calendar quarter until the account is closed. Such
1842 reports shall contain the name and address of each person to
1843 whom any disbursement of funds was made, together with the
1844 amount thereof and the purpose therefor, and the name and
1845 address of any person from whom the elected candidate received
1846 any refund or reimbursement and the amount thereof. Such reports
1847 shall be on forms prescribed by the Division of Elections,
1848 signed by the elected candidate, certified as true and correct,
1849 and filed with the officer with whom campaign reports were filed
1850 pursuant to s. 106.07(2).
1851 (10) ~~(9)~~ Any candidate, or any person on behalf of a
1852 candidate, who accepts contributions after such candidate has
1853 withdrawn his or her candidacy, after the candidate has become
1854 an unopposed candidate, or after the candidate has been
1855 eliminated as a candidate or elected to office commits a
1856 misdemeanor of the first degree, punishable as provided in s.

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1857 775.082 or s. 775.083.
1858 (11) ~~(10)~~ Any candidate who is required by the provisions of
1859 this section to dispose of funds in his or her campaign account
1860 and who fails to dispose of the funds in the manner provided in
1861 this section commits a misdemeanor of the first degree,
1862 punishable as provided in s. 775.082 or s. 775.083.
1863 Section 15. Section 106.29, Florida Statutes, is reenacted
1864 and amended to read:
1865 106.29 Reports by political parties and affiliated party
1866 committees; restrictions on contributions and expenditures;
1867 penalties.—
1868 (1)(a) The state executive committee and each county
1869 executive committee of each political party and any affiliated
1870 party committee regulated by chapter 103 shall file regular
1871 reports of all contributions received and all expenditures made
1872 by such committee. However, the reports may ~~shall~~ not include
1873 contributions and expenditures that are reported to the Federal
1874 Election Commission.
1875 (b) Each state executive committee and affiliated party
1876 committee shall file regular reports with the Division of
1877 Elections. Such reports must contain the same information as
1878 reports required of candidates by s. 106.07 and must be filed at
1879 the same times and subject to the same filing conditions
1880 established by s. 106.07(1) and (2) for statewide candidate
1881 reports filed with the division. Each county executive committee
1882 shall file reports with the supervisor of elections in the
1883 county in which such committee exists. Such reports must contain
1884 the same information as reports required of candidates by s.
1885 106.07 and must be filed at the same times and subject to the

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1886 same filing conditions established by s. 106.07(1) and (2) for
1887 county candidate reports filed with the supervisor of elections.
1888 In addition, when a special election is called to fill a vacancy
1889 in office, each state executive committee, each affiliated party
1890 committee, and each county executive committee making
1891 contributions or expenditures to influence the results of the
1892 special election or the preceding special primary election must
1893 file campaign treasurers' reports on the dates set by the
1894 Department of State pursuant to s. 100.111. ~~Such reports shall~~
1895 ~~contain the same information as do reports required of~~
1896 ~~candidates by s. 106.07 and shall be filed on the 10th day~~
1897 ~~following the end of each calendar quarter, except that, during~~
1898 ~~the period from the last day for candidate qualifying until the~~
1899 ~~general election, such reports shall be filed on the Friday~~
1900 ~~immediately preceding each special primary election, special~~
1901 ~~election, primary election, and general election.~~
1902 (c) In addition to the reports filed under this section,
1903 the state executive committee, each county executive committee,
1904 and each affiliated party committee shall file a copy of each
1905 prior written acceptance of an in-kind contribution given by the
1906 committee during the preceding calendar quarter as required
1907 under s. 106.08(6). ~~Each state executive committee and~~
1908 ~~affiliated party committee shall file its reports with the~~
1909 ~~Division of Elections. Each county executive committee shall~~
1910 ~~file its reports with the supervisor of elections in the county~~
1911 ~~in which such committee exists.~~
1912 (d) Any state or county executive committee or affiliated
1913 party committee failing to file a report on the designated due
1914 date is ~~shall be~~ subject to a fine as provided in subsection

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1915 (3). A ~~No~~ separate fine may not ~~shall~~ be assessed for failure to
1916 file a copy of any report required by this section.
1917 (2) The chair and treasurer of each state or county
1918 executive committee shall certify as to the correctness of each
1919 report filed by them on behalf of such committee. The leader and
1920 treasurer of each affiliated party committee under s. 103.092
1921 shall certify as to the correctness of each report filed by them
1922 on behalf of such committee. Any committee chair, leader, or
1923 treasurer who certifies the correctness of any report while
1924 knowing that such report is incorrect, false, or incomplete
1925 commits a felony of the third degree, punishable as provided in
1926 s. 775.082, s. 775.083, or s. 775.084.
1927 (3)(a) A ~~Any~~ state or county executive committee or
1928 affiliated party committee that fails ~~failing~~ to file a report
1929 on the designated due date is ~~shall be~~ subject to a fine as
1930 provided in paragraph (b) for each late day. The fine shall be
1931 assessed by the filing officer, and the moneys collected shall
1932 be deposited in the General Revenue Fund.
1933 (b) Upon determining that a report is late, the filing
1934 officer shall immediately notify the chair of the executive
1935 committee or the leader of the affiliated party committee as
1936 defined in s. 103.092 as to the failure to file a report by the
1937 designated due date and that a fine is being assessed for each
1938 late day. The fine is ~~shall be~~ $1,000 for a state executive
1939 committee, $1,000 for an affiliated party committee, and $50 for
1940 a county executive committee, per day for each late day, not to
1941 exceed 25 percent of the total receipts or expenditures,
1942 whichever is greater, for the period covered by the late report.
1943 However, if an executive committee or an affiliated party

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1944 committee fails to file a report on the Friday immediately
1945 preceding the special election or general election, the fine is
1946 ~~shall be~~ $10,000 per day for each day a state executive
1947 committee is late, $10,000 per day for each day an affiliated
1948 party committee is late, and $500 per day for each day a county
1949 executive committee is late. Upon receipt of the report, the
1950 filing officer shall determine the amount of the fine which is
1951 due and shall notify the chair or leader as defined in s.
1952 103.092. Notice is deemed complete upon proof of delivery of
1953 written notice to the mailing or street address on record with
1954 the filing officer. The filing officer shall determine the
1955 amount of the fine due based upon the earliest of the following:
1956 1. When the report is actually received by such officer.
1957 2. When the report is postmarked.
1958 3. When the certificate of mailing is dated.
1959 4. When the receipt from an established courier company is
1960 dated.
1961 5. When the electronic receipt issued pursuant to s.
1962 106.0705 is dated.
1963
1964 Such fine shall be paid to the filing officer within 20 days
1965 after receipt of the notice of payment due, unless appeal is
1966 made to the Florida Elections Commission pursuant to paragraph
1967 (c). An officer or member of an executive committee is not ~~shall~~
1968 ~~not be~~ personally liable for such fine.
1969 (c) The chair of an executive committee or the leader of an
1970 affiliated party committee as defined in s. 103.092 may appeal
1971 or dispute the fine, based upon unusual circumstances
1972 surrounding the failure to file on the designated due date, and

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1973 may request and is ~~shall be~~ entitled to a hearing before the
1974 Florida Elections Commission, which has ~~shall have~~ the authority
1975 to waive the fine in whole or in part. Any such request shall be
1976 made within 20 days after receipt of the notice of payment due.
1977 In such case, the chair of the executive committee or the leader
1978 of the affiliated party committee as defined in s. 103.092
1979 shall, within the 20-day period, notify the filing officer in
1980 writing of his or her intention to bring the matter before the
1981 commission.
1982 (d) The appropriate filing officer shall notify the Florida
1983 Elections Commission of the repeated late filing by an executive
1984 committee or affiliated party committee, the failure of an
1985 executive committee or affiliated party committee to file a
1986 report after notice, or the failure to pay the fine imposed.
1987 (4) Any contribution received by a state or county
1988 executive committee or affiliated party committee less than 5
1989 days before an election may ~~shall~~ not be used or expended in
1990 behalf of any candidate, issue, affiliated party committee, or
1991 political party participating in such election.
1992 (5) A ~~No~~ state or county executive committee or affiliated
1993 party committee, in the furtherance of any candidate or
1994 political party, directly or indirectly, may not ~~shall~~ give,
1995 pay, or expend any money, give or pay anything of value,
1996 authorize any expenditure, or become pecuniarily liable for any
1997 expenditure prohibited by this chapter. However, the
1998 contribution of funds by one executive committee to another or
1999 to established party organizations for legitimate party or
2000 campaign purposes is not prohibited, but all such contributions
2001 shall be recorded and accounted for in the reports of the

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2002 contributor and recipient.
2003 (6)(a) The national, state, and county executive committees
2004 of a political party and affiliated party committees may not
2005 contribute to any candidate any amount in excess of the limits
2006 contained in s. 106.08(2), and all contributions required to be
2007 reported under s. 106.08(2) by the national executive committee
2008 of a political party shall be reported by the state executive
2009 committee of that political party.
2010 (b) A violation of the contribution limits contained in s.
2011 106.08(2) is a misdemeanor of the first degree, punishable as
2012 provided in s. 775.082 or s. 775.083. A civil penalty equal to
2013 three times the amount in excess of the limits contained in s.
2014 106.08(2) shall be assessed against any executive committee
2015 found in violation thereof.
2016 Section 16. By December 1, 2013, the Division of Elections
2017 shall submit a proposal to the President of the Senate and the
2018 Speaker of the House of Representatives for a mandatory
2019 statewide electronic filing system for all state and local
2020 campaign filings required by s. 106.07, s. 106.0703, or s.
2021 106.29.
2022 Section 17. Subsection (3) of section 101.62, Florida
2023 Statutes, is amended to read:
2024 101.62 Request for absentee ballots.—
2025 (3) For each request for an absentee ballot received, the
2026 supervisor shall record the date the request was made, the date
2027 the absentee ballot was delivered to the voter or the voter's
2028 designee or the date the absentee ballot was delivered to the
2029 post office or other carrier, the date the ballot was received
2030 by the supervisor, and such other information he or she may deem

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2031 necessary. This information shall be provided in electronic
2032 format as provided by rule adopted by the division. The
2033 information shall be updated and made available no later than 8
2034 a.m. of each day, including weekends, beginning 60 days before
2035 the primary until 15 days after the general election and shall
2036 be contemporaneously provided to the division. This information
2037 shall be confidential and exempt from the provisions of s.
2038 119.07(1) and shall be made available to or reproduced only for
2039 the voter requesting the ballot, a canvassing board, an election
2040 official, a political party or official thereof, a candidate who
2041 has filed qualification papers and is opposed in an upcoming
2042 election, and registered political committees ~~or registered~~
2043 ~~committees of continuous existence~~, for political purposes only.
2044 Section 18. Paragraph (a) of subsection (4) of section
2045 102.031, Florida Statutes, is amended to read:
2046 102.031 Maintenance of good order at polls; authorities;
2047 persons allowed in polling rooms and early voting areas;
2048 unlawful solicitation of voters.—
2049 (4)(a) No person, political committee, ~~committee of~~
2050 ~~continuous existence,~~ or other group or organization may solicit
2051 voters inside the polling place or within 100 feet of the
2052 entrance to any polling place, or polling room where the polling
2053 place is also a polling room, or early voting site. Before the
2054 opening of the polling place or early voting site, the clerk or
2055 supervisor shall designate the no-solicitation zone and mark the
2056 boundaries.
2057 Section 19. Subsection (2) of section 106.087, Florida
2058 Statutes, is amended to read:
2059 106.087 Independent expenditures; contribution limits;

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2060 restrictions on political parties and~~,~~ political committees~~, and~~
2061 ~~committees of continuous existence~~.—
2062 (2)(a) Any political committee ~~or committee of continuous~~
2063 ~~existence~~ that accepts the use of public funds, equipment,
2064 personnel, or other resources to collect dues from its members
2065 agrees not to make independent expenditures in support of or
2066 opposition to a candidate or elected public official. However,
2067 expenditures may be made for the sole purpose of jointly
2068 endorsing three or more candidates.
2069 (b) Any political committee ~~or committee of continuous~~
2070 ~~existence~~ that violates this subsection is liable for a civil
2071 fine of up to $5,000 to be determined by the Florida Elections
2072 Commission or the entire amount of the expenditures, whichever
2073 is greater.
2074 Section 20. Subsection (3) of section 106.12, Florida
2075 Statutes, is amended to read:
2076 106.12 Petty cash funds allowed.—
2077 (3) The petty cash fund so provided may ~~shall~~ be spent only
2078 in amounts less than $100 and only for office supplies,
2079 transportation expenses, and other necessities. Petty cash may
2080 ~~shall~~ not be used for the purchase of time, space, or services
2081 from communications media as defined in s. 106.011 ~~106.011(13)~~.
2082 Section 21. Paragraph (b) of subsection (3) of section
2083 106.147, Florida Statutes, is amended to read:
2084 106.147 Telephone solicitation; disclosure requirements;
2085 prohibitions; exemptions; penalties.—
2086 (3)
2087 (b) For purposes of paragraph (a), the term “person”
2088 includes any candidate; any officer of any political committee,

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2089 ~~committee of continuous existence,~~ affiliated party committee,
2090 or political party executive committee; any officer, partner,
2091 attorney, or other representative of a corporation, partnership,
2092 or other business entity; and any agent or other person acting
2093 on behalf of any candidate, political committee, ~~committee of~~
2094 ~~continuous existence,~~ affiliated party committee, political
2095 party executive committee, or corporation, partnership, or other
2096 business entity.
2097 Section 22. Section 106.17, Florida Statutes, is amended to
2098 read:
2099 106.17 Polls and surveys relating to candidacies.—Any
2100 candidate, political committee, ~~committee of continuous~~
2101 ~~existence,~~ electioneering communication organization, affiliated
2102 party committee, or state or county executive committee of a
2103 political party may authorize or conduct a political poll,
2104 survey, index, or measurement of any kind relating to candidacy
2105 for public office so long as the candidate, political committee,
2106 ~~committee of continuous existence,~~ electioneering communication
2107 organization, affiliated party committee, or political party
2108 maintains complete jurisdiction over the poll in all its
2109 aspects. State and county executive committees of a political
2110 party or an affiliated party committee may authorize and conduct
2111 political polls for the purpose of determining the viability of
2112 potential candidates. Such poll results may be shared with
2113 potential candidates, and expenditures incurred by state and
2114 county executive committees or an affiliated party committee for
2115 potential candidate polls are not contributions to the potential
2116 candidates.
2117 Section 23. Subsection (2) of section 106.23, Florida

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2118 Statutes, is amended to read:
2119 106.23 Powers of the Division of Elections.—
2120 (2) The Division of Elections shall provide advisory
2121 opinions when requested by any supervisor of elections,
2122 candidate, local officer having election-related duties,
2123 political party, affiliated party committee, political
2124 committee, ~~committee of continuous existence,~~ or other person or
2125 organization engaged in political activity, relating to any
2126 provisions or possible violations of Florida election laws with
2127 respect to actions such supervisor, candidate, local officer
2128 having election-related duties, political party, affiliated
2129 party committee, committee, person, or organization has taken or
2130 proposes to take. Requests for advisory opinions must be
2131 submitted in accordance with rules adopted by the Department of
2132 State. A written record of all such opinions issued by the
2133 division, sequentially numbered, dated, and indexed by subject
2134 matter, shall be retained. A copy shall be sent to said person
2135 or organization upon request. Any such person or organization,
2136 acting in good faith upon such an advisory opinion, shall not be
2137 subject to any criminal penalty provided for in this chapter.
2138 The opinion, until amended or revoked, shall be binding on any
2139 person or organization who sought the opinion or with reference
2140 to whom the opinion was sought, unless material facts were
2141 omitted or misstated in the request for the advisory opinion.
2142 Section 24. Subsections (2) and (3) of section 106.265,
2143 Florida Statutes, are amended to read:
2144 106.265 Civil penalties.—
2145 (2) In determining the amount of such civil penalties, the
2146 commission or administrative law judge shall consider, among

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2147 other mitigating and aggravating circumstances:
2148 (a) The gravity of the act or omission;
2149 (b) Any previous history of similar acts or omissions;
2150 (c) The appropriateness of such penalty to the financial
2151 resources of the person, political committee, ~~committee of~~
2152 ~~continuous existence,~~ affiliated party committee, electioneering
2153 communications organization, or political party; and
2154 (d) Whether the person, political committee, ~~committee of~~
2155 ~~continuous existence,~~ affiliated party committee, electioneering
2156 communications organization, or political party has shown good
2157 faith in attempting to comply with the provisions of this
2158 chapter or chapter 104.
2159 (3) If any person, political committee, ~~committee of~~
2160 ~~continuous existence,~~ affiliated party committee, electioneering
2161 communications organization, or political party fails or refuses
2162 to pay to the commission any civil penalties assessed pursuant
2163 to the provisions of this section, the commission shall be
2164 responsible for collecting the civil penalties resulting from
2165 such action.
2166 Section 25. Subsection (2) of section 106.27, Florida
2167 Statutes, is amended to read:
2168 106.27 Determinations by commission; legal disposition.—
2169 (2) Civil actions may be brought by the commission for
2170 relief, including permanent or temporary injunctions,
2171 restraining orders, or any other appropriate order for the
2172 imposition of civil penalties provided by this chapter. Such
2173 civil actions shall be brought by the commission in the
2174 appropriate court of competent jurisdiction, and the venue shall
2175 be in the county in which the alleged violation occurred or in

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2176 which the alleged violator or violators are found, reside, or
2177 transact business. Upon a proper showing that such person,
2178 political committee, ~~committee of continuous existence,~~
2179 affiliated party committee, or political party has engaged, or
2180 is about to engage, in prohibited acts or practices, a permanent
2181 or temporary injunction, restraining order, or other order shall
2182 be granted without bond by such court, and the civil fines
2183 provided by this chapter may be imposed.
2184 Section 26. Subsection (3) of section 106.32, Florida
2185 Statutes, is amended to read:
2186 106.32 Election Campaign Financing Trust Fund.—
2187 (3) Proceeds from assessments pursuant to ss. ~~106.04,~~
2188 106.07~~,~~ and 106.29 shall be deposited into the Election Campaign
2189 Financing Trust Fund as designated in those sections.
2190 Section 27. Section 106.33, Florida Statutes, is amended to
2191 read:
2192 106.33 Election campaign financing; eligibility.—Each
2193 candidate for the office of Governor or member of the Cabinet
2194 who desires to receive contributions from the Election Campaign
2195 Financing Trust Fund ~~shall~~, upon qualifying for office, shall
2196 file a request for such contributions with the filing officer on
2197 forms provided by the Division of Elections. If a candidate
2198 requesting contributions from the fund desires to have such
2199 funds distributed by electronic fund transfers, the request
2200 shall include information necessary to implement that procedure.
2201 For the purposes of ss. 106.30-106.36, the respective candidates
2202 running for Governor and Lieutenant Governor on the same ticket
2203 shall be considered as a single candidate. To be eligible to
2204 receive contributions from the fund, a candidate may not be an

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2205 unopposed candidate as defined in s. 106.011 ~~106.011(15)~~ and
2206 must:
2207 (1) Agree to abide by the expenditure limits provided in s.
2208 106.34.
2209 (2)(a) Raise contributions as follows:
2210 1. One hundred fifty thousand dollars for a candidate for
2211 Governor.
2212 2. One hundred thousand dollars for a candidate for Cabinet
2213 office.
2214 (b) Contributions from individuals who at the time of
2215 contributing are not state residents may not be used to meet the
2216 threshold amounts in paragraph (a). For purposes of this
2217 paragraph, any person validly registered to vote in this state
2218 shall be considered a state resident.
2219 (3) Limit loans or contributions from the candidate's
2220 personal funds to $25,000 and contributions from national,
2221 state, and county executive committees of a political party to
2222 $250,000 in the aggregate, which loans or contributions do ~~shall~~
2223 not qualify for meeting the threshold amounts in subsection (2).
2224 (4) Submit to a postelection audit of the campaign account
2225 by the division.
2226 Section 28. Section 111.075, Florida Statutes, is amended
2227 to read:
2228 111.075 Elected officials; prohibition concerning certain
2229 committees.—Elected officials are prohibited from being employed
2230 by, or acting as a consultant for compensation to, a political
2231 committee ~~or committee of continuous existence~~.
2232 Section 29. Subsections (3) and (4) and paragraph (a) of
2233 subsection (5) of section 112.3148, Florida Statutes, are

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2234 amended to read:
2235 112.3148 Reporting and prohibited receipt of gifts by
2236 individuals filing full or limited public disclosure of
2237 financial interests and by procurement employees.—
2238 (3) A reporting individual or procurement employee is
2239 prohibited from soliciting any gift from a political committee
2240 ~~or committee of continuous existence~~, as defined in s. 106.011,
2241 or from a lobbyist who lobbies the reporting individual's or
2242 procurement employee's agency, or the partner, firm, employer,
2243 or principal of such lobbyist, where such gift is for the
2244 personal benefit of the reporting individual or procurement
2245 employee, another reporting individual or procurement employee,
2246 or any member of the immediate family of a reporting individual
2247 or procurement employee.
2248 (4) A reporting individual or procurement employee or any
2249 other person on his or her behalf is prohibited from knowingly
2250 accepting, directly or indirectly, a gift from a political
2251 committee ~~or committee of continuous existence~~, as defined in s.
2252 106.011, or from a lobbyist who lobbies the reporting
2253 individual's or procurement employee's agency, or directly or
2254 indirectly on behalf of the partner, firm, employer, or
2255 principal of a lobbyist, if he or she knows or reasonably
2256 believes that the gift has a value in excess of $100; however,
2257 such a gift may be accepted by such person on behalf of a
2258 governmental entity or a charitable organization. If the gift is
2259 accepted on behalf of a governmental entity or charitable
2260 organization, the person receiving the gift shall not maintain
2261 custody of the gift for any period of time beyond that
2262 reasonably necessary to arrange for the transfer of custody and

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2263 ownership of the gift.
2264 (5)(a) A political committee ~~or a committee of continuous~~
2265 ~~existence~~, as defined in s. 106.011; a lobbyist who lobbies a
2266 reporting individual’s or procurement employee’s agency; the
2267 partner, firm, employer, or principal of a lobbyist; or another
2268 on behalf of the lobbyist or partner, firm, principal, or
2269 employer of the lobbyist is prohibited from giving, either
2270 directly or indirectly, a gift that has a value in excess of
2271 $100 to the reporting individual or procurement employee or any
2272 other person on his or her behalf; however, such person may give
2273 a gift having a value in excess of $100 to a reporting
2274 individual or procurement employee if the gift is intended to be
2275 transferred to a governmental entity or a charitable
2276 organization.
2277 Section 30. Subsections (3) and (4) of section 112.3149,
2278 Florida Statutes, are amended to read:
2279 112.3149 Solicitation and disclosure of honoraria.—
2280 (3) A reporting individual or procurement employee is
2281 prohibited from knowingly accepting an honorarium from a
2282 political committee ~~or committee of continuous existence~~, as
2283 defined in s. 106.011, from a lobbyist who lobbies the reporting
2284 individual’s or procurement employee’s agency, or from the
2285 employer, principal, partner, or firm of such a lobbyist.
2286 (4) A political committee ~~or committee of continuous~~
2287 ~~existence~~, as defined in s. 106.011, a lobbyist who lobbies a
2288 reporting individual’s or procurement employee’s agency, or the
2289 employer, principal, partner, or firm of such a lobbyist is
2290 prohibited from giving an honorarium to a reporting individual
2291 or procurement employee.

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2292 Section 31. Subsection (4) of section 1004.28, Florida
2293 Statutes, is amended to read:
2294 1004.28 Direct-support organizations; use of property;
2295 board of directors; activities; audit; facilities.—
2296 (4) ACTIVITIES; RESTRICTION.—A university direct-support
2297 organization is prohibited from giving, either directly or
2298 indirectly, any gift to a political committee ~~or committee of~~
2299 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2300 other than those certified by a majority roll call vote of the
2301 governing board of the direct-support organization at a
2302 regularly scheduled meeting as being directly related to the
2303 educational mission of the university.
2304 Section 32. Paragraph (d) of subsection (4) of section
2305 1004.70, Florida Statutes, is amended to read:
2306 1004.70 Florida College System institution direct-support
2307 organizations.—
2308 (4) ACTIVITIES; RESTRICTIONS.—
2309 (d) A Florida College System institution direct-support
2310 organization is prohibited from giving, either directly or
2311 indirectly, any gift to a political committee ~~or committee of~~
2312 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2313 other than those certified by a majority roll call vote of the
2314 governing board of the direct-support organization at a
2315 regularly scheduled meeting as being directly related to the
2316 educational mission of the Florida College System institution.
2317 Section 33. Paragraph (c) of subsection (4) of section
2318 1004.71, Florida Statutes, is amended to read:
2319 1004.71 Statewide Florida College System institution
2320 direct-support organizations.—

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2321 (4) RESTRICTIONS.—
2322 (c) A statewide Florida College System institution direct-
2323 support organization is prohibited from giving, either directly
2324 or indirectly, any gift to a political committee ~~or committee of~~
2325 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2326 other than those certified by a majority roll call vote of the
2327 governing board of the direct-support organization at a
2328 regularly scheduled meeting as being directly related to the
2329 educational mission of the State Board of Education.
2330 Section 34. For the purpose of incorporating the amendment
2331 made by this act into section 106.08, Florida Statutes, in a
2332 reference thereto, subsection (2) of section 106.075, Florida
2333 Statutes, is reenacted to read:
2334 106.075 Elected officials; report of loans made in year
2335 preceding election; limitation on contributions to pay loans.—
2336 (2) Any person who makes a contribution to an individual to
2337 pay all or part of a loan incurred, in the 12 months preceding
2338 the election, to be used for the individual's campaign, may not
2339 contribute more than the amount which is allowed in s.
2340 106.08(1).
2341 Section 35. For the purpose of incorporating the amendments
2342 made by this act to sections 106.08 and 106.11, Florida
2343 Statutes, in references thereto, section 106.19, Florida
2344 Statutes, is reenacted to read:
2345 106.19 Violations by candidates, persons connected with
2346 campaigns, and political committees.—
2347 (1) Any candidate; campaign manager, campaign treasurer, or
2348 deputy treasurer of any candidate; committee chair, vice chair,
2349 campaign treasurer, deputy treasurer, or other officer of any

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2350 political committee; agent or person acting on behalf of any
2351 candidate or political committee; or other person who knowingly
2352 and willfully:
2353 (a) Accepts a contribution in excess of the limits
2354 prescribed by s. 106.08;
2355 (b) Fails to report any contribution required to be
2356 reported by this chapter;
2357 (c) Falsely reports or deliberately fails to include any
2358 information required by this chapter; or
2359 (d) Makes or authorizes any expenditure in violation of s.
2360 106.11(4) or any other expenditure prohibited by this chapter;
2361
2362 is guilty of a misdemeanor of the first degree, punishable as
2363 provided in s. 775.082 or s. 775.083.
2364 (2) Any candidate, campaign treasurer, or deputy treasurer;
2365 any chair, vice chair, or other officer of any political
2366 committee; any agent or person acting on behalf of any candidate
2367 or political committee; or any other person who violates
2368 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be
2369 subject to a civil penalty equal to three times the amount
2370 involved in the illegal act. Such penalty may be in addition to
2371 the penalties provided by subsection (1) and shall be paid into
2372 the General Revenue Fund of this state.
2373 (3) A political committee sponsoring a constitutional
2374 amendment proposed by initiative which submits a petition form
2375 gathered by a paid petition circulator which does not provide
2376 the name and address of the paid petition circulator on the form
2377 is subject to the civil penalties prescribed in s. 106.265.
2378 (4) Except as otherwise expressly stated, the failure by a

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2379 candidate to comply with the requirements of this chapter has no
2380 effect upon whether the candidate has qualified for the office
2381 the candidate is seeking.
2382 Section 36. Except as otherwise expressly provided in this
2383 act and except for this section, which shall take effect upon
2384 becoming a law, this act shall take effect November 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)

3-20-2013
Meeting Date

Topic: Campaign Finance Reform

Bill Number: 1382 *(if applicable)*

Name: Brad Ashwell

Amendment Barcode: _____ *(if applicable)*

Job Title: Lobbyist

Address: 1536 Chuli Nene
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-294-1008

E-mail: bradashwell@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Common Cause FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2013
Meeting Date

Topic: CAMPAIGN FINANCE

Bill Number: 1382 *(if applicable)*

Name: MARILYNN WILLS

Amendment Barcode: *(if applicable)*

Job Title: 2nd V. President League of Women Voters of Florida

Address: 2326 KILKENNY DR WEST
Street

TALLAHASSEE, FL 32309
City, State, Zip

Phone: 850 893-4104

E-mail: marilynnwills@msn.com

Speaking: ☐ For ☐ Against ☒ Information

Representing: League of Women Voters 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

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 972

INTRODUCER: Community Affairs Committee and Senator Hukill

SUBJECT: Transportation Development

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.			TR	
3.			RC	
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 972 makes a number of changes to the transportation concurrency requirements. The bill provides that a local government may accept contributions from multiple applicants for a planned improvement if it maintains such contributions in a separate account designated for that purpose. The bill provides that an alternative mobility funding system may not be used to deny approvals if the developer agrees to pay for the development's identified transportation impacts using the funding mechanism implemented by the local government. Also, that a mobility-fee-based funding system must comply with the dual rational nexus test applicable to impact fees.

The bill states that eligible transportation projects within a transportation development authority may include projects within and outside of the designated deficiency area to relieve deficiencies by the transportation sufficiency plan. The bill stipulates that mass transit improvements and services may extend outside a deficiency area to an existing or planned logical terminus of a selected improvement. Finally, the bill provides that transit-oriented developments exceeding 25 acres in area are subject to specified election requirements.

This bill substantially amends the following sections of the Florida Statutes: 163.3180, 163.3182, and 190.006.

II. Present Situation:

Transportation Concurrency

Transportation concurrency is a growth management strategy aimed at ensuring that transportation facilities and services are available concurrent with the impacts of development. To carry out concurrency, local governments must define what constitutes an adequate Level of Service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for that period. If adequate capacity is not available, then the developer must provide the necessary improvements, provide monetary contribution toward the improvements, or wait until government provides the necessary improvements.[1]

Level of Service

Level of service is a technical measure of the quality of service provided by a roadway. LOS is graded on an A through F scale based on the average arterial speed of a roadway. An uncongested roadway with a high average arterial speed will receive an A, while a congested roadway with a low average arterial speed will receive an F.[2] Local governments, in conjunction with the Florida Department of Transportation (FDOT), are responsible for setting LOS standards for roadways.[3]

Proportionate Share

Proportionate share is the amount of money a developer must contribute to mitigate the transportation impacts of a new development. Proportionate share contributions are triggered when a new development will cause a decrease in the LOS grade below a set standard. When a proportionate share contribution is triggered, a developer must, at minimum, contribute money toward one or several mobility improvements. However, developers are only required to contribute toward deficiencies they create, and are not required to correct existing deficiencies.[4]

Transportation Concurrency in Florida

Florida adopted the concept of transportation concurrency with the passage of the 1985 Growth Management Act. Since adoption, the legislature has frequently revisited the concept of transportation concurrency, most recently making substantial changes to s. 163.3180, F.S., in 2005, 2007, 2009 and 2011.[5]

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[1] Fla. Dep't of Comty. Affairs, *Transportation Concurrency: Best Practices Guide*, pg. 5 (2007), retrieved from *www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (*last visited March 18, 2013).
[2] *Id.* at 53.
[3] Section 163.3180(5)(b), F.S.
[4] Section 163.3180(5)(h), F.S.
[5] *See* L.O.F. s. 5, ch. 2005-290 (Providing requirements for proportionate share mitigation), s. 11, ch. 2007-196 (Authorizing study on multimodal districts, providing for concurrency backlog and satisfaction of concurrency requirements), s. 3, ch. 2007-204 (provides exception from concurrency for airports and urban service area, revises transportation concurrency exceptions for multiuse DRIs, revises proportionate share, provides requirements for proportionate share mitigation and fair-share), s. 5, ch. 2009-85 (provides definition for backlog, provides legislative findings and declarations on backlog, adds provisions on debt incurred from transportation concurrency backlog projects, requires funding of backlog trust funds), s. 4, ch. 2009-96 (revises concurrency requirements, deletes requirements for concurrency exception areas, requires OPPAGA to

Transportation concurrency in urban areas is often more costly and functionally difficult than in non-urban areas.[6] As a result, transportation concurrency can result in urban sprawl and the discouragement of development in urban areas, in direct conflict with the general goals and policies of part II, ch. 163, F.S. Also, transportation concurrency can prevent the implementation of viable forms of alternative transit.[7]

Additionally, the frequent changes to transportation concurrency requirements have affected local governments in different ways. In some cases, the changes have provided more flexibility, less state oversight and created more planning tools for local governments, but in other cases, the changes created solutions that were inflexible and unworkable for all but a few local governments, with many local governments having difficulty implementing a transportation concurrency system or local governments implementing highly inconsistent policies.[8] Recent legislative changes to transportation concurrency have sought to address these problems. In 2011, the Legislature passed the Community Planning Act, which made comprehensive changes to growth management regulation in Florida. As part of the act, the Legislature overhauled transportation concurrency and made it optional for local governments.[9] The act also gave local governments the option of adopting alternative mobility funding systems.[10]

Local governments choosing to implement transportation concurrency must still follow established guidelines related to LOS standards and proportionate share contributions.[11] However, local governments that implement alternative mobility funding systems similar to concurrency, but not under the auspices of s. 163.3180, F.S., are not required to follow the LOS and proportionate share guidelines established by s. 163.3180, F.S.

Transportation Development Authorities

Sections 163.3180 and 163.3182, F.S., govern transportation deficiencies. The term "transportation deficiency" is defined as a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.[12] Transportation deficiency area is defined as the geographic area within the unincorporated portion of a county or within the municipal boundary

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submit report to legislature concerning the effects of transportation exception areas, revises requirements for impact fees), s. 4, ch. 2011-14 (reenacts s. 163.3180(5), (10), (13)(b) and (e), relating to concurrency requirements for transportation facilities), s. 15, ch. 2011-139 (revises and provides provisions related to concurrency, revises application and findings, revises local government requirements, provides for urban infill, redevelopment, downtown revitalization, provides for DRIs, revises provisions relating to transportation deficiency plans).

[6] *Transportation Concurrency: Best Practices Guide* at 11.

[7] *Id.* at 10.

[8] *Id.* at *10-12.*

[9] L.O.F. s. 15, ch. 2011-139, "The 2011 Community Planning Act."

[10] *Id.*

[11] Section 163.3180(5), F.S.

[12] Section 162.3180(5)(h)3(e), F.S.

of a municipality designated in a local government comprehensive plan for which a transportation development authority is created pursuant to this section. A transportation deficiency area created within the corporate boundary of a municipality shall be made pursuant to an interlocal agreement between a county, a municipality or municipalities, and any affected taxing authority or authorities.[13]

A county or municipality may create a transportation development authority if it has an identified transportation deficiency. Each transportation development authority shall adopt a transportation sufficiency plan as a part of the local government comprehensive plan within 6 months after the creation of the authority. The plan must identify all transportation facilities that have been designated as deficient and establish a schedule for financing and construction of transportation projects that will eliminate transportation deficiencies within the jurisdiction of the authority within 10 years after the transportation sufficiency plan adoption. The plan must include a priority listing of all transportation facilities that have been designated as deficient and do not satisfy requirements pursuant to s. 163.3180, F.S., and the applicable local government comprehensive plan.

Transit Oriented Development (TOD)

Transit-Oriented Developments are compact, moderate to high intensity and density, mixed use areas within one half mile of a transit stop or station that is designed to maximize walking trips and access to transit.[14] They also are characterized by streetscapes and an urban form oriented to pedestrians to promote walking trip to stations and varied other uses within station areas. One quarter-mile and one-half mile distances represent a 5 to 10 minute walk time, which is the amount of time most people are willing to walk to a destination. The most intense and dense development is typically located within the one quarter mile radius (transit core). Developments' intensities and densities gradually decrease out to the one-half mile radius (transit neighborhood) and the one mile radius (transit supportive area). FDOT has been developing transit oriented development design guidelines to provide general parameters and strategies to local governments and agencies to promote and implement transit ready development patterns.[15]

Community Development Districts (CDDs)

Community Development Districts are independent, special-purpose units of government established to finance basic services within a development, including infrastructure construction, services, and maintenance. Common infrastructure improvements provided by CDDs include drainage, potable water, sewerage, roads, and parks. Developers seek CDD approval to obtain low-cost financing by issuing tax-exempt bonds, with lower interest rates. CDDs also have the power to collect fees, levy lienable assessments, or ad valorem taxes against properties within the project for repayment. CDDs are required to have a five-member board of supervisors, elected by the landowners.

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[13] Section 163.3182(1)(a), F.S.
[14] Section 163.3164(46), F.S.
[15] Florida Dept of Transportation, *A Framework for Transit Oriented Development in Florida*, available at http://www.fltod.com/renaissance/docs/Products/FrameworkTOD_0715.pdf (March 2011).

If the board of supervisors proposes to exercise the ad valorem taxing power authorized by s. 190.021, F.S., the district board shall call an election at which the members of the board of supervisors will be elected. [16] Regardless of whether a district has proposed to levy ad valorem taxes, commencing 6 years after the initial appointment of members or, for a district exceeding 5,000 acres in area or for a compact, urban, mixed-use district, 10 years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district, elected by the qualified electors of the district.[17]

If, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area or for a compact, urban, mixed-use district, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres or for a compact, urban, mixed-use district, there are not at least 500 qualified electors, members of the board of supervisors shall continue to be elected by landowners.[18]

III. Effect of Proposed Changes:

Section 1 amends s. 163.3180, F.S., to provide that local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before July 1, 2011, or as subsequently modified, must allow an applicant for a development agreement to satisfy transportation concurrency requirements. The bill changes a subsequent requirement that the applicant *in good faith offers to enter*, rather than *enters*, into a binding agreement to pay for or construct its proportionate share of required improvements.

The bill provides that a local government may accept contributions from multiple applicants for a planned improvement if it maintains such contributions in a separate account designated for that purpose. Also, the local government must provide the basis upon which landowners will be assessed a proportionate share of the cost of addressing the transportation impacts resulting from a proposed development. The bill states a local government is not required to approve a development that is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations for reasons other than transportation impacts.

The bill states that if a local government elects to repeal transportation concurrency, it is encouraged to adopt an alternative mobility funding system that uses one or more of the tools and techniques identified in s. 163.3180(5)(f), F.S. An alternative mobility funding system may not be used to deny, time, or phase an application for site plan, plat approval, final subdivision approval, building permit, or the functional equivalent of such approvals if the developer agrees to pay for the development's identified transportation impacts using the funding mechanism implemented by the local government. The bill states that the revenue from the funding mechanism adopted in the alternative system must be used to implement the needs of the local government's plan which serve as the basis for the fee imposed. A mobility-fee-based funding system must comply with the dual rational nexus test applicable to impact fees. The bill provides that an alternative system that is not mobility-fee-based may not be applied in a manner that

[16] Section 190.006(3)(a)1, F.S.
[17] Section 190.006(3)(a)2a, F.S.
[18] *Id.*

imposes upon new development any responsibility for funding existing transportation deficiencies as that term is defined in s. 163.3180(5)(h), F.S.

Section 2 amends s. 163.3182, F.S., relating to transportation deficiencies and the powers granted to transportation development authorities to address deficiencies within the authority's jurisdiction. Specifically, the bill states that eligible transportation projects may include projects within and outside of the designated deficiency area to relieve deficiencies by the transportation sufficiency plan. The bill stipulates that mass transit improvements and services may extend outside a deficiency area to an existing or planned logical terminus of a selected improvement.

Section 3 amends s. 190.006, F.S., relating to the board of supervisors for community development districts. This section establishes requirements for the election of board members to various types of districts. The bill amends this section to provide that transit-oriented developments (as defined in s. 163.3164, F.S.) exceeding 25 acres in area are subject to specified election requirements.

Section 4 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may reduce required contributions from developers for new developments in certain local government jurisdictions and could reduce delays for developer projects. Pooling contributions from multiple developments by a local government may result in needed transportation improvements.

C. Government Sector Impact:

This bill may limit the flexibility of local governments to develop alternative means to transportation concurrency.

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 20, 2013:
The CS makes technical and clarifying changes to the language of the bill regarding alternative mobility funding systems. The CS provides requirements and limitations for a mobility-fee-based funding system.

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	.	
03/21/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 26 - 211
4 and insert:
5 Section 1. Paragraph (h) of subsection (5) of section
6 163.3180, Florida Statutes, is amended, and paragraph (i) is
7 added to that subsection, to read:
8 163.3180 Concurrency.—
9 (5)
10 (h)1. Local governments that continue to implement a
11 transportation concurrency system, whether in the form adopted
12 into the comprehensive plan before July 1, 2011, or as

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13 subsequently modified, must:
14 a.~~1.~~ Consult with the Department of Transportation when
15 proposed plan amendments affect facilities on the strategic
16 intermodal system.
17 b.~~2.~~ Exempt public transit facilities from concurrency. For
18 the purposes of this sub-subparagraph ~~subparagraph~~, public
19 transit facilities include transit stations and terminals;
20 transit station parking; park-and-ride lots; intermodal public
21 transit connection or transfer facilities; fixed bus, guideway,
22 and rail stations; and airport passenger terminals and
23 concourses, air cargo facilities, and hangars for the assembly,
24 manufacture, maintenance, or storage of aircraft. As used in
25 this sub-subparagraph ~~subparagraph~~, the terms “terminals” and
26 “transit facilities” do not include seaports or commercial or
27 residential development constructed in conjunction with a public
28 transit facility.
29 c.~~3.~~ Allow an applicant for a development-of-regional-
30 impact development order, development agreement, a rezoning, or
31 other land use development permit to satisfy the transportation
32 concurrency requirements of the local comprehensive plan, the
33 local government’s concurrency management system, and s. 380.06,
34 when applicable, if:
35 (I)~~a.~~ The applicant in good faith offers to enter ~~enters~~
36 into a binding agreement to pay for or construct its
37 proportionate share of required improvements in a manner
38 consistent with this subsection.
39 (II)~~b.~~ The proportionate-share contribution or construction
40 is sufficient to accomplish one or more mobility improvements
41 that will benefit a regionally significant transportation

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42 facility. A local government may accept contributions from
43 multiple applicants for a planned improvement if it maintains
44 contributions in a separate account designated for that purpose.
45 d.~~c.(I)~~ Provide the basis upon which ~~The local government~~
46 ~~has provided a means by which the~~ landowners ~~landowner~~ will be
47 assessed a proportionate share of the cost of addressing the
48 transportation impacts resulting from a ~~providing the~~
49 ~~transportation facilities necessary to serve the~~ proposed
50 development.
51 2. An applicant may ~~shall~~ not be held responsible for the
52 additional cost of reducing or eliminating deficiencies.
53 ~~(II)~~ When an applicant contributes or constructs its
54 proportionate share pursuant to this paragraph ~~subparagraph~~, a
55 local government may not require payment or construction of
56 transportation facilities whose costs would be greater than a
57 development's proportionate share of the improvements necessary
58 to mitigate the development's impacts.
59 a.~~(A)~~ The proportionate-share contribution shall be
60 calculated based upon the number of trips from the proposed
61 development expected to reach roadways during the peak hour from
62 the stage or phase being approved, divided by the change in the
63 peak hour maximum service volume of roadways resulting from
64 construction of an improvement necessary to maintain or achieve
65 the adopted level of service, multiplied by the construction
66 cost, at the time of development payment, of the improvement
67 necessary to maintain or achieve the adopted level of service.
68 b.~~(B)~~ In using the proportionate-share formula provided in
69 this subparagraph, the applicant, in its traffic analysis, shall
70 identify those roads or facilities that have a transportation

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71 deficiency in accordance with the transportation deficiency as
72 defined in subparagraph 4 ~~sub-subparagraph c~~. The proportionate-
73 share formula provided in this subparagraph shall be applied
74 only to those facilities that are determined to be significantly
75 impacted by the project traffic under review. If any road is
76 determined to be transportation deficient without the project
77 traffic under review, the costs of correcting that deficiency
78 shall be removed from the project's proportionate-share
79 calculation and the necessary transportation improvements to
80 correct that deficiency shall be considered to be in place for
81 purposes of the proportionate-share calculation. The improvement
82 necessary to correct the transportation deficiency is the
83 funding responsibility of the entity that has maintenance
84 responsibility for the facility. The development's proportionate
85 share shall be calculated only for the needed transportation
86 improvements that are greater than the identified deficiency.
87 c. ~~(C)~~ When the provisions of subparagraph 1. and this
88 subparagraph have been satisfied for a particular stage or phase
89 of development, all transportation impacts from that stage or
90 phase for which mitigation was required and provided shall be
91 deemed fully mitigated in any transportation analysis for a
92 subsequent stage or phase of development. Trips from a previous
93 stage or phase that did not result in impacts for which
94 mitigation was required or provided may be cumulatively analyzed
95 with trips from a subsequent stage or phase to determine whether
96 an impact requires mitigation for the subsequent stage or phase.
97 d. ~~(D)~~ In projecting the number of trips to be generated by
98 the development under review, any trips assigned to a toll-
99 financed facility shall be eliminated from the analysis.

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100 e. ~~(E)~~ The applicant shall receive a credit on a dollar-for-
101 dollar basis for impact fees, mobility fees, and other
102 transportation concurrency mitigation requirements paid or
103 payable in the future for the project. The credit shall be
104 reduced up to 20 percent by the percentage share that the
105 project's traffic represents of the added capacity of the
106 selected improvement, or by the amount specified by local
107 ordinance, whichever yields the greater credit.
108 3. ~~d.~~ This subsection does not require a local government to
109 approve a development that is not ~~otherwise~~ qualified for
110 approval pursuant to the applicable local comprehensive plan and
111 land development regulations for reasons other than
112 transportation impacts.
113 4. ~~e.~~ As used in this subsection, the term "transportation
114 deficiency" means a facility or facilities on which the adopted
115 level-of-service standard is exceeded by the existing,
116 committed, and vested trips, plus additional projected
117 background trips from any source other than the development
118 project under review, and trips that are forecast by established
119 traffic standards, including traffic modeling, consistent with
120 the University of Florida's Bureau of Economic and Business
121 Research medium population projections. Additional projected
122 background trips are to be coincident with the particular stage
123 or phase of development under review.
124 (i) If a local government elects to repeal transportation
125 concurrency, it is encouraged to adopt an alternative mobility
126 funding system that uses one or more of the tools and techniques
127 identified in paragraph (f). An alternative mobility funding
128 system may not be used to deny, time, or phase an application

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129 for site plan, plat approval, final subdivision approval,
130 building permit, or the functional equivalent of such approvals
131 if the developer agrees to pay for the development's identified
132 transportation impacts using the funding mechanism implemented
133 by the local government. The revenue from the funding mechanism
134 adopted in the alternative system must be used to implement the
135 needs of the local government's plan which serve as the basis
136 for the fee imposed. A mobility-fee-based funding system must
137 comply with the dual rational nexus test applicable to impact
138 fees. An alternative system that is not mobility-fee-based may
139 not be applied in a manner that imposes upon new development any
140 responsibility for funding existing transportation deficiencies
141 as that term is defined in paragraph (h).
142
143 ========== T I T L E A M E N D M E N T ==========
144 And the title is amended as follows:
145 Delete lines 7 - 17
146 and insert:
147 certain criteria are met, and must provide the basis
148 upon which landowners will be assessed a proportionate
149 share of the cost of addressing certain transportation
150 impacts; encouraging a local government that repeals
151 transportation concurrency to adopt an alternative
152 mobility funding system that is subject to certain
153 requirements; amending s. 163.3182, F.S.;

By Senator Hukill

8-01029A-13 2013972__

A bill to be entitled

An act relating to transportation development; amending s. 163.3180, F.S.; providing that local governments that implement transportation concurrency must allow an applicant for a development agreement to satisfy transportation concurrency requirements if certain criteria are met; providing that a local government may accept contributions from multiple applicants for a planned improvement if it maintains such contributions in a separate account; providing that a local government that repeals transportation concurrency may not deny a development based on the adoption of an alternative transportation system if the developer agrees to enter into an agreement to pay for identified impacts of the proposed development; establishing certain requirements of such alternative transportation system; amending s. 163.3182, F.S.; expanding the types of transportation projects that a transportation development authority may undertake or carry out; amending s. 190.006, F.S.; modifying the method for filling positions within the board of supervisors; providing an effective date.

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

Section 1. Subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)(a) If concurrency is applied to transportation

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30 facilities, the local government comprehensive plan must provide
31 the principles, guidelines, standards, and strategies, including
32 adopted levels of service to guide its application.
33 (b) Local governments shall use professionally accepted
34 studies to evaluate the appropriate levels of service. Local
35 governments should consider the number of facilities that will
36 be necessary to meet level-of-service demands when determining
37 the appropriate levels of service. The schedule of facilities
38 that are necessary to meet the adopted level of service shall be
39 reflected in the capital improvement element.
40 (c) Local governments shall use professionally accepted
41 techniques for measuring levels of service when evaluating
42 potential impacts of a proposed development.
43 (d) The premise of concurrency is that the public
44 facilities will be provided in order to achieve and maintain the
45 adopted level of service standard. A comprehensive plan that
46 imposes transportation concurrency must ~~shall~~ contain
47 appropriate amendments to the capital improvements element of
48 the comprehensive plan, consistent with the requirements of s.
49 163.3177(3). The capital improvements element must ~~shall~~
50 identify facilities necessary to meet adopted levels of service
51 during a 5-year period.
52 (e) If a local government applies transportation
53 concurrency in its jurisdiction, it is encouraged to develop
54 policy guidelines and techniques to address potential negative
55 impacts on future development:
56 1. In urban infill and redevelopment, and urban service
57 areas.
58 2. With special part-time demands on the transportation

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59 system.
60 3. With de minimis impacts.
61 4. On community desired types of development, such as
62 redevelopment, or job creation projects.
63 (f) Local governments are encouraged to develop tools and
64 techniques to complement the application of transportation
65 concurrency such as:
66 1. Adoption of long-term strategies to facilitate
67 development patterns that support multimodal solutions,
68 including urban design, and appropriate land use mixes,
69 including intensity and density.
70 2. Adoption of an areawide level of service not dependent
71 on any single road segment function.
72 3. Exempting or discounting impacts of locally desired
73 development, such as development in urban areas, redevelopment,
74 job creation, and mixed use on the transportation system.
75 4. Assigning secondary priority to vehicle mobility and
76 primary priority to ensuring a safe, comfortable, and attractive
77 pedestrian environment, with convenient interconnection to
78 transit.
79 5. Establishing multimodal level of service standards that
80 rely primarily on nonvehicular modes of transportation where
81 existing or planned community design will provide adequate level
82 of mobility.
83 6. Reducing impact fees or local access fees to promote
84 development within urban areas, multimodal transportation
85 districts, and a balance of mixed-use development in certain
86 areas or districts, or for affordable or workforce housing.
87 (g) Local governments are encouraged to coordinate with

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88 adjacent local governments for the purpose of using common
89 methodologies for measuring impacts on transportation
90 facilities.
91 (h) Local governments that implement transportation
92 concurrency must:
93 1. Consult with the Department of Transportation when
94 proposed plan amendments affect facilities on the strategic
95 intermodal system.
96 2. Exempt public transit facilities from concurrency. For
97 the purposes of this subparagraph, public transit facilities
98 include transit stations and terminals; transit station parking;
99 park-and-ride lots; intermodal public transit connection or
100 transfer facilities; fixed bus, guideway, and rail stations; and
101 airport passenger terminals and concourses, air cargo
102 facilities, and hangars for the assembly, manufacture,
103 maintenance, or storage of aircraft. As used in this
104 subparagraph, the terms “terminals” and “transit facilities” do
105 not include seaports or commercial or residential development
106 constructed in conjunction with a public transit facility.
107 3. Allow an applicant for a development-of-regional-impact
108 development order, a rezoning, a development agreement, or other
109 land use development permit to satisfy the transportation
110 concurrency requirements of the local comprehensive plan, the
111 local government’s concurrency management system, and s. 380.06,
112 when applicable, if:
113 a. The applicant offers to enter ~~enters~~ into a binding
114 agreement to pay for or construct its proportionate share of
115 required improvements.
116 b. The proportionate-share contribution or construction is

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117 sufficient to accomplish one or more mobility improvements that
118 will benefit a regionally significant transportation facility.
119 4. Comply with the following:
120 a. A local government may accept contributions from
121 multiple applicants for a planned improvement if the local
122 government maintains contributions in a separate account
123 designated for that purpose.
124 ~~c.(I) The local government has provided a means by which~~
125 ~~the landowner will be assessed a proportionate share of the cost~~
126 ~~of providing the transportation facilities necessary to serve~~
127 ~~the proposed development.~~
128 b. An applicant may ~~shall~~ not be held responsible for the
129 additional cost of reducing or eliminating deficiencies.
130 c.~~(II)~~ When an applicant contributes or constructs its
131 proportionate share pursuant to ~~this~~ subparagraph 3., a local
132 government may not require payment or construction of
133 transportation facilities whose costs would be greater than a
134 development's proportionate share of the improvements necessary
135 to mitigate the development's impacts.
136 (I)~~(A)~~ The proportionate-share contribution shall be
137 calculated based upon the number of trips from the proposed
138 development expected to reach roadways during the peak hour from
139 the stage or phase being approved, divided by the change in the
140 peak hour maximum service volume of roadways resulting from
141 construction of an improvement necessary to maintain or achieve
142 the adopted level of service, multiplied by the construction
143 cost, at the time of development payment, of the improvement
144 necessary to maintain or achieve the adopted level of service.
145 (II)~~(B)~~ In using the proportionate-share formula provided

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146 in this subparagraph, the applicant, in its traffic analysis,
147 shall identify those roads or facilities that have a
148 transportation deficiency in accordance with the transportation
149 deficiency as defined in paragraph (j) ~~sub-subparagraph c~~. The
150 proportionate-share formula provided in this subparagraph shall
151 be applied only to those facilities that are determined to be
152 significantly impacted by the project traffic under review. If
153 any road is determined to be transportation deficient without
154 the project traffic under review, the costs of correcting that
155 deficiency shall be removed from the project's proportionate-
156 share calculation and the necessary transportation improvements
157 to correct that deficiency shall be considered to be in place
158 for purposes of the proportionate-share calculation. The
159 improvement necessary to correct the transportation deficiency
160 is the funding responsibility of the entity that has maintenance
161 responsibility for the facility. The development's proportionate
162 share shall be calculated only for the needed transportation
163 improvements that are greater than the identified deficiency.
164 (III) ~~(C)~~ When the provisions of this subparagraph have been
165 satisfied for a particular stage or phase of development, all
166 transportation impacts from that stage or phase for which
167 mitigation was required and provided shall be deemed fully
168 mitigated in any transportation analysis for a subsequent stage
169 or phase of development. Trips from a previous stage or phase
170 that did not result in impacts for which mitigation was required
171 or provided may be cumulatively analyzed with trips from a
172 subsequent stage or phase to determine whether an impact
173 requires mitigation for the subsequent stage or phase.
174 (IV) ~~(D)~~ In projecting the number of trips to be generated

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175 by the development under review, any trips assigned to a toll-
176 financed facility shall be eliminated from the analysis.
177 (V) ~~(E)~~ The applicant shall receive a credit on a dollar-
178 for-dollar basis for impact fees, mobility fees, and other
179 transportation concurrency mitigation requirements paid or
180 payable in the future for the project. The credit shall be
181 reduced up to 20 percent by the percentage share that the
182 project's traffic represents of the added capacity of the
183 selected improvement, or by the amount specified by local
184 ordinance, whichever yields the greater credit.
185 (i) ~~d.~~ This subsection does not require a local government
186 to approve a development that is not ~~otherwise~~ qualified for
187 approval pursuant to the applicable local comprehensive plan and
188 land development regulations for reasons other than
189 transportation impacts.
190 (j) ~~e.~~ As used in this subsection, the term "transportation
191 deficiency" means a facility or facilities on which the adopted
192 level-of-service standard is exceeded by the existing,
193 committed, and vested trips, plus additional projected
194 background trips from any source other than the development
195 project under review, and trips that are forecast by established
196 traffic standards, including traffic modeling, consistent with
197 the University of Florida's Bureau of Economic and Business
198 Research medium population projections. Additional projected
199 background trips are to be coincident with the particular stage
200 or phase of development under review.
201 (k) Notwithstanding any other provision of law, a local
202 government that repeals transportation concurrency may not use
203 the adoption of an alternative transportation system as a basis

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204 for denial of a development if the developer offers to enter
205 into an agreement to pay for existing or projected impacts of
206 the proposed development. In accordance with subparagraph (h)4.,
207 the local government's alternative transportation system must
208 provide for a mechanism to assess potential impacts of the
209 proposed development and to avoid imposing on new development
210 the responsibility of funding existing transportation
211 deficiencies.
212 Section 2. Paragraph (b) of subsection (3) of section
213 163.3182, Florida Statutes, is amended to read:
214 163.3182 Transportation deficiencies.—
215 (3) POWERS OF A TRANSPORTATION DEVELOPMENT AUTHORITY.—Each
216 transportation development authority created pursuant to this
217 section has the powers necessary or convenient to carry out the
218 purposes of this section, including the following powers in
219 addition to others granted in this section:
220 (b) To undertake and carry out transportation projects for
221 transportation facilities designed to relieve transportation
222 deficiencies within the authority's jurisdiction. Transportation
223 projects may include transportation facilities that provide for
224 alternative modes of travel including sidewalks, bikeways, and
225 mass transit which are related to a deficient transportation
226 facility. Transportation projects may also include projects
227 within and outside the designated deficiency area to relieve
228 deficiencies identified by the transportation deficiency plan.
229 Mass transit improvements and service may extend outside a
230 deficiency area to an existing or planned logical terminus of a
231 selected improvement.
232 Section 3. Paragraph (a) of subsection (3) of section

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233 190.006, Florida Statutes, is amended to read:
234 190.006 Board of supervisors; members and meetings.—
235 (3)(a)1. If the board proposes to exercise the ad valorem
236 taxing power authorized by s. 190.021, the district board shall
237 call an election at which the members of the board of
238 supervisors will be elected. Such election shall be held in
239 conjunction with a primary or general election unless the
240 district bears the cost of a special election. Each member shall
241 be elected by the qualified electors of the district for a term
242 of 4 years, except that, at the first such election, three
243 members shall be elected for a period of 4 years and two members
244 shall be elected for a period of 2 years. All elected board
245 members must be qualified electors of the district.
246 2.a. Regardless of whether a district has proposed to levy
247 ad valorem taxes, commencing 6 years after the initial
248 appointment of members or, for a district exceeding 5,000 acres
249 in area, ~~or~~ for a compact, urban, mixed-use district, or for a
250 transit-oriented development, as defined in s. 163.3164,
251 exceeding 25 acres in area, 10 years after the initial
252 appointment of members, the position of each member whose term
253 has expired shall be filled by a qualified elector of the
254 district, elected by the qualified electors of the district.
255 However, for those districts established after June 21, 1991,
256 and for those existing districts established after December 31,
257 1983, which have less than 50 qualified electors on June 21,
258 1991, sub-subparagraphs b. and d. ~~shall~~ apply. If, in the 6th
259 year after the initial appointment of members, or 10 years after
260 such initial appointment for a district ~~districts~~ exceeding
261 5,000 acres in area, ~~or~~ for a compact, urban, mixed-use

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262 district, or for a transit-oriented development, as defined in
263 s. 163.3164, exceeding 25 acres in area, there are not at least
264 250 qualified electors in the district, or for a district
265 exceeding 5,000 acres, ~~or~~ for a compact, urban, mixed-use
266 district, or for a transit-oriented development, as defined in
267 s. 163.3164, exceeding 25 acres in area, there are not at least
268 500 qualified electors, members of the board shall continue to
269 be elected by landowners.
270 b. After the 6th or 10th year, once a district reaches 250
271 or 500 qualified electors, respectively, ~~then~~ the positions of
272 two board members whose terms are expiring shall be filled by
273 qualified electors of the district, elected by the qualified
274 electors of the district for 4-year terms. The remaining board
275 member whose term is expiring shall be elected for a 4-year term
276 by the landowners and is not required to be a qualified elector.
277 Thereafter, as terms expire, board members shall be qualified
278 electors elected by qualified electors of the district for a
279 term of 4 years.
280 c. Once a district qualifies to have any of its board
281 members elected by the qualified electors of the district, the
282 initial and all subsequent elections by the qualified electors
283 of the district shall be held at the general election in
284 November. The board shall adopt a resolution if necessary to
285 implement this requirement when the board determines the number
286 of qualified electors as required by sub-subparagraph d., to
287 extend or reduce the terms of current board members.
288 d. On or before June 1 of each year, the board shall
289 determine the number of qualified electors in the district as of
290 the immediately preceding April 15. The board shall use and rely

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

291 upon the official records maintained by the supervisor of
292 elections and property appraiser or tax collector in each county
293 in making this determination. Such determination shall be made
294 at a properly noticed meeting of the board and shall become a
295 part of the official minutes of the district.
296 Section 4. 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)

3/20/13
Meeting Date

Topic: Transportation Development

Bill Number: 972 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 S. Bronough Street
Street

Tallahassee — *City*
FL — *State*
32301 — *Zip*

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Currency - Transportation

Bill Number: 972 (if applicable)

Name: Eric Poole

Amendment Barcode: (if applicable)

Job Title: Asst Leg Director

Address: 100 Monroe
Street

Tallahassee FL
City State Zip

Phone: 922-4300

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida Assoc Counties

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/13
Meeting Date

Topic: TRANSPORTATION CONCURRENCY

Bill Number: H972 (if applicable)

Name: DAVID POWELL

Amendment Barcode: (if applicable)

Job Title:

Address: 1205 KENILWORTH RD
Street

TALLAHASSEE FL 32312
City State Zip

Phone: 850-222-7500

E-mail: dpowell@hgslaw.com

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

Representing: ASSN OF FLA COMMUNITY DEVELOPERS

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)

3/20/13
Meeting Date

Topic: Transportation Development

Bill Number: SB 972 *(if applicable)*

Name: David Cruz

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Advocate

Address: P. O. Box 1757
Street

Tally FL 32302
City *State* *Zip*

Phone: 701-3676

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: FL 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)

3/20/13
Meeting Date

Topic: Concurrency

Bill Number: 972 *(if applicable)*

Name: CHARLES PATTISON

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT

Address: 308 N MONROE
Street

TALLAHASSEE
City *State* *Zip*

Phone: 222-6277

E-mail: cpattison@1000fof.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: 1000 FRIENDS OF FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Transportation Development

Bill Number: SB 972 (if applicable)

Name: Louis Rotundo

Amendment Barcode: (if applicable)

Job Title:

Address: 302 Pinestraw Circle
Street

Altamonte Springs FL 32714
City State Zip

Phone: 407-699-9361

E-mail:

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

Representing: City of Altamonte Springs

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)

3-20-13
Meeting Date

Topic: Transportation

Bill Number: SB 972 *(if applicable)*

Name: Doug Mann

Amendment Barcode: — *(if applicable)*

Job Title: —

Address: 310 W. College Ave.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 222-7535

E-mail: doug@littlebigpolicy.com

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

Representing: AIF

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 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

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

Dear Chairman Simpson:

Senate Bill 972, relating to Transportation Development has been referred to the Community Affairs Committee. I am requesting your consideration on placing SB 972 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

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: CS/SB 1252

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Building Construction

DATE: March 21, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			RI	
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 1252 amends a number of provisions related to building construction in the state. The bill:

- revises noticing requirements of alleged violators of local codes and ordinances;
- exempts specified septic tank system inspections and evaluations when remodeling a home and establishes guidelines for construction proximity to a system;
- revises a definition for licensed plumbing contractors;
- increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- revises local government and Department of Business and Professional Regulation (DBPR) collection retention percentages for unpaid fines and costs ordered by the Construction Industry Licensing Board;
- removes a requirement that local governments send minor violation notices to contractors prior to seeking fines and other disciplinary penalties;
- re-opens and extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses;

- clarifies a prohibition to adopt any mandatory sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code;
- adds a member to Florida Building Commission from the natural gas distribution industry;
- authorizes that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site;
- specifies DBPR procedures for Florida Building Code product approval compliance and authorizes the process for expedited 10-day approval reviews;
- renames the statewide standard for energy efficiency;
- specifies that residential heating and cooling systems need only meet the manufacturer's approval and listing of equipment;
- changes the purpose of the Florida Building Energy-Efficiency Rating Act from rating system development to energy rating system oversight;
- directs DBPR to establish and maintain criteria for a building energy-efficiency rating system
- removes the requirement that a building energy-efficiency rating system provide a uniform rating scale of the efficiency of buildings;
- allows DBPR to recognize and approve another nationally recognized building energy-efficiency rating system;
- clarifies DBPR's role in developing, adopting and administering the building energy-efficiency system.; and
- provides building energy-efficiency system definitions.

This bill amends the following sections of the Florida Statutes: 162.12, 381.0065, 489.105, 489.127, 489.131, 489.514, 489.531, 553.73, 553.74, 553.79, 553.842, 553.901, 553.902, 553.903, 553.904, 553.905, 553.906, 553.912, 553.991, 553.992, 553.993, and 553.995.

II. Present Situation:

Code Enforcement Notices

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

> certified mail to the address listed in the tax collector's office for tax notices, or to any other address provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;

The other options for serving notices in s. 162.12(1), F.S., are:

- hand delivery by the sheriff, code inspector, or other designated person;
- leaving at the violator's residence with any person residing there above the age of 15; or
- for commercial premises, leaving the notice with the manager or other person in charge.[1]

[1] *See* ss. 162.12(1)(b)-(d), F.S.

In addition to the noticing provisions outlined in s. 162.12(1), F.S., the code enforcement board may serve notice through publication or posting methods.[2]

Onsite Sewage Treatment and Disposal Systems and Remodeling

An "onsite sewage treatment and disposal system (system)" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system.[3]

Section 381.0065(3), F.S., authorizes the Department of Health (DOH) to adopt rules administering system statute provisions and to perform system application reviews, site evaluations and issue permits. In addition, DOH may inspect residential system construction, modification, and repair. Currently, a system modification, replacement, or upgrade is not required for a remodeling addition to a single-family home if a bedroom is not added.[4]

Construction Contracting Regulation

Construction and electrical contracting is regulated under ch. 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR).[5] Section 489.115, F.S., provides that contractors must either be certified (licensed by the state to contract statewide) or registered (licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only) to engage in contracting in Florida.

The CILB is divided into two divisions: Division I and Division II.[6] Division I of the CILB has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II of the CILB has jurisdiction over the remaining contractors defined in s. 489.105(3). F.S., which include contractors in sheet metal, roofing, air conditioning, pools and spas, plumbing, underground utilities, solar panels, and pollutant storage systems.

Plumbing Contractors

Section 489.105(3)(m), F.S., defines "plumbing contractor." This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6), F.S., and does not require certification or registration of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.[7]

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[2] *See* s.162.12(2), F.S.
[3] Section 381.0065(2)(k), F.S.
[4] Section 381.0065(4)(aa), F.S.
[5] See s. 489.103, F.S., for statutory exemptions.
[6] Section 489.107(4)(a)-(b), F.S.
[7] The limit of the scope of work and responsibility of a specialty contractor shall be established by the CILB by rule.

Liquefied Petroleum Gas Licenses
Chapter 527, F.S., governs the sale of liquefied petroleum gas and defines the following licensing categories:

- category I liquefied petroleum gas dealer,
- category II liquefied petroleum gas dispenser,
- category III liquefied petroleum gas cylinder exchange operator,
- category IV liquefied petroleum gas dispenser and recreational vehicle servicer,
- category V liquefied petroleum gas dealer for industrial uses only,
- LP gas installer,
- specialty installer,
- dealer in liquefied petroleum gas appliances and equipment,
- manufacturer of liquefied petroleum gas appliances and equipment,
- requalifier of cylinders, or
- fabricator, repairer, and tester of vehicles and cargo tanks

To lawfully engage in the above activities, a person must obtain a license from Department of Agriculture and Consumer Services.[8]

Grandfathering Provisions for Electrical and Alarm System Contractors
As previously stated, ch. 489, F.S., requires that all individuals who practice construction and electrical contracting in Florida must either be "certified" or "registered." Section 489.514, F.S., provides that the CILB issue a "certification" to an electrical, electrical specialty or alarm system contractor who is "registered" upon receipt of a completed application, payment of an appropriate fee, and evidence that he or she meets statutorily specified criteria. The criteria include possessing a registered local license, passing an approved written examination, and having at least five years of contracting. Applicants wishing to obtain a "certificate" pursuant to this statutory "grandfather" allowance were required to make application by November 1, 2004.[9]

Penalties for Unlicensed Contracting

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively.
The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer for violations.[10] The maximum civil penalty which may be levied for a citation shall not exceed $500.[11]

A person charged with a violation has two options: correct the cited violation and pay the civil penalty, or, request an administrative hearing before the enforcement or licensing board or designated special magistrate. If either of these entities finds that a violation exists, it may order

[8] *See* ss. 527.01 and 527.02, F.S.
[9] Chapter 2012-211, s. 6, Laws of Fla., re-opened and extended a similar grandfather allowance for construction contractors in s. 489.118, F.S.
[10] *See* ss. 489.127(5)(c) and 489.531(4)(c), F.S.
[11] *Id.*

the violator to pay a civil penalty of not less than the original citation but not more than $1,000 per day for each construction contracting violation and $500 for each electrical contracting violation.[12]

Outstanding Fines Issued by the Florida Construction Industry Licensing Board

Section 489.127(6), F.S., authorizes local municipalities and counties to collect unpaid fines and costs ordered by the Florida Construction Industry Licensing Board. These local governments may retain 25 percent of the total amount collected if they remit the remaining 75 percent to the Department of Business and Professional Regulation (DBPR).[13] According to DBPR, the department currently uses the Department of Financial Services' approved collections vendor to collect unpaid fines and costs when a required payment remains delinquent for more than 6 months.[14]The vendor charges a 23 percent fee in order to collect the ordered amount. This fee becomes due upon collection regardless of who collects the unpaid fine.

Compliance with State Law and Local Ordinances on Contracting

Section 489.131(7)(a), F.S., provides that local government contracting fines and other penalties are assessed for the primary purpose of gaining compliance with the laws regulating the unlicensed practice of contracting. The subsection further requires that local jurisdictions issue a notice of noncompliance prior to seeking fines and other penalties for first-time "minor violations."[15] Such notices of non-compliance must identify the ordinance violated, specify a method of compliance, and provide a reasonable time period for compliance. Failure to address a notice of non-compliance is grounds for additional disciplinary proceedings.

Residential Fire Sprinklers

In 2010, the Legislature amended s. 553.73(17), F.S., to prohibit the Florida Building Commission from adopting or incorporating mandatory fire sprinklers provisions in section R313 of the most current version of the International Residential Code (IRC) as part of the Florida Building Code or as a local amendment to the Code.[16] Pursuant to the enacted prohibition, the Florida Building Commission did not adopt the current version section as part of the 2010 Florida Building Code and, according to DBPR, the Commission is not considering it for the next edition of the Code.[17]

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[12] *See* 489.127(5)(f) and 489.531(4)(f), F.S.
[13] DBPR does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.
[14] Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).
[15] A violation is deemed "minor" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.
[16] Chapter 2010-176, s. 32, Laws of Fla.
[17] Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

Florida Building Commission

The Florida Building Commission (ss. 553.76 and 553.77, F.S.) is a 25-member technical body responsible for the development, maintenance and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the code.

Electronic Documents

The Building Code requires that a permit applicant submit one or more copies of construction documents to the building official and specifically authorizes applicants to submit such documents electronically when authorized by the local building official.[18] Construction documents include at a minimum "a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout: all fenestration penetrations; flashing; and rough opening dimensions; and all exterior elevations" pursuant to s. 107.3.5, Florida Building Code, Building (2010). Once reviewed and approved by the building official, the Florida Building Code requires that one set of construction documents be retained by the building official and another be provided to the applicant to "be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative" pursuant to s.107.3.1, Florida Building Code, Building (2010).

Florida Building Code and the State Product Approval Program

The State Product Approval System, which went into effect October 1, 2003, covers certain structural products (i.e., panel walls, exterior doors, roofing products; skylights, windows, shutters, structural components, and new and innovative products) and provides manufacturers of these products with the choice of obtaining state approval as an alternative to receiving local approval.[19]

To obtain state approval for his or her products, a manufacturer must demonstrate compliance with applicable standards and provisions of the Florida Building Code by submitting one of the following reports:

- a certification mark or listing from an approved certification agency,
- a test report from an approved test laboratory,
- a product evaluation report from an evaluation entity authorized under s. 553.842(8)(a), F.S., or
- a product evaluation report developed, signed and sealed by a Florida licensed engineer or architect.

Currently, applications for product approval using the test report method and evaluation report method are subject to approval by the Florida Building Commission using the normal approval process. However, applications for product approval using the certification method are subject to approval by DBPR using the expedited 10-day review process as outlined in s. 553.842(5), F.S.

[18] *See* s. 468.604(4), F.S.
[19] *See* s. 553.842, F.S.

The Florida Energy Code

Part V of ch. 553, F.S.(ss. 553.900 – 553.912), titled "Florida Thermal Efficiency Code," was enacted in 1979 in response to the oil crisis of the 70s and required the establishment of a "statewide thermal efficiency code." The Florida Building Commission adopted the Florida Energy Efficiency Code for Building Construction (FEECBC), which remained Florida's statewide energy code from 1979 to 2012.

In 2008, s. 553.73(7)(a), F. S., was amended to require the Florida Building Commission to use the International Energy Conservation Code as the foundation for Florida's Energy Code, while retaining the Florida-specific criteria which were established as part of the FEECBC.[20] The 2008 legislation required the Florida Building Commission to effectively adopt both the International Energy Code and the Florida Energy Efficiency Code for Building Construction. On March 15, 2012, the Florida Building Commission adopted the 2010 Florida Building Code – Energy Conservation, which is based on the 2009 IECC but maintains the Florida-specific criteria of the FEECBC.

Although Florida's 2010 Florida Building Code – Energy Conservation is different from the Florida Energy Efficiency Code for Building Construction, according to DBPR, most of the significant changes to its content result directly from the Florida-specific changes approved by the Florida Building Commission through the code update process.[21]

The Florida Building Energy Efficiency Rating System (BERS)

Chapter 553, part VIII, F.S., is known as the "Florida Building Energy-Efficiency Rating Act." The Act requires DBPR to provide a statewide uniform system for rating the energy efficiency of buildings. In addition, DBPR is required to develop a training and certification program to certify energy raters. DBPR established the Building Energy Raters System (BERS) program to train and certify energy raters. DBPR currently outsources administration of the BERS program to the Florida Solar Energy Center (FSEC) on a no-cost basis through a Memorandum of Understanding.[22] Energy raters are trained and tested by FSEC and the Department issues the rater a certificate based on completion of the FSEC program. The rating system is a voluntary program and does not require any rating be performed.

Currently, BERS rules adopt by reference the 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET) as the standard for energy rater certifications under the BERS program. As a national program for energy rating, RESNET's services and rating procedures are similar to those of the BERS program. Based on adoption of the NASEO standard, Florida BERS raters are also required to undertake national examinations and certifications.

[20] Chapter 2008-227, s. 108, Laws of Fla.
[21] Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).
[22]. *Id.* The remainder of this section of the analysis is drawn from the DBPR Agency Analysis of the bill.

III. Effect of Proposed Changes:

Section 1 amends s. 162.12, F.S., on noticing alleged violators of local codes and ordinances to qualify that a notice sent by certified mail include a return receipt request. The notice may be sent to either an address from the tax collector's office *or* one from the database of the county property appraiser. The section also allows the local government to provide notices to any address it may have for the property owner or through publication or posting methods.

Section 2 amends s. 381.0065, F.S., on onsite sewage treatment and disposal systems when remodeling a single family home that does not include the addition of a bedroom. Currently, a system modification, replacement or upgrade of a system is not required in these types of remodeling projects. This section specifies that an "existing inspection or evaluation, or an existing system tank pump-out" is also not required for such remodels.

The section also clarifies that the remodeling addition or modification may not cover any part of the system or encroach upon a required setback or the unobstructed area as determined by a timely local health department floor and site plan review.

Section 3 amends s. 489.105, F.S., on the definition of a plumbing contractor to include a person licensed under the liquefied petroleum gas provisions of ch. 527, F.S., among those not requiring certification or registration as a plumbing contractor when disconnecting or reconnecting a water heater.

Section 4 amends s. 489.127, F.S., on construction contracting prohibitions and penalties to increase the maximum amount local municipalities and counties may charge for unlicensed contracting citations from $500 to $2,000 and to increase the maximum civil penalties for unlicensed contracting from $1,000 to $1,500 per day of each violation. In addition, the bill increases the percentage of funds a local government may retain when they collect unpaid fines and costs ordered by the Construction Industry Licensing Board from 25 percent to 75 percent. The remaining 25 percent would be remitted to DBPR.

Section 5 amends s. 489.131, F.S., on compliance with state law and local ordinances for contractors to remove the statutory intent that collection of fines and imposition of other penalties is secondary to the goal of attaining compliance with current regulations. In addition, the section removes the requirement that local counties and municipalities issue a notice of non-compliance for first time minor violations prior to seeking fines and other disciplinary penalties.

Section 6 amends s. 489.514, F.S., on certification for registered contractors to re-open and extend the period for grandfathering of "registered" electrical, specialty electrical and alarm system contractor licenses to statewide "certified" licenses until November 1, 2015.

Section 7 amends s. 489.531, F.S., on electrical and alarm systems contracting prohibitions and penalties to increase the maximum amount local municipalities and counties may charge for unlicensed contracting citations from $500 to $2,000.

Section 8 amends s. 553.73, F.S., to prohibit adopting any mandatory fire sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to

the state code. The section also clarifies that cost-saving incentives for IRC fire sprinklers are permissible when mutually agreed upon between a builder and code official.

Section 9 amends s. 553.74, F.S., on the Florida Building Commission to add a 26th member to the Commission who will represent the natural gas distribution system industry.

Section 10 amends s. 553.79, F.S., on Florida Building Code permits and applications to authorize that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site.

Section 11 amends s. 553.842, F.S., to require that DBPR approve products that demonstrate compliance with the Florida Building Code using product evaluation reports from approved evaluation entities. Applications for product approval using product evaluation reports may be considered and approved by DBPR under the expedited 10-day review process. The current procedure requires applications be held until the next meeting of the Florida Building Commission.

Section 12 amends s. 553.901, F.S., to rename the statewide standard for energy efficiency the Florida Building Code-Energy Conservation, to reflect a coordination of construction standards related to energy efficiency within the Florida Building Code adopted in accordance with s. 553.73(7)(a), F.S.

Section 13 amends s. 553.902, F.S., to conform to the change made by section 8.

Section 14 amends s. 553.903, F.S., to conform to the change made by section 8.

Section 15 amends s. 553.904, F.S., to conform to the change made by section 8.

Section 16 amends s. 553.905, F.S., to conform to the change made by section 8.

Section 17 amends s. 553.906, F.S., to conform to the change made by section 8.

Section 18 amends s. 553.912, F.S., to conform to the change made by Section 8 and codifies the current energy code provision applicable to existing residential heating and cooling equipment excepting that equipment from meeting minimum equipment efficiencies unless necessary to preserve the listing of the equipment.

Section 19 amends s. 553.991, F.S., of Florida Building Energy-Efficiency Rating Act to identify the purpose of the Act as statewide oversight of energy rating systems to promote energy efficiency rather than to develop a statewide rating system.

Section 20 amends s. 553.992, F.S., to direct DBPR to establish and maintain criteria for a building energy-efficiency rating system and to require that the department's rules specifically prohibit a sole provider of functions related to the system.

Section 21 amends s. 553.993, F.S., to include a definition of "building energy-efficiency rating system" as a system created by one of three national systems or the Florida Solar Energy Center

and allows DBPR to recognize and approve another nationally recognized rating system. The section also provides definitions for "energy auditor," "energy-efficiency rating," and energy rater."

Section 22 amends s. 553.995, F.S., to remove the requirement that a building energy-efficiency rating system provide a uniform rating scale of the efficiency of buildings; to direct the efforts of a designated stakeholders' group to provide input on the adoption and administration of the system; and to specify that DBPR approve training and certification programs applicable to raters.

Section 23 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain DFS approved collection vendors currently utilized by DBPR may experience indeterminate revenue losses related to the collection retention percentage changes in the bill.

C. Government Sector Impact:

The bill will have an indeterminate impact on DBPR and local government revenue. DBPR does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.[23] It is unknown to what extent the bill's change in the local government collection retention percentage (from 25 percent to 75 percent) may entice local governments to begin such collections.

[23] Florida Department of Business and Professional Regulation, *Agency Analysis of SB 1252: Building Construction* (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

Any collections by local governments would increase local revenue at the expense of DBPR revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

DBPR raised the following issues in the *Comments or Concerns* section of it agency analysis of the bill.[24]

- Section 2 of the bill appears to contain an internal inconsistency by requiring a local licensing board or special magistrate to assess a civil penalty which is no less than the citation amount but no more than $1,500. Since the maximum citation is more than the maximum penalty, a local board or magistrate would be unable to comply with the provisions since the minimum civil penalty required ($2000) would be more than the $1,500 maximum civil penalty permitted.
- The term site plan, as referred to in Section 6 of the bill, identifies a particular subset of documents submitted in support of a building permit application. The International Building Code describes the contents of a site plan as a scale drawing depicting "the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey." The reference to "inspections" in the bill indicates that the sponsor may intend the bill to apply to a broader scope of documentation that might be best referred to as "construction documents" consistent with the Florida Building Code or "the plans and specifications required by the Florida Building Code" as used in s. 553.79(2), F.S.
- If DBPR has transferred the collection of the delinquent Final Order to a DFS approved collection vendor, under the terms of the DSF statewide contract, the approved collection vendor will receive 23 percent of the collection amount regardless of who collects it.

DBPR also offered potential revisions to the bill in the *Comments or Concerns* section of it agency analysis. These are provided below.

- In section 7, s. 553.842(5)(a), F.S., change "commission staff" to "Department staff." Currently, there is no specific staff designated as "commission staff." DBPR is the sole agency with the responsibility of staffing the Florida Building Commission.
- In section 14, s. 553.912, F.S., change the term "Florida Energy Efficiency Code for Building Construction" to "Florida Building Code – Energy Conservation" for consistency with the proposed legislation.
- Sections 15 and 16, ss. 553.991 and 553.992, F.S. DBPR conducted several workshops with industry groups regarding improvements to the BERS program. During these workshops, industry groups urged the department to open BERS to more providers and thus eliminate the perceived monopoly by FSEC. The department believes that the Florida Building Energy

[24] *Id*.

Rating Act is no longer necessary since available national energy rating programs adequately accomplish the objectives of the statutes. Reliance on national programs with no oversight from the Department could permit additional avenues for training and certification sought by several stakeholder groups.

- According to DBPR, the effective date of July 1, 2013, may not allow sufficient time to update the current BERS rules for consistency with the legislation proposed under sections 15 through 18. The department anticipates an additional ten months from the effective date of the Act would be necessary to make the changes.

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 20, 2013:

- Revises noticing requirements of alleged violators of local codes and ordinances.
- Revises a definition for licensed plumbing contractors.
- Re-opens and extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses.
- Adds a member to Florida Building Commission from the natural gas distribution industry.
- Clarifies that cost-saving incentives for IRC fire sprinklers are permissible when mutually agreed upon between a builder and code official.
- Provides building energy-efficiency system definitions.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 65 and 66
4 insert:
5 Section 1. Section 162.12, Florida Statutes, is amended to
6 read:
7 162.12 Notices.—
8 (1) All notices required by this part must be provided to
9 the alleged violator by:
10 (a) Certified mail, return receipt requested, to the
11 address listed in the tax collector's office for tax notices, or
12 to the address listed in the county property appraiser's

881972

13 database. The local government may also provide an additional
14 notice to any other address it may find for ~~provided by~~ the
15 property owner ~~in writing to the local government for the~~
16 ~~purpose of receiving notices~~. For property owned by a
17 corporation, notices may be provided by certified mail to the
18 registered agent of the corporation. If any notice sent by
19 certified mail is not signed as received within 30 days after
20 the postmarked date of mailing, notice may be provided by
21 posting as described in subparagraphs (2)(b)1. and 2.;
22 (b) Hand delivery by the sheriff or other law enforcement
23 officer, code inspector, or other person designated by the local
24 governing body;
25 (c) Leaving the notice at the violator's usual place of
26 residence with any person residing therein who is above 15 years
27 of age and informing such person of the contents of the notice;
28 or
29 (d) In the case of commercial premises, leaving the notice
30 with the manager or other person in charge.
31 (2) In addition to providing notice as set forth in
32 subsection (1), at the option of the code enforcement board or
33 the local government, notice may ~~also~~ be served by publication
34 or posting, as follows:
35 (a)1. Such notice shall be published once during each week
36 for 4 consecutive weeks (four publications being sufficient) in
37 a newspaper of general circulation in the county where the code
38 enforcement board is located. The newspaper shall meet such
39 requirements as are prescribed under chapter 50 for legal and
40 official advertisements.
41 2. Proof of publication shall be made as provided in ss.

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42 50.041 and 50.051.
43 (b)1. In lieu of publication as described in paragraph (a),
44 such notice may be posted at least 10 days prior to the hearing,
45 or prior to the expiration of any deadline contained in the
46 notice, in at least two locations, one of which shall be the
47 property upon which the violation is alleged to exist and the
48 other of which shall be, in the case of municipalities, at the
49 primary municipal government office, and in the case of
50 counties, at the front door of the courthouse or the main county
51 governmental center in said county.
52 2. Proof of posting shall be by affidavit of the person
53 posting the notice, which affidavit shall include a copy of the
54 notice posted and the date and places of its posting.
55 (c) Notice by publication or posting may run concurrently
56 with, or may follow, an attempt or attempts to provide notice by
57 hand delivery or by mail as required under subsection (1).
58
59 Evidence that an attempt has been made to hand deliver or mail
60 notice as provided in subsection (1), together with proof of
61 publication or posting as provided in subsection (2), shall be
62 sufficient to show that the notice requirements of this part
63 have been met, without regard to whether or not the alleged
64 violator actually received such notice.
65
66 ========== T I T L E A M E N D M E N T ==========
67 And the title is amended as follows:
68 Delete line 2
69 and insert:
70 An act relating to building construction; amending s.

881972

71 162.12, F.S.; revising notice requirements in the
72 Local Government Code Enforcement Boards Act; amending
73 s.

349072

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 137 and 138
4 insert:
5 Section 2. Paragraph (m) of subsection (3) of section
6 489.105, Florida Statutes, is amended to read:
7 489.105 Definitions.—As used in this part:
8 (3) "Contractor" means the person who is qualified for, and
9 is only responsible for, the project contracted for and means,
10 except as exempted in this part, the person who, for
11 compensation, undertakes to, submits a bid to, or does himself
12 or herself or by others construct, repair, alter, remodel, add

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13 to, demolish, subtract from, or improve any building or
14 structure, including related improvements to real estate, for
15 others or for resale to others; and whose job scope is
16 substantially similar to the job scope described in one of the
17 paragraphs of this subsection. For the purposes of regulation
18 under this part, the term “demolish” applies only to demolition
19 of steel tanks more than 50 feet in height; towers more than 50
20 feet in height; other structures more than 50 feet in height;
21 and all buildings or residences. Contractors are subdivided into
22 two divisions, Division I, consisting of those contractors
23 defined in paragraphs (a)-(c), and Division II, consisting of
24 those contractors defined in paragraphs (d)-(q):
25 (m) “Plumbing contractor” means a contractor whose services
26 are unlimited in the plumbing trade and includes contracting
27 business consisting of the execution of contracts requiring the
28 experience, financial means, knowledge, and skill to install,
29 maintain, repair, alter, extend, or, if not prohibited by law,
30 design ~~plumbing. A plumbing contractor may install, maintain,~~
31 ~~repair, alter, extend, or, if not prohibited by law, design~~ the
32 following without obtaining an additional local regulatory
33 license, certificate, or registration: sanitary drainage or
34 storm drainage facilities, water and sewer plants and
35 substations, venting systems, public or private water supply
36 systems, septic tanks, drainage and supply wells, swimming pool
37 piping, irrigation systems, and solar heating water systems and
38 all appurtenances, apparatus, or equipment used in connection
39 therewith, including boilers and pressure process piping and
40 including the installation of water, natural gas, liquefied
41 petroleum gas and related venting, and storm and sanitary sewer

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42 lines. The scope of work of the plumbing contractor also
43 includes the design, if not prohibited by law, and installation,
44 maintenance, repair, alteration, or extension of air-piping,
45 vacuum line piping, oxygen line piping, nitrous oxide piping,
46 and all related medical gas systems; fire line standpipes and
47 fire sprinklers if authorized by law; ink and chemical lines;
48 fuel oil and gasoline piping and tank and pump installation,
49 except bulk storage plants; and pneumatic control piping
50 systems, all in a manner that complies with all plans,
51 specifications, codes, laws, and regulations applicable. The
52 scope of work of the plumbing contractor applies to private
53 property and public property, including any excavation work
54 incidental thereto, and includes the work of the specialty
55 plumbing contractor. Such contractor shall subcontract, with a
56 qualified contractor in the field concerned, all other work
57 incidental to the work but which is specified as being the work
58 of a trade other than that of a plumbing contractor. This
59 definition does not limit the scope of work of any specialty
60 contractor certified pursuant to s. 489.113(6), and does not
61 require certification or registration under this part of a
62 person licensed under chapter 527 or any authorized employee of
63 a public natural gas utility or of a private natural gas utility
64 regulated by the Public Service Commission when disconnecting
65 and reconnecting water lines in the servicing or replacement of
66 an existing water heater. A plumbing contractor may perform
67 drain cleaning and clearing and install or repair rainwater
68 catchment systems; however, a mandatory licensing requirement is
69 not established for the performance of these specific services.
70

349072

71 ========== T I T L E A M E N D M E N T ==========
72 And the title is amended as follows:
73 Delete line 12
74 and insert:
75 amending s. 489.105, F.S.; revising a definition;
76 amending s. 489.127, F.S.; revising civil penalties;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

1 **Senate Substitute for Amendment (349072) (with title**
2 **amendment)**
3
4 Between lines 137 and 138
5 insert:
6 Section 2. Paragraph (m) of subsection (3) of section
7 489.105, Florida Statutes, is amended to read:
8 489.105 Definitions.—As used in this part:
9 (3) "Contractor" means the person who is qualified for, and
10 is only responsible for, the project contracted for and means,
11 except as exempted in this part, the person who, for
12 compensation, undertakes to, submits a bid to, or does himself

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13 or herself or by others construct, repair, alter, remodel, add
14 to, demolish, subtract from, or improve any building or
15 structure, including related improvements to real estate, for
16 others or for resale to others; and whose job scope is
17 substantially similar to the job scope described in one of the
18 paragraphs of this subsection. For the purposes of regulation
19 under this part, the term “demolish” applies only to demolition
20 of steel tanks more than 50 feet in height; towers more than 50
21 feet in height; other structures more than 50 feet in height;
22 and all buildings or residences. Contractors are subdivided into
23 two divisions, Division I, consisting of those contractors
24 defined in paragraphs (a)-(c), and Division II, consisting of
25 those contractors defined in paragraphs (d)-(q):
26 (m) “Plumbing contractor” means a contractor whose services
27 are unlimited in the plumbing trade and includes contracting
28 business consisting of the execution of contracts requiring the
29 experience, financial means, knowledge, and skill to install,
30 maintain, repair, alter, extend, or, if not prohibited by law,
31 design plumbing. A plumbing contractor may install, maintain,
32 repair, alter, extend, or, if not prohibited by law, design the
33 following without obtaining an additional local regulatory
34 license, certificate, or registration: sanitary drainage or
35 storm drainage facilities, water and sewer plants and
36 substations, venting systems, public or private water supply
37 systems, septic tanks, drainage and supply wells, swimming pool
38 piping, irrigation systems, and solar heating water systems and
39 all appurtenances, apparatus, or equipment used in connection
40 therewith, including boilers and pressure process piping and
41 including the installation of water, natural gas, liquefied

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42 petroleum gas and related venting, and storm and sanitary sewer
43 lines. The scope of work of the plumbing contractor also
44 includes the design, if not prohibited by law, and installation,
45 maintenance, repair, alteration, or extension of air-piping,
46 vacuum line piping, oxygen line piping, nitrous oxide piping,
47 and all related medical gas systems; fire line standpipes and
48 fire sprinklers if authorized by law; ink and chemical lines;
49 fuel oil and gasoline piping and tank and pump installation,
50 except bulk storage plants; and pneumatic control piping
51 systems, all in a manner that complies with all plans,
52 specifications, codes, laws, and regulations applicable. The
53 scope of work of the plumbing contractor applies to private
54 property and public property, including any excavation work
55 incidental thereto, and includes the work of the specialty
56 plumbing contractor. Such contractor shall subcontract, with a
57 qualified contractor in the field concerned, all other work
58 incidental to the work but which is specified as being the work
59 of a trade other than that of a plumbing contractor. This
60 definition does not limit the scope of work of any specialty
61 contractor certified pursuant to s. 489.113(6), and does not
62 require certification or registration under this part of a
63 person licensed under chapter 527 or any authorized employee of
64 a public natural gas utility or of a private natural gas utility
65 regulated by the Public Service Commission when disconnecting
66 and reconnecting water lines in the servicing or replacement of
67 an existing water heater. A plumbing contractor may perform
68 drain cleaning and clearing and install or repair rainwater
69 catchment systems; however, a mandatory licensing requirement is
70 not established for the performance of these specific services.

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71

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

73 And the title is amended as follows:

74 Between lines 11 and 12

75 insert:

76 amending s. 489.105, F.S.; revising a definition;

411578

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 239 and 240
4 insert:
5 Section 6. Subsection (1) of section 553.74, Florida
6 Statutes, is amended to read:
7 553.74 Florida Building Commission.—
8 (1) The Florida Building Commission is created and located
9 within the Department of Business and Professional Regulation
10 for administrative purposes. Members are ~~shall be~~ appointed by
11 the Governor subject to confirmation by the Senate. The
12 commission is ~~shall be~~ composed of 26 ~~25~~ members, consisting of

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13 the following:
14 (a) One architect registered to practice in this state and
15 actively engaged in the profession. The American Institute of
16 Architects, Florida Section, is encouraged to recommend a list
17 of candidates for consideration.
18 (b) One structural engineer registered to practice in this
19 state and actively engaged in the profession. The Florida
20 Engineering Society is encouraged to recommend a list of
21 candidates for consideration.
22 (c) One air-conditioning or mechanical contractor certified
23 to do business in this state and actively engaged in the
24 profession. The Florida Air Conditioning Contractors
25 Association, the Florida Refrigeration and Air Conditioning
26 Contractors Association, and the Mechanical Contractors
27 Association of Florida are encouraged to recommend a list of
28 candidates for consideration.
29 (d) One electrical contractor certified to do business in
30 this state and actively engaged in the profession. The Florida
31 Electrical Contractors Association and the National Electrical
32 Contractors Association, Florida Chapter, are encouraged to
33 recommend a list of candidates for consideration.
34 (e) One member from fire protection engineering or
35 technology who is actively engaged in the profession. The
36 Florida Chapter of the Society of Fire Protection Engineers and
37 the Florida Fire Marshals and Inspectors Association are
38 encouraged to recommend a list of candidates for consideration.
39 (f) One general contractor certified to do business in this
40 state and actively engaged in the profession. The Associated
41 Builders and Contractors of Florida, the Florida Associated

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42 General Contractors Council, and the Union Contractors
43 Association are encouraged to recommend a list of candidates for
44 consideration.
45 (g) One plumbing contractor licensed to do business in this
46 state and actively engaged in the profession. The Florida
47 Association of Plumbing, Heating, and Cooling Contractors is
48 encouraged to recommend a list of candidates for consideration.
49 (h) One roofing or sheet metal contractor certified to do
50 business in this state and actively engaged in the profession.
51 The Florida Roofing, Sheet Metal, and Air Conditioning
52 Contractors Association and the Sheet Metal and Air Conditioning
53 Contractors National Association are encouraged to recommend a
54 list of candidates for consideration.
55 (i) One residential contractor licensed to do business in
56 this state and actively engaged in the profession. The Florida
57 Home Builders Association is encouraged to recommend a list of
58 candidates for consideration.
59 (j) Three members who are municipal or district codes
60 enforcement officials, one of whom is also a fire official. The
61 Building Officials Association of Florida and the Florida Fire
62 Marshals and Inspectors Association are encouraged to recommend
63 a list of candidates for consideration.
64 (k) One member who represents the Department of Financial
65 Services.
66 (l) One member who is a county codes enforcement official.
67 The Building Officials Association of Florida is encouraged to
68 recommend a list of candidates for consideration.
69 (m) One member of a Florida-based organization of persons
70 with disabilities or a nationally chartered organization of

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71 persons with disabilities with chapters in this state.
72 (n) One member of the manufactured buildings industry who
73 is licensed to do business in this state and is actively engaged
74 in the industry. The Florida Manufactured Housing Association is
75 encouraged to recommend a list of candidates for consideration.
76 (o) One mechanical or electrical engineer registered to
77 practice in this state and actively engaged in the profession.
78 The Florida Engineering Society is encouraged to recommend a
79 list of candidates for consideration.
80 (p) One member who is a representative of a municipality or
81 a charter county. The Florida League of Cities and the Florida
82 Association of Counties are encouraged to recommend a list of
83 candidates for consideration.
84 (q) One member of the building products manufacturing
85 industry who is authorized to do business in this state and is
86 actively engaged in the industry. The Florida Building Material
87 Association, the Florida Concrete and Products Association, and
88 the Fenestration Manufacturers Association are encouraged to
89 recommend a list of candidates for consideration.
90 (r) One member who is a representative of the building
91 owners and managers industry who is actively engaged in
92 commercial building ownership or management. The Building Owners
93 and Managers Association is encouraged to recommend a list of
94 candidates for consideration.
95 (s) One member who is a representative of the insurance
96 industry. The Florida Insurance Council is encouraged to
97 recommend a list of candidates for consideration.
98 (t) One member who is a representative of public education.
99 (u) One member who is a swimming pool contractor licensed

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100 to do business in this state and actively engaged in the
101 profession. The Florida Swimming Pool Association and the United
102 Pool and Spa Association are encouraged to recommend a list of
103 candidates for consideration.
104 (v) One member who is a representative of the green
105 building industry and who is a third-party commission agent, a
106 Florida board member of the United States Green Building Council
107 or Green Building Initiative, a professional who is accredited
108 under the International Green Construction Code (IGCC), or a
109 professional who is accredited under Leadership in Energy and
110 Environmental Design (LEED).
111 (w) One member who is a representative of a natural gas
112 distribution system and who is actively engaged in the
113 distribution of natural gas in this state. The Florida Natural
114 Gas Association is encouraged to recommend a list of candidates
115 for consideration.
116 (x) ~~(w)~~ One member who shall be the chair.
117
118 Any person serving on the commission under paragraph (c) or
119 paragraph (h) on October 1, 2003, and who has served less than
120 two full terms is eligible for reappointment to the commission
121 regardless of whether he or she meets the new qualification.
122
123 ========== T I T L E A M E N D M E N T ==========
124 And the title is amended as follows:
125 Delete line 29
126 and insert:
127 amending s. 553.74, F.S.; revising membership of the
128 Florida Building Commission; amending s. 553.79, F.S.;

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129 authorizing a site plan to

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

Senate Amendment (with title amendment)

Between lines 208 and 209
insert:
Section 4. Section 489.514, Florida Statutes, is amended to read:
489.514 Certification for registered contractors; grandfathering provisions.—
(1) The board shall, upon receipt of a completed application, appropriate fee, and proof of compliance with the provisions of this section, issue:
(a) To an applying registered electrical contractor, a

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13 certificate as an electrical contractor, as defined in s.
14 489.505(12); ~~or~~
15 (b) To an applying registered alarm system contractor, a
16 certificate in the matching alarm system contractor category, as
17 defined in s. 489.505(2)(a) or (b); or
18 (c) To an applying registered electrical specialty
19 contractor, a certificate in the matching electrical specialty
20 contractor category, as defined in s. 489.505(19).
21 (2) Any contractor registered under this part who makes
22 application under this section to the board shall meet each of
23 the following requirements for certification:
24 (a) Currently holds a valid registered local license in the
25 category of electrical contractor, alarm system contractor, or
26 electrical specialty contractor.
27 (b) Has, for that category, passed a written, proctored
28 examination that the board finds to be substantially similar to
29 the examination required to be licensed as a certified
30 contractor under this part. For purposes of this subsection, a
31 written, proctored examination such as that produced by the
32 National Assessment Institute, Block and Associates, NAI/Block,
33 Experior Assessments, Professional Testing, Inc., or Assessment
34 Systems, Inc., shall be considered to be substantially similar
35 to the examination required to be licensed as a certified
36 contractor. The board may not impose or make any requirements
37 regarding the nature or content of these cited examinations.
38 (c) Has at least 5 years of experience as a contractor in
39 that contracting category, or as an inspector or building
40 administrator with oversight over that category, at the time of
41 application. For contractors, only time periods in which the

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42 contractor license is active and the contractor is not on
43 probation ~~shall~~ count toward the 5 years required under this
44 subsection.
45 (d) Has not had his or her contractor's license revoked at
46 any time, had his or her contractor's license suspended in the
47 last 5 years, or been assessed a fine in excess of $500 in the
48 last 5 years.
49 (e) Is in compliance with the insurance and financial
50 responsibility requirements in s. 489.515(1)(b).
51 (3) An applicant must make application by November 1, 2015
52 ~~2004~~, to be licensed pursuant to this section.
53
54 ========== T I T L E A M E N D M E N T ==========
55 And the title is amended as follows:
56 Delete line 24
57 and insert:
58 licensees; amending s. 489.514, F.S.; extending the
59 date by which an applicant must make application for a
60 license to be grandfathered; amending s. 489.531,
61 F.S.; revising a

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 459 - 535
and insert:
Section 16. Section 553.992, Florida Statutes, is amended to read:
553.992 Adoption of rating system criteria.—The Department of Business and Professional Regulation shall adopt, update, ~~and~~ maintain, and administer ~~a~~ statewide criteria for a ~~uniform~~ building energy-efficiency rating system to implement the provisions of this part and amendments thereto in accordance with the procedures of chapter 120 and shall, upon the request

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13 of any builder, designer, rater, or owner of a building, issue
14 nonbinding interpretations, clarifications, and opinions
15 concerning the application and use of the building energy-
16 efficiency ~~energy~~ rating system under rules that the department
17 adopts in accordance with chapter 120. Department rules must
18 prohibit a sole provider from conducting functions relating to
19 the building energy-efficiency rating system, including energy
20 rating, energy testing, certification of energy raters, and
21 training.
22 Section 17. Section 553.993, Florida Statutes, is amended
23 to read:
24 553.993 Definitions.—For purposes of this part:
25 (1) "Acquisition" means to gain the sole or partial use of
26 a building through a purchase agreement.
27 (2) "Builder" means the primary contractor who possesses
28 the requisite skill, knowledge, and experience, and has the
29 responsibility, to supervise, direct, manage, and control the
30 contracting activities of the business organization with which
31 she or he is connected and who has the responsibility to
32 supervise, direct, manage, and control the construction work on
33 a job for which she or he has obtained the building permit.
34 Construction work includes, but is not limited to, foundation,
35 framing, wiring, plumbing, and finishing work.
36 (3) "Building energy-efficiency rating system" means a
37 whole building energy evaluation system established by the
38 Residential Energy Services Network, the Commercial Energy
39 Services Network, the Building Performance Institute, or the
40 Florida Solar Energy Center, or a nationally recognized rating
41 system approved by the department.

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42 (4) ~~(3)~~ "Designer" means the architect, engineer, landscape
43 architect, builder, interior designer, or other person who
44 performs the actual design work or under whose direct
45 supervision and responsible charge the construction documents
46 are prepared.
47 (5) "Energy auditor" means a trained and certified
48 professional who conducts energy evaluations of an existing
49 building and uses tools to identify the building's current
50 energy usage and the condition of the building and equipment.
51 (6) "Energy-efficiency rating" means an unbiased indication
52 of a building's relative energy efficiency based on consistent
53 inspection procedures, operating assumptions, climate data, and
54 calculation methods.
55 (7) "Energy rater" means an individual certified by this
56 state to perform building energy-efficiency ratings for the
57 building type and in the rating class for which the rater is
58 certified.
59 (8) ~~(4)~~ "New building" means commercial occupancy buildings
60 permitted for construction after January 1, 1995, and
61 residential occupancy buildings permitted for construction after
62 January 1, 1994.
63 (9) ~~(5)~~ "Public building" means a building comfort-
64 conditioned for occupancy that is owned or leased by the state,
65 a state agency, or a governmental subdivision, including, but
66 not limited to, a city, county, or school district.
67 Section 18. Section 553.995, Florida Statutes, is amended
68 to read:
69 553.995 Energy-efficiency ratings for buildings.—
70 (1) The building energy-efficiency rating system must ~~shall~~

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71 at a minimum:
72 ~~(a) Provide a uniform rating scale of the efficiency of~~
73 ~~buildings based on annual energy usage.~~
74 (a) ~~(b)~~ Take into account local climate conditions,
75 construction practices, and building use.
76 (b) ~~(c)~~ Be compatible with standard federal rating systems
77 and state building codes and standards, where applicable, and
78 shall satisfy the requirements of s. 553.9085 with respect to
79 residential buildings and s. 255.256 with respect to state
80 buildings.
81 (2) Building ~~The~~ energy-efficiency rating systems ~~system~~
82 adopted by the department must ~~shall~~ provide a means of
83 analyzing ~~and comparing~~ the relative energy efficiency of
84 buildings upon the sale of new or existing residential, public,
85 or commercial buildings.
86 (3) The department shall establish a voluntary working
87 group of persons interested in the building energy-efficiency
88 rating system or energy efficiency, including, but not limited
89 to, such persons as electrical engineers, mechanical engineers,
90 architects, public utilities, energy raters, and builders. The
91 interest group shall advise the department in the adoption,
92 administration, and oversight ~~development~~ of the building
93 energy-efficiency rating system ~~and shall assist the department~~
94 ~~in the implementation of the rating system by coordinating~~
95 ~~educational programs for designers, builders, businesses, and~~
96 ~~other interested persons to assist compliance and to facilitate~~
97 ~~incorporation of the rating system into existing practices~~.
98 (4) The department shall approve ~~develop~~ a training and
99 certification program to certify raters. In addition to the

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100 department, ratings may be conducted by any local government or
101 private entity, provided that the appropriate persons have
102 completed the necessary training and have been certified by the
103 department. The Department of Management Services shall rate
104 state-owned or state-leased buildings, if ~~provided that~~ the
105 appropriate persons have completed the necessary training and
106 have been certified by the Department of Business and
107 Professional Regulation. A state agency that ~~which~~ has building
108 construction regulation authority may rate its own buildings and
109 those it is responsible for, if the appropriate persons have
110 completed the necessary training and have been certified by the
111 Department of Business and Professional Regulation. The
112 Department of Business and Professional Regulation may charge a
113 fee not to exceed the costs for the training and certification
114 of raters. The department shall by rule set the appropriate
115 charges for raters to charge for energy ratings, not to exceed
116 the actual costs.
117
118 ========== T I T L E A M E N D M E N T ==========
119 And the title is amended as follows:
120 Delete lines 51 - 52
121 and insert:
122 553.993, F.S.; providing definitions; amending

942358

LEGISLATIVE ACTION

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

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

1 **Senate Amendment**
2
3 Delete line 237
4 and insert:
5 Florida Building Code. <u>This subsection does not prohibit</u>
6 <u>the application of cost-saving incentives for residential fire</u>
7 <u>sprinklers that are authorized in the International Residential</u>
8 <u>Code upon a mutual agreement between the builder and the code</u>
9 <u>official.</u> This subsection does not apply to a local

By Senator Simpson

18-00578B-13 20131252__

A bill to be entitled

An act relating to building construction; amending s. 381.0065, F.S.; specifying that certain actions relating to onsite sewage treatment and removal are not required if a bedroom is not added during a remodeling addition or modification to a single-family home; prohibiting a remodeling addition or modification from certain coverage or encroachment; authorizing a local health board to review specific plans; requiring a review to be completed within a specific time period after receipt of specific plans; amending s. 489.127, F.S.; revising civil penalties; authorizing a local building department to retain 75 percent of certain fines collected if it transmits 25 percent to the Department of Business and Professional Regulation; amending s. 489.131, F.S.; deleting legislative intent referring to a local agency's enforcement of regulatory laws; deleting the definitions of "minor violation" and "notice of noncompliance"; deleting provisions that provide for what a notice of noncompliance should or should not include; deleting a provision that provides for further disciplinary proceedings for certain licensees; amending s. 489.531, F.S.; revising a maximum civil penalty; amending s. 553.73, F.S.; prohibiting any provision of the International Residential Code relating to mandated fire sprinklers from incorporation into the Florida Building Code; amending s. 553.79, F.S.; authorizing a site plan to

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30 be maintained at the worksite as an electronic copy;
31 requiring the copy to be open to inspection by certain
32 officials; amending s. 553.842, F.S.; requiring an
33 application for state approval of a certain product to
34 be approved by the department after the application
35 and related documentation are complete; amending ss.
36 553.901, 553.902, 553.903, 553.904, 553.905, and
37 553.906, F.S.; requiring the Florida Building
38 Commission to adopt the Florida Building Code-Energy
39 Conservation; conforming subsequent sections of the
40 thermal efficiency code; amending s. 553.912, F.S.;
41 providing that certain existing heating and cooling
42 equipment is not required to meet the minimum
43 equipment efficiencies; amending s. 553.991, F.S.;
44 revising the purpose of the Florida Building Energy-
45 Efficiency Rating Act; amending s. 553.992, F.S.;
46 requiring the department to administer statewide
47 criteria for building energy-efficiency rating
48 systems; requiring department rules to prohibit a sole
49 provider from conducting functions relating to the
50 building energy-efficiency rating system; amending s.
51 553.993, F.S.; providing a definition for the term
52 “building energy-efficiency rating system”; amending
53 s. 553.995, F.S.; deleting a minimum requirement for
54 the building energy-efficiency rating system; revising
55 language; requiring the interest group to advise the
56 department in the adoption and administration of the
57 system; deleting a provision that requires the
58 interest group to assist in the implementation of the

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59 system by performing certain acts; requiring the
60 department to approve, rather than develop, a training
61 and certification program to certify raters; providing
62 an effective date.
63
64 Be It Enacted by the Legislature of the State of Florida:
65
66 Section 1. Paragraph (aa) of subsection (4) of section
67 381.0065, Florida Statutes, is amended to read:
68 381.0065 Onsite sewage treatment and disposal systems;
69 regulation.—
70 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
71 construct, repair, modify, abandon, or operate an onsite sewage
72 treatment and disposal system without first obtaining a permit
73 approved by the department. The department may issue permits to
74 carry out this section, but shall not make the issuance of such
75 permits contingent upon prior approval by the Department of
76 Environmental Protection, except that the issuance of a permit
77 for work seaward of the coastal construction control line
78 established under s. 161.053 shall be contingent upon receipt of
79 any required coastal construction control line permit from the
80 Department of Environmental Protection. A construction permit is
81 valid for 18 months from the issuance date and may be extended
82 by the department for one 90-day period under rules adopted by
83 the department. A repair permit is valid for 90 days from the
84 date of issuance. An operating permit must be obtained prior to
85 the use of any aerobic treatment unit or if the establishment
86 generates commercial waste. Buildings or establishments that use
87 an aerobic treatment unit or generate commercial waste shall be

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88 inspected by the department at least annually to assure
89 compliance with the terms of the operating permit. The operating
90 permit for a commercial wastewater system is valid for 1 year
91 from the date of issuance and must be renewed annually. The
92 operating permit for an aerobic treatment unit is valid for 2
93 years from the date of issuance and must be renewed every 2
94 years. If all information pertaining to the siting, location,
95 and installation conditions or repair of an onsite sewage
96 treatment and disposal system remains the same, a construction
97 or repair permit for the onsite sewage treatment and disposal
98 system may be transferred to another person, if the transferee
99 files, within 60 days after the transfer of ownership, an
100 amended application providing all corrected information and
101 proof of ownership of the property. There is no fee associated
102 with the processing of this supplemental information. A person
103 may not contract to construct, modify, alter, repair, service,
104 abandon, or maintain any portion of an onsite sewage treatment
105 and disposal system without being registered under part III of
106 chapter 489. A property owner who personally performs
107 construction, maintenance, or repairs to a system serving his or
108 her own owner-occupied single-family residence is exempt from
109 registration requirements for performing such construction,
110 maintenance, or repairs on that residence, but is subject to all
111 permitting requirements. A municipality or political subdivision
112 of the state may not issue a building or plumbing permit for any
113 building that requires the use of an onsite sewage treatment and
114 disposal system unless the owner or builder has received a
115 construction permit for such system from the department. A
116 building or structure may not be occupied and a municipality,

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117 political subdivision, or any state or federal agency may not
118 authorize occupancy until the department approves the final
119 installation of the onsite sewage treatment and disposal system.
120 A municipality or political subdivision of the state may not
121 approve any change in occupancy or tenancy of a building that
122 uses an onsite sewage treatment and disposal system until the
123 department has reviewed the use of the system with the proposed
124 change, approved the change, and amended the operating permit.
125 (aa) An existing-system inspection or evaluation, a
126 modification, replacement, or upgrade of an onsite sewage
127 treatment and disposal system, or a pump-out of an existing tank
128 is not required for a remodeling addition or modification to a
129 single-family home if a bedroom is not added. However, a
130 remodeling addition or modification may not cover any part of
131 the system or encroach upon a required setback or the
132 unobstructed area. The local health department may review a
133 floor plan and site plan that show the distance of the
134 remodeling addition or modification from the system to determine
135 if a setback or unobstructed area is impacted. The review shall
136 be completed within 5 business days after receipt of an adequate
137 floor plan and site plan.
138 Section 2. Paragraphs (c) and (f) of subsection (5) and
139 subsection (6) of section 489.127, Florida Statutes, are amended
140 to read:
141 489.127 Prohibitions; penalties.—
142 (5) Each county or municipality may, at its option,
143 designate one or more of its code enforcement officers, as
144 defined in chapter 162, to enforce, as set out in this
145 subsection, the provisions of subsection (1) and s. 489.132(1)

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146 against persons who engage in activity for which a county or
147 municipal certificate of competency or license or state
148 certification or registration is required.
149 (c) The local governing body of the county or municipality
150 may ~~is authorized to~~ enforce codes and ordinances against
151 unlicensed contractors under the provisions of this subsection
152 and may enact an ordinance establishing procedures for
153 implementing this subsection, including a schedule of penalties
154 to be assessed by the code enforcement officer. The maximum
155 civil penalty which may be levied may ~~shall~~ not exceed $2,000
156 ~~$500~~. Moneys collected pursuant to this subsection shall be
157 retained locally, as provided for by local ordinance, and may be
158 set aside in a specific fund to support future enforcement
159 activities against unlicensed contractors.
160 (f) If the enforcement or licensing board or designated
161 special magistrate finds that a violation exists, the
162 enforcement or licensing board or designated special magistrate
163 may order the violator to pay a civil penalty of not less than
164 the amount set forth on the citation but not more than $1,500
165 ~~$1,000~~ per day for each violation. In determining the amount of
166 the penalty, the enforcement or licensing board or designated
167 special magistrate shall consider the following factors:
168 1. The gravity of the violation.
169 2. Any actions taken by the violator to correct the
170 violation.
171 3. Any previous violations committed by the violator.
172 (6) Local building departments may collect outstanding
173 fines against registered or certified contractors issued by the
174 Construction Industry Licensing Board and may retain 75 ~~25~~

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175 percent of the fines they are able to collect, provided that
176 they transmit 25 ~~75~~ percent of the fines they are able to
177 collect to the department according to a procedure to be
178 determined by the department.
179 Section 3. Paragraph (a) of subsection (7) of section
180 489.131, Florida Statutes, is amended to read:
181 489.131 Applicability.—
182 (7)(a) It is the policy of the state that the purpose of
183 regulation is to protect the public by attaining compliance with
184 the policies established in law. Fines and other penalties are
185 provided in order to ensure compliance~~; however, the collection~~
186 ~~of fines and the imposition of penalties are intended to be~~
187 ~~secondary to the primary goal of attaining compliance~~ with state
188 laws and local jurisdiction ordinances. ~~It is the intent of the~~
189 ~~Legislature that a local jurisdiction agency charged with~~
190 ~~enforcing regulatory laws shall issue a notice of noncompliance~~
191 ~~as its first response to a minor violation of a regulatory law~~
192 ~~in any instance in which it is reasonable to assume that the~~
193 ~~violator was unaware of such a law or unclear as to how to~~
194 ~~comply with it. A violation of a regulatory law is a "minor~~
195 ~~violation" if it does not result in economic or physical harm to~~
196 ~~a person or adversely affect the public health, safety, or~~
197 ~~welfare or create a significant threat of such harm. A "notice~~
198 ~~of noncompliance" is a notification by the local jurisdiction~~
199 ~~agency charged with enforcing the ordinance, which is issued to~~
200 ~~the licensee that is subject to the ordinance. A notice of~~
201 ~~noncompliance should not be accompanied with a fine or other~~
202 ~~disciplinary penalty. It should identify the specific ordinance~~
203 ~~that is being violated, provide information on how to comply~~

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204 ~~with the ordinance, and specify a reasonable time for the~~
205 ~~violator to comply with the ordinance. Failure of a licensee to~~
206 ~~take action correcting the violation within a set period of time~~
207 ~~would then result in the institution of further disciplinary~~
208 ~~proceedings.~~
209 Section 4. Paragraph (c) of subsection (4) of section
210 489.531, Florida Statutes, is amended to read:
211 489.531 Prohibitions; penalties.—
212 (4) Each county or municipality may, at its option,
213 designate one or more of its code enforcement officers, as
214 defined in chapter 162, to enforce, as set out in this
215 subsection, the provisions of subsection (1) against persons who
216 engage in activity for which county or municipal certification
217 is required.
218 (c) The local governing body of the county or municipality
219 may ~~is authorized to~~ enforce codes and ordinances against
220 unlicensed contractors under the provisions of this section and
221 may enact an ordinance establishing procedures for implementing
222 this section, including a schedule of penalties to be assessed
223 by the code enforcement officers. The maximum civil penalty
224 which may be levied may ~~shall~~ not exceed $2,000 ~~$500~~. Moneys
225 collected pursuant to this section shall be retained locally as
226 provided for by local ordinance and may be set aside in a
227 specific fund to support future enforcement activities against
228 unlicensed contractors.
229 Section 5. Subsection (17) of section 553.73, Florida
230 Statutes, is amended to read:
231 553.73 Florida Building Code.—
232 (17) A provision ~~The provisions of section R313 of the most~~

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233 ~~current version~~ of the International Residential Code relating
234 to mandated fire sprinklers may not be incorporated into the
235 Florida Building Code as adopted by the Florida Building
236 Commission and may not be adopted as a local amendment to the
237 Florida Building Code. This subsection does not apply to a local
238 government that has a lawfully adopted ordinance relating to
239 fire sprinklers which has been in effect since January 1, 2010.
240 Section 6. Subsection (18) is added to section 553.79,
241 Florida Statutes, to read:
242 553.79 Permits; applications; issuance; inspections.—
243 (18) For the purpose of inspection and record retention,
244 site plans for a building may be maintained in the form of an
245 electronic copy at the worksite. These plans must be open to
246 inspection by the building official or a duly authorized
247 representative, as required by the Florida Building Code.
248 Section 7. Paragraph (a) of subsection (5) of section
249 553.842, Florida Statutes, is amended to read:
250 553.842 Product evaluation and approval.—
251 (5) Statewide approval of products, methods, or systems of
252 construction may be achieved by one of the following methods.
253 One of these methods must be used by the commission to approve
254 the following categories of products: panel walls, exterior
255 doors, roofing, skylights, windows, shutters, and structural
256 components as established by the commission by rule. A product
257 may not be advertised, sold, offered, provided, distributed, or
258 marketed as hurricane, windstorm, or impact protection from
259 wind-borne debris from a hurricane or windstorm unless it is
260 approved pursuant to this section or s. 553.8425. Any person who
261 advertises, sells, offers, provides, distributes, or markets a

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262 product as hurricane, windstorm, or impact protection from wind-
263 borne debris without such approval is subject to the Florida
264 Deceptive and Unfair Trade Practices Act under part II of
265 chapter 501 brought by the enforcing authority as defined in s.
266 501.203.
267 (a) Products for which the code establishes standardized
268 testing or comparative or rational analysis methods shall be
269 approved by submittal and validation of one of the following
270 reports or listings indicating that the product or method or
271 system of construction was in compliance with the Florida
272 Building Code and that the product or method or system of
273 construction is, for the purpose intended, at least equivalent
274 to that required by the Florida Building Code:
275 1. A certification mark or listing of an approved
276 certification agency, which may be used only for products for
277 which the code designates standardized testing;
278 2. A test report from an approved testing laboratory;
279 3. A product evaluation report based upon testing or
280 comparative or rational analysis, or a combination thereof, from
281 an approved product evaluation entity; or
282 4. A product evaluation report based upon testing or
283 comparative or rational analysis, or a combination thereof,
284 developed and signed and sealed by a professional engineer or
285 architect, licensed in this state.
286
287 A product evaluation report or a certification mark or listing
288 of an approved certification agency which demonstrates that the
289 product or method or system of construction complies with the
290 Florida Building Code for the purpose intended is equivalent to

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291 a test report and test procedure referenced in the Florida
292 Building Code. An application for state approval of a product
293 under subparagraph 1. or 3. must be approved by the department
294 after the commission staff or a designee verifies that the
295 application and related documentation are complete. This
296 verification must be completed within 10 business days after
297 receipt of the application. Upon approval by the department, the
298 product shall be immediately added to the list of state-approved
299 products maintained under subsection (13). Approvals by the
300 department shall be reviewed and ratified by the commission's
301 program oversight committee except for a showing of good cause
302 that a review by the full commission is necessary. The
303 commission shall adopt rules providing means to cure
304 deficiencies identified within submittals for products approved
305 under this paragraph.
306 Section 8. Section 553.901, Florida Statutes, is amended to
307 read:
308 553.901 Purpose of thermal efficiency code.—The Department
309 of Business and Professional Regulation shall prepare a thermal
310 efficiency code to provide for a statewide uniform standard for
311 energy efficiency in the thermal design and operation of all
312 buildings statewide, consistent with energy conservation goals,
313 and to best provide for public safety, health, and general
314 welfare. The Florida Building Commission shall adopt the Florida
315 Building Code-Energy Conservation ~~Florida Energy Efficiency Code~~
316 ~~for Building Construction within the Florida Building Code~~, and
317 shall modify, revise, update, and maintain the code to implement
318 the provisions of this thermal efficiency code and amendments
319 thereto, in accordance with the procedures of chapter 120. The

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320 department shall, at least triennially, determine the most cost-
321 effective energy-saving equipment and techniques available and
322 report its determinations to the commission, which shall update
323 the code to incorporate such equipment and techniques. The
324 proposed changes shall be made available for public review and
325 comment no later than 6 months before ~~prior to~~ code
326 implementation. The term "cost-effective," as used in ~~for the~~
327 ~~purposes of~~ this part, means ~~shall be construed to mean~~ cost-
328 effective to the consumer.
329 Section 9. Section 553.902, Florida Statutes, is reordered
330 and amended to read:
331 553.902 Definitions.~~—~~As used in ~~For the purposes of~~ this
332 part, the term:
333 (2)~~(1)~~ "Exempted building" means:
334 (a) A ~~Any~~ building or portion thereof whose peak design
335 rate of energy usage for all purposes is less than 1 watt (3.4
336 Btu per hour) per square foot of floor area for all purposes.
337 (b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
338 by a mechanical system designed to control or modify the indoor
339 temperature and powered by electricity or fossil fuels.
340 (c) A ~~Any~~ building for which federal mandatory standards
341 preempt state energy codes.
342 (d) A ~~Any~~ historical building as described in s.
343 267.021(3).
344
345 The Florida Building Commission may recommend to the Legislature
346 additional types of buildings which should be exempted from
347 compliance with the Florida Building Code-Energy Conservation
348 ~~Florida Energy Efficiency Code for Building Construction~~.

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349 (4) ~~(2)~~ "HVAC" means a system of heating, ventilating, and
350 air-conditioning.
351 (6) ~~(3)~~ "Renovated building" means a residential or
352 nonresidential building undergoing alteration that varies or
353 changes insulation, HVAC systems, water heating systems, or
354 exterior envelope conditions, if ~~provided~~ the estimated cost of
355 renovation exceeds 30 percent of the assessed value of the
356 structure.
357 (5) ~~(4)~~ "Local enforcement agency" means the agency of local
358 government which has the authority to make inspections of
359 buildings and to enforce the Florida Building Code. The term ~~It~~
360 includes any agency within the definition of s. 553.71(5).
361 (3) ~~(5)~~ "Exterior envelope physical characteristics" means
362 the physical nature of those elements of a building which
363 enclose conditioned spaces through which energy may be
364 transferred to or from the exterior.
365 (1) ~~(6)~~ "Energy performance level" means the indicator of
366 the energy-related performance of a building, including, but not
367 limited to, the levels of insulation, the amount and type of
368 glass, and the HVAC and water heating system efficiencies.
369 Section 10. Section 553.903, Florida Statutes, is amended
370 to read:
371 553.903 Applicability.—This part applies ~~shall apply~~ to all
372 new and renovated buildings in the state, except exempted
373 buildings, for which building permits are obtained after March
374 15, 1979, and to the installation or replacement of building
375 systems and components with new products for which thermal
376 efficiency standards are set by the Florida Building Code-Energy
377 Conservation ~~Florida Energy Efficiency Code for Building~~

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378 ~~Construction~~. The provisions of this part shall constitute a
379 statewide uniform code.
380 Section 11. Section 553.904, Florida Statutes, is amended
381 to read:
382 553.904 Thermal efficiency standards for new nonresidential
383 buildings.—Thermal designs and operations for new nonresidential
384 buildings for which building permits are obtained after March
385 15, 1979, must ~~shall~~ at a minimum take into account exterior
386 envelope physical characteristics, including thermal mass; HVAC,
387 service water heating, energy distribution, lighting, energy
388 managing, and auxiliary systems design and selection; and HVAC,
389 service water heating, energy distribution, lighting, energy
390 managing, and auxiliary equipment performance, and are ~~shall~~ not
391 ~~be~~ required to meet standards more stringent than the provisions
392 of the Florida Building Code-Energy Conservation ~~Florida Energy~~
393 ~~Efficiency Code for Building Construction~~.
394 Section 12. Section 553.905, Florida Statutes, is amended
395 to read:
396 553.905 Thermal efficiency standards for new residential
397 buildings.—Thermal designs and operations for new residential
398 buildings for which building permits are obtained after March
399 15, 1979, must ~~shall~~ at a minimum take into account exterior
400 envelope physical characteristics, HVAC system selection and
401 configuration, HVAC equipment performance, and service water
402 heating design and equipment selection and are ~~shall~~ not ~~be~~
403 required to meet standards more stringent than the provisions of
404 the Florida Building Code-Energy Conservation ~~Florida Energy~~
405 ~~Efficiency Code for Building Construction~~. HVAC equipment
406 mounted in an attic or a garage is ~~shall~~ not ~~be~~ required to have

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407 supplemental insulation in addition to that installed by the
408 manufacturer. All new residential buildings, except those herein
409 exempted, must ~~shall~~ have insulation in ceilings rated at R-19
410 or more, space permitting. Thermal efficiency standards do not
411 apply to a building of less than 1,000 square feet which is not
412 primarily used as a principal residence and which is constructed
413 and owned by a natural person for hunting or similar
414 recreational purposes; however, ~~no~~ such person may not build
415 more than one exempt building in any 12-month period.
416 Section 13. Section 553.906, Florida Statutes, is amended
417 to read:
418 553.906 Thermal efficiency standards for renovated
419 buildings.—Thermal designs and operations for renovated
420 buildings for which building permits are obtained after March
421 15, 1979, must ~~shall~~ take into account insulation; windows;
422 infiltration; and HVAC, service water heating, energy
423 distribution, lighting, energy managing, and auxiliary systems
424 design and equipment selection and performance. Such buildings
425 are ~~shall~~ not ~~be~~ required to meet standards more stringent than
426 the provisions of the Florida Building Code-Energy Conservation
427 ~~Florida Energy Efficiency Code for Building Construction~~. These
428 standards apply only to those portions of the structure which
429 are actually renovated.
430 Section 14. Section 553.912, Florida Statutes, is amended
431 to read:
432 553.912 Air conditioners.—All air conditioners that are
433 sold or installed in the state must ~~shall~~ meet the minimum
434 efficiency ratings of the Florida Energy Efficiency Code for
435 Building Construction. These efficiency ratings must ~~shall~~ be

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436 minimums and may be updated in the Florida Building Code-Energy
437 Conservation ~~Florida Energy Efficiency Code for Building~~
438 ~~Construction~~ by the department in accordance with s. 553.901,
439 following its determination that more cost-effective energy-
440 saving equipment and techniques are available. It is the intent
441 of the Legislature that all replacement air-conditioning systems
442 be installed using energy-saving, quality installation
443 procedures, including, but not limited to, equipment sizing
444 analysis and duct inspection. Notwithstanding this section,
445 existing heating and cooling equipment in residential
446 applications need not meet the minimum equipment efficiencies,
447 except to preserve the original approval or listing of the
448 equipment.
449 Section 15. Section 553.991, Florida Statutes, is amended
450 to read:
451 553.991 Purpose.—The purpose of this part is to provide for
452 ~~a~~ statewide oversight of ~~uniform system for~~ rating systems for
453 the energy efficiency of buildings. It is in the interest of the
454 state to encourage energy efficiency ~~the consideration of the~~
455 ~~energy-efficiency rating system~~ in the market so as to provide
456 market rewards for energy-efficient buildings and to those
457 persons or companies designing, building, or selling energy-
458 efficient buildings.
459 Section 16. Section 553.992, Florida Statutes, is amended
460 to read:
461 553.992 Adoption of rating system.—The Department of
462 Business and Professional Regulation shall adopt, update, ~~and~~
463 maintain, and administer ~~a~~ statewide criteria for a ~~uniform~~
464 building energy-efficiency rating system to implement the

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

465 provisions of this part and amendments thereto in accordance
466 with the procedures of chapter 120 and shall, upon the request
467 of any builder, designer, rater, or owner of a building, issue
468 nonbinding interpretations, clarifications, and opinions
469 concerning the application and use of the building energy-
470 efficiency ~~energy~~ rating system under rules that the department
471 adopts in accordance with chapter 120. Department rules must
472 prohibit a sole provider from conducting functions relating to
473 the building energy-efficiency rating system, including energy
474 rating, energy testing, certification of energy raters, and
475 training.
476 Section 17. Present subsections (3) through (5) of section
477 553.993, Florida Statutes, are redesignated as subsections (4)
478 through (6), respectively, and a new subsection (3) is added to
479 that section to read:
480 553.993 Definitions.—For purposes of this part:
481 (3) "Building energy-efficiency rating system" means a
482 whole building energy evaluation system established by the
483 Residential Energy Services Network, Commercial Energy Services
484 Network, or Building Performance Institute, or a nationally
485 recognized rating system approved by the department.
486 Section 18. Section 553.995, Florida Statutes, is amended
487 to read:
488 553.995 Energy-efficiency ratings for buildings.—
489 (1) The building energy-efficiency rating system must ~~shall~~
490 at a minimum:
491 ~~(a) Provide a uniform rating scale of the efficiency of~~
492 ~~buildings based on annual energy usage.~~
493 (a) ~~(b)~~ Take into account local climate conditions,

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

494 construction practices, and building use.
495 (b) ~~(c)~~ Be compatible with standard federal rating systems
496 and state building codes and standards, where applicable, and
497 shall satisfy the requirements of s. 553.9085 with respect to
498 residential buildings and s. 255.256 with respect to state
499 buildings.
500 (2) Building ~~The~~ energy-efficiency rating systems ~~system~~
501 adopted by the department must ~~shall~~ provide a means of
502 analyzing ~~and comparing~~ the relative energy efficiency of
503 buildings upon the sale of new or existing residential, public,
504 or commercial buildings.
505 (3) The department shall establish a voluntary working
506 group of persons interested in the building energy-efficiency
507 rating system or energy efficiency, including, but not limited
508 to, such persons as electrical engineers, mechanical engineers,
509 architects, public utilities, and builders. The interest group
510 shall advise the department in the adoption and administration
511 ~~development~~ of the building energy-efficiency rating system ~~and~~
512 ~~shall assist the department in the implementation of the rating~~
513 ~~system by coordinating educational programs for designers,~~
514 ~~builders, businesses, and other interested persons to assist~~
515 ~~compliance and to facilitate incorporation of the rating system~~
516 ~~into existing practices~~.
517 (4) The department shall approve ~~develop~~ a training and
518 certification program to certify raters. In addition to the
519 department, ratings may be conducted by any local government or
520 private entity, provided that the appropriate persons have
521 completed the necessary training and have been certified by the
522 department. The Department of Management Services shall rate

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

523 state-owned or state-leased buildings, if ~~provided that~~ the
524 appropriate persons have completed the necessary training and
525 have been certified by the Department of Business and
526 Professional Regulation. A state agency that ~~which~~ has building
527 construction regulation authority may rate its own buildings and
528 those it is responsible for, if the appropriate persons have
529 completed the necessary training and have been certified by the
530 Department of Business and Professional Regulation. The
531 Department of Business and Professional Regulation may charge a
532 fee not to exceed the costs for the training and certification
533 of raters. The department shall by rule set the appropriate
534 charges for raters to charge for energy ratings, not to exceed
535 the actual costs.
536 Section 19. 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)

3/20/13
Meeting Date

Topic: Building Construction

Bill Number: 1252 *(if applicable)*

Name: Jim Snyder

Amendment Barcode: *(if applicable)*

Job Title: Public Policy Associates Inc

Address: PO Box 10617
Street

Tallahassee 32302
City *State* *Zip*

Phone: 850 294-3611

E-mail: jsnyder@publicpolicyassociates.com

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

Representing: FL Fire Equipment Dealers & American Fire Sprinkler ~~Assoc~~ Assoc.

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: BUILDING CODES

Bill Number: JB 1252 *(if applicable)*

Name: JENNIFER HATFIELD

Amendment Barcode: *(if applicable)*

Job Title: 2555 PORTER LAKE DR.

Address: SARASOTA, FL
Street

City *State* *Zip*

Phone:

E-mail:

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

Representing: FLORIDA SWIMMING POOL ASSOC.

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

Lobbyist registered with Legislature: [X] 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)

3/20/13
Meeting Date

Topic: Building Codes

Bill Number: SB 1252 *(if applicable)*

Name: David Shepp

Amendment Barcode: *(if applicable)*

Job Title: Consultant

Address: P.O. Box 3739
Street

Lakeland, FL 33802
City, State, Zip

Phone: 863 581-4250

E-mail: dave@fsg-llc.net

Speaking: ☐ For ☐ Against ☐ Information

Representing: FL Association of Code Enforcement

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)

3/20/13
Meeting Date

Topic _____

Bill Number SB 1252 (if applicable)

Name Buddy Dewar

Amendment Barcode _____ (if applicable)

Job Title Vice President, National Fire Sprinkler ASSN

Address 200 W. College Ave
Street

Tallahassee
City State Zip

Phone _____

E-mail _____

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

Representing Florida Fire Sprinkler Assn.

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)

3/30
Meeting Date

Topic

Bill Number 1252 (if applicable)

Name Bob Himschoot

Amendment Barcode (if applicable)

Job Title

Address PO Box 27
Street

Fort Myers FL 33902
City State Zip

Phone 239 478-0759

E-mail Robertha@crewsenvironmental.com

Speaking: ☐ For ☑ Against ☑ Information

Representing Florida Onsite Wastewater Assoc. FOWA

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)

3-20-13
Meeting Date

Topic: BUILDING CODES

Bill Number: SB 1252 *(if applicable)*

Name: KARL HEBRANK

Amendment Barcode: *(if applicable)*

Job Title:

Address: *Street*

City *State* *Zip*

Phone: 566-7824

E-mail:

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

Representing: FLORIDA HOME BUILDERS

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)

3-20-13
Meeting Date

Topic: BUILDING CODES

Bill Number: SB 1252 *(if applicable)*

Name: CAM KENTRISS

Amendment Barcode: 465200 *(if applicable)*

Job Title: LEG. COUNSEL

Address: 1400 VILLAGE SQUARE #3-243
Street

TALL FL 32312
City *State* *Zip*

Phone: 222-2772

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: FLORIDA RACCA (REFRIGERATION + AC CONTRACTORS)

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)

3-20-13
Meeting Date

Topic: BUILDING CODES

Bill Number: SB 1252 *(if applicable)*

Name: CAM FENTRISS

Amendment Barcode: 953968 *(if applicable)*

Job Title: LEG. COUNSEL

Address: 1400 VILLAGE SQUARE #3-243
Street

TALL FL 32312
City *State* *Zip*

Phone: 222-2772

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: FLA. ASSN PLUMBING HEATING COOLING CONTRACTORS

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)

3-20-13
Meeting Date

Topic _____ Bill Number 1252

Name Dale Calhoun Amendment Barcode 953968, 411578 *(if applicable)* *(if applicable)*

Job Title _____

Address 214 S Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 681 0496

E-mail _____

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

Representing Florida Natural Gas Association & Florida Propane Gas Associa

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

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 1392

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Simpson

SUBJECT: Florida Retirement System

DATE: March 20, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	**Fav/CS**
2.	Anderson	Yeatman	CA	**Favorable**
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 1392 makes the following changes to the Florida Retirement System (FRS), **for members initially enrolled in the FRS on or after January 1, 2014**:

- Changes the vesting period in the pension plan from 8 to 10 years;
- Mandates that Elected Officers' Class and Senior Management Service Class members may only join the investment plan;
- Changes the default for members who do not affirmatively choose a plan from the pension plan to the investment plan;
- Closes the Senior Management Service Optional Annuity Program to new members; and
- Changes the out of service disability retirement vesting period from 8 to 10 years.

The bill also lowers the employee's contribution rate from 3 percent to 2 percent for all members of the investment plan.

The overall actuarial impact of this legislation on the Florida Retirement System has not been determined at this time.

This bill substantially amends sections 121.021, 121.051, 121.052, 121.055, 121.091, 121.4501, 121.591, 121.71, 121.35, 238.072, 413.051, and 1012.875 of the Florida Statutes.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.[1] The FRS is a contributory system, with all members contributing 3 percent of their salaries.[2]

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S. As of June 30, 2012, the FRS had 623,011 active members, 334,682 retired members and beneficiaries, and 40,556 active members of the Deferred Retirement Option Program (DROP).[3] The FRS consists of 1,000 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities, and also includes the 185 cities and 251 special districts that have elected to join the system.[4]

The membership of the FRS is divided into five membership classes:

- Regular Class[5] consists of 535,467 active members, plus 7,675 in renewed membership;
- Special Risk Class[6] includes 70,005 active members;
- Special Risk Administrative Support Class[7] has 59 active members;
- Elected Officers' Class[8] has 2,005 active members, plus 201 in renewed membership; and
- Senior Management Service Class[9] has 7,295 members, plus 251 in renewed membership.[10]

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[1] The Florida Retirement System Annual Report, July 1, 2011 – June 30, 2012, at 38. Available online at: https://www.rol.frs.state.fl.us/forms/2011-12_Annual_Report.pdf.

[2] Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

[3] Florida Retirement System 2011-2012 Annual Report, at 54, 62, and 66.

[4] *Id.*, at 38.

[5] The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

[6] The Special Risk Class is for members employed as: law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

[7] The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

[8] The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

[9] The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

[10] All figures from Florida Retirement System 2011-2012 Annual Report, at 55.

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:
- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

According to information supplied by the State Board of Administration, approximately 50,000 new hires are processed each year for a retirement plan choice. Historically, about 25 percent have actively elected the Investment Plan, 21 percent have actively elected the Pension Plan and 54 percent have defaulted into the Pension Plan. The following table shows the election statistics for the last 4.5 years:

	Default to Pension Plan	**Pension Plan**	**Investment Plan**
FY 08-09	25,923 (**56%**)	10,672 **(22%)**	11,116 **(23%)**
FY 09-10	21,501 **(56%)**	8,158 **(21%)**	9,071 **(23%)**
FY 10-11	21,049 **(53%)**	9,042 **(23%)**	9,960 **(25%)**
FY 11-12	20,064 **(53%)**	6,976 **(18%)**	10,937 **(29%)**
FY 12-13*	13,861 **(57%)**	3,985 **(16%)**	6,400 **(24%)**
TOTAL	96,125 **(54%)**	37,020 **(21%)**	44,145 **(25%)**

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

Investment Plan
In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.[11] With respect to the employer contributions, a member vests after completing one work year with an FRS employer.[12] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[13] The investment plan also provides disability coverage for both inline-of-duty and regular disability retirement benefits.[14] An FRS member who qualifies for disability while enrolled in the investment plan must apply

[11] Section 121.4501(6)(a), F.S.
[12] If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.
[13] Section 121.591, F.S.
[14] See s. 121.4501(16), F.S.

for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.[15]

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[16] The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[17]

Pension Plan
The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.[18] Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.[19] For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.[20] Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.[21] For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.[22] For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.[23] Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.[24]

Optional Retirement Programs
Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;[25]
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;[26] and

[15] Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an inline-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.
[16] Section 121.4501(8), F.S.
[17] Section 4, Art. IV, Fla. Const.
[18] Section 121.025, F.S.
[19] Section 121.021(45)(a), F.S.
[20] Section 121.021(45)(b), F.S.
[21] Section 121.091, F.S.
[22] Section 121.021(29)(a)1., F.S.
[23] Section 121.021(29)(b)1., F.S.
[24] Sections 121.021(29)(a)2. and (b)2., F.S.
[25] The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

- Members of a Florida college may elect to enroll in the State Community College System Optional Retirement Program.[27]

Contribution Rates
FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.[28] The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class:[29]

Membership Class	**Effective July 1, 2012**	
	Normal Cost	**UAL Rate**
Regular Class	3.55%	0.49%
Special Risk Class	11.01%	2.75%
Special Risk Administrative Support Class	3.94%	0.83%
Elected Officer's Class		
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.51%	0.88%
• Justices and Judges	10.02%	0.77%
• County Officers	8.36%	0.73%
Senior Management Service Class	4.84%	0.32%
Deferred Retirement Option Program (DROP)	4.33%	0.0%

For all membership classes, except the DROP, employees contribute 3 percent of their compensation towards retirement.[30]

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.[31]

---

[26] Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.
[27] If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.
[28] Section 121.70(1), F.S.
[29] Section 121.71(4), F.S.
[30] Section 121.71(3), F.S.
[31] *See* sections 121.4503 and 121.72(1), F.S.

III. Effect of Proposed Changes:

Ten Year Vesting for New Members

Section 1 amends the definition of "vested" or "vesting" in ch. 121, F.S., to require that members initially enrolled in the FRS on or after January 1, 2014, vest in the pension plan after 10 years of creditable service.

Investment Plan Compulsory for Elected Officer's Class and Senior Management Service Class

Section 2 amends s. 121.051, F.S., to provide that employees initially enrolled on or after January 1, 2014, in positions covered by the Elected Officers' Class or the Senior Management Service Class are compulsory members of the investment plan,[32] are not permitted to become members of the pension plan, and are not eligible to use the second election opportunity specified in s. 121.4501(4), F.S.[33] Investment plan membership continues if there is subsequent employment in a position covered by another membership class.

Section 6 amends provisions in s. 121.4501(4), F.S., relating to the FRS Investment Plan, to provide that employees initially enrolled on or after January 1, 2014, in positions covered by the Elected Officers' Class or the Senior Management Service Class are compulsory members of the investment plan.

The bill also amends the existing member plan choice education component, to provide that new Elected Officers' Class and Senior Management Service Class members need not be provided that education, since they will be mandatory members of the investment plan.

Prohibits New Elected Officers' Class Members from Joining the Senior Management Service Class or the Senior Management Service Optional Annuity Program

Section 3 amends s. 121.052, F.S., to prohibit new Elected Officers' Class members from joining the Senior Management Service Class.

Section 4 amends s. 121.055, F.S., to provide that on or after January 1, 2014, elected officers eligible for membership in the Elected Officer's Class may not be enrolled in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program, which is closed to all new members. Current members of the optional annuity program may retain their membership in the program.

---

[32] Unless the member chooses to withdraw entirely from the FRS pursuant to s. 121.052(3)(d) or s. 121.055(1)(b)2., F.S.

[33] Employees eligible to participate for optional retirement programs under s. 121.051(2)(c) or s. 121.35, F.S., may choose to participate in the optional retirement program or the investment plan. Eligible employees required to participate pursuant to s. 121.051(1)(a), F.S., in the optional retirement program as provided under s. 121.35, F.S., must participate in the investment plan when employed in a position not eligible for the optional retirement program.

Default to Investment Plan

Section 6 amends s. 121.4501, F.S., to provide that an employee eligible to participate in the Investment Plan is initially enrolled in the pension plan, and has five months to make an irrevocable election to participate in either the pension plan or the investment plan. If the employee fails to make an election, the employee is deemed to have elected the investment plan.

Out of Service Disability Retirement Benefit Vesting Period Increased

Sections 5 and 7 amends ss. 121.091, F.S., and 121.591, F.S., respectively, to provide that a member of the pension plan initially enrolled on or after January 1, 2014, who becomes totally and permanently disabled after completing 10 years of creditable service is entitled to a monthly disability benefit.

Regardless of amount of service, a member who becomes totally and permanently disabled *in the line of duty* is entitled to a monthly disability benefit.

Lowered Contribution Rate for Investment Plan Members

Section 8 amends s. 121.71, F.S., to lower the required employee contribution rate for all investment plan members from 3 percent to 2 percent, which will require higher employer contributions.

Cross References

Sections 9 through 11 amend ss. 121.35, 238.072, and 413.051, F.S., respectively, to change cross references consistent with the changes in this bill.

Employer Contribution Rates

Section 13 sets up the changes to the contribution rates which will be necessary to fund the benefit changes in the bill. The amounts are currently unknown until an actuarial study is requested and completed.

Important State Interest

Section 14 makes a finding that the bill fulfills an important state interest.

Effective Date

Section 15 provides an effective date of January 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires cities and counties to spend money or take action that requires the expenditure of money, the mandates provision of Art. VII, s. 18, of the State

Constitution may apply. If those constitutional 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 14 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.

This bill contains a statement indicating that the bill fulfills an important state interest and the bill applies to similarly situated persons (all employers who participate in the FRS) so it appears that this exception would apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Actuarial Requirements
Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

> 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.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or 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.

Contractual Obligations
Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provide that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.[34] This "preservation of rights" provision[35] was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.[36] The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member, under the previous benefit structure, remain untouched and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.[37]

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits which accrue for future state service.[38] More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.[39]

This bill does not change any benefits that a member earned prior to January 1, 2014.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[34] Section 121.011(3)(d), F.S.
[35] The "preservation of rights" provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So. 2d 1033, 1037 (Fla. 1981).
[36] *Id*. at 1035.
[37] *Id*. at 1036.
[38] *Id*. at 1037.
[39] *Rick Scott, et al. v. George Williams, et al*., 2013 WL 173955 (Fla. 2013).

C. Government Sector Impact:

A number of the provisions of the bill will require actuarial studies to determine the fiscal impact on the Florida Retirement System. This legislation impacts the Florida Retirement System in the following ways:

- Shifts new members of the FRS to the investment plan if the member does not take an action to select participation in the pension plan of the FRS;
- Restricts new members initially enrolling in the Senior Management Class or the Elected Officers' Class from participating in the pension plan of the FRS;
- Increases the service credit needed to vest in the pension plan of the FRS from 8 years to 10 years;
- Reduces the employee contributions required for participation in the investment plan, resulting in increased employer contributions on behalf of those same participants.

The Department of Management Services has commissioned an actuarial study to determine the overall fiscal impacts of the policy modifications included in this legislation; the study is expected to be completed by April 12, 2013. In lieu of the overall study, the fiscal impacts of the component parts of the legislation are noted below. It should be noted that the fiscal impacts of the components should not be aggregated as a final estimate.

Investment Plan as the default plan
Milliman, Inc., completed an actuarial study,[40] dated March 14, 2013, to determine the actuarial impact on the Florida Retirement System of setting the investment plan as the default plan of participation when the newly enrolled member otherwise fails to make a plan participation election. Based on this special study, the savings associated with setting the default plan to the investment plan for the Regular Class and the Special Risk Class is shown in the table below. The savings reflect the potential annual reductions in employer contributions to be paid into the Florida Retirement System.

Employer	**Annualized Impact**	**Estimated General Revenue Costs**	**Estimated Trust Fund Costs**
State agencies	($1.2 m)	($0.7 m)	($0.5 m)
School Boards	($2.4 m)	($2.4 m)	0
Universities	($0.7 m)	($0.7 m)	0
Colleges	($0.2 m)	($0.2 m)	0
Local Governments	($3.0 m)	0	0
Total	($7.5 m)	($4.0 m)	($.5 m)

[40] "Study Reflecting the Impact to the Florida Retirement System of Members Initially Enrolled on or after January 1, 2014, Defaulting into Investment Plan," prepared by Milliman, Inc. and dated March 13, 2013 (copy on file with the Senate Governmental Oversight and Accountability Committee).

Restricting Participation in the pension plan
Milliman, Inc., completed an actuarial study, dated March 1, 2013, to determine the actuarial impact of mandating members initially enrolling in the Florida Retirement on or after January 1, 2014, to be compulsory members of the investment plan. While the Milliman study was broader than the provisions of this legislation (which only mandate members initially enrolling in the FRS on or after January 1, 2014, as members of the Senior Management Class or the Elected Officers' Class to participate in the investment plan), the portion of the study limited to these two affected classes may be illustrative of the actuarial impacts of this legislation.

Based on the March 1 actuarial study, this policy medication has an insignificant actuarial impact on the FRS.

Ten year vesting in the pension plan
In 2012, Milliman, Inc., completed a special study[41] to determine the actuarial impact of increasing the vesting period for the pension plan from 8 years to 10 years for members initially enrolling on or after July 1, 2012. While this study should not be relied upon for budgeting purposes related to this legislation for the current year, it is illustrative of the magnitude of the potential impact of this policy modification.

Based on this special study, dated January 13, 2012, the savings associated with extending the vesting period in the FRS pension plan is shown in the table below. The savings reflect the potential reductions in employer contributions to be paid into the Florida Retirement System.

Employer	**Annualized Impact**	**Estimated General Revenue Costs**	**Estimated Trust Fund Costs**
State agencies	($2.2 m)	($1.2 m)	($1.0 m)
School Boards	($5.9 m)	($5.9 m)	0
Universities	($0.2 m)	($0.2 m)	0
Colleges	($0.4 m)	($0.4 m)	0
Local Governments	($4.4 m)	0	0
Total	($13.1 m)	($7.7 m)	($1.0 m)

Reducing employee contributions for investment plan members
This legislation reduces the retirement contribution paid by employees participating in the investment plan from 3 percent of salary to 2 percent of salary; however, the amounts deposited into the investment plan member accounts are not reduced. This results in an offsetting increase in the employer-paid contribution on behalf of the investment plan members. Based on data from the Department of Management Services, the aggregate employee contributions paid during calendar year 2012 were roughly $135.1 million. The table below shows the shift in costs from members to the applicable employers. These

[41] "Study Reflecting the Impact to the Florida Retirement System of Increasing the Vesting Period for Members Initially Enrolled on or after July 1, 2012," prepared by Milliman, Inc., and dated January 13, 2012 (copy on file with the Senate Governmental Oversight and Accountability Committee).

costs reflect the estimated increases in employer contributions to be paid into the Florida Retirement System.

Employer	2012 Employee Contributions	2012 Payroll	1% member contribution	Estimated General Revenue Cost	Estimated Trust Fund Cost
State agencies	$26,168,300	$872,276,682	$8,722,766	$4.8 m	$3.9 m
School Boards	$51,490,241	$1,716,341,380	$17,163,413	$17.2 m	0
Universities	$7,244,173	$241,472,457	$2,414,724	$2.4 m	0
Colleges	$6,588,547	$219,618,263	$2,196,182	$2.2 m	0
Local Governments	$43,648,599	$1,454,953,301	$14,549,533	0	0
Total	$135,139,862	$4,504,662,083	$45,046,620	$26.6 m	$3.9 m

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 Governmental Oversight and Accountability on March 14, 2013:
The CS makes technical and clarifying changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2013	.	
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The Committee on Community Affairs (Stargel) recommended the following:

1 **Senate Amendment (with directory and title amendments)**
2
3 Between lines 485 and 486
4 insert:
5 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—
6 (b) Any person whose retirement is effective before July 1,
7 2010, or whose participation in the Deferred Retirement Option
8 Program terminates before July 1, 2010, except under the
9 disability retirement provisions of subsection (4) or as
10 provided in s. 121.053, may be reemployed by an employer that
11 participates in a state-administered retirement system and
12 receive retirement benefits and compensation from that employer,

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13 except that the person may not be reemployed by an employer
14 participating in the Florida Retirement System before meeting
15 the definition of termination in s. 121.021 and may not receive
16 both a salary from the employer and retirement benefits for 12
17 calendar months immediately subsequent to the date of
18 retirement. However, a DROP participant shall continue
19 employment and receive a salary during the period of
20 participation in the Deferred Retirement Option Program, as
21 provided in subsection (13).
22 1. A retiree who violates such reemployment limitation
23 before completion of the 12-month limitation period must give
24 timely notice of this fact in writing to the employer and to the
25 Division of Retirement or the state board and shall have his or
26 her retirement benefits suspended for the months employed or the
27 balance of the 12-month limitation period as required in sub-
28 subparagraphs b. and c. A retiree employed in violation of this
29 paragraph and an employer who employs or appoints such person
30 are jointly and severally liable for reimbursement to the
31 retirement trust fund, including the Florida Retirement System
32 Trust Fund and the Public Employee Optional Retirement Program
33 Trust Fund, from which the benefits were paid. The employer must
34 have a written statement from the retiree that he or she is not
35 retired from a state-administered retirement system. Retirement
36 benefits shall remain suspended until repayment has been made.
37 Benefits suspended beyond the reemployment limitation shall
38 apply toward repayment of benefits received in violation of the
39 reemployment limitation.
40 a. A district school board may reemploy a retiree as a
41 substitute or hourly teacher, education paraprofessional,

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42 transportation assistant, bus driver, or food service worker on
43 a noncontractual basis after he or she has been retired for 1
44 calendar month. A district school board may reemploy a retiree
45 as instructional personnel, as defined in s. 1012.01(2)(a), on
46 an annual contractual basis after he or she has been retired for
47 1 calendar month. Any member who is reemployed within 1 calendar
48 month after retirement shall void his or her application for
49 retirement benefits. District school boards reemploying such
50 teachers, education paraprofessionals, transportation
51 assistants, bus drivers, or food service workers are subject to
52 the retirement contribution required by subparagraph 2. This
53 sub-subparagraph does not allow a retiree to be awarded a
54 professional service contract under s. 1012.33.
55 b. A community college board of trustees may reemploy a
56 retiree as an adjunct instructor or as a participant in a phased
57 retirement program within the Florida Community College System,
58 after he or she has been retired for 1 calendar month. A member
59 who is reemployed within 1 calendar month after retirement shall
60 void his or her application for retirement benefits. Boards of
61 trustees reemploying such instructors are subject to the
62 retirement contribution required in subparagraph 2. A retiree
63 may be reemployed as an adjunct instructor for no more than 780
64 hours during the first 12 months of retirement. A retiree
65 reemployed for more than 780 hours during the first 12 months of
66 retirement must give timely notice in writing to the employer
67 and to the Division of Retirement or the state board of the date
68 he or she will exceed the limitation. The division shall suspend
69 his or her retirement benefits for the remainder of the 12
70 months of retirement. Any retiree employed in violation of this

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71 sub-subparagraph and any employer who employs or appoints such
72 person without notifying the division to suspend retirement
73 benefits are jointly and severally liable for any benefits paid
74 during the reemployment limitation period. The employer must
75 have a written statement from the retiree that he or she is not
76 retired from a state-administered retirement system. Any
77 retirement benefits received by the retiree while reemployed in
78 excess of 780 hours during the first 12 months of retirement
79 must be repaid to the Florida Retirement System Trust Fund, and
80 retirement benefits shall remain suspended until repayment is
81 made. Benefits suspended beyond the end of the retiree's first
82 12 months of retirement shall apply toward repayment of benefits
83 received in violation of the 780-hour reemployment limitation.
84 c. The State University System may reemploy a retiree as an
85 adjunct faculty member or as a participant in a phased
86 retirement program within the State University System after the
87 retiree has been retired for 1 calendar month. A member who is
88 reemployed within 1 calendar month after retirement shall void
89 his or her application for retirement benefits. The State
90 University System is subject to the retired contribution
91 required in subparagraph 2., as appropriate. A retiree may be
92 reemployed as an adjunct faculty member or a participant in a
93 phased retirement program for no more than 780 hours during the
94 first 12 months of his or her retirement. A retiree reemployed
95 for more than 780 hours during the first 12 months of retirement
96 must give timely notice in writing to the employer and to the
97 Division of Retirement or the state board of the date he or she
98 will exceed the limitation. The division shall suspend his or
99 her retirement benefits for the remainder of the 12 months. Any

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100 retiree employed in violation of this sub-subparagraph and any
101 employer who employs or appoints such person without notifying
102 the division to suspend retirement benefits are jointly and
103 severally liable for any benefits paid during the reemployment
104 limitation period. The employer must have a written statement
105 from the retiree that he or she is not retired from a state-
106 administered retirement system. Any retirement benefits received
107 by the retiree while reemployed in excess of 780 hours during
108 the first 12 months of retirement must be repaid to the Florida
109 Retirement System Trust Fund, and retirement benefits shall
110 remain suspended until repayment is made. Benefits suspended
111 beyond the end of the retiree’s first 12 months of retirement
112 shall apply toward repayment of benefits received in violation
113 of the 780-hour reemployment limitation.
114 d. The Board of Trustees of the Florida School for the Deaf
115 and the Blind may reemploy a retiree as a substitute teacher,
116 substitute residential instructor, or substitute nurse on a
117 noncontractual basis after he or she has been retired for 1
118 calendar month. Any member who is reemployed within 1 calendar
119 month after retirement shall void his or her application for
120 retirement benefits. The Board of Trustees of the Florida School
121 for the Deaf and the Blind reemploying such teachers,
122 residential instructors, or nurses is subject to the retirement
123 contribution required by subparagraph 2.
124 e. A developmental research school may reemploy a retiree
125 as a substitute or hourly teacher or an education
126 paraprofessional as defined in s. 1012.01(2) on a noncontractual
127 basis after he or she has been retired for 1 calendar month. A
128 developmental research school may reemploy a retiree as

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129 instructional personnel, as defined in s. 1012.01(2)(a), on an
130 annual contractual basis after he or she has been retired for 1
131 calendar month after retirement. Any member who is reemployed
132 within 1 calendar month voids his or her application for
133 retirement benefits. A developmental research school that
134 reemploys retired teachers and education paraprofessionals is
135 subject to the retirement contribution required by subparagraph
136 2.
137 f. A charter school may reemploy a retiree as a substitute
138 or hourly teacher on a noncontractual basis after he or she has
139 been retired for 1 calendar month. A charter school may reemploy
140 a retired member as instructional personnel, as defined in s.
141 1012.01(2)(a), on an annual contractual basis after he or she
142 has been retired for 1 calendar month after retirement. Any
143 member who is reemployed within 1 calendar month voids his or
144 her application for retirement benefits. A charter school that
145 reemploys such teachers is subject to the retirement
146 contribution required by subparagraph 2.
147 2. The employment of a retiree or DROP participant of a
148 state-administered retirement system does not affect the average
149 final compensation or years of creditable service of the retiree
150 or DROP participant. Before July 1, 1991, upon employment of any
151 person, other than an elected officer as provided in s. 121.053,
152 who is retired under a state-administered retirement program,
153 the employer shall pay retirement contributions in an amount
154 equal to the unfunded actuarial liability portion of the
155 employer contribution which would be required for regular
156 members of the Florida Retirement System. Effective July 1,
157 1991, contributions shall be made as provided in s. 121.122 for

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158 retirees who have renewed membership or, as provided in
159 subsection (13), for DROP participants.
160 3. Any person who is holding an elective public office
161 which is covered by the Florida Retirement System and who is
162 concurrently employed in nonelected covered employment may elect
163 to retire while continuing employment in the elective public
164 office if he or she terminates his or her nonelected covered
165 employment. Such person shall receive his or her retirement
166 benefits in addition to the compensation of the elective office
167 without regard to the time limitations otherwise provided in
168 this subsection. A person who seeks to exercise the provisions
169 of this subparagraph as they existed before May 3, 1984, may not
170 be deemed to be retired under those provisions, unless such
171 person is eligible to retire under this subparagraph, as amended
172 by chapter 84-11, Laws of Florida.
173
174 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
175 And the directory clause is amended as follows:
176 Delete lines 428 - 429
177 and insert:
178 Section 5. Paragraph (a) of subsection (4) and paragraph
179 (b) of subsection (9) of section 121.091, Florida Statutes, are
180 amended to read:
181
182 ========== T I T L E A M E N D M E N T ==========
183 And the title is amended as follows:
184 Delete line 24
185 and insert:
186 monthly disability benefit; specifying that a retiree

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187 reemployed by a district school board is not eligible
188 to be awarded a professional service contract;
189 revising provisions to

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2013	.	
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The Committee on Community Affairs (Stargel) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Before line 1377
4 insert:
5 Section 9. Subsection (8) of section 1012.33, Florida
6 Statutes, is amended to read:
7 1012.33 Contracts with instructional staff, supervisors,
8 and school principals.—
9 (8) Notwithstanding any other provision of law, a retired
10 member may interrupt retirement and be reemployed in any public
11 school. A member reemployed by the same district from which he
12 or she retired may be employed on a probationary contractual

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13 basis as provided in subsection (1). This subsection does not
14 allow a reemployed member to be awarded a professional service
15 contract under this section.
16
17 ========== T I T L E A M E N D M E N T ==========
18 And the title is amended as follows:
19 Between lines 47 and 48
20 insert:
21 amending s. 1012.33, F.S.; specifying that a
22 reemployed member is not eligible to be awarded a
23 professional service contract;

By the Committee on Governmental Oversight and Accountability; and Senator Simpson

585-02415-13 20131392c1

A bill to be entitled

An act relating to retirement; amending s. 121.021, F.S.; revising the definition of “vested” or “vesting”; providing that a member initially enrolled in the Florida Retirement System after a certain date is vested in the pension plan after 10 years of creditable service; amending s. 121.051, F.S.; providing for compulsory membership in the Florida Retirement System Investment Plan for employees in the Elected Officers’ Class or the Senior Management Service Class initially enrolled after a specified date; conforming cross-references to changes made by the act; amending s. 121.052, F.S.; prohibiting members of the Elected Officers’ Class from joining the Senior Management Service Class after a specified date; amending s. 121.055, F.S.; prohibiting an elected official eligible for membership in the Elected Officers’ Class from enrolling in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program; closing the Senior Management Optional Annuity Program to new members after a specified date; amending s. 121.091, F.S.; providing that certain members are entitled to a monthly disability benefit; revising provisions to conform to changes made by the act; amending s. 121.4501, F.S.; requiring certain employees initially enrolled in the Florida Retirement System on or after a specified date to be compulsory members of the investment plan; revising the definition of “member”

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

30 or "employee"; revising a provision relating to
31 acknowledgement of an employee's election to
32 participate in the investment plan; placing certain
33 employees in the pension plan from their date of hire
34 until they are automatically enrolled in the
35 investment plan or timely elect enrollment in the
36 pension plan; authorizing certain employees to elect
37 to participate in the pension plan, rather than the
38 default investment plan, within a specified time;
39 providing for the transfer of certain contributions;
40 revising the education component; deleting the
41 obligation of system employers to communicate the
42 existence of both retirement plans; conforming
43 provisions and cross-references to changes made by the
44 act; amending s. 121.591, F.S.; revising provisions
45 relating to disability retirement benefits; amending
46 s. 121.71, F.S.; decreasing the employee retirement
47 contribution rates for investment plan members;
48 amending ss. 121.35, 238.072, 413.051, and 1012.875,
49 F.S.; conforming cross-references; providing for
50 contribution rate increases to fund the changes made
51 by this act; directing the Division of Law Revision
52 and Information to adjust contribution rates set forth
53 in s. 121.071, F.S.; providing that the act fulfills
54 an important state interest; providing an effective
55 date.
56
57 Be It Enacted by the Legislature of the State of Florida:
58

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59 Section 1. Subsection (45) of section 121.021, Florida
60 Statutes, is amended to read:
61 121.021 Definitions.—The following words and phrases as
62 used in this chapter have the respective meanings set forth
63 unless a different meaning is plainly required by the context:
64 (45) “Vested” or “vesting” means the guarantee that a
65 member is eligible to receive a future retirement benefit upon
66 completion of the required years of creditable service for the
67 employee’s class of membership, even though the member may have
68 terminated covered employment before reaching normal or early
69 retirement date. Being vested does not entitle a member to a
70 disability benefit. Provisions governing entitlement to
71 disability benefits are set forth under s. 121.091(4).
72 (a) Effective July 1, 2001, through June 30, 2011, a 6-year
73 vesting requirement shall be implemented for the Florida
74 Retirement System Pension Plan:
75 1. Any member employed in a regularly established position
76 on July 1, 2001, who completes or has completed a total of 6
77 years of creditable service is considered vested.
78 2. Any member initially enrolled in the Florida Retirement
79 System before July 1, 2001, but not employed in a regularly
80 established position on July 1, 2001, shall be deemed vested
81 upon completion of 6 years of creditable service if such member
82 is employed in a covered position for at least 1 work year after
83 July 1, 2001. However, a member is not required to complete more
84 years of creditable service than would have been required for
85 that member to vest under retirement laws in effect before July
86 1, 2001.
87 3. Any member initially enrolled in the Florida Retirement

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88 System on July 1, 2001, through June 30, 2011, shall be deemed
89 vested upon completion of 6 years of creditable service.
90 (b) Any member initially enrolled in the Florida Retirement
91 System on ~~or after~~ July 1, 2011, through December 31, 2013,
92 shall be vested in the pension plan upon completion of 8 years
93 of creditable service.
94 (c) Any member initially enrolled in the Florida Retirement
95 System on or after January 1, 2014, shall be vested in the
96 pension plan upon completion of 10 years of creditable service.
97 Section 2. Paragraph (c) of subsection (2) of section
98 121.051, Florida Statutes, is amended, present subsections (3)
99 through (9) of that section are renumbered as subsections (4)
100 through (10), respectively, and a new subsection (3) is added to
101 that section, to read:
102 121.051 Participation in the system.—
103 (2) OPTIONAL PARTICIPATION.—
104 (c) Employees of public community colleges or charter
105 technical career centers sponsored by public community colleges,
106 designated in s. 1000.21(3), who are members of the Regular
107 Class of the Florida Retirement System and who comply with the
108 criteria set forth in this paragraph and s. 1012.875 may, in
109 lieu of participating in the Florida Retirement System, elect to
110 withdraw from the system altogether and participate in the State
111 Community College System Optional Retirement Program provided by
112 the employing agency under s. 1012.875.
113 1.a. Through June 30, 2001, the cost to the employer for
114 benefits under the optional retirement program equals the normal
115 cost portion of the employer retirement contribution which would
116 be required if the employee were a member of the pension plan's

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117 Regular Class, plus the portion of the contribution rate
118 required by s. 112.363(8) which would otherwise be assigned to
119 the Retiree Health Insurance Subsidy Trust Fund.
120 b. Effective July 1, 2001, through June 30, 2011, each
121 employer shall contribute on behalf of each member of the
122 optional program an amount equal to 10.43 percent of the
123 employee's gross monthly compensation. The employer shall deduct
124 an amount for the administration of the program.
125 c. Effective July 1, 2011, through June 30, 2012, each
126 member shall contribute an amount equal to the employee
127 contribution required under s. 121.71(3)(a). The employer shall
128 contribute on behalf of each program member an amount equal to
129 the difference between 10.43 percent of the employee's gross
130 monthly compensation and the employee's required contribution
131 based on the employee's gross monthly compensation.
132 d. Effective July 1, 2012, each member shall contribute an
133 amount equal to the employee contribution required under s.
134 121.71(3)(a). The employer shall contribute on behalf of each
135 program member an amount equal to the difference between 8.15
136 percent of the employee's gross monthly compensation and the
137 employee's required contribution based on the employee's gross
138 monthly compensation.
139 e. The employer shall contribute an additional amount to
140 the Florida Retirement System Trust Fund equal to the unfunded
141 actuarial accrued liability portion of the Regular Class
142 contribution rate.
143 2. The decision to participate in the optional retirement
144 program is irrevocable as long as the employee holds a position
145 eligible for participation, except as provided in subparagraph

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146 3. Any service creditable under the Florida Retirement System is
147 retained after the member withdraws from the system; however,
148 additional service credit in the system may not be earned while
149 a member of the optional retirement program.
150 3. An employee who has elected to participate in the
151 optional retirement program shall have one opportunity, at the
152 employee’s discretion, to transfer from the optional retirement
153 program to the pension plan of the Florida Retirement System or
154 to the investment plan established under part II of this
155 chapter, subject to the terms of the applicable optional
156 retirement program contracts.
157 a. If the employee chooses to move to the investment plan,
158 any contributions, interest, and earnings creditable to the
159 employee under the optional retirement program are retained by
160 the employee in the optional retirement program, and the
161 applicable provisions of s. 121.4501(4) govern the election.
162 b. If the employee chooses to move to the pension plan of
163 the Florida Retirement System, the employee shall receive
164 service credit equal to his or her years of service under the
165 optional retirement program.
166 (I) The cost for such credit is the amount representing the
167 present value of the employee’s accumulated benefit obligation
168 for the affected period of service. The cost shall be calculated
169 as if the benefit commencement occurs on the first date the
170 employee becomes eligible for unreduced benefits, using the
171 discount rate and other relevant actuarial assumptions that were
172 used to value the Florida Retirement System Pension Plan
173 liabilities in the most recent actuarial valuation. The
174 calculation must include any service already maintained under

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175 the pension plan in addition to the years under the optional
176 retirement program. The present value of any service already
177 maintained must be applied as a credit to total cost resulting
178 from the calculation. The division must ensure that the transfer
179 sum is prepared using a formula and methodology certified by an
180 enrolled actuary.
181 (II) The employee must transfer from his or her optional
182 retirement program account and from other employee moneys as
183 necessary, a sum representing the present value of the
184 employee's accumulated benefit obligation immediately following
185 the time of such movement, determined assuming that attained
186 service equals the sum of service in the pension plan and
187 service in the optional retirement program.
188 4. Participation in the optional retirement program is
189 limited to employees who satisfy the following eligibility
190 criteria:
191 a. The employee is otherwise eligible for membership or
192 renewed membership in the Regular Class of the Florida
193 Retirement System, as provided in s. 121.021(11) and (12) or s.
194 121.122.
195 b. The employee is employed in a full-time position
196 classified in the Accounting Manual for Florida's Public
197 Community Colleges as:
198 (I) Instructional; or
199 (II) Executive Management, Instructional Management, or
200 Institutional Management and the community college determines
201 that recruiting to fill a vacancy in the position is to be
202 conducted in the national or regional market, and the duties and
203 responsibilities of the position include the formulation,

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204 interpretation, or implementation of policies, or the
205 performance of functions that are unique or specialized within
206 higher education and that frequently support the mission of the
207 community college.
208 c. The employee is employed in a position not included in
209 the Senior Management Service Class of the Florida Retirement
210 System as described in s. 121.055.
211 5. Members of the program are subject to the same
212 reemployment limitations, renewed membership provisions, and
213 forfeiture provisions applicable to regular members of the
214 Florida Retirement System under ss. 121.091(9), 121.122, and
215 121.091(5), respectively. A member who receives a program
216 distribution funded by employer and required employee
217 contributions is deemed to be retired from a state-administered
218 retirement system if the member is subsequently employed with an
219 employer that participates in the Florida Retirement System.
220 6. Eligible community college employees are compulsory
221 members of the Florida Retirement System until, pursuant to s.
222 1012.875, a written election to withdraw from the system and
223 participate in the optional retirement program is filed with the
224 program administrator and received by the division.
225 a. A community college employee whose program eligibility
226 results from initial employment shall be enrolled in the
227 optional retirement program retroactive to the first day of
228 eligible employment. The employer and employee retirement
229 contributions paid through the month of the employee plan change
230 shall be transferred to the community college to the employee’s
231 optional program account, and, effective the first day of the
232 next month, the employer shall pay the applicable contributions

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233 based upon subparagraph 1.
234 b. A community college employee whose program eligibility
235 is due to the subsequent designation of the employee's position
236 as one of those specified in subparagraph 4., or due to the
237 employee's appointment, promotion, transfer, or reclassification
238 to a position specified in subparagraph 4., must be enrolled in
239 the program on the first day of the first full calendar month
240 that such change in status becomes effective. The employer and
241 employee retirement contributions paid from the effective date
242 through the month of the employee plan change must be
243 transferred to the community college to the employee's optional
244 program account, and, effective the first day of the next month,
245 the employer shall pay the applicable contributions based upon
246 subparagraph 1.
247 7. Effective July 1, 2003, through December 31, 2008, any
248 member of the optional retirement program who has service credit
249 in the pension plan of the Florida Retirement System for the
250 period between his or her first eligibility to transfer from the
251 pension plan to the optional retirement program and the actual
252 date of transfer may, during employment, transfer to the
253 optional retirement program a sum representing the present value
254 of the accumulated benefit obligation under the defined benefit
255 retirement program for the period of service credit. Upon
256 transfer, all service credit previously earned under the pension
257 plan during this period is nullified for purposes of entitlement
258 to a future benefit under the pension plan.
259 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.—
260 (a) Employees initially enrolled on or after January 1,
261 2014, in positions covered by the Elected Officers' Class or the

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262 Senior Management Service Class are compulsory members of the
263 investment plan, except those eligible to withdraw from the
264 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those
265 eligible for optional retirement programs under paragraph
266 (1)(a), paragraph (2)(c), or s. 121.35. Investment plan
267 membership continues if there is subsequent employment in a
268 position covered by another membership class. Membership in the
269 pension plan is not permitted except as provided in s.
270 121.591(2). Employees initially enrolled in the Florida
271 Retirement System prior to January 1, 2014, may retain their
272 membership in the pension plan or investment plan and are
273 eligible to use the election opportunity specified in s.
274 121.4501(4)(f). Employees initially enrolled on or after January
275 1, 2014, are not eligible to use the election opportunity
276 specified in s. 121.4501(4)(f).
277 (b) Employees eligible to withdraw from the system under s.
278 121.052(3)(d) or s. 121.055(1)(b)2. may choose to withdraw from
279 the system or to participate in the investment plan as provided
280 in these sections. Employees eligible for optional retirement
281 programs under paragraph (2)(c) or s. 121.35 may choose to
282 participate in the optional retirement program or the investment
283 plan as provided in this paragraph or this section. Eligible
284 employees required to participate pursuant to (1)(a) in the
285 optional retirement program as provided under s. 121.35 must
286 participate in the investment plan when employed in a position
287 not eligible for the optional retirement program.
288 Section 3. Paragraph (c) of subsection (3) of section
289 121.052, Florida Statutes, is amended to read:
290 121.052 Membership class of elected officers.—

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291 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July
292 1, 1990, participation in the Elected Officers' Class shall be
293 compulsory for elected officers listed in paragraphs (2)(a)-(d)
294 and (f) assuming office on or after said date, unless the
295 elected officer elects membership in another class or withdraws
296 from the Florida Retirement System as provided in paragraphs
297 (3)(a)-(d):
298 (c) Before January 1, 2014, any elected officer may, within
299 6 months after assuming office, or within 6 months after this
300 act becomes a law for serving elected officers, elect membership
301 in the Senior Management Service Class as provided in s. 121.055
302 in lieu of membership in the Elected Officers' Class. Any such
303 election made by a county elected officer shall have no effect
304 upon the statutory limit on the number of nonelective full-time
305 positions that may be designated by a local agency employer for
306 inclusion in the Senior Management Service Class under s.
307 121.055(1)(b)1.
308 Section 4. Paragraph (f) of subsection (1) and paragraph
309 (c) of subsection (6) of section 121.055, Florida Statutes, are
310 amended to read:
311 121.055 Senior Management Service Class.—There is hereby
312 established a separate class of membership within the Florida
313 Retirement System to be known as the "Senior Management Service
314 Class," which shall become effective February 1, 1987.
315 (1)
316 (f) Effective July 1, 1997, through December 31, 2013:
317 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
318 4., an elected state officer eligible for membership in the
319 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who

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320 elects membership in the Senior Management Service Class under
321 s. 121.052(3)(c) may, within 6 months after assuming office or
322 within 6 months after this act becomes a law for serving elected
323 state officers, elect to participate in the Senior Management
324 Service Optional Annuity Program, as provided in subsection (6),
325 in lieu of membership in the Senior Management Service Class.
326 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and
327 4., an elected officer of a local agency employer eligible for
328 membership in the Elected Officers' Class under s. 121.052(2)(d)
329 who elects membership in the Senior Management Service Class
330 under s. 121.052(3)(c) may, within 6 months after assuming
331 office, or within 6 months after this act becomes a law for
332 serving elected officers of a local agency employer, elect to
333 withdraw from the Florida Retirement System, as provided in
334 subparagraph (b)2., in lieu of membership in the Senior
335 Management Service Class.
336 3. A retiree of a state-administered retirement system who
337 is initially reemployed in a regularly established position on
338 or after July 1, 2010, as an elected official eligible for the
339 Elected Officers' Class may not be enrolled in renewed
340 membership in the Senior Management Service Class or in the
341 Senior Management Service Optional Annuity Program as provided
342 in subsection (6), and may not withdraw from the Florida
343 Retirement System as a renewed member as provided in
344 subparagraph (b)2., as applicable, in lieu of membership in the
345 Senior Management Service Class.
346 4. On or after January 1, 2014, an elected officer eligible
347 for membership in the Elected Officers' Class may not be
348 enrolled in the Senior Management Service Class or in the Senior

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349 Management Service Optional Annuity Program as provided in
350 subsection (6).
351 (6)
352 (c) *Participation.*—
353 1. An eligible employee who is employed on or before
354 February 1, 1987, may elect to participate in the optional
355 annuity program in lieu of participating in the Senior
356 Management Service Class. Such election must be made in writing
357 and filed with the department and the personnel officer of the
358 employer on or before May 1, 1987. An eligible employee who is
359 employed on or before February 1, 1987, and who fails to make an
360 election to participate in the optional annuity program by May
361 1, 1987, shall be deemed to have elected membership in the
362 Senior Management Service Class.
363 2. Except as provided in subparagraph 6., an employee who
364 becomes eligible to participate in the optional annuity program
365 by reason of initial employment commencing after February 1,
366 1987, may, within 90 days after the date of commencing
367 employment, elect to participate in the optional annuity
368 program. Such election must be made in writing and filed with
369 the personnel officer of the employer. An eligible employee who
370 does not within 90 days after commencing employment elect to
371 participate in the optional annuity program shall be deemed to
372 have elected membership in the Senior Management Service Class.
373 3. A person who is appointed to a position in the Senior
374 Management Service Class and who is a member of an existing
375 retirement system or the Special Risk or Special Risk
376 Administrative Support Classes of the Florida Retirement System
377 may elect to remain in such system or class in lieu of

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378 participating in the Senior Management Service Class or optional
379 annuity program. Such election must be made in writing and filed
380 with the department and the personnel officer of the employer
381 within 90 days after such appointment. An eligible employee who
382 fails to make an election to participate in the existing system,
383 the Special Risk Class of the Florida Retirement System, the
384 Special Risk Administrative Support Class of the Florida
385 Retirement System, or the optional annuity program shall be
386 deemed to have elected membership in the Senior Management
387 Service Class.
388 4. Except as provided in subparagraph 5., an employee's
389 election to participate in the optional annuity program is
390 irrevocable if the employee continues to be employed in an
391 eligible position and continues to meet the eligibility
392 requirements set forth in this paragraph.
393 5. Effective from July 1, 2002, through September 30, 2002,
394 an active employee in a regularly established position who has
395 elected to participate in the Senior Management Service Optional
396 Annuity Program has one opportunity to choose to move from the
397 Senior Management Service Optional Annuity Program to the
398 Florida Retirement System Pension Plan.
399 a. The election must be made in writing and must be filed
400 with the department and the personnel officer of the employer
401 before October 1, 2002, or, in the case of an active employee
402 who is on a leave of absence on July 1, 2002, within 90 days
403 after the conclusion of the leave of absence. This election is
404 irrevocable.
405 b. The employee shall receive service credit under the
406 pension plan equal to his or her years of service under the

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407 Senior Management Service Optional Annuity Program. The cost for
408 such credit is the amount representing the present value of that
409 employee's accumulated benefit obligation for the affected
410 period of service.
411 c. The employee must transfer the total accumulated
412 employer contributions and earnings on deposit in his or her
413 Senior Management Service Optional Annuity Program account. If
414 the transferred amount is not sufficient to pay the amount due,
415 the employee must pay a sum representing the remainder of the
416 amount due. The employee may not retain any employer
417 contributions or earnings from the Senior Management Service
418 Optional Annuity Program account.
419 6. A retiree of a state-administered retirement system who
420 is initially reemployed on or after July 1, 2010, may not renew
421 membership in the Senior Management Service Optional Annuity
422 Program.
423 7. Effective January 1, 2014, the Senior Management Service
424 Optional Annuity Program is closed to new members. Members
425 enrolled in the Senior Management Service Optional Annuity
426 Program before January 1, 2014, may retain their membership in
427 the annuity program.
428 Section 5. Paragraph (a) of subsection (4) of section
429 121.091, Florida Statutes, is amended to read:
430 121.091 Benefits payable under the system.—Benefits may not
431 be paid under this section unless the member has terminated
432 employment as provided in s. 121.021(39)(a) or begun
433 participation in the Deferred Retirement Option Program as
434 provided in subsection (13), and a proper application has been
435 filed in the manner prescribed by the department. The department

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436 may cancel an application for retirement benefits when the
437 member or beneficiary fails to timely provide the information
438 and documents required by this chapter and the department's
439 rules. The department shall adopt rules establishing procedures
440 for application for retirement benefits and for the cancellation
441 of such application when the required information or documents
442 are not received.
443 (4) DISABILITY RETIREMENT BENEFIT.—
444 (a) *Disability retirement; entitlement and effective date.*—
445 1.a. A member who becomes totally and permanently disabled,
446 as defined in paragraph (b), after completing 5 years of
447 creditable service, or a member who becomes totally and
448 permanently disabled in the line of duty regardless of service,
449 is entitled to a monthly disability benefit; except that any
450 member with less than 5 years of creditable service on July 1,
451 1980, or any person who becomes a member of the Florida
452 Retirement System on or after such date must have completed 10
453 years of creditable service before becoming totally and
454 permanently disabled in order to receive disability retirement
455 benefits for any disability which occurs other than in the line
456 of duty. However, if a member employed on July 1, 1980, who has
457 less than 5 years of creditable service as of that date becomes
458 totally and permanently disabled after completing 5 years of
459 creditable service and is found not to have attained fully
460 insured status for benefits under the federal Social Security
461 Act, such member is entitled to a monthly disability benefit.
462 b. Effective July 1, 2001, a member of the pension plan
463 initially enrolled before January 1, 2014, who becomes totally
464 and permanently disabled, as defined in paragraph (b), after

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465 completing 8 years of creditable service, or a member who
466 becomes totally and permanently disabled in the line of duty
467 regardless of service, is entitled to a monthly disability
468 benefit.
469 c. Effective January 1, 2014, a member of the pension plan
470 initially enrolled on or after January 1, 2014, who becomes
471 totally and permanently disabled, as defined in paragraph (b),
472 after completing 10 years of creditable service, or a member who
473 becomes totally and permanently disabled in the line of duty
474 regardless of service, is entitled to a monthly disability
475 benefit.
476 2. If the division has received from the employer the
477 required documentation of the member's termination of
478 employment, the effective retirement date for a member who
479 applies and is approved for disability retirement shall be
480 established by rule of the division.
481 3. For a member who is receiving Workers' Compensation
482 payments, the effective disability retirement date may not
483 precede the date the member reaches Maximum Medical Improvement
484 (MMI), unless the member terminates employment before reaching
485 MMI.
486 Section 6. Subsection (1), paragraph (i) of subsection (2),
487 paragraph (b) of subsection (3), subsection (4), paragraph (c)
488 of subsection (5), subsection (8), and paragraphs (a), (b), (c),
489 and (h) of subsection (10) of section 121.4501, Florida
490 Statutes, are amended to read:
491 121.4501 Florida Retirement System Investment Plan.—
492 (1) The Trustees of the State Board of Administration shall
493 establish a defined contribution program called the "Florida

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494 Retirement System Investment Plan" or "investment plan" for
495 members of the Florida Retirement System under which retirement
496 benefits will be provided for eligible employees who elect to
497 participate in the program and for employees initially enrolled
498 on or after January 1, 2014, in positions covered by the Elected
499 Officers' Class or the Senior Management Service Class and are
500 compulsory members of the investment plan unless otherwise
501 eligible to withdraw from the system under s. 121.052(3)(d) or
502 s. 121.055(1)(b)2., or to participate in an optional retirement
503 program under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35.
504 Investment plan membership continues if there is subsequent
505 employment in a position covered by another membership class.
506 The retirement benefits shall be provided through member-
507 directed investments, in accordance with s. 401(a) of the
508 Internal Revenue Code and related regulations. The employer and
509 employee shall make contributions, as provided in this section
510 and ss. 121.571 and 121.71, to the Florida Retirement System
511 Investment Plan Trust Fund toward the funding of benefits.
512 (2) DEFINITIONS.—As used in this part, the term:
513 (i) "Member" or "employee" means an eligible employee who
514 enrolls in or is defaulted into the investment plan as provided
515 in subsection (4), a terminated Deferred Retirement Option
516 Program member as described in subsection (21), or a beneficiary
517 or alternate payee of a member or employee.
518 (3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—
519 (b) Notwithstanding paragraph (a), an eligible employee who
520 elects to participate in or is defaulted into the investment
521 plan and establishes one or more individual member accounts may
522 elect to transfer to the investment plan a sum representing the

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523 present value of the employee's accumulated benefit obligation
524 under the pension plan, except as provided in paragraph (4)(b).
525 Upon transfer, all service credit earned under the pension plan
526 is nullified for purposes of entitlement to a future benefit
527 under the pension plan. A member may not transfer the
528 accumulated benefit obligation balance from the pension plan
529 after the time period for enrolling in the investment plan has
530 expired.
531 1. For purposes of this subsection, the present value of
532 the member's accumulated benefit obligation is based upon the
533 member's estimated creditable service and estimated average
534 final compensation under the pension plan, subject to
535 recomputation under subparagraph 2. For state employees, initial
536 estimates shall be based upon creditable service and average
537 final compensation as of midnight on June 30, 2002; for district
538 school board employees, initial estimates shall be based upon
539 creditable service and average final compensation as of midnight
540 on September 30, 2002; and for local government employees,
541 initial estimates shall be based upon creditable service and
542 average final compensation as of midnight on December 31, 2002.
543 The dates specified are the "estimate date" for these employees.
544 The actuarial present value of the employee's accumulated
545 benefit obligation shall be based on the following:
546 a. The discount rate and other relevant actuarial
547 assumptions used to value the Florida Retirement System Trust
548 Fund at the time the amount to be transferred is determined,
549 consistent with the factors provided in sub-subparagraphs b. and
550 c.
551 b. A benefit commencement age, based on the member's

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552 estimated creditable service as of the estimate date.
553 c. Except as provided under sub-subparagraph d., for a
554 member initially enrolled:
555 (I) Before July 1, 2011, the benefit commencement age is
556 the younger of the following, but may not be younger than the
557 member’s age as of the estimate date:
558 (A) Age 62; or
559 (B) The age the member would attain if the member completed
560 30 years of service with an employer, assuming the member worked
561 continuously from the estimate date, and disregarding any
562 vesting requirement that would otherwise apply under the pension
563 plan.
564 (II) On or after July 1, 2011, the benefit commencement age
565 is the younger of the following, but may not be younger than the
566 member’s age as of the estimate date:
567 (A) Age 65; or
568 (B) The age the member would attain if the member completed
569 33 years of service with an employer, assuming the member worked
570 continuously from the estimate date, and disregarding any
571 vesting requirement that would otherwise apply under the pension
572 plan.
573 d. For members of the Special Risk Class and for members of
574 the Special Risk Administrative Support Class entitled to retain
575 the special risk normal retirement date:
576 (I) Initially enrolled before July 1, 2011, the benefit
577 commencement age is the younger of the following, but may not be
578 younger than the member’s age as of the estimate date:
579 (A) Age 55; or
580 (B) The age the member would attain if the member completed

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581 25 years of service with an employer, assuming the member worked
582 continuously from the estimate date, and disregarding any
583 vesting requirement that would otherwise apply under the pension
584 plan.
585 (II) Initially enrolled on or after July 1, 2011, the
586 benefit commencement age is the younger of the following, but
587 may not be younger than the member's age as of the estimate
588 date:
589 (A) Age 60; or
590 (B) The age the member would attain if the member completed
591 30 years of service with an employer, assuming the member worked
592 continuously from the estimate date, and disregarding any
593 vesting requirement that would otherwise apply under the pension
594 plan.
595 e. The calculation must disregard vesting requirements and
596 early retirement reduction factors that would otherwise apply
597 under the pension plan.
598 2. For each member who elects to transfer moneys from the
599 pension plan to his or her account in the investment plan, the
600 division shall recompute the amount transferred under
601 subparagraph 1. within 60 days after the actual transfer of
602 funds based upon the member's actual creditable service and
603 actual final average compensation as of the initial date of
604 participation in the investment plan. If the recomputed amount
605 differs from the amount transferred by $10 or more, the division
606 shall:
607 a. Transfer, or cause to be transferred, from the Florida
608 Retirement System Trust Fund to the member's account the excess,
609 if any, of the recomputed amount over the previously transferred

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610 amount together with interest from the initial date of transfer
611 to the date of transfer under this subparagraph, based upon the
612 effective annual interest equal to the assumed return on the
613 actuarial investment which was used in the most recent actuarial
614 valuation of the system, compounded annually.
615 b. Transfer, or cause to be transferred, from the member's
616 account to the Florida Retirement System Trust Fund the excess,
617 if any, of the previously transferred amount over the recomputed
618 amount, together with interest from the initial date of transfer
619 to the date of transfer under this subparagraph, based upon 6
620 percent effective annual interest, compounded annually, pro rata
621 based on the member's allocation plan.
622 3. If contribution adjustments are made as a result of
623 employer errors or corrections, including plan corrections,
624 following recomputation of the amount transferred under
625 subparagraph 1., the member is entitled to the additional
626 contributions or is responsible for returning any excess
627 contributions resulting from the correction. However, any return
628 of such erroneous excess pretax contribution by the plan must be
629 made within the period allowed by the Internal Revenue Service.
630 The present value of the member's accumulated benefit obligation
631 shall not be recalculated.
632 4. As directed by the member, the state board shall
633 transfer or cause to be transferred the appropriate amounts to
634 the designated accounts within 30 days after the effective date
635 of the member's participation in the investment plan unless the
636 major financial markets for securities available for a transfer
637 are seriously disrupted by an unforeseen event that causes the
638 suspension of trading on any national securities exchange in the

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639 country where the securities were issued. In that event, the 30-
640 day period may be extended by a resolution of the state board.
641 Transfers are not commissionable or subject to other fees and
642 may be in the form of securities or cash, as determined by the
643 state board. Such securities are valued as of the date of
644 receipt in the member's account.
645 5. If the state board or the division receives notification
646 from the United States Internal Revenue Service that this
647 paragraph or any portion of this paragraph will cause the
648 retirement system, or a portion thereof, to be disqualified for
649 tax purposes under the Internal Revenue Code, the portion that
650 will cause the disqualification does not apply. Upon such
651 notice, the state board and the division shall notify the
652 presiding officers of the Legislature.
653 (4) PARTICIPATION; ENROLLMENT.—
654 (a)1. Effective June 1, 2002, through February 28, 2003, a
655 90-day election period was provided to each eligible employee
656 participating in the Florida Retirement System, preceded by a
657 90-day education period, permitting each eligible employee to
658 elect membership in the investment plan, and an employee who
659 failed to elect the investment plan during the election period
660 remained in the pension plan. An eligible employee who was
661 employed in a regularly established position during the election
662 period was granted the option to make one subsequent election,
663 as provided in paragraph (f). With respect to ~~an~~ eligible
664 employees who did not participate in the initial election period
665 or who are initially ~~employee who is~~ employed in a regularly
666 established position after the close of the initial election
667 period but before January 1, 2014, ~~on June 1, 2002, by a state~~

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668 ~~employer:~~
669 ~~a. Any such employee may elect to participate in the~~
670 ~~investment plan in lieu of retaining his or her membership in~~
671 ~~the pension plan. The election must be made in writing or by~~
672 ~~electronic means and must be filed with the third-party~~
673 ~~administrator by August 31, 2002, or, in the case of an active~~
674 ~~employee who is on a leave of absence on April 1, 2002, by the~~
675 ~~last business day of the 5th month following the month the leave~~
676 ~~of absence concludes. This election is irrevocable, except as~~
677 ~~provided in paragraph (g). Upon making such election, the~~
678 ~~employee shall be enrolled as a member of the investment plan,~~
679 ~~the employee's membership in the Florida Retirement System is~~
680 ~~governed by the provisions of this part, and the employee's~~
681 ~~membership in the pension plan terminates. The employee's~~
682 ~~enrollment in the investment plan is effective the first day of~~
683 ~~the month for which a full month's employer contribution is made~~
684 ~~to the investment plan.~~
685 ~~b. Any such employee who fails to elect to participate in~~
686 ~~the investment plan within the prescribed time period is deemed~~
687 ~~to have elected to retain membership in the pension plan, and~~
688 ~~the employee's option to elect to participate in the investment~~
689 ~~plan is forfeited.~~
690 ~~2. With respect to employees who become eligible to~~
691 ~~participate in the investment plan by reason of employment in a~~
692 ~~regularly established position with a state employer commencing~~
693 ~~after April 1, 2002:~~
694 ~~a. Any~~ such employee shall, by default, be enrolled in the
695 pension plan at the commencement of employment, and may, by the
696 last business day of the 5th month following the employee's

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697 month of hire, elect to participate in the investment plan. The
698 employee's election must be made in writing or by electronic
699 means and must be filed with the third-party administrator. The
700 election to participate in the investment plan is irrevocable,
701 except as provided in paragraph (f)~~(g)~~.
702 a.~~b.~~ If the employee files such election within the
703 prescribed time period, enrollment in the investment plan is
704 effective on the first day of employment. The retirement
705 contributions paid through the month of the employee plan change
706 shall be transferred to the investment program, and, effective
707 the first day of the next month, the employer and employee must
708 pay the applicable contributions based on the employee
709 membership class in the program.
710 b.~~c.~~ An employee who fails to elect to participate in the
711 investment plan within the prescribed time period is deemed to
712 have elected to retain membership in the pension plan, and the
713 employee's option to elect to participate in the investment plan
714 is forfeited.
715 2.~~3.~~ With respect to employees who become eligible to
716 participate in the investment plan pursuant to s.
717 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
718 participate in the investment plan in lieu of retaining his or
719 her membership in the State Community College System Optional
720 Retirement Program or the State University System Optional
721 Retirement Program. The election must be made in writing or by
722 electronic means and must be filed with the third-party
723 administrator. This election is irrevocable, except as provided
724 in paragraph (f)~~(g)~~. Upon making such election, the employee
725 shall be enrolled as a member in the investment plan, the

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726 employee's membership in the Florida Retirement System is
727 governed by the provisions of this part, and the employee's
728 participation in the State Community College System Optional
729 Retirement Program or the State University System Optional
730 Retirement Program terminates. The employee's enrollment in the
731 investment plan is effective on the first day of the month for
732 which a full month's employer and employee contribution is made
733 to the investment plan.
734 (b)1. With respect to employees who become eligible to
735 participate in the investment plan, except as provided in
736 paragraph (g), by reason of employment in a regularly
737 established position commencing on or after January 1, 2014, any
738 such employee shall be enrolled in the pension plan at the
739 commencement of employment and may, by the last business day of
740 the 5th month following the employee's month of hire, elect to
741 participate in the pension plan or the investment plan. Eligible
742 employees may make a plan election only if they are earning
743 service credit in an employer-employee relationship consistent
744 with s. 121.021(17)(b), excluding leaves of absence without pay.
745 2. The employee's election must be made in writing or by
746 electronic means and must be filed with the third-party
747 administrator. The election to participate in the pension plan
748 or investment plan is irrevocable, except as provided in
749 paragraph (f).
750 3. If the employee fails to make an election of the pension
751 plan or investment plan within 5 months following the month of
752 hire, the employee is deemed to have elected the investment plan
753 and will be defaulted into the investment plan retroactively to
754 the employee's date of employment. The employee's option to

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755 participate in the pension plan is forfeited, except as provided
756 in paragraph (f).
757 4. The amount of the employee and employer contributions
758 paid before the default to the investment plan shall be
759 transferred to the investment plan and shall be placed in a
760 default fund as designated by the State Board of Administration.
761 The employee may move the contributions once an account is
762 activated in the investment plan.
763 5. Effective the first day of the month after an eligible
764 employee makes a plan election of the pension plan or investment
765 plan, or after the month of default to the investment plan, the
766 employee and employer shall pay the applicable contributions
767 based on the employee membership class in the pension plan or
768 investment plan.
769 ~~4. For purposes of this paragraph, "state employer" means~~
770 ~~any agency, board, branch, commission, community college,~~
771 ~~department, institution, institution of higher education, or~~
772 ~~water management district of the state, which participates in~~
773 ~~the Florida Retirement System for the benefit of certain~~
774 ~~employees.~~
775 ~~(b)1. With respect to an eligible employee who is employed~~
776 ~~in a regularly established position on September 1, 2002, by a~~
777 ~~district school board employer:~~
778 ~~a. Any such employee may elect to participate in the~~
779 ~~investment plan in lieu of retaining his or her membership in~~
780 ~~the pension plan. The election must be made in writing or by~~
781 ~~electronic means and must be filed with the third-party~~
782 ~~administrator by November 30, or, in the case of an active~~
783 ~~employee who is on a leave of absence on July 1, 2002, by the~~

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784 ~~last business day of the 5th month following the month the leave~~
785 ~~of absence concludes. This election is irrevocable, except as~~
786 ~~provided in paragraph (g). Upon making such election, the~~
787 ~~employee shall be enrolled as a member of the investment plan,~~
788 ~~the employee's membership in the Florida Retirement System is~~
789 ~~governed by the provisions of this part, and the employee's~~
790 ~~membership in the pension plan terminates. The employee's~~
791 ~~enrollment in the investment plan is effective the first day of~~
792 ~~the month for which a full month's employer contribution is made~~
793 ~~to the investment program.~~
794 ~~b. Any such employee who fails to elect to participate in~~
795 ~~the investment plan within the prescribed time period is deemed~~
796 ~~to have elected to retain membership in the pension plan, and~~
797 ~~the employee's option to elect to participate in the investment~~
798 ~~plan is forfeited.~~
799 ~~2. With respect to employees who become eligible to~~
800 ~~participate in the investment plan by reason of employment in a~~
801 ~~regularly established position with a district school board~~
802 ~~employer commencing after July 1, 2002:~~
803 ~~a. Any such employee shall, by default, be enrolled in the~~
804 ~~pension plan at the commencement of employment, and may, by the~~
805 ~~last business day of the 5th month following the employee's~~
806 ~~month of hire, elect to participate in the investment plan. The~~
807 ~~employee's election must be made in writing or by electronic~~
808 ~~means and must be filed with the third-party administrator. The~~
809 ~~election to participate in the investment plan is irrevocable,~~
810 ~~except as provided in paragraph (g).~~
811 ~~b. If the employee files such election within the~~
812 ~~prescribed time period, enrollment in the investment plan is~~

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813 ~~effective on the first day of employment. The employer~~
814 ~~retirement contributions paid through the month of the employee~~
815 ~~plan change shall be transferred to the investment plan, and,~~
816 ~~effective the first day of the next month, the employer shall~~
817 ~~pay the applicable contributions based on the employee~~
818 ~~membership class in the investment plan.~~
819 ~~c. Any such employee who fails to elect to participate in~~
820 ~~the investment plan within the prescribed time period is deemed~~
821 ~~to have elected to retain membership in the pension plan, and~~
822 ~~the employee's option to elect to participate in the investment~~
823 ~~plan is forfeited.~~
824 ~~3. For purposes of this paragraph, "district school board~~
825 ~~employer" means any district school board that participates in~~
826 ~~the Florida Retirement System for the benefit of certain~~
827 ~~employees, or a charter school or charter technical career~~
828 ~~center that participates in the Florida Retirement System as~~
829 ~~provided in s. 121.051(2)(d).~~
830 ~~(c)1. With respect to an eligible employee who is employed~~
831 ~~in a regularly established position on December 1, 2002, by a~~
832 ~~local employer:~~
833 ~~a. Any such employee may elect to participate in the~~
834 ~~investment plan in lieu of retaining his or her membership in~~
835 ~~the pension plan. The election must be made in writing or by~~
836 ~~electronic means and must be filed with the third-party~~
837 ~~administrator by February 28, 2003, or, in the case of an active~~
838 ~~employee who is on a leave of absence on October 1, 2002, by the~~
839 ~~last business day of the 5th month following the month the leave~~
840 ~~of absence concludes. This election is irrevocable, except as~~
841 ~~provided in paragraph (g). Upon making such election, the~~

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842 ~~employee shall be enrolled as a participant of the investment~~
843 ~~plan, the employee's membership in the Florida Retirement System~~
844 ~~is governed by the provisions of this part, and the employee's~~
845 ~~membership in the pension plan terminates. The employee's~~
846 ~~enrollment in the investment plan is effective the first day of~~
847 ~~the month for which a full month's employer contribution is made~~
848 ~~to the investment plan.~~
849 ~~b. Any such employee who fails to elect to participate in~~
850 ~~the investment plan within the prescribed time period is deemed~~
851 ~~to have elected to retain membership in the pension plan, and~~
852 ~~the employee's option to elect to participate in the investment~~
853 ~~plan is forfeited.~~
854 ~~2. With respect to employees who become eligible to~~
855 ~~participate in the investment plan by reason of employment in a~~
856 ~~regularly established position with a local employer commencing~~
857 ~~after October 1, 2002:~~
858 ~~a. Any such employee shall, by default, be enrolled in the~~
859 ~~pension plan at the commencement of employment, and may, by the~~
860 ~~last business day of the 5th month following the employee's~~
861 ~~month of hire, elect to participate in the investment plan. The~~
862 ~~employee's election must be made in writing or by electronic~~
863 ~~means and must be filed with the third-party administrator. The~~
864 ~~election to participate in the investment plan is irrevocable,~~
865 ~~except as provided in paragraph (g).~~
866 ~~b. If the employee files such election within the~~
867 ~~prescribed time period, enrollment in the investment plan is~~
868 ~~effective on the first day of employment. The employer~~
869 ~~retirement contributions paid through the month of the employee~~
870 ~~plan change shall be transferred to the investment plan, and,~~

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871 ~~effective the first day of the next month, the employer shall~~
872 ~~pay the applicable contributions based on the employee~~
873 ~~membership class in the investment plan.~~
874 ~~c. Any such employee who fails to elect to participate in~~
875 ~~the investment plan within the prescribed time period is deemed~~
876 ~~to have elected to retain membership in the pension plan, and~~
877 ~~the employee's option to elect to participate in the investment~~
878 ~~plan is forfeited.~~
879 ~~3. For purposes of this paragraph, "local employer" means~~
880 ~~any employer not included in paragraph (a) or paragraph (b).~~
881 (c) ~~(d)~~ Contributions available for self-direction by a
882 member who has not selected one or more specific investment
883 products shall be allocated as prescribed by the state board.
884 The third-party administrator shall notify the member at least
885 quarterly that the member should take an affirmative action to
886 make an asset allocation among the investment products.
887 (d) ~~(e)~~ On or after July 1, 2011, a member of the pension
888 plan who obtains a refund of employee contributions retains his
889 or her prior plan choice upon return to employment in a
890 regularly established position with a participating employer.
891 (e) ~~(f)~~ A member of the investment plan who takes a
892 distribution of any contributions from his or her investment
893 plan account is considered a retiree. A retiree who is initially
894 reemployed in a regularly established position on or after July
895 1, 2010, is not eligible to be enrolled in renewed membership.
896 (f) ~~(g)~~ After the period during which an eligible employee
897 had the choice to elect the pension plan or the investment plan,
898 or the month following the receipt of the eligible employee's
899 plan election, if sooner, the employee shall have one

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900 opportunity, at the employee's discretion, to choose to move
901 from the pension plan to the investment plan or from the
902 investment plan to the pension plan. Eligible employees may
903 elect to move between plans only if they are earning service
904 credit in an employer-employee relationship consistent with s.
905 121.021(17)(b), excluding leaves of absence without pay.
906 Effective July 1, 2005, such elections are effective on the
907 first day of the month following the receipt of the election by
908 the third-party administrator and are not subject to the
909 requirements regarding an employer-employee relationship or
910 receipt of contributions for the eligible employee in the
911 effective month, except when the election is received by the
912 third-party administrator. This paragraph is contingent upon
913 approval by the Internal Revenue Service. <u>This paragraph is not</u>
914 <u>applicable to compulsory investment plan members under paragraph</u>
915 <u>(g).</u>
916 1. If the employee chooses to move to the investment plan,
917 the provisions of subsection (3) govern the transfer.
918 2. If the employee chooses to move to the pension plan, the
919 employee must transfer from his or her investment plan account,
920 and from other employee moneys as necessary, a sum representing
921 the present value of that employee's accumulated benefit
922 obligation immediately following the time of such movement,
923 determined assuming that attained service equals the sum of
924 service in the pension plan and service in the investment plan.
925 Benefit commencement occurs on the first date the employee is
926 eligible for unreduced benefits, using the discount rate and
927 other relevant actuarial assumptions that were used to value the
928 pension plan liabilities in the most recent actuarial valuation.

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929 For any employee who, at the time of the second election,
930 already maintains an accrued benefit amount in the pension plan,
931 the then-present value of the accrued benefit is deemed part of
932 the required transfer amount. The division must ensure that the
933 transfer sum is prepared using a formula and methodology
934 certified by an enrolled actuary. A refund of any employee
935 contributions or additional member payments made which exceed
936 the employee contributions that would have accrued had the
937 member remained in the pension plan and not transferred to the
938 investment plan is not permitted.
939 3. Notwithstanding subparagraph 2., an employee who chooses
940 to move to the pension plan and who became eligible to
941 participate in the investment plan by reason of employment in a
942 regularly established position with a state employer after June
943 1, 2002; a district school board employer after September 1,
944 2002; or a local employer after December 1, 2002, must transfer
945 from his or her investment plan account, and from other employee
946 moneys as necessary, a sum representing the employee's actuarial
947 accrued liability. A refund of any employee contributions or
948 additional member ~~participant~~ payments made which exceed the
949 employee contributions that would have accrued had the member
950 remained in the pension plan and not transferred to the
951 investment plan is not permitted.
952 4. An employee's ability to transfer from the pension plan
953 to the investment plan pursuant to paragraphs (a) and (b)
954 ~~paragraphs (a)-(d)~~, and the ability of a current employee to
955 have an option to later transfer back into the pension plan
956 under subparagraph 2., shall be deemed a significant system
957 amendment. Pursuant to s. 121.031(4), any resulting unfunded

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958 liability arising from actual original transfers from the
959 pension plan to the investment plan must be amortized within 30
960 plan years as a separate unfunded actuarial base independent of
961 the reserve stabilization mechanism defined in s. 121.031(3)(f).
962 For the first 25 years, a direct amortization payment may not be
963 calculated for this base. During this 25-year period, the
964 separate base shall be used to offset the impact of employees
965 exercising their second program election under this paragraph.
966 The actuarial funded status of the pension plan will not be
967 affected by such second program elections in any significant
968 manner, after due recognition of the separate unfunded actuarial
969 base. Following the initial 25-year period, any remaining
970 balance of the original separate base shall be amortized over
971 the remaining 5 years of the required 30-year amortization
972 period.
973 5. If the employee chooses to transfer from the investment
974 plan to the pension plan and retains an excess account balance
975 in the investment plan after satisfying the buy-in requirements
976 under this paragraph, the excess may not be distributed until
977 the member retires from the pension plan. The excess account
978 balance may be rolled over to the pension plan and used to
979 purchase service credit or upgrade creditable service in the
980 pension plan.
981 (g)1. All employees initially enrolled on or after January
982 1, 2014, in positions covered by the Elected Officers' Class or
983 the Senior Management Service Class are compulsory members of
984 the investment plan, except those eligible to withdraw from the
985 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those
986 eligible for optional retirement programs under s.

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987 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. Employees
988 eligible to withdraw from the system under s. 121.052(3)(d) or
989 s. 121.055(1)(b)2. may choose to withdraw from the system or to
990 participate in the investment plan as provided in those
991 sections. Employees eligible for optional retirement programs
992 under s. 121.051(2)(c) or s. 121.35, except as provided in s.
993 121.051(1)(a), may choose to participate in the optional
994 retirement program or the investment plan as provided in those
995 sections. Investment plan membership continues if there is
996 subsequent employment in a position covered by another
997 membership class. Membership in the pension plan is not
998 permitted except as provided in s. 121.591(2). Employees
999 initially enrolled in the Florida Retirement System prior to
1000 January 1, 2014, may retain their membership in the pension plan
1001 or investment plan and are eligible to use the election
1002 opportunity specified in s. 121.4501(4)(f).
1003 2. Employees initially enrolled on or after January 1,
1004 2014, are not permitted to use the election opportunity
1005 specified in paragraph (f).
1006 3. The amount of retirement contributions paid by the
1007 employee and employer, as required under s. 121.72, shall be
1008 placed in a default fund as designated by the state board, until
1009 an account is activated in the investment plan, at which time
1010 the member may move the contributions from the default fund to
1011 other funds provided in the investment plan.
1012 (5) CONTRIBUTIONS.—
1013 (c) The state board, acting as plan fiduciary, must ensure
1014 that all plan assets are held in a trust, pursuant to s. 401 of
1015 the Internal Revenue Code. The fiduciary must ensure that such

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1016 contributions are allocated as follows:
1017 1. The employer and employee contribution portion earmarked
1018 for member accounts shall be used to purchase interests in the
1019 appropriate investment vehicles as specified by the member, or
1020 in accordance with paragraph (4)(c) ~~(4)(d)~~.
1021 2. The employer contribution portion earmarked for
1022 administrative and educational expenses shall be transferred to
1023 the Florida Retirement System Investment Plan Trust Fund.
1024 3. The employer contribution portion earmarked for
1025 disability benefits shall be transferred to the Florida
1026 Retirement System Trust Fund.
1027 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
1028 shall be administered by the state board and affected employers.
1029 The state board may require oaths, by affidavit or otherwise,
1030 and acknowledgments from persons in connection with the
1031 administration of its statutory duties and responsibilities for
1032 the investment plan. An oath, by affidavit or otherwise, may not
1033 be required of a member at the time of enrollment.
1034 Acknowledgment of an employee's election to participate in the
1035 program shall be no greater than necessary to confirm the
1036 employee's election except for members initially enrolled on or
1037 after January 1, 2014, as provided in paragraph (4)(g). The
1038 state board shall adopt rules to carry out its statutory duties
1039 with respect to administering the investment plan, including
1040 establishing the roles and responsibilities of affected state,
1041 local government, and education-related employers, the state
1042 board, the department, and third-party contractors. The
1043 department shall adopt rules necessary to administer the
1044 investment plan in coordination with the pension plan and the

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1045 disability benefits available under the investment plan.
1046 (a)1. The state board shall select and contract with a
1047 third-party administrator to provide administrative services if
1048 those services cannot be competitively and contractually
1049 provided by the division. With the approval of the state board,
1050 the third-party administrator may subcontract to provide
1051 components of the administrative services. As a cost of
1052 administration, the state board may compensate any such
1053 contractor for its services, in accordance with the terms of the
1054 contract, as is deemed necessary or proper by the board. The
1055 third-party administrator may not be an approved provider or be
1056 affiliated with an approved provider.
1057 2. These administrative services may include, but are not
1058 limited to, enrollment of eligible employees, collection of
1059 employer and employee contributions, disbursement of
1060 contributions to approved providers in accordance with the
1061 allocation directions of members; services relating to
1062 consolidated billing; individual and collective recordkeeping
1063 and accounting; asset purchase, control, and safekeeping; and
1064 direct disbursement of funds to and from the third-party
1065 administrator, the division, the state board, employers,
1066 members, approved providers, and beneficiaries. This section
1067 does not prevent or prohibit a bundled provider from providing
1068 any administrative or customer service, including accounting and
1069 administration of individual member benefits and contributions;
1070 individual member recordkeeping; asset purchase, control, and
1071 safekeeping; direct execution of the member’s instructions as to
1072 asset and contribution allocation; calculation of daily net
1073 asset values; direct access to member account information; or

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1074 periodic reporting to members, at least quarterly, on account
1075 balances and transactions, if these services are authorized by
1076 the state board as part of the contract.
1077 (b)1. The state board shall select and contract with one or
1078 more organizations to provide educational services. With
1079 approval of the state board, the organizations may subcontract
1080 to provide components of the educational services. As a cost of
1081 administration, the state board may compensate any such
1082 contractor for its services in accordance with the terms of the
1083 contract, as is deemed necessary or proper by the board. The
1084 education organization may not be an approved provider or be
1085 affiliated with an approved provider.
1086 2. Educational services shall be designed by the state
1087 board and department to assist employers, eligible employees,
1088 members, and beneficiaries in order to maintain compliance with
1089 United States Department of Labor regulations under s. 404(c) of
1090 the Employee Retirement Income Security Act of 1974 and to
1091 assist employees in their choice of pension plan or investment
1092 plan retirement alternatives. Educational services include, but
1093 are not limited to, disseminating educational materials;
1094 providing retirement planning education; explaining the pension
1095 plan and the investment plan; and offering financial planning
1096 guidance on matters such as investment diversification,
1097 investment risks, investment costs, and asset allocation. An
1098 approved provider may also provide educational information,
1099 including retirement planning and investment allocation
1100 information concerning its products and services.
1101 (c)1. In evaluating and selecting a third-party
1102 administrator, the state board shall establish criteria for

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1103 evaluating the relative capabilities and qualifications of each
1104 proposed administrator. In developing such criteria, the state
1105 board shall consider:
1106 a. The administrator’s demonstrated experience in providing
1107 administrative services to public or private sector retirement
1108 systems.
1109 b. The administrator’s demonstrated experience in providing
1110 daily valued recordkeeping to defined contribution programs.
1111 c. The administrator’s ability and willingness to
1112 coordinate its activities with employers, the state board, and
1113 the division, and to supply to such employers, the board, and
1114 the division the information and data they require, including,
1115 but not limited to, monthly management reports, quarterly member
1116 reports, and ad hoc reports requested by the department or state
1117 board.
1118 d. The cost-effectiveness and levels of the administrative
1119 services provided.
1120 e. The administrator’s ability to interact with the
1121 members, the employers, the state board, the division, and the
1122 providers; the means by which members may access account
1123 information, direct investment of contributions, make changes to
1124 their accounts, transfer moneys between available investment
1125 vehicles, and transfer moneys between investment products; and
1126 any fees that apply to such activities.
1127 f. Any other factor deemed necessary by the state board.
1128 2. In evaluating and selecting an educational provider, the
1129 state board shall establish criteria under which it shall
1130 consider the relative capabilities and qualifications of each
1131 proposed educational provider. In developing such criteria, the

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1132 state board shall consider:
1133 a. Demonstrated experience in providing educational
1134 services to public or private sector retirement systems.
1135 b. Ability and willingness to coordinate its activities
1136 with the employers, the state board, and the division, and to
1137 supply to such employers, the board, and the division the
1138 information and data they require, including, but not limited
1139 to, reports on educational contacts.
1140 c. The cost-effectiveness and levels of the educational
1141 services provided.
1142 d. Ability to provide educational services via different
1143 media, including, but not limited to, the Internet, personal
1144 contact, seminars, brochures, and newsletters.
1145 e. Any other factor deemed necessary by the state board.
1146 3. The establishment of the criteria shall be solely within
1147 the discretion of the state board.
1148 (d) The state board shall develop the form and content of
1149 any contracts to be offered under the investment plan. In
1150 developing the contracts, the board shall consider:
1151 1. The nature and extent of the rights and benefits to be
1152 afforded in relation to the contributions required under the
1153 plan.
1154 2. The suitability of the rights and benefits provided and
1155 the interests of employers in the recruitment and retention of
1156 eligible employees.
1157 (e)1. The state board may contract for professional
1158 services, including legal, consulting, accounting, and actuarial
1159 services, deemed necessary to implement and administer the
1160 investment plan. The state board may enter into a contract with

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1161 one or more vendors to provide low-cost investment advice to
1162 members, supplemental to education provided by the third-party
1163 administrator. All fees under any such contract shall be paid by
1164 those members who choose to use the services of the vendor.
1165 2. The department may contract for professional services,
1166 including legal, consulting, accounting, and actuarial services,
1167 deemed necessary to implement and administer the investment plan
1168 in coordination with the pension plan. The department, in
1169 coordination with the state board, may enter into a contract
1170 with the third-party administrator in order to coordinate
1171 services common to the various programs within the Florida
1172 Retirement System.
1173 (f) The third-party administrator may not receive direct or
1174 indirect compensation from an approved provider, except as
1175 specifically provided for in the contract with the state board.
1176 (g) The state board shall receive and resolve member
1177 complaints against the program, the third-party administrator,
1178 or any program vendor or provider; shall resolve any conflict
1179 between the third-party administrator and an approved provider
1180 if such conflict threatens the implementation or administration
1181 of the program or the quality of services to employees; and may
1182 resolve any other conflicts. The third-party administrator shall
1183 retain all member records for at least 5 years for use in
1184 resolving any member conflicts. The state board, the third-party
1185 administrator, or a provider is not required to produce
1186 documentation or an audio recording to justify action taken with
1187 regard to a member if the action occurred 5 or more years before
1188 the complaint is submitted to the state board. It is presumed
1189 that all action taken 5 or more years before the complaint is

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1190 submitted was taken at the request of the member and with the
1191 member's full knowledge and consent. To overcome this
1192 presumption, the member must present documentary evidence or an
1193 audio recording demonstrating otherwise.
1194 (10) EDUCATION COMPONENT.—
1195 (a) The state board, in coordination with the department,
1196 shall provide for an education component for eligible employees
1197 ~~system members~~ in a manner consistent with the provisions of
1198 this subsection ~~section~~. ~~The education component must be~~
1199 ~~available to eligible employees at least 90 days prior to the~~
1200 ~~beginning date of the election period for the employees of the~~
1201 ~~respective types of employers.~~
1202 (b) The education component must provide system members
1203 with impartial and balanced information about plan choices
1204 except for members initially enrolled on or after January 1,
1205 2014, as provided in paragraph (4)(g). The education component
1206 must involve multimedia formats. Program comparisons must, to
1207 the greatest extent possible, be based upon the retirement
1208 income that different retirement programs may provide to the
1209 member. The state board shall monitor the performance of the
1210 contract to ensure that the program is conducted in accordance
1211 with the contract, applicable law, and the rules of the state
1212 board.
1213 (c) The state board, in coordination with the department,
1214 shall provide for an initial and ongoing transfer education
1215 component to provide system members except for those members
1216 initially enrolled on or after January 1, 2014, as provided in
1217 paragraph (4)(g), with information necessary to make informed
1218 plan choice decisions. The transfer education component must

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1219 include, but is not limited to, information on:
1220 1. The amount of money available to a member to transfer to
1221 the defined contribution program.
1222 2. The features of and differences between the pension plan
1223 and the defined contribution program, both generally and
1224 specifically, as those differences may affect the member.
1225 3. The expected benefit available if the member were to
1226 retire under each of the retirement programs, based on
1227 appropriate alternative sets of assumptions.
1228 4. The rate of return from investments in the defined
1229 contribution program and the period of time over which such rate
1230 of return must be achieved to equal or exceed the expected
1231 monthly benefit payable to the member under the pension plan.
1232 5. The historical rates of return for the investment
1233 alternatives available in the defined contribution programs.
1234 6. The benefits and historical rates of return on
1235 investments available in a typical deferred compensation plan or
1236 a typical plan under s. 403(b) of the Internal Revenue Code for
1237 which the employee may be eligible.
1238 7. The program choices available to employees of the State
1239 University System and the comparative benefits of each available
1240 program, if applicable.
1241 8. Payout options available in each of the retirement
1242 programs.
1243 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
1244 ~~System employers have an obligation to regularly communicate the~~
1245 ~~existence of the two Florida Retirement System plans and the~~
1246 ~~plan choice in the natural course of administering their~~
1247 ~~personnel functions, using the educational materials supplied by~~

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1248 ~~the state board and the Department of Management Services.~~
1249 Section 7. Paragraph (b) of subsection (2) of section
1250 121.591, Florida Statutes, is amended to read:
1251 121.591 Payment of benefits.—Benefits may not be paid under
1252 the Florida Retirement System Investment Plan unless the member
1253 has terminated employment as provided in s. 121.021(39)(a) or is
1254 deceased and a proper application has been filed as prescribed
1255 by the state board or the department. Benefits, including
1256 employee contributions, are not payable under the investment
1257 plan for employee hardships, unforeseeable emergencies, loans,
1258 medical expenses, educational expenses, purchase of a principal
1259 residence, payments necessary to prevent eviction or foreclosure
1260 on an employee's principal residence, or any other reason except
1261 a requested distribution for retirement, a mandatory de minimis
1262 distribution authorized by the administrator, or a required
1263 minimum distribution provided pursuant to the Internal Revenue
1264 Code. The state board or department, as appropriate, may cancel
1265 an application for retirement benefits if the member or
1266 beneficiary fails to timely provide the information and
1267 documents required by this chapter and the rules of the state
1268 board and department. In accordance with their respective
1269 responsibilities, the state board and the department shall adopt
1270 rules establishing procedures for application for retirement
1271 benefits and for the cancellation of such application if the
1272 required information or documents are not received. The state
1273 board and the department, as appropriate, are authorized to cash
1274 out a de minimis account of a member who has been terminated
1275 from Florida Retirement System covered employment for a minimum
1276 of 6 calendar months. A de minimis account is an account

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1277 containing employer and employee contributions and accumulated
1278 earnings of not more than $5,000 made under the provisions of
1279 this chapter. Such cash-out must be a complete lump-sum
1280 liquidation of the account balance, subject to the provisions of
1281 the Internal Revenue Code, or a lump-sum direct rollover
1282 distribution paid directly to the custodian of an eligible
1283 retirement plan, as defined by the Internal Revenue Code, on
1284 behalf of the member. Any nonvested accumulations and associated
1285 service credit, including amounts transferred to the suspense
1286 account of the Florida Retirement System Investment Plan Trust
1287 Fund authorized under s. 121.4501(6), shall be forfeited upon
1288 payment of any vested benefit to a member or beneficiary, except
1289 for de minimis distributions or minimum required distributions
1290 as provided under this section. If any financial instrument
1291 issued for the payment of retirement benefits under this section
1292 is not presented for payment within 180 days after the last day
1293 of the month in which it was originally issued, the third-party
1294 administrator or other duly authorized agent of the state board
1295 shall cancel the instrument and credit the amount of the
1296 instrument to the suspense account of the Florida Retirement
1297 System Investment Plan Trust Fund authorized under s.
1298 121.4501(6). Any amounts transferred to the suspense account are
1299 payable upon a proper application, not to include earnings
1300 thereon, as provided in this section, within 10 years after the
1301 last day of the month in which the instrument was originally
1302 issued, after which time such amounts and any earnings
1303 attributable to employer contributions shall be forfeited. Any
1304 forfeited amounts are assets of the trust fund and are not
1305 subject to chapter 717.

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1306 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
1307 this subsection are payable in lieu of the benefits that would
1308 otherwise be payable under the provisions of subsection (1).
1309 Such benefits must be funded from employer contributions made
1310 under s. 121.571, transferred employee contributions and funds
1311 accumulated pursuant to paragraph (a), and interest and earnings
1312 thereon.
1313 (b) *Disability retirement; entitlement.*—
1314 1.a. A member of the investment plan initially enrolled
1315 before January 1, 2014, who becomes totally and permanently
1316 disabled, as defined in paragraph (d), after completing 8 years
1317 of creditable service, or a member who becomes totally and
1318 permanently disabled in the line of duty regardless of length of
1319 service, is entitled to a monthly disability benefit.
1320 b. A member of the investment plan initially enrolled on or
1321 after January 1, 2014, who becomes totally and permanently
1322 disabled, as defined in paragraph (d), after completing 10 years
1323 of creditable service, or a member who becomes totally and
1324 permanently disabled in the line of duty regardless of service,
1325 is entitled to a monthly disability benefit.
1326 2. In order for service to apply toward the ~~8~~ years of
1327 creditable service required for regular disability benefits, or
1328 toward the creditable service used in calculating a service-
1329 based benefit as provided under paragraph (g), the service must
1330 be creditable service as described below:
1331 a. The member’s period of service under the investment plan
1332 shall be considered creditable service, except as provided in
1333 subparagraph d.
1334 b. If the member has elected to retain credit for service

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1335 under the pension plan as provided under s. 121.4501(3), all
1336 such service shall be considered creditable service.
1337 c. If the member elects to transfer to his or her member
1338 accounts a sum representing the present value of his or her
1339 retirement credit under the pension plan as provided under s.
1340 121.4501(3), the period of service under the pension plan
1341 represented in the present value amounts transferred shall be
1342 considered creditable service, except as provided in
1343 subparagraph d.
1344 d. If a member has terminated employment and has taken
1345 distribution of his or her funds as provided in subsection (1),
1346 all creditable service represented by such distributed funds is
1347 forfeited for purposes of this subsection.
1348 Section 8. Subsection (3) of section 121.71, Florida
1349 Statutes, is amended to read:
1350 121.71 Uniform rates; process; calculations; levy.—
1351 (3)(a) Required employee retirement contribution rates for
1352 each membership class and subclass of the Florida Retirement
1353 System for the pension plan ~~both retirement plans~~ are as
1354 follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, 2011
1355	
1356	
Regular Class	3.00%

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1357

Special Risk Class	3.00%

1358

Special Risk Administrative Support Class	3.00%

1359

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	3.00%

1360

Elected Officers' Class— Justices, Judges	3.00%

1361

Elected Officers' Class— County Elected Officers	3.00%

1362

Senior Management Service Class	3.00%

1363

DROP	0.00%

1364

1365 (b) Required employee retirement contribution rates for
1366 each membership class and subclass of the Florida Retirement
1367 System for the investment plan are as follows:

Membership Class	Percentage of Gross	Percentage of Gross

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	Compensation, Effective July 1, 2011	Compensation, Effective January 1, 2014
1368		
1369 Regular Class	3.00%	2.00%
1370 Special Risk Class	3.00%	2.00%
1371 Special Risk Administrative Support Class	3.00%	2.00%
1372 Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	3.00%	2.00%
1373 Elected Officers' Class— Justices, Judges	3.00%	2.00%

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1374

Elected Officers' Class— County Elected Officers	3.00%	2.00%

1375

Senior Management Service Class	3.00%	2.00%

1376

1377 Section 9. Paragraph (a) of subsection (4) of section
1378 121.35, Florida Statutes, is amended to read:
1379 121.35 Optional retirement program for the State University
1380 System.—
1381 (4) CONTRIBUTIONS.—
1382 (a)1. Through June 30, 2001, each employer shall contribute
1383 on behalf of each member of the optional retirement program an
1384 amount equal to the normal cost portion of the employer
1385 retirement contribution which would be required if the employee
1386 were a regular member of the Florida Retirement System Pension
1387 Plan, plus the portion of the contribution rate required in s.
1388 112.363(8) that would otherwise be assigned to the Retiree
1389 Health Insurance Subsidy Trust Fund.
1390 2. Effective July 1, 2001, through June 30, 2011, each
1391 employer shall contribute on behalf of each member of the
1392 optional retirement program an amount equal to 10.43 percent of
1393 the employee's gross monthly compensation.
1394 3. Effective July 1, 2011, through June 30, 2012, each
1395 member of the optional retirement program shall contribute an
1396 amount equal to the employee contribution required in s.

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1397 121.71(3)(a). The employer shall contribute on behalf of each
1398 such member an amount equal to the difference between 10.43
1399 percent of the employee's gross monthly compensation and the
1400 amount equal to the employee's required contribution based on
1401 the employee's gross monthly compensation.
1402 4. Effective July 1, 2012, each member of the optional
1403 retirement program shall contribute an amount equal to the
1404 employee contribution required in s. 121.71(3)(a). The employer
1405 shall contribute on behalf of each such member an amount equal
1406 to the difference between 8.15 percent of the employee's gross
1407 monthly compensation and the amount equal to the employee's
1408 required contribution based on the employee's gross monthly
1409 compensation.
1410 5. The payment of the contributions, including
1411 contributions by the employee, shall be made by the employer to
1412 the department, which shall forward the contributions to the
1413 designated company or companies contracting for payment of
1414 benefits for members of the program. However, such contributions
1415 paid on behalf of an employee described in paragraph (3)(c) may
1416 not be forwarded to a company and do not begin to accrue
1417 interest until the employee has executed a contract and notified
1418 the department. The department shall deduct an amount from the
1419 contributions to provide for the administration of this program.
1420 Section 10. Section 238.072, Florida Statutes, is amended
1421 to read:
1422 238.072 Special service provisions for extension
1423 personnel.—All state and county cooperative extension personnel
1424 holding appointments by the United States Department of
1425 Agriculture for extension work in agriculture and home economics

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1426 in this state who are joint representatives of the University of
1427 Florida and the United States Department of Agriculture, as
1428 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
1429 Teachers' Retirement System, chapter 238, and who are prohibited
1430 from transferring to and participating in the Florida Retirement
1431 System, chapter 121, may retire with full benefits upon
1432 completion of 30 years of creditable service and shall be
1433 considered to have attained normal retirement age under this
1434 chapter, any law to the contrary notwithstanding. In order to
1435 comply with the provisions of s. 14, Art. X of the State
1436 Constitution, any liability accruing to the Florida Retirement
1437 System Trust Fund as a result of the provisions of this section
1438 shall be paid on an annual basis from the General Revenue Fund.
1439 Section 11. Subsection (11) of section 413.051, Florida
1440 Statutes, is amended to read:
1441 413.051 Eligible blind persons; operation of vending
1442 stands.—
1443 (11) Effective July 1, 1996, blind licensees who remain
1444 members of the Florida Retirement System pursuant to s.
1445 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
1446 retirement costs from their net profits or from program income.
1447 Within 30 days after the effective date of this act, each blind
1448 licensee who is eligible to maintain membership in the Florida
1449 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
1450 who elects to withdraw from the system as provided in s.
1451 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
1452 1996, notify the Division of Blind Services and the Department
1453 of Management Services in writing of his or her election to
1454 withdraw. Failure to timely notify the divisions shall be deemed

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1455 a decision to remain a compulsory member of the Florida
1456 Retirement System. However, if, at any time after July 1, 1996,
1457 sufficient funds are not paid by a blind licensee to cover the
1458 required contribution to the Florida Retirement System, that
1459 blind licensee shall become ineligible to participate in the
1460 Florida Retirement System on the last day of the first month for
1461 which no contribution is made or the amount contributed is
1462 insufficient to cover the required contribution. For any blind
1463 licensee who becomes ineligible to participate in the Florida
1464 Retirement System as described in this subsection, no creditable
1465 service shall be earned under the Florida Retirement System for
1466 any period following the month that retirement contributions
1467 ceased to be reported. However, any such person may participate
1468 in the Florida Retirement System in the future if employed by a
1469 participating employer in a covered position.
1470 Section 12. Paragraph (a) of subsection (4) of section
1471 1012.875, Florida Statutes, is amended to read:
1472 1012.875 State Community College System Optional Retirement
1473 Program.—Each Florida College System institution may implement
1474 an optional retirement program, if such program is established
1475 therefor pursuant to s. 1001.64(20), under which annuity or
1476 other contracts providing retirement and death benefits may be
1477 purchased by, and on behalf of, eligible employees who
1478 participate in the program, in accordance with s. 403(b) of the
1479 Internal Revenue Code. Except as otherwise provided herein, this
1480 retirement program, which shall be known as the State Community
1481 College System Optional Retirement Program, may be implemented
1482 and administered only by an individual Florida College System
1483 institution or by a consortium of Florida College System

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1484 institutions.
1485 (4)(a)1. Through June 30, 2011, each college must
1486 contribute on behalf of each program member an amount equal to
1487 10.43 percent of the employee's gross monthly compensation.
1488 2. Effective July 1, 2011, through June 30, 2012, each
1489 member shall contribute an amount equal to the employee
1490 contribution required under s. 121.71(3)(a). The employer shall
1491 contribute on behalf of each program member an amount equal to
1492 the difference between 10.43 percent of the employee's gross
1493 monthly compensation and the employee's required contribution
1494 based on the employee's gross monthly compensation.
1495 3. Effective July 1, 2012, each member shall contribute an
1496 amount equal to the employee contribution required under s.
1497 121.71(3)(a). The employer shall contribute on behalf of each
1498 program member an amount equal to the difference between 8.15
1499 percent of the employee's gross monthly compensation and the
1500 employee's required contribution based on the employee's gross
1501 monthly compensation.
1502 4. The college shall deduct an amount approved by the
1503 district board of trustees of the college to provide for the
1504 administration of the optional retirement program. Payment of
1505 this contribution must be made directly by the college or
1506 through the program administrator to the designated company
1507 contracting for payment of benefits to the program member.
1508 Section 13. (1) In order to fund the benefit changes
1509 provided for in this act, the required employer contribution
1510 rates of the Florida Retirement System established in 121.71(4),
1511 Florida Statutes, shall be adjusted as follows:
1512 (a) The Regular Class is increased by X.XX percentage

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1513 points.
1514 (b) The Special Risk Class is increased by X.XX percentage
1515 points.
1516 (c) The Special Risk Administrative Support Class is
1517 increased by X.XX percentage points.
1518 (d) The Elected Officers' Class—Legislators, Governor, Lt.
1519 Governor, Cabinet Officers, State Attorneys, Public Defenders is
1520 increased by X.XX percentage points.
1521 (e) The Elected Officers' Class—Justices, Judges is
1522 increased by X.XX percentage points.
1523 (f) The Elected Officer's Class—County Elected Officers is
1524 increased by X.XX percentage points.
1525 (g) The Senior Management Service Class is increased by
1526 X.XX percentage points.
1527 (h) The DROP class is increased by X.XX percentage points.
1528 (2) In order to fund for the benefit changes provided for
1529 in this act, the required employer contribution rates for the
1530 unfunded actuarial liability of the Florida Retirement System
1531 established in s. 121.71(5), Florida Statutes, shall be adjusted
1532 as follows:
1533 (a) The Regular Class is increased by X.XX percentage
1534 points.
1535 (b) The Special Risk Class is increased by X.XX percentage
1536 points.
1537 (c) The Special Risk Administrative Support Class is
1538 increased by X.XX percentage points.
1539 (d) The Elected Officers' Class—Legislators, Governor, Lt.
1540 Governor, Cabinet Officers, State Attorneys, Public Defenders is
1541 increased by X.XX percentage points.

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1542 (e) The Elected Officers' Class—Justices, Judges is
1543 increased by X.XX percentage points.
1544 (f) The Elected Officer's Class—County Elected Officers is
1545 increased by X.XX percentage points.
1546 (g) The Senior Management Service Class is increased by
1547 X.XX percentage points.
1548 (h) The DROP class is increased by X.XX percentage points.
1549 (3) The adjustments provided in subsections (1) and (2)
1550 shall be made in addition to other changes to such contribution
1551 rates which may be enacted into law to take effect on July 1,
1552 2013, and July 1, 2014. The Division of Law Revision and
1553 Information is requested to adjust accordingly the contribution
1554 rates provided in s. 121.71, Florida Statutes.
1555 Section 14. The Legislature finds that a proper and
1556 legitimate state purpose is served when employees and retirees
1557 of the state and its political subdivisions, and the dependents,
1558 survivors, and beneficiaries of such employees and retirees, are
1559 extended the basic protections afforded by governmental
1560 retirement systems. These persons must be provided benefits that
1561 are fair and adequate and that are managed, administered, and
1562 funded in an actuarially sound manner, as required by s. 14,
1563 Article X of the State Constitution and part VII of chapter 112,
1564 Florida Statutes. Therefore, the Legislature determines and
1565 declares that this act fulfills an important state interest.
1566 Section 15. This act shall take effect 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)

Meeting Date: _____

Topic: FRS

Bill Number: 1392 (if applicable)

Name: Steve Richards

Amendment Barcode: _____ (if applicable)

Job Title: Teacher

Address: 2823 Bolton Rd. #101 (Street)

Orange Park FL 32073 (City, State, Zip)

Phone: 904-214-4321

E-mail: ccea2011@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: CCEA/FEA

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)

3/20/2013
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Dr. Ana Cieveszko

Amendment Barcode: _____ *(if applicable)*

Job Title: Leg. Director UFMDC

Address: 11 ~~42~~ DSW ~~[illegible]~~ 88 St Ste 107
Street

Miami FL 33176
City *State* *Zip*

Phone: 305 321 0016

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: United Faculty of Miami Dade College

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)

3-20-13
Meeting Date

Topic: PENSIONS

Bill Number: 1392 *(if applicable)*

Name: Howard GIRALDO

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT FOP LODGE 133

Address: 302 E. 6 ST
Street

Hialeah, FL 33010
City *State* *Zip*

Phone: 305 219 1282

E-mail: howardvspc@gmail.com

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)

3/20/13
Meeting Date

Topic: PENSIONS

Bill Number: 1392 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: (if applicable)

Job Title: CHAIR, COUNCIL of FLORIDA

Address: PO BOX 1766
Street

POMPANO BEACH 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

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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)

3-20-93
Meeting Date

Topic: Pension Reform

Bill Number: 1392 (if applicable)

Name: FRANK FABRIZIO

Amendment Barcode: (if applicable)

Job Title: Chief

Address: 4301 S. Peninsula Dr.
Street

Phone: 386-236-2160

Ponce Inlet, Fl 32127
City State Zip

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: PONCE INLET P.D.

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)

3-20-13
Meeting Date

Topic: ~~AGENT~~ FRS

Bill Number: 1392 *(if applicable)*

Name: GUY T. MASTERS

Amendment Barcode: *(if applicable)*

Job Title: SELF

Address: 602 SE DEAN TER.
Street

PORT ST. LUCIE, FL. 34984
City *State* *Zip*

Phone: 954-648-0799

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: SELF

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20
Meeting Date

Topic _____

Bill Number SB 1392 (if applicable)

Name Gary Rainey

Amendment Barcode _____ (if applicable)

Job Title President

Address 345 W Madison St.
Street

Tallahassee Fl 32301
City State Zip

Phone 850 224 7333

E-mail raineyg@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Professional Firefighters

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)

3/20/13
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Rich Templin

Amendment Barcode: *(if applicable)*

Job Title:

Address: 135 S. Monroe
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-6926

E-mail:

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

Representing: Florida AFL-CIO

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Florida Retirement System

Bill Number: 1392 (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.o

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: ERS

Bill Number: 1392 (if applicable)

Name: Lynda Russell

Amendment Barcode: _____ (if applicable)

Job Title: Public Policy Advocate

Address: 213 S Adams
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2078

E-mail: _____

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

Representing: Florida Education Association

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

Lobbyist registered with Legislature: [X] Yes [ ] I

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at thi 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 (10/2

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: SB 1392 Retirement

Bill Number: 1392 *(if applicable)*

Name: Jon Costello

Amendment Barcode: *(if applicable)*

Job Title: Lobbyist

Address: 4142 Four Oaks Blvd
Street

Tallahassee, FL 32311
City *State* *Zip*

Phone: 850-766-8654

E-mail: JON@REUPHLAW.com

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

Representing: Associated Industries of Florida

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

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

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

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S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: Pension Plan

Bill Number: 1392 (if applicable)

Name: LINDA EDSON

Amendment Barcode: _____ (if applicable)

Job Title: Legislative Chair for Florida Retired Educators Association

Address: 1841 Myrick Rd.
Street

Tallahassee, Fl. 32303
City, State, Zip

Phone: 850-385-3196

E-mail: edsonl@nettally.co

Speaking: ☐ For ☒ Against ☐ Information

Representing: Florida Retired Educators Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2013
Meeting Date

Topic: FRS retirement

Bill Number: 1392 *(if applicable)*

Name: Pat Dix

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Specialist

Address: 213 S. Adams Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-274-8781

E-mail: pat.dix@floridea.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: FL Education Assn

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)

3/20/13
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 S. Bronough Street
Street

Tallahassee — *City*
FL — *State*
32301 — *Zip*

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic: Retirement Bill

Bill Number: CS/SB 1392 *(if applicable)*

Name: Chris Hansen

Amendment Barcode: *(if applicable)*

Job Title: Gray Robinson

Address: *Street*

City Tallahassee *State* FL *Zip* 32301

Phone: 850/577-9090

E-mail: chansen@gray-robinson.com

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

Representing: Association of Florida Colleges

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

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

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S-001 (10/20/

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: Retirement

Bill Number: SB 1392 *(if applicable)*

Name: Elizabeth Engelman

Amendment Barcode: *(if applicable)*

Job Title: teacher

Address: P.O. Box 2633
Street

Bunnell FL 32110
City *State* *Zip*

Phone: 386-527-2160

E-mail: elizabethengelman@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Volusia Teachers Organization

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)

20 March 2013
Meeting Date

Topic: Retirement.

Bill Number: SB 1392 *(if applicable)*

Name: Sabrina Sandifer-White

Amendment Barcode: *(if applicable)*

Job Title: EISM Worker leader

Address: 54226 Vikki Rd
Street

Callahan FL 32011
City *State* *Zip*

Phone: (904) 879 7461

E-mail: tfiyama20@AOL.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: FRS

Bill Number: 1392 *(if applicable)*

Name: Richard Smith

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 4250 Sterling St.
Street

Mims, Fl 32754
City *State* *Zip*

Phone: 321-749-4130

E-mail: KingofSail@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Brevard Federation of Teachers / Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ N

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S-001 (10/2

THE FLORIDA SENATE

APPEARANCE RECORD

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

20-March-13
Meeting Date

Topic: Florida Retirement System

Bill Number: SB1392 *(if applicable)*

Name: David Murrell

Amendment Barcode: *(if applicable)*

Job Title: Director of Legislative Services

Address: 300 E. Brevard St.
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-222-5329

E-mail: davidm@flpba.org

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

Representing: Florida Police Benevolent Association

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

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

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S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 20, 2013
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Bob Dillinger

Amendment Barcode: *(if applicable)*

Job Title: Public Defender

Address: 103 North Gadsden Street
Street

Tallahassee — *City*
Florida — *State*
32301 — *Zip*

Phone: 850.488.6850

E-mail: bdilling@co.pinellas.fl.us

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

Representing: Florida Public Defender Association, Inc.

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)

3/20/2013
Meeting Date

Topic: SB 1392

Bill Number: SB 1392 *(if applicable)*

Name: Sammie Lee Jones, III

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 4521 NW 21st Drive
Street

Gainesville, FL 32605
City, State, Zip

Phone: (904) 861-8524

E-mail: sammiejay357@gmail.co

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

Representing: _____

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

3/20/2013
Meeting Date

Topic: Retirement

Bill Number: SB 1392 (if applicable)

Name: Richard Boyd

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 3351 sw 42nd pl
Street

Gainesville, FL 32608
City, State, Zip

Phone: 352-534-4571

E-mail: rboyd111@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Jorge Lugo

Amendment Barcode: *(if applicable)*

Job Title: Teacher

Address: 5004 Citrus Manor SW
Street

Vero Beach, FL 32968
City, State, Zip

Phone: (772) 584-2777

E-mail: j-lugo71@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)

3/20/13
Meeting Date

Topic: Pension

Bill Number: 1392 *(if applicable)*

Name: Micheal Dickens

Amendment Barcode: _____ *(if applicable)*

Job Title: Diesel Tech

Address: 420 MT Vernon CT
Street

Eustis, FL 32726
City *State* *Zip*

Phone: 407 756-0333

E-mail: Upmaint@cfl.rr.com

Speaking: ☒ ~~For~~ ☒ Against ☐ Information

Representing: ATU Local 1596 Orlando

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)

3-20-13
Meeting Date

Topic: Pension

Bill Number: 1392 *(if applicable)*

Name: MaryAnn Taylor

Amendment Barcode: *(if applicable)*

Job Title: Driver

Address: 10430 Windsor PL
Street

Orlando, FL 32821
City *State* *Zip*

Phone:

E-mail: FST@CFL.RR.COM

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)

3/20/13
Meeting Date

Topic: Retirement

Bill Number: 1392 *(if applicable)*

Name: Nina Cranseder.

Amendment Barcode: _____ *(if applicable)*

Job Title: Correctional Officer Sgt.

Address: 5235 Florida Palm Ave
Street

Cocoa, Fl. 32927
City *State* *Zip*

Phone: 321-501-3597

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)

3/20/2013
Meeting Date

Topic: F. R. S.

Bill Number: S. B. 1392 *(if applicable)*

Name: Javier Almazan

Amendment Barcode: *(if applicable)*

Job Title: UNION ORGANIZER / Business Rep.

Address: 125 N.W. 2nd Ave
Street

South Boy, FL 33493
City *State* *Zip*

Phone: 321-652-2184

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: SEIF

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)

3/20/13
Meeting Date

Topic: Retirement

Bill Number: SB 1392 *(if applicable)*

Name: Linda M Donahue

Amendment Barcode: *(if applicable)*

Job Title: machinist

Address: 5235 Florida Palm Ave
Street

Cocoa, FL 32927
City, State, Zip

Phone: 321-544-0213

E-mail: BOOLMD@AOL.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)

3/20/13
Meeting Date

Topic: RETIREMENT

Bill Number: SB 1392 *(if applicable)*

Name: WILLIAM WETHMAN

Amendment Barcode: *(if applicable)*

Job Title: MACHINIST

Address: 4636 PHILIPS MANOR PLACE
Street

FERNANDINA BEACH, FL. 32034
City *State* *Zip*

Phone: (904) 277-4935

E-mail: WILLIAM.WETHMAN@NAVY.MI

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: FRS

Bill Number: 1392 (if applicable)

Name: Robert Livingston

Amendment Barcode: (if applicable)

Job Title:

Address: 274 Galbraith Av.
Street

Oak Hill, Fl. 32759
City, State, Zip

Phone:

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2013
Meeting Date

Topic: Retirement

Bill Number: SB 1392 *(if applicabl*

Name: Mike Phillips

Amendment Barcode: *(if applicabl*

Job Title:

Address: 6089 Kocol Lane
Street

Cocoa FL. 32927
City *State* *Zip*

Phone: 321. 504. 7907

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ N

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S-001 (10/20

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-20-13
Meeting Date

Topic: Pension

Bill Number: 1392 *(if applicable)*

Name: Jim Junecko

Amendment Barcode: _____ *(if applicable)*

Job Title: Executive Director

Address: 701 NE 67th St. #1
Street

Miami, FL 33138
City, State, Zip

Phone: 407-346-3528

E-mail: Jim.Junecko@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑

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S-001 (10

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 1122

INTRODUCER: Senators Simpson and Dean

SUBJECT: Florida Fire Prevention Code

DATE: March 17, 2013 REVISED:

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

I. Summary:

SB 1122 provides for the following exemptions from the Florida Fire Prevention Code:

- certain dwellings within a local government with a population of fewer than 30,000 residents are exempt from any fire flow requirements,
- specified businesses are exempt from any 2-hour or longer fire-rated wall requirements, and
- designated agricultural operations are entirely exempt from the code.

This bill amends section 633.0215 of the Florida Statutes.

II. Present Situation:

Fire Safety and Building Provisions in Florida

The Division of State Fire Marshall, housed within the Department of Financial Services, is responsible for protecting Floridians from fire hazards pursuant to ch. 633, F.S. Section 633.0215(1), F.S., requires the State Fire Marshal to adopt by rule the latest editions of the National Fire Protection Association (NFPA) codes every three years. These NFPA codes serve as a base code for the Florida Fire Prevention Code (FFPC). Local governments enforce the FFPC as a minimum standard although they may adopt more stringent fire safety standards within their own jurisdictions subject to requirements provided in s. 633.025(4), F.S. The 2010 FFPC was adopted on December 31, 2011.

The Fire Safety Code operates in conjunction with the Florida Building Code (Building Code) adopted pursuant to ch. 553, F.S. The Building Code governs the design and construction of buildings and structures in the state and is developed and modified by the Florida Building

Commission (Commission).[1] The Commission maintains and updates the Building Code and its component codes for plumbing, electrical, mechanical, energy conservation, accessibility, structural, and fire systems in buildings. The Building Code, like the FFPC, is adopted every three years and utilizes international codes as a foundation for Florida's base code. Enforcement of the Building Code is also similar to the FFPC: local governments bear this responsibility and may adopt more stringent code requirements within their own jurisdictions subject to provisions.[2]

Conflicts between the FFPC and the Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Commission in favor of requirements offering the greatest degree of life safety.[3] If the State Fire Marshal and Commission are unable to agree on a resolution to a conflict, the issue goes to a mediator.

Fire Flow

Fire flow is water required for fire-fighting purposes which usually consists of a system of underground piping and fire hydrants. Fire flow is often installed when building lots are created, but when required, will always need to be in place prior to construction of a building or use of the property. Fire flow usually consists of fire hydrants properly located on a public water line, but could also be smaller public or private water supplies or systems.

The current 2010 edition of the FFPC, effective December 31, 2011, adopted the 2009 editions of NFPA 1 and 101.[4] In the previous edition of the FFPC (2007), the fire flow table was in the annex of the NFPA 1 and listed as recommended. The 2009 edition of NFPA 1 moved the table to the "base code" (NFPA 1:18.4). The current code specifies requirements for fire flow in both residential and commercial buildings.[5]

Fire Rated Walls or Partitions in the FFPC

Chapter 6 of the FFPC outlines several occupancy classifications for buildings and structures. A business occupancy is defined as one used for the transaction of business other than mercantile; a mercantile occupancy is one used for the display and sale of merchandise. A separated occupancy is one in which two or more classifications exist separated by a fire-resistance rated assembly. These occupancy separations are categorized as 3-hour fire resistance-rated, 2-hour fire resistance-rated, or 1-hour fire resistance-rated. Fire resistance ratings are permitted to be reduced by 1 hour where the building is protected throughout by an approved automatic sprinkler system.[6]

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[1] Pursuant to s. 553.74, F.S., the Commission is a 25-member technical body appointed by the Governor subject to confirmation by the Senate. The Department of Business and Professional Regulation (DBPR) provides the Commission with administrative, technical, and legal support.
[2] See ss. 553.73(1)-(4) and 553.80, F.S.
[3] See ss. 553.72(5) and 553.73(1)(d), F.S.
[4] Florida Department of Financial Services, *Analysis of SB 1122* (Mar. 14, 2013) available at http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=1026&yr=2013 (last visited Mar. 17, 2013).
[5] Reductions in the fire flow requirements are permissible through the installation of a fire sprinkler system.
[6] In no case may the rating be reduced to less than 1 hour.

FFPC Classification of Agricultural Buildings

The FFPC does not use the specific term "agricultural operation." Inspection of agricultural buildings and surrounding property are classified using occupancies defined in the FFPC. Generally, these classifications will be business, storage or industrial depending on the specific operation conducted within the structure or property; however, other occupancy sections may be applicable.

Exemptions in Chapter 633

Chapter 633 provides for the following current exemptions:

- A condominium, cooperative, or multifamily residential building that is less than four stories in height and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code.[7]
- Provisions of ch. 633, F.S., do not apply to owners of property who are building or improving farm outbuildings.[8]

III. Effect of Proposed Changes:

Section 1 amends s. 633.0215, F.S., to exempt one- or two-story residential dwellings of a local government from any minimum fire flow requirements in the FFPC. The local government must have a population of fewer than 30,000 to qualify. The section also exempts a business located in a one-, two-, or three-story building from any 2-hour or longer fire-rated wall requirement in the FFPC. Finally, an agricultural operation that employs fewer than 50 full-time employees and that is not used by the public for direct sales or as an educational outreach facility is exempt from the FFPC.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[7] Section 633.0215, F.S.
[8] Section 633.557, F.S. Owners acting as their own contractors when building or improving farm buildings are exempt from the construction contracting provisions in s. 489.103(7)(a), F.S..

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to Department of Financial Services (DFS), the proposed changes could result in an increase in insurance rates for the private sector and may also result in the requirement for additional fire protection systems such as automatic fire sprinkler and fire alarm systems.[9]

C. Government Sector Impact:

DFS predicts an indeterminate fiscal impact to local governments based upon individual community density and the staffing and equipment needs of fire departments.[10]

VI. Technical Deficiencies:

None.

VII. Related Issues:

A DFS analysis of SB 1122 provides department positions on the various provisions of the bill.[11] These are provided below.

Fire Flow
According to the DFS, the exemption of the minimum water fire flow could significantly affect fire-fighting operations. DFS suggests that the changes to the fire flow requirements be addressed by the administrative rule making process[12] or by amending the bill's proposed language as follows:

> Fire flow requirements shall be permitted to be decreased by the authority having jurisdiction (AHJ) for isolated buildings or a group of buildings in rural areas or small communities, as defined in the Florida Fire Prevention Code, where the development of full fire flow requirements is impractical, as determined by the AHJ.

Occupancy Separation
While the FFPC and the Building Code contain similar occupancy classification and separation language, the DFS acknowledges the codes differ on the separation requirements between a

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[9] Florida Department of Financial Services, *Analysis of SB 1122* (Mar. 14, 2013) available at http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=1026&yr=2013 (last visited Mar. 17, 2013).
[10] *Id*.
[11] *Id*..
[12] A hearing has been scheduled for March 27, 2013, to update the FFPC by adding a Florida specific amendment to NFPA 1, Section 18.4 – Fire Flow Requirements for Buildings. Notice *available at* https://www.flrules.org/Gateway/View_notice.asp?id=12707308 (last visited Mar. 17, 2013).

business and mercantile occupancy. The FFPC requires a two-hour fire rated wall or partition between these use groups. This is more restrictive than the Florida Building Code. Generally, the two codes agree on the other occupancy separation requirements.

According to DFS, SB 1122's proposed restriction of the fire official to enforce a two-hour fire separation could result in an entire building be evaluated using a higher degree of life safety. For example, a "shopping center" could be classified as an assembly occupancy if there is a restaurant that has the potential for 50 or more patrons and staff. This could result in additional requirements for the entire structure, such as automatic fire sprinkler and fire alarm systems. DFS suggests that the fire official use the language described in the Building Code to determine occupancy separation.

Agricultural Operations
DFS finds the term "agricultural operation" broad in scope and suggests its use could result in the exemption of "high hazard" occupancies from compliance with the FFPC including food processing plants. DFS suggests changing the language from agricultural operation to farming and ranching operations that employ fewer than 10 full-time equivalent employees.

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.

136542

LEGISLATIVE ACTION

Senate . House

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

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Subsection (16) is added to section 633.0215,
6 Florida Statutes, to read:
7 633.0215 Florida Fire Prevention Code.—
8 (16)(a) Fire flow requirements may be decreased by the
9 authority that has jurisdiction for isolated buildings or a
10 group of buildings in rural areas or small communities, as
11 defined in the Florida Fire Prevention Code, if that authority
12 determines that the development of full fire flow requirements

136542

13 is impractical.
14 (b) A business located in a one-story or two-story building
15 that is less than 10,000 square feet is exempt from any 2-hour
16 or longer fire-rated wall requirement and any fire sprinkler
17 requirement in the Florida Fire Prevention Code, including the
18 national codes incorporated by reference.
19 (c) A farming or ranching operation that employs fewer than
20 25 full-time employees and that is not used by the public for
21 direct sales or as an educational outreach facility is exempt
22 from the Florida Fire Prevention Code, including the national
23 codes and Life Safety Code incorporated by reference.
24 Section 2. This act shall take effect July 1, 2013.
25
26 ========== T I T L E A M E N D M E N T ==========
27 And the title is amended as follows:
28 Delete everything before the enacting clause
29 and insert:
30 A bill to be entitled
31 An act relating to the Florida Fire Prevention Code;
32 amending s. 633.0215, F.S.; authorizing certain
33 authorities to decrease minimum fire flow requirements
34 for certain buildings if the requirements are
35 impractical; exempting certain businesses from a 2-
36 hour or longer fire-rated wall requirement and fire
37 sprinkler requirement in the code; exempting certain
38 farming or ranching operations from the code;
39 providing an effective date.

By Senator Simpson

18-00504A-13 20131122__

A bill to be entitled

An act relating to the Florida Fire Prevention Code; amending s. 633.0215, F.S.; exempting certain local governments from specified minimum fire-flow requirements in the code; exempting certain businesses from a 2-hour or longer fire-rated wall requirement in the code; exempting certain agricultural operations from the code; providing an effective date.

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

Section 1. Subsection (16) is added to section 633.0215, Florida Statutes, to read:

633.0215 Florida Fire Prevention Code.—

(16)(a) A local government having a population of fewer than 30,000 is exempt from any minimum fire-flow requirements for one- or two-story residential dwellings in the Florida Fire Prevention Code, including the national codes incorporated by reference.

(b) A business located in a one-, two-, or three-story building is exempt from any 2-hour or longer fire-rated wall requirement in the Florida Fire Prevention Code, including the national codes incorporated by reference.

(c) An agricultural operation that employs fewer than 50 full-time employees and that is not used by the public for direct sales or as an educational outreach facility is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference.

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)

3/20/13
Meeting Date

Topic: Fire Prevention Code

Bill Number: SB 1122 *(if applicable)*

Name: David Cruz

Amendment Barcode: *(if applicable)*

Job Title: Legislative Advocate

Address: P.O. Box 1757
Street

Tally, FL 32302
City *State* *Zip*

Phone: 701-3676

E-mail:

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

Representing: FL League of Cities

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/13
Meeting Date

Topic _____

Bill Number SB 1122 *(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: [X] For [ ] Against [ ] Information

Representing Florida League of Cities

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

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 1200

INTRODUCER: Senator Simpson

SUBJECT: Taxation of Property

DATE: March 20, 2013 REVISED:

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

I. Summary:

SB 1200 eliminates a Value Adjustment Board's authority, under its own motion, to review and remove certain land classifications or to review applications for exemptions. The bill also eliminates two qualifications used by property appraisers in reclassifying property from agricultural to nonagricultural. A county commission authority to reclassify property from agricultural to nonagricultural in an effort to expand urban or metropolitan development is also removed from law.

This bill amends the following sections of the Florida Statutes: 193.461, 193.503, 193.625, and 196.194.

II. Present Situation:

Property Valuation in Florida

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

[1] Art. VII, s. 4. of the Florida Constitution.
[2] See s. 196.031, F.S.
[3] See ss. 193.461, 193.503, and 193.625, F.S.

Assessment and Classification of Agricultural Property

Pursuant to s. 4, Art. VII of the State Constitution, all agricultural land is assessed solely on the basis of its character or use.[4] For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."[5] Section 193.461(5), F.S., defines "agricultural purposes" to include, but is not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; all forms of farm products and farm production.[6]

Once property is qualified to receive agricultural classification, the property appraiser shall assess the land solely on its agricultural use utilizing the criteria provided in s. 193.461(6), F.S.[7] A property owner whose land is denied an agricultural classification can appeal to the value adjustment board.[8]

Required Property Appraiser Reclassifications
Section 193.461(4)(a), F.S., requires the property appraiser to reclassify the following lands as nonagricultural:

- land diverted from an agricultural to a nonagricultural use,
- land no longer being utilized for agricultural purposes, and
- land that has been zoned to a nonagricultural use at the request of the owner.

Permissive County Commission Authority for Reclassifications
Section 193.461(4)(b), F.S., permits a county commission to reclassify lands from agricultural to nonagricultural when there is contiguous urban or metropolitan development and the county commission finds that the continued use of the lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.

Agricultural Land Offered for Sale
Section 193.461(4)(c), F.S., also provides a land offered for sale event that requires a property appraiser to reclassify agricultural land as nonagricultural.[9] A sale at three or more times the agricultural assessment creates a presumption that the land is not being used primarily for bona fide agricultural purposes.[10] This presumption is rebuttable by a showing of special circumstances by the landowner demonstrating that the land will continue to be used in bona fide agriculture.[11]In addition to the purchase price paid, other factors used to determine a bona fide agricultural purpose include the length of continuous agricultural usage, land size related to specific agricultural use, and evidence of fertilizing, liming, tilling, and other accepted agricultural practices on the property.[12]

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[4] Art. VII, s. 4(a), of the Florida Constitution.
[5] Section 193.461(3)(b), F.S.
[6] Section 193.461(5), F.S.
[7] *See* ss. 193.461(6)(a)-(c), F.S.
[8] Section 193.461(2), F.S.
[9] *See* ss. 193.461(3)(b)1.-7. and (4), F.S.
[10] Section 193.461(4)(c), F.S.
[11] *Id.*
[12] Section 193.461(3)(b), F.S.

Assessment and Classification of Historic Property

Pursuant to s. 4, Art. VII of the State Constitution, the legislature may, by general law, allow counties and municipalities to authorize historic property be assessed solely on the basis of character or use.[13] Such character or use assessment only applies to the jurisdiction adopting the ordinance. Section 193.503(4), F.S., outlines statutory requirements for historic property classification including a commercial or not-for-profit use, certain National Historic Registry or District designations and general public access. A property owner whose land is denied an historic property classification can appeal to the value adjustment board.[14]

Assessment and Classification of High Water Recharge Lands

Pursuant to s. 4, Art. VII of the State Constitution, land producing high water recharge to Florida's aquifers may be classified by general law and assessed solely on the basis of character or use.[15] Section 193.625, F.S., requires a county with a high-water recharge protection tax assessment program (program) to annually classify applicable lands as agricultural, nonagricultural, or high-water recharge. Factors used to determine a bona fide high-water recharge purpose include continuous vacant land use, location within a prime groundwater recharge area, and no nearby activity with the potential to contaminate the ground water.[16] A property owner whose land is denied a high-water recharge property classification can appeal to the value adjustment board.[17]

Value Adjustment Board Hearings

Section 194.015, F.S., states that a value adjustment board (VAB) shall be created for each county composed of two members from the county governing board, one member from the school board and two citizen members. Section 194.035, F.S., requires counties with a population of more than 75,000, and allows counties with a population less than 75,000, to appoint special magistrates to take testimony and provide recommendations to the board.

The value adjustment board meets for the following purposes:

- To hear petitions relating to assessments, pursuant to s. 194.011(3), F.S.;
- To hear complaints relating to homestead exemptions, pursuant to s. 196.151, F.S.;
- To hear appeals from tax exemptions that have been denied, or disputes pertaining to granted exemptions, filed pursuant to s. 196.011, F.S.; and
- To hear appeals concerning ad valorem tax deferrals and classifications.[18]

Chapter 194, F.S., provides taxpayers with the right to appeal a property appraiser's assessment, the denial of a classification, a tax exemption, or a tax deferral by filing a petition to the value adjustment board. The chapter also grants VABs the authority to review all lands classified by

[13] Art. VII, s. 4(e), of the Florida Constitution.
[14] Section 193.503(7), F.S.
[15] Art. VII, s. 4(a), of the Florida Constitution.
[16] Section 193.625(3)(b), F.S.
[17] Section 193.625(2), F.S.
[18] Section 194.032(1)(a)1.-4., F.S.

the property appraiser upon its own motion.[19] Following a hearing decision by the VAB, the property appraiser submits a revised certified tax roll to each taxing authority. If the taxpayer does not agree with the VAB's final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., on the classification and assessment of agricultural lands to delete certain VAB property classification authority. In addition, a property *re*classification requirement and *re*classification authority is no longer allowed for the property appraiser and county commission respectively. Specifically, a VAB is no longer authorized to initiate its own review of agricultural classifications made by a property appraiser. The property appraiser is no longer required to reclassify as nonagricultural land zoned to a nonagricultural use at the request of the owner. County commissioners are no longer authorized to reclassify agricultural lands as non-agricultural in an effort to expand urban or metropolitan development.

This section also deletes an evidentiary presumption related to the sale of land classified as agricultural. Currently, the sale of land which is three or more times its agricultural assessment creates a presumption that the land is not used for a bona fide agricultural purpose and triggers a reclassification. The bill removes this provision.

Section 2 amends s. 193.503, F.S., on classification and assessment of historic property to delete VAB authority to initiate its own review of historic classifications made by a property appraiser.

Section 3 amends s. 193.625, F.S., on classification and assessment of high-water recharge lands to delete VAB authority to initiate its own review of high water recharge classifications made by a property appraiser.

Section 4 amends s. 196.194, F.S., on value adjustment board hearings to delete VAB authority to initiate its own review, or a review moved by the property appraiser, of property tax exemption applications.

Section 5 provides that the bill takes effect upon becoming a law and applies retroactively to January 1, 2012.

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

[19] See ss. 193.461, 193.503, and 193.625, F.S.

the applicable fiscal year times $0.10 or $1.9 million for FY 2012-13.[20] The Revenue Estimating Conference estimates a fiscal impact below this threshold 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:

None.

C. Government Sector Impact:

During the Revenue Estimating Conference (REC) impact review of the bill, "no evidence was found of a VAB, under its own motion, reviewing and removing a land classification."[21] The REC continued that "the likelihood of future VAB's behaving similarly, however, cannot be assumed." Because of this, the REC adopted a zero/negative indeterminate impact to local governments and schools attributable to the VAB review provisions of the bill.

The REC cited prior court cases in establishing the impact on taxable value caused by eliminating the two property appraiser agricultural reclassification options. In *Rh Resorts v. Donegan*, the property appraiser reclassified a parcel to nonagricultural partially based on the sales price of the land exceeding the appraised value by a multiple of 25.[22] In *Harbor Ventures v. Hutches*, the property appraiser denied an agricultural classification because the rezoning of the land to nonagricultural was requested by the owner previously.[23]

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[20] 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.

[21] Office of Economic and Demographic Research, The Florida Legislature *Analysis of HB1193/SB1200: Agricultural Classification & VAB Reviews* (Mar.8, 2013), *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page144-146.pdf (last visited Mar17, 2013).

[22] *Rh Resorts v. Donegan*, 881 So.2d 1152 (Fla. 5th DCA 2004).

[23] *Harbor Ventures v. Hutches*, 278 So.2d 328 (Fla. 2nd DCA 1973).

Ultimately, the REC adopted a $0.5 million negative recurring fiscal impact to local governments and schools attributable to the elimination of the property appraiser and county commission agricultural reclassifications provisions in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Simpson

18-00760-13 20131200__

A bill to be entitled

An act relating to the taxation of property; amending s. 193.461, F.S.; deleting authorization for a value adjustment board upon its own motion to review lands classified by a property appraiser as agricultural or nonagricultural; deleting a requirement that the property appraiser must reclassify as nonagricultural certain lands that have been zoned to a nonagricultural use; deleting authorization for a board of county commissioners to reclassify as nonagricultural certain lands that are contiguous to urban or metropolitan development under specified circumstances; deleting an evidentiary presumption that land is not being used primarily for bone fide agricultural purposes if it is purchased for a certain amount above its agricultural assessment; amending s. 193.503, F.S.; deleting authorization for a value adjustment board upon its own motion to review property granted or denied classification by a property appraiser as historic property that is being used for commercial or certain nonprofit purposes; amending s. 193.625, F.S.; deleting authorization for a value adjustment board upon its own motion to review land granted or denied a high-water recharge classification by a property appraiser; amending s. 196.194, F.S.; deleting authorization for a value adjustment board to review property tax exemptions upon its own motion or motion of the property appraiser and deleting certain notice requirements

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

30 relating to the review of such exemptions; providing
31 for retroactive application; providing an effective
32 date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Subsections (2) and (4) of section 193.461,
37 Florida Statutes, are amended to read:
38 193.461 Agricultural lands; classification and assessment;
39 mandated eradication or quarantine program.—
40 (2) Any landowner whose land is denied agricultural
41 classification by the property appraiser may appeal to the value
42 adjustment board. The property appraiser shall notify the
43 landowner in writing of the denial of agricultural
44 classification on or before July 1 of the year for which the
45 application was filed. The notification shall advise the
46 landowner of his or her right to appeal to the value adjustment
47 board and of the filing deadline. ~~The board may also review all~~
48 ~~lands classified by the property appraiser upon its own motion.~~
49 The property appraiser shall have available at his or her office
50 a list by ownership of all applications received showing the
51 acreage, the full valuation under s. 193.011, the valuation of
52 the land under the provisions of this section, and whether or
53 not the classification requested was granted.
54 (4)~~(a)~~ The property appraiser shall reclassify the
55 following lands as nonagricultural:
56 (a)~~1.~~ Land diverted from an agricultural to a
57 nonagricultural use.
58 (b)~~2.~~ Land no longer being utilized for agricultural

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

59 purposes.
60 ~~3. Land that has been zoned to a nonagricultural use at the~~
61 ~~request of the owner subsequent to the enactment of this law.~~
62 ~~(b) The board of county commissioners may also reclassify~~
63 ~~lands classified as agricultural to nonagricultural when there~~
64 ~~is contiguous urban or metropolitan development and the board of~~
65 ~~county commissioners finds that the continued use of such lands~~
66 ~~for agricultural purposes will act as a deterrent to the timely~~
67 ~~and orderly expansion of the community.~~
68 ~~(c) Sale of land for a purchase price which is three or~~
69 ~~more times the agricultural assessment placed on the land shall~~
70 ~~create a presumption that such land is not used primarily for~~
71 ~~bona fide agricultural purposes. Upon a showing of special~~
72 ~~circumstances by the landowner demonstrating that the land is to~~
73 ~~be continued in bona fide agriculture, this presumption may be~~
74 ~~rebutted.~~
75 Section 2. Subsection (7) of section 193.503, Florida
76 Statutes, is amended to read:
77 193.503 Classification and assessment of historic property
78 used for commercial or certain nonprofit purposes.—
79 (7) Any property owner who is denied classification under
80 this section may appeal to the value adjustment board. The
81 property appraiser shall notify the property owner in writing of
82 the denial of such classification on or before July 1 of the
83 year for which the application was filed. The notification shall
84 advise the property owner of his or her right to appeal to the
85 value adjustment board and of the filing deadline. ~~The board may~~
86 ~~also review all property classified by the property appraiser~~
87 ~~upon its own motion.~~ The property appraiser shall have available

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

88 at his or her office a list by ownership of all applications
89 received showing the full valuation under s. 193.011, the
90 valuation of the property under the provisions of this section,
91 and whether or not the classification requested was granted.
92 Section 3. Subsection (2) of section 193.625, Florida
93 Statutes, is amended to read:
94 193.625 High-water recharge lands; classification and
95 assessment.—
96 (2) Any landowner whose land is within a county that has a
97 high-water recharge protection tax assessment program and whose
98 land is denied high-water recharge classification by the
99 property appraiser may appeal to the value adjustment board. The
100 property appraiser shall notify the landowner in writing of the
101 denial of high-water recharge classification on or before July 1
102 of the year for which the application was filed. The
103 notification must advise the landowner of a right to appeal to
104 the value adjustment board and of the filing deadline. ~~The board~~
105 ~~may also review all lands classified by the property appraiser~~
106 ~~upon its own motion.~~ The property appraiser shall have available
107 at her or his office a list by ownership of all applications
108 received showing the acreage, the full valuation under s.
109 193.011, the valuation of the land under the provisions of this
110 section, and whether or not the classification requested was
111 granted.
112 Section 4. Subsection (1) of section 196.194, Florida
113 Statutes, is amended to read:
114 196.194 Value adjustment board; notice; hearings;
115 appearance before the board.—
116 (1) The value adjustment board shall hear disputed or

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

117 appealed applications for exemption and shall grant such
118 exemptions in whole or in part in accordance with criteria set
119 forth in this chapter. ~~It may review exemptions on its own~~
120 ~~motion or upon motion of the property appraiser. Review of an~~
121 ~~exemption application upon motion of the board shall not be held~~
122 ~~until the applicant has had at least 5 calendar days' notice of~~
123 ~~the intent of the board to review the application.~~
124 Section 5. This act shall take effect upon becoming a law
125 and apply retroactively to January 1, 2012.

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)

3/20
Meeting Date

Topic: Taxation of Property

Bill Number: 1200 *(if applicable)*

Name: Jim Spratt

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: PO Box 10011
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 850-228-1296

E-mail: Jim@MagnoliaStrategiesLLC.com

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

Representing: Florida Nursery, Growers & Landscape Association

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)

3/20/13
Meeting Date

Topic: Taxation of Property

Bill Number: 1200 *(if applicable)*

Name: Jamie Sheehan

Amendment Barcode: _____ *(if applicable)*

Job Title: Assoc.

Address: 301 W. College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 443-5937

E-mail: _____

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

Representing: FL Land Council

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)

3/20
Meeting Date

Topic: Greenbelt

Bill Number: 1200 *(if applicable)*

Name: Sam ARD

Amendment Barcode: *(if applicable)*

Job Title:

Address: PO Box 10406
Street

TLH, FL 32302
City *State* *Zip*

Phone: 8505776500

E-mail:

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

Representing: Fla. Cattlemen's Assc

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)

3/20/13
Meeting Date

Topic: Taxation of Property / Greenbelt

Bill Number: SB 1200 *(if applicable)*

Name: Adam Basford

Amendment Barcode: *(if applicable)*

Job Title: Director of State Legislative Affairs

Address: 315 S. Calhoun St. Suite 850
Street

Tallahassee FL
City *State* *Zip*

Phone:

E-mail:

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

Representing: Florida Farm Bureau

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)

3-18-13
Meeting Date

Topic: Greenbelt

Bill Number: SB 1200 *(if applicable)*

Name: Doug Mann

Amendment Barcode: — *(if applicable)*

Job Title: —

Address: 310 W. College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 222-7535

E-mail: doug@mannlobby.com

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

Representing: AIF

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)

3/20/13
Meeting Date

Topic: Taxation of Property

Bill Number: 1200 *(if applicable)*

Name: Roger Suggs

Amendment Barcode: *(if applicable)*

Job Title: Clay County Property Appraiser

Address: 923 Live Oak Lane
Street

Fleming Island, FL 32003
City *State* *Zip*

Phone: 904 278-3627

E-mail: rsuggs@ccpao.com

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

Representing: FL Association of Property Appraisers

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

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

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: SB 301 **Case:** **Type:**
Caption: community affairs **Judge:**

Started: 3/20/2013 3:15:46 PM
Ends: 3/20/2013 5:29:09 PM **Length: 02:13:24**

3:15:47 PM	Secretary Calls Roll
3:15:53 PM	Quorum Present
3:16:09 PM	Tab 1 SB 1132 Senator Brandes
3:16:27 PM	Senator Brandes
3:16:50 PM	Amendment 1 Late Filed Technical Amendment barcode 312864
3:16:51 PM	Amendment 2 Late Filed Amendment barcode 972224
3:17:43 PM	Senator Bradley
3:18:10 PM	Marty Speaker
3:18:32 PM	Amendment 3 Late Filed barcode 189066
3:20:24 PM	Senator Simpson
3:20:48 PM	Amendment Adopted
3:20:56 PM	Amendment amended
3:21:21 PM	Speaker Cards
3:21:40 PM	Lewis Rotundo
3:24:38 PM	Joe D
3:26:28 PM	Charles Pattison
3:27:38 PM	Ryan Padgett
3:29:01 PM	Eric Poole
3:30:00 PM	Collen Hufford Waives in opposition
3:31:38 PM	Senator Brandes
3:31:53 PM	Senator Thompson moves committee substitute
3:32:14 PM	Secretary calls roll SB 1132 reported favorably
3:32:26 PM	Tab 2 SB 534 Senator Brandes
3:32:40 PM	Amendment 1 barcode 641930 delete everything amendment
3:32:49 PM	Senator Brandes
3:33:14 PM	Amendment 1 to the amendment barcode 945938
3:34:22 PM	Motion adopted
3:34:36 PM	Amendment 2 barcode 798864
3:34:59 PM	Without objection amendment 2 withdrawn
3:35:11 PM	Amendment 3 barcode 891420
3:35:22 PM	Senator Brandes
3:36:05 PM	Amendment adopted
3:36:12 PM	Main amendment amended
3:36:34 PM	Jim R
3:39:15 PM	Robert
3:40:25 PM	Robert Suarez
3:42:13 PM	Amendment adopted
3:42:39 PM	Javier Ortiz
3:43:57 PM	Gail Perry
3:48:28 PM	Kraig Conn
3:50:57 PM	Gary Rainey
3:52:51 PM	David Murrell
3:54:04 PM	Senator Thompson
3:54:59 PM	Senator Smith
3:55:32 PM	Senator Thrasher
3:56:35 PM	Senator Simpson
3:56:52 PM	Senator Brandes
3:58:24 PM	Senator Thompson moves committee substitute
3:58:29 PM	Secretary calls roll
3:58:46 PM	Reported favorably SB 534
3:58:58 PM	Tab 10 972 Senator Hukill
3:59:19 PM	Senator Hukill

4:00:21 PM	Amendment 1 barcode 243214
4:00:29 PM	Senator Hukill
4:00:56 PM	Amendment adopted
4:01:22 PM	Charles Pattison
4:02:17 PM	David Cruz Fl League of Cities
4:02:49 PM	David Powell
4:04:04 PM	Senator Hukill closes
4:04:23 PM	Senator Hukill moves committee substitute
4:04:31 PM	Secretary call roll
4:04:42 PM	SB 972 reported favorably
4:04:49 PM	Tab 6 1152 Jeff Branch
4:05:45 PM	SB 1152
4:06:07 PM	Senator Smith
4:07:09 PM	Cynthia Henderson
4:07:47 PM	Senator Bradley
4:08:30 PM	Cynthia Henderson
4:10:23 PM	Senator Thrasher
4:11:24 PM	Senator Simpson
4:12:05 PM	Secretary Call roll SB 1152 reported favorably
4:12:23 PM	Tab 4 SB 1352
4:12:50 PM	Senator Rings Legislative Assistant Stephanie Gioletti
4:13:12 PM	Amendment 1 barcode 776996
4:13:30 PM	Stephanie explains amendment
4:13:55 PM	Substitute amendment adopted
4:14:11 PM	Marty Lassini Broward County
4:14:40 PM	Senator Thompson moves committee substitute
4:14:59 PM	Secretary calls roll SB 1352 reported favorably
4:15:15 PM	Tab 5 SB 1196 Senator Legislative Aid Michael Nachef
4:16:15 PM	Secretary call roll SB 1196 reported favorably
4:17:24 PM	Tab 11 SB 1252 Senator Simpson
4:17:27 PM	Senator Simpson
4:18:33 PM	Amendment 1 barcode 881972
4:18:40 PM	Senator Thompson
4:18:51 PM	Amendment adopted
4:19:01 PM	Amendment 2 barcode 349072
4:19:20 PM	Substitute Amendment barcode 953968
4:20:03 PM	Cam Fentriss
4:20:33 PM	Substitute amendment adopted
4:20:54 PM	Amendment 3 barcode 411578
4:21:10 PM	Amendment adopted
4:21:27 PM	Amendment 4 barcode 389636
4:22:14 PM	Amendment adopted
4:22:39 PM	Amendment 5 barcode 465200
4:22:45 PM	Senator Smith
4:23:08 PM	Senator Simpson
4:23:32 PM	Kari Hebrank
4:24:36 PM	Cam Fentriss
4:25:03 PM	Senator Soto
4:25:35 PM	Kari Herbrank
4:25:56 PM	Amendment adopted
4:26:17 PM	Amendment 6 barcode 942358
4:26:37 PM	Amendment adopted
4:27:06 PM	Bob Himschoot
4:29:48 PM	Amendment adopted
4:30:13 PM	Senator Simpson moves committee substitute
4:30:41 PM	Secretary calls roll on SB 1252 reported favorably
4:30:56 PM	Tab 9 SB 1718 Flores
4:31:40 PM	Senator Smith
4:32:43 PM	Amendment 1 294806
4:32:53 PM	Dr. Eduardo Padron
4:33:25 PM	Senator Thompson moves committee substitute
4:33:42 PM	Secretary calls roll SB 1718 reported favorably

4:33:56 PM	Tab 3 SB 1106 Senator Hays
4:34:00 PM	Senator Hays
4:35:21 PM	Senator Thompson
4:36:20 PM	Senator Hays
4:37:12 PM	Adam Basford
4:38:25 PM	Stephen James
4:42:31 PM	Senator Smith
4:43:11 PM	Senator Soto
4:43:27 PM	Senator Thompson
4:44:14 PM	Senator Bradley
4:44:41 PM	Senator Thrasher
4:44:58 PM	Senator Hays closes
4:45:25 PM	Secretary calls roll SB 1106 reported favorably
4:46:09 PM	Tab 9 SB 1382 Senator Thrasher
4:50:09 PM	Amendment 1 barcode 585942
4:50:30 PM	Amendment adopted
4:50:42 PM	Amendment 2 barcode 836076
4:50:53 PM	Amendment adopted
4:51:03 PM	Amendment 3 barcode 574514
4:51:49 PM	Senator Smith
4:52:05 PM	Amendment adopted
4:52:19 PM	Amendment 4 barcode 635506
4:52:39 PM	Amendment adopted
4:52:49 PM	Amendment 5 barcode 676618
4:53:23 PM	Amendment adopted
4:53:35 PM	Amendment 6 barcode 917064
4:53:56 PM	Amendment adopted
4:54:06 PM	Senator Smith
4:55:43 PM	Senator Soto
4:56:28 PM	Senator Smith
4:58:05 PM	Marilynn Wills
4:59:57 PM	Brad Ashwell
5:01:29 PM	Senator Smith
5:04:21 PM	Senator Thrasher
5:05:17 PM	Senator Latvala
5:08:40 PM	Senator Thompson moves committee substitute
5:08:57 PM	Secretary calls roll SB 1382 reported favorably
5:09:13 PM	Tab 14 SB 1200 Senator Simpson
5:11:44 PM	SB 1200 reported favorably
5:12:34 PM	Tab 12 SB 1392 Senator Simpson
5:12:57 PM	Senator Smith
5:14:02 PM	Senator Soto
5:15:06 PM	Senator Thrasher
5:16:01 PM	Senator Latvala
5:17:59 PM	Amendment 1 and 2 withdrawn
5:20:22 PM	Howard
5:22:14 PM	Senator Bradley
5:23:02 PM	Frank Fabrizio
5:25:52 PM	Gary Rainey
5:27:19 PM	Senator Simpson closes
5:28:25 PM	Secretary calls roll SB 1392 reported favorably
5:29:04 PM	Meeting adjourned