The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 2, 2013
TIME: 12:30 —3:30 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	**CS/SB 934** Environmental Preservation and Conservation / Lee (Similar CS/H 183)	Stormwater Management Permits; Requiring that rules for environmental resource permitting provide for conceptual permits and associated general permits for a municipality or county that creates a stormwater management master plan for urban infill and redevelopment areas or community redevelopment areas; specifying requirements for a conceptual permit, etc. EP 03/21/2013 Fav/CS CA 04/02/2013 Favorable	Favorable Yeas 9 Nays 0
2	**CS/SB 754** Environmental Preservation and Conservation / Grimsley (Identical CS/CS/H 713)	Water Quality Credit Trading; Authorizing the Department of Environmental Protection to implement water quality credit trading in adopted basin management action plans on an ongoing basis; deleting a requirement that voluntary trading of water credits be limited to the Lower St. Johns River Basin; authorizing additional water quality protection programs to participate in water quality credit trading, etc. EP 03/14/2013 Fav/CS CA 04/02/2013 Favorable AP	Favorable Yeas 9 Nays 0
3	**CS/SB 554** Environmental Preservation and Conservation / Altman (Compare CS/H 415)	Brownfields; Revising legislative intent with regard to community revitalization in certain areas; revising procedures for designation of brownfield areas by local governments; providing relief of liability for property damages for entities that execute and implement certain brownfield site rehabilitation agreements, etc. EP 03/14/2013 Fav/CS CA 04/02/2013 Fav/CS AFT AP	Fav/CS Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 674** Agriculture / Montford (Similar H 871, CS/H 997, Compare H 839, CS/S 872)	Animal Shelters and Animal Control Agencies; Declaring legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; providing a maximum fee for copies of such records, etc. AG 03/11/2013 Fav/CS CA 04/02/2013 Fav/CS	Fav/CS Yeas 9 Nays 0
5	**SB 952** Simmons (Identical H 945)	Orlando-Orange County Expressway Authority; Renaming the Orlando-Orange County Expressway System as the “Central Florida Expressway System”; creating the Central Florida Expressway Authority; providing for the transfer of governance, and control, legal rights and powers, responsibilities, terms, and obligations to the authority; revising the composition of the governing body of the authority; providing that the area served by the authority is within the geopolitical boundaries of Orange, Seminole, Lake, and Osceola Counties; prohibiting the authority from spending funds for SunRail, etc. TR 03/21/2013 Favorable CA 04/02/2013 Favorable AP	Favorable Yeas 8 Nays 1
6	**CS/SB 606** Transportation / Gibson (Similar CS/H 345)	Northeast Florida Regional Transportation Commission; Creating the commission; providing for transportation projects of regional significance; exempting the commission from taxes or assessments; specifying that the commission is not an authority for purposes of specified provisions relating to a discretionary tax, etc. TR 03/21/2013 Fav/CS CA 04/02/2013 Favorable GO	Favorable Yeas 9 Nays 0
7	**CS/SB 802** Regulated Industries / Hays (Similar CS/CS/H 57, Compare S 1462)	Department of Business and Professional Regulation; Clarifying funding requirements for the Florida Homeowners’ Construction Recovery Fund; authorizing the Department of Business and Professional Regulation to transfer certain funds from the Florida Building Code Administrators and Inspectors Board to the Florida Homeowners’ Construction Recovery Fund, etc. RI 03/14/2013 Fav/CS CA 04/02/2013 Favorable AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/SB 500** Regulated Industries / Clemens (Similar CS/H 7005)	Massage Establishments; Requiring an application to be denied upon specified findings; prohibiting the operation of a massage establishment during specified times; prohibiting the use of a massage establishment as a principal domicile unless the establishment is zoned for residential use under a local ordinance; authorizing a county or municipality to waive the restriction on operating hours of a massage establishment in certain instances; declaring that a massage establishment operating in violation of specified statutes is a nuisance that may be abated or enjoined, etc. RI 03/14/2013 Fav/CS CA 04/02/2013 Fav/CS HP AP	Fav/CS Yeas 9 Nays 0
9	**CS/SB 1160** Health Policy / Bullard (Similar CS/CS/H 375)	Onsite Sewage Treatment and Disposal Systems; Extending the expiration date of building permits and permits issued by the Department of Environmental Protection or by a water management district; authorizing the department to approve and permit a property owner of an owner-occupied, single-family residence as a maintenance entity for the property owner's own aerobic treatment unit system under certain circumstances; prohibiting a septic tank contractor from being denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities, etc. HP 03/20/2013 Fav/CS CA 04/02/2013 Favorable EP RC	Favorable Yeas 9 Nays 0
10	**CS/SB 1434** Criminal Justice / Evers (Similar H 293, Identical CS/H 585, Compare H 131, H 7031, CS/S 1114)	Law Enforcement; Revising provisions for criminal history record checks for certain county and municipal employees and appointees; revising provisions relating to meetings of the Florida Violent Crime and Drug Control Council, the Drug Control Strategy and Criminal Gang Committee, and the Victim and Witness Protection Review Committee; deleting a requirement that the Criminal Justice Standards and Training Commission develop a uniform firearms proficiency verification card, etc. CJ 03/18/2013 Fav/CS CA 04/02/2013 Favorable AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 1716** Garcia (Similar CS/H 321)	Growth Management; Prohibiting a local government from applying transportation or school concurrency or requiring proportionate-share contribution or construction for new development for a specified period; providing for an extension of the prohibition under certain conditions; providing for future expiration; prohibiting certain counties, municipalities, and special districts from imposing certain new or existing impact fees for a specified period; providing for an extension of the prohibition under certain conditions, etc. CA 04/02/2013 Fav/CS TR ED	Fav/CS Yeas 8 Nays 0
12	**CS/SB 600** Ethics and Elections / Latvala (Compare H 25, H 385, H 397, H 1045, CS/H 7013, H 7021, S 80, S 82, S 388, S 668, S 1198)	Elections; Revising qualifications for late voter registration; providing a limitation on the number of words for certain ballot summaries in joint resolutions proposed by the Legislature; authorizing the Department of State to suspend all sales or leases or use in an election of a defective voting system; revising the number of days and hours for early voting; revising special absentee ballot instructions; revising methods of selecting canvassing board members, etc. EE 03/04/2013 EE 03/18/2013 Fav/CS CA 04/02/2013 Fav/CS RC	Fav/CS Yeas 5 Nays 3
13	**SB 1026** Thrasher (Identical H 837)	Tax Collectors; Specifying that the tax collector may collect delinquent taxes by processing tax deed applications, etc. CA 04/02/2013 Favorable AFT AP	Favorable Yeas 9 Nays 0
14	**CS/SB 462** Health Policy / Thompson (Compare H 173)	Death Certificates; Requiring the State Registrar to electronically transfer a data file of permanent death certificates to the Florida Association of Court Clerks and Comptrollers, Inc.; requiring the association to submit that data file to the clerk of the circuit court, or local recording entity, for each county; requiring the clerk of the circuit court, or local recording entity, to record the permanent death certificate for each death that occurred within its respective county, etc. HP 03/14/2013 Fav/CS CA 04/02/2013 Favorable JU AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**SB 1122** Simpson (Compare CS/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 CA 04/02/2013 Fav/CS GO RC	Fav/CS Yeas 9 Nays 0
16	**CS/SB 682** Environmental Preservation and Conservation / Simpson (Similar CS/CS/CS/H 659)	Fossil Fuel Combustion Products; Providing standards for storage of certain fossil fuel combustion products; providing an exemption for beneficial use of fossil fuel combustion products from certain rules; providing that the act does not prohibit the Department of Environmental Protection from taking appropriate action to regulate a beneficial use in certain circumstances; excluding certain types of facilities from provisions on hazardous waste landfills, etc. EP 03/14/2013 EP 03/21/2013 Fav/CS CA 04/02/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0
17	**CS/SB 768** Environmental Preservation and Conservation / Simpson (Identical CS/H 7065)	Everglades Improvement and Management; Revising legislative findings for achieving water quality goals; revising provisions for use of certain ad valorem tax proceeds; directing the South Florida Water Management District to complete a specified analysis; revising provisions for collection of the agricultural privilege tax; providing for the use of such tax proceeds; providing that payment of the tax and certain costs fulfills certain constitutional obligations, etc. EP 03/21/2013 Fav/CS CA 04/02/2013 Favorable AP	Favorable Yeas 8 Nays 0
	Other Related Meeting Documents		

By the Committee on Environmental Preservation and Conservation; and Senator Lee

592-02845-13 2013934c1

A bill to be entitled

An act relating to stormwater management permits; amending s. 373.4131, F.S.; deleting an obsolete reference; requiring that rules for environmental resource permitting provide for conceptual permits and associated general permits for a municipality or county that creates a stormwater management master plan for urban infill and redevelopment areas or community redevelopment areas; specifying requirements for a conceptual permit; providing an effective date.

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

Section 1. Subsection (1) of section 373.4131, Florida Statutes, is amended to read:

373.4131 Statewide environmental resource permitting rules.—

(1)~~(a)~~ ~~No later than October 1, 2012,~~ The department shall initiate rulemaking to adopt, in coordination with the water management districts, statewide environmental resource permitting rules governing the construction, alteration, operation, maintenance, repair, abandonment, and removal of any stormwater management system, dam, impoundment, reservoir, appurtenant work, works, or any combination thereof, under this part.

(a)~~(b)~~ The rules must ~~shall~~ provide for statewide, consistent regulation of activities under this part and must ~~shall~~ include, at a minimum:

1. Criteria and thresholds for requiring permits.

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

30 2. Types of permits.
31 3. Procedures governing the review of applications and
32 notices, duration and modification of permits, operational
33 requirements, transfers of permits, provisions for emergencies,
34 and provisions for abandonment and removal of systems.
35 4. Exemptions and general permits that do not allow
36 significant adverse impacts to occur individually or
37 cumulatively.
38 5. Conditions for issuance.
39 6. General permit conditions, including monitoring,
40 inspection, and reporting requirements.
41 7. Standardized fee categories for activities under this
42 part to promote consistency. The department and water management
43 districts may amend fee rules to reflect the standardized fee
44 categories but are not required to adopt identical fees for
45 those categories.
46 8. Application, notice, and reporting forms. To the maximum
47 extent practicable, the department and water management
48 districts shall provide for electronic submittal of forms and
49 notices.
50 9. An applicant’s handbook that, at a minimum, contains
51 general program information, application and review procedures,
52 a specific discussion of how environmental criteria are
53 evaluated, and discussion of stormwater quality and quantity
54 criteria.
55 (b) The rules must provide for a conceptual permit for a
56 municipality or county that creates a stormwater management
57 master plan for urban infill and redevelopment areas or
58 community redevelopment areas created under chapter 163. Upon

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

59 approval by the department or water management district, the
60 master plan shall become part of the conceptual permit issued by
61 the department or water management district. The rules must
62 additionally provide for an associated general permit for the
63 construction and operation of urban redevelopment projects that
64 meet the criteria established in the conceptual permit. The
65 following requirements must also be met:
66 1. The conceptual permit and associated general permit must
67 not conflict with the requirements of a federally approved
68 program pursuant to s. 403.0885 or with the implementation of s.
69 403.067(7) regarding total maximum daily loads and basin
70 management action plans.
71 2. Before a conceptual permit is granted, the municipality
72 or county must assert that stormwater discharges from the urban
73 redevelopment area do not cause or contribute to violations of
74 water quality standards by demonstrating a net improvement in
75 the quality of the discharged water existing on the date the
76 conceptual permit is approved.
77 3. The conceptual permit may not expire for at least 20
78 years unless a shorter duration is requested, and must include
79 an option to renew.
80 4. The conceptual permit must describe the rate and volume
81 of stormwater discharges from the urban redevelopment area,
82 including the maximum rate and volume of stormwater discharges
83 as of the date the conceptual permit is approved.
84 5. The conceptual permit must contain provisions regarding
85 the use of stormwater best management practices and must ensure
86 that stormwater management systems constructed within the urban
87 redevelopment area are operated and maintained in compliance

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

88 with s. 373.416.
89 (c) The rules must ~~shall~~ rely primarily on the rules of the
90 department and water management districts in effect immediately
91 prior to the effective date of this section, except that the
92 department may:
93 1. Reconcile differences and conflicts to achieve a
94 consistent statewide approach.
95 2. Account for different physical or natural
96 characteristics, including special basin considerations, of
97 individual water management districts.
98 3. Implement additional permit streamlining measures.
99 (d) The application of the rules must ~~shall~~ continue to be
100 governed by the first sentence of s. 70.001(12).
101 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)

4/2/13
Meeting Date

Topic: Stormwater Management

Bill Number: 934 *(if applicable)*

Name: Ryan Matthews

Amendment Barcode: _____ *(if applicable)*

Job Title: Leg Advocate

Address: PO Box 1757
Street

Tallahassee, FL 32302
City *State* *Zip*

Phone: 222 7684

E-mail: rmatthews@flcities.com

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)

4-2-13
Meeting Date

Topic: Stormwater

Bill Number: CS/SB 934 (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@thegoldenmann.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:
Judiciary, *Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE
Deputy Majority Leader
24th District

March 21, 2013

The Honorable Wilton Simpson
Senate Community Affairs Committee, Chair
322 Senate Office Building
404 South Monroe St.
Tallahassee, Fl 32399

Dear Chairman Simpson,

I respectfully request that SB 934, related to *Stormwater Management Permits,* be placed on the Senate Community Affairs Committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Tom Lee
Senator, District 24

Cc: Tom Yeatman, Staff Director

REPLY TO:
☐ 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE
Deputy Majority Leader
24th District

April 2, 2013

The Honorable Wilton Simpson
Senate Community Affairs Committee, Chair
322 Senate Office Building
404 South Monroe St.
Tallahassee, Fl 32399

Dear Chairman Simpson,

I respectfully request that my aide, Cori Cuttler, present SB 934, related to *Stormwater Management Permits,* at the Community Affairs Committee meeting due to a scheduling conflict with the Banking and Insurance Committee meeting.

Thank you for your consideration.

Sincerely,

Tom Lee
Senator, District 24

Cc: Tom Yeatman, Staff Director

REPLY TO:
☐ 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

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 934

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Lee

SUBJECT: Stormwater Management Permits

DATE: April 2, 2013 REVISED:

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

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 934 requires the development of statewide environmental resource permit rules that provide for a conceptual permit for municipalities or counties that create a stormwater management master plan for urban infill and redevelopment areas or community redevelopment areas (CRAs). It specifies that the master plan becomes part of the conceptual permit and that the rules must provide for an associated general permit for the construction and operation of urban redevelopment projects that meet the criteria established in the conceptual permit. The bill also provides requirements for the conceptual permit.

The bill amends section 373.4131 of the Florida Statutes.

II. Present Situation:

The Community Redevelopment Act of 1969

The Community Redevelopment Act of 1969[1] was developed to revitalize economically distressed areas in order to improve public welfare and increase the local tax base. The act

[1] See ch. 163, Part III, F.S.

provides a funding mechanism by which counties and municipalities may undertake community redevelopment.[2] It allows counties or municipalities to retain tax increment revenues from certain community taxing districts to fund redevelopment within a designated CRA. To obtain this revenue, a local government must create a community redevelopment agency, designate an area or areas to be a CRA, create a community redevelopment plan, and establish a trust fund to receive the tax increment revenues.[3]

The Growth Policy Act of 1999

The Growth Policy Act authorizes local governments to designate urban infill and redevelopment areas for the purposes of stimulating investment in distressed urban areas and strengthening urban centers.[4] The act defines "urban infill and redevelopment area" as an area or areas where:

- Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided within five years.
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress.
- The proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete is higher than the average for the local government.
- More than 50 percent of the area is within a quarter of a mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation.
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or federal government as an urban redevelopment area or similar designation.[5]

Pursuant to s. 163.2517, F.S., local governments that want to designate urban infill and redevelopment areas must develop plans describing redevelopment objectives and strategies, or amend existing plans. Local governments must also adopt urban infill and redevelopment plans by ordinance and amend their comprehensive plans to delineate urban infill and redevelopment area boundaries.

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface waters and groundwaters. Urbanization leads to:

- Compaction of soil;
- Addition of impervious surfaces such as roads and parking lots;
- Alteration of natural landscape features such as natural depressional areas that hold water, floodplains and wetlands;
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation; and
- Pollutant loading of receiving water bodies from stormwater discharge.[6]

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[2] Section 163.353, F.S.
[3] *See supra* note 1.
[4] *See* ss. 163.2511 through 163.2523, F.S.
[5] Section 163.2514(2), F.S.
[6] DEP, *State Stormwater Treatment Rule Development Background*, available at http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm (last visited Mar. 18, 2013).

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in stormwater discharged from developed areas leads to flooding, water quality problems and loss of habitat.[7]

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. The rule included a performance standard for the minimum level of treatment and design criteria for best management practices (BMPs) that will achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria would meet water quality standards.[8] The performance standard was to reduce post-development stormwater pollutant loading of total suspended solids[9] by 80 percent, or by 95 percent for Outstanding Florida Waters.[10]

In 1990, the Department of Environmental Protection (DEP) developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).[11] This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the Water Management Districts (WMDs), and local governments. One of the primary goals of the program is to maintain the predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the post development stormwater pollutant loading of pollutants "that cause or contribute to violations of water quality standards."[12]

The DEP and the WMDs jointly administer the environmental resource permit (ERP) program for activities that alter surface water flows.[13] Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of ch. 373, Part IV, F.S.

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[7] *Id.*
[8] *Id.*
[9] Total Suspended Solids is listed as a conventional pollutant under s. 304(a)(4) of the federal Clean Water Act. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.
[10] Rule 62-302.700, F.A.C., provides that an Outstanding Florida Water is a water body designated worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.
[11] *See supra* note 6. See also ch. 62-40, F.A.C.
[12] *See supra* note 6.
[13] *See* ch. 373, Part IV, F.S. See also Florida Dep't of Environmental Protection, *Environmental Resource Permitting (ERP) Program*, available at http://www.dep.state.fl.us/water/wetlands/erp/index.htm (last visited Mar. 18, 2013).

Environmental Resource Permitting Rulemaking by DEP

The DEP is proposing statewide ERP rules in order to create a more certain regulatory process that is applied consistently across Florida.[14] Currently, between the DEP and the WMDs, there are five different versions of the ERP rules. According to the DEP, a statewide rule will reduce the confusion of determining which of five different sets of criteria or requirements need to be followed and what type of permit, if any, is necessary.[15] The rules being promulgated contain provisions for conceptual permits for stormwater management systems that are similar to the proposed legislation.

III. Effect of Proposed Changes:

Section 1 amends s. 373.4131, F.S., directing the DEP to initiate rulemaking regarding conceptual permits. The bill specifies that statewide rules regarding stormwater management systems must also allow for a conceptual permit for a municipality or county that creates a stormwater management master plan for urban infill and redevelopment areas or CRAs. When the master plan is approved by the appropriate agency, it becomes part of the conceptual permit. Additionally, the rules must provide for an associated general permit for the construction and operation of urban redevelopment projects that meet the criteria established in the conceptual permit.

The bill specifies several additional requirements for rule development for permits issued pursuant to an adopted rule:

- The conceptual permit and associated general permit must not conflict with the requirements of s. 403.0885, F.S., regarding the total maximum daily load program, and s. 403.067(7), F.S., regarding the development of basin management action plans.
- Prior to issuing the conceptual permit, the municipality or county must assert that stormwater discharges from the redevelopment area will not contribute to violations of water quality standards by demonstrating a net improvement in the quality of the discharged water. The net improvement baseline is the quality of the water on the date the conceptual permit is issued.
- The conceptual permit may not expire for at least 20 years unless a shorter duration is requested, and there must be an option to renew the permit.
- The conceptual permit must describe the rate and volume of stormwater discharges from the urban redevelopment area, including the maximum rate and volume of stormwater discharges as of the date the conceptual permit is approved.
- The conceptual permit must contain provisions regarding the use of stormwater BMPs and must ensure that systems constructed within the urban redevelopment area are operated and maintained in compliance with s. 373.416, F.S., regarding permits for maintenance and operation of stormwater management systems.

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

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[14] DEP, *ERP Statewide Rulemaking: Draft Rule & Related Documents Drafts*, available at http://www.dep.state.fl.us/water/wetlands/swerp/drafts.htm (last visited Mar. 25, 2013). The latest draft listed on the webpage is from Mar. 1, 2013.

[15] DEP, *ERP Statewide Rulemaking*, available at http://www.dep.state.fl.us/water/wetlands/swerp/rulemaking.htm (last visited Mar. 25, 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:

None.

C. Government Sector Impact:

Local governments may have to expend funds to assert that stormwater discharges from the urban redevelopment area do not cause or contribute to violations of water quality standards. It may cost the local governments money to demonstrate a net improvement in the quality of the discharged water.

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 Environmental Preservation and Conservation on March 21, 2013:
The committee substitute differs from the original bill in that it:

- amends s. 373.4131, F.S., which provides for statewide environmental resource permitting.
- changes the phrase "stormwater adaptive management plan" to "stormwater management master plan."

- states that the rules promulgated under the bill must provide for a general permit associated with the conceptual permit.
- adds language that requires permitted entities to assert that what they are planning will result in a net improvement in water quality from the date the conceptual permit is approved.
- adds language that requires the conceptual permit to include provisions regarding the use of stormwater BMPs and that systems built within an urban redevelopment area are operated in compliance with s. 373.416, F.S.
- changes the date at which the maximum rate and volume for stormwater management systems is set from the date the stormwater management plan is adopted to the date the conceptual permit is approved.
- conforms the bill's language with Department of Environmental Protection's draft statewide environmental resource permit rules.

B. Amendments:

None.

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

By the Committee on Environmental Preservation and Conservation; and Senator Grimsley

592-02409A-13 2013754c1

A bill to be entitled

An act relating to water quality credit trading; reenacting s. 373.4595(1)(n), F.S., relating to water quality credit trading, to incorporate the amendments made to s. 403.067, F.S., in a reference thereto; amending s. 403.067, F.S.; authorizing the department to implement water quality credit trading in adopted basin management action plans on an ongoing basis; deleting a requirement that voluntary trading of water credits be limited to the Lower St. Johns River Basin; authorizing additional water quality protection programs to participate in water quality credit trading; revising provisions relating to rulemaking for water quality credit trading programs; eliminating a requirement that water quality credit trading be limited to the Lower St. Johns River Basin as a pilot project; deleting a required report; making technical changes; reenacting s. 403.088(2)(e), F.S., relating to water pollution operation permits, to incorporate the amendments made to s. 403.067, F.S., in a reference thereto; providing an effective date.

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

Section 1. For the purpose of incorporating the amendment made by this act to section 403.067, Florida Statutes, in a reference thereto, paragraph (n) of subsection (1) of section 373.4595, Florida Statutes, is reenacted to read:

373.4595 Northern Everglades and Estuaries Protection

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30 Program.—
31 (1) FINDINGS AND INTENT.—
32 (n) It is the intent of the Legislature that the
33 coordinating agencies encourage and support the development of
34 creative public-private partnerships and programs, including
35 opportunities for water storage and quality improvement on
36 private lands and water quality credit trading, to facilitate or
37 further the restoration of the surface water resources of the
38 Lake Okeechobee watershed, the Caloosahatchee River watershed,
39 and the St. Lucie River watershed, consistent with s. 403.067.
40 Section 2. Paragraphs (a) and (b) of subsection (7) and
41 subsections (8) through (14) of section 403.067, Florida
42 Statutes, are amended to read:
43 403.067 Establishment and implementation of total maximum
44 daily loads.—
45 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
46 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—
47 (a) *Basin management action plans.*—
48 1. In developing and implementing the total maximum daily
49 load for a water body, the department, or the department in
50 conjunction with a water management district, may develop a
51 basin management action plan that addresses some or all of the
52 watersheds and basins tributary to the water body. Such ~~a~~ plan
53 must integrate the appropriate management strategies available
54 to the state through existing water quality protection programs
55 to achieve the total maximum daily loads and may provide for
56 phased implementation of these management strategies to promote
57 timely, cost-effective actions as provided for in s. 403.151.
58 The plan must establish a schedule ~~for~~ implementing the

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59 management strategies, establish a basis for evaluating the
60 plan's effectiveness, and identify feasible funding strategies
61 for implementing the plan's management strategies. The
62 management strategies may include regional treatment systems or
63 other public works, where appropriate, and~~, in the basin listed~~
64 ~~in subsection (10) for which a basin management action plan has~~
65 ~~been adopted,~~ voluntary trading of water quality credits to
66 achieve the needed pollutant load reductions.
67 2. A basin management action plan must equitably allocate,
68 pursuant to paragraph (6)(b), pollutant reductions to individual
69 basins, as a whole to all basins, or to each identified point
70 source or category of nonpoint sources, as appropriate. For
71 nonpoint sources for which best management practices have been
72 adopted, the initial requirement specified by the plan must be
73 those practices developed pursuant to paragraph (c). Where
74 appropriate, the plan may take into account the benefits of
75 pollutant load reduction achieved by point or nonpoint sources
76 that have implemented management strategies to reduce pollutant
77 loads, including best management practices, before ~~prior to~~ the
78 development of the basin management action plan. The plan must
79 also identify the mechanisms that will address potential future
80 increases in pollutant loading.
81 3. The basin management action planning process is intended
82 to involve the broadest possible range of interested parties,
83 with the objective of encouraging the greatest amount of
84 cooperation and consensus possible. In developing a basin
85 management action plan, the department shall assure that key
86 stakeholders, including, but not limited to, applicable local
87 governments, water management districts, the Department of

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88 Agriculture and Consumer Services, other appropriate state
89 agencies, local soil and water conservation districts,
90 environmental groups, regulated interests, and affected
91 pollution sources, are invited to participate in the process.
92 The department shall hold at least one public meeting in the
93 vicinity of the watershed or basin to discuss and receive
94 comments during the planning process and shall otherwise
95 encourage public participation to the greatest practicable
96 extent. Notice of the public meeting must be published in a
97 newspaper of general circulation in each county in which the
98 watershed or basin lies not less than 5 days nor more than 15
99 days before the public meeting. A basin management action plan
100 does ~~shall~~ not supplant or otherwise alter any assessment made
101 under subsection (3) or subsection (4) or any calculation or
102 initial allocation.
103 4. The department shall adopt all or any part of a basin
104 management action plan and any amendment to such plan by
105 secretarial order pursuant to chapter 120 to implement the
106 provisions of this section.
107 5. The basin management action plan must include milestones
108 for implementation and water quality improvement, and an
109 associated water quality monitoring component sufficient to
110 evaluate whether reasonable progress in pollutant load
111 reductions is being achieved over time. An assessment of
112 progress toward these milestones shall be conducted every 5
113 years, and revisions to the plan shall be made as appropriate.
114 Revisions to the basin management action plan shall be made by
115 the department in cooperation with basin stakeholders. Revisions
116 to the management strategies required for nonpoint sources must

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117 follow the procedures set forth in subparagraph (c)4. Revised
118 basin management action plans must be adopted pursuant to
119 subparagraph 4.
120 6. In accordance with procedures adopted by rule under
121 paragraph (9)(c), basin management action plans, and other
122 pollution control programs under local, state, or federal
123 authority as provided in subsection (4), may allow point or
124 nonpoint sources that will achieve greater pollutant reductions
125 than required by an adopted total maximum load or wasteload
126 allocation to generate, register, and trade water quality
127 credits for the excess reductions to enable other sources to
128 achieve their allocation; however, the generation of water
129 quality credits does not remove the obligation of a source or
130 activity to meet applicable technology requirements or adopted
131 best management practices. Such plans must allow trading between
132 NPDES permittees, and trading that may or may not involve NPDES
133 permittees, where the generation or use of the credits involve
134 an entity or activity not subject to department water discharge
135 permits whose owner voluntarily elects to obtain department
136 authorization for the generation and sale of credits.
137 7. The provisions of the department's rule relating to the
138 equitable abatement of pollutants into surface waters do not
139 apply ~~shall not be applied~~ to water bodies or water body
140 segments for which a basin management plan that takes into
141 account future new or expanded activities or discharges has been
142 adopted under this section.
143 (b) *Total maximum daily load implementation.*—
144 1. The department shall be the lead agency in coordinating
145 the implementation of the total maximum daily loads through

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146 existing water quality protection programs. Application of a
147 total maximum daily load by a water management district must be
148 consistent with this section and does ~~shall~~ not require the
149 issuance of an order or a separate action pursuant to s.
150 120.536(1) or s. 120.54 for the adoption of the calculation and
151 allocation previously established by the department. Such
152 programs may include, but are not limited to:
153 a. Permitting and other existing regulatory programs,
154 including water-quality-based effluent limitations;
155 b. Nonregulatory and incentive-based programs, including
156 best management practices, cost sharing, waste minimization,
157 pollution prevention, agreements established pursuant to s.
158 403.061(21), and public education;
159 c. Other water quality management and restoration
160 activities, for example surface water improvement and management
161 plans approved by water management districts or basin management
162 action plans developed pursuant to this subsection;
163 d. Trading of water quality credits or other equitable
164 economically based agreements;
165 e. Public works including capital facilities; or
166 f. Land acquisition.
167 2. For a basin management action plan adopted pursuant to
168 paragraph (a), any management strategies and pollutant reduction
169 requirements associated with a pollutant of concern for which a
170 total maximum daily load has been developed, including effluent
171 limits set forth for a discharger subject to NPDES permitting,
172 if any, must be included in a timely manner in subsequent NPDES
173 permits or permit modifications for that discharger. The
174 department may ~~shall~~ not impose limits or conditions

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175 implementing an adopted total maximum daily load in an NPDES
176 permit until the permit expires, the discharge is modified, or
177 the permit is reopened pursuant to an adopted basin management
178 action plan.
179 a. Absent a detailed allocation, total maximum daily loads
180 must ~~shall~~ be implemented through NPDES permit conditions that
181 provide for a compliance schedule. In such instances, a
182 facility's NPDES permit must allow time for the issuance of an
183 order adopting the basin management action plan. The time
184 allowed for the issuance of an order adopting the plan may ~~shall~~
185 not exceed 5 years. Upon issuance of an order adopting the plan,
186 the permit must be reopened or renewed, as necessary, and permit
187 conditions consistent with the plan must be established.
188 Notwithstanding the other provisions of this subparagraph, upon
189 request by an NPDES permittee, the department as part of a
190 permit issuance, renewal, or modification may establish
191 individual allocations before ~~prior to~~ the adoption of a basin
192 management action plan.
193 b. For holders of NPDES municipal separate storm sewer
194 system permits and other stormwater sources, implementation of a
195 total maximum daily load or basin management action plan must be
196 achieved, to the maximum extent practicable, through the use of
197 best management practices or other management measures.
198 c. The basin management action plan does not relieve the
199 discharger from any requirement to obtain, renew, or modify an
200 NPDES permit or to abide by other requirements of the permit.
201 d. Management strategies set forth in a basin management
202 action plan to be implemented by a discharger subject to
203 permitting by the department must be completed pursuant to the

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204 schedule set forth in the basin management action plan. This
205 implementation schedule may extend beyond the 5-year term of an
206 NPDES permit.
207 e. Management strategies and pollution reduction
208 requirements set forth in a basin management action plan for a
209 specific pollutant of concern are ~~shall~~ not ~~be~~ subject to
210 challenge under chapter 120 at the time they are incorporated,
211 in an identical form, into a subsequent NPDES permit or permit
212 modification.
213 f. For nonagricultural pollutant sources not subject to
214 NPDES permitting but permitted pursuant to other state,
215 regional, or local water quality programs, the pollutant
216 reduction actions adopted in a basin management action plan must
217 ~~shall~~ be implemented to the maximum extent practicable as part
218 of those permitting programs.
219 g. A nonpoint source discharger included in a basin
220 management action plan must demonstrate compliance with the
221 pollutant reductions established under subsection (6) by ~~either~~
222 implementing the appropriate best management practices
223 established pursuant to paragraph (c) or conducting water
224 quality monitoring prescribed by the department or a water
225 management district. A nonpoint source discharger may, in
226 accordance with department rules, supplement the implementation
227 of best management practices with water quality credit trades in
228 order to demonstrate compliance with the pollutant reductions
229 established under subsection (6).
230 h. A nonpoint source discharger included in a basin
231 management action plan may be subject to enforcement action by
232 the department or a water management district based upon a

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233 failure to implement the responsibilities set forth in sub-
234 subparagraph g.
235 i. A landowner, discharger, or other responsible person who
236 is implementing applicable management strategies specified in an
237 adopted basin management action plan may ~~shall~~ not be required
238 by permit, enforcement action, or otherwise to implement
239 additional management strategies, including water quality credit
240 trading, to reduce pollutant loads to attain the pollutant
241 reductions established pursuant to subsection (6) and shall be
242 deemed to be in compliance with this section. This subparagraph
243 does not limit the authority of the department to amend a basin
244 management action plan as specified in subparagraph (a)5.
245 (8) WATER QUALITY CREDIT TRADING.—
246 (a) Water quality credit trading must be consistent with
247 federal law and regulation.
248 (b) Water quality credit trading must be implemented
249 through permits, including water quality credit trading permits,
250 other authorizations, or other legally binding agreements as
251 established by department rule.
252 (c) The department shall establish the pollutant load
253 reduction value of water quality credits and is ~~shall be~~
254 responsible for authorizing their use.
255 (d) A person who ~~that~~ acquires water quality credits
256 (“buyer”) shall timely submit to the department an affidavit,
257 signed by the buyer and the credit generator (“seller”),
258 disclosing the term of acquisition, number of credits, unit
259 credit price paid, and any state funding received for the
260 facilities or activities that generate the credits. The
261 department may ~~shall~~ not participate in the establishment of

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262 credit prices.
263 (e) Sellers of water quality credits are responsible for
264 achieving the load reductions on which the credits are based and
265 complying with the terms of the department authorization and any
266 trading agreements into which they may have entered.
267 (f) Buyers of water quality credits are responsible for
268 complying with the terms of the department water discharge
269 permit.
270 (g) The department shall take appropriate action to address
271 the failure of a credit seller to fulfill its obligations,
272 including, as necessary, deeming the seller's credits invalid if
273 the seller cannot achieve the load reductions on which the
274 credits were based in a reasonable time. If the department
275 determines duly acquired water quality credits to be invalid, in
276 whole or in part, thereby causing the credit buyer to be unable
277 to timely meet its pollutant reduction obligations under this
278 section, the department shall issue an order establishing the
279 actions required of the buyer to meet its obligations by
280 alternative means and a reasonable schedule for completing the
281 actions. The invalidation of credits does ~~shall~~ not, in and of
282 itself, constitute a violation of the buyer's water discharge
283 permit.
284 (h) The department may authorize water quality credit
285 trading in adopted basin management action plans. Participation
286 in water quality credit trading is entirely voluntary. Entities
287 that participate in water quality credit trades shall timely
288 report to the department the prices for credits, how the prices
289 were determined, and any state funding received for the
290 facilities or activities that generated the credits. The

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291 department may not participate in the establishment of credit
292 prices.
293 (9) RULES.—The department may ~~is authorized to~~ adopt rules
294 ~~pursuant to ss. 120.536(1) and 120.54~~ for:
295 (a) Delisting water bodies or water body segments from the
296 list developed under subsection (4) pursuant to the guidance
297 under subsection (5).
298 (b) Administering of funds to implement the total maximum
299 daily load and basin management action planning programs.
300 (c) Water quality credit trading among the pollutant
301 sources to a water body or water body segment. ~~By September 1,~~
302 ~~2008, rulemaking must be initiated which provides~~ The rules must
303 provide for the following:
304 1. The process to be used to determine how credits are
305 generated, quantified, and validated.
306 2. A publicly accessible water quality credit trading
307 registry that tracks water quality credits, trading activities,
308 and prices paid for credits.
309 3. Limitations on the availability and use of water quality
310 credits, including a list of eligible pollutants or parameters
311 and minimum water quality requirements and, where appropriate,
312 adjustments to reflect best management practice performance
313 uncertainties and water-segment-specific location factors.
314 4. The timing and duration of credits and allowance for
315 credit transferability.
316 5. Mechanisms for determining and ensuring compliance with
317 trading procedures, including recordkeeping, monitoring,
318 reporting, and inspections.
319

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320 At the time of publication of the draft rules on water quality
321 credit trading, the department shall submit a copy to the United
322 States Environmental Protection Agency for review.
323 (d) The total maximum daily load calculation in accordance
324 with paragraph (6)(a) immediately upon the effective date of
325 this act, for those eight water segments within Lake Okeechobee
326 proper as submitted to the United States Environmental
327 Protection Agency pursuant to subsection (2).
328 (e) Implementation of other specific provisions.
329 ~~(10) Water quality credit trading shall be limited to the~~
330 ~~Lower St. Johns River Basin, as defined by the department, as a~~
331 ~~pilot project. The department may authorize water quality credit~~
332 ~~trading and establish specific requirements for trading in the~~
333 ~~adopted basin management action plan for the Lower St. Johns~~
334 ~~River Basin prior to the adoption of rules under paragraph~~
335 ~~(9)(c) in order to effectively implement the pilot project.~~
336 ~~Entities that participate in water quality credit trades shall~~
337 ~~timely report to the department the prices for credits, how the~~
338 ~~prices were determined, and any state funding received for the~~
339 ~~facilities or activities that generated the credits. The~~
340 ~~department shall not participate in the establishment of credit~~
341 ~~prices. No later than 24 months after adoption of the basin~~
342 ~~management action plan for the Lower St. Johns River, the~~
343 ~~department shall submit a report to the Governor, the President~~
344 ~~of the Senate, and the Speaker of the House of Representatives~~
345 ~~on the effectiveness of the pilot project, including the~~
346 ~~following information:~~
347 ~~(a) A summary of how water quality credit trading was~~
348 ~~implemented, including the number of pounds of pollutants~~

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349 ~~traded.~~
350 ~~(b) A description of the individual trades and estimated~~
351 ~~pollutant load reductions that are expected to result from each~~
352 ~~trade.~~
353 ~~(c) A description of any conditions placed on trades.~~
354 ~~(d) Prices associated with the trades, as reported by the~~
355 ~~traders.~~
356 ~~(e) A recommendation as to whether other areas of the state~~
357 ~~would benefit from water quality credit trading and, if so, an~~
358 ~~identification of the statutory changes necessary to expand the~~
359 ~~scope of trading.~~
360 (10) ~~(11)~~ APPLICATION.—The provisions of this section are
361 intended to supplement existing law, and may not ~~nothing in this~~
362 ~~section shall~~ be construed as altering any applicable state
363 water quality standards or as restricting the authority
364 otherwise granted to the department or a water management
365 district under this chapter or chapter 373. The exclusive means
366 of state implementation of s. 303(d) of the Clean Water Act,
367 Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. shall be in
368 accordance with the identification, assessment, calculation and
369 allocation, and implementation provisions of this section.
370 (11) ~~(12)~~ CONSTRUCTION. ~~Nothing in~~ This section does not
371 limit ~~shall be construed as limiting~~ the applicability or
372 consideration of any mixing zone, variance, exemption, site
373 specific alternative criteria, or other moderating provision.
374 (12) ~~(13)~~ IMPLEMENTATION OF ADDITIONAL PROGRAMS.—
375 (a) The department may ~~shall~~ not implement, without prior
376 legislative approval, any additional regulatory authority
377 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part

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378 130, if such implementation would result in water quality
379 discharge regulation of activities not currently subject to
380 regulation.
381 (b) Interim measures, best management practices, or other
382 measures may be developed and voluntarily implemented pursuant
383 to paragraph (7)(c) for any water body or segment for which a
384 total maximum daily load or allocation has not been established.
385 The implementation of such pollution control programs may be
386 considered by the department in the determination made pursuant
387 to subsection (4).
388 (13) ~~(14)~~ RULE CHALLENGES.—In order to provide adequate due
389 process while ensuring timely development of total maximum daily
390 loads, proposed rules and orders authorized by this act are
391 ~~shall be~~ ineffective pending resolution of a s. 120.54(3), s.
392 120.56, s. 120.569, or s. 120.57 administrative proceeding.
393 However, the department may go forward prior to resolution of
394 such administrative proceedings with subsequent agency actions
395 authorized by subsections (2)-(6) if~~, provided that~~ the
396 department can support and substantiate those actions using the
397 underlying bases for the rules or orders without the benefit of
398 any legal presumption favoring, or in deference to, the
399 challenged rules or orders.
400 Section 3. For the purpose of incorporating the amendment
401 made by this act to section 403.067, Florida Statutes, in a
402 reference thereto, paragraph (e) of subsection (2) of section
403 403.088, Florida Statutes, is reenacted to read:
404 403.088 Water pollution operation permits; conditions.—
405 (2)
406 (e) However, if the discharge will not meet permit

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407 conditions or applicable statutes and rules, the department may
408 issue, renew, revise, or reissue the operation permit if:
409 1. The applicant is constructing, installing, or placing
410 into operation, or has submitted plans and a reasonable schedule
411 for constructing, installing, or placing into operation, an
412 approved pollution abatement facility or alternative waste
413 disposal system;
414 2. The applicant needs permission to pollute the waters
415 within the state for a period of time necessary to complete
416 research, planning, construction, installation, or operation of
417 an approved and acceptable pollution abatement facility or
418 alternative waste disposal system;
419 3. There is no present, reasonable, alternative means of
420 disposing of the waste other than by discharging it into the
421 waters of the state;
422 4. The granting of an operation permit will be in the
423 public interest;
424 5. The discharge will not be unreasonably destructive to
425 the quality of the receiving waters; or
426 6. A water quality credit trade that meets the requirements
427 of s. 403.067.
428 Section 4. 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)

4/2/13
Meeting Date

Topic: Water Quality Credit Trading

Bill Number: 754 (if applicable)

Name: Ryan Matthews

Amendment Barcode: (if applicable)

Job Title: Leg Advocate

Address: PO Box 1757
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 222 9684

E-mail: rmatthews@flcities.com

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.

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)

4-2-13
Meeting Date

Topic: W. QUALITY CREDIT TRADING

Bill Number: 754 *(if applicable)*

Name: KURT SPITZER

Amendment Barcode: *(if applicable)*

Job Title: EXEC DIRECTOR

Address: 719 E PARK AVE
Street

TALLAHASSEE 32301
City *State* *Zip*

Phone: 561-0904

E-mail: KURTSPITZER@KSANET.NET

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

Representing: FLA. STORMWATER ASSOCIATION

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

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

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

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

S-001 (10/20/11

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2
Meeting Date

Topic _____ Bill Number 754 (if applicable)

Name Jim Spratt Amendment Barcode _____ (if applicable)

Job Title _____

Address PO Box 10011 Phone 850-228-1296
Street

Tally FL 32302 E-mail jim@magnoliastrategies.com
City State Zip

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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 2 2013
Meeting Date

Topic: Water Quality Credit Trading

Bill Number: 754 *(if applicable)*

Name: David Childs

Amendment Barcode: *(if applicable)*

Job Title: Counsel

Address: 119 S. Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850 222-7500

E-mail: DAVID@HGSLAW

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

Representing: Southeast Milk

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/

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Water Quality Credit Trading

Bill Number: SB 754 (if applicable)

Name: Suzanne Goss

Amendment Barcode: _____ (if applicable)

Job Title: Government Relations Specialist

Address: 21 W. Church St.
Street

Jacksonville FL 32202
City State Zip

Phone: 904 665-8331

E-mail: gossSE@jea.com

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

Representing: JEA

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

Lobbyist registered with Legislature: [X] Yes [ ] N

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/

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 754

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Grimsley

SUBJECT: Water Quality Credit Trading

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**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 754 expands statewide the water quality credit trading pilot program currently authorized for the Lower St. Johns River Basin. The bill authorizes the Department of Environmental Protection (DEP) to approve water quality credit trading in adopted basin management action plans (BMAPs). Entities that participate in water quality credit trades must timely report to the DEP the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. The DEP cannot participate in the establishment of credit prices.

The bill clarifies that participation in water quality credit trading is voluntary. The bill authorizes water quality credit trading to occur in pollution control programs under local, state, or federal authority. The bill also deletes obsolete language and makes conforming changes.

This bill substantially amends the following sections of the Florida Statutes: 373.4595, 403.067, and 403.088.

II. Present Situation:

Water Pollution Regulation

Under section 303 of the federal Clean Water Act (CWA), states are required to adopt water quality standards (WQSs) for their navigable waters and to review and update those standards at least every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, or navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative form, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[1]

States must submit their WQSs to the U.S. Environmental Protection Agency (EPA) for review and approval.[2] If the EPA finds that a state's proposal for one or more criteria are inadequate, it must notify the state, which then has 90 days to revise its standards in response to the EPA's concerns.[3] If the state does not do so, the EPA is required to "promptly" propose a federal standard that will apply to that state. Similarly, if the EPA, independent of any state proposal, determines that a state needs a new or revised standard and the state fails to act, then the CWA directs the EPA to propose the new or revised standard for that state.[4] If the state proceeds to develop its own standard while the EPA is engaged in the rulemaking process and the state standard is acceptable to the EPA, the CWA allows the EPA to approve the state standard and abandon its own effort.[5] In most instances, Florida has adopted an approved WQS and has subsequently been granted the authority to enforce the provisions of the CWA.

The EPA and the DEP enforce WQSs through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program. Every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody.[6] The amount of the pollutant that a point source can discharge under a NPDES permit is determined through the establishment of a technology-based effluent limitation (TBEL). If a waterbody fails to meet the applicable WQS through the application of a TBEL, a water quality-based effluent limitation (WQBEL), which is a more stringent standard, is used.

Waterbodies that do not meet the established WQSs are deemed impaired and, pursuant to the CWA, DEP must then establish a total maximum daily load (TMDL) for the waterbody or section of the waterbody that is impaired. In 1999, the Legislature passed the Florida Watershed Restoration Act (WRA), which codified the establishment of TMDLs for pollutants of water

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[1] 33 U.S.C. s. 1313(c)(2)(A); 40 C.F.R. ss. 131.6, 131.10-12.
[2] 33 U.S.C. s. 1313(c)(2)(A).
[3] 33 U.S.C. s. 1313(c)(3).
[4] 33 U.S.C. s. 1313(c)(4).
[5] *Id*.
[6] Point source pollution, at its most basic level, is water pollution that comes from a single, discreet place, like a discharge pipe.

bodies as required by the federal CWA.[7] TMDLs establish the amount of each pollutant a water body can receive without violating state WQSs. A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.[8] Waste load allocations are pollutant loads attributable to existing and future point sources, such as discharges from industry and sewage facilities. Load allocations are pollutant loads attributable to existing and future nonpoint sources such as the runoff from farms, forests, and urban areas.

The DEP may also establish a BMAP as part of the development and implementation of a TMDL for a specific water body. First the BMAP equitably allocates pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources.[9] Then the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations, the basis for evaluating the plan's effectiveness and making adaptive changes, and funding strategies. The BMAP development process provides an opportunity for local stakeholders, including affected pollution sources, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities. The DEP works with stakeholders to develop effective BMAPs, which then must be adopted by Secretarial order pursuant to s. 403.067(7), F.S.

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the plan must be made as appropriate.[10]

In some cases, local, state, and federal entities are able to establish their own effective pollution reduction requirements in lieu of a TMDL.[11] Pursuant to s. 403.067(4), F.S., these "pollution control programs" must demonstrate that they can restore the waterbody as effectively as a TMDL. Most pollution reduction requirements are established as TMDLs, although there are a few alternative pollution control programs that have been successfully established.[12]

A nonpoint source pollutant discharger included in a BMAP must demonstrate compliance with the established pollutant reductions by either implementing the appropriate best management practices (BMPs) or by conducting water quality monitoring.[13] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district based upon a failure to implement these responsibilities.[14]

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[7] Section 403.067, F.S.
[8] Chapter 62-302, F.A.C. (Surface Water Quality Standards). Nonpoint sources of pollution are essentially sources of pollution that are not point sources. Non-point sources of pollution can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.
[9] Section 403.067(7)(a), F.S.
[10] *Id.*
[11] DEP, *Senate Bill 754 Legislative Analysis* (2013) (on file with the Senate Committee on Environmental Preservation and Conservation).
[12] *Id.*
[13] BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[14] Section 403.067, F.S.

Provisions of a BMAP must be included in subsequent NPDES permits. The DEP is prohibited from imposing limits or conditions associated with an adopted TMDL in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.

NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed five years. NPDES permittees may request an individual allocation during the interim and the DEP may include an individual allocation in the permit.

The DEP is the lead agency in coordinating the implementation of TMDLs and BMAPs through existing water quality protection programs. Such programs include:

- Permitting and other existing regulatory programs, including WQBELs;
- Non-regulatory and incentive-based programs, including BMPs, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;[15]
- Public works, including capital facilities; and
- Land acquisition.

For an individual point source, reducing pollutant loads established under the TMDL and WQBEL regulatory programs can be difficult to accomplish. It may require investment in expensive technology or other costly measures to reduce pollutant loads.

Water Quality Credit Trading

A potentially less costly option for meeting the pollution limits established under a TMDL for an impaired waterbody is through the adoption of a water quality credit trading program, which is a voluntary, market-based approach for reducing pollution to Florida's impaired rivers, lakes, streams, and estuaries.

The underlying economic theory is that achieving pollution abatement at the lowest incremental cost at each additional increment reduced is the most cost effective means to achieve abatement. Trading is based on the premise that different sources of a pollutant in a watershed can face substantially different costs to control that pollutant. Trading allows pollutant reduction activities to be environmentally valued in the form of "credits" that can then be traded on a local "market" to promote cost-effective water quality improvements.[16] Water quality credits are generated when a source reduces its loading of a given pollutant below the load allowable for the source

[15] Section 403.061, F.S., grants the DEP the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

[16] DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature* (October 2010), *available at* http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf (last visited Mar. 12, 2013).

under the TMDL or BMAP.[17] Financial savings accrue to parties that buy trading credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves. Those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions.

Water quality credit trading can accelerate cleanup because potentially unaffordable costs for individual dischargers can be reduced and cooperative relationships built through trading agreements that foster shared responsibility and commitment. Trading can also accommodate new growth, including new pollutant loadings from urban stormwater, and domestic and industrial wastewater discharges. It offers the possibility for the owners of potential new or increased discharges to purchase credits from existing dischargers so that overall pollutant loadings to a watershed are not increased and water quality is preserved.[18]

Water Quality Credit Trading Program in Florida

In 2008, the Legislature created a pilot water quality credit trading program for the Lower St. Johns River Basin and authorized the DEP to provide requirements for trading in the BMAP established for that basin.[19]

Section 403.067(8), F.S., provides the following statutory requirements for establishing a water quality credit trading program in Florida:

- Water quality credit trading must be consistent with federal law and regulation.
- Water quality credit trading must be implemented through permits, including water quality credit trading permits, other authorizations, or other legally binding agreements as established by DEP rule.
- The DEP must establish the pollutant load reduction value of water quality credits and is responsible for authorizing their use.
- A person who acquires water quality credits ("buyer") must timely submit to the DEP an affidavit, signed by the buyer and the credit generator ("seller"), disclosing the terms of acquisition, number of credits, price paid per unit credit, and any state funding received for the facilities or activities that generate the credits. The DEP cannot participate in the establishment of credit prices.
- Sellers of water quality credits are responsible for achieving the load reductions on which the credits are based and for complying with the terms of the DEP authorization and any trading agreements into which they may have entered.
- Buyers of water quality credits are responsible for complying with the terms of the DEP water discharge permit.
- The DEP must take appropriate action to address the failure of a credit seller to fulfill its obligations, including, as necessary, deeming the seller's credits invalid if the seller cannot achieve the load reductions, on which the credits were based, in a reasonable time. If the DEP determines duly acquired water quality credits to be invalid, in whole or in part, thereby

[17] Lower St. Johns River TMDL Executive Committee, *Basin Management Action Plan: For the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the Florida Department of Environmental Protection for the Lower St. Johns River Basin Main Stem* (October 2008), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/adopted-lsjr-bmap.pdf (last visited Mar. 12, 2013).
[18] *Supra* note 16, at 2.
[19] Chapter 2008-189, Laws of Fla.

causing the credit buyer to be unable to timely meet its pollutant reduction obligations, then the DEP must issue an order establishing the actions required of the buyer to meet its obligations by alternative means and a reasonable schedule for completing the actions. The invalidation of credits shall not itself constitute a violation of the buyer's water discharge permit.

Section 403.067(9), F.S., directs the DEP to establish water quality credit trading rules that provide for the following:

- The process for determining how credits are generated, quantified, and validated;
- A publicly accessible trading registry to track credits, trading activities, and prices;
- Limitations on the availability and use of credits, including a list of pollutants eligible for trading and adjustment factors to account for uncertainties and site-specific considerations;
- The timing, duration, and transferability of credits; and
- Mechanisms to assure compliance with trading procedures, including record-keeping, monitoring, reporting, and inspections.

The pilot program established by the DEP pursuant to s. 403.067, F.S., contains the following elements:

- Credits are only generated when a source's pollutant load is reduced below the baseline established for the entity. For a trade involving credits generated by a "nonpoint" source (typically related to stormwater), the pollutant loading must be less than that expected following the implementation of BMPs and any other reductions required in the BMAP.
- For trades where the seller and buyer discharge to different locations, the amount of credits proposed for trading must be adjusted by location factors to provide reasonable assurance that the trade will not result in localized adverse impacts to the waterbody or water segment.
- Credits generated by a point source, such as a wastewater facility, must be confirmed by effluent monitoring throughout the life of the trade for the pollutant in question.
- For trades involving estimated credits generated by nonpoint sources, uncertainty factors are applied and the applicant must provide reasonable assurance that the estimate is scientifically defensible.
- Credits must be used in the same calendar year in which they are generated.
- Credits generated cannot be used to offset violations of a discharge permit or to comply with TBELs.
- Water quality credit trades cannot result in an increased nutrient load above the Lower St. Johns River TMDLs.[20]

Section 403.067(10), F.S., directs the DEP to submit a report to the Legislature on the status of the trading no later than 24 months after the adoption of the BMAP for the Lower St. Johns River. The report was issued in October 2010. The DEP concluded that there was little formal trading done under the pilot program mainly because pre-BMAP trades of pollutant load allocations were incorporated into the BMAP when it was adopted. Another factor was that the EPA's proposed numeric nutrient criteria raised uncertainty about nutrient limits that facilities would have to meet. The DEP recommended extending the pilot program for another two years

[20] Rule 62-306.300, F.A.C.

to allow for further evaluation of the EPA's numeric nutrient criteria for fresh and estuarine waters.[21]

Since the report was submitted to the Legislature in 2010, only one trade has occurred within the Lower St. Johns River Basin. According to the DEP, the lack of interest in trading is due mainly to an uncertainty in clearly defining credits for trading between the nonpoint and point sources.[22] In addition, because the program only encompasses the Lower St. Johns River, the number of regulated entities, the number of available credits, and thus, the potential to trade was very limited. However, now that some of the regulatory uncertainty surrounding the adoption of numeric nutrient criteria in Florida is being resolved, these hindrances to trading under the pilot program may not apply to a statewide water quality credit trading program, especially as it pertains to meeting the new numeric nutrient criteria.

III. Effect of Proposed Changes:

Section 1 reenacts s. 373.4595(1)(n), F.S., which references s. 403.067, F.S., to incorporate the changes made by the bill to s. 403.067, F.S.

Section 2 removes language from statute that limits water quality credit trading to the Lower St. Johns River Basin, thus allowing it to be used statewide. The bill allows local, state, or federal pollution control programs, other than BMAPs, to engage in water quality credit trading.

The bill allows the DEP to authorize water quality credit trading in BMAPs. It requires entities that trade credits to timely report the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. It prohibits the DEP from participating in the establishment of credit prices.

The bill eliminates language establishing the Lower St. Johns River Basin water quality credit trading pilot program. The eliminated language includes a report on the effectiveness of the pilot project which was produced by the DEP in October, 2010.

The bill clarifies that participation in water quality credit trading is voluntary. The bill also makes conforming changes.

Section 3 reenacts s. 403.088(2)(e), F.S., which references s. 403.067, F.S., to incorporate the amendments made by the bill to s. 403.067, F.S.

Section 4 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[21] *Id.*

[22] Department of Environmental Preservation, *Senate Bill 754 Legislative Analysis* (2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private entities who participate in the program could see a positive financial impact as either a seller or purchaser of water quality credits.

C. Government Sector Impact:

The bill has a potentially negative but indeterminate fiscal impact on the DEP that may result from establishing a statewide water quality credit trading program, establishing an expanded trading registry, and administering the program statewide.

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 Environmental Preservation and Conservation on March 14, 2013:
The committee substitute clarifies that participation in water quality credit trading is voluntary.

B. Amendments:

None.

358122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 59 - 63
4 and insert:
5 notify the department, and, if applicable, the local pollution
6 control program under s. 403.182, of its decision to designate a
7 brownfield area for rehabilitation for the purposes of ss.
8 376.77-376.86. The notification must include a resolution
9 adopted, by the local government body. The local government
10 shall notify the department, and, if applicable, the local
11 pollution control program under s. 403.182, of the designation
12 within 30 days after adoption of

By the Committee on Environmental Preservation and Conservation; and Senator Altman

592-02410-13 2013554c1

A bill to be entitled

An act relating to brownfields; amending s. 376.78, F.S.; revising legislative intent with regard to community revitalization in certain areas; amending s. 376.80, F.S.; revising procedures for designation of brownfield areas by local governments; providing procedures for adoption of a resolution; providing requirements for notice and public hearings; authorizing local governments to use a term other than “brownfield area” when naming such areas; amending s. 376.82, F.S.; providing relief of liability for property damages for entities that execute and implement certain brownfield site rehabilitation agreements; providing for applicability; providing an effective date.

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

Section 1. Subsection (8) of section 376.78, Florida Statutes, is amended to read:

376.78 Legislative intent.—The Legislature finds and declares the following:

(8) The existence of brownfields within a community may contribute to, or may be a symptom of, overall community decline, including issues of human disease and illness, crime, educational and employment opportunities, and infrastructure decay. The environment is an important element of quality of life in any community, along with economic opportunity, educational achievement, access to health care, housing quality

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30 and availability, provision of governmental services, and other
31 socioeconomic factors. Brownfields redevelopment, properly done,
32 can be a significant element in community revitalization,
33 especially within community redevelopment areas, enterprise
34 zones, empowerment zones, closed military bases, or designated
35 brownfield pilot project areas.
36 Section 2. Subsections (1) and (2) of section 376.80,
37 Florida Statutes, are amended, and subsection (12) is added to
38 that section, to read:
39 376.80 Brownfield program administration process.—
40 (1) The following general procedures apply to brownfield
41 designations:
42 (a) The local government with jurisdiction over a proposed
43 brownfield area shall designate such area pursuant to this
44 section.
45 (b) For a brownfield area designation proposed by:
46 1. The jurisdictional local government, the designation
47 criteria under paragraph (2)(a) apply, except if the local
48 government proposes to designate as a brownfield area a
49 specified redevelopment area as provided in paragraph (2)(b).
50 2. Any person, other than a governmental entity, including,
51 but not limited to, individuals, corporations, partnerships,
52 limited liability companies, community-based organizations, or
53 not-for-profit corporations, the designation criteria under
54 paragraph (2)(c) apply.
55 (c) Except as otherwise provided, the following provisions
56 apply to all proposed brownfield area designations:
57 1. Notification to department following adoption.—A local
58 government with jurisdiction over the brownfield area must

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59 notify the department of its decision to designate a brownfield
60 area for rehabilitation for the purposes of ss. 376.77-376.86.
61 The notification must include a resolution adopted~~,~~ by the local
62 government body. The local government shall notify the
63 department of the designation within 30 days after adoption of
64 the resolution.
65 2. Resolution adoption.—The brownfield area designation
66 must be carried out by a resolution adopted by the
67 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a
68 map adequate to clearly delineate exactly which parcels are to
69 be included in the brownfield area or alternatively a less-
70 detailed map accompanied by a detailed legal description of the
71 brownfield area. The resolution shall be adopted pursuant to the
72 procedures and requirements of the local government in effect at
73 the time of the proposed designation, except as otherwise
74 provided in this section.
75 3. Right to be removed from proposed brownfield area.—If a
76 property owner within the area proposed for designation by the
77 local government requests in writing to have his or her property
78 removed from the proposed designation, the local government
79 shall grant the request. ~~For municipalities, the governing body~~
80 ~~shall adopt the resolution in accordance with the procedures~~
81 ~~outlined in s. 166.041, except that the notice for the public~~
82 ~~hearings on the proposed resolution must be in the form~~
83 ~~established in s. 166.041(3)(c)2. For counties, the governing~~
84 ~~body shall adopt the resolution in accordance with the~~
85 ~~procedures outlined in s. 125.66, except that the notice for the~~
86 ~~public hearings on the proposed resolution shall be in the form~~
87 ~~established in s. 125.66(4)(b)2.~~

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88 4. Notice and public hearing requirements.—Compliance with
89 the following provisions is required before designation of a
90 proposed brownfield area under paragraph (2)(a) or paragraph
91 (2)(c):
92 a. At least one of the required public hearings shall be
93 conducted as closely as is reasonably practicable to the area to
94 be designated to provide an opportunity for public input on the
95 size of the area, the objectives for rehabilitation, job
96 opportunities and economic developments anticipated,
97 neighborhood residents' considerations, and other relevant local
98 concerns.
99 b. Notice of the public hearing must be made in a newspaper
100 of general circulation in the area, and the notice must be at
101 least 16 square inches in size, must be in ethnic newspapers or
102 local community bulletins, must be posted in the affected area,
103 and must be announced at a scheduled meeting of the local
104 governing body before the actual public hearing.
105 (2)(a) *Local government-proposed brownfield area*
106 *designation outside specified redevelopment areas*.—If a local
107 government proposes to designate a brownfield area that is
108 outside a community redevelopment area ~~areas~~, enterprise zone
109 ~~zones~~, empowerment zone ~~zones~~, closed military base ~~bases~~, or
110 designated brownfield pilot project area ~~areas~~, the local
111 government shall provide notice, adopt the resolution, and
112 conduct ~~the~~ public hearings pursuant to paragraph ~~in accordance~~
113 ~~with the requirements of subsection~~ (1)(c). At a public hearing
114 to designate the proposed brownfield area~~, except at least one~~
115 ~~of the required public hearings shall be conducted as close as~~
116 ~~reasonably practicable to the area to be designated to provide~~

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117 ~~an opportunity for public input on the size of the area, the~~
118 ~~objectives for rehabilitation, job opportunities and economic~~
119 ~~developments anticipated, neighborhood residents'~~
120 ~~considerations, and other relevant local concerns. Notice of the~~
121 ~~public hearing must be made in a newspaper of general~~
122 ~~circulation in the area and the notice must be at least 16~~
123 ~~square inches in size, must be in ethnic newspapers or local~~
124 ~~community bulletins, must be posted in the affected area, and~~
125 ~~must be announced at a scheduled meeting of the local governing~~
126 ~~body before the actual public hearing. In determining the areas~~
127 ~~to be designated~~, the local government must consider:
128 1. Whether the brownfield area warrants economic
129 development and has a reasonable potential for such activities;
130 2. Whether the proposed area to be designated represents a
131 reasonably focused approach and is not overly large in
132 geographic coverage;
133 3. Whether the area has potential to interest the private
134 sector in participating in rehabilitation; and
135 4. Whether the area contains sites or parts of sites
136 suitable for limited recreational open space, cultural, or
137 historical preservation purposes.
138 (b) *Local government-proposed brownfield area designation*
139 *within specified redevelopment areas.*—Paragraph (a) does not
140 apply to a proposed brownfield area if the local government
141 proposes to designate the brownfield area inside a community
142 redevelopment area, enterprise zone, empowerment zone, closed
143 military base, or designated brownfield pilot project area and
144 the local government complies with paragraph (1)(c).
145 (c) ~~(b)~~ *Brownfield area designation proposed by persons*

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146 *other than a governmental entity.*—For designation of a
147 brownfield area that is proposed by a person other than the
148 local government, the local government with jurisdiction over
149 the proposed brownfield area shall adopt a resolution to
150 designate the ~~a~~ brownfield area pursuant to subsection (1) if,
151 at the public hearing to adopt the resolution, the person
152 establishes all of the following ~~under the provisions of this~~
153 ~~act provided that~~:
154 1. A person who owns or controls a potential brownfield
155 site is requesting the designation and has agreed to
156 rehabilitate and redevelop the brownfield site.~~;~~
157 2. The rehabilitation and redevelopment of the proposed
158 brownfield site will result in economic productivity of the
159 area, along with the creation of at least 5 new permanent jobs
160 at the brownfield site that are full-time equivalent positions
161 not associated with the implementation of the brownfield site
162 rehabilitation agreement and that are not associated with
163 redevelopment project demolition or construction activities
164 pursuant to the redevelopment of the proposed brownfield site or
165 area. However, the job creation requirement does ~~shall~~ not apply
166 to the rehabilitation and redevelopment of a brownfield site
167 that will provide affordable housing as defined in s. 420.0004
168 or the creation of recreational areas, conservation areas, or
169 parks.~~;~~
170 3. The redevelopment of the proposed brownfield site is
171 consistent with the local comprehensive plan and is a
172 permittable use under the applicable local land development
173 regulations.~~;~~
174 4. Notice of the proposed rehabilitation of the brownfield

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175 area has been provided to neighbors and nearby residents of the
176 proposed area to be designated pursuant to paragraph (1)(c), and
177 the person proposing the area for designation has afforded to
178 those receiving notice the opportunity for comments and
179 suggestions about rehabilitation. Notice pursuant to this
180 subparagraph must be made in a newspaper of general circulation
181 in the area, at least 16 square inches in size, and the notice
182 must be posted in the affected area.~~; and~~
183 5. The person proposing the area for designation has
184 provided reasonable assurance that he or she has sufficient
185 financial resources to implement and complete the rehabilitation
186 agreement and redevelopment of the brownfield site.
187 (d)~~(c)~~ *Negotiation of brownfield site rehabilitation*
188 *agreement.*—The designation of a brownfield area and the
189 identification of a person responsible for brownfield site
190 rehabilitation simply entitles the identified person to
191 negotiate a brownfield site rehabilitation agreement with the
192 department or approved local pollution control program.
193 (12) A local government that designates a brownfield area
194 pursuant to this section is not required to use the term
195 "brownfield area" within the name of the brownfield area
196 proposed for designation by the local government.
197 Section 3. Paragraphs (a) and (b) of subsection (2) of
198 section 376.82, Florida Statutes, are amended to read:
199 376.82 Eligibility criteria and liability protection.—
200 (2) LIABILITY PROTECTION.—
201 (a) Any person, including his or her successors and
202 assigns, who executes and implements to successful completion a
203 brownfield site rehabilitation agreement, shall be relieved of:

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204 1. Further liability for remediation of the contaminated
205 site or sites to the state and to third parties. ~~and of~~
206 2. Liability in contribution to any other party who has or
207 may incur cleanup liability for the contaminated site or sites.
208 3. Liability for claims of any person for property damages,
209 including, but not limited to, diminished value of real property
210 or improvements; lost or delayed rent, sale, or use of real
211 property or improvements; or stigma to real property or
212 improvements caused by contamination addressed by a brownfield
213 site rehabilitation agreement. Notwithstanding any other
214 provision of this chapter, this subparagraph applies to causes
215 of action accruing on or after July 1, 2013.
216 (b) This section does not limit ~~shall not be construed as a~~
217 ~~limitation on~~ the right of a third party other than the state to
218 pursue an action for damages to persons for bodily harm ~~property~~
219 ~~or person~~; however, such an action may not compel site
220 rehabilitation in excess of that required in the approved
221 brownfield site rehabilitation agreement or otherwise required
222 by the department or approved local pollution control program.
223 Section 4. 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)

4-2-13
Meeting Date

Topic: Brownfields

Bill Number: CS/SB 554 *(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@littlejohnmann.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)

4/2/13
Meeting Date

Topic: BROWNFIELDS

Bill Number: 554 *(if applicable)*

Name: HUBERT "BO" BOHANNON

Amendment Barcode: *(if applicable)*

Job Title: LOBBYIST

Address: 200 W. COLLEGE AVE
Street

TALLAHASSEE, FL 32301
City, State, Zip

Phone: 850-222-8959

E-mail: BOB@THEFLORENTINESGROUP.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing: FLORIDA BROWNFIELDS ASSOCIATION

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-13
Meeting Date

Topic: Brownfields

Bill Number: 554 *(if applicable)*

Name: Marty Cassini

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Counsel

Address: 115 S. Andrews Ave
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)

4-2-13
Meeting Date

Topic: Brownfields

Bill Number: 554 *(if applicable)*

Name: Marty Cassini

Amendment Barcode: 358122 *(if applicable)*

Job Title: Legislative Counsel

Address: 115 S. Andrews, 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

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR THAD ALTMAN
16th District

March 19, 2013

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 554, related to *Brownfields,* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Thad Altman

Thad Altman
TA/rk

CC: Tom Yeatman, Staff Director, 315 Knott Building

REPLY TO:
❒ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
❒ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN
16th District

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

April 2, 2013

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

SB 554, related to *Brownfields,* is on the Community Affairs Committee agenda today, April 2, 2013.

Because of a conflict with the Committee on Military and Veterans Affairs, Space, and Domestic Security, I will be unable to attend. Please recognize my Legislative Aide, Rick Kendust, to present SB 554, on my behalf.

Please feel free to contact me if you have any questions.

Sincerely,

Thad Altman

Thad Altman/svb

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

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/CS/SB 554

INTRODUCER: Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Altman

SUBJECT: Brownfields

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
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/CS/SB 554 amends procedures that must be followed in order to designate brownfield areas under the Brownfields Redevelopment Act. The bill also provides additional liability protection for individuals responsible for the rehabilitation of a brownfield site.

This bill amends ss. 376.78, 376.80, and 376.82 of the Florida Statutes.

II. Present Situation:

The Brownfields Redevelopment Act

The term "brownfield" came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous

substance, pollutant, or contaminant."[1] In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities around the country access to federal funds that have been allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.[2]

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).[3] The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.[4] The Act required the Department of Environmental Protection (DEP) to adopt rules to determine site-specific investigation methods, clean-up methods, and clean-up target levels by incorporating risk based corrective action (RBCA) principles.[5] The Brownfields Cleanup Criteria Rule, Rule 62-785 of the Florida Administrative Code (F.A.C.), was adopted by the DEP on April 30, 1998, and became effective July 6, 1998.[6]

The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997. A person who successfully completes a brownfield site rehabilitation agreement (BSRA) is relieved from further liability for remediation of the contaminated site or sites to the state and to third parties, and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site.[7] The Act does not limit the right of a third party, other than the state, to pursue an action for damages to property or person; however, an action may not require rehabilitation in excess of what is outlined in the approved BSRA or required by the DEP or the local pollution control program.[8]

The Act provides lenders the same liability protections as program participants as long as the lender has not caused or contributed to the contamination of a brownfield site. The lender liability protections are provided to encourage financing of real-property transactions involving brownfield sites.[9]

---

[1] Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, (Sept. 2010), *available at* http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf (last visited Feb. 15, 2013).
[2] The Florida Brownfields Association, *Brownfields 101*, available at http://floridabrownfields.org/associations/11916/files/Brownfields101.pdf (last visited Feb. 15, 2013).
[3] Chapter 97-277, Laws of Fla.
[4] Department of Environmental Protection, *Florida Brownfields Redevelopment Act-1998 Annual Report*, *available at* http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Feb. 15, 2013).
[5] ASTM International defines "risk based corrective action principles" as consistent decision-making processes for assessment and response to chemical releases. *See* http://www.astm.org/Standards/E2081.htm (last visited Feb. 22, 2013).
[6] *See* Rule 62-785, F.A.C.
[7] *Id*. "Brownfield site rehabilitation agreement" (BSRA) means an agreement entered into between the person responsible for brownfield site rehabilitation and the Department or a delegated local program. The BSRA shall at a minimum establish the time frames, schedules, and milestones for completion of site rehabilitation tasks and submission of technical reports, and other commitments or provisions pursuant to s. 376.80(5), F.S., and Rule 62-785, F.A.C.
[8] *See* s. 376.82, F.S.
[9] *Id*.

The Act also created the Brownfield Redevelopment Bonus Refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.[10] The Act identifies specific procedures and criteria for the designation of a brownfield area by local governments,[11] counties,[12] and municipalities.[13]

Economic Incentives

In 1998, the Legislature passed SBs 1202 and 244 providing economic and financial incentives to promote the redevelopment of brownfield areas. SB 1202 created the Brownfield Area Loan Guarantee Program, which authorizes up to five years of state loan guarantees for redevelopment and applies to 50 percent of the primary lender loan.[14] The loan guaranty applies to 75 percent of the lender loan if the brownfield area redevelopment is for "affordable" housing.[15] SB 244 authorized a voluntary clean-up tax credit (VCTC) of up to 35 percent of the costs of voluntary clean-up activity of brownfield areas with a maximum allowable amount of $250,000 per site per year.[16]

In 2005, the Legislature passed SB 1338, the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund, facilitating the redevelopment of properties that may be more difficult to redevelop due to various liens on the property or complications from bankruptcy. The trust fund was to help clear prior liens on the property through the negotiation process. The loans would then be repaid through the resale of the brownfield property and other activities that may have enhanced the property's value. This trust fund was never capitalized or used for its intended purpose and was later repealed.[17]

In 2006, the Legislature passed HB 7131, which substantially increased the economic and financial incentives for the redevelopment of brownfield areas and repealed the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund. The VCTC increased from 35 percent to 50 percent, which may be applied against intangible property tax and corporate income tax for the remediation of brownfield area with a maximum allowable amount of $500,000 per year per site. The Brownfield Area Loan Guarantee Program increased from 10 percent to 25 percent. The percentage of tax credit that may be received during the final year of clean-up was increased from 10 percent to 25 percent and the amount was increased from $50,000 to $500,000. The total amount of tax credits that may be granted for brownfield clean-up was increased from $2 million annually to $5 million annually. The law also provides incentives for cleaning unlicensed or historic solid waste dumpsites and requires Enterprise Florida, Inc., to market brownfields for redevelopment and job growth.[18]

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[10] *See* s. 288.107, F.S.
[11] *See* s. 376.80, F.S.
[12] *See* s. 125.66, F.S.
[13] *See* s. 166.041, F.S.
[14] *See* s. 376.86 F.S.
[15] "Affordable" housing, as defined in s. 420.0004, F.S., means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of median adjusted gross annual income for the households as indicated in ss. 420.0004(9), (11), (12), or (17), F.S.
[16] *See* s. 220.1845, F.S.
[17] *See* ch. 2005-3, Laws of Fla.
[18] *See* ss. 196.012, 196.1995, 199.1055, 220.1845, 288.9015, 376.30781, 376.80, and 376.86, F.S. Sections 376.87 and 376.875, F.S., were repealed.

In 2008, the Legislature passed HB 527 providing additional tax credits for the developers of brownfield areas. The law allows a tax credit for the costs incurred to remove solid waste from a brownfield site. The tax credit applicant may claim 50 percent of the cost of solid waste removal, not to exceed $500,000. An additional 25 percent of the total site rehabilitation costs, not to exceed $500,000, may be claimed if a health care facility is constructed on the brownfield site.[19]

In 2010, the Legislature passed SB 550 requiring the DEP to submit an annual report to the President of the Senate and Speaker of the House by August 1 of each year. The annual report must include the number, locations and sizes of the brownfield sites that have been remediated or are currently being rehabilitated under the provisions of the Act.[20]

Brownfield Designation Procedures

Currently, a local government that has jurisdiction over a proposed brownfield area is required to notify the DEP of the decision to designate the brownfield area for rehabilitation according to the Act. The notification must include a resolution that contains a map of the proposed area and the parcels to be included in the brownfield designation. Municipalities that propose to designate a brownfield area must do so according to the resolution adoption procedures outlined in s. 166.041, F.S., and notice the public hearing according to s. 166.041(3)(c)2., F.S. Counties that propose to designate a brownfield area must do so according to the resolution adoption procedures outlined in s. 125.66, F.S., and notice the public hearing according to s. 125.66(4)(b)2., F.S.[21]

The Act requires a local government that proposes to designate a brownfield area that is outside of a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project, to notify the DEP of the proposed designation. The notification must include a resolution that contains a map of the proposed area and the parcels to be included in the brownfield designation. The local government is also required to consider if the area warrants development, confirm the area is not too large, determine if the area has the potential for the private sector to participate in the rehabilitation, and whether the area has sites that can be used for recreation, cultural or historical preservation.[22]

The Act allows a local government to designate a brownfield area if the person who owns or controls a potential brownfield area is requesting the designation and has agreed to rehabilitate and redevelop the area. The redevelopment must provide an economic benefit to the area and create at least five permanent new jobs. The redevelopment of the proposed area must be consistent with the local comprehensive plan and be permittable. Notice of the proposed designation must be proved to the residents of the area and published in a newspaper of local circulation. The person requesting the designation must also provide reasonable assurance that they have sufficient financial resources to complete the rehabilitation and redevelopment of the

[19] *See* s. 376.30781, F.S.
[20] *See* s. 376.85, F.S.
[21] Chapter 97-277, Laws of Fla.
[22] *Id*.

brownfield area and enter into a site rehabilitation agreement with the department or local pollution control program.[23]

The Act also requires that if a property owner within the proposed designation area requests in writing to the local government to have their property removed from the designation, then the request must be granted.[24]

As of January 23, 2013, local governments have adopted 330 resolutions to officially designate brownfield areas and 183 BSRAs have been executed. A total of 56 Site Rehabilitation Completion Orders or "No Further Action" orders have been issued since the inception of the program.[25]

III. Effect of Proposed Changes:

Section 1 amends s. 376.78, F.S., to clarify that the redevelopment of a brownfield area within a community redevelopment area, empowerment zone, closed military bases, or designated brownfield pilot project area has a positive impact on these areas. By specifying these areas, the bill may prioritize them over non-specified areas.

Section 2 amends s. 376.80, F.S., to clarify and revise the procedures for the designation of a brownfield area for the purpose of rehabilitation under the Act.

The bill specifies the following procedures for the designation of a brownfield area:

- A local government with jurisdiction over the brownfield area must adopt a resolution to designate the proposed area.
- The local government must notify the DEP, and, if applicable, the local pollution control program within 30 days of the adoption of the resolution.
- The resolution must include a detailed map of the parcels that are to be designated or a legal description of the parcels along with a less detailed map.
- The resolution must be adopted according to the resolution adoption procedures and requirements of the local government at the time of the proposal.
- Property owners within the proposed brownfield area who make written requests to have their properties removed from the designation before the adoption of the resolution must be granted the request.

The bill specifies that if the designation is proposed by a local government that has jurisdiction over the area and the area is located outside an existing community redevelopment area, an enterprise zone, an empowerment zone, a closed military base, or a designated brownfield pilot project, then the following public hearing and notification procedures are required:

- At least one of the required public hearings must be conducted as close to the proposed area as possible to provide an opportunity for public input on the size of the area, the objectives

[23] *Id*.
[24] *Id*.
[25] Department of Environmental Protection, *Senate Bill 554 Agency Analysis* (Feb. 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

for rehabilitation, job opportunities and economic developments, and residents' considerations.

- Notice of the public hearing must be made in a newspaper of general circulation, in ethnic newspapers or community bulletins, posted in the affected area, and announced at a scheduled meeting of the local governing body held prior to the public hearing.
- At the public hearing the local government must consider the following:
  - Whether the proposed brownfield area warrants development;
  - Whether the proposed area covers an overly large area;
  - Whether the proposed area has the potential for the private sector to participate in rehabilitation; and
  - Whether the proposed area contains sites that may be used for recreational open space, cultural or historical preservation purposes.

The bill specifies that if the designation is proposed by a local government that has jurisdiction over the area and the area is located inside an existing community redevelopment area, an enterprise zone, an empowerment zone, a closed military base, or a designated brownfield pilot project, then the public hearing considerations outlined above are not required; however, the local government must be in compliance with the notification and resolution adoption procedures outlined in paragraph two of this section of the analysis.

The bill specifies that if the designation is proposed by individuals, corporations, partnerships, limited liability corporations, community-based organizations, not-for-profit corporations, or other non-governmental entities then the following public hearing and notification procedures are required:

- A public hearing must be conducted as close to the proposed area as possible to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments, and residents' considerations.
- Notice of the public hearing must be published in a newspaper of general circulation, published in an ethnic newspaper or community bulletin, posted in the affected area and announced at a scheduled meeting of the local governing body held prior to the public hearing.
- The individual proposing the designation must also meet the following criteria:
  - The person owns or controls the proposed area;
  - The rehabilitation and redevelopment of the proposed area will be economically beneficial and include the creation of at least five new permanent jobs;
  - The redevelopment is consistent with the local comprehensive plan and is permittable;
  - The individual has provided reasonable assurance that he or she has sufficient financial resources to complete the rehabilitation and redevelopment of the brownfield area; and
  - The individual must enter into a site rehabilitation agreement with the DEP or local pollution control program, and the individual is entitled to negotiate the terms of the agreement.

The bill specifies that a local government that designates a brownfield area according to these procedures is not required to use the term "brownfield area" within the name of the brownfield area proposed for designation by the local government.

The bill also adds sub-headings to the existing statutory language to further clarify what notification and designations to use, by whom, and when.

Section 3 amends s. 376.82, F.S., to revise the liability protection for a person who executes and implements a successful BSRA to include:

- Liability for claims of any person for property damage;
- Diminished value of real property or improvements;
- Lost or delayed rent, sale, or use of real property or improvements; and
- The stigma to real property or improvements caused by the contamination that was addressed in the BSRA.

The liability protection applies to causes of action accruing on or after July 1, 2013.

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:

The bill eliminates the right of a third party to pursue an action for property damages. The elimination of this legal remedy may harm third parties whose properties are damaged. However, Individuals, corporations, community-based organizations, and not-for-profit corporations proposing to designate brownfield areas should benefit from this limitation of liability provision. The impacts are too remote to determine at this time.

C. Government Sector Impact:

Local governments may incur costs associated with damages to public property that have been impacted by contamination from a brownfield site due to the limitation of liability 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.)

CS/CS by Community Affairs on April 2, 2012:
The committee substitute amended the notice required by a local government designating brownfields to include the local pollution control program, if applicable.

CS by Environmental Preservation and Conservation on March 14, 2013:
The committee substitute made the following changes to the bill:

- Deletes the tax exemption for the building materials used for the substantial rehabilitation of a "housing project" in a designated brownfield area.
- Resolves the technical deficiencies that were present in the bill by eliminating the reference to the notice requirements in ss. 166.041 and 125.041, F.S.
- Rearranges the procedures in s. 378.80, F.S., to clarify the resolution adoption procedures, public hearing requirements and notification requirements that apply to local governments and individuals who propose to designate a brownfield area.
- Clarifies that a local government that designates a brownfield area according to the procedures in the bill is not required to use to the term "brownfield" within the name of the area for the designation.

B. Amendments:

None.

585102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 823.15, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(1) The Legislature has determined that the importation of dogs and cats into, and the uncontrolled breeding of dogs and

585102

13 cats in, this state pose risks to the well-being of dogs and
14 cats, the health of humans and animals, and the agricultural
15 interests in this state. Importation of dogs and cats from
16 outside the United States could result in the transmission of
17 diseases that have been eradicated in the United States to dogs
18 and cats, other animals, and humans living in this state.
19 Uncontrolled breeding ~~The Legislature has determined that~~
20 ~~uncontrolled breeding of dogs and cats in the state~~ results in
21 the birth ~~production~~ of many more puppies and kittens than are
22 needed to provide pet animals to new owners or to replace pet
23 animals that ~~which~~ have died or become lost ~~or to provide pet~~
24 ~~animals for new owners~~. This leads to many dogs, cats, puppies,
25 and kittens being unwanted, becoming strays and suffering
26 privation and death, being impounded and destroyed at great
27 expense to the community, and constituting a public nuisance and
28 public health hazard. It is therefore declared to be the public
29 policy of the state that every feasible means be used to reduce
30 the incidence of birth ~~of reducing the production~~ of unneeded
31 and unwanted puppies and kittens ~~be encouraged~~. Determining
32 which programs result in improved adoption rates and in reduced
33 euthanasia rates for animals in shelters and animal control
34 agencies is crucial to this effort.
35 (2)(a) Each public or private animal shelter, humane
36 organization, or animal control agency operated by a humane
37 organization or by a county, municipality, or other incorporated
38 political subdivision, shall prepare and maintain the following
39 records and make them available for public inspection and
40 dissemination for the 3 preceding years. The following data will
41 be available on a monthly basis commencing July 31, 2013:

585102

42 1. The total number of dogs and cats taken in by the animal
43 shelter, humane organization, or animal control agency, divided
44 into species, in the following categories:
45 a. Surrendered by owner;
46 b. Stray;
47 c. Impounded;
48 d. Confiscated;
49 e. Transferred from within Florida;
50 f. Transferred into or imported from out of the state; and
51 g. Born in shelter.
52
53 Species other than domestic cats and domestic dogs should be
54 recorded as "other."
55 2. The disposition of all animals taken in by a public or
56 private animal shelter, humane organization, or animal control
57 agency operated by a humane society or by a county,
58 municipality, or other incorporated political subdivision,
59 divided into species. These data must include dispositions by:
60 a. Adoption;
61 b. Reclamation by owner;
62 c. Death in kennel;
63 d. Euthanasia at the owner's request;
64 e. Transfer to another public or private animal shelter,
65 humane organization, or animal control agency operated by a
66 humane society or by a county, municipality, or other
67 incorporated political subdivision;
68 f. Euthanasia;
69 g. Released in field/Trapped, Neutered, Released (TNR);
70 h. Lost in care/missing animals or records; and

585102

71 i. Ending inventory/shelter count at end of the last day of
72 the month.
73 3. A public or private animal shelter, humane organization,
74 or animal control agency operated by a humane society, or by a
75 county, municipality, or other incorporated political
76 subdivision which routinely euthanizes dogs based on size or
77 breed alone must provide a written statement of such policy.
78 Dogs euthanized due to breed, temperament, or size must be
79 recorded and included in the calculation of the total euthanasia
80 percentage.
81 (b) Records of a public animal shelter, humane
82 organization, or animal control agency operated by a humane
83 society must be made available to the public pursuant to
84 provisions in chapter 119.
85 Section 2. This act shall take effect July 1, 2013.
86
87 ========== T I T L E A M E N D M E N T ==========
88 And the title is amended as follows:
89 Delete everything before the enacting clause
90 and insert:
91 A bill to be entitled
92 An act relating to animal shelters and animal control
93 agencies; amending s. 823.15, F.S.; declaring
94 legislative priorities relating to the importation and
95 uncontrolled breeding of dogs and cats; requiring that
96 each public or private animal shelter, humane
97 organization, or animal control agency operated by a
98 humane society or by a county, municipality, or other
99 incorporated political subdivision prepare and

585102

100 maintain specified records; specifying the information
101 that must be included in the records; providing a
102 maximum fee for copies of such records; providing an
103 effective date.

By the Committee on Agriculture; and Senators Montford and Sachs

575-02202-13 2013674c1

A bill to be entitled

An act relating to animal shelters and animal control agencies; amending s. 823.15, F.S.; declaring legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; providing a maximum fee for copies of such records; providing an effective date.

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

Section 1. Subsection (1) of section 823.15, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(1) <u>The Legislature has determined that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, this state pose risks to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in this state. Importation of dogs and cats from outside the United States could result in the transmission of diseases that have been eradicated in the United States to dogs</u>

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

30 and cats, other animals, and humans living in this state.
31 Uncontrolled breeding ~~The Legislature has determined that~~
32 ~~uncontrolled breeding of dogs and cats in the state~~ results in
33 the birth ~~production~~ of many more puppies and kittens than are
34 needed to provide pet animals to new owners or to replace pet
35 animals that ~~which~~ have died or become lost ~~or to provide pet~~
36 ~~animals for new owners~~. This leads to many dogs, cats, puppies,
37 and kittens being unwanted, becoming strays and suffering
38 privation and death, being impounded and destroyed at great
39 expense to the community, and constituting a public nuisance and
40 public health hazard. It is therefore declared to be the public
41 policy of the state that every feasible means be used to reduce
42 the incidence of birth ~~of reducing the production~~ of unneeded
43 and unwanted puppies and kittens ~~be encouraged~~. Determining
44 which programs result in improved adoption rates and in reduced
45 euthanasia rates for animals in shelters and animal control
46 agencies is crucial to this effort.
47 (2)(a) Each public or private animal shelter, humane
48 organization, or animal control agency operated by a humane
49 organization that accepts taxpayer dollars, or by a county,
50 municipality, or other incorporated political subdivision, shall
51 prepare and maintain the following records and make them
52 available for public inspection and dissemination for the 3
53 preceding years. The following data will be available on a
54 monthly basis commencing July 31, 2013:
55 1. The total number of dogs and cats taken in by the animal
56 shelter, humane organization, or animal control agency, divided
57 into species, in the following categories:
58 a. Surrendered by owner;

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

59 b. Stray;
60 c. Impounded;
61 d. Confiscated;
62 e. Transferred from within Florida;
63 f. Transferred into or imported from out of the state; and
64 g. Born in shelter.
65
66 Species other than domestic cats and domestic dogs should be
67 recorded as “other.”
68 2. The disposition of all animals taken in by a public or
69 private animal shelter, humane organization, or animal control
70 agency operated by a humane society that accepts taxpayer
71 dollars, or by a county, municipality, or other incorporated
72 political subdivision, divided into species. These data must
73 include dispositions by:
74 a. Adoption;
75 b. Reclamation by owner;
76 c. Death in kennel;
77 d. Euthanasia at the owner’s request;
78 e. Transfer to another public or private animal shelter,
79 humane organization, or animal control agency operated by a
80 humane society that accepts taxpayer dollars or by a county,
81 municipality, or other incorporated political subdivision;
82 f. Euthanasia;
83 g. Released in field/Trapped, Neutered, Released (TNR);
84 h. Lost in care/missing animals or records; and
85 i. Ending inventory/shelter count at end of the last day of
86 the month.
87 3. A public or private animal shelter, humane organization,

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

88 or animal control agency operated by a humane society that
89 accepts taxpayer dollars, or by a county, municipality, or other
90 incorporated political subdivision which routinely euthanizes
91 dogs based on size or breed alone must provide a written
92 statement of such policy. Dogs euthanized due to breed,
93 temperament, or size must be recorded and included in the
94 calculation of the total euthanasia percentage.
95 (b) Records of a public animal shelter, humane
96 organization, or animal control agency operated by a humane
97 society that accepts taxpayer dollars must be made available to
98 the public pursuant to provisions in chapter 119.
99 Section 2. This act shall take effect July 1, 2013.

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

TESTIFY WAS! PLEASE

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

4-2-13
Date

SB-674
Bill Number

Name MARION HAMMER

Phone 222-9518

Address P.O. BOX 1387
Street

E-mail

TALLAHASSEE FL 32302
City State Zip

Job Title

Speaking: ☑ For ☐ Against ☐ Information

Appearing at request of Chair ☐

Subject

Representing NRA & UNIFIED SPORTSMEN OF FLORIDA

Lobbyist registered with Legislature: ☑ Yes ☐ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from ____ ___.m. to ____ ___.m.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Animal Shelters

Bill Number: 674 + Amend (if applicable)

Name: Suhan Mixon

Amendment Barcode: (if applicable)

Job Title: Consultant

Address: 119 E PARK Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 222 2591

E-mail:

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

Representing: Fla Veterinary Medical 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/

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR BILL MONTFORD
Democratic Policy Chair
3rd District

March 20, 2013

The Honorable Wilton Simpson, Chair
Senate Community Affairs Committee
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simpson:

I respectfully request that you place CS/SB 674, relating to Animal Shelters and Animal Control Agencies on your next meeting agenda. The bill is designed to help provide data about the number of cats & dogs inventoried in public & private animal shelters in Florida.

I look forward to presenting this bill before your committee.

Thank you for your consideration and please let me know if you have any questions.

Sincerely,

Bill

William J. Montford, III
State Senator, District 3

BJM/mam

cc: Tom Yeatman, Staff Director

REPLY TO:
☐ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
☐ 58 Market Street, Apalachicola, Florida 32320 (850) 653-2656

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/CS/SB 674

INTRODUCER: Community Affairs Committee; Agriculture Committee; and Senator Montford and others

SUBJECT: Animal Shelters and Animal Control Agencies

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	**Fav/CS**
2.	Toman	Yeatman	CA	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 674 requires all public or private animal shelters and animal control agencies to compile and maintain records concerning the dogs and cats the facility takes in and the disposition of those animals. The bill authorizes a facility to charge a fee for requested records pursuant to the provisions in chapter 119, Florida Statutes.

This bill amends section 823.15 of the Florida Statutes.

II. Present Situation:

The Humane Society of the United States (HSUS) estimates that animal shelters care for 6-8 million dogs and cats every year in the United States, of whom approximately 3-4 million are euthanized. According to the HSUS, this is an estimate as there is no central data reporting agency for animal shelters. In the 1970s, American shelters euthanized 12-20 million dogs and

cats, at a time when there were 67 million pets in homes. Today, shelters euthanize around 4 million animals and there are currently more than 135 million dogs and cats in homes.[1]

The history of no-kill sheltering began more than half a century ago when independent caregivers began rescuing and sheltering homeless animals with the intention of keeping them alive. This was in reaction to the standard operating procedure of most humane societies and tax-supported animal control services that routinely euthanized stray and abandoned animals. In 1994, the city and county of San Francisco became the first community in the nation to end the euthanization of healthy dogs and cats in its animal shelter system. An agreement between the city's Animal Care and Control Department and the private San Francisco Society for the Prevention of Cruelty to Animals (SPCA) ensured a home not only to each and every healthy dog and cat but also to thousands who were sick or injured but treatable. In addition, a citywide preference for neutering/spaying over impounding and euthanizing reduced the death rate for feral cats by 73 percent and for underage kittens by 81 percent. In 1999, the Hayden Shelter Reform Law became effective. It changed California's state policy regarding shelter care for stray and abandoned animals. Most notably it (1) declares "It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home," and (2) lengthens the time (generally from three days to six) that shelters must care for animals before euthanizing them.[2]

In the last decade and a half, many more shelters in numerous communities have comprehensively implemented a series of programs and services to reduce birthrates, increase placements, and keep animals with their responsible caretakers. Providing low cost spay/neuter options to the community at a high volume, recruiting large numbers of volunteers, and building a strong relationship with the community is key to the success of any no kill/low kill program. For example, in San Francisco, a community of approximately 813,000 people, there are volunteers that log over 110,000 hours at shelters each year. Assuming the prevailing hourly wage, payroll taxes, and benefits, it would cost the San Francisco SPCA over $1 million dollars annually to provide those services.

Animal Shelters in Florida

Chapter 828.27, F.S., defines local "animal control officers" as any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations.[3] The statute also describes that the county-employed animal control officers must and municipally employed animal control officers may complete a 40-hour minimum standards training course. Such a course includes training for animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association (FACA).[4] This professional association helps train and educate animal control officers in Florida. According to their website, their mission is to "improve the

[1] The Humane Society of the United States, *Common Questions About Animal Shelters*, http://www.humanesociety.org/animal-community/resources/qa/common_questions_on_shelters.html (last visited February 25, 2013).
[2] The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.
[3] Section 828.27, (1)(b), F.S.
[4] Section 828.27, F.S.

methods and standards of the animal control and protection profession throughout Florida," among other items.[5]

Manatee County's No-Kill Program

The Manatee County Animal Services implemented a no-kill program by including a cadre of goals and directives to save as many animals as possible with a goal of a 90 percent save rate. The Manatee County Animal Services Actionable Implementation Plan that went into effect October of 2011 addresses how to find homes for animals and stresses the importance of staff commitment to the plan. The plan describes that saving animals will be accomplished in cooperation with other welfare organizations, animals shelters, the media and the public through owner retention, returns to owners, increased fostering and adoption, free and low cost spaying and neutering, and a feline Trap, Neuter, Return (TNR) program.[6]

All Manatee County's stray, nuisance, or abandoned animals are taken to the Manatee County Animal Services facility. The animal shelters, animal rescue groups, foster groups, and other animal volunteer groups are immediately notified of the animals that have arrived at Manatee County Animal Services. This policy was designed to allow as much time as possible to locate a home for the animal, if needed, while also adhering to local ordinances regarding how long unclaimed animals must be held.

Currently, many facilities keep limited data on the disposition of animals and do not make the information available to the public when requested. This makes it difficult for state and local governments to understand the current state of shelters and rescue animals as they craft ordinances and legislation, provide funding resources, and determine best practices for the facilities.

III. Effect of Proposed Changes:

Section 1 amends s. 823.15, F.S., to provide legislative intent that importing cats and dogs into the state and that uncontrolled breeding of dogs and cats in this state pose risks to the well-being of dogs and cats, the health of humans and animals, and Florida agriculture. The Legislature has determined that every feasible means should be used to reduce the births of unneeded and unwanted puppies and kittens. Therefore, determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to this effort.

The bill requires all public or private animal shelters and animal control agencies to compile and maintain records concerning the dogs and cats the facility takes in and the disposition of those animals. The following data must be made available to the public for the three preceding years, on a monthly basis commencing July 31, 2013:

- The total number of dogs and cats accepted by a facility, categorized by how the animal came to be admitted to the facility as well as by species;

[5] Florida Animal Control Association. Mission Statement, http://floridaanimalcontrol.org/ (last visited February 25, 2013).
[6] Manatee County Animal Services, Actionable Implementation Plan for Manatee County, October 2011, Updated December 3, 2012.

- Species other than domestic cats and domestic dogs should be recorded as "other;"
- The condition under which the animals left the facility or were euthanized; and
- A written statement of a facility's policy on euthanizing dogs due to breed or size, if applicable. The number of dogs euthanized due to breed, temperament, or size must be recorded and included in the facility's calculations for determining its percentage of animals euthanized.

The bill requires the records described above to be made available to the public pursuant to the provisions in ch. 119, F.S.

Section 2 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution, prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 or $1.9 million for FY 2012-13.[7]

The extent of this bill's fiscal impact related to the reporting required of city and county animal shelters and animal control agencies has not been determined; however, if the costs incurred by counties are greater than $1.9 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The reporting records of CS/SB 674 are available to the public pursuant to the provisions in ch. 119, F.S., which would allow animal shelters and animal control agencies to charge the public a fee of up to 15 cents per one-sided copy; no more than an additional 5 cents for each two-sided copy; and for all other copies, the actual cost of duplication of the public record.

[7] 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.

B. Private Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 674. Private animal control facilities and shelters may have an increase in costs to comply with the reporting requirements of the bill if they are not already collecting that information.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 674. City and county animal shelters and animal control agencies may have an increase in costs to comply with the reporting requirements of the bill if they are not already collecting that information.

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 April 2, 2013:

- Removes qualification that reporting requirements required from humane society shelters or agencies only apply to such groups which receive taxpayer dollars.

CS by Agriculture on March 11, 2013:

- Requires specific data concerning the dogs and cats the facility takes in and the disposition of those animals to be made available to the public for the three preceding years, on a monthly basis commencing July 31, 2013.
- Requires a facility to compile data on the number of animals transferred from within Florida and those born in the shelter.
- Requires species other than domestic cats and domestic dogs to be recorded as "other."
- Replaces "destruction" with the more desirable term "euthanasia."
- Expands the data concerning the disposition of the animals taken in by a facility to include:
  - Released in field/Trapped, Neutered, Released (cats are trapped in a cage, marked with a clipped ear, sterilized, and then returned to a feral cat colony);
  - Lost in care/missing animals or records; and
  - Ending inventory/shelter count at the end of the last day of the month.
- Deletes the authority for animal shelters and animal control agencies to charge a fee of up to $1 per page for copies of records requested by the public. The CS requires the records to be made available to the public pursuant to provisions in ch. 119, F.S.

B. Amendments:

None.

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

By Senator Simmons

10-00065A-13 2013952__

1 A bill to be entitled
2 An act relating to the Orlando-Orange County
3 Expressway Authority; amending ss. 348.751 and
4 348.752, F.S.; renaming the Orlando-Orange County
5 Expressway System as the "Central Florida Expressway
6 System"; revising definitions; making technical
7 changes; amending s. 348.753, F.S.; creating the
8 Central Florida Expressway Authority; providing for
9 the transfer of governance, and control, legal rights
10 and powers, responsibilities, terms, and obligations
11 to the authority; revising the composition of the
12 governing body of the authority; providing for
13 appointment of officers of the authority; revising
14 quorum and voting requirements; conforming terminology
15 and making technical changes; amending s. 348.754,
16 F.S.; providing that the area served by the authority
17 is within the geopolitical boundaries of Orange,
18 Seminole, Lake, and Osceola Counties; prohibiting the
19 authority from spending funds for SunRail; limiting
20 the use of certain electronic tolls collected in
21 Orange County to projects built in that county;
22 removing the requirement that the route of a project
23 must be approved by a municipality before the right-
24 of-way can be acquired; requiring that the authority
25 encourage the inclusion of local-, small-, minority-,
26 and women-owned businesses in its procurement and
27 contracting opportunities; removing the authority and
28 criteria for an authority to waive payment and
29 performance bonds for certain public works projects

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30 that are awarded pursuant to an economic development
31 program; conforming terminology and making technical
32 changes; amending ss. 348.7543, 348.7544, 348.7545,
33 348.7546, 348.7547, 348.755, and 348.756, F.S.;
34 conforming terminology and making technical changes;
35 amending s. 348.757, F.S.; providing that upon
36 termination of the lease-purchase agreement of the
37 Central Florida Expressway System, title in fee simple
38 to the system will be retained by the authority;
39 conforming terminology and making technical changes;
40 amending ss. 348.758, 348.759, 348.760, 348.761, and
41 348.765, F.S.; conforming terminology and making
42 technical changes; providing for the transfer of the
43 Osceola County Expressway System to the Central
44 Florida Expressway Authority; providing for the repeal
45 of Part V of Chapter 348 when the Osceola County
46 Expressway System is transferred to the Central
47 Florida Expressway Authority; providing an effective
48 date.
49
50 Be It Enacted by the Legislature of the State of Florida:
51
52 Section 1. Section 348.751, Florida Statutes, is amended to
53 read:
54 348.751 Short title.—This part ~~shall be known and~~ may be
55 cited as the "Central Florida ~~Orlando-Orange County~~ Expressway
56 Authority Law."
57 Section 2. Section 348.752, Florida Statutes, is amended to
58 read:

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59 348.752 Definitions.—As used in this chapter ~~The following~~
60 ~~terms, whenever used or referred to in this law, shall have the~~
61 ~~following meanings, except in those instances where the context~~
62 ~~clearly indicates otherwise~~:
63 (1) The term "agency of the state" means ~~and includes~~ the
64 state and any department of, or corporation, agency, or
65 instrumentality ~~heretofore or hereafter~~ created, designated, or
66 established by, the state.
67 (2) The term "authority" means the body politic and
68 corporate, and agency of the state created by this part.
69 (3) The term "bonds" means ~~and includes~~ the notes, bonds,
70 refunding bonds, or other evidences of indebtedness or
71 obligations, in either temporary or definitive form, which the
72 authority is authorized to issue pursuant to this part.
73 (4) The term "Central Florida Expressway Authority" means
74 the body politic and corporate, and agency of the state created
75 by this chapter.
76 (5) The term "Central Florida Expressway System" means a
77 transportation facility, expressway, or appurtenant facility.
78 ~~(4) The term "city" means the City of Orlando.~~
79 ~~(5) The term "county" means the County of Orange.~~
80 (6) The term "department" means the Department of
81 Transportation ~~existing under chapters 334-339~~.
82 (7) The term "expressway" has the same meaning ~~is the same~~
83 as limited access expressway.
84 (8) The term "federal agency" means and includes the United
85 States, the President of the United States, and any department
86 of, or corporation, agency, or instrumentality ~~heretofore or~~
87 ~~hereafter~~ created, designated, or established by, the United

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88 States.
89 (9) The term "lease-purchase agreement" means the lease-
90 purchase agreements that ~~which~~ the authority is authorized
91 ~~pursuant to this part~~ to enter into with the Department of
92 Transportation pursuant to this part.
93 (10) The term "limited access expressway" means a street or
94 highway specifically ~~especially~~ designed for through traffic,
95 and over, from, or to which, a ~~no~~ person does not ~~shall~~ have the
96 right of easement, use, or access except in accordance with the
97 rules of ~~and regulations promulgated and established by~~ the
98 authority governing its use ~~for the use of such facility~~. Such
99 highways or streets may be parkways that do not allow traffic
100 by~~, from which~~ trucks, buses, and other commercial vehicles
101 ~~shall be excluded~~, or ~~they may be~~ freeways open to use by all
102 customary forms of street and highway traffic.
103 (11) The term ~~"members" means the governing body of the~~
104 ~~authority, and the term~~ "member" means an individual who serves
105 on the ~~one of the individuals constituting such~~ governing body
106 of the authority.
107 (12) The term "Orange County gasoline tax funds" means ~~all~~
108 the revenue derived from the 80-percent surplus gasoline tax
109 funds accruing in each year to the Department of Transportation
110 for use in Orange County under ~~the provisions of~~ s. 9, Art. XII
111 of the State Constitution, after deducting ~~deduction only of~~ any
112 amounts of said gasoline tax funds previously ~~heretofore~~ pledged
113 by the department or the county for outstanding obligations.
114 (13) The term "Central Florida ~~Orlando-Orange County~~
115 Expressway System" means any expressway ~~and all expressways~~ and
116 appurtenant facilities ~~thereto~~, including, but not limited to,

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117 all approaches, roads, bridges, and avenues of access for the
118 ~~said~~ expressway ~~or expressways~~.
119 (14) The term "State Board of Administration" means the
120 body corporate existing under the provisions of s. 9, Art. XII
121 of the State Constitution, or any successor ~~thereto~~.
122 (15) The term "transportation facilities" means and
123 includes the mobile and fixed assets, and the associated real or
124 personal property or rights, used in the transportation of
125 persons or property by any means of conveyance, and all
126 appurtenances, such as, but not limited to, highways; limited or
127 controlled access lanes, avenues of access, and facilities;
128 vehicles; fixed guideway facilities, including maintenance
129 facilities; and administrative and other office space for the
130 exercise by the authority of the powers and obligations granted
131 in this part.
132 ~~(15) Words importing singular number include the plural~~
133 ~~number in each case and vice versa, and words importing persons~~
134 ~~include firms and corporations.~~
135 Section 3. Section 348.753, Florida Statutes, is amended to
136 read:
137 348.753 Central Florida ~~Orlando-Orange County~~ Expressway
138 Authority.—
139 (1) There is ~~hereby~~ created and established a body politic
140 and corporate, an agency of the state, to be known as the
141 Central Florida ~~Orlando-Orange County~~ Expressway Authority.~~,~~
142 ~~hereinafter referred to as "authority."~~
143 (2) Effective July 1, 2013, the Central Florida Expressway
144 Authority shall assume the governance and control of the
145 Orlando-Orange County Expressway Authority System, including its

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146 assets, personnel, contracts, obligations, liabilities,
147 facilities, and tangible and intangible property. Any rights in
148 such property, and other legal rights of the authority, are
149 transferred to the Central Florida Expressway Authority. The
150 powers, responsibilities, and obligations of the Orlando-Orange
151 County Expressway Authority shall succeed to and be assumed by
152 the Central Florida Expressway Authority on July 1, 2013.
153 (3) ~~(2)~~ The governing body of the authority shall consist of
154 nine ~~five~~ members. The chairs of the boards of county commission
155 of Seminole, Lake, and Osceola Counties shall each appoint one
156 Central Florida Expressway Authority Board member, who may be a
157 commission member or chair. A citizen from each of Orange,
158 Seminole, Lake, and Osceola Counties ~~Three members shall be~~
159 ~~citizens of Orange County, who~~ shall be appointed by the
160 Governor. One ~~The fourth~~ member shall be~~, ex officio,~~ the Mayor
161 of ~~chair of the County Commissioners of~~ Orange County, and the
162 final ~~fifth~~ member shall be~~, ex officio,~~ the Mayor of the City
163 of Orlando. The executive director of Florida's Turnpike
164 Enterprise shall serve as a nonvoting advisor to the governing
165 body of the authority ~~district secretary of the Department of~~
166 ~~Transportation serving in the district that contains Orange~~
167 ~~County~~. ~~The term of~~ Each ~~appointed~~ member appointed by the
168 Governor shall serve ~~be~~ for 4 years. Each county-appointed
169 member shall serve for 2 years. Standing board members shall
170 complete their terms. Each appointed member shall hold office
171 until his or her successor has been appointed and has qualified.
172 A vacancy occurring during a term must ~~shall~~ be filled only for
173 the balance of the unexpired term. Each appointed member of the
174 authority shall be a person of outstanding reputation for

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175 integrity, responsibility, and business ability, but, except as
176 provided in this subsection, a ~~no~~ person who is an officer or
177 employee of a municipality or ~~any city or of Orange~~ county may
178 not ~~in any other capacity shall~~ be an appointed member of the
179 authority. Any member of the authority is ~~shall be~~ eligible for
180 reappointment.
181 (4) ~~(3)~~ (a) The authority shall elect one of its members as
182 chair of the authority. The authority shall also elect one of
183 its members as vice chair, one of its members as ~~a~~ secretary,
184 and one of its members as ~~a~~ treasurer ~~who may or may not be~~
185 ~~members of the authority~~. Elections for offices of the authority
186 must be held every 2 years. A member who is a resident of Orange
187 County must be elected to serve as chair every 6 years. If a
188 member from Orange County is not serving as chair, a member who
189 is a resident of Orange County must be elected to serve as vice
190 chair. The chair, vice chair, secretary, and treasurer shall
191 hold such offices at the will of the authority. Five ~~Three~~
192 members of the authority ~~shall~~ constitute a quorum, and the vote
193 of five ~~three~~ members is ~~shall be~~ necessary for any action taken
194 by the authority. A ~~No~~ vacancy in the authority does not ~~shall~~
195 impair the right of a quorum of the authority to exercise all of
196 the rights and perform all of the duties of the authority.
197 (b) Upon the effective date of his or her appointment, or
198 as soon thereafter as practicable, each appointed member of the
199 authority shall enter upon his or her duties.
200 (5) ~~(4)~~ (a) The authority may employ an executive secretary,
201 an executive director, its own counsel and legal staff,
202 technical experts, and the ~~such~~ engineers~~,~~ and ~~such~~ employees
203 that~~, permanent or temporary, as~~ it requires. The authority ~~may~~

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204 ~~require and~~ may determine the qualifications and fix the
205 compensation of such persons, firms, or corporations, and may
206 employ a fiscal agent or agents; ~~, provided,~~ however, ~~that~~ the
207 authority shall solicit sealed proposals from at least three
208 persons, firms, or corporations for the performance of any
209 services as fiscal agents. The authority may delegate to one or
210 more of its agents or employees the ~~such of its~~ power ~~as~~ it
211 deems ~~shall deem~~ necessary to carry out the purposes of this
212 part~~, subject always to the supervision and control of the~~
213 ~~authority~~. Members of the authority may be removed from ~~their~~
214 office by the Governor for misconduct, malfeasance, misfeasance,
215 or nonfeasance in office.
216 (b) Members of the authority are ~~shall be~~ entitled to
217 receive from the authority their travel and other necessary
218 expenses incurred in connection with the business of the
219 authority as provided in s. 112.061, but may not ~~they shall~~ draw
220 ~~no~~ salaries or other compensation.
221 Section 4. Section 348.754, Florida Statutes, is amended to
222 read:
223 348.754 Purposes and powers.—
224 (1)(a) The authority created and established under ~~by the~~
225 ~~provisions of~~ this part is ~~hereby~~ granted and has ~~shall have~~ the
226 right to acquire, hold, construct, improve, maintain, operate,
227 own, and lease in the capacity of lessor~~,~~ the Central Florida
228 ~~Orlando-Orange County~~ Expressway System, hereinafter referred to
229 as "system." Except as otherwise specifically provided by law,
230 including paragraph (2)(n), the area served by the authority
231 shall be within the geographical boundaries of Orange, Seminole,
232 Lake, and Osceola Counties.

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233 (b) ~~It is the express intention of this part that said~~
234 ~~authority,~~ In the construction of the Central Florida ~~said~~
235 ~~Orlando-Orange County~~ Expressway System, the authority may ~~shall~~
236 ~~be authorized to~~ construct any extensions, additions, or
237 improvements to the ~~said~~ system or appurtenant facilities,
238 including all necessary approaches, roads, bridges, ~~and~~ avenues
239 of access, rapid transit, trams, fixed guideways, thoroughfares,
240 and boulevards with any ~~such~~ changes, modifications, or
241 revisions of the ~~said~~ project which are ~~as shall be~~ deemed
242 desirable and proper.
243 (c) The Central Florida Expressway Authority is prohibited
244 from spending system funds for SunRail.
245 (d) Electronic tolls collected on the expressway system
246 from vehicles registered in Orange County must be used to
247 finance projects built in Orange County.
248 (2) The authority ~~is hereby granted, and shall have and~~ may
249 exercise all powers necessary, appurtenant, convenient, or
250 incidental to the implementation ~~carrying out~~ of the stated
251 ~~aforesaid~~ purposes, including, but not ~~without being~~ limited to,
252 the following rights and powers:
253 (a) To sue and be sued, implead and be impleaded, complain
254 and defend in all courts.
255 (b) To adopt, use, and alter at will a corporate seal.
256 (c) To acquire by donation or otherwise, purchase, hold,
257 lease as lessee, and use any franchise or any~~,~~ property, real,
258 personal, ~~or~~ mixed, or tangible or intangible, or any options
259 ~~thereof~~ in its own name or in conjunction with others, or
260 interest in those options ~~therein~~, necessary or desirable to
261 carry ~~for carrying~~ out the purposes of the authority, and to

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262 sell, lease as lessor, transfer, and dispose of any property or
263 interest in the property ~~therein~~ at any time acquired by it.
264 (d) To enter into and make leases for terms not exceeding
265 40 years, as ~~either~~ lessee or lessor, in order to carry out the
266 right to lease as specified ~~set forth~~ in this part.
267 (e) To enter into and make lease-purchase agreements with
268 the department for terms not exceeding 40 years, or until any
269 bonds secured by a pledge of rentals pursuant to the agreement
270 ~~thereunder~~, and any refundings pursuant to the agreement
271 ~~thereof~~, are fully paid as to both principal and interest,
272 whichever is longer.
273 (f) To fix, alter, charge, establish, and collect rates,
274 fees, rentals, and other charges for the services and facilities
275 of the Central Florida ~~Orlando-Orange County~~ Expressway System~~,~~
276 which must ~~rates, fees, rentals and other charges shall~~ always
277 be sufficient to comply with any covenants made with the holders
278 of any bonds issued pursuant to this part; ~~provided,~~ however,
279 ~~that~~ such right and power may be assigned or delegated~~,~~ by the
280 authority~~,~~ to the department.
281 (g) To borrow money, make and issue negotiable notes,
282 bonds, refunding bonds, and other evidences of indebtedness or
283 obligations, either in temporary or definitive form, ~~hereinafter~~
284 ~~in this chapter sometimes called "bonds" of the authority,~~ for
285 the purpose of financing all or part of the improvement or
286 extension of the Central Florida ~~Orlando-Orange County~~
287 Expressway System, and appurtenant facilities, including all
288 approaches, streets, roads, bridges, and avenues of access for
289 the Central Florida ~~said Orlando-Orange County~~ Expressway System
290 and for any other purpose authorized by this part, ~~said bonds to~~

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291 ~~mature in not exceeding 40 years from the date of the issuance~~
292 ~~thereof,~~ and to secure the payment of such bonds or any part
293 thereof by a pledge of any or all of its revenues, rates, fees,
294 rentals, or other charges, including all or any portion of the
295 Orange County gasoline tax funds received by the authority
296 pursuant to ~~the terms of~~ any lease-purchase agreement between
297 the authority and the department; and in general to provide for
298 the security of the ~~said~~ bonds and the rights and remedies of
299 the holders thereof. ~~Provided,~~ However, ~~that~~ no portion of the
300 Orange County gasoline tax funds may ~~shall~~ be pledged for the
301 construction of any project for which a toll is to be charged
302 unless the anticipated toll is ~~tolls are~~ reasonably estimated by
303 the board of county commissioners, at the date of its resolution
304 pledging the ~~said~~ funds, to be sufficient to cover the principal
305 and interest of such obligations during the period when the ~~said~~
306 pledge of funds is ~~shall be~~ in effect. The bonds issued under
307 this paragraph must mature not more than 40 years after their
308 issue date.
309 1. The authority shall reimburse Orange County for any sums
310 expended from the ~~said~~ gasoline tax funds used for the payment
311 of such obligations. Any gasoline tax funds so disbursed must
312 ~~shall~~ be repaid when the authority deems it practicable,
313 together with interest at the highest rate applicable to any
314 obligations of the authority.
315 2. If, pursuant to this section, ~~In the event~~ the authority
316 funds ~~shall determine to fund~~ or refunds ~~refund~~ any bonds
317 previously ~~theretofore~~ issued by the ~~said~~ authority~~,~~ or the ~~by~~
318 ~~said~~ commission before the bonds mature ~~as aforesaid prior to~~
319 ~~the maturity thereof~~, the proceeds of such funding or refunding

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320 must ~~bonds shall~~, pending the prior redemption of these ~~the~~
321 bonds ~~to be funded or refunded~~, be invested in direct
322 obligations of the United States~~, and it is the express~~
323 ~~intention of this part that such outstanding bonds may be funded~~
324 ~~or refunded by the issuance of bonds pursuant to this part~~.
325 (h) To make contracts ~~of every name and nature~~, including,
326 but not limited to, partnerships providing for participation in
327 ownership and revenues, and to execute all instruments necessary
328 or convenient for conducting ~~the carrying on of~~ its business.
329 (i) Notwithstanding paragraphs (a)-(h), ~~Without limitation~~
330 ~~of the foregoing,~~ to borrow money and accept grants from, and to
331 enter into contracts, leases, or other transactions with any
332 federal agency, the state, any agency of the state, the County
333 of Orange, the City of Orlando, or with any other public body of
334 the state.
335 (j) To have the power of eminent domain, including the
336 procedural powers granted under both chapters 73 and 74.
337 (k) To pledge, hypothecate, or otherwise encumber ~~all or~~
338 any part of the revenues, rates, fees, rentals, or other charges
339 or receipts of the authority, including all or any portion of
340 the Orange County gasoline tax funds received by the authority
341 pursuant to the terms of any lease-purchase agreement between
342 the authority and the department, as security for ~~all or~~ any of
343 the obligations of the authority.
344 (l) To enter into partnership and other agreements
345 respecting ownership and revenue participation in order to
346 facilitate financing and constructing the Western Beltway, or
347 portions thereof.
348 (m) To do everything ~~all acts and things~~ necessary or

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349 convenient for the conduct of its business and the general
350 welfare of the authority, in order to comply with ~~carry out the~~
351 ~~powers granted to it by~~ this part or any other law.
352 (n) With the consent of the county within whose
353 jurisdiction the following activities occur, the authority shall
354 have the right to construct, operate, and maintain roads,
355 bridges, avenues of access, thoroughfares, and boulevards
356 outside the jurisdictional boundaries of Orange, Seminole, Lake,
357 and Osceola Counties ~~County~~, together with the right to
358 construct, repair, replace, operate, install, and maintain
359 electronic toll payment systems thereon~~, with all necessary and~~
360 ~~incidental powers to accomplish the foregoing~~.
361 (3) The authority does not ~~shall~~ have the ~~no~~ power ~~at any~~
362 ~~time or in any manner~~ to pledge the credit or taxing power of
363 the state or any political subdivision or agency thereof,
364 including any city and any county ~~the City of Orlando and the~~
365 ~~County of Orange~~, nor may ~~nor shall~~ any of the authority's
366 obligations be deemed to be obligations of the state or of any
367 political subdivision or agency thereof, nor may ~~nor shall~~ the
368 state or any political subdivision or agency thereof, except the
369 authority, be liable for the payment of the principal of or
370 interest on such obligations.
371 ~~(4) Anything in this part to the contrary notwithstanding,~~
372 ~~acquisition of right-of-way for a project of the authority which~~
373 ~~is within the boundaries of any municipality in Orange County~~
374 ~~shall not be begun unless and until the route of said project~~
375 ~~within said municipality has been given prior approval by the~~
376 ~~governing body of said municipality.~~
377 (4)~~(5)~~ The authority has ~~shall have~~ no power other than by

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378 consent of an affected ~~Orange~~ county or any affected city, to
379 enter into any agreement which would legally prohibit the
380 construction of a ~~any~~ road by the respective county or city
381 ~~Orange County or by any city within Orange County~~.
382 (5)~~(6)(a)~~ The authority shall encourage the inclusion of
383 local-, small-, minority-, and women-owned businesses in its
384 procurement and contracting opportunities. ~~Notwithstanding s.~~
385 ~~255.05, the Orlando-Orange County Expressway Authority may waive~~
386 ~~payment and performance bonds on construction contracts for the~~
387 ~~construction of a public building, for the prosecution and~~
388 ~~completion of a public work, or for repairs on a public building~~
389 ~~or public work that has a cost of $500,000 or less and when the~~
390 ~~project is awarded pursuant to an economic development program~~
391 ~~for the encouragement of local small businesses that has been~~
392 ~~adopted by the governing body of the Orlando-Orange County~~
393 ~~Expressway Authority pursuant to a resolution or policy.~~
394 ~~(b) The authority's adopted criteria for participation in~~
395 ~~the economic development program for local small businesses~~
396 ~~requires that a participant:~~
397 ~~1. Be an independent business.~~
398 ~~2. Be principally domiciled in the Orange County Standard~~
399 ~~Metropolitan Statistical Area.~~
400 ~~3. Employ 25 or fewer full-time employees.~~
401 ~~4. Have gross annual sales averaging $3 million or less~~
402 ~~over the immediately preceding 3 calendar years with regard to~~
403 ~~any construction element of the program.~~
404 ~~5. Be accepted as a participant in the Orlando-Orange~~
405 ~~County Expressway Authority's microcontracts program or such~~
406 ~~other small business program as may be hereinafter enacted by~~

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407 ~~the Orlando-Orange County Expressway Authority.~~
408 ~~6. Participate in an educational curriculum or technical~~
409 ~~assistance program for business development that will assist the~~
410 ~~small business in becoming eligible for bonding.~~
411 ~~(c) The authority's adopted procedures for waiving payment~~
412 ~~and performance bonds on projects with values not less than~~
413 ~~$200,000 and not exceeding $500,000 shall provide that payment~~
414 ~~and performance bonds may only be waived on projects that have~~
415 ~~been set aside to be competitively bid on by participants in an~~
416 ~~economic development program for local small businesses. The~~
417 ~~authority's executive director or his or her designee shall~~
418 ~~determine whether specific construction projects are suitable~~
419 ~~for:~~
420 ~~1. Bidding under the authority's microcontracts program by~~
421 ~~registered local small businesses; and~~
422 ~~2. Waiver of the payment and performance bond.~~
423
424 ~~The decision of the authority's executive director or deputy~~
425 ~~executive director to waive the payment and performance bond~~
426 ~~shall be based upon his or her investigation and conclusion that~~
427 ~~there exists sufficient competition so that the authority~~
428 ~~receives a fair price and does not undertake any unusual risk~~
429 ~~with respect to such project.~~
430 ~~(d) For any contract for which a payment and performance~~
431 ~~bond has been waived pursuant to the authority set forth in this~~
432 ~~section, the Orlando-Orange County Expressway Authority shall~~
433 ~~pay all persons defined in s. 713.01 who furnish labor,~~
434 ~~services, or materials for the prosecution of the work provided~~
435 ~~for in the contract to the same extent and upon the same~~

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436 ~~conditions that a surety on the payment bond under s. 255.05~~
437 ~~would have been obligated to pay such persons if the payment and~~
438 ~~performance bond had not been waived. The authority shall record~~
439 ~~notice of this obligation in the manner and location that surety~~
440 ~~bonds are recorded. The notice shall include the information~~
441 ~~describing the contract that s. 255.05(1) requires be stated on~~
442 ~~the front page of the bond. Notwithstanding that s. 255.05(9)~~
443 ~~generally applies when a performance and payment bond is~~
444 ~~required, s. 255.05(9) shall apply under this subsection to any~~
445 ~~contract on which performance or payment bonds are waived and~~
446 ~~any claim to payment under this subsection shall be treated as a~~
447 ~~contract claim pursuant to s. 255.05(9).~~
448 ~~(e) A small business that has been the successful bidder on~~
449 ~~six projects for which the payment and performance bond was~~
450 ~~waived by the authority pursuant to paragraph (a) shall be~~
451 ~~ineligible to bid on additional projects for which the payment~~
452 ~~and performance bond is to be waived. The local small business~~
453 ~~may continue to participate in other elements of the economic~~
454 ~~development program for local small businesses as long as it is~~
455 ~~eligible.~~
456 ~~(f) The authority shall conduct bond eligibility training~~
457 ~~for businesses qualifying for bond waiver under this subsection~~
458 ~~to encourage and promote bond eligibility for such businesses.~~
459 ~~(g) The authority shall prepare a biennial report on the~~
460 ~~activities undertaken pursuant to this subsection to be~~
461 ~~submitted to the Orange County legislative delegation. The~~
462 ~~initial report shall be due December 31, 2010.~~
463 Section 5. Section 348.7543, Florida Statutes, is amended
464 to read:

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465 348.7543 Improvements, bond financing authority for.—
466 Pursuant to s. 11(f), Art. VII of the State Constitution, the
467 Legislature ~~hereby~~ approves for bond financing by the Central
468 Florida ~~Orlando-Orange County~~ Expressway Authority improvements
469 to toll collection facilities, interchanges to the legislatively
470 approved expressway system, and any other facility appurtenant,
471 necessary, or incidental to the approved system. Subject to
472 terms and conditions of applicable revenue bond resolutions and
473 covenants, such costs may be financed in whole or in part by
474 revenue bonds issued pursuant to s. 348.755(1)(a) or (b) whether
475 currently issued or issued in the future, or by a combination of
476 such bonds.
477 Section 6. Section 348.7544, Florida Statutes, is amended
478 to read:
479 348.7544 Northwest Beltway Part A, construction authorized;
480 financing.—Notwithstanding s. 338.2275, the Central Florida
481 ~~Orlando-Orange County~~ Expressway Authority may ~~is hereby~~
482 ~~authorized to~~ construct, finance, operate, own, and maintain
483 that portion of the Western Beltway known as the Northwest
484 Beltway Part A, extending from Florida's Turnpike near Ocoee
485 north to U.S. 441 near Apopka, as part of the authority's 20-
486 year capital projects plan. This project may be financed with
487 any funds available to the authority for such purpose or revenue
488 bonds issued by the Division of Bond Finance of the State Board
489 of Administration on behalf of the authority pursuant to s. 11,
490 Art. VII of the State Constitution and the State Bond Act, ss.
491 215.57-215.83.
492 Section 7. Section 348.7545, Florida Statutes, is amended
493 to read:

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494 348.7545 Western Beltway Part C, construction authorized;
495 financing.—Notwithstanding s. 338.2275, the Central Florida
496 ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~
497 exercise its condemnation powers, construct, finance, operate,
498 own, and maintain that portion of the Western Beltway known as
499 the Western Beltway Part C, extending from Florida's Turnpike
500 near Ocoee in Orange County southerly through Orange and Osceola
501 Counties to an interchange with I-4 near the Osceola-Polk County
502 line, as part of the authority's 20-year capital projects plan.
503 This project may be financed with any funds available to the
504 authority for such purpose or revenue bonds issued by the
505 Division of Bond Finance of the State Board of Administration on
506 behalf of the authority pursuant to s. 11, Art. VII of the State
507 Constitution and the State Bond Act, ss. 215.57-215.83. This
508 project may be refinanced with bonds issued by the authority
509 pursuant to s. 348.755(1)(d).
510 Section 8. Section 348.7546, Florida Statutes, is amended
511 to read:
512 348.7546 Wekiva Parkway, construction authorized;
513 financing.—
514 (1) The Central Florida ~~Orlando-Orange County~~ Expressway
515 Authority may ~~is authorized to~~ exercise its condemnation powers
516 and ~~to~~ construct, finance, operate, own, and maintain those
517 portions of the Wekiva Parkway which are identified by agreement
518 between the authority and the department and which are included
519 as part of the authority's long-range capital improvement plan.
520 The "Wekiva Parkway" means any limited access highway or
521 expressway constructed between State Road 429 and Interstate 4
522 specifically incorporating the corridor alignment recommended by

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523 Recommendation 2 of the Wekiva River Basin Area Task Force final
524 report dated January 15, 2003, and the recommendations of the SR
525 429 Working Group, which were adopted January 16, 2004. This
526 project may be financed with any funds available to the
527 authority for such purpose or revenue bonds issued by the
528 authority under s. 11, Art. VII of the State Constitution and s.
529 348.755(1)(b). This section does not invalidate the exercise by
530 the authority of its condemnation powers or the acquisition of
531 any property for the Wekiva Parkway before July 1, 2012.
532 (2) Notwithstanding any other provision of law ~~to the~~
533 ~~contrary~~, in order to ensure that funds are available to the
534 department for its portion of the Wekiva Parkway, beginning July
535 1, 2012, the authority shall repay the expenditures by the
536 department for costs of operation and maintenance of the Central
537 Florida ~~Orlando-Orange County~~ Expressway System in accordance
538 with the terms of the memorandum of understanding between the
539 authority and the department as ratified by the authority board
540 on February 22, 2012, which requires the authority to pay the
541 department $10 million on July 1, 2012, and $20 million on each
542 successive July 1 until the department has been fully reimbursed
543 for all costs of the Central Florida ~~Orlando-Orange County~~
544 Expressway System which were paid, advanced, or reimbursed to
545 the authority by the department, with a final payment in the
546 amount of the balance remaining. Notwithstanding any other law
547 ~~to the contrary~~, the funds paid to the department pursuant to
548 this subsection must ~~shall~~ be allocated by the department for
549 construction of the Wekiva Parkway.
550 (3) The department's obligation to construct its portions
551 of the Wekiva Parkway is contingent upon the timely payment by

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552 the authority of the annual payments required of the authority
553 and receipt of all required environmental permits and approvals
554 by the Federal Government.
555 Section 9. Section 348.7547, Florida Statutes, is amended
556 to read:
557 348.7547 Maitland Boulevard Extension and Northwest Beltway
558 Part A Realignment construction authorized; financing.—
559 Notwithstanding s. 338.2275, the Central Florida ~~Orlando-Orange~~
560 ~~County~~ Expressway Authority may ~~is hereby authorized to~~ exercise
561 its condemnation powers, construct, finance, operate, own, and
562 maintain the portion of State Road 414 known as the Maitland
563 Boulevard Extension and the realigned portion of the Northwest
564 Beltway Part A as part of the authority's long-range capital
565 improvement plan. The Maitland Boulevard Extension extends ~~will~~
566 ~~extend~~ from the current terminus of State Road 414 at U.S. 441
567 west to State Road 429 in west Orange County. The realigned
568 portion of the Northwest Beltway Part A runs ~~will run~~ from the
569 point at or near where the Maitland Boulevard Extension connects
570 ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to
571 the west and then north resulting in the northern terminus of
572 State Road 429 moving farther west before reconnecting with U.S.
573 441. However, under no circumstances may ~~shall~~ the realignment
574 of the Northwest Beltway Part A conflict with or contradict ~~with~~
575 the alignment of the Wekiva Parkway as defined in s. 348.7546.
576 This project may be financed with any funds available to the
577 authority for such purpose or revenue bonds issued by the
578 authority under s. 11, Art. VII of the State Constitution and s.
579 348.755(1)(b).
580 Section 10. Subsections (2) and (3) of section 348.755,

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581 Florida Statutes, are amended to read:
582 348.755 Bonds of the authority.—
583 (2) Any ~~such~~ resolution that authorizes ~~or resolutions~~
584 ~~authorizing~~ any bonds issued under this section ~~hereunder~~ may
585 contain provisions that must ~~which shall~~ be part of the contract
586 with the holders of such bonds, relating ~~as~~ to:
587 (a) The pledging of ~~all or~~ any part of the revenues, rates,
588 fees, rentals, ~~(~~including ~~all or~~ any portion of the Orange
589 County gasoline tax funds received by the authority pursuant to
590 the terms of any lease-purchase agreement between the authority
591 and the department, or any part thereof~~)~~, or other charges or
592 receipts of the authority, derived by the authority, from the
593 Central Florida ~~Orlando-Orange County~~ Expressway System.
594 (b) The completion, improvement, operation, extension,
595 maintenance, repair, lease or lease-purchase agreement of the
596 ~~said~~ system, and the duties of the authority and others,
597 including the department~~, with reference thereto~~.
598 (c) Limitations on the purposes to which the proceeds of
599 the bonds, then or thereafter to be issued, or of any loan or
600 grant by the United States or the state may be applied.
601 (d) The fixing, charging, establishing, and collecting of
602 rates, fees, rentals, or other charges for use of the services
603 and facilities of the Central Florida ~~Orlando-Orange County~~
604 Expressway System or any part thereof.
605 (e) The setting aside of reserves or sinking funds or
606 repair and replacement funds and the regulation and disposition
607 thereof.
608 (f) Limitations on the issuance of additional bonds.
609 (g) The terms and provisions of any lease-purchase

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610 agreement, deed of trust or indenture securing the bonds, or
611 under which the same may be issued.
612 (h) Any other or additional agreements with the holders of
613 the bonds which the authority may deem desirable and proper.
614 (3) The authority may employ fiscal agents as provided by
615 this part or the State Board of Administration of Florida may
616 upon request of the authority act as fiscal agent for the
617 authority in the issuance of any bonds that ~~which~~ may be issued
618 pursuant to this part, and the State Board of Administration may
619 upon request of the authority take over the management, control,
620 administration, custody, and payment of any ~~or all~~ debt services
621 or funds or assets now or hereafter available for any bonds
622 issued pursuant to this part. The authority may enter into any
623 deeds of trust, indentures or other agreements with its fiscal
624 agent, or with any bank or trust company within or without the
625 state, as security for such bonds, and may, under such
626 agreements, sign and pledge ~~all or~~ any of the revenues, rates,
627 fees, rentals or other charges or receipts of the authority,
628 including ~~all or~~ any portion of the Orange County gasoline tax
629 funds received by the authority pursuant to the terms of any
630 lease-purchase agreement between the authority and the
631 department~~, thereunder~~. Such deed of trust, indenture, or other
632 agreement may contain such provisions as are customary in such
633 instruments, or, as the authority may authorize, including but
634 without limitation, provisions as to:
635 (a) The completion, improvement, operation, extension,
636 maintenance, repair, and lease of, or lease-purchase agreement
637 relating to the Central Florida ~~Orlando-Orange County~~ Expressway
638 System, and the duties of the authority and others including the

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639 department, with reference thereto.
640 (b) The application of funds and the safeguarding of funds
641 on hand or on deposit.
642 (c) The rights and remedies of the trustee and the holders
643 of the bonds.
644 (d) The terms and provisions of the bonds or the
645 resolutions authorizing the issuance of same.
646 Section 11. Subsections (3) and (4) of section 348.756,
647 Florida Statutes, are amended to read:
648 348.756 Remedies of the bondholders.—
649 (3) When a ~~Any~~ trustee is ~~when~~ appointed pursuant to
650 subsection (1) ~~as aforesaid~~, or is acting under a deed of trust,
651 indenture, or other agreement, and whether or not all bonds have
652 been declared due and payable, the trustee is ~~shall be~~ entitled
653 ~~as of right~~ to the appointment of a receiver, who may enter upon
654 and take possession of the Central Florida ~~Orlando-Orange County~~
655 Expressway System or the facilities or any part of the system or
656 facilities ~~or parts thereof~~, the rates, fees, rentals, or other
657 revenues, charges, or receipts that ~~from which~~ are, or may be,
658 applicable to the payment of the bonds so in default, and
659 subject to and in compliance with the provisions of any lease-
660 purchase agreement between the authority and the department
661 operate and maintain the same, for and on behalf of and in the
662 name of, the authority, the department, and the bondholders, and
663 collect and receive all rates, fees, rentals, and other charges
664 or receipts or revenues arising therefrom in the same manner as
665 the authority or the department might do, and shall deposit all
666 such moneys in a separate account and apply the same in such
667 manner as the court directs ~~shall direct~~. In any suit, action,

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668 or proceeding by the trustee, the fees, counsel fees, and
669 expenses of the trustee, and the ~~said~~ receiver, if any, and all
670 costs and disbursements allowed by the court must ~~shall~~ be a
671 first charge on any rates, fees, rentals, or other charges,
672 revenues, or receipts, derived from the Central Florida ~~Orlando-~~
673 ~~Orange County~~ Expressway System, or the facilities or services
674 or any part of the system or facilities ~~or parts thereof~~,
675 including payments under any such lease-purchase agreement ~~as~~
676 ~~aforesaid~~ which ~~said~~ rates, fees, rentals, or other charges,
677 revenues, or receipts ~~shall or~~ may be applicable to the payment
678 of the bonds that are ~~so~~ in default. The ~~Such~~ trustee has ~~shall,~~
679 ~~in addition to the foregoing, have and possess~~ all of the powers
680 necessary or appropriate for the exercise of any functions
681 specifically set forth in this section ~~herein~~ or incident to the
682 representation of the bondholders in the enforcement and
683 protection of their rights.
684 (4) ~~Nothing in~~ This section or any other section of this
685 part does not ~~shall~~ authorize any receiver appointed ~~pursuant~~
686 ~~hereto~~ for the purpose, subject to and in compliance with the
687 provisions of any lease-purchase agreement between the authority
688 and the department, of operating and maintaining the Central
689 Florida ~~Orlando-Orange County~~ Expressway System or any
690 facilities or part of the system or facilities ~~or parts thereof~~,
691 to sell, assign, mortgage, or otherwise dispose of any of the
692 assets of whatever kind and character belonging to the
693 authority. ~~It is the intention of this part to limit~~ The powers
694 of the ~~such~~ receiver, subject to and in compliance with the
695 provisions of any lease-purchase agreement between the authority
696 and the department, are limited to the operation and maintenance

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697 of the Central Florida ~~Orlando-Orange County~~ Expressway System,
698 or any facility, or part ~~or parts~~ thereof, as the court may
699 direct, in the name and for and on behalf of the authority, the
700 department, and the bondholders, and no holder of bonds on the
701 authority nor any trustee, has ~~shall ever have~~ the right in any
702 suit, action, or proceeding at law or in equity, to compel a
703 receiver, nor may ~~shall~~ any receiver be authorized or any court
704 be empowered to direct the receiver to sell, assign, mortgage,
705 or otherwise dispose of any assets ~~of whatever kind or character~~
706 belonging to the authority.
707 Section 12. Subsections (1) through (7) of section 348.757,
708 Florida Statutes, are amended to read:
709 348.757 Lease-purchase agreement.—
710 (1) ~~In order to effectuate the purposes of this part and as~~
711 ~~authorized by this part,~~ The authority may enter into a lease-
712 purchase agreement with the department relating to and covering
713 the Central Florida ~~Orlando-Orange County~~ Expressway System.
714 (2) The ~~Such~~ lease-purchase agreement must ~~shall~~ provide
715 for the leasing of the Central Florida ~~Orlando-Orange County~~
716 Expressway System, by the authority, as lessor, to the
717 department, as lessee, must ~~shall~~ prescribe the term of such
718 lease and the rentals to be paid ~~thereunder~~, and must ~~shall~~
719 provide that upon the completion of the faithful performance
720 ~~thereunder~~ and the termination of the ~~such~~ lease-purchase
721 agreement, title in fee simple absolute to the Central Florida
722 ~~Orlando-Orange County~~ Expressway System must be retained by the
723 authority ~~as then constituted shall be transferred in accordance~~
724 ~~with law by the authority, to the state and the authority shall~~
725 ~~deliver to the department such deeds and conveyances as shall be~~

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726 ~~necessary or convenient to vest title in fee simple absolute in~~
727 ~~the state~~.
728 (3) The ~~Such~~ lease-purchase agreement may include ~~such~~
729 other provisions, agreements, and covenants that ~~as~~ the
730 authority and the department deem advisable or required,
731 including, but not limited to, provisions as to the bonds to be
732 issued under, and for the purposes of, this part, the
733 completion, extension, improvement, operation, and maintenance
734 of the Central Florida ~~Orlando-Orange County~~ Expressway System
735 and the expenses and the cost of operation of the ~~said~~
736 authority, the charging and collection of tolls, rates, fees,
737 and other charges for the use of the services and facilities of
738 the system ~~thereof~~, the application of federal or state grants
739 or aid that ~~which~~ may be made or given to assist the authority
740 in the completion, extension, improvement, operation, and
741 maintenance of the Central Florida ~~Orlando~~ Expressway System,
742 which the authority is ~~hereby~~ authorized to accept and apply to
743 such purposes, the enforcement of payment and collection of
744 rentals and any other terms, provisions, or covenants necessary,
745 incidental, or appurtenant to the making of and full performance
746 under the ~~such~~ lease-purchase agreement.
747 (4) The department as lessee under the ~~such~~ lease-purchase
748 agreement, may ~~is hereby authorized to~~ pay as rentals under the
749 agreement ~~thereunder~~ any rates, fees, charges, funds, moneys,
750 receipts, or income accruing to the department from the
751 operation of the Central Florida ~~Orlando-Orange County~~
752 Expressway System and the Orange County gasoline tax funds and
753 may also pay as rentals any appropriations received by the
754 department pursuant to any act of the Legislature of the state

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755 heretofore or hereafter enacted; ~~provided,~~ however, this part or
756 the ~~that nothing herein nor in such~~ lease-purchase agreement is
757 not intended to and does not ~~nor shall this part or such lease-~~
758 ~~purchase agreement~~ require the making or continuance of such
759 appropriations, and ~~nor shall~~ any holder of bonds issued
760 pursuant to this part does not ~~ever~~ have any right to compel the
761 making or continuance of such appropriations.
762 (5) A ~~No~~ pledge of the ~~said~~ Orange County gasoline tax
763 funds as rentals under a ~~such~~ lease-purchase agreement may not
764 ~~shall~~ be made without the consent of the County of Orange
765 evidenced by a resolution duly adopted by the board of county
766 commissioners of said county at a public hearing held pursuant
767 to due notice thereof published at least once a week for 3
768 consecutive weeks before the hearing in a newspaper of general
769 circulation in Orange County. The ~~Said~~ resolution, among other
770 things, must ~~shall~~ provide that any excess of the ~~said~~ pledged
771 gasoline tax funds which is not required for debt service or
772 reserves for the ~~such~~ debt service for any bonds issued by the
773 ~~said~~ authority shall be returned annually to the department for
774 distribution to Orange County as provided by law. Before making
775 any application for a ~~such~~ pledge of gasoline tax funds, the
776 authority shall present the plan of its proposed project to the
777 Orange County planning and zoning commission for its comments
778 and recommendations.
779 (6) The ~~Said~~ department may ~~shall have power to~~ covenant in
780 any lease-purchase agreement that it will pay all or any part of
781 the cost of the operation, maintenance, repair, renewal, and
782 replacement of the ~~said~~ system, and any part of the cost of
783 completing the ~~said~~ system to the extent that the proceeds of

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784 bonds issued ~~therefor~~ are insufficient, from sources other than
785 the revenues derived from the operation of the ~~said~~ system and
786 the ~~said~~ Orange County gasoline tax funds. The ~~said~~ department
787 may also agree to make such other payments from any moneys
788 available to the ~~said~~ commission, the ~~said~~ county, or the ~~said~~
789 city in connection with the construction or completion of the
790 ~~said~~ system as shall be deemed by the ~~said~~ department to be fair
791 and proper under any ~~such~~ covenants ~~heretofore or hereafter~~
792 entered into.
793 (7) The ~~said~~ system must ~~shall~~ be a part of the state road
794 system and the ~~said~~ department may ~~is hereby authorized~~, upon
795 the request of the authority, ~~to~~ expend out of any funds
796 available for the purpose the ~~such~~ moneys, and ~~to~~ use ~~such of~~
797 its engineering and other forces, as may be necessary ~~and~~
798 ~~desirable in the judgment of said department~~, for the operation
799 of the ~~said~~ authority and for traffic surveys, borings, surveys,
800 preparation of plans and specifications, estimates of cost, and
801 other preliminary engineering and other studies; provided,
802 however, that the aggregate amount of moneys expended for the
803 ~~said~~ purposes by the ~~said~~ department do ~~shall~~ not exceed the sum
804 of $375,000.
805 Section 13. Section 348.758, Florida Statutes, is amended
806 to read:
807 348.758 Appointment of department as ~~may be appointed~~ agent
808 of authority for construction.—The department may be appointed
809 by the ~~said~~ authority as its agent for the purpose of
810 constructing improvements and extensions to the Central Florida
811 ~~Orlando-Orange County~~ Expressway System and for its ~~the~~
812 completion ~~thereof~~. In such event, the authority shall provide

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813 the department with complete copies of all documents,
814 agreements, resolutions, contracts, and instruments relating
815 thereto and shall request the department to do such construction
816 work, including the planning, surveying, and actual construction
817 of the completion, extensions, and improvements to the Central
818 Florida ~~Orlando-Orange County~~ Expressway System and shall
819 transfer to the credit of an account of the department in the
820 State Treasury ~~of the state~~ the necessary funds, ~~therefor~~ and
821 the department may ~~shall thereupon be authorized, empowered and~~
822 ~~directed to~~ proceed with such construction and ~~to~~ use the ~~said~~
823 funds for such purpose in the same manner that it is ~~now~~
824 authorized to use the funds ~~otherwise provided by law~~ for the
825 ~~its use in~~ construction of roads and bridges.
826 Section 14. Section 348.759, Florida Statutes, is amended
827 to read:
828 348.759 Acquisition of lands and property.—
829 (1) For the purposes of this part, the Central Florida
830 ~~Orlando-Orange County~~ Expressway Authority may acquire private
831 or public property and property rights, including rights of
832 access, air, view, and light, by gift, devise, purchase, or
833 condemnation by eminent domain proceedings, as the authority
834 deems ~~may deem~~ necessary for any of the purposes of this part,
835 including, but not limited to, any lands reasonably necessary
836 for securing applicable permits, areas necessary for management
837 of access, borrow pits, drainage ditches, water retention areas,
838 rest areas, replacement access for landowners whose access is
839 impaired due to the construction of a facility, and replacement
840 rights-of-way for relocated rail and utility facilities; for
841 existing, proposed, or anticipated transportation facilities on

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842 the Central Florida ~~Orlando-Orange County~~ Expressway System or
843 in a transportation corridor designated by the authority; or for
844 the purposes of screening, relocation, removal, or disposal of
845 junkyards and scrap metal processing facilities. The authority
846 may ~~shall also have the power to~~ condemn any material and
847 property necessary for such purposes.
848 (2) The ~~right of eminent domain herein conferred shall be~~
849 ~~exercised by the~~ authority shall exercise the right of eminent
850 domain in the manner provided by law.
851 (3) When the authority acquires property for a
852 transportation facility or in a transportation corridor, it is
853 not subject to any liability imposed by chapter 376 or chapter
854 403 for preexisting soil or groundwater contamination due solely
855 to its ownership. This section does not affect the rights or
856 liabilities of any past or future owners of the acquired
857 property and ~~nor~~ does not ~~it~~ affect the liability of any
858 governmental entity for the results of its actions which create
859 or exacerbate a pollution source. The authority and the
860 Department of Environmental Protection may enter into
861 interagency agreements for the performance, funding, and
862 reimbursement of the investigative and remedial acts necessary
863 for property acquired by the authority.
864 Section 15. Section 348.760, Florida Statutes, is amended
865 to read:
866 348.760 Cooperation with other units, boards, agencies, and
867 individuals.—A ~~Express authority and power is hereby given and~~
868 ~~granted any~~ county, municipality, drainage district, road and
869 bridge district, school district or any other political
870 subdivision, board, commission, or individual in, or of, the

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871 state may ~~to~~ make and enter into with the authority, contracts,
872 leases, conveyances, partnerships, or other agreements pursuant
873 to ~~within the provisions and purposes of~~ this part. The
874 authority may ~~is hereby expressly authorized to~~ make and enter
875 into contracts, leases, conveyances, partnerships, and other
876 agreements with any political subdivision, agency, or
877 instrumentality of the state and any ~~and all~~ federal agencies,
878 corporations, and individuals, for the purpose of carrying out
879 the provisions of this part ~~or with the consent of the Seminole~~
880 ~~County Expressway Authority, for the purpose of carrying out and~~
881 ~~implementing part VIII of this chapter~~.
882 Section 16. Section 348.761, Florida Statutes, is amended
883 to read:
884 348.761 Covenant of the state.—The state pledges ~~does~~
885 ~~hereby pledge~~ to, and agrees, with any person, firm or
886 corporation, or federal or state agency subscribing to, or
887 acquiring the bonds to be issued by the authority for the
888 purposes of this part that the state will not limit or alter the
889 rights that are ~~hereby~~ vested in the authority and the
890 department until all issued bonds and interest ~~at any time~~
891 ~~issued, together with the interest thereon,~~ are fully paid and
892 discharged insofar as the pledge ~~same~~ affects the rights of the
893 holders of bonds issued pursuant to this part ~~hereunder~~. The
894 state does further pledge to, and agree, with the United States
895 that in the event any federal agency constructs or contributes
896 ~~shall construct or contribute~~ any funds for the completion,
897 extension, or improvement of the Central Florida ~~Orlando-Orange~~
898 ~~County~~ Expressway System, or any part or portion of the system
899 ~~thereof~~, the state will not alter or limit the rights and powers

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900 of the authority and the department in any manner that ~~which~~
901 would be inconsistent with the continued maintenance and
902 operation of the Central Florida ~~Orlando-Orange County~~
903 Expressway System or the completion, extension, or improvement
904 of the system ~~thereof~~, or that ~~which~~ would be inconsistent with
905 the due performance of any agreements between the authority and
906 any such federal agency, and the authority and the department
907 shall continue to have and may exercise all powers ~~herein~~
908 granted in this part, so long as the powers are ~~same shall be~~
909 necessary or desirable for the carrying out of the purposes of
910 this part and the purposes of the United States in the
911 completion, extension, or improvement of the Central Florida
912 ~~Orlando-Orange County~~ Expressway System, or any part of the
913 system ~~or portion thereof~~.
914 Section 17. Section 348.765, Florida Statutes, is amended
915 to read:
916 348.765 This part complete and additional authority.—
917 (1) The powers conferred by this part are ~~shall be~~ in
918 addition and supplemental to the existing powers of the ~~said~~
919 board and the department, and this part may ~~shall~~ not be
920 construed as repealing any of the provisions, of any other law,
921 general, special, or local, but to supersede such other laws in
922 the exercise of the powers provided in this part, and to provide
923 a complete method for the exercise of the powers granted in this
924 part. The extension and improvement of the Central Florida ~~said~~
925 ~~Orlando-Orange County~~ Expressway System, and the issuance of
926 bonds pursuant to this part ~~hereunder~~ to finance all or part of
927 the cost of the system ~~thereof~~, may be accomplished upon
928 compliance with the provisions of this part without regard to or

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929 necessity for compliance with the provisions, limitations, or
930 restrictions contained in any other general, special, or local
931 law, including, but not limited to, s. 215.821, and no approval
932 of any bonds issued under this part by the qualified electors or
933 qualified electors who are freeholders in the state or in the
934 ~~said~~ County of Orange, or in the ~~said~~ City of Orlando, or in any
935 other political subdivision of the state, is ~~shall be~~ required
936 for the issuance of such bonds pursuant to this part.
937 (2) This part does ~~shall~~ not ~~be deemed to~~ repeal, rescind,
938 or modify any other law ~~or laws~~ relating to the ~~said~~ State Board
939 of Administration, the ~~said~~ Department of Transportation, or the
940 Division of Bond Finance of the State Board of Administration,
941 but supersedes any ~~shall be deemed to and shall supersede such~~
942 ~~other~~ law that is ~~or laws as are~~ inconsistent with the
943 provisions of this part, including, but not limited to, s.
944 215.821.
945 Section 18. All powers, governance, and control of the
946 Osceola County Expressway System, created pursuant to part V,
947 chapter 348, Florida Statutes, is transferred to the Central
948 Florida Expressway Authority and the assets, liabilities,
949 facilities, tangible and intangible property and any rights in
950 the property, and any other legal rights of the Osceola
951 Expressway Authority, are transferred to the Central Florida
952 Expressway Authority on July 1, 2014. Part V of chapter 348,
953 Florida Statutes, consisting of ss. 348.9950-348.9961 is
954 repealed on the same date that the Osceola County Expressway
955 System is transferred to the Central Florida Expressway
956 Authority.
957 Section 19. 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)

Meeting Date: _____

Topic: _____

Bill Number: SB 952 (if applicable)

Name: Gerard O'Rourke

Amendment Barcode: _____ (if applicable)

Job Title: Leg. Affairs Dir

Address: 605 Suwannee St. (Street)

Tallahassee FL 32399 (City, State, Zip)

Phone: 850-414-4797

E-mail: gerard.orourke@dot.state.fl.us

Speaking: ☐ For ☐ Against ☐ Information

Representing: FDOT

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)

4/2/13
Meeting Date

Topic: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Bill Number: 952 (if applicable)

Name: ATLEE MERCER

Amendment Barcode: (if applicable)

Job Title: CHAIRMAN OSCEOLA COUNTY EXPRESSWAY AUTHORITY

Address: 1565 The Oaks
Street

KISSIMMEE FL 34746
City State Zip

Phone: 321-443-9640

E-mail: AMERCER2@CFL.RR.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing: OSCEOLA COUNTY EXPRESSWAY AUTHORITY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 21, 2013

I respectfully request that **Senate Bill 952**, relating to Orlando-Orange County Expressway Authority, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 952

INTRODUCER: Senators Simmons and Gardiner

SUBJECT: Orlando-Orange County Expressway Authority

DATE: March 26, 2013 REVISED:

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

I. Summary:

SB 952 re-names the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law and:

- revises and makes technical changes to definitions;
- creates the Central Florida Expressway Authority (CFX);
- provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) System to CFX;
- revises the composition of the governing body of CFX; provides for the appointment of officers; and revises quorum and voting requirements;
- provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties; prohibits CFX from spending funds for SunRail; and limits the use of certain electronic tolls collected in Orange County to projects built in that county;
- removes the requirement that the route of a project be approved by a municipality before the right-of-way can be acquired; requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities; and removes Orlando-Orange County Expressway Authority power and criteria to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program;
- provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title in fee simple to the system will be retained by CFX;
- provides for the transfer of the Osceola County Expressway System to CFX;

- provides for the repeal of part V of chapter 348, Florida Statutes, when the Osceola County Expressway System is transferred to CFX;
- conforms terminology and makes technical changes; and,
- provides an effective date of July 1, 2013.

This bill amends the following sections of the Florida Statutes: 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, and 348.765.

II. Present Situation:

Orlando-Orange County Expressway Authority

The OOCEA currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.[1]

OOCEA Governing Board
The 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 the Florida Department of Transportation's (FDOT) district five secretary are the two *ex-officio* members of the Board.[2]

OOCEA Facilities
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).

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway pursuant to an existing Memorandum of Understanding and lease-purchase agreement between FDOT and the OOCEA. The memorandum, in part, describes both parties' obligations for the construction of the Wekiva Parkway. It sets up a payment schedule and provides bonding limitations for OOCEA to insure OOCEA makes its payment obligations to FDOT. The Legislature in SB 1998 (2012) codified references to the existing Memorandum and lease-purchase agreements and authorized the transfer of the Beachline-East Expressway to the Florida Turnpike Enterprise, and payment to FDOT for the asset. The Beachline's estimated value of $60 million will be used by FDOT to construct portions of the Wekiva Parkway. The OOCEA was required to pay FDOT $10 million on July 1, 2012, and is required to pay $20 million every July 1 thereafter to pay out the long-term debt obligation to FDOT. Thereafter,

[1] Section 348.754(2)(n), F.S.
[2] Section 348.753, F.S.

FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates, and ownership of the system remains with the OOCEA. FDOT advises that the OOCEA's long-term debt as of February 28, 2013, is $229,351,636.79.

Osceola County Expressway Authority

Created in 2010, the Osceola County Expressway Authority currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act, including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.[3]

OCX Governing Board
The 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.[4]

OCX Facilities
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 Florida Transportation Commission 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.[5]

Seminole County and Lake County

The Seminole County Expressway Authority was abolished by the Legislature in 2011[6] and is not currently served by any expressway authority. Lake County is also not currently served by any expressway authority.

III. Effect of Proposed Changes:

Section 1: Amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Section 2: Amends s. 348.752, F.S., to define:

- "Central Florida Expressway Authority" to mean the body politic and corporate and agency of the state;
- "Central Florida Expressway System," to mean a transportation facility, expressway, or appurtenant facility, and

[3] Section 348.0004, F.S.
[4] Section 348.9952, F.S.
[5] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.
[6] Ch. 2011-64, L.O.F.

- "transportation facilities" to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

Research reveals no language elsewhere in ch. 348, F.S., that would include in any definition or in any other provision under current law the "administrative and other office space" of an expressway authority. This definition presumably would allow CFX to finance or even bond expenses for administrative and other office space.

This section of the bill also deletes the definitions of "city" and "county," revises various definitions to conform terminology to the renaming, and makes various other editorial and grammatical changes.

Section 3: Amends s. 348.753, F.S., in which the OOCEA is created, to replace the OOCEA and:

- create the Central Florida Expressway Authority;
- require, effective July 1, 2013, that CFX assume the governance and control of the OOCEA System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property;
- transfer any rights in such property and other OOCEA legal rights to CFX; and
- provide that the powers, responsibilities, and obligations of the OOCEA shall succeed to and be assumed by CFX on July 1, 2013.

The bill also provides for nine members of the CFX governing board as follows:

- three members appointed by the boards of county commission of Seminole, Lake, and Osceola Counties, who may be a commission member or chair;
- four citizen members, one each from Orange, Seminole, Lake, and Osceola Counties, appointed by the Governor;
- the mayor of Orange County and the mayor of the City of Orlando.

Otherwise, a person who is an officer or employee of a municipality or county may not be an appointed CFX member. The executive director of Florida's Turnpike Enterprise serves as a nonvoting advisor to the CFX governing body. The Governor's appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. In addition, the bill provides for election of CFX officers and requires elections to be held every two years. A member who is a resident of Orange County must be elected as chair every six years and, if a member from Orange County is not serving as chair, a member who is a resident of Orange County must be elected to serve as vice chair. This section of the bill also makes editorial and grammatical changes and conforms terminology to the renaming.

Section 4: Amends s. 348.754, F.S., setting forth purposes and powers, to:

- provide, with specified exception, that the CFX area served is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties;
- include in the authority to construct the Central Florida Expressway System rapid transit, trams, fixed guideways, thoroughfares, and boulevards;
- prohibit CFX from spending system funds for SunRail;
- require that electronic tolls collected on the expressway system from vehicles registered in Orange County be used to finance projects built in Orange County;
- authorize CFX to construct, operate, and maintain roads and bridges, and electronic toll payment systems on the roads and bridges, outside the boundaries of Orange, Seminole, Lake, and Osceola Counties with the consent of the county within whose jurisdiction the activities occur;
- remove the municipal governing board approval of a project route currently required before acquisition of right-of-way for an OOCEA project within the boundaries of Orange County;
- require CFX to encourage the inclusion of local-, small-, minority-, and women-owned business in its procurement and contracting opportunities;
- remove provisions authorizing the OOCEA to waive payment and performance bonds on certain construction contracts and related small business provisions; and
- make editorial and grammatical changes and conform terminology to the renaming.

Sections 5 - 11: Amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 12: Amends s. 348.757, F.S., relating to lease-purchase agreements with FDOT, to replace direction that the lease-purchase agreement between OOCEA and FDOT provide, upon completion of the OOCEA System, title in fee simple be transferred to FDOT, with direction that the agreement provide that title in fee simple be retained by CFX; and to make editorial and grammatical changes and conform terminology to the renaming.

Section 13 – 17: Amends ss. 348.758, 348.759, 348.760, 348.761, and 348.765, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; and complete and additional authority, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 18: Transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX on July 1, 2014; and repeals part V, ch. 348, F.S., consisting of ss. 348.9950 – 348.9961, F.S., on the same date that the Osceola County Expressway System is transferred to CFX.

Section 19: Provides the act shall take effect on 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:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

By the Committee on Transportation; and Senators Gibson, Thrasher, Bradley, and Bean

596-02843-13 2013606c1

A bill to be entitled

An act relating to the Northeast Florida Regional Transportation Commission; providing a directive to the Division of Law Revision and Information; creating s. 343.1001, F.S.; providing a short title; creating s. 343.1002, F.S.; providing definitions; creating s. 343.1003, F.S.; creating the Northeast Florida Regional Transportation Commission; providing for a nine-member commission board; providing for board appointment; providing for staffing; providing for member removal; providing liability protection for members; creating s. 343.1004, F.S.; providing commission powers and duties; prohibiting the commission from pledging the state's credit; creating s. 343.1005, F.S.; providing for transportation projects of regional significance; specifying the characteristics for such projects; creating s. 343.1006, F.S.; requiring commission plans and planning activity to be coordinated with other specified entities; creating s. 343.1008, F.S.; authorizing other governmental units and the commission to contract with each other; creating s. 343.1009, F.S.; exempting the commission from taxes or assessments; creating s. 343.1010, F.S.; specifying that the powers of the commission are supplemental to other laws; creating s. 343.1011, F.S.; providing for public meetings and hearings; creating s. 343.1012, F.S.; specifying that the commission is not an authority for purposes of specified provisions

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30 relating to a discretionary tax; creating s. 343.1013,
31 F.S.; providing for repeal; amending s. 120.52, F.S.;
32 conforming provisions; providing an effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. The Division of Law Revision and Information is
37 requested to create part V of chapter 343, Florida Statutes,
38 consisting of ss. 343.1001-343.1013, Florida Statutes.
39 Section 2. Section 343.1001, Florida Statutes, is created
40 to read:
41 343.1001 Short title.—This part may be cited as the
42 "Northeast Florida Regional Transportation Commission Act."
43 Section 3. Section 343.1002, Florida Statutes, is created
44 to read:
45 343.1002 Definitions.—As used in this part, the term:
46 (1) "Agency of the state" means the state and any
47 department of the state, the commission, or any corporation,
48 agency, or instrumentality created, designated, or established
49 by the state.
50 (2) "Board" means the governing body of the commission.
51 (3) "Commission" means the Northeast Florida Regional
52 Transportation Commission.
53 (4) "Department" means the Department of Transportation.
54 (5) "Transportation authorities" means the department and
55 any entity created under this chapter, chapter 348, or chapter
56 349.
57 (6) "Transportation facilities" means all mobile and fixed
58 assets, including real or personal property or rights therein,

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59 used in the transportation of persons or property by any means
60 of conveyance, and all appurtenances thereto, such as, but not
61 limited to: highways; bridges; limited or controlled access
62 roadways, lanes, and related facilities; docks, wharves,
63 vessels, jetties, piers, and marine terminals; vehicles, fixed
64 guideway facilities, including freight rail, intermodal
65 facilities, and any means of conveyance of persons or property
66 of all types; passenger and other terminals; park-and-ride
67 facilities; bicycle ways and related facilities; pedestrian ways
68 and pedestrian-related facilities appurtenant to other
69 transportation facilities; transit-related improvements or
70 developments adjacent to transit facilities or stations; bus,
71 train, vessel, or other vehicle storage, cleaning, fueling,
72 control, and maintenance facilities; and administrative and
73 other office space necessary for the exercise by the commission
74 of the powers and obligations granted under this part.
75 (7) "Transportation services" means the conveyance of
76 persons or property, including mass transit services such as
77 fixed-route bus service, fixed-guideway vehicle service,
78 paratransit service, flex route or demand responsive service,
79 and the planning and funding of transportation facilities.
80 Section 4. Section 343.1003, Florida Statutes, is created
81 to read:
82 343.1003 Northeast Florida Regional Transportation
83 Commission.—
84 (1) The Northeast Florida Regional Transportation
85 Commission, an agency of the state, is created and established
86 as a body politic and corporate, covering the six-county area
87 comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns

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88 Counties.
89 (2) The nine-member governing board of the commission shall
90 be selected and serve as follows:
91 (a) The county commissions of Baker, Clay, Nassau, Putnam,
92 and St. Johns Counties shall each appoint one person, who may be
93 an elected official of such county. However, in order to ensure
94 continuity on the initial governing board, the initial
95 appointees under this paragraph shall draw lots at the first
96 meeting of the governing board to determine which two members
97 shall serve initial terms of 2 years, which member shall serve
98 an initial term of 3 years, and which two members shall serve
99 initial terms of 4 years.
100 (b) The City of Jacksonville shall be represented by four
101 members, who may be elected officials of the city. Of the four
102 members, the mayor of the City of Jacksonville shall appoint two
103 members, and the Jacksonville City Council shall appoint two
104 members. However, in order to ensure continuity on the initial
105 governing board, the initial appointees shall draw lots at the
106 first meeting of the governing board to determine which member
107 shall serve an initial term of 2 years, which two members shall
108 serve initial terms of 3 years, and which member shall serve an
109 initial term of 4 years.
110 (c) An appointed member may not select or have a designee
111 selected to serve in the absence of the member, whether such
112 member is an elected official or otherwise. However, if an
113 appointed member is designated by the appointing entity by
114 title, such as the chair of a county commission or the chair of
115 a transportation or planning agency, the successor or vice chair
116 may serve for such appointee in his or her absence.

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117 (d) Except for the initial board, members shall be
118 appointed for 4-year terms. A member may not serve more than two
119 consecutive terms.
120 (3) The secretary of the department shall appoint a
121 nonvoting advisor to the board.
122 (4) The board may create an advisory panel, with membership
123 to be determined by the board, and may establish committees by
124 and at the will of the chair, or upon vote of the board.
125 (5) The members of the board shall serve without
126 compensation but are entitled to receive reimbursement from the
127 commission for travel expenses and per diem incurred in
128 connection with the business of the commission as provided in s.
129 112.061. Persons appointed to a committee or an advisory panel
130 shall also serve without compensation but may be entitled to per
131 diem or travel expenses incurred in connection with the business
132 of the commission as provided in s. 112.061.
133 (6) Notwithstanding s. 348.0003(4)(c), members of the board
134 shall file a statement of financial interest with the Commission
135 on Ethics pursuant to s. 112.3145.
136 (7) At its inaugural meeting, the board shall establish the
137 duties and powers of its officers as set forth in subsection (8)
138 and its initial rules of conduct and meeting procedures.
139 (8) At its inaugural meeting, and annually thereafter, the
140 board shall elect a chair, vice chair, secretary, and treasurer
141 from among its members, to serve for a term of 1 year. No person
142 may hold the office of chair for more than two consecutive
143 terms.
144 (9) The first meeting of the commission shall be held
145 within 60 days after the creation of the commission.

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146 (10) Six members of the board constitute a quorum. The
147 commission may meet upon the presence of a quorum. A vacancy on
148 the board does not impair the ability of a quorum to exercise
149 all rights and perform all duties of the commission.
150 (11) The commission may employ an executive director and an
151 administrative assistant to the board and to the executive
152 director. The commission may employ permanent or temporary
153 staff, including consultants, as it determines necessary or
154 convenient, or, subject to approval by their respective boards
155 or administrative chiefs, may use the staff of:
156 (a) The Jacksonville Transportation Authority, its legal
157 counsel, technical experts, engineers, and other administrative
158 employees.
159 (b) The North Florida Transportation Planning Organization,
160 for planning matters.
161 (c) The Northeast Florida Regional Council, for planning
162 and coordination matters.
163 (d) The department.
164 (e) The Jacksonville Port Authority.
165 (f) The counties represented on the commission board, on an
166 as-needed basis.
167 (12) An appointing county commission, or, in the case of
168 Duval County, upon request of the mayor or the city council
169 president, the Jacksonville City Council, may remove a member
170 appointed by it for cause, including, but not limited to,
171 failure to attend two or more meetings of the commission during
172 any 9-month period.
173 (13) No liability on the part of, and no cause of action
174 may arise against, any member for any action taken in the

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175 performance of his or her duties under this part.
176 Section 5. Section 343.1004, Florida Statutes, is created
177 to read:
178 343.1004 Commission powers and duties.—
179 (1) The express purposes of the commission are to improve
180 mobility and expand multimodal transportation options for
181 persons and freight throughout the six-county North Florida
182 region. The commission shall, at a minimum:
183 (a) Use the data contained in the Long Range Transportation
184 Plan of the North Florida Transportation Planning Organization
185 and other data to develop a multimodal and prioritized regional
186 transportation plan consisting of transportation projects of
187 regional significance; and
188 (b) Research and develop an implementation plan that
189 identifies available but not yet imposed, and potentially
190 developable, sources of funding to execute the regional
191 transportation plan. In developing the regional transportation
192 plan, the commission shall review and coordinate with the future
193 land use, capital improvements, and traffic circulation elements
194 of the counties' local government comprehensive plans, the
195 Strategic Regional Policy Plan of the Northeast Florida Regional
196 Council, and the schedules of other units of government having
197 transit or transportation authority within whose jurisdictions
198 the projects or improvements will be located in order to define
199 and resolve potential inconsistencies between such plans and the
200 commission's regional transportation plan. The commission shall
201 present the regional transportation plan and updates to the
202 governing bodies of the constituent counties within 90 days
203 after adoption. The commission shall update the regional

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204 transportation plan and the implementation plan at least every
205 other year.
206 (2) The commission may plan, develop, coordinate, and
207 promote transportation projects and transportation services of
208 regional significance which are identified in the commission's
209 regional transportation plan.
210 (a) Subject to available funding and with the approval of
211 the affected counties and transportation authorities, the
212 commission may provide transportation services of regional
213 significance which are identified in the regional transportation
214 plan.
215 (b) To ensure coordination of its plans with those of local
216 governments, the commission shall consult with local governments
217 concerning the commission's regional transportation plan.
218 (c) The commission may facilitate efforts to secure funding
219 commitments from federal and state sources, or from the
220 applicable counties, for the planning, development,
221 construction, purchase, operation, and maintenance of
222 transportation projects that are of regional significance or
223 that support intercounty mobility for persons or freight.
224 (3) In carrying out its purposes and powers, the commission
225 may request funding and technical assistance from the department
226 and from federal and local agencies. In order to carry out the
227 purposes and powers of the commission for its first 5 years, the
228 commission shall also timely request annually that each
229 constituent county appropriate a cash contribution of up to 30
230 cents per capita per year, based on the latest decennial census,
231 to support its budget; however, the contribution of Duval County
232 may not exceed 45 percent of the commission's budget for any

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233 fiscal year.
234 (4) The commission may exercise all powers necessary,
235 appurtenant, convenient, or incidental to carrying out the
236 purposes identified in subsections (1)-(3), including, but not
237 limited to, the power to:
238 (a) Sue and be sued, implead and be impleaded, and complain
239 and defend in all courts in its own name.
240 (b) Adopt and use a corporate seal.
241 (c) Apply for and accept grants from federal, state, local,
242 or private sources for the carrying out of the purposes and
243 powers of the commission.
244 (d) Partner with private sector business community entities
245 that may further the commission's mission and engage the public
246 in support of regional multimodal transportation improvements.
247 (e) Adopt rules, including bylaws and sanctions, for the
248 regulation of the affairs and the conducting of business,
249 including termination of membership in the commission for
250 nonpayment of county contributions required under subsection
251 (3).
252 (f) Advertise, market, and promote regional transit
253 services and facilities, freight mobility plans and projects,
254 and the general activities of the commission.
255 (g) Cooperate with other governmental entities and contract
256 with other governmental agencies, including the Federal
257 Government, the department, counties, transit and transportation
258 authorities or agencies, municipalities, and expressway and
259 bridge authorities.
260 (h) Purchase liability insurance directly from local,
261 national, or international insurance companies which the

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262 commission is contractually and legally obligated to provide,
263 notwithstanding s. 287.022(1).
264 (i) Make contracts and execute all instruments necessary or
265 convenient for conducting its business.
266 (j) Form, alone or with one or more other agencies of the
267 state or local governments, public benefit corporations to carry
268 out the powers and obligations granted under this part or the
269 powers and obligations of such other agencies or local
270 governments.
271 (k) Do everything necessary or convenient for the conduct
272 of its business and the general welfare of the commission in
273 order to carry out the powers granted to it by this part or any
274 other law.
275 (5) The commission may not pledge the credit or taxing
276 power of the state or any political subdivision or agency
277 thereof, nor may any of the commission's obligations be deemed
278 to be obligations of the state or of any political subdivision
279 or agency thereof, nor may the state or any political
280 subdivision or agency thereof, except the commission, be liable
281 for the payment of the principal of or interest on such
282 obligations.
283 Section 6. Section 343.1005, Florida Statutes, is created
284 to read:
285 343.1005 Transportation projects of regional significance.—
286 Transportation projects of regional significance are those
287 transportation facilities and transportation services within, in
288 whole or in part, a regional transportation corridor identified
289 in the commission report presented to the Legislature on or
290 about December 31, 2012, or subsequently identified by the

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291 commission, which have one or more of the following
292 characteristics:
293 (1) Exhibit a significant level of travel between counties
294 or regions.
295 (2) Provide a primary connection between activity centers
296 or municipalities.
297 (3) Exhibit a significant percentage of freight conveyance.
298 (4) Provide a primary connection to marine, aviation, or
299 intermodal facilities.
300 (5) Provide a regional emergency evacuation route.
301 (6) Support or enhance the functionality of another
302 identified transportation project of regional significance in
303 the corridor by providing for regional movement or removing
304 nonregional trips from other transportation projects of regional
305 significance.
306 (7) Such other characteristics as the commission may
307 determine relating to regional significance.
308 Section 7. Section 343.1006, Florida Statutes, is created
309 to read:
310 343.1006 Plan coordination with other agencies.—The
311 regional transportation plan and implementation plan shall be
312 forwarded to the North Florida Transportation Planning
313 Organization for inclusion in its long range transportation plan
314 and other planning documents as required by law. To the extent
315 feasible, the commission's planning activities, including the
316 development and adoption of the regional transportation plan and
317 the implementation plan, shall be coordinated with the work of
318 the North Florida Transportation Planning Organization, the
319 Northeast Florida Regional Council, and the department.

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320 Section 8. Section 343.1008, Florida Statutes, is created
321 to read:
322 343.1008 Authority to contract.—Any county, municipality,
323 drainage district, road and bridge district, school district, or
324 any other political subdivision, board, commission, or
325 individual, in or of the state, may make and enter into
326 contracts, leases, conveyances, partnerships, or other
327 agreements with the commission within the provisions and for the
328 purposes of this part. The commission may make and enter into
329 contracts, leases, conveyances, partnerships, interlocal
330 agreements, and other agreements with any political subdivision,
331 agency, or instrumentality of the state and any federal
332 agencies, corporations, and individuals for the purpose of
333 carrying out the provisions of this part and serving the
334 purposes of the commission.
335 Section 9. Section 343.1009, Florida Statutes, is created
336 to read:
337 343.1009 Exemption from taxation and assessment.—The
338 effectuation of the authorized purposes of the commission
339 created under this part is for the benefit of the people of this
340 state, for the increase of their commerce and prosperity, and
341 for the improvement of their health and living conditions, and,
342 because the commission performs essential governmental functions
343 in effectuating such purposes, the commission is not required to
344 pay any taxes or assessments upon any property acquired or used
345 by it for such purposes, or upon any rates, fees, rentals,
346 receipts, income, or charges at any time received by it.
347 Section 10. Section 343.1010, Florida Statutes, is created
348 to read:

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349 343.1010 Powers of commission are supplemental.—
350 (1) The powers conferred by this part are supplemental to
351 the existing powers of the North Florida Transportation Planning
352 Organization, the Jacksonville Transportation Authority, the
353 Northeast Florida Regional Council, the counties and the
354 municipalities located therein, and the department. This part
355 does not repeal any provisions of any other law, general,
356 special, or local, but supplements such other laws in the
357 exercise of the powers provided under this part and provides a
358 complete method for the exercise of the powers granted in this
359 part. The projects of the commission must comply with all
360 applicable federal, state, and local laws. The projects of the
361 commission undertaken pursuant to this part may be accomplished
362 without regard to or necessity for compliance with the
363 provisions, limitations, or restrictions contained in any other
364 general, special, or local law except as specifically set forth
365 in this part.
366 (2) This part does not repeal, rescind, or modify any other
367 law relating to the North Florida Transportation Planning
368 Organization, the Jacksonville Transportation Authority, or the
369 department.
370 Section 11. Section 343.1011, Florida Statutes, is created
371 to read:
372 343.1011 Public meetings and hearings.—
373 (1) The commission shall hold regular public meetings at
374 the times and locations determined by the chair but, if
375 feasible, at least quarterly.
376 (2) Before the adoption of the regional transportation plan
377 or the implementation plan, a public hearing shall be conducted

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378 by the commission in each of the counties affected, at least one
379 of which must be before the board. Any interested party shall
380 have the opportunity to be heard in person or by counsel and to
381 introduce testimony in his or her behalf at the hearing.
382 Reasonable notice of each public hearing must be published in a
383 newspaper of general circulation in each county in which such
384 hearings are required to be held, at least 7 days before the
385 hearing. The commission shall comply with all applicable federal
386 and state requirements related to new or altered transportation
387 facilities or services.
388 Section 12. Section 343.1012, Florida Statutes, is created
389 to read:
390 343.1012 Discretionary sales surtax.—The commission is not
391 an "authority" for purposes of s. 212.055(1).
392 Section 13. Section 343.1013, Florida Statutes, is created
393 to read:
394 343.1013 Repeal.—This part shall stand repealed on November
395 30, 2018, unless:
396 (1) The commission has adopted the regional transportation
397 plan and the implementation plan, and at least Clay, Duval,
398 Nassau, and St. Johns Counties have adopted resolutions
399 endorsing such plans; and
400 (2) Adequate funding sources to carry out the initial
401 phases of such plans have been secured.
402 Section 14. Subsection (1) of section 120.52, Florida
403 Statutes, is amended to read:
404 120.52 Definitions.—As used in this act:
405 (1) "Agency" means the following officers or governmental
406 entities if acting pursuant to powers other than those derived

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407 from the constitution:
408 (a) The Governor; each state officer and state department,
409 and each departmental unit described in s. 20.04; the Board of
410 Governors of the State University System; the Commission on
411 Ethics; the Fish and Wildlife Conservation Commission; a
412 regional water supply authority; a regional planning agency; a
413 multicounty special district, but only if ~~when~~ a majority of its
414 governing board is comprised of nonelected persons; educational
415 units; and each entity described in chapters 163, 373, 380, and
416 582 and s. 186.504.
417 (b) Each officer and governmental entity in the state
418 having statewide jurisdiction or jurisdiction in more than one
419 county.
420 (c) Each officer and governmental entity in the state
421 having jurisdiction in one county or less than one county, to
422 the extent they are expressly made subject to this chapter ~~act~~
423 by general or special law or existing judicial decisions.
424
425 This definition does not include a ~~any~~ municipality or legal
426 entity created solely by a municipality; a ~~any~~ legal entity or
427 agency created in whole or in part pursuant to part II of
428 chapter 361; a ~~any~~ metropolitan planning organization created
429 pursuant to s. 339.175; a ~~any~~ separate legal or administrative
430 entity created pursuant to s. 339.175 of which a metropolitan
431 planning organization is a member; an expressway authority
432 pursuant to chapter 348 or any transportation authority or
433 commission under chapter 343 or chapter 349; or a ~~any~~ legal or
434 administrative entity created by an interlocal agreement
435 pursuant to s. 163.01(7), unless any party to such agreement is

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436 otherwise an agency as defined in this subsection.

437 Section 15. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AUDREY GIBSON
9th District

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Communications, Energy, and Public Utilities
Criminal Justice
Regulated Industries

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

March 20, 2013

Senator Wilton Simpson, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Simpson:

I respectfully request that SB 606, relating to the Northeast Florida Regional Transportation Commission, be placed on the next committee agenda.

SB 606 creates the Northeast Florida Regional Transportation Commission. The bill is the result of consensus building among the six participating counties, Duval, Clay, St. Johns, Putnam, Baker, and Nassau, to coordinate transportation matters.

Thank you for your time and consideration.

Sincerely,

Audrey Gibson
State Senator
District 9

REPLY TO:
☐ 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553 FAX: (904) 359-2532
☐ 205 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

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 606

INTRODUCER: Transportation Committee and Senator Gibson and others

SUBJECT: Northeast Florida Regional Transportation Commission

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Anderson	Yeatman	CA	**Favorable**
3.			GO	
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 606 creates the Northeast Florida Regional Transportation Commission (commission) for the purposes of improving mobility and expanding multimodal transportation options for persons and freight throughout Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties. The primary provisions of the bill:

- create the Northeast Florida Regional Transportation Commission;
- provide for commission membership, powers and duties, and funding;
- provide criteria for transportation projects of regional significance;
- authorize the acquisition of lands and property, but do not authorize condemnation or eminent domain;
- exempts the commission from taxation;
- provide for repeal of the commission unless certain conditions are met; and
- provide that the commission is exempt from the Administrative Procedures Act.

This bill creates the following sections of the Florida Statutes; 343.1001, 343.1002, 343.1003, 343.1004, 343.1005, 343.1006, 343.1008, 343.1009, 343.1010, 343.1011, 343.1012, and 343.1013, constituting part V of chapter 343; and amends section 120.52, Florida Statutes.

II. Present Situation:

Background

In 2009, the Legislature enacted HB 1213,[1] requiring the Jacksonville Transportation Authority (JTA), at the direction of the Florida Department of Transportation (FDOT), to perform a Regional Transportation Authority study. That study affirmed the need for a regional approach to transportation in Northeast Florida but also recommended further study. Additionally, the 2009 Regional Transportation Authority Study Final Report found that the development of a regional transportation elements plan is needed as the basis for further action on any regional transportation initiative.[2]

In 2010, the Legislature enacted SB 2470,[3] creating the Northeast Florida Regional Transportation Study Commission consisting of representatives from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties and the JTA.[4] The bill required the study commission to prepare a report detailing its findings and making recommendations regarding regional transportation. The report was required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012. The report was required to include a regional transportation elements plan, the defining characteristics of transportation elements of regional significance, and an implementation plan for undertaking a regional transportation element plan. The report was allowed to include recommendations for the establishment of a regional transportation authority, draft legislation, and any other legislation the study commission deemed appropriate.

Recommendations from the Study

In December 2012, the Northeast Florida Regional Transportation Study Commission issued its final report.[5] The report recommended a two-phased approach to regional transportation governance. Phase I would be a regional transportation commission and Phase II would be the establishment of a regional transportation entity and proposed funding to implement the multimodal regional transportation commission's regional transportation plan.

In Phase I, the commission will:

- develop a multimodal regional transportation plan;
- identify and secure dedicated funding to implement the plan;
- advance strategic projects and services with an initial focus on coordinating regional transit; and
- propose an organizational framework for implementing the regional transportation plan.

---

[1] Ch. 2009-111, L.O.F.
[2] A copy of the 2009 Regional Transportation Study Final Report is available at http://www.northfloridartsc.com/Pages/LegislationReports.aspx (last visited March 20, 2013).
[3] Ch. 2010-202, L.O.F.
[4] The Department of Transportation's District 2 Secretary, the chair of the Northeast Florida Regional Council, and the North Florida Transportation Planning Organization served as nonvoting members of the Northeast Florida Regional Transportation Study Commission.
[5] A copy of the Northeast Florida Regional Transportation Study Commission's final report is available at: http://www.northfloridartsc.com/Pages/default.aspx (last visited March 20, 2013).

In Phase II, the multimodal regional transportation plan would be implemented with dedicated funding as authorized by future legislation.

The bill implements the recommended first Phase, creating the Northeast Florida Regional Transportation Commission.

III. Effect of Proposed Changes:

Chapter 343, F.S. (Section 1)

The bill creates a new part V of ch. 343, F.S., consisting of ss. 343.1001 through 343.1013, F.S.

Short Title (Section 2)

The bill creates s. 343.0001, F.S., creating the Northeast Florida Regional Transportation Commission Act as part I of ch. 343, F.S.

Definitions: (Section 3)

The bill creates s. 343.1002, F.S., defining various terms. Notably the bill contains very broad definitions of the following terms:

Transportation facilities means all mobile and fixed assets, including real or personal property or rights therein, used in the transportation of persons or property by any means of conveyance, and all related appurtenances. This includes:

- highways; bridges; limited or controlled access roadways, lanes and related facilities;
- docks, wharves, vessels, jetties, piers, and marine terminals;
- vehicles, fixed guideway facilities, including freight rail, intermodal facilities, and any means of conveyance of persons or property of all types;
- passenger and other terminals;
- park and ride facilities;
- bicycle ways and related facilities;
- pedestrian ways and pedestrian-related facilities appurtenant to other transportation facilities;
- transit-related improvements or developments adjacent to transit facilities or stations; and
- bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities.

Unlike other statutory entities with transportation-related functions, this definition also includes administrative or other office space for the commission.

Transportation Services means the conveyance of persons or property including mass transit services such as fixed-route bus, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service; and the planning and funding of transportation facilities.

Northeast Florida Regional Transportation Commission (Section 4)

The bill creates s. 343.1003, F.S., establishing the Northeast Florida Regional Transportation Commission. The commission covers a six-county area comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties.[6] The commission's governing board consists of nine members who are selected as follows:

- The county commissions of Baker, Clay, Nassau, Putnam, and St. Johns Counties each appoint one person, who may be an elected official of the county.
- The City of Jacksonville will be represented by four members, who may be elected officials of the city. Of the four members the Mayor of the City of Jacksonville appoints two members, and the Jacksonville City Council appoints two members.

To ensure continuity on the initial governing board, the initial appointees will draw lots at the governing board's first meeting to provide for two-, three- and four-year terms. An appointed member may not select or have a designee selected to serve in the absence of the member, whether the member is an elected official or otherwise. However, if an appointed member is designated by the appointing entity by title, such as a chair of a county commission or a chair of a transportation planning agency, the successor or vice-chair of the position may serve for the appointee in his or her absence. After the initial board's terms, members will be appointed for four-year terms. A member may not serve more than two consecutive terms.

The DOT secretary appoints a nonvoting advisor to the board. In addition, the board may create an advisory panel, whose membership will be determined by the board, and may establish committees by direction of the chair or upon vote of the board.

Members of the board and persons appointed to a committee or advisory panel serve without compensation but are entitled to receive reimbursement for travel expenses and per diem actually incurred in connection with commission business.[7] Members of the board are required to file with the Commission on Ethics as their mandatory financial disclosure the Form 1 statement of financial interest.[8]

At its inaugural meeting, and annually thereafter, the board is required to elect a chair, vice chair, secretary, and treasurer from among its members, to serve a one-year term. No person may hold the office of chair for more than two consecutive terms. The commission's first meeting must be held no later than 60 days after its creation.

The commission may employ an executive director and an administrative assistant to the board and executive director. The commission may employ permanent or temporary staff, including consultants, as it determines necessary or convenient. Alternatively, with the approval of their respective boards or administrative chiefs, the commission may use the staff of the:

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[6] Flagler County declined to join the commission.
[7] The provisions for per diem and travel expenses are in s. 112.061, F.S.
[8] The Form 1 statement of financial interest is provided for in s. 112.3145, F.S. Section 348.0003(4)(c), F.S., requires members of transportation authorities created pursuant to ch. 343, F.S., to file Form 6 with the Commission on Ethics, which is a more detailed financial disclosure.

- JTA, its legal counsel, technical experts, engineers, and other administrative employees;
- North Florida Transportation Planning Organization, for planning matters;
- Northeast Florida Regional Council, for planning and coordination matters;
- FDOT;
- Jacksonville Port Authority; and
- the counties represented on the commission board, on an as-needed basis.

Members of the board may be removed by their appointing entity, for cause, including, but not limited to failure to attend two or more commission meetings in a 9-month period.

No liability exists on the part of, and no cause of action of any nature shall arise against, any commission member for any action taken in the performance of their duties.

Commission Powers and Duties (Section 5)

The bill creates s. 343.1004, F.S., providing the commission's powers and duties. The commission's express purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the six-county Northeast Florida region. The commission shall, at a minimum:

- develop a multimodal, prioritized plan for transportation projects of regional significance; and
- research and develop an implementation plan that identifies available but not yet imposed, and potentially developable, sources of funding to execute the regional transportation plan.

In developing the regional transportation plan, the commission is to review and coordinate with the future land use, capital improvements, and traffic circulation elements of the constituent counties' local governments' comprehensive plans, the Northeast Florida Regional Council's Strategic Regional Policy Plan,[9] and the schedules of other units of government having transit or transportation authority within whose jurisdiction the projects or improvements will be located. This process is intended to define and resolve potential inconsistencies between these plans and the commission's regional transportation plan.

The commission is to present the regional transportation plan and updates to the governing bodies of the constituent counties within 90 days after adoption. The commission is to update the regional transportation plan and the implementation plan not less frequently than every other year. The commission may plan, develop, construct, coordinate, and promote transportation projects of regional significance that are identified in the commission's regional transportation plan.

Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may provide transportation services of regional significance identified in the regional transportation plan.

[9] A copy of the Northeast Florida Regional Council's Strategic Regional Policy Plan is available at http://www.nefrc.org/SRPP.htm (last visited February 11, 2013).

The commission may facilitate efforts to secure funding commitments from federal and state sources, or from the applicable counties, for the planning, development, construction, purchase, operation and maintenance of transportation projects of regional significance or that support intercounty mobility for persons or freight.

The commission may request funding and technical assistance from DOT and from federal and local agencies. In order to operate for its first five years, the commission is also to request annual funding from each constituent county of up to 30 cents per capita per year based on the latest census. However, the contribution of Duval County may not exceed 45 percent of the commission's budget for any fiscal year.

The commission may exercise all powers necessary, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers to:

- Sue and be sued in all courts.
- Apply for and to accept grants from federal, state, local, or private sources.
- Partner with private sector business community entities and engage the public in support of regional multimodal transportation improvements.
- Adopt rules for the regulation of the affairs and the conducting of business, including termination of membership in the commission for the nonpayment of county contributions**.**
- Advertise, market, and promote regional transit services and facilities, freight mobility plans and projects, and the activities of the commission.
- Cooperate with other governmental entities and contract with other governmental agencies.
- Purchase directly from local, national, or international insurance companies liability insurance that the commission is contractually and legally obligated to provide, notwithstanding the requirements of s. 287.022(1), F.S.[10]
- Make contracts and execute necessary instruments.
- Form public benefit corporations with other agencies of the state or local governments.
- Do all acts and things necessary or convenient for the conduct of its business and the general welfare of the commission in order to carry out its powers.

The commission does not have the power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency of the state. The commission's obligations shall not be deemed to be obligations of the state or of any political subdivision.

Transportation Projects of Regional Significance (Section 6)

The bill creates s. 343.1005, F.S., providing that transportation projects of regional significance are those transportation facilities and transportation services within a regional transportation corridor identified in the Northeast Florida Regional Transportation Study Commission's December 2012 report, or subsequently identified by the commission, which:

- exhibit a significant level of travel between counties or regions;
- provide a primary connection between activity centers or municipalities;

[10] Section 287.022(1), F.S., pertains to the purchase of insurance for all agencies by the Department of Management Services.

- exhibit a significant percentage of freight conveyance;
- provide a primary connection to marine, aviation or intermodal facilities;
- provide a regional emergency evacuation route;
- support or enhance the functionality of another identified transportation project of regional significance in the corridor by providing for regional movement or removing non-regional trips from some other transportation project of regional significance; or
- have such other characteristics as the commission determines to be of regional significance.

Coordination with Other Agencies (Section 7)

The bill creates s. 343.1006, F.S., requiring the regional transportation plan and implementation plan to be forwarded to the North Florida Transportation Planning Organization for inclusion in its long-range transportation plans and other planning documents. To the extent feasible, the commission's planning activities, including the development and adoption of the regional transportation plan and the implementation plan, shall be coordinated with the work of the North Florida Transportation Planning Organization, the Northeast Florida Regional Council, and DOT.

Authority to Contract (Section 8)

The bill creates s. 343.1008, F.S., authorizing any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual to contract with the commission. The commission may make and enter into contracts, leases, conveyances, partnerships, interlocal and other agreements with any political subdivision, agency, or instrumentality of the state and any federal agencies, corporations, and individuals for the purpose of carrying out its statutory authority and serving the purposes of the commission.

Exemption from taxation and assessment (Section 9)

The bill creates s. 343.1009, F.S., providing that effectuation of the commission's authorized purposes is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and because the commission performs essential governmental functions, the commission is not required to pay taxes or assessments of any kind upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it.

Powers of Commission are Supplemental (Section 10)

The bill creates s. 343.1010, F.S., providing that the powers conferred by this part are supplemental to the existing authority of the North Florida Transportation Planning Organization, the JTA, the Northeast Florida Regional Council, the counties and the municipalities located therein, and the DOT. This does not repeal any other law, general, special, or local, but supplements other laws in the exercise of the powers provided and provides a complete method for the exercise of powers granted to the commission. The projects of the commission must comply with all applicable federal, state, and local laws and may be accomplished in compliance with the provisions of the bill without regard to or necessity for compliance with the provisions, limitation, or restrictions contained in any other general, special,

or local law except as specifically set forth in the bill. The bill does not repeal, rescind, or modify any other law relating to the North Florida Transportation Planning Organization, the JTA, or DOT.

Public Meetings and Hearings (Section 11)

The bill creates s. 343.1011, F.S., requiring the commission to meet at the times and locations as the chair determines, provided that to the extent feasible there be regular quarterly meetings.

The bill also provides that before the adoption of the regional transportation plan or the implementation plan, the commission must conduct a properly noticed public hearing in each of the affected counties, at least one of which must be before the commission's board. At the hearings, any interested party has the opportunity to be heard and to introduce testimony. Additionally, the commission shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Discretionary Sales Surtax (Section 12)

The bill creates s. 343.1012, F.S., providing that the commission is not an "authority" for the purposes of the Charter County and Regional Transportation System Surtax.[11]

Repeal (Section 13)

The bill creates s. 343.1013, F.S., repealing this act on November 30, 2018, unless:

- the commission has adopted a regional transportation plan and the implementation plan, and at least Clay, Duval, Nassau, and St. Johns counties have adopted resolutions endorsing the plans; and
- adequate funding sources to carry out the initial phases of such plans have been secured.

Florida Administrative Code (Section 14)

Currently, s. 120.52(1), F.S., defines "agency" for the purpose of the Administrative Procedures Act.[12] The statute exempts expressway authorities created pursuant to ch. 348, F.S., or transportation authorities created under chs. 343 or 349, F.S., from the definition of "agency" for the purpose of the Administrative Procedures Act. The bill amends the exemption of s. 120.52(1), F.S., to include a commission under chs. 343 or 349, F.S., which would provide that the Northeast Florida Regional Transportation Commission is not subject to the Administrative Procedures Act.

Effective Date (Section 15)

The bill has an effective date of July 1, 2013.

[11] S. 212.055(1), F.S.
[12] Ch. 120, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill provides for regular public meetings of the Board, which is the governing body of the commission. Though not stated in the legislation, the Sunshine Law and Public Records Law would be applicable to the Board.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For the first five years, the commission would be funded from funds appropriated from each of the constituent counties up to 30 cents per capita per year. However, Duval County's contribution cannot exceed 45 percent of the commission's budget. The Northeast Florida Regional Transportation Study Commission estimated that the Northeast Florida Regional Transportation Commission's annual budget would be between $214,000 and $215,000. This would result in an estimated cost of 21.1 cents per capita. The estimated county contributions are as follows:

County	Estimated Contribution
Baker	$5,682
Clay	$40,331
Duval	$96,445[13]
Nassau	$15,547
Putnam	$15,625
St. Johns	$40,692
Total	$214,322

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 Transportation on March 21, 2013:
The committee substitute incorporates five amendments which, collectively, removed provisions which would have granted the commission the authority to acquire, own, operate, maintain, or manage transportation facilities. Rather, the commission is limited to essentially providing transit services of regional significance.

B. Amendments:

None.

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

[13] Duval County's contribution is based on a maximum of 45 percent of the costs.

By the Committee on Regulated Industries; and Senator Hays

580-02404-13 2013802c1

A bill to be entitled

An act relating to the Department of Business and Professional Regulation; amending s. 489.140, F.S.; clarifying funding requirements for the Florida Homeowners' Construction Recovery Fund; amending s. 468.631, F.S.; authorizing the department to transfer certain funds from the Florida Building Code Administrators and Inspectors Board to the Florida Homeowners' Construction Recovery Fund; providing an effective date.

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

Section 1. Section 489.140, Florida Statutes, is amended to read:

489.140 Florida Homeowners' Construction Recovery Fund.— There is created the Florida Homeowners' Construction Recovery Fund as a separate account in the Professional Regulation Trust Fund. The recovery fund shall be funded ~~out of the receipts deposited in the Professional Regulation Trust Fund from the one-half cent per square foot surcharge on building permits collected and disbursed~~ pursuant to s. 468.631.

Section 2. Subsection (1) of section 468.631, Florida Statutes, is amended to read:

468.631 Building Code Administrators and Inspectors Fund.—

(1) This part shall be funded through a surcharge, to be assessed pursuant to s. 125.56(4) or s. 166.201 at the rate of 1.5 percent of all permit fees associated with enforcement of the Florida Building Code as defined by the uniform account

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

30 criteria and specifically the uniform account code for building
31 permits adopted for local government financial reporting
32 pursuant to s. 218.32. The minimum amount collected on any
33 permit issued shall be $2. The unit of government responsible
34 for collecting permit fees pursuant to s. 125.56 or s. 166.201
35 shall collect such surcharge and shall remit the funds to the
36 department on a quarterly calendar basis beginning not later
37 than December 31, 2010, for the preceding quarter, and
38 continuing each third month thereafter; and such unit of
39 government shall retain 10 percent of the surcharge collected to
40 fund the participation of building departments in the national
41 and state building code adoption processes and to provide
42 education related to enforcement of the Florida Building Code.
43 There is created within the Professional Regulation Trust Fund a
44 separate account to be known as the Building Code Administrators
45 and Inspectors Fund, which shall deposit and disburse funds as
46 necessary for the implementation of this part. The proceeds from
47 this surcharge shall be allocated equally to fund the Florida
48 Homeowners' Construction Recovery Fund established by s. 489.140
49 and the functions of the Building Code Administrators and
50 Inspectors Board. The department may transfer excess cash from
51 the board's account within the Professional Regulation Trust
52 Fund to the Florida Homeowners' Construction Recovery Fund if
53 the department determines that the excess cash is not required
54 to fund the board. However, the department may not transfer
55 excess cash to the Florida Homeowners' Construction Recovery
56 Fund for the payment of claims if the excess cash exceeds the
57 amount appropriated in the General Appropriations Act and any
58 amount approved by the Legislative Budget Commission pursuant to

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

59 s. 216.181.

60 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)

4/2/13
Meeting Date

Topic: Department of Business & Professional Reg.

Bill Number: 802 *(if applicable)*

Name: Daniel Olson

Amendment Barcode: *(if applicable)*

Job Title:

Address: 1940 N. Monroe
Street

Tallahassee, FL 32399
City, State, Zip

Phone: 850-487-4827

E-mail: Dan.Olson@myflfds.com

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

Representing: DBPR Department of Business + Professional Regulation

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

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

Subject: Committee Agenda Request

Date: March 14, 2013

I respectfully request that **Senate Bill #802**, relating to Department of Business and Professional Regulation, 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 802

INTRODUCER: Regulated Industries Committee and Senator Hays

SUBJECT: Department of Business and Professional Regulation

DATE: March 26, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Fav/CS**
2.	Toman	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 802 deletes an obsolete reference to the fees associated with enforcement of the Florida Building Code. The bill authorizes any excess funds not needed to fund the Florida Building Code Administrators and Inspectors Board in the Department of Business and Professional Regulation (department) to be transferred by the department to the Florida Homeowners' Construction Recovery Fund (Recovery Fund). The bill provides that the department may not transfer excess cash to the Recovery Fund for the payment of claims if the excess cash exceeds the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.

This bill amends sections 468.631 and 489.140, Florida Statutes.

II. Present Situation:

The law currently provides for the shared allocation of a surcharge on Building Code enforcement fees (permit fees) between two trust funds administered by the Department of

Business and Professional Regulation.[1] One of the trust funds, the Florida Homeowners' Construction Recovery Fund, is dedicated to payment of validated claims for sub-standard work on Florida residences by certain contractors.

The stated intent of the Legislature is that the sole purpose of the Recovery Fund is to compensate any aggrieved homeowner who contracted with a licensed residential, building or general contractor (Division I Contractors) for the construction or improvement of her or his residence.[2] Payment of claims is considered only after issuance of a court judgment, an award of restitution by the Construction Industry Licensing Board, or an arbitration award, on grounds of financial mismanagement or misconduct,[3] abandoning a construction project,[4] or making a false statement with respect to a project and arising directly out of certain activities listed in the law.[5] The Recovery Fund does not pay post-judgment interest, punitive damages, or attorney fees. It only pays what an aggrieved claimant has not yet collected for actual or compensatory damages. The Fund pays the less of up to $25,000 per claim, $25,000 per transaction, or $250,000 per contractor.[6]

Prior to 2004, surcharges for work by both Division I (general, building and residential contractors) and Division II contractors (roofing, sheet metal, air-conditioning, mechanical, pool/spa, plumbing, underground utility/excavation, solar, pollutant storage, and specialty contractors)[7] were included in the Recovery Fund. The Recovery Fund was previously identified as the "Construction Industries Recovery Fund," but was renamed as the "Florida Homeowners' Construction Recovery Fund" by ch. 2004-84, Laws of Florida (L.O.F.).

The Recovery Fund was supported at that time by a surcharge based on one-half cent per square foot of "under roof floor space" for the new construction, renovation, alteration or addition being undertaken. Only the Division I contractors were assessed this fee because the Division II contractors (e.g., plumbers or swimming pool contractors) did not have any "under roof floor space" on which to calculate the surcharge. The funds were used to regulate building administrators and inspectors, and the funds not needed for that regulation were used to reimburse homeowners for wrongdoing by both Division I and II contractors.

In 2010, the surcharge provision in s. 468.631, F.S., was amended to assess a 1.5 percent surcharge on all permit fees associated with the enforcement of the Florida Building Code.[8]

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[1] *See* s. 468.631, F.S.
[2] *See* s. 489.1401(2), F.S.
[3] This occurs when there were valid liens filed that were not satisfied by the contractor; the contractor abandoned the job and the percentage of completion is less than the percentage paid; or the job was completed and the customer pays more than what was contracted for as a result of circumstances beyond the control of the contractor.
[4] Here the contractor has done nothing for 90 days, termination was without cause or notice to the owner, or the contractor failed to perform without cause.
[5] The contractor signs a statement falsely indicating that the work is bonded, or falsely stating that all subcontracted work, labor and materials has been paid for, or falsely stating that workers' compensation or public liability insurance is provided.
[6] *See* s. 489.143, F.S., and Department of Business and Professional Regulation, *Florida Homeowners' Construction Recovery Fund*, *available at* http://www.myfloridalicense.com/dbpr/pro/cilb/ (last visited Mar. 26, 2013). Fund caps differ for claims arising after January 1, 2005.
[7] *See* s. 489.105(3), F.S.
[8] *See* ch. 2010-176. L.O.F.

However, the reference to the square footage surcharge that remains in s. 489.140, F.S., was not similarly revised.

The surcharge collections were changed to be deposited equally into the Florida Homeowners' Construction Trust Fund established by s. 489.140, F.S., and the Building Code Administrators and Inspectors Fund to be used to regulate building code administrators and inspectors.[9] The ability of the department to transfer funds between trust funds was also eliminated.[10] According to the department,[11] the fund received insufficient funds for several years to keep pace with consumer claims for recovery, and the resulting backlog has caused a wait of several years before funds are available for approved distributions.[12]

Pursuant to Section 468.631, F.S., the Florida Building Code Administrators and Inspectors Board (BCAIB) and the Recovery Fund are funded through a 1.5 percent surcharge on all permitting fees associated with enforcement of the Florida Building Code. Surcharge proceeds received by the department are allocated equally between the BCAIB and the Recovery Fund for operation of the respective programs.[13] The Recovery Fund currently has a backlog of approximately 600 claims pending approval totaling over $13,000,000 in requested recovery payments.[14] In addition, there are approved claims for which no funds are available for payment.

According to the department, in 2012-2013, twenty-four claims have been paid to date, totaling $468,694.64, with an additional thirty claims totaling $410,905.73 still awaiting payment.[15] Several claims awarded in 2011-2012 remain pending, awaiting appeal or documentation from claimants.[16] In 2011-2012, ninety-seven claims totaling $1,503,781.99 were paid, and in 2010-2011, thirty-two claims totaling $576,382.33 were paid.[17]

Current law does not permit the transfer of excess funds from one fund to the other. Therefore, as excess funds build up in the fund that supports the operations of the BCAIB after those operational expenses are fully funded, the unused remainder continues to accumulate. According to the department, it is anticipated that approximately $5,000,000 could be transferred from BCAIB to the Fund in Fiscal Year 2013-14, and approximately $1,200,000 could be transferred in subsequent years, with resolution of the current backlog of claims anticipated within approximately 2.5 years.[18]

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[9] *Id*.
[10] *Id.*
[11] Email from Department of Business and Professional Regulation, Office of Legislative Affairs, dated January 25, 2013, on file with Senate Regulated Industries.
[12] *2013 Legislative Analysis for HB 57*, Office of Legislative Affairs, Department of Business and Professional Regulation, January 10, 2013, available at http://abar.laspbs.state.fl.us/ABAR/ABAR.aspx?chamber=S (last visited Mar. 26 , 2013). HB 57 is the companion bill for SB 802 by Senator Hays.
[13] The BCAIB is responsible for licensing and regulating building code administrators and inspectors. The board meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings relating to licensure and discipline.
[14] *Supra* at n. 12.
[15] *Supra* at n. 11.
[16] *Id.*
[17] *Id*.
[18] *Supra* at n. 12, at p. 3.

III. Effect of Proposed Changes:

The bill deletes an outdated reference to a square foot surcharge in s. 489.140, F.S., to conform to the surcharge revision adopted in the 2010 amendment to s. 468.631, F.S.[19]

The bill allows the transfer of funds in excess of that needed for the operations of the Florida Building Code Administrators and Inspectors Board to the Florida Homeowners' Construction Recovery Fund in order to pay pending approved claims that could not be paid due to lack of funding, and to pay a greater number of approved claims in the future. The bill provides that the department may not transfer excess cash to the Recovery Fund for the payment of claims if the excess cash exceeds the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.

The bill has an effective date of October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will allow a change in funding to permit funds not needed for operation of the BCAIB to be used in processing and addressing the backlog of approved but unpaid claims from the Florida Homeowners' Construction Recovery Fund, and paying future approved claims as funding allows. Aggrieved homeowners will have a greater likelihood of receiving approved claims as a result of the bill.

C. Government Sector Impact:

The bill will allow a change in funding to permit funds not needed for operation of the BCAIB to be used in processing and addressing the backlog of approved but unpaid

[19] *See* s. 6, ch. 2010-176, L.O.F.

claims from the Florida Homeowners' Construction Recovery Fund, and paying future approved claims as funding allows. The additional administrative workload associated with these claims will require additional staffing time, within current staffing and departmental resources.[20]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries on March 14, 2013:
The committee substitute amends s. 468.631, F.S., to limit the authority of the department to transfer excess cash from the board's account in the Professional Regulation Trust Fund. The committee substitute provides that the department may not transfer excess cash to the Florida Homeowners' Construction Recovery Fund for the payment of claims if the excess cash exceeds the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.

B. Amendments:

None.

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

[20] *Supra* at n. 12, at p. 4.

323280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 22 and 23
insert:
Section 1. Subsection (9) of section 480.033, Florida Statutes, is amended to read:
480.033 Definitions.—As used in this act:
(9) "Board-approved massage school" means a facility that ~~which~~ meets minimum standards for training and curriculum as determined by rule of the board and that ~~which~~ is:
(a) Licensed by the Department of Education pursuant to chapter 1005 or the equivalent licensing authority of another

323280

13 state; ~~or is~~
14 (b) Within the public school system of this state; or
15 (c) A college or university that is eligible to participate
16 in the William F. Boyd, IV, Florida Resident Access Grant
17 Program.
18
19 ========== T I T L E A M E N D M E N T ==========
20 And the title is amended as follows:
21 Delete line 2
22 and insert:
23 An act relating to massage practice; amending s.
24 480.033, F.S.; revising the definition of the term
25 “board-approved massage school”; amending s.

801224

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 82 - 83
4 and insert:
5 airport as defined in s. 330.27; a pari-mutuel facility as
6 defined in s. 550.002; or an independent postsecondary
7 educational institution licensed and approved by the Commission
8 for Independent Education pursuant to chapter 1005; or

By the Committee on Regulated Industries; and Senator Clemens

580-02402A-13 2013500c1

A bill to be entitled

An act relating to massage establishments; amending s. 480.043, F.S.; requiring an application to be denied upon specified findings; amending s. 480.046, F.S., adding additional grounds for denial of a license; amending s. 480.047, F.S.; revising penalties; creating s. 480.0475, F.S.; prohibiting the operation of a massage establishment during specified times; providing exceptions; prohibiting the use of a massage establishment as a principal domicile unless the establishment is zoned for residential use under a local ordinance; providing criminal penalties; amending s. 480.052, F.S., authorizing a county or municipality to waive the restriction on operating hours of a massage establishment in certain instances; amending s. 823.05, F.S.; declaring that a massage establishment operating in violation of specified statutes is a nuisance that may be abated or enjoined; providing an effective date.

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

Section 1. Subsection (2) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(2) The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance

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

30 coverage, and the license application and granting process. An
31 application shall be denied upon a finding that an applicant has
32 been arrested for and is awaiting final disposition of, or has
33 been convicted of, regardless of adjudication, an offense in s.
34 435.04(2) or a similar law of another jurisdiction.
35 Section 2. Present paragraphs (e) though (o) of subsection
36 (1) of section 480.046, Florida Statutes, are redesignated as
37 paragraphs (f) though (p), respectively, and a new paragraph (e)
38 is added to that subsection, to read:
39 480.046 Grounds for disciplinary action by the board.—
40 (1) The following acts constitute grounds for denial of a
41 license or disciplinary action, as specified in s. 456.072(2):
42 (e) Advertising to induce or attempt to induce a client to
43 engage in sexual activity, or to engage or attempt to engage a
44 client in sexual activity.
45 Section 3. Section 480.047, Florida Statutes, is amended to
46 read:
47 480.047 Penalties.—
48 (1) It is unlawful for any person to:
49 (a) Hold himself or herself out as a massage therapist or
50 to practice massage unless duly licensed under this chapter or
51 unless otherwise specifically exempted from licensure under this
52 chapter.
53 (b) Operate any massage establishment unless it has been
54 duly licensed as provided herein, except that nothing herein
55 shall be construed to prevent the teaching of massage in this
56 state at a board-approved massage school.
57 (c) Permit an employed person to practice massage unless
58 duly licensed as provided herein.

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

59 (d) Present as his or her own the license of another.
60 (e) Allow the use of his or her license by an unlicensed
61 person.
62 (f) Give false or forged evidence to the department in
63 obtaining any license provided for herein.
64 (g) Falsely impersonate any other licenseholder of like or
65 different name.
66 (h) Use or attempt to use a license that has been revoked.
67 (i) Otherwise violate any of the provisions of this act.
68 (2) Except as otherwise provided in this chapter, any
69 person violating the provisions of this section is guilty of a
70 misdemeanor of the first degree, punishable as provided in s.
71 775.082 or s. 775.083.
72 Section 4. Section 480.0475, Florida Statutes, is created
73 to read:
74 480.0475 Massage establishments; prohibited practices.—
75 (1) A person may not operate a massage establishment
76 between the hours of midnight and 5 a.m. This subsection does
77 not apply to a massage establishment:
78 (a) Located on the premises of a health care facility as
79 defined in s. 408.07; a clinic as defined in part X of chapter
80 400; a hotel, motel, or bed and breakfast inn as defined in s.
81 509.242; a timeshare property as defined in s. 721.05; a public
82 airport as defined in s. 330.27; or a pari-mutuel facility as
83 defined in s. 550.002; or
84 (b) In which every massage performed between the hours of
85 midnight and 5 a.m. is performed by a massage therapist acting
86 under the prescription of a physician or physician assistant
87 licensed under chapter 458, an osteopathic physician or

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

88 physician assistant licensed under chapter 459, a chiropractic
89 physician licensed under chapter 460, a podiatric physician
90 licensed under chapter 461, an advanced registered nurse
91 practitioner licensed under part I of chapter 464, or a dentist
92 licensed under chapter 466.
93 (2) A person who operates a massage establishment may not
94 use the establishment or allow it to be used as a principal
95 domicile unless the establishment is zoned for residential use
96 under a local ordinance.
97 (3) A person who violates the provisions of this section
98 commits a misdemeanor of the first degree, punishable as
99 provided in s. 775.082 or s. 775.083. A second or subsequent
100 violation of this section is a felony of the third degree,
101 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
102 Section 5. Section 480.052, Florida Statutes, is amended to
103 read:
104 480.052 Power of county or municipality to regulate
105 massage.—
106 (1) A county or municipality, within its jurisdiction, may
107 regulate persons and establishments licensed under this chapter.
108 Such regulation shall not exceed the powers of the state under
109 this act or be inconsistent with this act. This section shall
110 not be construed to prohibit a county or municipality from
111 enacting any regulation of persons or establishments not
112 licensed pursuant to this act.
113 (2) A county or municipality may waive the restriction on
114 the hours of operation of a massage establishment provided in s.
115 480.0475 during special events that occur within the county's or
116 municipality's jurisdiction.

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

117 Section 6. Subsection (3) is added to section 823.05,
118 Florida Statutes, to read:
119 823.05 Places and groups engaged in criminal gang-related
120 activity declared a nuisance; may be abated and enjoined.—
121 (3) A massage establishment as defined in s. 480.033(7)
122 which operates in violation of s. 480.0475 or s. 480.0535(2) is
123 declared a nuisance and may be abated or enjoined as provided in
124 ss. 60.05 and 60.06.
125 Section 7. 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)

4/2/13
Meeting Date

Topic: MASSAGE THERAPY

Bill Number: 500 (if applicab

Name: JIM MAGILL

Amendment Barcode: 373280 (if applicab

Job Title: LOBBYIST

Address: 101 North Monroe St. Suite 1090
Street

TALLAHASSEE, FL 32301
City State Zip

Phone: 850-681-0411

E-mail: JMAGILL@FOWLERWHI

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

Representing: Keiser University - Smith Amendment

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

Lobbyist registered with Legislature: [X] Yes [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at th 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)

04.02.13
Meeting Date

Topic: Massage Establishments

Bill Number: 0500 *(if applicable)*

Name: Mike Hathaway

Amendment Barcode: _____ *(if applicable)*

Job Title: Deputy Sheriff

Address: 123 W. Indiana Ave
Street

DeLand
City *State* *Zip*

Phone: 386-248-1777

E-mail: _____

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

Representing: Florida Sheriff's Assoc.

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

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

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

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

S-001 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 2 13
Meeting Date

Topic _____ Bill Number 500 (if applicabl

Name Janet Mabry Amendment Barcode _____ (if applicabl

Job Title _____

Address 2866 Bay Heather Circle
Street

Gulf Breeze
City State Zip

Phone 501-2502

E-mail _____

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida State Massage Therapy Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ N

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR JEFF CLEMENS
27th District

March 14, 2013

Chair Wilton Simpson
315 Knott
404 S. Monroe St
Tallahassee, Fl 32399

Dear Chair Simpson:

I respectfully request that SB 500, An Act Relating to Massage Establishments, be placed on the agenda for the Community Affairs Committee.

Please feel free to contact myself or my staff, should you have any questions.

Best Regards,

Jeff Clemens
Senate District 27

Cc: Tom Yeatman

REPLY TO:
❒ 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
❒ 226 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

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/CS/SB 500

INTRODUCER: Community Affairs Committee; Regulated Industries Committee; and Senators Clemens and Sobel

SUBJECT: Massage Establishments

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			HP	
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/CS/SB 500 amends various provisions relating to massage establishments. The bill expands the definition of ‘board-approved massage school’ to include a college or university that is eligible to participate in Florida Resident Access Grant Program. The bill requires the denial of a massage establishment license when an applicant has been arrested, is awaiting final disposition, or has been convicted, of certain offenses listed in s. 435.04(2), F.S., or a similar law in another jurisdiction. The bill provides that denial of a license or a disciplinary action may be based on advertising to induce or engage a client in sexual activity.

The bill creates s. 480.0475, F.S., to prohibit the operation of certain massage establishments between the hours of midnight and 5 a.m.

The bill exempts specified types of massage establishments based on location of the facility or the type of supervision over those persons performing massages. The bill prohibits the use of a massage establishment as a principal domicile in areas that are not zoned for residential use by local ordinance.

The bill provides that a person who violates s. 480.0475, F.S., commits a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083, F.S. A subsequent violation is a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. Current violations of ch. 480, F.S., are misdemeanors of the first degree.

The bill amends s. 823.05, F.S., to provide that certain massage establishments that violate the bill's provisions or the identification provisions of ch. 480, F.S., can be declared nuisances that may be abated or enjoined pursuant to Florida law.

The bill provides an October 1, 2013 effective date.

The bill amends sections 480.033, 480.043, 480.047, and 823.05, Florida Statutes. The bill creates section 480.0475, Florida Statutes.

II. Present Situation:

Massage Practice Act

Chapter 480, F.S., the "Massage Practice Act," (act) regulates the practice of massage. The term "massage is defined as "the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation."[1]

A person must apply to the Board of Massage Therapy (board) within the Department of Health (department) for approval to practice massage or to operate a massage establishment.[2] A "massage therapist" is a person licensed to administer massages for compensation,[3] and a massage establishment is a "site or premises, or portion thereof, wherein a massage therapist practices massage."[4]

Section 480.046(1), F.S., specifies numerous grounds for disciplinary action by the board, [5] including the following acts that are grounds for denial of a license or disciplinary action:

- Procuring a license by bribery or fraudulent misrepresentation;
- Having a license to practice massage denied, revoked, suspended, or otherwise acted against by the licensing authority of another state, territory, or country;
- Being convicted, found guilty or entering a plea of nolo contendere, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage;
- False, deceptive, or misleading advertising;
- Aiding, assisting, procuring, or advising any unlicensed person to practice massage in violation of the act or a rule of the department or the board;

[1]Section 480.033(3), F.S.
[2]Section 480.033(8), F.S.
[3]Section 480.033(4), F.S.
[4]Section 480.033(7), F.S.
[5]Section 480.046, F.S.

- Making deceptive, untrue, or fraudulent representations in the practice of massage;
- Being unable to practice massage with reasonable skill and safety because of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or due to any mental or physical condition;
- Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances;
- Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform;
- Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform;
- Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department;
- Refusing to permit the department to inspect the business premises of the licensee during regular business hours;
- Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition;
- Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, excepting certain services permitted by board rule, at the residence or office of a client, at a sports event, at a convention, or at a trade show; or
- Violating any provision of the act, ch. 456, F.S., regarding Health Professions and Occupations, or any rules adopted pursuant to the provisions.

Pursuant to s. 480.046(2), F.S., licensure may also be denied, or certain penalties imposed, against licensees found guilty of violating any of the provision of s. 480.046(1) and s. 456.072(1), F.S. The penalties include:

- Refusal to certify, or to certify with restrictions, an application for a license.
- Suspension or permanent revocation of a license.
- Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.
- Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of $10,000 per count or offense.
- Issuance of a reprimand or letter of concern.
- Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

- Corrective action.
- Imposition of an administrative fine in accordance with s. 381.0261, F.S., for violations regarding patient rights.
- Refund of fees billed and collected from the patient or a third party on behalf of the patient.
- Requirement that the practitioner undergo remedial education.

The board also has the power to revoke or suspend the license of a massage establishment or deny subsequent licensure if the license was obtained by fraud or misrepresentation or the licensee was found guilty of fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the establishment.[6]

Disciplinary proceedings shall be conducted pursuant to the provisions of ch. 120, F.S., the Administrative Procedure Act.[7]

Sexual misconduct in the practice of massage therapy is prohibited, and is defined as violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient.[8]

Violations of the law or rules associated with practices of massage therapists and massage establishments are investigated by the department.[9] Sexual activity by any person or persons in any massage establishment is also prohibited.[10]

Section 823.01, F.S., provides that all nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are second degree misdemeanors punishable by up to 60 days in jail and a fine not exceeding $500, and that a violation of s. 823.10, F.S., regarding certain places where controlled substances are illegally kept, sold, or used, is a third degree felony punishable by a term of imprisonment not to exceeding five years and a fine not exceeding $5,000.

Section 60.05, F.S., provides that when a nuisance defined in s. 823.05, F.S., exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists. In accordance with s. 60.06, F.S., the court shall enter orders to abate the nuisance, and has the authority to enforce injunctions by contempt.

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[6]Section 480.046(3), F.S.
[7]Section 480.046(4), F.S.
[8]Section 480.0485, F.S. Section 456.063, F.S., prohibits violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession.
[9]Section 480.039, F.S.
[10]*See* Rule 64B7-26.010, F.A.C., which provides a definition of sexual activity.

III. Effect of Proposed Changes:

Section 1 amends s. 480.033, F.S., revising the definition of the term "board-approved massage school" to include a college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

Section 2 requires the denial of a massage establishment license when an applicant has been arrested, is awaiting final disposition, or has been convicted, of certain offenses listed in s. 435.04(2), F.S., or a similar law in another jurisdiction. Section 435.04(2), F.S., includes offenses relating to sexual misconduct, abuse of aged or disabled adults, murder, certain manslaughter offenses, vehicular homicide, certain offenses against minors, kidnapping, false imprisonment, prostitution, lewd and lascivious behavior, indecent exposure, arson, burglary, certain firearms offenses, and certain felony offenses.

Section 3 provides that denial of a license or a disciplinary action may be based on advertising to induce or engage (or attempting to induce or engage) a client in sexual activity.

Section 4 amends s. 480.047, F.S., revising penalties for massage therapist.

Section 5 creates s. 480.0475, F.S., to restrict the time of operations for certain massage establishments, by prohibiting operations between midnight and 5 a.m. The bill creates exclusions from the time restrictions for the following massage establishments:

- Located on the premises of an ambulatory surgical center, a hospice, a nursing home, a hospital, a diagnostic-imaging center, a freestanding or hospital-based therapy center, a clinical laboratory, a home health agency, a cardiac catheterization laboratory, a medical equipment supplier, an alcohol or chemical dependency treatment center, a physical rehabilitation center, a lithotripsy center, an ambulatory care center, a birth center, or certain licensed nursing home components.[11]
- Located on the premises of a clinic defined in part X of ch. 400, F.S.;
- Located on the premises of a hotel, motel or bed and breakfast as defined in s. 509.242, F.S., or a timeshare property as defined in s. 721.05, F.S.;
- Located on the premises of a public airport as defined in s. 330.27, F.S.;
- Located on the premises of a pari-mutuel facility as defined in s. 550.002, F.S.;
- Located on the premises of an independent postsecondary educational institution licensed and approved by the Commission for Independent Education pursuant to ch. 1005, F.S.;
- In which every massage performed between midnight and 5 a.m. is performed by a massage therapist acting under the prescription of licensed persons such as physicians, physicians' assistants, chiropractic physicians, podiatric physicians, advanced registered nurse practitioners or dentists.

The bill prohibits the use of a massage establishment as a principal domicile unless the establishment is zoned for residential use by local ordinance. The phrase "principal domicile" is not defined, however, a legal domicile in Florida may be evidenced in accordance with s. 222.17, F.S., by a person filing a sworn statement at the office of the Clerk of Circuit Court showing that

[11] Section 408.07(24), F.S.

he or she "resides in and maintains a place of abode in that county which he or she recognizes and intends to maintain as his or her permanent home."

A person convicted of a first degree misdemeanor for violating s. 480.0475, F.S., may be sentenced to up to one year in jail and a fine not exceeding $1,000.[12] A person may be convicted of a third degree felony for a second or subsequent violation, and may be sentenced to a term of imprisonment not exceeding five years and a fine not to exceed $5,000.[13] More severe consequences result for offenders classified as habitual felony offenders, habitual violent felony offenders, or three-time violent felony offenders.[14]

Section 6 amends s. 480.052, F.S., to allow counties or municipalities to waive the restriction on the hours of operation of massage establishments for special local events within their jurisdiction.

Section 7 amends s. 823.05, F.S., to declare that a massage establishment that operates in violation of the restrictions on hours of operation, or that fails to immediately present to an investigator of the department or a law enforcement officer, all required government identification for each employee or for any person performing massage in the establishment is a nuisance and may be abated[15] or enjoined pursuant to ss. 60.06 and 60.06, F.S.

Section 8 provides an October 1, 2013, effective date.

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.

[12] *See* ss. 775.082 and 775.083, F.S.
[13] *Id.*
[14] *See* s. 775.084, F.S.
[15] Abated is defined as eliminated or put an end to (Black's Law Dictionary (9th ed. 2009).

B. Private Sector Impact:

The bill will limit the operating hours of massage establishments that are not otherwise excluded from the time restriction between midnight and 5 a.m. Since the use of a massage establishment as a principal domicile is no longer permitted unless the location of the establishment is zoned for residential use by local ordinance, operators will be required to discontinue any existing use and monitor their locations for compliance by its employees in the future unless the establishment is located in a zoning classification that includes residential use.

C. Government Sector Impact:

There may be additional disciplinary proceedings investigated by the Department of Health and prosecuted by the Board of Massage. The Criminal Justice Impact Conference has not yet determined the impact of the bill. The Department of Corrections anticipates that the impact of the bill will be insignificant on the prison population and minimal on the community supervision population.[16]

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 April 2, 2013:
The committee substitute adds that an independent postsecondary educational institution licensed and approved by the Commission for Independent Education pursuant to chapter 1005 may operate between 12 a.m. and 5 a.m. Also, adds that a college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program may be a 'Board-approved massage school'.

CS by Regulated Industries on March 14, 2013:
The committee substitute requires the board to deny a massage establishment license upon a finding that an applicant has been arrested, is awaiting final disposition, or has been convicted of offenses listed in s. 435.04(2), F.S., or a similar law in another jurisdiction, which include offenses relating to sexual misconduct, abuse of aged or disabled adults, murder, certain manslaughter offenses, vehicular homicide, certain offenses against minors, kidnapping, false imprisonment, prostitution, lewd and

[16] *See 2013 Legislative Analysis for SB 500,* Office of Legislative Affairs, Florida Department of Corrections, January 31, 2013.

lascivious behavior, indecent exposure, arson, burglary, certain firearms offenses, and certain felony offenses.

The committee substitute provides that denial of a license or a disciplinary action may be based upon the act of advertising to induce or attempt to induce a client to engage in sexual activity, or to engage or attempt to engage a client in sexual activity.

The committee substitute revises the restriction on hours of operation for massage establishments to the range of midnight to 5 a.m. It exempts from the restriction on hours of operation those massage establishments located on the premises of a clinic defined in part X of ch. 400, F.S., a timeshare property defined in s. 721.05, F.S., a public airport defined in s. 330.27, or a pari-mutuel facility defined in s. 550.002, F.S. It clarifies the exemption for massages performed pursuant to prescriptions of certain licensees.

The committee substitute amends s. 480.052, F.S., to allow counties and municipalities to waive the restriction on hours of operation of massage establishments for special local events within their jurisdiction. It amends the title to conform to the provisions of the bill.

B. Amendments:

None.

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

By the Committee on Health Policy; and Senator Bullard

588-02809-13 20131160c1

A bill to be entitled

An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; extending the expiration date of building permits and permits issued by the Department of Environmental Protection or by a water management district; providing that the extension of the expiration date does not prohibit conversion from the construction phase to the operation phase upon completion of construction; providing that certain extensions may not exceed a specified number of years; prohibiting certain extensions; requiring onsite sewage treatment and disposal systems to comply with department rules and provide a certain level of treatment; providing that certain onsite sewage treatment and disposal systems installed after a specified date are not required to connect to a sewer until a specified date; authorizing the department to approve and permit a property owner of an owner-occupied, single-family residence as a maintenance entity for the property owner’s own aerobic treatment unit system under certain circumstances; requiring the maintenance entity service agreement to conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from certain contractor registration requirements; prohibiting a septic tank contractor from being denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities; providing

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30 that component parts for an aerobic treatment unit
31 system may be replaced with parts that meet
32 manufacturer's specifications; requiring the
33 maintenance entity to maintain documentation for a
34 specified period of time and to provide the
35 documentation to the department upon request;
36 requiring an owner of an aerobic treatment unit system
37 to allow the department to annually inspect each
38 aerobic treatment unit system; providing an effective
39 date.
40
41 Be It Enacted by the Legislature of the State of Florida:
42
43 Section 1. Paragraphs (l) and (u) of subsection (4) of
44 section 381.0065, Florida Statutes, are amended to read:
45 381.0065 Onsite sewage treatment and disposal systems;
46 regulation.—
47 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
48 construct, repair, modify, abandon, or operate an onsite sewage
49 treatment and disposal system without first obtaining a permit
50 approved by the department. The department may issue permits to
51 carry out this section, but shall not make the issuance of such
52 permits contingent upon prior approval by the Department of
53 Environmental Protection, except that the issuance of a permit
54 for work seaward of the coastal construction control line
55 established under s. 161.053 shall be contingent upon receipt of
56 any required coastal construction control line permit from the
57 Department of Environmental Protection. A construction permit is
58 valid for 18 months from the issuance date and may be extended

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59 by the department for one 90-day period under rules adopted by
60 the department. A repair permit is valid for 90 days from the
61 date of issuance. An operating permit must be obtained prior to
62 the use of any aerobic treatment unit or if the establishment
63 generates commercial waste. Buildings or establishments that use
64 an aerobic treatment unit or generate commercial waste shall be
65 inspected by the department at least annually to assure
66 compliance with the terms of the operating permit. The operating
67 permit for a commercial wastewater system is valid for 1 year
68 from the date of issuance and must be renewed annually. The
69 operating permit for an aerobic treatment unit is valid for 2
70 years from the date of issuance and must be renewed every 2
71 years. If all information pertaining to the siting, location,
72 and installation conditions or repair of an onsite sewage
73 treatment and disposal system remains the same, a construction
74 or repair permit for the onsite sewage treatment and disposal
75 system may be transferred to another person, if the transferee
76 files, within 60 days after the transfer of ownership, an
77 amended application providing all corrected information and
78 proof of ownership of the property. There is no fee associated
79 with the processing of this supplemental information. A person
80 may not contract to construct, modify, alter, repair, service,
81 abandon, or maintain any portion of an onsite sewage treatment
82 and disposal system without being registered under part III of
83 chapter 489. A property owner who personally performs
84 construction, maintenance, or repairs to a system serving his or
85 her own owner-occupied single-family residence is exempt from
86 registration requirements for performing such construction,
87 maintenance, or repairs on that residence, but is subject to all

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88 permitting requirements. A municipality or political subdivision
89 of the state may not issue a building or plumbing permit for any
90 building that requires the use of an onsite sewage treatment and
91 disposal system unless the owner or builder has received a
92 construction permit for such system from the department. A
93 building or structure may not be occupied and a municipality,
94 political subdivision, or any state or federal agency may not
95 authorize occupancy until the department approves the final
96 installation of the onsite sewage treatment and disposal system.
97 A municipality or political subdivision of the state may not
98 approve any change in occupancy or tenancy of a building that
99 uses an onsite sewage treatment and disposal system until the
100 department has reviewed the use of the system with the proposed
101 change, approved the change, and amended the operating permit.
102 (l) 1. Within the Florida Keys area, which is a critical
103 state concern, any building permit and any permit issued by the
104 Department of Environmental Protection or by a water management
105 district pursuant to part IV of chapter 373, which has an
106 expiration date of January 1, 2012, through January 1, 2016, is
107 extended and renewed for a period of 3 years after its
108 previously scheduled expiration date. This extension includes
109 any local government-issued development order or building
110 permit, including certificates of levels of service. This
111 section does not prohibit conversion from the construction phase
112 to the operation phase upon completion of construction and is in
113 addition to any permit extension. Extensions granted under this
114 section; s. 14, chapter 2009-96, Laws of Florida, as
115 reauthorized by s. 47, chapter 2010-147, Laws of Florida; s. 46,
116 chapter 2010-147, Laws of Florida; s. 74, chapter 2011-139, Laws

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117 of Florida; or s. 79, chapter 2011-139, Laws of Florida, may not
118 exceed 7 years in total. Specific development order extensions
119 granted pursuant to s. 380.06(19)(c)2., may not be further
120 extended by this section.
121 2. For the Florida Keys, the department shall adopt a
122 special rule for the construction, installation, modification,
123 operation, repair, maintenance, and performance of onsite sewage
124 treatment and disposal systems which considers the unique soil
125 conditions and water table elevations, densities, and setback
126 requirements. On lots where a setback distance of 75 feet from
127 surface waters, saltmarsh, and buttonwood association habitat
128 areas cannot be met, an injection well, approved and permitted
129 by the department, may be used for disposal of effluent from
130 onsite sewage treatment and disposal systems. The following
131 additional requirements apply to onsite sewage treatment and
132 disposal systems in Monroe County:
133 a.~~1.~~ The county, each municipality, and those special
134 districts established for the purpose of the collection,
135 transmission, treatment, or disposal of sewage shall ensure, in
136 accordance with the specific schedules adopted by the
137 Administration Commission under s. 380.0552, the completion of
138 onsite sewage treatment and disposal system upgrades to meet the
139 requirements of this paragraph.
140 b.~~2.~~ In areas not scheduled to go to a centralized sewer,
141 onsite sewage treatment and disposal systems must ~~cease~~
142 ~~discharge~~ by December 31, 2015, ~~or must~~ comply with department
143 rules and provide the level of treatment which, on a permitted
144 annual average basis, produces an effluent that contains no more
145 than the following concentrations:

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146 (I)~~a.~~ Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
147 (II)~~b.~~ Suspended Solids of 10 mg/l.
148 (III)~~c.~~ Total Nitrogen, expressed as N, of 10 mg/l. A
149 system tested and certified to provide at least a 70 percent
150 reduction in Nitrogen is in compliance with this standard.
151 (IV)~~d.~~ Total Phosphorus, expressed as P, of 1 mg/l.
152
153 In addition, onsite sewage treatment and disposal systems
154 discharging to an injection well must provide basic disinfection
155 as defined by department rule.
156 c.~~3.~~ ~~On or after July 1, 2010, all new, modified, and~~
157 ~~repaired onsite sewage treatment and disposal systems must~~
158 ~~provide the level of treatment described in subparagraph 2.~~
159 ~~However,~~ In areas scheduled to be served by central sewer by
160 December 31, 2015, if the property owner has paid a connection
161 fee or assessment for connection to the central sewer system, an
162 onsite sewage treatment and disposal system may be repaired to
163 the following minimum standards:
164 (I)~~a.~~ The existing tanks must be pumped and inspected and
165 certified as being watertight and free of defects in accordance
166 with department rule; and
167 (II)~~b.~~ A sand-lined drainfield or injection well in
168 accordance with department rule must be installed.
169 d.~~4.~~ Onsite sewage treatment and disposal systems must be
170 monitored for total nitrogen and total phosphorus concentrations
171 as required by department rule.
172 e.~~5.~~ The department shall enforce proper installation,
173 operation, and maintenance of onsite sewage treatment and
174 disposal systems pursuant to this chapter, including ensuring

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175 that the appropriate level of treatment described in sub-
176 subparagraph b. ~~subparagraph 2.~~ is met.
177 f.~~6.~~ The authority of a local government, including a
178 special district, to mandate connection of an onsite sewage
179 treatment and disposal system is governed by s. 4, chapter 99-
180 395, Laws of Florida. Notwithstanding any other provision of law
181 to the contrary, an onsite sewage treatment and disposal system,
182 installed after July 1, 2010, which meets the standards in sub-
183 subparagraph b., is not required to connect to a sewer until
184 December 31, 2020.
185 (u)1. The owner of an aerobic treatment unit system shall
186 maintain a current maintenance service agreement with an aerobic
187 treatment unit maintenance entity permitted by the department.
188 The maintenance entity shall obtain a system operating permit
189 from the department for each aerobic treatment unit under
190 service contract. The maintenance entity shall inspect each
191 aerobic treatment unit system at least twice each year and shall
192 report quarterly to the department on the number of aerobic
193 treatment unit systems inspected and serviced. The reports may
194 be submitted electronically.
195 2. The department may approve and permit a property owner
196 of an owner-occupied, single-family residence as a maintenance
197 entity for the property owner's own aerobic treatment unit
198 system if the system manufacturer's approved representative
199 certifies in writing that the property owner has received
200 training on the proper installation and service of the system.
201 The maintenance entity service agreement must conspicuously
202 disclose that the property owner has the right to maintain his
203 or her own system and is exempt from contractor registration

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204 requirements for performing construction, maintenance, or
205 repairs on the system. However, the property owner is subject to
206 all permitting requirements.
207 3. A manufacture may not deny a septic tank contractor
208 licensed under part III of chapter 489 access to aerobic
209 treatment unit system training or spare parts for maintenance
210 entities. After the original warranty period, component parts
211 for an aerobic treatment unit system may be replaced with parts
212 that meet manufacturer's specifications but are manufactured by
213 others. The maintenance entity shall maintain documentation for
214 a period of 2 years of the substitute part's equivalency and
215 shall provide such documentation to the department upon request.
216 4. The owner of an aerobic treatment unit system shall
217 allow the department to inspect during reasonable hours each
218 aerobic treatment unit system at least annually, and such
219 inspection may include collection and analysis of system-
220 effluent samples for performance criteria established by rule of
221 the department.
222 Section 2. This act shall take effect July 1, 2013.

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1160

INTRODUCER: Health Policy Committee and Senator Bullard

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: March 27, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Fav/CS**
2.	Toman	Yeatman	CA	**Favorable**
3.			EP	
4.			RC	
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 1160 amends section 381.0065, F.S., to:

- Provide that inspection reports of aerobic treatment units (ATU) may be submitted electronically to the Department of Health (DOH);
- Clarify that a property owner of an owner-occupied single-family residence may be approved and permitted by the DOH as a maintenance entity for his or her own ATU system upon written certification from the manufacturer that they have received training on the proper installation and maintenance of the unit;
- Clarify that maintenance entities must conspicuously disclose that a property owner of a owner-occupied single-family residence has the right to maintain his or her own ATU system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on such a system, but is subject to all permitting requirements;
- Provide that a septic tank contractor license under ch. 489, part III, F.S., must not be denied the access to ATU training and spare parts by the manufacturer for maintenance entities;
- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires;

- Require Monroe County property owners who are not scheduled to be served by a central sewer by December 31, 2015, to comply with certain concentration level standards;
- Provide that a tested and certified onsite sewage treatment and disposal system (OSTDS) that reduces nitrogen concentrations by at least 70 percent is deemed to be in compliance with current nitrogen standards;
- Allow Monroe County property owners that have recently installed OSTDS in areas scheduled to be served by central sewer systems to continue to use the systems until 2020; and
- Provide for the extension of building permits for property owners within the Florida Keys Area of Critical State Concern.

This bill substantially amends section 381.0065 of the Florida Statutes.

II. Present Situation:

The Bureau of Onsite Sewage Programs (Bureau), within the DOH, develops statewide rules and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of septic systems within the state.[1] The Bureau also licenses over 700 septic tank contractors[2] and oversees 2.5 million onsite wastewater systems in Florida.[3]

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems (OSTDS). An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an ATU; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a sanitary pit privy.[4] Septic tanks are tanks in the ground that treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids are removed. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber.[5]

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[1] The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.

[2] About the Division of Disease Control and Health Protection, found at: http://www.myfloridaeh.com/about/index.html, last visited on Mar. 27, 2013.

[3] Division of Disease Control and Health Protection fact sheet, found at: http://www.myfloridaeh.com/about/EHfactsheet2012.pdf; last visited on Mar. 15, 2013.

[4] Department of Environmental Protection (DEP) website on septic systems. *See* http://www.dep.state.fl.us/water/wastewater/dom/septic.htm

[5] The EPA's *Primer for Municipal Wastewater Treatment Systems*, 2005, p. 22, found at http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf, last visited on Mar. 15, 2013.

Aerobic Treatment Units

The ATUs are similar to septic tanks, except that air is introduced and mixed with the wastewater inside the tank.[6] Aerobic (requiring oxygen) bacteria consume the organic matter in the sewage.[7] The effluent discharge from an aerobic system is typically released through a sub-surface distribution system or may be disinfected and discharged directly into surface water.[8]

The ATUs require the removal and disposal of solids that accumulate in the tank. Therefore, routine maintenance is necessary for them to function properly. The National Sanitation Foundation requires ATU manufacturers to provide an initial two-year warranty with two inspections per year.[9] According to the DOH analysis, there are 11,600 ATUs in operation in Florida, with 8,770 in four counties: Brevard, Charlotte, Franklin, and Monroe.

Pursuant to s. 381.0065, F.S., and Rule 64E-6.012, F.A.C., owners of ATUs are required to enter into a maintenance entity service agreement with a maintenance entity that is permitted by the DOH. That agreement must initially be for a period of at least two years and subsequent maintenance agreement renewals must be for at least one-year periods for the life of the system. The maintenance entity must obtain a system operating permit from the DOH for each ATU under service contract. The maintenance entity, which sets the fee for service contracts, must inspect each ATU at least twice each year and report quarterly to the DOH the number of ATUs inspected and serviced.

Furthermore, maintenance entities are required to provide documentation that they have been trained by the ATU manufacturer, who sets the maintenance requirements, and have access to required manuals and spare repairs. Maintenance entities are also required to be registered as either a state-licensed septic tank contractor or a state-licensed plumber.

Homeowners are exempt from the requirement that a person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under ch. 489, part III, F.S.,[10] but the homeowner must be permitted as a maintenance entity by the DOH and be trained and certified by the manufacturer. The annual maintenance entity permit fee is $25.

Florida Keys Area of Critical State Concern

In 1972, the Florida Legislature adopted the Environmental Land and Water Management Act, which provided the basis for the state to designate an Area of Critical State Concern. To be designated, an area must contain, or have a significant impact upon, environmental or natural

[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] The National Sanitation Foundation is an "independent, not-for-profit organization that provides standards development, product certification, auditing, education, and risk management for public health and the environment". *See* http://www.nsf.org/business/about_NSF/
[10] s. 381.0065(4), F.S.

resources of regional or statewide importance where uncontrolled private or public development would cause substantial deterioration of such resources.[11]

In 1979, Monroe County, including its municipalities and the Florida Keys, was designated as an Area of Critical State Concern pursuant to the "Florida Keys Area Protection Act."[12] The legislative intent was to establish a land use management system for the Florida Keys that would:

- Protect the natural environment and improve the near shore water quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.

In 1996, Administration Commission Rule 28-20, F.A.C., was adopted. The rule contained a Work Program which, when complete, would improve water quality and better protect habitats for threatened and endangered species, and resolve other challenges. Of particular concern was the declining water quality of the near shore environment due to a lack of central sewer facilities, the loss of habitat for state and federally listed endangered species, public safety in the event of hurricanes, and a deficit of affordable housing.[13]

Concerns about water quality resulted in legislative action[14] which required that by December 2015, all sewage disposal in the Florida Keys must be upgraded to meet advanced wastewater treatment standards that reduce the amount of nitrogen, phosphorus, biological oxygen demand and total suspended solids.[15] As a result, when the construction of the central sewage system is concluded, approximately 23,000 septic tanks will be eliminated.[16] The bond financing in the Save our Everglades Program, approved by the Florida Legislature in 2012, and the extension of the Monroe County Infrastructure Sales Tax will provide the foundation to complete the central sewer by 2015.

Nitrogen Reduction

The 2008 Legislature tasked the DOH with conducting a six-year study to develop passive strategies for nitrogen reduction for OSTDS. Regardless of the source, excessive nitrogen has negative effects on public health and the environment. The project is in its fourth year and is within the original $5.1 million budget. The final phase of the project is 2013-2015 and project tasks will be to complete monitoring and other field activities, perform additional testing as

[11] s. 380.05(2)(a), F.S.
[12] s. 380.0552(3), F.S.
[13] Florida Department of Economic Opportunity, *Florida Keys Area of Critical State Concern Annual Report*, p. 11, 2012, available at: www.floridajobs.org/fdcp/dcp/acsc/Files/2012FLKeysReport.pdf (last viewed on March 27, 2013).
[14] Chapter 2010-205, Laws of Florida.
[15] Section 381.0065(4)(l), F.S.
[16] *See supra* FN 13.

deemed appropriate by the Legislature, and make final reporting recommendations on onsite sewage nitrogen reduction strategies for Florida's future.[17]

Current law requires OSTDS to cease discharge by December 31, 2015, or comply with the DOH rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:[18]

- Biochemical Oxygen Demand of 10 mg/l;
- Suspended Solids of 10 mg/l;
- Total Nitrogen of 10 mg/l; and
- Total Phosphorus of 1 mg/l.

Tests performed by the nitrogen reduction study have produced results of reduction in total nitrogen of over 95 percent with a final effluent concentration of 2.6 mg/l or less for several of the systems.[19]

III. Effect of Proposed Changes:

The CS amends s. 381.0065, F.S., to:

- Within the Florida Keys area, extend building permits and any permit issued pursuant to part IV of ch. 373, F.S., regarding management and storage of surface waters, which expire between January 1, 2012, and January 1, 2016, for a period of three years after the expiration date of the permit. This extension also applies local government-issued permits and does not prohibit conversion from the construction phase to the operation phase of a permit. Also, the bill sets a maximum extension of seven total years for the listed extensions in combination with this extension.
- Exclude Monroe County property owners who are scheduled to be served by a central sewer by December 31, 2015, from the requirement to comply with the listed concentration level standards.[20]
- Provide that a tested and certified OSTDS in areas not scheduled to be served by a central sewer by December 31, 2015 that reduces nitrogen concentrations by at least 70 percent is deemed to be in compliance with current nitrogen standards.
- Allow Monroe County property owners that have recently installed OSTDS in areas scheduled to be served by central sewer systems to continue to use the systems until 2020.
- Provide that inspection reports of ATUs may be submitted electronically to the DOH.
- Clarify that a property owner of an owner-occupied single-family residence may be approved and permitted by the DOH as a maintenance entity for his or her own ATU system upon written certification from the manufacturer that the owner has received training on the proper installation and maintenance of the unit.

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[17] *See* Florida Department of Health, *Status Report on Phase II and Phase III of the Florida Onsite Sewage Nitrogen Reduction Strategies Study*, February 1, 2013, available at: http://www.myfloridaeh.com/ostds/research/Nitrogen.html (last viewed on March 27, 2013).
[18] Section 381.0065(4)(l), F.S.
[19] *Id.*, n. 17
[20] s. 381.0065(4)(l)2.b., F.S.

- Clarify that ATU maintenance entities must conspicuously disclose that a property owner of a owner-occupied single-family residence has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on such a system, but is subject to all permitting requirements.
- Provide that a septic tank contractor licensed under ch. 489 part III, F.S., must not be denied the access to ATU training and spare parts by the manufacturer for maintenance entities.
- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires. The maintenance entity shall maintain documentation of substitute part equivalency for 2 years.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1160 may have a positive fiscal impact on owners with ATU systems by allowing them to maintain their own systems however, home-owners may see an up-front cost for the training necessary to maintain their own systems.

C. Government Sector Impact:

The DOH would have to amend Rule 64E-6.012, F.A.C., to comply with the changes in the bill and the DOH estimates the cost of notices and meetings will be $5,000, which can be absorbed within their existing resources.

VI. Technical Deficiencies:

Lines 207-210 of the bill read in part:

> 3. A manufacture may not deny a septic tank contractor licensed under part III of chapter 489 access to aerobic treatment unit system training or spare parts for maintenance entities.

The intent may have been for "manufacture" to instead be "manufacturer."

VII. Related Issues:

Single Subject Rule

Section 6, Article III of the State Constitution requires every law to "embrace but one subject and matter properly connected therewith." The subject shall be briefly expressed in the title.[21] The purpose of this requirement is to prevent logrolling, which combines multiple unrelated measures in one bill in order to secure passage of a measure that is unlikely to pass on its own merits.[22] The requirement does not unduly restrict the scope or operation of a law. The single subject may be as broad as the Legislature chooses if the matters contained in the law have a natural or logical connection.[23] The requirement is violated if a law is written to accomplish separate and disassociated objects of legislative intent.[24] A violation of the one-subject limitation renders inoperative any provision contained in an act which is not fairly included in the subject expressed in the title or which is not properly connected with that subject.[25] Among the multitude of cases on the subject, the Florida Supreme Court has held that tort law and motor-vehicle-insurance law were sufficiently related to be included in one act without violating the one-subject limitation,[26] but that a law containing changes in the workers' compensation law and legislation concerning comprehensive economic development violated the one-subject limitation.[27]

It is possible that the provisions in the bill which extend and renew permit expiration dates of building permits may be viewed as not properly connected with the bill title, Onsite Sewage Treatment and Disposal Systems.

Local Bills

A special or local law is a law:

> relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal.[28]

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[21] *Franklin v. St/ate*, 887 So. 2d 1063, 1072 (Fla.2002).
[22] *Santos v. State*, 380 So. 2d 1284 (Fla. 1980).
[23] *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693 (Fla. 1969).
[24] *State ex rel. Landis v. Thompson*, 163 So. 270 (Fla. 1935).
[25] *Ex parte Knight*, 41 So. 786 (Fla. 1906).
[26] *State v. Lee*, 356 So. 2d 276 (Fla. 1978).
[27] *Martinez v. Scanlan*, 582 So. 2d 1167 (Fla. 1991).
[28] *Lawnwood Medical Center Inc. v. Seeger, M.D.*, 959 So. 2d 1222 (Fla. 1st DCA 2007) *affirmed by* 990 So. 2d 503 (Fla. 2008) (finding that the reorganization granted a privilege to a private corporation, the Florida Supreme Court did not reach

Article 3, section 10 of the Florida Constitution provides:

> No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

Because the building permit provisions in the bill apply solely to the Florida Keys area, it is possible the bill may be considered a local bill and therefore be subject to special law requirements in the Constitution.

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 Health Policy Committee on March 20, 2013:

The CS substantially amends SB 1160 to:

- Provide that inspection reports may be submitted electronically to the DOH.
- Clarify that a property owner of an owner-occupied single-family residence may be approved and permitted by the DOH as a maintenance entity for his or her own system upon written certification from the manufacturer that they have received training on the proper installation and maintenance of the unit.
- Clarify that maintenance entities must conspicuously disclose that a property owner of an owner-occupied single-family residence has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on such a system, but is subject to all permitting requirements.
- Provide that a septic tank contractor license under ch. 489, part III, F.S., must not be denied the access to training and spare parts by the manufacturer for maintenance entities.
- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires.
- Exclude Monroe County property owners who are scheduled to be served by a central sewer by December 31, 2015, from the requirement to comply with certain concentration level standards.
- Provide that a tested and certified OSTDS that reduces nitrogen concentrations by at least 70 percent is deemed to be in compliance with current nitrogen standards.
- Allow Monroe County property owners that have recently installed OSTDS in areas scheduled to be served by central sewer systems to continue to use the systems until 2020.

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the impairment of contracts issue; the appellate court, however, ruled that provisions changing the governance of the medical facility violated the impairment of contracts clause of the state constitution).

- Provide for the extension of building permits for property owners within the Florida Keys Area of Critical State Concern.

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Evers

591-02623-13 20131434c1

1 A bill to be entitled
2 An act relating to law enforcement; amending ss.
3 125.5801 and 166.0442, F.S.; revising provisions for
4 criminal history record checks for certain county and
5 municipal employees and appointees; amending s.
6 406.145, F.S.; deleting duties of law enforcement
7 agencies and the department relating to unidentified
8 person reporting forms; amending s. 538.26, F.S.;
9 limiting the number of lead-acid batteries or parts
10 thereof that a secondary metals recycler may purchase
11 in certain transactions in a single day; amending s.
12 937.021, F.S.; revising provisions relating to missing
13 child and adult reports; amending s. 937.024, F.S.;
14 revising provisions relating to the birth records of
15 missing children; amending s. 937.025, F.S.; revising
16 provisions providing criminal penalties for persons
17 who knowingly provide false information concerning a
18 missing child; amending s. 937.028, F.S.; revising
19 provisions relating to fingerprints of missing
20 persons; authorizing retention of such fingerprints
21 entered into the statewide biometric identification
22 system; amending s. 943.03, F.S.; revising terminology
23 relating to documents and information systems;
24 deleting an obsolete provision; amending s. 943.031,
25 F.S.; correcting a reference; revising provisions
26 relating to meetings of the Florida Violent Crime and
27 Drug Control Council, the Drug Control Strategy and
28 Criminal Gang Committee, and the Victim and Witness
29 Protection Review Committee; making specified

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30 provisions subject to legislative funding; providing
31 for return of unexpended funds by specified
32 recipients; amending s. 943.0435, F.S.; specifying
33 additional items to be reported by persons required to
34 register as sexual offenders; amending s. 943.04351,
35 F.S.; revising requirements for searches of
36 registration information regarding sexual predators
37 and sexual offenders; amending s. 943.0438, F.S.;
38 deleting an obsolete provision; amending s. 943.045,
39 F.S.; defining the term “biometric”; revising the
40 definition of the term “criminal justice information”;
41 amending s. 943.05, F.S.; revising duties of the
42 Criminal Justice Information Program; redesignating
43 the statewide automated fingerprint identification
44 system as the statewide automated biometric
45 identification system; amending s. 943.051, F.S.;
46 requiring additional information to be collected from
47 persons charged with or convicted of specified
48 offenses and submitted electronically to the
49 department; providing an exception to the
50 fingerprinting of certain juveniles; amending s.
51 943.052, F.S.; revising terminology relating to
52 disposition reporting; revising information to be
53 submitted concerning persons received by or discharged
54 from the state correctional system or certain
55 juveniles committed to the Department of Juvenile
56 Justice; amending s. 943.053, F.S.; revising a
57 reference to rules governing criminal justice
58 information received from the Federal Government or

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59 other states; conforming terminology; amending s.
60 943.054, F.S.; revising provisions relating to the
61 availability of criminal history information derived
62 from any United States Department of Justice criminal
63 justice information system; amending s. 943.0542,
64 F.S.; revising terminology relating to requests for
65 screening; authorizing rulemaking relating to payments
66 for screening; amending s. 943.0544, F.S.; revising
67 terminology relating to the Criminal Justice Network;
68 amending s. 943.055, F.S.; revising provisions
69 relating to dissemination of criminal justice
70 information derived from department information
71 systems; providing for audits of noncriminal justice
72 agencies when necessary to ensure compliance with
73 requirements; amending s. 943.056, F.S.; providing for
74 requests for corrections of federal criminal history
75 record information in certain circumstances; amending
76 s. 943.0582, F.S.; increasing the period in which a
77 minor may seek expunction of a nonjudicial arrest
78 record following completion of a diversion program;
79 revising language relating to a statement to the
80 department by a state attorney concerning such an
81 expunction request; deleting an obsolete provision;
82 amending ss. 943.0585 and 943.059, F.S.; revising
83 language relating to expunctions and sealing precluded
84 by prior criminal history sealings or expunctions;
85 authorizing persons seeking authorization for
86 employment with or access to certain seaports to deny
87 or fail to acknowledge certain expunged or sealed

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88 records; amending s. 943.125, F.S.; providing for
89 accreditation of correctional facilities, public
90 agency offices of inspectors general, and certain
91 pretrial diversion programs; authorizing funding and
92 support of additional accreditation programs; amending
93 s. 943.13, F.S.; deleting a provision authorizing
94 temporary employment of a person seeking employment as
95 a law enforcement or correctional officer if there is
96 an administrative delay in fingerprint processing;
97 deleting obsolete language; amending s. 943.132, F.S.;
98 revising references to federal qualified active or
99 qualified retired law enforcement concealed firearms
100 provisions; deleting a requirement that the Criminal
101 Justice Standards and Training Commission develop a
102 uniform firearms proficiency verification card;
103 amending s. 943.1395, F.S.; revising language relating
104 to investigations on behalf of the Criminal Justice
105 Standards and Training Commission; amending s.
106 943.1755, F.S.; providing that the department
107 maintains responsibility for delivering and
108 facilitating all Florida Criminal Justice Executive
109 Institute training; revising membership of the
110 institute’s policy board; amending s. 943.1757, F.S.;
111 deleting a requirement for a periodic report by the
112 Criminal Justice Executive Institute concerning
113 executive training needs; amending s. 943.25, F.S.;
114 authorizing, rather than requiring, the Criminal
115 Justice Standards and Training Commission to forward
116 to each regional training council a list of its

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117 specific recommended priority issues or items to be
118 funded; authorizing the commission to use computer-
119 based testing as an assessment instrument; amending s.
120 943.325, F.S.; conforming a cross-reference; amending
121 s. 943.33, F.S.; revising provisions relating to the
122 availability to defendants of state-operated criminal
123 analysis laboratories; specifying that defense experts
124 and others are not authorized to be present in such
125 laboratories or use laboratory equipment; revising
126 provisions relating to costs of laboratory testing
127 performed for defendants; amending s. 943.68, F.S.;
128 revising the due date of a report detailing
129 transportation and protective services provided by the
130 department; amending ss. 285.18, 414.40, 447.045,
131 455.213, 468.453, 475.615, 493.6105, 493.6108,
132 494.00312, 494.00321, 494.00611, 517.12, 538.09,
133 538.25, 548.024, 550.105, 550.908, 551.107, 560.141,
134 628.906, 633.34, 744.3135, 775.21, 775.261, 790.06,
135 944.607, 944.608, 985.11, 985.644, 985.4815, 1002.395,
136 1002.421, 1012.32, and 1012.467, F.S.; conforming
137 provisions to changes made by the act; providing an
138 effective date.
139
140 Be It Enacted by the Legislature of the State of Florida:
141
142 Section 1. Section 125.5801, Florida Statutes, is amended
143 to read:
144 125.5801 Criminal history record checks for certain county
145 employees and appointees.—

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146 (1) Notwithstanding chapter 435, a county may require, by
147 ordinance, state and national criminal history ~~employment~~
148 screening for:
149 (a) Any position of county employment or appointment,
150 whether paid, unpaid, or contractual, which the governing body
151 of the county finds is critical to security or public safety;~~,~~
152 ~~or for~~
153 (b) Any private contractor, employee of a private
154 contractor, vendor, repair person, or delivery person who is
155 subject to licensing or regulation by the county; or
156 (c) Any private contractor, employee of a private
157 contractor, vendor, repair person, or delivery person who has
158 direct contact with individual members of the public or access
159 to any public facility or publicly operated facility in such a
160 manner or to such an extent that the governing body of the
161 county finds that preventing unsuitable persons from having such
162 contact or access is critical to security or public safety.
163 (2) The ordinance must require each person applying for, or
164 continuing employment or appointment in, any such position,
165 applying for initial or continuing licensing or regulation, or
166 having such contact or access ~~to any such facility~~ to be
167 fingerprinted. The fingerprints shall be submitted to the
168 Department of Law Enforcement for a state criminal history
169 record check and to the Federal Bureau of Investigation for a
170 national criminal history record check. The information obtained
171 from the criminal history record checks conducted pursuant to
172 the ordinance may be used by the county to determine a person's
173 ~~an applicant's~~ eligibility for such employment or appointment
174 and to determine a person's ~~an employee's~~ eligibility for

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175 continued employment or appointment. This section is not
176 intended to preempt or prevent any other background screening,
177 including, but not limited to, criminal history record checks,
178 which a county may lawfully undertake.
179 Section 2. Section 166.0442, Florida Statutes, is amended
180 to read:
181 166.0442 Criminal history record checks for certain
182 municipal employees and appointees.—
183 (1) Notwithstanding chapter 435, a municipality may
184 require, by ordinance, state and national criminal history
185 ~~employment~~ screening for:
186 (a) Any position of municipal employment or appointment,
187 whether paid, unpaid, or contractual, which the governing body
188 of the municipality finds is critical to security or public
189 safety;~~, or for~~
190 (b) Any private contractor, employee of a private
191 contractor, vendor, repair person, or delivery person who is
192 subject to licensing or regulation by the municipality; or
193 (c) Any private contractor, employee of a private
194 contractor, vendor, repair person, or delivery person who has
195 direct contact with individual members of the public or access
196 to any public facility or publicly operated facility in such a
197 manner or to such an extent that the governing body of the
198 municipality finds that preventing unsuitable persons from
199 having such contact or access is critical to security or public
200 safety.
201 (2) The ordinance must require each person applying for, or
202 continuing employment or appointment in, any such position,
203 applying for initial or continuing licensing or regulation, or

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204 having such contact or access ~~to any such facility~~ to be
205 fingerprinted. The fingerprints shall be submitted to the
206 Department of Law Enforcement for a state criminal history
207 record check and to the Federal Bureau of Investigation for a
208 national criminal history record check. The information obtained
209 from the criminal history record checks conducted pursuant to
210 the ordinance may be used by the municipality to determine a
211 person's ~~an applicant's~~ eligibility for such employment or
212 appointment and to determine a person's ~~an employee's~~
213 eligibility for continued employment or appointment. This
214 section is not intended to preempt or prevent any other
215 background screening, including, but not limited to, criminal
216 history background checks, that a municipality may lawfully
217 undertake.
218 Section 3. Section 406.145, Florida Statutes, is amended to
219 read:
220 406.145 Unidentified persons; reporting requirements.—When
221 an unidentified body is transported to a district medical
222 examiner pursuant to this chapter, the medical examiner shall
223 immediately report receipt of such body to the appropriate law
224 enforcement agency, provided such law enforcement agency was not
225 responsible for transportation of the body to the medical
226 examiner. If the medical examiner cannot determine the law
227 enforcement agency having jurisdiction, he or she shall notify
228 the sheriff of the county in which the medical examiner is
229 located, who shall determine the law enforcement agency
230 responsible for the identification. It is the duty of the law
231 enforcement officer assigned to and investigating the death to
232 immediately establish the identity of the body. If the body is

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233 not immediately identified, the law enforcement agency
234 responsible for investigating the death shall ~~complete an~~
235 ~~Unidentified Person Report and~~ enter ~~the~~ data concerning the
236 body, through the Florida Crime Information Center, into the
237 Unidentified Person File of the National Crime Information
238 Center. ~~An Unidentified Person Report is that form identified by~~
239 ~~the Florida Department of Law Enforcement for use by law~~
240 ~~enforcement agencies in compiling information for entrance into~~
241 ~~the Unidentified Person File.~~
242 Section 4. Paragraph (b) of subsection (5) of section
243 538.26, Florida Statutes, is amended to read:
244 538.26 Certain acts and practices prohibited.—It is
245 unlawful for a secondary metals recycler to do or allow any of
246 the following acts:
247 (5)
248 (b) The purchase of any of the following regulated metals
249 property is subject to the restrictions provided in paragraph
250 (a):
251 1. A manhole cover.
252 2. An electric light pole or other utility structure and
253 its fixtures, wires, and hardware that are readily identifiable
254 as connected to the utility structure.
255 3. A guard rail.
256 4. A street sign, traffic sign, or traffic signal and its
257 fixtures and hardware.
258 5. Communication, transmission, distribution, and service
259 wire from a utility, including copper or aluminum bus bars,
260 connectors, grounding plates, or grounding wire.
261 6. A funeral marker or funeral vase.

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262 7. A historical marker.
263 8. Railroad equipment, including, but not limited to, a tie
264 plate, signal house, control box, switch plate, E clip, or rail
265 tie junction.
266 9. Any metal item that is observably marked upon reasonable
267 inspection with any form of the name, initials, or logo of a
268 governmental entity, utility company, cemetery, or railroad.
269 10. A copper, aluminum, or aluminum-copper condensing or
270 evaporator coil, including its tubing or rods, from an air-
271 conditioning or heating unit, excluding coils from window air-
272 conditioning or heating units and motor vehicle air-conditioning
273 or heating units.
274 11. An aluminum or stainless steel container or bottle
275 designed to hold propane for fueling forklifts.
276 12. A stainless steel beer keg.
277 13. A catalytic converter or any nonferrous part of a
278 catalytic converter unless purchased as part of a motor vehicle.
279 14. Metallic wire that has been burned in whole or in part
280 to remove insulation.
281 15. A brass or bronze commercial valve or fitting, referred
282 to as a “fire department connection and control valve” or an
283 “FDC valve,” that is commonly used on structures for access to
284 water for the purpose of extinguishing fires.
285 16. A brass or bronze commercial potable water backflow
286 preventer valve that is commonly used to prevent backflow of
287 potable water from commercial structures into municipal domestic
288 water service systems.
289 17. A shopping cart.
290 18. A brass water meter.

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291 19. A storm grate.
292 20. A brass sprinkler head used in commercial agriculture.
293 21. More than two lead-acid batteries, or any part or
294 component thereof, in a single purchase or from the same
295 individual in a single day.
296 Section 5. Paragraphs (b), (d), and (e) of subsection (5)
297 of section 937.021, Florida Statutes, are amended to read:
298 937.021 Missing child and missing adult reports.—
299 (5)
300 (b) Upon receiving a request to record, report, transmit,
301 display, or release information and photographs pertaining to a
302 missing adult or missing child from the law enforcement agency
303 having jurisdiction over the missing adult or missing child, the
304 department, a state or local law enforcement agency, and the
305 personnel of these agencies; any radio or television network,
306 broadcaster, or other media representative; any dealer of
307 communications services as defined in s. 202.11; or any agency,
308 employee, individual, or person is immune from civil liability
309 for damages for complying in good faith with the request to
310 provide information and is presumed to have acted in good faith
311 in recording, reporting, transmitting, displaying, or releasing
312 information or photographs pertaining to the missing adult or
313 missing child.
314 (d) The presumption of good faith is not overcome if a
315 technical or clerical error is made by any agency, employee,
316 individual, or entity acting at the request of the local law
317 enforcement agency having jurisdiction, or if the Amber Alert,
318 Missing Child Alert, missing child information, missing adult
319 information, or Silver Alert information is incomplete or

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320 incorrect because the information received from the local law
321 enforcement agency was incomplete or incorrect.
322 (e) Neither this subsection nor any other provision of law
323 creates a duty of the agency, employee, individual, or entity to
324 record, report, transmit, display, or release the Amber Alert,
325 Missing Child Alert, missing child information, missing adult
326 information, or Silver Alert information received from the local
327 law enforcement agency having jurisdiction. The decision to
328 record, report, transmit, display, or release information is
329 discretionary with the agency, employee, individual, or entity
330 receiving the information.
331 Section 6. Paragraphs (d) and (e) of subsection (1) and
332 paragraph (a) of subsection (2) of section 937.024, Florida
333 Statutes, are amended to read:
334 937.024 Birth records of missing children; registrars'
335 duties.—
336 (1) The Office of Vital Statistics shall:
337 ~~(d) Recall each missing child's birth certificate or birth~~
338 ~~record from the local registrar of vital statistics in the~~
339 ~~county of the missing child's birth.~~
340 (d) ~~(e)~~ Collect each month a list of missing children who
341 have been located, as provided by the Department of Law
342 Enforcement's Florida Crime Information Center; identify which,
343 if any, of the located children were born in this state; and
344 remove its flags from the birth certificates or birth records of
345 such children accordingly.
346 (2)(a) A copy of the birth certificate or information
347 concerning the birth record of any child whose record has been
348 flagged ~~or recalled~~ pursuant to paragraph (1)(c) ~~or paragraph~~

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349 ~~(1)(d)~~ may not be provided by the State Registrar or any local
350 registrar in response to any inquiry, unless the flag has been
351 removed pursuant to paragraph (1)(d) or upon the official
352 request of the Department of Law Enforcement's Missing
353 Endangered Persons Information Clearinghouse ~~(1)(c)~~.
354 Section 7. Subsection (7) of section 937.025, Florida
355 Statutes, is amended to read:
356 937.025 Missing children; student records; reporting
357 requirements; penalties.—
358 (7) A person who knowingly provides false information
359 concerning a missing child or the efforts to locate and return a
360 missing child whose ~~to a~~ parent, family member, or guardian ~~of a~~
361 ~~child who has been~~ reported the child missing commits a
362 misdemeanor of the first degree, punishable as provided in s.
363 775.082 or s. 775.083.
364 Section 8. Section 937.028, Florida Statutes, is amended to
365 read:
366 937.028 Fingerprints; missing persons ~~children~~.—
367 (1) If fingerprints have been taken for the purpose of
368 identifying a child, in the event that child becomes missing,
369 the state agency, public or private organization, or other
370 person who took such fingerprints shall not release the
371 fingerprints to any law enforcement agency or other person for
372 any purpose other than the identification of a missing child.
373 Such records and data are exempt from ~~the provisions of~~ s.
374 119.07(1).
375 (2) Fingerprints of children taken and retained by any
376 state agency other than the Department of Law Enforcement, any
377 public or private organization, or other person, excluding the

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378 parent or legal custodian of the child, shall be destroyed when
379 the child attains ~~becomes~~ 18 years of age. Fingerprints of
380 persons, including children, who are reported missing that have
381 been entered into the automated biometric identification system
382 maintained by the Department of Law Enforcement may be retained
383 until the department is notified that the missing person has
384 been recovered.
385 Section 9. Paragraph (a) of subsection (6) and subsections
386 (12), (13), and (15) of section 943.03, Florida Statutes, are
387 amended to read:
388 943.03 Department of Law Enforcement.—
389 (6)(a) The department shall be governed by all laws
390 regulating the purchase of supplies and equipment as other state
391 agencies and may enter into contracts with other state agencies
392 to make photographs and photocopies ~~photostats~~, to transmit
393 information electronically ~~by teletype~~, and to perform all those
394 services consonant with the purpose of this chapter.
395 (12) The department may establish, implement, and maintain
396 a statewide, integrated ~~violent~~ crime information system capable
397 of transmitting criminal justice information relating to ~~violent~~
398 criminal offenses to and between criminal justice agencies
399 throughout the state.
400 (13) Subject to sufficient annual appropriations, the
401 department shall develop and maintain, in consultation with the
402 Criminal and Juvenile Justice Information Systems Council under
403 s. 943.08, an information system that supports the
404 administration of the state's criminal and juvenile justice
405 information sharing ~~system~~ in compliance with this chapter and
406 other provisions of law. The department shall serve as custodial

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407 manager of the Criminal Justice ~~statewide telecommunications and~~
408 ~~data~~ Network developed and maintained as part of the information
409 system authorized by this subsection.
410 (15) The Department of Law Enforcement, in consultation
411 with the Criminal and Juvenile Justice Information Systems
412 Council established in s. 943.06, shall modify the existing
413 statewide uniform statute table in its criminal history system
414 to meet the business requirements of state and local criminal
415 justice and law enforcement agencies. In order to accomplish
416 this objective, the department shall:
417 (a) Define the minimum business requirements necessary for
418 successful implementation.
419 (b) Consider the charging and booking requirements of
420 sheriffs' offices and police departments and the business
421 requirements of state attorneys, public defenders, criminal
422 conflict and civil regional counsel, clerks of court, judges,
423 and state law enforcement agencies.
424 (c) Adopt rules establishing the necessary technical and
425 business process standards required to implement, operate, and
426 ensure uniform system use and compliance.
427
428 ~~The required system modifications and adopted rules shall be~~
429 ~~implemented by December 31, 2012.~~
430 Section 10. Paragraph (c) of subsection (2), subsections
431 (4) and (5), paragraphs (b) and (c) of subsection (6), and
432 paragraphs (a), (b), and (e) of subsection (8) of section
433 943.031, Florida Statutes, are amended to read:
434 943.031 Florida Violent Crime and Drug Control Council.—
435 (2) MEMBERSHIP.—The council shall consist of 14 members, as

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436 follows:
437 (c) The Secretary of ~~the Department of~~ Corrections or a
438 designate.
439
440 The Governor, when making appointments under this subsection,
441 must take into consideration representation by geography,
442 population, ethnicity, and other relevant factors to ensure that
443 the membership of the council is representative of the state at
444 large. Designates appearing on behalf of a council member who is
445 unable to attend a meeting of the council are empowered to vote
446 on issues before the council to the same extent the designating
447 council member is so empowered.
448 (4) MEETINGS.—The council must meet at least annually
449 ~~semiannually~~. Additional meetings may be held when ~~it is~~
450 determined by the department and the chair ~~that extraordinary~~
451 ~~circumstances require an additional meeting of the council~~. A
452 majority of the members of the council constitutes a quorum.
453 Council meetings may be conducted by conference call,
454 teleconferencing, or similar technology.
455 (5) DUTIES OF COUNCIL.—Subject to funding provided to the
456 department by the Legislature, the council shall provide advice
457 and make recommendations, as necessary, to the executive
458 director of the department.
459 (a) The council may advise the executive director on the
460 feasibility of undertaking initiatives which include, but are
461 not limited to, the following:
462 1. Establishing a program that provides grants to criminal
463 justice agencies that develop and implement effective violent
464 crime prevention and investigative programs and which provides

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465 grants to law enforcement agencies for the purpose of drug
466 control, criminal gang, and illicit money laundering
467 investigative efforts or task force efforts that are determined
468 by the council to significantly contribute to achieving the
469 state’s goal of reducing drug-related crime, that represent
470 significant criminal gang investigative efforts, that represent
471 a significant illicit money laundering investigative effort, or
472 that otherwise significantly support statewide strategies
473 developed by the Statewide Drug Policy Advisory Council
474 established under s. 397.333, subject to the limitations
475 provided in this section. The grant program may include an
476 innovations grant program to provide startup funding for new
477 initiatives by local and state law enforcement agencies to
478 combat violent crime or to implement drug control, criminal
479 gang, or illicit money laundering investigative efforts or task
480 force efforts by law enforcement agencies, including, but not
481 limited to, initiatives such as:
482 a. Providing enhanced community-oriented policing.
483 b. Providing additional undercover officers and other
484 investigative officers to assist with violent crime
485 investigations in emergency situations.
486 c. Providing funding for multiagency or statewide drug
487 control, criminal gang, or illicit money laundering
488 investigative efforts or task force efforts that cannot be
489 reasonably funded completely by alternative sources and that
490 significantly contribute to achieving the state’s goal of
491 reducing drug-related crime, that represent significant criminal
492 gang investigative efforts, that represent a significant illicit
493 money laundering investigative effort, or that otherwise

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494 significantly support statewide strategies developed by the
495 Statewide Drug Policy Advisory Council established under s.
496 397.333.
497 2. Expanding the use of automated biometric ~~fingerprint~~
498 identification systems at the state and local levels ~~level~~.
499 3. Identifying methods to prevent violent crime.
500 4. Identifying methods to enhance multiagency or statewide
501 drug control, criminal gang, or illicit money laundering
502 investigative efforts or task force efforts that significantly
503 contribute to achieving the state's goal of reducing drug-
504 related crime, that represent significant criminal gang
505 investigative efforts, that represent a significant illicit
506 money laundering investigative effort, or that otherwise
507 significantly support statewide strategies developed by the
508 Statewide Drug Policy Advisory Council established under s.
509 397.333.
510 5. Enhancing criminal justice training programs that
511 address violent crime, drug control, illicit money laundering
512 investigative techniques, or efforts to control and eliminate
513 criminal gangs.
514 6. Developing and promoting crime prevention services and
515 educational programs that serve the public, including, but not
516 limited to:
517 a. Enhanced victim and witness counseling services that
518 also provide crisis intervention, information referral,
519 transportation, and emergency financial assistance.
520 b. A well-publicized rewards program for the apprehension
521 and conviction of criminals who perpetrate violent crimes.
522 7. Enhancing information sharing and assistance in the

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523 criminal justice community by expanding the use of community
524 partnerships and community policing programs. Such expansion may
525 include the use of civilian employees or volunteers to relieve
526 law enforcement officers of clerical work in order to enable the
527 officers to concentrate on street visibility within the
528 community.
529 (b) The full council shall:
530 1. Receive periodic reports from regional violent crime
531 investigation and statewide drug control strategy implementation
532 coordinating teams which relate to violent crime trends or the
533 investigative needs or successes in the regions, including
534 discussions regarding the activity of significant criminal gangs
535 in the region, factors, and trends relevant to the
536 implementation of the statewide drug strategy, and the results
537 of drug control and illicit money laundering investigative
538 efforts funded in part by the council.
539 2. Maintain and use criteria for the disbursement of funds
540 from the Violent Crime Investigative Emergency and Drug Control
541 Strategy Implementation Account or any other account from which
542 the council may disburse proactive investigative funds as may be
543 established within the Department of Law Enforcement Operating
544 Trust Fund or other appropriations provided to the Department of
545 Law Enforcement by the Legislature in the General Appropriations
546 Act. The criteria shall allow for the advancement of funds to
547 reimburse agencies regarding violent crime investigations as
548 approved by the full council and the advancement of funds to
549 implement proactive drug control strategies or significant
550 criminal gang investigative efforts as authorized by the Drug
551 Control Strategy and Criminal Gang Committee or the Victim and

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552 Witness Protection Review Committee. Regarding violent crime
553 investigation reimbursement, an expedited approval procedure
554 shall be established for rapid disbursement of funds in violent
555 crime emergency situations.
556 (c) As used in this section, “significant criminal gang
557 investigative efforts” eligible for proactive funding must
558 involve at a minimum an effort against a known criminal gang
559 that:
560 1. Involves multiple law enforcement agencies.
561 2. Reflects a dedicated significant investigative effort on
562 the part of each participating agency in personnel, time devoted
563 to the investigation, and agency resources dedicated to the
564 effort.
565 3. Reflects a dedicated commitment by a prosecuting
566 authority to ensure that cases developed by the investigation
567 will be timely and effectively prosecuted.
568 4. Demonstrates a strategy and commitment to dismantling
569 the criminal gang via seizures of assets, significant money
570 laundering and organized crime investigations and prosecutions,
571 or similar efforts.
572
573 The council may require satisfaction of additional elements, to
574 include reporting criminal investigative and criminal
575 intelligence information related to criminal gang activity and
576 members in a manner required by the department, as a
577 prerequisite for receiving proactive criminal gang funding.
578 (6) DRUG CONTROL STRATEGY AND CRIMINAL GANG COMMITTEE.—
579 (b) <u>Subject to funding provided to the department by the</u>
580 <u>Legislature,</u> the committee shall review and approve all requests

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581 for disbursement of funds from the Violent Crime Investigative
582 Emergency and Drug Control Strategy Implementation Account
583 within the Department of Law Enforcement Operating Trust Fund
584 and from other appropriations provided to the department by the
585 Legislature in the General Appropriations Act. An expedited
586 approval procedure shall be established for rapid disbursement
587 of funds in violent crime emergency situations. Committee
588 meetings may be conducted by conference call, teleconferencing,
589 or similar technology.
590 (c) Those receiving any proactive funding provided by the
591 council through the committee shall ~~be required to~~ report the
592 results of the investigations to the council once the
593 investigation has been completed. The committee shall also
594 require ongoing status reports on ongoing investigations using
595 such findings in its closed sessions and may require a recipient
596 to return all or any portion of unexpended proactive funds to
597 the council.
598 (8) VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.—
599 (a) The Victim and Witness Protection Review Committee is
600 created within the Florida Violent Crime and Drug Control
601 Council, consisting of the statewide prosecutor or a state
602 attorney, a sheriff, a chief of police, and the designee of the
603 executive director of the Department of Law Enforcement. The
604 committee shall be appointed from the membership of the council
605 by the chair of the council after the chair has consulted with
606 the executive director of the Department of Law Enforcement.
607 Committee members shall meet in conjunction with the meetings of
608 the council or at other times as required by the department and
609 the chair. The committee meetings may be conducted by conference

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610 call, teleconferencing, or similar technology.
611 (b) Subject to funding provided to the department by the
612 Legislature, the committee shall:
613 1. Maintain and use criteria for disbursing funds to
614 reimburse law enforcement agencies for costs associated with
615 providing victim and witness temporary protective or temporary
616 relocation services.
617 2. Review and approve or deny, in whole or in part, all
618 reimbursement requests submitted by law enforcement agencies.
619 ~~(c) The committee may conduct its meeting by teleconference~~
620 ~~or conference phone calls when the chair of the committee finds~~
621 ~~that the need for reimbursement is such that delaying until the~~
622 ~~next scheduled council meeting will adversely affect the~~
623 ~~requesting agency's ability to provide the protection services.~~
624 Section 11. Paragraph (b) of subsection (2) and paragraph
625 (d) of subsection (4) of section 943.0435, Florida Statutes, are
626 amended to read:
627 943.0435 Sexual offenders required to register with the
628 department; penalty.—
629 (2) A sexual offender shall:
630 (b) Provide his or her name; date of birth; social security
631 number; race; sex; height; weight; hair and eye color; tattoos
632 or other identifying marks; fingerprints; photograph; occupation
633 and place of employment; address of permanent or legal residence
634 or address of any current temporary residence, within the state
635 or out of state, including a rural route address and a post
636 office box; if no permanent or temporary address, any transient
637 residence within the state, address, location or description,
638 and dates of any current or known future temporary residence

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639 within the state or out of state; home telephone number and any
640 cellular telephone number; any electronic mail address and any
641 instant message name required to be provided pursuant to
642 paragraph (4)(d); date and place of each conviction; and a brief
643 description of the crime or crimes committed by the offender. A
644 post office box shall not be provided in lieu of a physical
645 residential address.
646 1. If the sexual offender’s place of residence is a motor
647 vehicle, trailer, mobile home, or manufactured home, as defined
648 in chapter 320, the sexual offender shall also provide to the
649 department through the sheriff’s office written notice of the
650 vehicle identification number; the license tag number; the
651 registration number; and a description, including color scheme,
652 of the motor vehicle, trailer, mobile home, or manufactured
653 home. If the sexual offender’s place of residence is a vessel,
654 live-aboard vessel, or houseboat, as defined in chapter 327, the
655 sexual offender shall also provide to the department written
656 notice of the hull identification number; the manufacturer’s
657 serial number; the name of the vessel, live-aboard vessel, or
658 houseboat; the registration number; and a description, including
659 color scheme, of the vessel, live-aboard vessel, or houseboat.
660 2. If the sexual offender is enrolled, employed, or
661 carrying on a vocation at an institution of higher education in
662 this state, the sexual offender shall also provide to the
663 department through the sheriff’s office the name, address, and
664 county of each institution, including each campus attended, and
665 the sexual offender’s enrollment or employment status. Each
666 change in enrollment or employment status shall be reported in
667 person at the sheriff’s office, within 48 hours after any change

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668 in status. The sheriff shall promptly notify each institution of
669 the sexual offender's presence and any change in the sexual
670 offender's enrollment or employment status.
671
672 When a sexual offender reports at the sheriff's office, the
673 sheriff shall take a photograph and a set of fingerprints of the
674 offender and forward the photographs and fingerprints to the
675 department, along with the information provided by the sexual
676 offender. The sheriff shall promptly provide to the department
677 the information received from the sexual offender.
678 (4)
679 (d) A sexual offender must register any electronic mail
680 address or instant message name with the department before ~~prior~~
681 ~~to~~ using such electronic mail address or instant message name ~~on~~
682 ~~or after October 1, 2007~~. The department shall establish an
683 online system through which sexual offenders may securely access
684 and update all electronic mail address and instant message name
685 information.
686 Section 12. Section 943.04351, Florida Statutes, is amended
687 to read:
688 943.04351 Search of registration information regarding
689 sexual predators and sexual offenders required before ~~prior to~~
690 appointment or employment.—A state agency or governmental
691 subdivision, before ~~prior to~~ making any decision to appoint or
692 employ a person to work, whether for compensation or as a
693 volunteer, at any park, playground, day care center, or other
694 place where children regularly congregate, must conduct a search
695 of that person's name or other identifying information against
696 the registration information regarding sexual predators and

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697 sexual offenders through the Dru Sjodin National Sexual Offender
698 Public Website maintained by the United States Department of
699 Justice. If for any reason that site is not available, a search
700 of the registration information regarding sexual predators and
701 sexual offenders maintained by the Department of Law Enforcement
702 under s. 943.043 shall be performed. ~~The agency or governmental~~
703 ~~subdivision may conduct the search using the Internet site~~
704 ~~maintained by the Department of Law Enforcement.~~ This section
705 does not apply to those positions or appointments within a state
706 agency or governmental subdivision for which a state and
707 national criminal history background check is conducted.
708 Section 13. Paragraph (a) of subsection (2) of section
709 943.0438, Florida Statutes, is amended to read:
710 943.0438 Athletic coaches for independent sanctioning
711 authorities.—
712 (2) An independent sanctioning authority shall:
713 (a)1. Conduct a background screening of each current and
714 prospective athletic coach. No person shall be authorized by the
715 independent sanctioning authority to act as an athletic coach
716 ~~after July 1, 2010,~~ unless a background screening has been
717 conducted and did not result in disqualification under paragraph
718 (b). Background screenings shall be conducted annually for each
719 athletic coach. For purposes of this section, a background
720 screening shall be conducted with a search of the athletic
721 coach’s name or other identifying information against state and
722 federal registries of sexual predators and sexual offenders,
723 which are available to the public on Internet sites provided by:
724 a. The Department of Law Enforcement under s. 943.043; and
725 b. The Attorney General of the United States under 42

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726 U.S.C. s. 16920.
727 2. For purposes of this section, a background screening
728 conducted by a commercial consumer reporting agency in
729 compliance with the federal Fair Credit Reporting Act using the
730 identifying information referenced in subparagraph 1. and that
731 includes searching that information against the sexual predator
732 and sexual offender Internet sites listed in sub-subparagraphs
733 1.a. and b. shall be deemed in compliance with the requirements
734 of this section.
735 Section 14. Section 943.045, Florida Statutes, is amended
736 to read:
737 943.045 Definitions; ss. 943.045-943.08.—The following
738 words and phrases as used in ss. 943.045-943.08 shall have the
739 following meanings:
740 (13) ~~(1)~~ "Criminal justice information system" means a
741 system, including the equipment, facilities, procedures,
742 agreements, and organizations thereof, for the collection,
743 processing, preservation, or dissemination of criminal justice
744 information.
745 (2) "Administration of criminal justice" means performing
746 functions of detection, apprehension, detention, pretrial
747 release, posttrial release, prosecution, adjudication,
748 correctional supervision, or rehabilitation of accused persons
749 or criminal offenders by governmental agencies. The
750 administration of criminal justice includes criminal
751 identification activities and the collection, processing,
752 storage, and dissemination of criminal justice information by
753 governmental agencies.
754 (3) "Biometric" refers to impressions, reproductions, or

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755 representations of human physical characteristics, such as DNA,
756 fingerprints, palm prints, footprints, retina and iris images,
757 voice patterns, and facial images, such as booking and driver
758 license photographs, that, when measured and analyzed, can be
759 used for identification purposes.
760 (12) ~~(3)~~ "Criminal justice information" means information on
761 individuals collected or disseminated as a result of arrest,
762 detention, or the initiation of a criminal proceeding by
763 criminal justice agencies, including arrest record information,
764 correctional and release information, criminal history record
765 information, conviction record information, offender
766 registration information, identification record information, and
767 wanted persons record information. The term does ~~shall~~ not
768 include statistical or analytical records or reports in which
769 individuals are not identified and from which their identities
770 are not ascertainable. The term does ~~shall~~ not include criminal
771 intelligence information or criminal investigative information.
772 (5) ~~(4)~~ "Criminal history information" means information
773 collected by criminal justice agencies on persons, which
774 information consists of identifiable descriptions and notations
775 of arrests, detentions, indictments, informations, or other
776 formal criminal charges and the disposition thereof. The term
777 does not include identification information, such as biometric
778 ~~fingerprint~~ records, if the information does not indicate
779 involvement of the person in the criminal justice system.
780 (7) ~~(5)~~ "Criminal intelligence information" means
781 information collected by a criminal justice agency with respect
782 to an identifiable person or group in an effort to anticipate,
783 prevent, or monitor possible criminal activity.

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784 (9) ~~(6)~~ “Criminal investigative information” means
785 information about an identifiable person or group~~,~~ compiled by a
786 criminal justice agency in the course of conducting a criminal
787 investigation of a specific criminal act or omission, including,
788 but not limited to, information derived from laboratory tests,
789 reports of investigators, informants, or any type of
790 surveillance.
791 (17) ~~(7)~~ “Record” means any and all documents, writings,
792 computer memory, and microfilm, and any other form in which
793 facts are memorialized, irrespective of whether such record is
794 an official record, public record, or admissible record or is
795 merely a copy thereof.
796 (4) ~~(8)~~ “Comparable ordinance violation” means a violation
797 of an ordinance having all the essential elements of a statutory
798 misdemeanor or felony.
799 (14) ~~(9)~~ “Disposition” means details relating to the
800 termination of an individual criminal defendant’s relationship
801 with a criminal justice agency, including information disclosing
802 that the law enforcement agency has elected not to refer a
803 matter to a prosecutor or that a prosecutor has elected not to
804 commence criminal proceedings, that a court has dealt with the
805 individual, or that the individual has been incarcerated,
806 paroled, pardoned, released, or granted clemency. Dispositions
807 include, but are not limited to, acquittals, dismissals, pleas,
808 convictions, adjudications, youthful offender determinations,
809 determinations of mental capacity, placements in intervention
810 programs, pardons, probations, paroles, and releases from
811 correctional institutions.
812 (11) ~~(10)~~ “Criminal justice agency” means:

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813 (a) A court.
814 (b) The department.
815 (c) The Department of Juvenile Justice.
816 (d) The protective investigations component of the
817 Department of Children and Families ~~Family Services~~, which
818 investigates the crimes of abuse and neglect.
819 (e) Any other governmental agency or subunit thereof that
820 ~~which~~ performs the administration of criminal justice pursuant
821 to a statute or rule of court and that ~~which~~ allocates a
822 substantial part of its annual budget to the administration of
823 criminal justice.
824 (15) ~~(11)~~ "Disseminate ~~Dissemination~~" means to transmit ~~the~~
825 ~~transmission of~~ information, whether orally or in writing.
826 (18) ~~(12)~~ "Research or statistical project" means any
827 program, project, or component the purpose of which is to
828 develop, measure, evaluate, or otherwise advance the state of
829 knowledge in a particular area. The term does not include
830 intelligence, investigative, or other information-gathering
831 activities in which information is obtained for purposes
832 directly related to enforcement of the criminal laws.
833 (16) ~~(13)~~ "Expunction of a criminal history record" means
834 the court-ordered physical destruction or obliteration of a
835 record or portion of a record by any criminal justice agency
836 having custody thereof, or as prescribed by the court issuing
837 the order, except that criminal history records in the custody
838 of the department must be retained in all cases for purposes of
839 evaluating subsequent requests by the subject of the record for
840 sealing or expunction, or for purposes of recreating the record
841 in the event an order to expunge is vacated by a court of

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842 competent jurisdiction.
843 (19)~~(14)~~ “Sealing of a criminal history record” means the
844 preservation of a record under such circumstances that it is
845 secure and inaccessible to any person not having a legal right
846 of access to the record or the information contained and
847 preserved therein.
848 (1)~~(15)~~ “Adjudicated guilty” means that a person has been
849 found guilty and that the court has not withheld an adjudication
850 of guilt.
851 (8)~~(16)~~ “Criminal intelligence information system” means a
852 system, including the equipment, facilities, procedures,
853 agreements ~~agreement~~, and organizations thereof, for the
854 collection, processing, preservation, or dissemination of
855 criminal intelligence information.
856 (10)~~(17)~~ “Criminal investigative information system” means
857 a system, including the equipment, facilities, procedures,
858 agreements, and organizations thereof, for the collection,
859 processing, preservation, or dissemination of criminal
860 investigative information.
861 (6)~~(18)~~ “Criminal history record” means any nonjudicial
862 record maintained by a criminal justice agency containing
863 criminal history information.
864 Section 15. Paragraphs (b), (c), (d), (e), (g), and (h) of
865 subsection (2) and subsection (3) of section 943.05, Florida
866 Statutes, are amended, and subsection (4) of that section is
867 reenacted, to read:
868 943.05 Criminal Justice Information Program; duties; crime
869 reports.—
870 (2) The program shall:

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871 (b) Establish, implement, and maintain a statewide
872 automated biometric ~~fingerprint~~ identification system capable
873 of, but not limited to, reading, classifying, matching, and
874 storing fingerprints, rolled fingerprints, ~~and~~ latent
875 fingerprints, palm prints, and facial images. Information
876 contained within the system shall be available to every criminal
877 justice agency that is responsible for the administration of
878 criminal justice.
879 (c) Initiate a crime information system that shall be
880 responsible for:
881 1. Preparing and disseminating semiannual reports to the
882 Governor, the Legislature, all criminal justice agencies, and,
883 upon request, the public. Each report shall include, but not be
884 limited to, types of crime reported, offenders, arrests, and
885 victims.
886 2. Upon request, providing other states and federal
887 criminal justice agencies with Florida crime data. ~~Where~~
888 ~~convenient, such data shall conform to definitions established~~
889 ~~by the requesting agencies.~~
890 3. In cooperation with other criminal justice agencies,
891 developing and maintaining an offender-based transaction system.
892 (d) Adopt rules to effectively and efficiently implement,
893 administer, manage, maintain, and use the automated biometric
894 ~~fingerprint~~ identification system and uniform offense reports
895 and arrest reports. The rules shall be considered minimum
896 requirements and shall not preclude a criminal justice agency
897 from implementing its own enhancements. However, rules and forms
898 prescribing uniform arrest or probable cause affidavits and
899 alcohol influence reports to be used by all law enforcement

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900 agencies in making DUI arrests under s. 316.193 shall be
901 adopted~~,~~ and ~~shall be~~ used by all law enforcement agencies in
902 this state. ~~The rules and forms prescribing such uniform~~
903 ~~affidavits and reports shall be adopted and implemented by July~~
904 ~~1, 2004.~~ Failure to use these uniform affidavits and reports,
905 however, shall not prohibit prosecution under s. 316.193.
906 (e) Establish, implement, and maintain a Domestic and
907 Repeat Violence Injunction Statewide Verification System capable
908 of electronically transmitting information to and between
909 criminal justice agencies relating to domestic violence
910 injunctions, injunctions to prevent child abuse issued under
911 chapter 39, and repeat violence injunctions issued by the courts
912 throughout the state. Such information must include, but is not
913 limited to, information as to the existence and status of any
914 such injunction for verification purposes.
915 (g) Upon official written request, and subject to the
916 department having sufficient funds and equipment to participate
917 in such a request, from the agency executive director or
918 secretary or from his or her designee, or from qualified
919 entities participating in the volunteer and employee criminal
920 history screening system under s. 943.0542, or as otherwise
921 required by law, retain fingerprints submitted by criminal and
922 noncriminal justice agencies to the department for a criminal
923 history background screening as provided by rule and enter the
924 fingerprints in the statewide automated biometric ~~fingerprint~~
925 identification system authorized by paragraph (b). Such
926 fingerprints shall thereafter be available for all purposes and
927 uses authorized for arrest fingerprint submissions entered into
928 the statewide automated biometric ~~fingerprint~~ identification

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929 system pursuant to s. 943.051.
930 (h) For each agency or qualified entity that officially
931 requests retention of fingerprints or for which retention is
932 otherwise required by law, search all arrest fingerprint
933 submissions received under s. 943.051 against the fingerprints
934 retained in the statewide automated biometric ~~fingerprint~~
935 identification system under paragraph (g).
936 1. Any arrest record that is identified with the retained
937 fingerprints of a person subject to background screening as
938 provided in paragraph (g) shall be reported to the appropriate
939 agency or qualified entity.
940 2. To participate in this search process, agencies or
941 qualified entities must notify each person fingerprinted that
942 his or her fingerprints will be retained, pay an annual fee to
943 the department unless otherwise provided by law, and inform the
944 department of any change in the affiliation, employment, or
945 contractual status of each person whose fingerprints are
946 retained under paragraph (g) if such change removes or
947 eliminates the agency or qualified entity's basis or need for
948 receiving reports of any arrest of that person, so that the
949 agency or qualified entity is not obligated to pay the upcoming
950 annual fee for the retention and searching of that person's
951 fingerprints to the department. The department shall adopt a
952 rule setting the amount of the annual fee to be imposed upon
953 each participating agency or qualified entity for performing
954 these searches and establishing the procedures for the retention
955 of fingerprints and the dissemination of search results. The fee
956 may be borne by the agency, qualified entity, or person subject
957 to fingerprint retention or as otherwise provided by law.

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958 Consistent with the recognition of criminal justice agencies
959 expressed in s. 943.053(3), these services shall be provided to
960 criminal justice agencies for criminal justice purposes free of
961 charge. Qualified entities that elect to participate in the
962 fingerprint retention and search process are required to timely
963 remit the fee to the department by a payment mechanism approved
964 by the department. If requested by the qualified entity, and
965 with the approval of the department, such fees may be timely
966 remitted to the department by a qualified entity upon receipt of
967 an invoice for such fees from the department. Failure of a
968 qualified entity to pay the amount due on a timely basis or as
969 invoiced by the department may result in the refusal by the
970 department to permit the qualified entity to continue to
971 participate in the fingerprint retention and search process
972 until all fees due and owing are paid.
973 3. Agencies that participate in the fingerprint retention
974 and search process may adopt rules pursuant to ss. 120.536(1)
975 and 120.54 to require employers to keep the agency informed of
976 any change in the affiliation, employment, or contractual status
977 of each person whose fingerprints are retained under paragraph
978 (g) if such change removes or eliminates the agency's basis or
979 need for receiving reports of any arrest of that person, so that
980 the agency is not obligated to pay the upcoming annual fee for
981 the retention and searching of that person's fingerprints to the
982 department.
983 (3) If fingerprints submitted to the department for
984 background screening, whether retained or not retained, are
985 identified with the fingerprints of a person having a criminal
986 history record, such fingerprints may thereafter be available

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987 for all purposes and uses authorized for arrest fingerprints
988 ~~fingerprint cards~~, including, but not limited to, entry into the
989 statewide automated biometric ~~fingerprint~~ identification system
990 to augment or replace the fingerprints that identify the
991 criminal history record.
992 (4) Upon notification that a federal fingerprint retention
993 program is in effect, and subject to the department being funded
994 and equipped to participate in such a program, the department
995 shall, if state and national criminal history records checks and
996 retention of submitted prints are authorized or required by law,
997 retain the fingerprints as provided in paragraphs (2)(g) and (h)
998 and advise the Federal Bureau of Investigation to retain the
999 fingerprints at the national level for searching against arrest
1000 fingerprint submissions received at the national level.
1001 Section 16. Subsections (2) and (3) of section 943.051,
1002 Florida Statutes, are amended to read:
1003 943.051 Criminal justice information; collection and
1004 storage; fingerprinting.—
1005 (2) The fingerprints, palm prints, and facial images of
1006 each adult person charged with or convicted of a felony,
1007 misdemeanor, or violation of a comparable ordinance by a state,
1008 county, municipal, or other law enforcement agency shall be
1009 captured ~~fingerprinted,~~ and electronically ~~such fingerprints~~
1010 ~~shall be~~ submitted to the department in the manner prescribed by
1011 rule. Exceptions to this requirement for specified misdemeanors
1012 or comparable ordinance violations may be made by the department
1013 by rule.
1014 (3)(a) The fingerprints, palm prints, and facial images of
1015 a minor who is charged with or found to have committed an

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1016 offense that would be a felony if committed by an adult shall be
1017 captured ~~fingerprinted~~ and ~~the fingerprints shall be~~
1018 electronically submitted to the department in the manner
1019 prescribed by rule.
1020 (b) A minor who is charged with or found to have committed
1021 the following offenses shall be fingerprinted and the
1022 fingerprints shall be submitted electronically to the
1023 department, unless the minor is issued a civil citation pursuant
1024 to s. 985.12:
1025 1. Assault, as defined in s. 784.011.
1026 2. Battery, as defined in s. 784.03.
1027 3. Carrying a concealed weapon, as defined in s. 790.01(1).
1028 4. Unlawful use of destructive devices or bombs, as defined
1029 in s. 790.1615(1).
1030 5. Neglect ~~Negligent treatment~~ of a child ~~children~~, as
1031 defined in s. 827.03(1)(e) ~~former s. 827.05~~.
1032 6. Assault or battery on a law enforcement officer, a
1033 firefighter, or other specified officers, as defined in s.
1034 784.07(2)(a) and (b).
1035 7. Open carrying of a weapon, as defined in s. 790.053.
1036 8. Exposure of sexual organs, as defined in s. 800.03.
1037 9. Unlawful possession of a firearm, as defined in s.
1038 790.22(5).
1039 10. Petit theft, as defined in s. 812.014(3).
1040 11. Cruelty to animals, as defined in s. 828.12(1).
1041 12. Arson, as defined in s. 806.031(1).
1042 13. Unlawful possession or discharge of a weapon or firearm
1043 at a school-sponsored event or on school property, as provided
1044 ~~defined~~ in s. 790.115.

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1045 Section 17. Section 943.052, Florida Statutes, is amended
1046 to read:
1047 943.052 Disposition reporting.—The Criminal Justice
1048 Information Program shall, by rule, establish procedures and a
1049 format for each criminal justice agency to monitor its records
1050 and submit reports, as provided by this section, to the program.
1051 The disposition report shall be developed by the program and
1052 shall include the offender-based transaction system number.
1053 (1) Each law enforcement officer or booking officer shall
1054 include with submitted arrest information and fingerprints ~~on~~
1055 ~~the arrest fingerprint card~~ the offender-based transaction
1056 system number.
1057 (2) Each clerk of the court shall submit the uniform
1058 dispositions to the program or in a manner acceptable to the
1059 program. The report must ~~shall~~ be submitted at least once a
1060 month ~~and, when acceptable by the program, may be submitted~~ in
1061 an automated format acceptable to the program. The disposition
1062 report is mandatory for each disposition ~~dispositions~~ relating
1063 to an adult offender and, ~~offenders only.~~ beginning July 1,
1064 2008, ~~a disposition report~~ for dispositions ~~each disposition~~
1065 relating to ~~a~~ minor offenders ~~offender is mandatory~~.
1066 (3)(a) The Department of Corrections shall submit
1067 fingerprints, palm prints, and facial images ~~information~~ to the
1068 program relating to the receipt ~~or discharge~~ of any person who
1069 is sentenced to a state correctional institution.
1070 (b) The Department of Juvenile Justice shall submit
1071 fingerprints, palm prints, and facial images ~~information~~ to the
1072 program relating to the receipt ~~or discharge~~ of any minor who is
1073 found to have committed an offense that would be a felony if

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1074 committed by an adult, or is found to have committed a
1075 misdemeanor specified in s. 943.051(3), and is committed to the
1076 custody of the Department of Juvenile Justice.
1077 Section 18. Subsection (2), paragraph (a) of subsection
1078 (3), subsection (11), and paragraphs (a) and (c) of subsection
1079 (13) of section 943.053, Florida Statutes, are amended to read:
1080 943.053 Dissemination of criminal justice information;
1081 fees.—
1082 (2) Criminal justice information derived from federal
1083 criminal justice information systems or criminal justice
1084 information systems of other states shall not be disseminated in
1085 a manner inconsistent with the rules instituted by the National
1086 Crime Prevention and Privacy Compact, as approved and ratified
1087 in s. 943.0543, or with other applicable laws~~, regulations,~~ or
1088 rules ~~of the originating agency~~.
1089 (3)(a) Criminal history information, including information
1090 relating to minors, compiled by the Criminal Justice Information
1091 Program from intrastate sources shall be available on a priority
1092 basis to criminal justice agencies for criminal justice purposes
1093 free of charge. After providing the program with all known
1094 personal identifying information, persons in the private sector
1095 and noncriminal justice agencies may be provided criminal
1096 history information upon tender of fees as established in this
1097 subsection and in the manner prescribed by rule of the
1098 Department of Law Enforcement. Any access to criminal history
1099 information by the private sector or noncriminal justice
1100 agencies as provided in this subsection shall be assessed
1101 without regard to the quantity or category of criminal history
1102 record information requested.

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1103 (11) A criminal justice agency that is authorized under
1104 federal rules or law to conduct a criminal history background
1105 check on an agency employee who is not certified by the Criminal
1106 Justice Standards and Training Commission under s. 943.12 may
1107 submit to the department the fingerprints of the noncertified
1108 employee to obtain state and national criminal history
1109 information. The fingerprints shall be retained and entered in
1110 the statewide automated biometric ~~fingerprint~~ identification
1111 system authorized by s. 943.05 and shall be available for all
1112 purposes and uses authorized for arrest fingerprint submissions
1113 entered in the statewide automated biometric ~~fingerprint~~
1114 identification system pursuant to s. 943.051. The department
1115 shall search all arrest fingerprint submissions received
1116 pursuant to s. 943.051 against the fingerprints retained in the
1117 statewide automated biometric ~~fingerprint~~ identification system
1118 pursuant to this section. In addition to all purposes and uses
1119 authorized for arrest fingerprint submissions for which
1120 submitted fingerprints may be used, any arrest record that is
1121 identified with the retained employee fingerprints must be
1122 reported to the submitting employing agency.
1123 (13)(a) For the department to accept an electronic
1124 fingerprint submission from:
1125 1. A private vendor engaged in the business of providing
1126 electronic fingerprint submission; or
1127 2. A private entity or public agency that submits the
1128 fingerprints of its own employees, volunteers, contractors,
1129 associates, or applicants for the purpose of conducting a
1130 required or permitted criminal history background check,
1131

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1132 the vendor, entity, or agency submitting the fingerprints must
1133 enter into an agreement with the department that, at a minimum,
1134 obligates the vendor, entity, or agency to comply with certain
1135 specified standards to ensure that all persons having direct or
1136 indirect responsibility for verifying identification, taking
1137 fingerprints, ~~identifying,~~ and electronically submitting
1138 fingerprints are qualified to do so and will ensure the
1139 integrity and security of all personal information gathered from
1140 the persons whose fingerprints are submitted.
1141 (c) The requirement for entering into an agreement with the
1142 department for this purpose does not apply to criminal justice
1143 agencies ~~as defined at s. 943.045(10)~~.
1144 Section 19. Paragraph (b) of subsection (1) of section
1145 943.054, Florida Statutes, is amended to read:
1146 943.054 Exchange of federal criminal history records and
1147 information.—
1148 (1) Criminal history information derived from any United
1149 States Department of Justice criminal justice information system
1150 is available:
1151 (b) Pursuant to applicable federal laws and regulations,
1152 including those instituted by the National Crime Prevention and
1153 Privacy Compact, for use in connection with licensing or local
1154 or state employment or for such other uses only as authorized by
1155 federal or state laws which have been approved by the United
1156 States Attorney General or the Attorney General's designee. ~~When~~
1157 ~~no active prosecution of the charge is known to be pending,~~
1158 ~~arrest data more than 1 year old is not disseminated unless~~
1159 ~~accompanied by information relating to the disposition of that~~
1160 ~~arrest.~~

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1161 Section 20. Paragraphs (b) and (c) of subsection (2) of
1162 section 943.0542, Florida Statutes, are amended to read:
1163 943.0542 Access to criminal history information provided by
1164 the department to qualified entities.—
1165 (2)
1166 (b) A qualified entity shall submit to the department a
1167 request for screening an employee or volunteer or person
1168 applying to be an employee or volunteer by submitting
1169 fingerprints ~~on a completed fingerprint card~~, or the request may
1170 be submitted electronically. The qualified entity must maintain
1171 a signed waiver allowing the release of the state and national
1172 criminal history record information to the qualified entity.
1173 (c) Each such request must be accompanied by payment of a
1174 fee for a statewide criminal history check by the department
1175 established by s. 943.053, plus the amount currently prescribed
1176 by the Federal Bureau of Investigation for the national criminal
1177 history check in compliance with the National Child Protection
1178 Act of 1993, as amended. Payments must be made in the manner
1179 prescribed by the department by rule.
1180 Section 21. Subsection (2) of section 943.0544, Florida
1181 Statutes, is amended to read:
1182 943.0544 Criminal justice information network and
1183 information management.—
1184 (2) The department may develop, implement, maintain,
1185 manage, and operate the Criminal Justice Network, which shall be
1186 an intrastate network for agency ~~intraagency~~ information and
1187 data sharing ~~data-sharing network~~ for use by the state's
1188 criminal justice agencies. The department, in consultation with
1189 the Criminal and Juvenile Justice Information Systems Council,

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1190 shall determine and regulate access to the Criminal Justice
1191 Network by the state's criminal justice agencies.
1192 Section 22. Section 943.055, Florida Statutes, is amended
1193 to read:
1194 943.055 Records and audit.—
1195 (1) Criminal justice agencies disseminating criminal
1196 justice information derived from a Department of Law Enforcement
1197 criminal justice information system shall maintain a record of
1198 dissemination in accordance with the user agreements in s.
1199 943.0525 ~~rules adopted by the Department of Law Enforcement~~.
1200 (2) The Criminal Justice Information Program shall arrange
1201 for any audits of state and local criminal justice and
1202 noncriminal justice agencies necessary to ensure ~~assure~~
1203 compliance with federal laws and regulations, this chapter, and
1204 rules of the Department of Law Enforcement pertaining to the
1205 establishment, operation, security, and maintenance of criminal
1206 justice information systems.
1207 Section 23. Subsection (2) of section 943.056, Florida
1208 Statutes, is amended to read:
1209 943.056 ~~Access to, review and challenge of,~~ Criminal
1210 history records; access, review, and challenge.—
1211 (2) Criminal justice agencies subject to chapter 120 shall
1212 be subject to hearings regarding those portions of criminal
1213 history records for which the agency served as originator. When
1214 it is determined what the record should contain in order to be
1215 complete and accurate, the Criminal Justice Information Program
1216 shall be advised and shall conform state ~~and federal~~ records to
1217 the corrected criminal history record information and shall
1218 request that the federal records be corrected.

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1219 Section 24. Paragraphs (b) and (c) of subsection (3) and
1220 subsections (5) and (6) of section 943.0582, Florida Statutes,
1221 are amended to read:
1222 943.0582 Prearrest, postarrest, or teen court diversion
1223 program expunction.—
1224 (3) The department shall expunge the nonjudicial arrest
1225 record of a minor who has successfully completed a prearrest or
1226 postarrest diversion program if that minor:
1227 (b) Submits the application for prearrest or postarrest
1228 diversion expunction no later than 12 ~~6~~ months after completion
1229 of the diversion program.
1230 (c) Submits to the department, with the application, an
1231 official written statement from the state attorney for the
1232 county in which the arrest occurred certifying that he or she
1233 has successfully completed that county's prearrest or postarrest
1234 diversion program, ~~and~~ that his or her participation in the
1235 program was based on an arrest ~~is strictly limited to minors~~
1236 ~~arrested~~ for a nonviolent misdemeanor, and that he or she has
1237 ~~who have~~ not otherwise been charged with or found to have
1238 committed any criminal offense or comparable ordinance
1239 violation.
1240 ~~(5) This section operates retroactively to permit the~~
1241 ~~expunction of any nonjudicial record of the arrest of a minor~~
1242 ~~who has successfully completed a prearrest or postarrest~~
1243 ~~diversion program on or after July 1, 2000; however, in the case~~
1244 ~~of a minor whose completion of the program occurred before the~~
1245 ~~effective date of this section, the application for prearrest or~~
1246 ~~postarrest diversion expunction must be submitted within 6~~
1247 ~~months after the effective date of this section.~~

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1248 (5) ~~(6)~~ Expunction or sealing granted under this section
1249 does not prevent the minor who receives such relief from
1250 petitioning for the expunction or sealing of a later criminal
1251 history record as provided for in ss. 943.0585 and 943.059, if
1252 the minor is otherwise eligible under those sections.
1253 Section 25. Paragraph (b) of subsection (1), paragraph (f)
1254 of subsection (2), and paragraph (a) of subsection (4) of
1255 section 943.0585, Florida Statutes, are amended to read:
1256 943.0585 Court-ordered expunction of criminal history
1257 records.—The courts of this state have jurisdiction over their
1258 own procedures, including the maintenance, expunction, and
1259 correction of judicial records containing criminal history
1260 information to the extent such procedures are not inconsistent
1261 with the conditions, responsibilities, and duties established by
1262 this section. Any court of competent jurisdiction may order a
1263 criminal justice agency to expunge the criminal history record
1264 of a minor or an adult who complies with the requirements of
1265 this section. The court shall not order a criminal justice
1266 agency to expunge a criminal history record until the person
1267 seeking to expunge a criminal history record has applied for and
1268 received a certificate of eligibility for expunction pursuant to
1269 subsection (2). A criminal history record that relates to a
1270 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1271 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
1272 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
1273 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
1274 any violation specified as a predicate offense for registration
1275 as a sexual predator pursuant to s. 775.21, without regard to
1276 whether that offense alone is sufficient to require such

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1277 registration, or for registration as a sexual offender pursuant
1278 to s. 943.0435, may not be expunged, without regard to whether
1279 adjudication was withheld, if the defendant was found guilty of
1280 or pled guilty or nolo contendere to the offense, or if the
1281 defendant, as a minor, was found to have committed, or pled
1282 guilty or nolo contendere to committing, the offense as a
1283 delinquent act. The court may only order expunction of a
1284 criminal history record pertaining to one arrest or one incident
1285 of alleged criminal activity, except as provided in this
1286 section. The court may, at its sole discretion, order the
1287 expunction of a criminal history record pertaining to more than
1288 one arrest if the additional arrests directly relate to the
1289 original arrest. If the court intends to order the expunction of
1290 records pertaining to such additional arrests, such intent must
1291 be specified in the order. A criminal justice agency may not
1292 expunge any record pertaining to such additional arrests if the
1293 order to expunge does not articulate the intention of the court
1294 to expunge a record pertaining to more than one arrest. This
1295 section does not prevent the court from ordering the expunction
1296 of only a portion of a criminal history record pertaining to one
1297 arrest or one incident of alleged criminal activity.
1298 Notwithstanding any law to the contrary, a criminal justice
1299 agency may comply with laws, court orders, and official requests
1300 of other jurisdictions relating to expunction, correction, or
1301 confidential handling of criminal history records or information
1302 derived therefrom. This section does not confer any right to the
1303 expunction of any criminal history record, and any request for
1304 expunction of a criminal history record may be denied at the
1305 sole discretion of the court.

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1306 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
1307 petition to a court to expunge a criminal history record is
1308 complete only when accompanied by:
1309 (b) The petitioner's sworn statement attesting that the
1310 petitioner:
1311 1. Has never, prior to the date on which the petition is
1312 filed, been adjudicated guilty of a criminal offense or
1313 comparable ordinance violation, or been adjudicated delinquent
1314 for committing any felony or a misdemeanor specified in s.
1315 943.051(3)(b).
1316 2. Has not been adjudicated guilty of, or adjudicated
1317 delinquent for committing, any of the acts stemming from the
1318 arrest or alleged criminal activity to which the petition
1319 pertains.
1320 3. Has never secured a prior sealing or expunction of a
1321 criminal history record under this section, s. 943.059, former
1322 s. 893.14, former s. 901.33, or former s. 943.058, ~~or from any~~
1323 ~~jurisdiction outside the state,~~ unless expunction is sought of a
1324 criminal history record previously sealed for 10 years pursuant
1325 to paragraph (2)(h) and the record is otherwise eligible for
1326 expunction.
1327 4. Is eligible for such an expunction to the best of his or
1328 her knowledge or belief and does not have any other petition to
1329 expunge or any petition to seal pending before any court.
1330
1331 Any person who knowingly provides false information on such
1332 sworn statement to the court commits a felony of the third
1333 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1334 775.084.

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1335 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
1336 petitioning the court to expunge a criminal history record, a
1337 person seeking to expunge a criminal history record shall apply
1338 to the department for a certificate of eligibility for
1339 expunction. The department shall, by rule adopted pursuant to
1340 chapter 120, establish procedures pertaining to the application
1341 for and issuance of certificates of eligibility for expunction.
1342 A certificate of eligibility for expunction is valid for 12
1343 months after the date stamped on the certificate when issued by
1344 the department. After that time, the petitioner must reapply to
1345 the department for a new certificate of eligibility. Eligibility
1346 for a renewed certification of eligibility must be based on the
1347 status of the applicant and the law in effect at the time of the
1348 renewal application. The department shall issue a certificate of
1349 eligibility for expunction to a person who is the subject of a
1350 criminal history record if that person:
1351 (f) Has never secured a prior sealing or expunction of a
1352 criminal history record under this section, s. 943.059, former
1353 s. 893.14, former s. 901.33, or former s. 943.058, unless
1354 expunction is sought of a criminal history record previously
1355 sealed for 10 years pursuant to paragraph (h) and the record is
1356 otherwise eligible for expunction.
1357 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
1358 criminal history record of a minor or an adult which is ordered
1359 expunged by a court of competent jurisdiction pursuant to this
1360 section must be physically destroyed or obliterated by any
1361 criminal justice agency having custody of such record; except
1362 that any criminal history record in the custody of the
1363 department must be retained in all cases. A criminal history

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1364 record ordered expunged that is retained by the department is
1365 confidential and exempt from the provisions of s. 119.07(1) and
1366 s. 24(a), Art. I of the State Constitution and not available to
1367 any person or entity except upon order of a court of competent
1368 jurisdiction. A criminal justice agency may retain a notation
1369 indicating compliance with an order to expunge.
1370 (a) The person who is the subject of a criminal history
1371 record that is expunged under this section or under other
1372 provisions of law, including former s. 893.14, former s. 901.33,
1373 and former s. 943.058, may lawfully deny or fail to acknowledge
1374 the arrests covered by the expunged record, except when the
1375 subject of the record:
1376 1. Is a candidate for employment with a criminal justice
1377 agency;
1378 2. Is a defendant in a criminal prosecution;
1379 3. Concurrently or subsequently petitions for relief under
1380 this section or s. 943.059;
1381 4. Is a candidate for admission to The Florida Bar;
1382 5. Is seeking to be employed or licensed by or to contract
1383 with the Department of Children and Families ~~Family Services~~,
1384 the Division of Vocational Rehabilitation within the Department
1385 of Education, the Agency for Health Care Administration, the
1386 Agency for Persons with Disabilities, the Department of Health,
1387 the Department of Elderly Affairs, or the Department of Juvenile
1388 Justice or to be employed or used by such contractor or licensee
1389 in a sensitive position having direct contact with children, the
1390 disabled, or the elderly; or
1391 6. Is seeking to be employed or licensed by the Department
1392 of Education, any district school board, any university

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1393 laboratory school, any charter school, any private or parochial
1394 school, or any local governmental entity that licenses child
1395 care facilities~~; or~~
1396 ~~7. Is seeking authorization from a seaport listed in s.~~
1397 ~~311.09 for employment within or access to one or more of such~~
1398 ~~seaports pursuant to s. 311.12~~.
1399 Section 26. Paragraph (b) of subsection (1), paragraph (e)
1400 of subsection (2), and paragraph (a) of subsection (4) of
1401 section 943.059, Florida Statutes, are amended to read:
1402 943.059 Court-ordered sealing of criminal history records.—
1403 The courts of this state shall continue to have jurisdiction
1404 over their own procedures, including the maintenance, sealing,
1405 and correction of judicial records containing criminal history
1406 information to the extent such procedures are not inconsistent
1407 with the conditions, responsibilities, and duties established by
1408 this section. Any court of competent jurisdiction may order a
1409 criminal justice agency to seal the criminal history record of a
1410 minor or an adult who complies with the requirements of this
1411 section. The court shall not order a criminal justice agency to
1412 seal a criminal history record until the person seeking to seal
1413 a criminal history record has applied for and received a
1414 certificate of eligibility for sealing pursuant to subsection
1415 (2). A criminal history record that relates to a violation of s.
1416 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
1417 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
1418 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
1419 916.1075, a violation enumerated in s. 907.041, or any violation
1420 specified as a predicate offense for registration as a sexual
1421 predator pursuant to s. 775.21, without regard to whether that

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1422 offense alone is sufficient to require such registration, or for
1423 registration as a sexual offender pursuant to s. 943.0435, may
1424 not be sealed, without regard to whether adjudication was
1425 withheld, if the defendant was found guilty of or pled guilty or
1426 nolo contendere to the offense, or if the defendant, as a minor,
1427 was found to have committed or pled guilty or nolo contendere to
1428 committing the offense as a delinquent act. The court may only
1429 order sealing of a criminal history record pertaining to one
1430 arrest or one incident of alleged criminal activity, except as
1431 provided in this section. The court may, at its sole discretion,
1432 order the sealing of a criminal history record pertaining to
1433 more than one arrest if the additional arrests directly relate
1434 to the original arrest. If the court intends to order the
1435 sealing of records pertaining to such additional arrests, such
1436 intent must be specified in the order. A criminal justice agency
1437 may not seal any record pertaining to such additional arrests if
1438 the order to seal does not articulate the intention of the court
1439 to seal records pertaining to more than one arrest. This section
1440 does not prevent the court from ordering the sealing of only a
1441 portion of a criminal history record pertaining to one arrest or
1442 one incident of alleged criminal activity. Notwithstanding any
1443 law to the contrary, a criminal justice agency may comply with
1444 laws, court orders, and official requests of other jurisdictions
1445 relating to sealing, correction, or confidential handling of
1446 criminal history records or information derived therefrom. This
1447 section does not confer any right to the sealing of any criminal
1448 history record, and any request for sealing a criminal history
1449 record may be denied at the sole discretion of the court.
1450 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each

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1451 petition to a court to seal a criminal history record is
1452 complete only when accompanied by:
1453 (b) The petitioner's sworn statement attesting that the
1454 petitioner:
1455 1. Has never, prior to the date on which the petition is
1456 filed, been adjudicated guilty of a criminal offense or
1457 comparable ordinance violation, or been adjudicated delinquent
1458 for committing any felony or a misdemeanor specified in s.
1459 943.051(3)(b).
1460 2. Has not been adjudicated guilty of or adjudicated
1461 delinquent for committing any of the acts stemming from the
1462 arrest or alleged criminal activity to which the petition to
1463 seal pertains.
1464 3. Has never secured a prior sealing or expunction of a
1465 criminal history record under this section, s. 943.0585, former
1466 s. 893.14, former s. 901.33, or former s. 943.058~~, or from any~~
1467 ~~jurisdiction outside the state~~.
1468 4. Is eligible for such a sealing to the best of his or her
1469 knowledge or belief and does not have any other petition to seal
1470 or any petition to expunge pending before any court.
1471
1472 Any person who knowingly provides false information on such
1473 sworn statement to the court commits a felony of the third
1474 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1475 775.084.
1476 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
1477 petitioning the court to seal a criminal history record, a
1478 person seeking to seal a criminal history record shall apply to
1479 the department for a certificate of eligibility for sealing. The

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1480 department shall, by rule adopted pursuant to chapter 120,
1481 establish procedures pertaining to the application for and
1482 issuance of certificates of eligibility for sealing. A
1483 certificate of eligibility for sealing is valid for 12 months
1484 after the date stamped on the certificate when issued by the
1485 department. After that time, the petitioner must reapply to the
1486 department for a new certificate of eligibility. Eligibility for
1487 a renewed certification of eligibility must be based on the
1488 status of the applicant and the law in effect at the time of the
1489 renewal application. The department shall issue a certificate of
1490 eligibility for sealing to a person who is the subject of a
1491 criminal history record provided that such person:
1492 (e) Has never secured a prior sealing or expunction of a
1493 criminal history record under this section, s. 943.0585, former
1494 s. 893.14, former s. 901.33, or former s. 943.058.
1495 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1496 history record of a minor or an adult which is ordered sealed by
1497 a court of competent jurisdiction pursuant to this section is
1498 confidential and exempt from the provisions of s. 119.07(1) and
1499 s. 24(a), Art. I of the State Constitution and is available only
1500 to the person who is the subject of the record, to the subject's
1501 attorney, to criminal justice agencies for their respective
1502 criminal justice purposes, which include conducting a criminal
1503 history background check for approval of firearms purchases or
1504 transfers as authorized by state or federal law, to judges in
1505 the state courts system for the purpose of assisting them in
1506 their case-related decisionmaking responsibilities, as set forth
1507 in s. 943.053(5), or to those entities set forth in
1508 subparagraphs (a)1., 4., 5., 6., and 8. for their respective

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1509 licensing, access authorization, and employment purposes.
1510 (a) The subject of a criminal history record sealed under
1511 this section or under other provisions of law, including former
1512 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1513 deny or fail to acknowledge the arrests covered by the sealed
1514 record, except when the subject of the record:
1515 1. Is a candidate for employment with a criminal justice
1516 agency;
1517 2. Is a defendant in a criminal prosecution;
1518 3. Concurrently or subsequently petitions for relief under
1519 this section or s. 943.0585;
1520 4. Is a candidate for admission to The Florida Bar;
1521 5. Is seeking to be employed or licensed by or to contract
1522 with the Department of Children and Families ~~Family Services~~,
1523 the Division of Vocational Rehabilitation within the Department
1524 of Education, the Agency for Health Care Administration, the
1525 Agency for Persons with Disabilities, the Department of Health,
1526 the Department of Elderly Affairs, or the Department of Juvenile
1527 Justice or to be employed or used by such contractor or licensee
1528 in a sensitive position having direct contact with children, the
1529 disabled, or the elderly;
1530 6. Is seeking to be employed or licensed by the Department
1531 of Education, any district school board, any university
1532 laboratory school, any charter school, any private or parochial
1533 school, or any local governmental entity that licenses child
1534 care facilities; or
1535 7. Is attempting to purchase a firearm from a licensed
1536 importer, licensed manufacturer, or licensed dealer and is
1537 subject to a criminal history check under state or federal law~~;~~

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1538 ~~or~~

1539 ~~8. Is seeking authorization from a Florida seaport~~
1540 ~~identified in s. 311.09 for employment within or access to one~~
1541 ~~or more of such seaports pursuant to s. 311.12~~.

1542 Section 27. Section 943.125, Florida Statutes, is amended
1543 to read:

1544 943.125 Accreditation of state and local law enforcement
1545 agencies, correctional facilities, public agency offices of
1546 inspectors general, and certain pretrial diversion programs ~~Law~~
1547 ~~enforcement agency accreditation~~; intent.—

1548 (1) It is the intent of the Legislature that law
1549 enforcement agencies, correctional facilities, public agency
1550 offices of inspectors general, and those agencies offering
1551 pretrial diversion programs within offices of the state
1552 attorneys, county government, or sheriff's offices in the state
1553 be upgraded and strengthened through the adoption of meaningful
1554 standards of operation for those agencies and their functions.

1555 (2) It is the further intent of the Legislature that these
1556 ~~law enforcement~~ agencies voluntarily adopt standards designed to
1557 promote enhanced professionalism:

1558 (a) For ~~equal and fair~~ law enforcement, to maximize the
1559 capability of law enforcement agencies to enforce the law and
1560 prevent and control criminal activities~~, and to increase~~
1561 ~~interagency cooperation throughout the state~~.

1562 (b) For correctional facilities, to maintain best practices
1563 for the care, custody, and control of inmates.

1564 (c) Within public agency offices of inspector general, to
1565 promote more effective scrutiny of public agency operations and
1566 greater accountability of those serving in those agencies.

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1567 (d) In the operation and management of pretrial diversion
1568 programs offered by and through the state attorney's offices,
1569 county government, or sheriff's offices.
1570 (3) ~~It is further the intent of~~ The Legislature also
1571 intends to encourage the continuation of a voluntary state
1572 accreditation program to facilitate the enhanced professionalism
1573 identified in subsection (2) ~~Florida Sheriffs Association and~~
1574 ~~the Florida Police Chiefs Association to develop, either jointly~~
1575 ~~or separately, a law enforcement agency accreditation program~~.
1576 Other than the staff support by the department as authorized in
1577 subsection (5), the accreditation program must be independent of
1578 any law enforcement agency, the Department of Corrections, the
1579 Florida Sheriffs Association, or the Florida Police Chiefs
1580 Association.
1581 (4) The law enforcement accreditation program must address,
1582 at a minimum, the following aspects of law enforcement:
1583 (a) Vehicle pursuits.
1584 (b) Seizure and forfeiture of contraband articles.
1585 (c) Recording and processing citizens' complaints.
1586 (d) Use of force.
1587 (e) Traffic stops.
1588 (f) Handling natural and manmade disasters.
1589 (g) Special operations.
1590 (h) Prisoner transfer.
1591 (i) Collection and preservation of evidence.
1592 (j) Recruitment and selection.
1593 (k) Officer training.
1594 (l) Performance evaluations.
1595 (m) Law enforcement disciplinary procedures and rights.

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1596 (n) Use of criminal investigative funds.
1597 (5) Subject to available funding, the department shall
1598 employ and assign adequate support staff to the Commission for
1599 Florida Law Enforcement Accreditation, Inc., and the Florida
1600 Corrections Accreditation Commission, Inc., in support of the
1601 accreditation programs established in this section.
1602 (6) Accreditation standards related to law enforcement and
1603 inspectors general used by the accreditation programs
1604 established in this section shall be determined by the
1605 Commission for Florida Law Enforcement Accreditation, Inc.
1606 Accreditation standards related to corrections functions and
1607 pretrial diversion programs shall be determined by the Florida
1608 Corrections Accreditation Commission, Inc.
1609 Section 28. Subsection (5) of section 943.13, Florida
1610 Statutes, is amended to read:
1611 943.13 Officers' minimum qualifications for employment or
1612 appointment.—On or after October 1, 1984, any person employed or
1613 appointed as a full-time, part-time, or auxiliary law
1614 enforcement officer or correctional officer; on or after October
1615 1, 1986, any person employed as a full-time, part-time, or
1616 auxiliary correctional probation officer; and on or after
1617 October 1, 1986, any person employed as a full-time, part-time,
1618 or auxiliary correctional officer by a private entity under
1619 contract to the Department of Corrections, to a county
1620 commission, or to the Department of Management Services shall:
1621 (5) Have documentation of his or her processed fingerprints
1622 on file with the employing agency or, if a private correctional
1623 officer, have documentation of his or her processed fingerprints
1624 on file with the Department of Corrections or the Criminal

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1625 Justice Standards and Training Commission. ~~If administrative~~
1626 ~~delays are caused by the department or the Federal Bureau of~~
1627 ~~Investigation and the person has complied with subsections (1)-~~
1628 ~~(4) and (6)-(9), he or she may be employed or appointed for a~~
1629 ~~period not to exceed 1 calendar year from the date he or she was~~
1630 ~~employed or appointed or until return of the processed~~
1631 ~~fingerprints documenting noncompliance with subsections (1)-(4)~~
1632 ~~or subsection (7), whichever occurs first. Beginning January 15,~~
1633 ~~2007,~~ The department shall retain and enter into the statewide
1634 automated biometric ~~fingerprint~~ identification system authorized
1635 by s. 943.05 all fingerprints submitted to the department as
1636 required by this section. Thereafter, the fingerprints shall be
1637 available for all purposes and uses authorized for arrest
1638 fingerprints ~~fingerprint cards~~ entered in the statewide
1639 automated biometric ~~fingerprint~~ identification system pursuant
1640 to s. 943.051. The department shall search all arrest
1641 fingerprints ~~fingerprint cards~~ received pursuant to s. 943.051
1642 against the fingerprints retained in the statewide automated
1643 biometric ~~fingerprint~~ identification system pursuant to this
1644 section and report to the employing agency any arrest records
1645 that are identified with the retained employee's fingerprints.
1646 ~~By January 1, 2008, a person who must meet minimum~~
1647 ~~qualifications as provided in this section and whose~~
1648 ~~fingerprints are not retained by the department pursuant to this~~
1649 ~~section must be refingerprinted.~~ These fingerprints must be
1650 forwarded to the department for processing and retention.
1651 Section 29. Subsection (1) of section 943.132, Florida
1652 Statutes, is amended to read:
1653 943.132 Implementation of federal qualified active or

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1654 qualified retired law enforcement concealed firearms provisions
1655 ~~Law Enforcement Officers Safety Act of 2004~~.—
1656 (1) The commission shall by rule establish the manner in
1657 which Title 18, 44 U.S.C. ss. 926B and 926C, ~~the federal Law~~
1658 ~~Enforcement Officers Safety Act of 2004,~~ relating to the
1659 carrying of concealed firearms by qualified law enforcement
1660 officers and qualified retired law enforcement officers, as
1661 defined in the act, shall be implemented in the state. In order
1662 to facilitate the implementation within the state of Title 18,
1663 44 U.S.C. ss. 926B and 926C, the commission shall ~~develop and~~
1664 authorize a uniform firearms proficiency verification card to be
1665 issued to persons who achieve a passing score on the firing
1666 range testing component as used ~~utilized~~ in the minimum firearms
1667 proficiency course applicable to active law enforcement
1668 officers, indicating the person's name and the date upon which
1669 he or she achieved the passing score. Each such card shall be
1670 issued only by firearms instructors with current certifications
1671 from ~~certified by~~ the commission.
1672 Section 30. Paragraph (a) of subsection (6) of section
1673 943.1395, Florida Statutes, is amended to read:
1674 943.1395 Certification for employment or appointment;
1675 concurrent certification; reemployment or reappointment;
1676 inactive status; revocation; suspension; investigation.—
1677 (6) The commission shall revoke the certification of any
1678 officer who is not in compliance with the provisions of s.
1679 943.13(4) or who intentionally executes a false affidavit
1680 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).
1681 (a) The commission shall cause to be investigated any
1682 ground for revocation from the employing agency pursuant to s.

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1683 943.139 or from the Governor, and the commission may cause
1684 ~~investigate~~ verifiable complaints to be investigated. Any
1685 investigation initiated by the commission pursuant to this
1686 section must be completed within 6 months after receipt of the
1687 completed report of the disciplinary or internal affairs
1688 investigation from the employing agency or Governor's office. A
1689 verifiable complaint shall be completed within 1 year after
1690 receipt of the complaint. An investigation shall be considered
1691 completed upon a finding by a probable cause panel of the
1692 commission. These time periods shall be tolled during the appeal
1693 of a termination or other disciplinary action through the
1694 administrative or judicial process or during the period of any
1695 criminal prosecution of the officer.
1696 Section 31. Subsection (2), paragraph (a) of subsection
1697 (3), and subsection (6) of section 943.1755, Florida Statutes,
1698 are amended to read:
1699 943.1755 Florida Criminal Justice Executive Institute.—
1700 (2) The institute is established within the Department of
1701 Law Enforcement and affiliated with the State University System.
1702 The Board of Governors of the State University System shall, in
1703 cooperation with the Department of Law Enforcement, determine
1704 the specific placement of the institute within the system. The
1705 Department of Law Enforcement maintains responsibility for
1706 delivering and facilitating all Florida Criminal Justice
1707 Executive Institute training.
1708 (3) The institute shall cooperate with the Criminal Justice
1709 Standards and Training Commission, and shall be guided and
1710 directed by a policy board composed of the following members:
1711 (a) The following persons shall serve on the policy board:

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1712 1. The executive director of the Department of Law
1713 Enforcement or a designee.
1714 2. The Secretary of Corrections or a designee.
1715 3. The Commissioner of Education or a designee ~~an employee~~
1716 ~~of the Department of Education designated by the Commissioner~~.
1717 4. The Secretary of Juvenile Justice or a designee.
1718 (6) Seven ~~Six~~ members constitute a quorum of the board.
1719 Section 32. Subsection (2) of section 943.1757, Florida
1720 Statutes, is amended to read:
1721 943.1757 Criminal justice executives; training; policy
1722 report.—
1723 (2) The policy board of the Criminal Justice Executive
1724 Institute shall identify the needs of criminal justice
1725 executives regarding issues related to diverse populations~~,~~ and
1726 ensure that such needs are met through appropriate training.
1727 ~~Beginning January 1, 1995, and every 5 years thereafter, the~~
1728 ~~policy board shall provide to the appropriate substantive~~
1729 ~~committees of each house a report describing executive training~~
1730 ~~needs. In addition,~~ The policy board shall prepare a biennial
1731 report to the appropriate substantive committees of each house
1732 describing how these needs are being met through training by the
1733 Criminal Justice Executive Institute.
1734 Section 33. Paragraph (a) of subsection (4) and subsection
1735 (9) of section 943.25, Florida Statutes, are amended to read:
1736 943.25 Criminal justice trust funds; source of funds; use
1737 of funds.—
1738 (4) The commission shall authorize the establishment of
1739 regional training councils to advise and assist the commission
1740 in developing and maintaining a plan assessing regional criminal

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1741 justice training needs and to act as an extension of the
1742 commission in the planning, programming, and budgeting for
1743 expenditures of the moneys in the Criminal Justice Standards and
1744 Training Trust Fund.
1745 (a) The commission may ~~shall~~ annually forward to each
1746 regional training council a list of its specific recommended
1747 priority issues or items to be funded. Each regional training
1748 council shall consider the recommendations of the commission in
1749 relation to the needs of the region and either include the
1750 recommendations in the region's budget plan or satisfactorily
1751 justify their exclusion.
1752 (9) Up to $250,000 per annum from the Criminal Justice
1753 Standards and Training Trust Fund may be used to develop,
1754 validate, update, and maintain test or assessment instruments,
1755 including computer-based testing, relating to selection,
1756 employment, training, or evaluation of officers, instructors, or
1757 courses. Pursuant to s. 943.12(4), (5), and (8), the commission
1758 shall adopt those test or assessment instruments which are
1759 appropriate and job-related as minimum requirements.
1760 Section 34. Subsection (14) of section 943.325, Florida
1761 Statutes, is amended to read:
1762 943.325 DNA database.—
1763 (14) RESULTS.—The results of a DNA analysis and the
1764 comparison of analytic results shall be released only to
1765 criminal justice agencies as defined in s. 943.045 ~~943.045(10),~~
1766 at the request of the agency. Otherwise, such information is
1767 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
1768 s. 24(a), Art. I of the State Constitution.
1769 Section 35. Section 943.33, Florida Statutes, is amended to

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1770 read:
1771 943.33 State-operated criminal analysis laboratories.—
1772 (1) The state-operated laboratories shall furnish
1773 laboratory service upon request to law enforcement officials in
1774 the state. The testing services of such laboratories by persons
1775 employed by or acting on behalf of the department shall also be
1776 available to any defendant in a criminal case upon showing of
1777 good cause and upon order of the court with jurisdiction in the
1778 case. When such service is to be made available to the
1779 defendant, the order shall be issued only after motion by the
1780 defendant and hearing held after notice with a copy of the
1781 motion being served upon the prosecutor and the state-operated
1782 laboratory from which the service is being sought.
1783 (2) For purposes of this section, "good cause" means a
1784 finding by the court that the laboratory testing service being
1785 sought by the defendant is anticipated to produce evidence that
1786 is relevant and material to the defense;~~,~~ that the service
1787 sought is one which is reasonably within the capacity of the
1788 state-operated laboratory, ~~and~~ will not be unduly burdensome
1789 upon the laboratory, will not impede normal daily laboratory
1790 operations, will not negatively impact laboratory certifications
1791 or equipment calibration, and does not violate the laboratory's
1792 national certification or accreditation standards; and that the
1793 service cannot be obtained from any qualified private or
1794 nonstate operated laboratory within the state or otherwise
1795 reasonably available to the defense.
1796 (3) This section does not authorize the presence of defense
1797 experts or others representing the defense inside a state-
1798 operated laboratory facility where actual testing or analysis is

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1799 occurring and does not authorize the use of state-operated
1800 laboratory equipment or facilities by defense experts or other
1801 persons not employed by or acting on the behalf of the
1802 department.
1803 (4) The court shall assess the costs of all testing,
1804 equipment operation, and personnel and any other costs directly
1805 attributable to the court-ordered testing ~~such service ordered~~
1806 ~~by the court~~ to the defendant or the defendant's counsel,
1807 whether public, private, or pro bono, who obtained the testing
1808 order ~~local public defender's office~~. The laboratory providing
1809 the service ordered shall include with the report of the
1810 analysis, comparison, or identification a statement of the costs
1811 of the service provided and shall provide a copy of all reports
1812 and analysis performed and cost statement being provided to the
1813 prosecutor in the case and the court.
1814 Section 36. Subsection (9) of section 943.68, Florida
1815 Statutes, is amended to read:
1816 943.68 Transportation and protective services.—
1817 (9) The department shall submit a report each August ~~July~~
1818 15 to the Governor, the Legislature, and the Cabinet~~,~~ detailing
1819 all transportation and protective services provided under
1820 subsections (1), (5), and (6) within the preceding fiscal year.
1821 Each report shall include a detailed accounting of the cost of
1822 such transportation and protective services, including the names
1823 of persons provided such services and the nature of state
1824 business performed.
1825 Section 37. Subsection (3) of section 285.18, Florida
1826 Statutes, is amended to read:
1827 285.18 Tribal council as governing body; powers and

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1828 duties.—
1829 (3) The law enforcement agencies of the Seminole Tribe of
1830 Florida and the Miccosukee Tribe of Indians of Florida shall
1831 have the authority of "criminal justice agencies" as defined in
1832 s. 945.045(11)(e) ~~943.045(10)(e)~~ and shall have the specific
1833 authority to negotiate agreements with the ~~Florida~~ Department of
1834 Law Enforcement, the United States Department of Justice, and
1835 other federal law enforcement agencies for access to criminal
1836 history records for the purpose of conducting ongoing criminal
1837 investigations and for the following governmental purposes:
1838 (a) Background investigations, which are required for
1839 employment by a tribal education program, tribal Head Start
1840 program, or tribal day care program as may be required by state
1841 or federal law.
1842 (b) Background investigations, which are required for
1843 employment by tribal law enforcement agencies.
1844 (c) Background investigations, which are required for
1845 employment by a tribal government.
1846 (d) Background investigations with respect to all
1847 employees, primary management officials, and all persons having
1848 a financial interest in a class II Indian tribal gaming
1849 enterprise to ensure eligibility as provided in the Indian
1850 Gaming Regulatory Act, 25 U.S.C. ss. 2701 et al.
1851
1852 With regard to those investigations authorized in paragraphs
1853 (a), (c), and (d), each such individual shall file a complete
1854 set of his or her fingerprints that have been taken by an
1855 authorized law enforcement officer, which set of fingerprints
1856 shall be submitted to the Department of Law Enforcement for

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1857 state processing and to the Federal Bureau of Investigation for
1858 federal processing. The cost of processing shall be borne by the
1859 applicant.
1860 Section 38. Paragraph (b) of subsection (2) of section
1861 414.40, Florida Statutes, is amended to read:
1862 414.40 Stop Inmate Fraud Program established; guidelines.—
1863 (2) The Department of Financial Services is directed to
1864 implement the Stop Inmate Fraud Program in accordance with the
1865 following guidelines:
1866 (b) Pursuant to these procedures, the program shall have
1867 access to records containing correctional information not exempt
1868 from the public records law on incarcerated persons which have
1869 been generated as criminal justice information. As used in this
1870 paragraph, the terms ~~term~~ "record" ~~is defined as provided in s.~~
1871 ~~943.045(7),~~ and ~~the term~~ "criminal justice information" have the
1872 same meanings ~~is defined~~ as provided in s. 943.045 ~~943.045(3)~~.
1873 Section 39. Section 447.045, Florida Statutes, is amended
1874 to read:
1875 447.045 Information confidential.—Neither the department
1876 nor any investigator or employee of the department shall divulge
1877 in any manner the information obtained pursuant to the
1878 processing of applicant fingerprints ~~fingerprint cards~~, and such
1879 information is confidential and exempt from ~~the provisions of~~ s.
1880 119.07(1).
1881 Section 40. Subsection (10) of section 455.213, Florida
1882 Statutes, is amended to read:
1883 455.213 General licensing provisions.—
1884 (10) For any profession requiring fingerprints as part of
1885 the registration, certification, or licensure process or for any

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1886 profession requiring a criminal history record check to
1887 determine good moral character, ~~a fingerprint card containing~~
1888 the fingerprints of the applicant must accompany all
1889 applications for registration, certification, or licensure. The
1890 fingerprints ~~fingerprint card~~ shall be forwarded to the Division
1891 of Criminal Justice Information Systems within the Department of
1892 Law Enforcement for ~~purposes of~~ processing ~~the fingerprint card~~
1893 to determine whether ~~if~~ the applicant has a criminal history
1894 record. The fingerprints ~~fingerprint card~~ shall also be
1895 forwarded to the Federal Bureau of Investigation ~~for purposes of~~
1896 ~~processing the fingerprint card~~ to determine whether ~~if~~ the
1897 applicant has a criminal history record. The information
1898 obtained by the processing of the fingerprints ~~fingerprint card~~
1899 by the ~~Florida~~ Department of Law Enforcement and the Federal
1900 Bureau of Investigation shall be sent to the department to
1901 determine whether ~~for the purpose of determining if~~ the
1902 applicant is statutorily qualified for registration,
1903 certification, or licensure.
1904 Section 41. Paragraph (d) of subsection (2) of section
1905 468.453, Florida Statutes, is amended to read:
1906 468.453 Licensure required; qualifications; license
1907 nontransferable; service of process; temporary license; license
1908 or application from another state.—
1909 (2) A person shall be licensed as an athlete agent if the
1910 applicant:
1911 (d) Has submitted to the department fingerprints ~~a~~
1912 ~~fingerprint card~~ for a criminal history records check. The
1913 fingerprints ~~fingerprint card~~ shall be forwarded to the Division
1914 of Criminal Justice Information Systems within the Department of

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1915 Law Enforcement for ~~purposes of~~ processing ~~the fingerprint card~~
1916 to determine whether ~~if~~ the applicant has a criminal history
1917 record. The fingerprints ~~fingerprint card~~ shall also be
1918 forwarded to the Federal Bureau of Investigation ~~for purposes of~~
1919 ~~processing the fingerprint card~~ to determine whether ~~if~~ the
1920 applicant has a criminal history record. The information
1921 obtained by the processing of the fingerprints ~~fingerprint card~~
1922 by the ~~Florida~~ Department of Law Enforcement and the Federal
1923 Bureau of Investigation shall be sent to the department to
1924 determine whether ~~for the purpose of determining if~~ the
1925 applicant is statutorily qualified for licensure.
1926 Section 42. Subsection (3) of section 475.615, Florida
1927 Statutes, is amended to read:
1928 475.615 Qualifications for registration or certification.—
1929 (3) Appropriate fees, as set forth in the rules of the
1930 board pursuant to s. 475.6147, and a set of fingerprints
1931 ~~fingerprint card~~ must accompany all applications for
1932 registration or certification. The fingerprints ~~fingerprint card~~
1933 shall be forwarded to the Division of Criminal Justice
1934 Information Systems within the Department of Law Enforcement for
1935 ~~purposes of~~ processing ~~the fingerprint card~~ to determine whether
1936 ~~if~~ the applicant has a criminal history record. The fingerprints
1937 ~~fingerprint card~~ shall also be forwarded to the Federal Bureau
1938 of Investigation ~~for purposes of processing the fingerprint card~~
1939 to determine whether ~~if~~ the applicant has a criminal history
1940 record. The information obtained by the processing of the
1941 fingerprints ~~fingerprint card~~ by the Department of Law
1942 Enforcement and the Federal Bureau of Investigation shall be
1943 sent to the department to determine whether ~~for the purpose of~~

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1944 ~~determining if~~ the applicant is statutorily qualified for
1945 registration or certification. ~~Effective July 1, 2006, an~~
1946 ~~applicant must provide fingerprints in electronic format.~~
1947 Section 43. Paragraph (j) of subsection (3) of section
1948 493.6105, Florida Statutes, is amended to read:
1949 493.6105 Initial application for license.—
1950 (3) The application must contain the following information
1951 concerning the individual signing the application:
1952 (j) A full set of fingerprints ~~on a card provided by the~~
1953 ~~department~~ and a fingerprint fee to be established by rule of
1954 the department based upon costs determined by state and federal
1955 agency charges and department processing costs. An applicant who
1956 has, within the immediately preceding 6 months, submitted such
1957 fingerprints ~~a fingerprint card~~ and fee for licensing purposes
1958 under this chapter is not required to submit another set of
1959 fingerprints ~~fingerprint card~~ or fee.
1960 Section 44. Paragraph (a) of subsection (1) of section
1961 493.6108, Florida Statutes, is amended to read:
1962 493.6108 Investigation of applicants by Department of
1963 Agriculture and Consumer Services.—
1964 (1) Except as otherwise provided, the department must
1965 investigate an applicant for a license under this chapter before
1966 it may issue the license. The investigation must include:
1967 (a)1. An examination of fingerprint records and police
1968 records. If a criminal history record check of any applicant
1969 under this chapter is performed by means of fingerprint ~~card~~
1970 identification, the time limitations prescribed by s. 120.60(1)
1971 shall be tolled during the time the applicant's fingerprints are
1972 ~~fingerprint card is~~ under review by the Department of Law

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1973 Enforcement or the United States Department of Justice, Federal
1974 Bureau of Investigation.
1975 2. If a legible set of fingerprints, as determined by the
1976 Department of Law Enforcement or the Federal Bureau of
1977 Investigation, cannot be obtained after two attempts, the
1978 Department of Agriculture and Consumer Services may determine
1979 the applicant’s eligibility based upon a criminal history record
1980 check under the applicant’s name conducted by the Department of
1981 Law Enforcement if the fingerprints are taken by a law
1982 enforcement agency or the department and the applicant submits a
1983 written statement signed by the fingerprint technician or a
1984 licensed physician stating that there is a physical condition
1985 that precludes obtaining a legible set of fingerprints or that
1986 the fingerprints taken are the best that can be obtained.
1987 Section 45. Paragraph (f) of subsection (2) of section
1988 494.00312, Florida Statutes, is amended to read:
1989 494.00312 Loan originator license.—
1990 (2) In order to apply for a loan originator license, an
1991 applicant must:
1992 (f) Submit fingerprints in accordance with rules adopted by
1993 the commission:
1994 1. The fingerprints may be submitted to the registry, the
1995 office, or a vendor acting on behalf of the registry or the
1996 office.
1997 2. The office may contract with a third-party vendor to
1998 provide live-scan fingerprinting ~~in lieu of a paper fingerprint~~
1999 ~~card~~.
2000 3. A state criminal history background check must be
2001 conducted through the Department of Law Enforcement, and a

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2002 federal criminal history background check must be conducted
2003 through the Federal Bureau of Investigation.
2004 4. All fingerprints submitted to the Department of Law
2005 Enforcement must be submitted electronically and entered into
2006 the statewide automated biometric ~~fingerprint~~ identification
2007 system established in s. 943.05(2)(b) and available for use in
2008 accordance with s. 943.05(2)(g) and (h). The office shall pay an
2009 annual fee to the department to participate in the system and
2010 inform the department of any person whose fingerprints are no
2011 longer required to be retained.
2012 5. The costs of fingerprint processing, including the cost
2013 of retaining the fingerprints, shall be borne by the person
2014 subject to the background check.
2015 6. The office is responsible for reviewing the results of
2016 the state and federal criminal history checks and determining
2017 whether the applicant meets licensure requirements.
2018 Section 46. Paragraph (d) of subsection (2) of section
2019 494.00321, Florida Statutes, is amended to read:
2020 494.00321 Mortgage broker license.—
2021 (2) In order to apply for a mortgage broker license, an
2022 applicant must:
2023 (d) Submit fingerprints for each of the applicant's control
2024 persons in accordance with rules adopted by the commission:
2025 1. The fingerprints may be submitted to the registry, the
2026 office, or a vendor acting on behalf of the registry or the
2027 office.
2028 2. The office may contract with a third-party vendor to
2029 provide live-scan fingerprinting ~~in lieu of a paper fingerprint~~
2030 ~~card~~.

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2031 3. A state criminal history background check must be
2032 conducted through the Department of Law Enforcement, and a
2033 federal criminal history background check must be conducted
2034 through the Federal Bureau of Investigation.
2035 4. All fingerprints submitted to the Department of Law
2036 Enforcement must be submitted electronically and entered into
2037 the statewide automated biometric ~~fingerprint~~ identification
2038 system established in s. 943.05(2)(b) and available for use in
2039 accordance with s. 943.05(2)(g) and (h). The office shall pay an
2040 annual fee to the department to participate in the system and
2041 inform the department of any person whose fingerprints are no
2042 longer required to be retained.
2043 5. The costs of fingerprint processing, including the cost
2044 of retaining the fingerprints, shall be borne by the person
2045 subject to the background check.
2046 6. The office is responsible for reviewing the results of
2047 the state and federal criminal history checks and determining
2048 whether the applicant meets licensure requirements.
2049 Section 47. Paragraph (d) of subsection (2) of section
2050 494.00611, Florida Statutes, is amended to read:
2051 494.00611 Mortgage lender license.—
2052 (2) In order to apply for a mortgage lender license, an
2053 applicant must:
2054 (d) Submit fingerprints for each of the applicant’s control
2055 persons in accordance with rules adopted by the commission:
2056 1. The fingerprints may be submitted to the registry, the
2057 office, or a vendor acting on behalf of the registry or the
2058 office.
2059 2. The office may contract with a third-party vendor to

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2060 provide live-scan fingerprinting ~~in lieu of a paper fingerprint~~
2061 ~~card~~.
2062 3. A state criminal history background check must be
2063 conducted through the Department of Law Enforcement, and a
2064 federal criminal history background check must be conducted
2065 through the Federal Bureau of Investigation.
2066 4. All fingerprints submitted to the Department of Law
2067 Enforcement must be submitted electronically and entered into
2068 the statewide automated biometric ~~fingerprint~~ identification
2069 system established in s. 943.05(2)(b) and available for use in
2070 accordance with s. 943.05(2)(g) and (h). The office shall pay an
2071 annual fee to the department to participate in the system and
2072 inform the department of any person whose fingerprints are no
2073 longer required to be retained.
2074 5. The costs of fingerprint processing, including the cost
2075 of retaining the fingerprints, shall be borne by the person
2076 subject to the background check.
2077 6. The office is responsible for reviewing the results of
2078 the state and federal criminal history checks and determining
2079 whether the applicant meets licensure requirements.
2080 Section 48. Subsections (7) and (10) of section 517.12,
2081 Florida Statutes, are amended to read:
2082 517.12 Registration of dealers, associated persons,
2083 investment advisers, and branch offices.—
2084 (7) The application shall also contain such information as
2085 the commission or office may require about the applicant; any
2086 member, principal, or director of the applicant or any person
2087 having a similar status or performing similar functions; any
2088 person directly or indirectly controlling the applicant; or any

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2089 employee of a dealer or of an investment adviser rendering
2090 investment advisory services. Each applicant and any direct
2091 owners, principals, or indirect owners that are required to be
2092 reported on Form BD or Form ADV pursuant to subsection (15)
2093 shall file a complete set of fingerprints. Fingerprints ~~A~~
2094 ~~fingerprint card~~ submitted to the office must be taken by an
2095 authorized law enforcement agency or in a manner approved by the
2096 commission by rule. The office shall submit the fingerprints to
2097 the Department of Law Enforcement for state processing, and the
2098 Department of Law Enforcement shall forward the fingerprints to
2099 the Federal Bureau of Investigation for federal processing. The
2100 cost of the fingerprint processing may be borne by the office,
2101 the employer, or the person subject to the background check. The
2102 Department of Law Enforcement shall submit an invoice to the
2103 office for the fingerprints received each month. The office
2104 shall screen the background results to determine whether ~~if~~ the
2105 applicant meets licensure requirements. The commission may
2106 waive, by rule, the requirement that applicants, including any
2107 direct owners, principals, or indirect owners that are required
2108 to be reported on Form BD or Form ADV pursuant to subsection
2109 (15), file a set of fingerprints or the requirement that such
2110 fingerprints be processed by the Department of Law Enforcement
2111 or the Federal Bureau of Investigation. The commission or office
2112 may require information about any such applicant or person
2113 concerning such matters as:
2114 (a) His or her full name, and any other names by which he
2115 or she may have been known, and his or her age, social security
2116 number, photograph, qualifications, and educational and business
2117 history.

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2118 (b) Any injunction or administrative order by a state or
2119 federal agency, national securities exchange, or national
2120 securities association involving a security or any aspect of the
2121 securities business and any injunction or administrative order
2122 by a state or federal agency regulating banking, insurance,
2123 finance, or small loan companies, real estate, mortgage brokers,
2124 or other related or similar industries, which injunctions or
2125 administrative orders relate to such person.
2126 (c) His or her conviction of, or plea of nolo contendere
2127 to, a criminal offense or his or her commission of any acts
2128 which would be grounds for refusal of an application under s.
2129 517.161.
2130 (d) The names and addresses of other persons of whom the
2131 office may inquire as to his or her character, reputation, and
2132 financial responsibility.
2133 (10) An applicant for registration shall pay an assessment
2134 fee of $200, in the case of a dealer or investment adviser, or
2135 $50, in the case of an associated person. An associated person
2136 may be assessed an additional fee to cover the cost for the
2137 fingerprints ~~fingerprint cards~~ to be processed by the office.
2138 Such fee shall be determined by rule of the commission. Each
2139 dealer and each investment adviser shall pay an assessment fee
2140 of $100 for each office in this state. Such fees become the
2141 revenue of the state, except for those assessments provided for
2142 under s. 517.131(1) until such time as the Securities Guaranty
2143 Fund satisfies the statutory limits, and are not returnable in
2144 the event that registration is withdrawn or not granted.
2145 Section 49. Subsection (2) of section 538.09, Florida
2146 Statutes, is amended to read:

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2147 538.09 Registration.—
2148 (2) The secondhand dealer shall furnish with her or his
2149 registration a complete set of her or his fingerprints,
2150 certified by an authorized law enforcement officer, and a recent
2151 fullface photographic identification card of herself or himself.
2152 The Department of Law Enforcement shall report its findings to
2153 the Department of Revenue within 30 days after the date the
2154 fingerprints ~~fingerprint cards~~ are submitted for criminal
2155 justice information.
2156 Section 50. Paragraph (b) of subsection (1) of section
2157 538.25, Florida Statutes, is amended to read:
2158 538.25 Registration.—
2159 (1) A person may not engage in business as a secondary
2160 metals recycler at any location without registering with the
2161 department. The department shall accept applications only from a
2162 fixed business address. The department may not accept an
2163 application that provides an address of a hotel room or motel
2164 room, a vehicle, or a post office box.
2165 (b) The department shall forward the full set of
2166 fingerprints to the Department of Law Enforcement for state and
2167 federal processing, provided the federal service is available,
2168 to be processed for any criminal justice information as defined
2169 in s. 943.045. The cost of processing such fingerprints shall be
2170 payable to the Department of Law Enforcement by the department.
2171 The department may issue a temporary registration to each
2172 location pending completion of the background check by state and
2173 federal law enforcement agencies~~,~~ but shall revoke such
2174 temporary registration if the completed background check reveals
2175 a prohibited criminal background. The Department of Law

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2176 Enforcement shall report its findings to the Department of
2177 Revenue within 30 days after the date the fingerprints
2178 ~~fingerprint cards~~ are submitted for criminal justice
2179 information.
2180 Section 51. Subsection (2) of section 548.024, Florida
2181 Statutes, is amended to read:
2182 548.024 Background investigation of applicants for
2183 licensure.—
2184 (2) If the commission requires a background criminal
2185 history investigation of any applicant, it shall require the
2186 applicant to submit to the department fingerprints ~~a fingerprint~~
2187 ~~card~~ for this purpose. The fingerprints ~~fingerprint card~~ shall
2188 be forwarded to the Division of Criminal Justice Information
2189 Systems within the Department of Law Enforcement and the Federal
2190 Bureau of Investigation for ~~purposes of~~ processing ~~the~~
2191 ~~fingerprint card~~ to determine whether ~~if~~ the applicant has a
2192 criminal history record. The information obtained by the
2193 processing of the fingerprints ~~fingerprint card~~ by the
2194 Department of Law Enforcement and the Federal Bureau of
2195 Investigation shall be sent to the department to determine
2196 whether ~~for the purpose of determining if~~ the applicant is
2197 statutorily qualified for licensure.
2198 Section 52. Paragraphs (b) and (c) of subsection (10) of
2199 section 550.105, Florida Statutes, are amended to read:
2200 550.105 Occupational licenses of racetrack employees; fees;
2201 denial, suspension, and revocation of license; penalties and
2202 fines.—
2203 (10)
2204 (b) All fingerprints required by this section that are

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2205 submitted to the Department of Law Enforcement shall be retained
2206 by the Department of Law Enforcement and entered into the
2207 statewide automated biometric ~~fingerprint~~ identification system
2208 as authorized by s. 943.05(2)(b) and shall be available for all
2209 purposes and uses authorized for arrest fingerprints ~~fingerprint~~
2210 ~~cards~~ entered into the statewide automated biometric ~~fingerprint~~
2211 identification system pursuant to s. 943.051.
2212 (c) The Department of Law Enforcement shall search all
2213 arrest fingerprints received pursuant to s. 943.051 against the
2214 fingerprints retained in the statewide automated biometric
2215 ~~fingerprint~~ identification system under paragraph (b). Any
2216 arrest record that is identified with the retained fingerprints
2217 of a person subject to the criminal history screening
2218 requirements of this section shall be reported to the division.
2219 Each licensee shall pay a fee to the division for the cost of
2220 retention of the fingerprints and the ongoing searches under
2221 this paragraph. The division shall forward the payment to the
2222 Department of Law Enforcement. The amount of the fee to be
2223 imposed for performing these searches and the procedures for the
2224 retention of licensee fingerprints shall be as established by
2225 rule of the Department of Law Enforcement. The division shall
2226 inform the Department of Law Enforcement of any change in the
2227 license status of licensees whose fingerprints are retained
2228 under paragraph (b).
2229 Section 53. Subsection (2) of section 550.908, Florida
2230 Statutes, is amended to read:
2231 550.908 Powers and duties of compact committee.—In order to
2232 carry out the purposes of this compact, the compact committee
2233 has the power and duty to:

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2234 (2) Investigate applicants for licensure by the compact
2235 committee and, as permitted by federal and state law, gather
2236 information on such applicants, including criminal history
2237 record information from the Federal Bureau of Investigation and
2238 relevant state and local law enforcement agencies, and, where
2239 appropriate, from the Royal Canadian Mounted Police and law
2240 enforcement agencies of other countries, which is necessary to
2241 determine whether a license should be issued under the licensure
2242 requirements established by the committee under subsection (1).
2243 The fingerprints of each applicant for licensure by the compact
2244 committee shall be taken by the compact committee, its
2245 employees, or its designee, and, pursuant to Pub. L. No. 92-544
2246 or Pub. L. No. 100-413, shall be forwarded to a state
2247 identification bureau or to the Association of Racing
2248 Commissioners International, Inc., for submission to the Federal
2249 Bureau of Investigation for a criminal history record check.
2250 Such fingerprints may be submitted ~~on a fingerprint card or~~ by
2251 electronic or other means authorized by the Federal Bureau of
2252 Investigation or other receiving law enforcement agency.
2253 Section 54. Paragraphs (c) and (d) of subsection (7) of
2254 section 551.107, Florida Statutes, are amended to read:
2255 551.107 Slot machine occupational license; findings;
2256 application; fee.—
2257 (7) Fingerprints for all slot machine occupational license
2258 applications shall be taken in a manner approved by the division
2259 and shall be submitted electronically to the Department of Law
2260 Enforcement for state processing and the Federal Bureau of
2261 Investigation for national processing for a criminal history
2262 record check. All persons as specified in s. 550.1815(1)(a)

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2263 employed by or working within a licensed premises shall submit
2264 fingerprints for a criminal history record check and may not
2265 have been convicted of any disqualifying criminal offenses
2266 specified in subsection (6). Division employees and law
2267 enforcement officers assigned by their employing agencies to
2268 work within the premises as part of their official duties are
2269 excluded from the criminal history record check requirements
2270 under this subsection. For purposes of this subsection, the term
2271 “convicted” means having been found guilty, with or without
2272 adjudication of guilt, as a result of a jury verdict, nonjury
2273 trial, or entry of a plea of guilty or nolo contendere.
2274 (c) All fingerprints submitted to the Department of Law
2275 Enforcement and required by this section shall be retained by
2276 the Department of Law Enforcement and entered into the statewide
2277 automated biometric ~~fingerprint~~ identification system as
2278 authorized by s. 943.05(2)(b) and shall be available for all
2279 purposes and uses authorized for arrest fingerprints ~~fingerprint~~
2280 ~~cards~~ entered into the statewide automated biometric ~~fingerprint~~
2281 identification system pursuant to s. 943.051.
2282 (d) The Department of Law Enforcement shall search all
2283 arrest fingerprints received pursuant to s. 943.051 against the
2284 fingerprints retained in the statewide automated biometric
2285 ~~fingerprint~~ identification system under paragraph (c). Any
2286 arrest record that is identified with the retained fingerprints
2287 of a person subject to the criminal history screening
2288 requirements of this section shall be reported to the division.
2289 Each licensed facility shall pay a fee to the division for the
2290 cost of retention of the fingerprints and the ongoing searches
2291 under this paragraph. The division shall forward the payment to

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2292 the Department of Law Enforcement. The amount of the fee to be
2293 imposed for performing these searches and the procedures for the
2294 retention of licensee fingerprints shall be as established by
2295 rule of the Department of Law Enforcement. The division shall
2296 inform the Department of Law Enforcement of any change in the
2297 license status of licensees whose fingerprints are retained
2298 under paragraph (c).
2299 Section 55. Paragraph (b) of subsection (1) of section
2300 560.141, Florida Statutes, is amended to read:
2301 560.141 License application.—
2302 (1) To apply for a license as a money services business
2303 under this chapter the applicant must:
2304 (b) In addition to the application form, submit:
2305 1. A nonrefundable application fee as provided in s.
2306 560.143.
2307 2. A set of fingerprints ~~fingerprint card~~ for each of the
2308 persons listed in subparagraph (a)3. unless the applicant is a
2309 publicly traded corporation~~,~~ or is exempted from this chapter
2310 under s. 560.104(1). The fingerprints must be taken by an
2311 authorized law enforcement agency. The office shall submit the
2312 fingerprints to the Department of Law Enforcement for state
2313 processing, and the Department of Law Enforcement shall forward
2314 the fingerprints to the Federal Bureau of Investigation for
2315 federal processing. The cost of the fingerprint processing may
2316 be borne by the office, the employer, or the person subject to
2317 the criminal records background check. The office shall screen
2318 the background results to determine whether ~~if~~ the applicant
2319 meets licensure requirements. As used in this section, the term
2320 “publicly traded” means a stock is currently traded on a

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2321 national securities exchange registered with the federal
2322 Securities and Exchange Commission or traded on an exchange in a
2323 country other than the United States regulated by a regulator
2324 equivalent to the Securities and Exchange Commission and the
2325 disclosure and reporting requirements of such regulator are
2326 substantially similar to those of the commission.
2327 3. A copy of the applicant's written anti-money laundering
2328 program required under 31 C.F.R. s. 103.125.
2329 4. Within the time allotted by rule, any information needed
2330 to resolve any deficiencies found in the application.
2331 Section 56. Subsection (1) of section 628.906, Florida
2332 Statutes, is amended to read:
2333 628.906 Application requirements; restrictions on
2334 eligibility of officers and directors.—
2335 (1) To evidence competence and trustworthiness of its
2336 officers and directors, the application for a license to act as
2337 a captive insurance company or captive reinsurance company shall
2338 include, but not be limited to, background investigations,
2339 biographical affidavits, and fingerprints ~~fingerprint cards~~ for
2340 all officers and directors. Fingerprints must be taken by a law
2341 enforcement agency or other entity approved by the office, be
2342 accompanied by the fingerprint processing fee specified in s.
2343 624.501, and processed in accordance with s. 624.34.
2344 Section 57. Subsection (3) of section 633.34, Florida
2345 Statutes, is amended to read:
2346 633.34 Firefighters; qualifications for employment.—Any
2347 person applying for employment as a firefighter must:
2348 (3) Submit a set of fingerprints ~~fingerprint card~~ to the
2349 division with a current processing fee. The fingerprints

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2350 ~~fingerprint card~~ will be forwarded to the Department of Law
2351 Enforcement and/or the Federal Bureau of Investigation.
2352 Section 58. Subsections (2) and (3) and paragraphs (b) and
2353 (c) of subsection (4) of section 744.3135, Florida Statutes, are
2354 amended to read:
2355 744.3135 Credit and criminal investigation.—
2356 (2) For nonprofessional guardians, the court shall accept
2357 the satisfactory completion of a criminal history record check
2358 as described in this subsection. A nonprofessional guardian
2359 satisfies the requirements of this section by undergoing a state
2360 and national criminal history record check using fingerprints ~~a~~
2361 ~~fingerprint card. The clerk of the court shall obtain~~
2362 ~~fingerprint cards from the Federal Bureau of Investigation and~~
2363 ~~make them available to nonprofessional guardians~~. Any
2364 nonprofessional guardian who is so required shall have his or
2365 her fingerprints taken and forward them ~~the completed~~
2366 ~~fingerprint card~~ along with the necessary fee to the Department
2367 of Law Enforcement for processing. The results of the
2368 fingerprint ~~card~~ criminal history record check shall be
2369 forwarded to the clerk of the court, who shall maintain the
2370 results in the nonprofessional guardian's file and make the
2371 results available to the court.
2372 (3) For professional guardians, the court and the Statewide
2373 Public Guardianship Office shall accept the satisfactory
2374 completion of a criminal history record check by any method
2375 described in this subsection. A professional guardian satisfies
2376 the requirements of this section by undergoing~~:~~
2377 ~~(a)~~ an electronic fingerprint criminal history record
2378 check. A professional guardian may use any electronic

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2379 fingerprinting equipment used for criminal history record
2380 checks. The Statewide Public Guardianship Office shall adopt a
2381 rule detailing the acceptable methods for completing an
2382 electronic fingerprint criminal history record check under this
2383 section. The professional guardian shall pay the actual costs
2384 incurred by the Federal Bureau of Investigation and the
2385 Department of Law Enforcement for the criminal history record
2386 check. The entity completing the record check must immediately
2387 send the results of the criminal history record check to the
2388 clerk of the court and the Statewide Public Guardianship Office.
2389 The clerk of the court shall maintain the results in the
2390 professional guardian's file and shall make the results
2391 available to the court~~; or~~
2392 ~~(b) A criminal history record check using a fingerprint~~
2393 ~~card. The clerk of the court shall obtain fingerprint cards from~~
2394 ~~the Federal Bureau of Investigation and make them available to~~
2395 ~~guardians. Any guardian who is so required shall have his or her~~
2396 ~~fingerprints taken and forward the proper fingerprint card along~~
2397 ~~with the necessary fee to the Department of Law Enforcement for~~
2398 ~~processing. The results of the fingerprint card criminal history~~
2399 ~~record checks shall be forwarded to the clerk of the court, who~~
2400 ~~shall maintain the results in the guardian's file and make the~~
2401 ~~results available to the court and the Statewide Public~~
2402 ~~Guardianship Office~~.
2403 (4)
2404 (b) All fingerprints electronically submitted to the
2405 Department of Law Enforcement under this section shall be
2406 retained by the Department of Law Enforcement in a manner
2407 provided by rule and entered in the statewide automated

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2408 biometric ~~fingerprint~~ identification system authorized by s.
2409 943.05(2)(b). The fingerprints shall thereafter be available for
2410 all purposes and uses authorized for arrest fingerprints
2411 ~~fingerprint cards~~ entered in the Criminal Justice Information
2412 Program under s. 943.051.
2413 (c) The Department of Law Enforcement shall search all
2414 arrest fingerprints ~~fingerprint cards~~ received under s. 943.051
2415 against the fingerprints retained in the statewide automated
2416 biometric ~~fingerprint~~ identification system under paragraph (b).
2417 Any arrest record that is identified with the fingerprints of a
2418 person described in this paragraph must be reported to the clerk
2419 of court. The clerk of court must forward any arrest record
2420 received for a professional guardian to the Statewide Public
2421 Guardianship Office within 5 days. Each professional guardian
2422 who elects to submit fingerprint information electronically
2423 shall participate in this search process by paying an annual fee
2424 to the Statewide Public Guardianship Office of the Department of
2425 Elderly Affairs and by informing the clerk of court and the
2426 Statewide Public Guardianship Office of any change in the status
2427 of his or her guardianship appointment. The amount of the annual
2428 fee to be imposed for performing these searches and the
2429 procedures for the retention of professional guardian
2430 fingerprints and the dissemination of search results shall be
2431 established by rule of the Department of Law Enforcement. At
2432 least once every 5 years, the Statewide Public Guardianship
2433 Office must request that the Department of Law Enforcement
2434 forward the fingerprints maintained under this section to the
2435 Federal Bureau of Investigation.
2436 Section 59. Paragraph (b) of subsection (5) of section

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2437 775.21, Florida Statutes, is amended to read:
2438 775.21 The Florida Sexual Predators Act.—
2439 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
2440 as a sexual predator as follows:
2441 (b) If a sexual predator is not sentenced to a term of
2442 imprisonment, the clerk of the court shall ensure that the
2443 sexual predator's fingerprints are taken and forwarded to the
2444 department within 48 hours after the court renders its written
2445 sexual predator finding. The fingerprints ~~fingerprint card~~ shall
2446 be clearly marked, "Sexual Predator Registration ~~Card~~." The
2447 clerk of the court that convicts and sentences the sexual
2448 predator for the offense or offenses described in subsection (4)
2449 shall forward to the department and to the Department of
2450 Corrections a certified copy of any order entered by the court
2451 imposing any special condition or restriction on the sexual
2452 predator that ~~which~~ restricts or prohibits access to the victim,
2453 if the victim is a minor, or to other minors.
2454 Section 60. Paragraph (d) of subsection (3) of section
2455 775.261, Florida Statutes, is amended to read:
2456 775.261 The Florida Career Offender Registration Act.—
2457 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—
2458 (d) If a career offender is not sentenced to a term of
2459 imprisonment, the clerk of the court shall ensure that the
2460 career offender's fingerprints are taken and forwarded to the
2461 department within 48 hours after the court renders its finding
2462 that an offender is a career offender. The fingerprints
2463 ~~fingerprint card~~ shall be clearly marked, "Career Offender
2464 Registration ~~Card~~."
2465 Section 61. Paragraph (a) of subsection (11) of section

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2466 790.06, Florida Statutes, is amended to read:
2467 790.06 License to carry concealed weapon or firearm.—
2468 (11)(a) No less than 90 days before the expiration date of
2469 the license, the Department of Agriculture and Consumer Services
2470 shall mail to each licensee a written notice of the expiration
2471 and a renewal form prescribed by the Department of Agriculture
2472 and Consumer Services. The licensee must renew his or her
2473 license on or before the expiration date by filing with the
2474 Department of Agriculture and Consumer Services the renewal form
2475 containing a notarized affidavit stating that the licensee
2476 remains qualified pursuant to the criteria specified in
2477 subsections (2) and (3), a color photograph as specified in
2478 paragraph (5)(e), and the required renewal fee. Out-of-state
2479 residents must also submit a complete set of fingerprints
2480 ~~completed fingerprint card~~ and fingerprint processing fee. The
2481 license shall be renewed upon receipt of the completed renewal
2482 form, color photograph, appropriate payment of fees, and, if
2483 applicable, fingerprints ~~a completed fingerprint card~~.
2484 Additionally, a licensee who fails to file a renewal application
2485 on or before its expiration date must renew his or her license
2486 by paying a late fee of $15. A license may not be renewed 180
2487 days or more after its expiration date, and such a license is
2488 deemed to be permanently expired. A person whose license has
2489 been permanently expired may reapply for licensure; however, an
2490 application for licensure and fees under subsection (5) must be
2491 submitted, and a background investigation shall be conducted
2492 pursuant to this section. A person who knowingly files false
2493 information under this subsection is subject to criminal
2494 prosecution under s. 837.06.

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2495 Section 62. Subsection (3) of section 944.607, Florida
2496 Statutes, is amended to read:
2497 944.607 Notification to Department of Law Enforcement of
2498 information on sexual offenders.—
2499 (3) If a sexual offender is not sentenced to a term of
2500 imprisonment, the clerk of the court shall ensure that the
2501 sexual offender's fingerprints are taken and forwarded to the
2502 Department of Law Enforcement within 48 hours after the court
2503 sentences the offender. The fingerprints ~~fingerprint card~~ shall
2504 be clearly marked "Sexual Offender Registration ~~Card~~."
2505 Section 63. Subsection (2) of section 944.608, Florida
2506 Statutes, is amended to read:
2507 944.608 Notification to Department of Law Enforcement of
2508 information on career offenders.—
2509 (2) If a career offender is not sentenced to a term of
2510 imprisonment, the clerk of the court shall ensure that the
2511 career offender's fingerprints are taken and forwarded to the
2512 Department of Law Enforcement within 48 hours after the court
2513 sentences the career offender. The fingerprints ~~fingerprint card~~
2514 shall be clearly marked "Career Offender Registration ~~Card~~."
2515 Section 64. Paragraph (b) of subsection (1) of section
2516 985.11, Florida Statutes, is amended to read:
2517 985.11 Fingerprinting and photographing.—
2518 (1)
2519 (b) A child who is charged with or found to have committed
2520 one of the following offenses shall be fingerprinted, and the
2521 fingerprints shall be submitted to the Department of Law
2522 Enforcement as provided in s. 943.051(3)(b):
2523 1. Assault, as defined in s. 784.011.

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2524 2. Battery, as defined in s. 784.03.
2525 3. Carrying a concealed weapon, as defined in s. 790.01(1).
2526 4. Unlawful use of destructive devices or bombs, as defined
2527 in s. 790.1615(1).
2528 5. Neglect ~~Negligent treatment~~ of a child ~~children~~, as
2529 defined in s. 827.03(1)(e) ~~former s. 827.05~~.
2530 6. Assault on a law enforcement officer, a firefighter, or
2531 other specified officers, as defined in s. 784.07(2)(a).
2532 7. Open carrying of a weapon, as defined in s. 790.053.
2533 8. Exposure of sexual organs, as defined in s. 800.03.
2534 9. Unlawful possession of a firearm, as defined in s.
2535 790.22(5).
2536 10. Petit theft, as defined in s. 812.014.
2537 11. Cruelty to animals, as defined in s. 828.12(1).
2538 12. Arson, resulting in bodily harm to a firefighter, as
2539 defined in s. 806.031(1).
2540 13. Unlawful possession or discharge of a weapon or firearm
2541 at a school-sponsored event or on school property as defined in
2542 s. 790.115.
2543
2544 A law enforcement agency may fingerprint and photograph a child
2545 taken into custody upon probable cause that such child has
2546 committed any other violation of law, as the agency deems
2547 appropriate. Such fingerprint records and photographs shall be
2548 retained by the law enforcement agency in a separate file, and
2549 these records and all copies thereof must be marked “Juvenile
2550 Confidential.” These records are not available for public
2551 disclosure and inspection under s. 119.07(1) except as provided
2552 in ss. 943.053 and 985.04(2), but shall be available to other

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2553 law enforcement agencies, criminal justice agencies, state
2554 attorneys, the courts, the child, the parents or legal
2555 custodians of the child, their attorneys, and any other person
2556 authorized by the court to have access to such records. In
2557 addition, such records may be submitted to the Department of Law
2558 Enforcement for inclusion in the state criminal history records
2559 and used by criminal justice agencies for criminal justice
2560 purposes. These records may, in the discretion of the court, be
2561 open to inspection by anyone upon a showing of cause. The
2562 fingerprint and photograph records shall be produced in the
2563 court whenever directed by the court. Any photograph taken
2564 pursuant to this section may be shown by a law enforcement
2565 officer to any victim or witness of a crime for the purpose of
2566 identifying the person who committed such crime.
2567 Section 65. Paragraphs (c) and (e) of subsection (3) of
2568 section 985.644, Florida Statutes, are amended to read:
2569 985.644 Departmental contracting powers; personnel
2570 standards and screening.—
2571 (3)
2572 (c) All fingerprint information electronically submitted to
2573 the Department of Law Enforcement under paragraph (b) shall be
2574 retained by the Department of Law Enforcement and entered into
2575 the statewide automated biometric ~~fingerprint~~ identification
2576 system authorized by s. 943.05(2)(b). Thereafter, such
2577 fingerprint information shall be available for all purposes and
2578 uses authorized for arrest fingerprint information entered into
2579 the statewide automated biometric ~~fingerprint~~ identification
2580 system pursuant to s. 943.051 until the fingerprint information
2581 is removed pursuant to paragraph (e). The Department of Law

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2582 Enforcement shall search all arrest fingerprint information
2583 received pursuant to s. 943.051 against the fingerprint
2584 information entered into the statewide automated biometric
2585 identification ~~fingerprint~~ system pursuant to this subsection.
2586 Any arrest records identified as a result of the search shall be
2587 reported to the department in the manner and timeframe
2588 established by the Department of Law Enforcement by rule.
2589 (e) The department shall notify the Department of Law
2590 Enforcement when a person whose fingerprint information is
2591 retained by the Department of Law Enforcement under this
2592 subsection is no longer employed by the department, or by a
2593 provider under contract with the department, in a delinquency
2594 facility, service, or program. This notice shall be provided by
2595 the department to the Department of Law Enforcement within 6
2596 months after the date of the change in the person's employment
2597 status. Fingerprint information for persons identified by the
2598 department in the notice shall be removed from the statewide
2599 automated biometric identification ~~fingerprint~~ system.
2600 Section 66. Subsection (3) of section 985.4815, Florida
2601 Statutes, is amended to read:
2602 985.4815 Notification to Department of Law Enforcement of
2603 information on juvenile sexual offenders.—
2604 (3) If a sexual offender is not sentenced to a term of
2605 residential commitment, the clerk of the court shall ensure that
2606 the sexual offender's fingerprints are taken and forwarded to
2607 the Department of Law Enforcement within 48 hours after the
2608 court sentences the offender. The fingerprints ~~fingerprint card~~
2609 shall be clearly marked "Sexual Offender Registration ~~Card~~."
2610 Section 67. Paragraph (b) of subsection (6) of section

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2611 1002.395, Florida Statutes, is amended to read:
2612 1002.395 Florida Tax Credit Scholarship Program.—
2613 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
2614 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
2615 organization:
2616 (b) Must comply with the following background check
2617 requirements:
2618 1. All owners and operators as defined in subparagraph
2619 (2)(h)1. are, upon employment or engagement to provide services,
2620 subject to level 2 background screening as provided under
2621 chapter 435. The fingerprints for the background screening must
2622 be electronically submitted to the Department of Law Enforcement
2623 and can be taken by an authorized law enforcement agency or by
2624 an employee of the eligible nonprofit scholarship-funding
2625 organization or a private company who is trained to take
2626 fingerprints. However, the complete set of fingerprints of an
2627 owner or operator may not be taken by the owner or operator. The
2628 results of the state and national criminal history check shall
2629 be provided to the Department of Education for screening under
2630 chapter 435. The cost of the background screening may be borne
2631 by the eligible nonprofit scholarship-funding organization or
2632 the owner or operator.
2633 2. Every 5 years following employment or engagement to
2634 provide services or association with an eligible nonprofit
2635 scholarship-funding organization, each owner or operator must
2636 meet level 2 screening standards as described in s. 435.04, at
2637 which time the nonprofit scholarship-funding organization shall
2638 request the Department of Law Enforcement to forward the
2639 fingerprints to the Federal Bureau of Investigation for level 2

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2640 screening. If the fingerprints of an owner or operator are not
2641 retained by the Department of Law Enforcement under subparagraph
2642 3., the owner or operator must electronically file a complete
2643 set of fingerprints with the Department of Law Enforcement. Upon
2644 submission of fingerprints for this purpose, the eligible
2645 nonprofit scholarship-funding organization shall request that
2646 the Department of Law Enforcement forward the fingerprints to
2647 the Federal Bureau of Investigation for level 2 screening, and
2648 the fingerprints shall be retained by the Department of Law
2649 Enforcement under subparagraph 3.
2650 3. ~~Beginning July 1, 2007,~~ All fingerprints submitted to
2651 the Department of Law Enforcement as required by this paragraph
2652 must be retained by the Department of Law Enforcement in a
2653 manner approved by rule and entered in the statewide automated
2654 biometric ~~fingerprint~~ identification system authorized by s.
2655 943.05(2)(b). The fingerprints must thereafter be available for
2656 all purposes and uses authorized for arrest fingerprints
2657 ~~fingerprint cards~~ entered in the statewide automated biometric
2658 ~~fingerprint~~ identification system pursuant to s. 943.051.
2659 4. ~~Beginning July 1, 2007,~~ The Department of Law
2660 Enforcement shall search all arrest fingerprints ~~fingerprint~~
2661 ~~cards~~ received under s. 943.051 against the fingerprints
2662 retained in the statewide automated biometric ~~fingerprint~~
2663 identification system under subparagraph 3. Any arrest record
2664 that is identified with an owner’s or operator’s fingerprints
2665 must be reported to the Department of Education. The Department
2666 of Education shall participate in this search process by paying
2667 an annual fee to the Department of Law Enforcement and by
2668 informing the Department of Law Enforcement of any change in the

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

2669 employment, engagement, or association status of the owners or
2670 operators whose fingerprints are retained under subparagraph 3.
2671 The Department of Law Enforcement shall adopt a rule setting the
2672 amount of the annual fee to be imposed upon the Department of
2673 Education for performing these services and establishing the
2674 procedures for the retention of owner and operator fingerprints
2675 and the dissemination of search results. The fee may be borne by
2676 the owner or operator of the nonprofit scholarship-funding
2677 organization.
2678 5. A nonprofit scholarship-funding organization whose owner
2679 or operator fails the level 2 background screening shall not be
2680 eligible to provide scholarships under this section.
2681 6. A nonprofit scholarship-funding organization whose owner
2682 or operator in the last 7 years has filed for personal
2683 bankruptcy or corporate bankruptcy in a corporation of which he
2684 or she owned more than 20 percent shall not be eligible to
2685 provide scholarships under this section.
2686
2687 Any and all information and documentation provided to the
2688 Department of Education and the Auditor General relating to the
2689 identity of a taxpayer that provides an eligible contribution
2690 under this section shall remain confidential at all times in
2691 accordance with s. 213.053.
2692 Section 68. Paragraphs (a) and (b) of subsection (3) of
2693 section 1002.421, Florida Statutes, are amended to read:
2694 1002.421 Accountability of private schools participating in
2695 state school choice scholarship programs.—
2696 (3)(a) ~~Beginning July 1, 2007,~~ All fingerprints submitted
2697 to the Department of Law Enforcement as required by this section

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2698 shall be retained by the Department of Law Enforcement in a
2699 manner provided by rule and entered in the statewide automated
2700 biometric ~~fingerprint~~ identification system authorized by s.
2701 943.05(2)(b). Such fingerprints shall thereafter be available
2702 for all purposes and uses authorized for arrest fingerprints
2703 ~~fingerprint cards~~ entered in the statewide automated biometric
2704 ~~fingerprint~~ identification system pursuant to s. 943.051.
2705 (b) ~~Beginning July 1, 2007,~~ The Department of Law
2706 Enforcement shall search all arrest fingerprints ~~fingerprint~~
2707 ~~cards~~ received under s. 943.051 against the fingerprints
2708 retained in the statewide automated biometric ~~fingerprint~~
2709 identification system under paragraph (a). Any arrest record
2710 that is identified with the retained fingerprints of a person
2711 subject to the background screening under this section shall be
2712 reported to the employing school with which the person is
2713 affiliated. Each private school participating in a scholarship
2714 program is required to participate in this search process by
2715 informing the Department of Law Enforcement of any change in the
2716 employment or contractual status of its personnel whose
2717 fingerprints are retained under paragraph (a). The Department of
2718 Law Enforcement shall adopt a rule setting the amount of the
2719 annual fee to be imposed upon each private school for performing
2720 these searches and establishing the procedures for the retention
2721 of private school employee and contracted personnel fingerprints
2722 and the dissemination of search results. The fee may be borne by
2723 the private school or the person fingerprinted.
2724 Section 69. Paragraphs (a) and (b) of subsection (3) of
2725 section 1012.32, Florida Statutes, are amended to read:
2726 1012.32 Qualifications of personnel.—

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

2727 (3)(a) ~~Beginning July 1, 2004,~~ All fingerprints submitted
2728 to the Department of Law Enforcement as required by subsection
2729 (2) shall be retained by the Department of Law Enforcement in a
2730 manner provided by rule and entered in the statewide automated
2731 biometric ~~fingerprint~~ identification system authorized by s.
2732 943.05(2)(b). Such fingerprints shall thereafter be available
2733 for all purposes and uses authorized for arrest fingerprints
2734 ~~fingerprint cards~~ entered in the statewide automated biometric
2735 ~~fingerprint~~ identification system pursuant to s. 943.051.
2736 (b) ~~Beginning December 15, 2004,~~ The Department of Law
2737 Enforcement shall search all arrest fingerprints ~~fingerprint~~
2738 ~~cards~~ received under s. 943.051 against the fingerprints
2739 retained in the statewide automated biometric ~~fingerprint~~
2740 identification system under paragraph (a). Any arrest record
2741 that is identified with the retained fingerprints of a person
2742 subject to the background screening under this section shall be
2743 reported to the employing or contracting school district or the
2744 school district with which the person is affiliated. Each school
2745 district is required to participate in this search process by
2746 payment of an annual fee to the Department of Law Enforcement
2747 and by informing the Department of Law Enforcement of any change
2748 in the affiliation, employment, or contractual status or place
2749 of affiliation, employment, or contracting of its instructional
2750 and noninstructional personnel whose fingerprints are retained
2751 under paragraph (a). The Department of Law Enforcement shall
2752 adopt a rule setting the amount of the annual fee to be imposed
2753 upon each school district for performing these searches and
2754 establishing the procedures for the retention of instructional
2755 and noninstructional personnel fingerprints and the

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

2756 dissemination of search results. The fee may be borne by the
2757 district school board, the contractor, or the person
2758 fingerprinted.
2759 Section 70. Paragraphs (b), (c), and (e) of subsection (2)
2760 of section 1012.467, Florida Statutes, are amended to read:
2761 1012.467 Noninstructional contractors who are permitted
2762 access to school grounds when students are present; background
2763 screening requirements.—
2764 (2)
2765 (b) As authorized by law, the Department of Law Enforcement
2766 shall retain the fingerprints submitted by the school districts
2767 pursuant to this subsection to the Department of Law Enforcement
2768 for a criminal history background screening in a manner provided
2769 by rule and enter the fingerprints in the statewide automated
2770 biometric ~~fingerprint~~ identification system authorized by s.
2771 943.05(2)(b). The fingerprints shall thereafter be available for
2772 all purposes and uses authorized for arrest fingerprints
2773 ~~fingerprint cards~~ entered into the statewide automated biometric
2774 ~~fingerprint~~ identification system under s. 943.051.
2775 (c) As authorized by law, the Department of Law Enforcement
2776 shall search all arrest fingerprints ~~fingerprint cards~~ received
2777 under s. 943.051 against the fingerprints retained in the
2778 statewide automated biometric ~~fingerprint~~ identification system
2779 under paragraph (b).
2780 (e) A fingerprint retained pursuant to this subsection
2781 shall be purged from the automated biometric ~~fingerprint~~
2782 identification system 5 years following the date the fingerprint
2783 was initially submitted. The Department of Law Enforcement shall
2784 set the amount of the annual fee to be imposed upon each

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

2785 participating agency for performing these searches and
2786 establishing the procedures for retaining fingerprints and
2787 disseminating search results. The fee may be borne as provided
2788 by law. Fees may be waived or reduced by the executive director
2789 of the Department of Law Enforcement for good cause shown.
2790 Section 71. 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)

4/2/13
Meeting Date

Topic: 1434

Bill Number: 1434 *(if applicable)*

Name: Casey Cook

Amendment Barcode: *(if applicable)*

Job Title: Legislative Advocate

Address: PO Box 1757
Street

Tallahassee, Fl 32302
City, State, Zip

Phone: 850 701 3701

E-mail: ccook@flcities.com

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

Representing: Florida League of Cities

Appearing at request of Chair: [ ] Yes [x] 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)

4/2/13
Meeting Date

Topic: Department of Law Enforcement

Bill Number: SB 1434 *(if applicable)*

Name: Michael Ramage

Amendment Barcode: *(if applicable)*

Job Title: General Counsel

Address: 2331 Phillips Road
Street

Tallahassee, FL 32308
City, State, Zip

Phone: 850-410-7676

E-mail: michaelramage@fdle.state.fl.us

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

Representing: Florida Department of Law 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.

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 20, 2013

I respectfully request that **Senate Bill #1434**, relating to Florida Department of Law Enforcement, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Greg Evers

Senator Greg Evers
Florida Senate, District 2

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GREG EVERS
2nd District

COMMITTEES:
Criminal Justice, *Chair*
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic Security
Transportation

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

April 2, 2013

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

Senator Simpson,

I would like to request that my legislative aide, Molly Caddell, be allowed to present SB 1434 on my behalf at your committee meeting scheduled for April 2, 2013 at 12:30pm. I will be in the Committee on Military and Veterans Affairs, Space, and Domestic Security at that time and will be unable to attend your committee meeting.

Sincerely,

Greg Evers

Greg Evers

Cc: Tom Yeatman

REPLY TO:
☐ 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
☐ 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

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 1434

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Department of Law Enforcement

DATE: March 25, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Fav/CS**
2.	Toman	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 1434 amends numerous statutes relating to the operations and duties of, services provided by, and other matters involving the Florida Department of Law Enforcement (FDLE), and also relating to those who use or are impacted by those services.

The majority of the changes to law made by the bill are technical in nature: correcting grammar; replacing antiquated or obsolete terminology or tasks; repealing implementation or adoption dates that have passed; and correcting statutory citations. However, the bill does make some substantive changes to the law, including, but not limited to:

- Authorizing counties and cities to require, by ordinance, employment screening of private contractors and other positions noted in the statutes who are subject to licensing or regulation by the county or city or who have contact with members of the public or access to any public facility or publicly operated facility in such a manner that the county or city finds that preventing unsuitable persons from having such contact or access is critical to security or public safety.
- Revising duties concerning missing person reporting.
- Specifying additional items to be reported by persons required to register as sexual offenders.

- Requiring state agencies and governmental subdivisions, prior to making any decision to appoint or employ a person to work at specified locations, to conduct a search of that person's identifying information through the national sexual offender public website.
- Redesignating the statewide automated fingerprint identification system as the statewide automated biometric identification system.
- Revising matters relating to the Florida Violent Crime and Drug Control Council and its committees.
- Requiring the collection of additional information from persons charged with or convicted of specified offenses.
- Requiring the Domestic and Repeat Violence Injunction Statewide Verification System maintained by the FDLE to include injunctions to prevent child abuse issued under chapter 39, F.S.
- Increasing the period in which a minor may seek expunction of a nonjudicial arrest record following diversion, and conditioning eligibility on the qualifications of the applicant rather than on those of the diversion program in which he or she participates.
- Clarifying that a person may only seal or expunge a record if the person has never before sealed or expunged a record (except in specified instances), and removing references to having received an expunction or sealing "from any jurisdiction outside the state" as a disqualifier for seeking expunction or sealing in Florida.
- Providing for accreditation of correctional facilities, public agency offices of inspectors general, and pretrial diversion programs.
- Revising language relating to testing services provided by a state-operated analysis laboratories to defendants.
- Adding the following property to the list of regulated metal property which secondary metals recyclers may only purchase if certain conditions are met: more than two lead-acid batteries, or any part or component thereof, in a single purchase or from the same individual in a single day.

This bill substantially amends the following sections of the Florida Statutes: 125.5801; 166.0442; 285.18; 406.145; 414.40; 447.045; 455.213; 468.453; 475.615; 493.6105; 493.6108; 494.00312; 494.00321; 494.00611; 517.12; 538.09; 538.25; 538.26; 548.024; 550.105; 550.908; 551.107; 560.141; 628.906; 633.34; 744.3135; 775.21; 775.261; 790.06; 937.021; 937.024; 937.025; 937.028; 943.03; 943.031; 943.0435; 943.04351; 943.0438; 943.045; 943.05; 943.051; 943.052; 943.053; 943.054; 943.0542; 943.0544; 943.055; 943.056; 943.0582; 943.0585; 943.059; 943.125; 943.13; 943.132; 943.1395; 943.1755; 943.1757; 943.25; 943.325; 943.33; 943.68; 944.607; 944.608; 985.11; 985.644; 985.4815; 1002.395; 1002.421; 1012.32; and 1012.467.

II. Present Situation:

See the "Effect of Proposed Changes" section of this analysis for a discussion of the statutes amended by the bill and the relevant background regarding and explanation of changes to the law made by the bill.

III. Effect of Proposed Changes:

The bill amends numerous statutes relating to the operations and duties of, services provided by, and other matters involving the Florida Department of Law Enforcement (FDLE), and also relating to those who use or are impacted by those services.

The majority of the changes to law made by the bill are technical in nature: correcting grammar; replacing antiquated or obsolete terminology or tasks; repealing implementation or adoption dates that have passed; and correcting statutory citations. However, the bill does make some substantive changes to the law. Provided is a section-by-section analysis of the bill.

Sections 1 and 2 (City and county criminal history screenings)

Sections 1 and 2 of the bill, respectively, amend s. 125.5801, F.S. (applicable to counties), and s. 166.0422, F.S. (applicable to municipalities).

Sections 125.5801 and 166.0442, F.S., respectively, authorize counties and cities, by ordinance, to require employment screening for:

- Any position of county/city employment or appointment which the governing body of the county/city finds is critical to security or public safety; and
- Any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has access to any public facility or publicly operated facility that the governing body of the county/city finds is critical to security or public safety.

The statutes do not currently permit a county or city to conduct criminal history checks on persons such as taxi drivers, tow truck operators, and other individuals who likely have close contact with persons in vulnerable situations, because such contact could not be construed as "ha[ving] access to any public facility or publicly operated facility that the governing body of the municipality finds is critical to security or public safety."[1]

The bill amends ss. 125.5801 and 166.0442, F.S., to specify that counties and cities are authorized to require state and national criminal history screening for:

- Any position of county/city employment or appointment, whether paid, unpaid, or contractual, which the governing body of the county/city finds is critical to security or public safety;
- Any private contractor, employee of a private contractor, vendor, repair person, or delivery person who is subject to licensing or regulation by the county; and
- Any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has direct contact with individual members of the public or access to any public facility or publicly operated facility in such a manner or to such an extent that the governing

[1] Analyses of SB 1434 (dated March 13 and 14, 2013), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). These analyses are further cited as "FDLE Analyses." All background information in the "Effect of Proposed Changes" section of this analysis is from the FDLE Analyses, unless otherwise indicated.

body of the county/city finds that preventing unsuitable persons from having such contact or access is critical to security or public safety.

Section 3 (Unidentified deceased persons)

Section 3 of the bill amends s. 406.145, F.S., which requires a law enforcement officer investigating the death of an unidentified person to immediately identify the body. If not immediately identified, the investigating law enforcement agency (LEA) must complete an Unidentified Person Report and enter the data, through the Florida Crime Information Center (FCIC), into the Unidentified Person File of the National Crime Information Center (NCIC).[2]

An Unidentified Person Report is the form identified by the FDLE that LEAs use to compile information entered into the Unidentified Person File.[3]

According to the FDLE, while the Unidentified Person Report continues to exist, the form is unnecessary to complete an unidentified entry into the FCIC/NCIC, and many LEAs prefer electronic or automated methods of exchanging information that are more accurate, timely, and efficient than the form.

The bill amends s. 406.145, F.S., to delete the requirement that a LEA investigating the death of an unidentified person complete an Unidentified Person Report when submitting information for entry into the Unidentified Person File of the NCIC. LEAs are still required to enter data concerning the unidentified body into the Unidentified Person File of the NCIC.

Section 4 (Prohibiting secondary metals recyclers from purchasing specified regulated metals property unless certain conditions are met)

Section 4 amends s. 538.26(5), F.S., which prohibits secondary metals recyclers from purchasing specified regulated metals property (e.g., manhole covers) unless certain conditions are met (e.g., reasonable proof of ownership).

Local law enforcement, the Florida Department of Revenue, the Florida Department of Highway Safety and Motor Vehicles, and the FDLE have statutory obligations regarding secondary metals recyclers. The FDLE approves transaction forms that document the sale/purchase of secondary metals. Secondary metals recyclers must complete and maintain these forms for specified time periods.[4]

The bill adds to the list of regulated metal property more than two lead-acid batteries, or any part or component thereof, in a single purchase or from the same individual in a single day.

Sections 5-8 (Missing persons)

Sections 5-8 of the bill, respectively, amend ss. 937.021, 937.024, 937.025, and 937.028, F.S.

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[2] Section 406.145, F.S.
[3] *Id.*
[4] *See* http://www.fdle.state.fl.us/Content/getdoc/eb04fafb-039b-468b-a839-6c1e50a773d7/Secondary-Metal-Information-Home.aspx.

The Missing Endangered Persons Information Clearinghouse (MEPIC) is the central repository of information regarding missing endangered persons in Florida.[5] The MEPIC assists LEAs and Florida's citizens in finding missing persons by providing analytical services and engaging the public in the search. As part of these services, the MEPIC has worked with partner agencies to develop the Florida AMBER Plan[6] and Florida Silver Alert Plan.[7] Under these plans, the MEPIC is responsible for issuing all AMBER Alerts, Missing Child Alerts[8] and State Silver Alerts in Florida. The MEPIC also provides assistance to law enforcement in cases involving unidentified deceased and crimes against children.[9]

Section 937.021(5)(b), F.S., grants specified entities immunity from civil liability when responding to a request from a LEA to release information or photographs pertaining to a missing adult (similar immunity is given to entities responding to requests to release information pertain to Amber Alerts and Silver Alerts). Currently, there is no such immunity for those responding to requests to release information relating to missing children.

Section 937.024, F.S., requires the Office of Vital Statistics, to collect, on a monthly basis, a list of missing children provided by the FDLE and:

- Flag the birth certificate of each identified missing child in order to make its employees aware that a birth certificate is that of a child reported as missing; and
- Recall each missing child's birth certificate or birth record from the local registrar of vital statistics in the county of the missing child's birth.

The state and local registrar are prohibited from providing a copy of the birth certificate or information concerning the birth record of a child whose record has been flagged unless the flag has been removed.[10]

Section 937.025, F.S., requires schools to take certain actions and report information about missing children who are students at the school. Section 937.025(7), F.S., makes it a first degree misdemeanor for a person to knowingly provide false information concerning a missing child or the efforts to locate and return a missing child to a parent, family member, or guardian of a child who has been reported missing. The FDLE states that it is unclear whether the crime, as presently worded, involves providing false information to a law enforcement officer, or to the parents of the missing child.

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[5] *See* http://www.fdle.state.fl.us/MCICSearch/.

[6] The Florida AMBER Plan was established in 2000, making Florida the second state in the nation to develop a statewide AMBER Alert. The purpose of the plan is to broadcast critical information of an abducted child as quickly as possible to the media and general public. See http://www.fdle.state.fl.us/MCICSearch/Amber.asp.

[7] The statewide Silver Alert is a plan to aid local law enforcement in the rescue or recovery of a missing elderly person who suffers from irreversible deterioration of intellectual faculties. *See* http://www.dot.state.fl.us/trafficoperations/ITS/Projects_Deploy/SilverAlert/Silver%20Alert%20Final.pdf.

[8] To aid in the recovery of missing children who are in danger where there is no evidence of an abduction, the FDLE established the Missing Child Alert in 2003. *See* http://www.fdle.state.fl.us/MCICSearch/Amber.asp.

[9] *Id.*

[10] Section 937.024(2)(a), F.S. The Office of Vital Statistics must also collect from the FCIC a list of missing children who have been located, identify which of the located children were born in Florida; and remove its flags from the birth certificates or birth records of such children. Section 937.024(1), F.S.

Section 937.028, F.S., requires fingerprints taken and retained by any state agency, public or private organization, or other person, excluding the parent or guardian of the child, for the purpose of identifying a child, be destroyed when the child reaches 18 years of age. According to the FDLE, this provision was designed in response to a concern that private fingerprinting companies might keep children's fingerprints on file after they had reached adulthood.

The bill amends s. 937.021, F.S., to grant specified entities immunity from civil liability when responding to a request from a LEA to release information or photographs pertaining to a missing child.

The bill amends s. 937.024, F.S., to remove the requirement that the Office of Vital Statistics recall each missing child's birth certificate or birth record from the local registrar of vital statistics in the county of the missing child's birth. The Office of Vital Statistics is still required to flag the record and the state and local registrar are still prohibited from releasing the record unless the flag is removed. However, the bill adds language authorizing the state and local registrar to remove a flag from a record upon the MEPIC's official request. According to the FDLE, this will allow parents of missing children to obtain vital statistics records through a request from the MEPIC.

The bill amends s. 937.025(7), F.S., to provide that it is a first degree misdemeanor for a person to knowingly provide false information concerning a missing child or the efforts to locate and return a missing child whose parent, family member, or guardian reported the child missing. This language clarifies that the crime requires providing false information to a law enforcement officer, and not the parents of a missing child.

The bill amends s. 937.028, F.S., to allow the FDLE to retain the fingerprints of any missing person, including children, until the FDLE is notified that the missing person has been recovered. The Office of Vital Statistics must also collect from the FCIC a list of missing children who have been located, identify which of the located children were born in Florida, and remove its flags from the birth certificates or birth records of such children.

Section 9 (FDLE duties)

Section 9 of the bill amends s. 943.03, F.S., which, in part, authorizes the FDLE to enter into contracts with other state agencies to make "photostats" and transmit information by "teletype;" maintain a "statewide, integrated violent crime information system;" and serve as custodial manager of the "statewide telecommunications and data network" maintained by the FDLE. This terminology no longer reflects current operations, services, and responsibilities.

The FDLE is the central repository of criminal justice information for Florida and operates under the authority of s. 943.05, F.S., and chapter 11C, F.A.C. The FDLE maintains the central repository of criminal history records, as well as "hot files" that provide data such as wanted and missing persons, stolen vehicles, guns and property, and domestic violence injunctions. These databases are made accessible to all criminal justice agencies statewide through the FCIC, which links agencies to the FBI's NCIC. The FDLE's Automated Fingerprint Identification System provides immediate positive identification of fingerprints of arrested persons and an automatic

update of the criminal history files. The Criminal Justice Network (CJNet) provides a secure network for LEAs to access key intelligence databases, relevant publications, and other related information-sharing links.

The bill amends s. 943.03, F.S., to delete obsolete provisions and makes other clarifying and technical changes, including but not limited to, updating certain terms due to advancements in technology.

Section 10 (Violent Crime and Drug Control Council)

Section 10 of the bill amends s. 943.031, F.S., which addresses the composition and responsibilities of, and other matters pertaining to, the Florida Violent Crime and Drug Control Council and its committees.

In 1993, the Florida Violent Crime Council was established to financially assist local law enforcement agencies in extraordinary violent crime cases.[11] After Florida's crime trend slightly shifted from violent crime to drug crimes, the 2001 Legislative Session approved the expansion of the council to include funding for drug investigations. Renamed the Violent Crime and Drug Control Council, the council now has the ability to provide supplemental funding to local and state law enforcement agencies working violent crime, major drug and money laundering investigations, and victim/witness protection and relocation efforts.[12] The council is currently required to conduct at least two meetings a year, but may meet more often when determined by the chair that extraordinary circumstances require it.[13]

The Legislature supports the funding of the council on a year-to-year basis. However, as a result of budget reductions, the violent crime and drug funding has not been appropriated since FY 2007-2008, and the victim/witness protection funding was reduced to $100,000.[14]

The bill requires the council to meet annually instead of semiannually, and specifies that additional meetings may take place when determined by the FDLE and the chair. The bill authorizes council meetings to take place via conference call, teleconference, or other similar technology. The bill also specifies that the duties of the council must be carried out subject to available funding, and requires recipients of the council's funding to return unexpended funds to the council.

Section 11 (Sexual offender registration information)

Section 11 of the bill amends s. 943.0435, F.S., which, in part, requires qualifying sexual offenders to provide specified identifying information. The FDLE maintains Florida's sexual offender registry which contains this identifying information.

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[11] *See* http://www.fdle.state.fl.us/Content/getdoc/5bcffc57-b3f4-4190-833b-0236a4608d1e/Home.aspx.
[12] *Id*.
[13] Section 943.031(4), F.S.
[14] According to information provided by FDLE staff via e-mail communication, the reduction was in the 2007 2C special appropriations bill. The FDLE received $500,000 and the bill reduced the funding by $400,000 to give the FDLE what it currently receives: $100,000.

The bill amends the statute to conform to current requirements and practices in all sexual registration chapters by adding fingerprints and photographs to information that must be provided as part of the sexual offender registration process.

Section 12 (Search of registration information regarding sexual predators and sexual offenders prior to certain appointment or employment)

Section 12 of the bill amends s. 943.04351, F.S., which requires a state agency or governmental subdivision to search the sexual offender registration records prior to appointing or hiring someone to work or volunteer at a park, playground, day care center, or other place where children regularly congregate. The search is done using the applicant's name or other identifying information and is conducted via the Internet site maintained by the FDLE.

The bill expands requirements for state agencies employing persons who work or volunteer at parks, playgrounds, and day care centers to include a search of the Dru Sjodin National Sex Offender Public Website maintained by the U.S. Department of Justice. The current law requiring a search of Florida's sexual offender registry was enacted in 2004, prior to the availability of the national public search. The FDLE believes that this revision ensures that state agencies and governmental subdivisions have the most complete information available about sexual offenders from other states who may either fail to register or identify themselves as such when applying for employment. The entire Florida sexual offender registry is submitted to the national registry daily. As such, results from a search of the national registry will include any Florida registry matches as well as any publicly available matches from other state registries.

Section 13 (Background screening of athletic coaches)

Section 13 of the bill amends s. 943.0438, F.S., which requires that independent sanctioning authorities conduct a search of an athletic coach's identifying information against the state and national sexual predator and sexual offender registries. The bill makes a technical change to delete an obsolete date.

Section 14 (Definitions)

Section 14 of the bill amends s. 943.045, F.S., which defines words and phrases used in ss. 943.045-943.08, F.S., which govern the administration of the Criminal Justice Information Program within the FDLE.

The bill defines the term "biometric" to mean impressions, reproductions or representations of human physical characteristics, such as DNA fingerprints, palm prints and foot prints, eye retinas and irises, voice patterns and facial images, such as booking and drivers' license photographs, which when measured and analyzed can be used for identification purposes. The FBI is incorporating systems that can identify palm prints and facial features. The FDLE states that this definition accommodates other modalities for identifying people at the state and national level. The FDLE recommends these changes in order to specify methods used for identification purposes for biometric identification for the Criminal Justice Information Services (CJIS).

The bill also adds "offender registration information" to the definition of the term "criminal justice information" and replaces obsolete language in the definition of the term "criminal history information."

Section 15 (Criminal Justice Information Program)

Section 15 of the bill amends s. 943.05, F.S., which sets forth duties of the Criminal Justice Information Program. Currently, domestic violence and repeat violence injunction information is electronically transmitted to and between criminal justice agencies via the FCIC. Court orders of protection issued under chapter 39, F.S., are often orders directing an abusing parent to have no contact with a child, not to visit the child's school, etc.

The bill adds injunctions to prevent child abuse issued under chapter 39, F.S., to the Domestic and Repeat Violence Injunction Statewide Verification System. The FDLE states that this change allows for law enforcement officers to be made aware of these injunctions through the same methods currently used for warrants and domestic violence injunctions.

Section 16 (Criminal justice information; collection and storage; fingerprinting)

Section 16 of the bill amends s. 943.051, F.S., which requires fingerprinting of adults and minors charged with or convicted of felonies or misdemeanors, as specified in the statute. The statute also states that a minor shall be fingerprinted and the fingerprints shall be sent to the FDLE for specific misdemeanor crimes. When this occurs, the submission of fingerprints to the FDLE results in the creation of a criminal history record for the juvenile.

The bill requires submission of palm prints and photographs in addition to fingerprints for those currently required to be fingerprinted. The bill also provides an exception to the fingerprinting requirement for a minor issued a civil citation pursuant to s. 985.12, F.S. The FDLE states that this exception will ensure that the civil citation process works to allow diversion from the criminal justice system and avoidance of a criminal history record for a juvenile in one of these programs.

Section 17 (Disposition reporting)

Section 17 of the bill amends s. 943.052, F.S., which requires arresting agencies to include on the arrest fingerprint card the offender-based transaction system number. The FDLE states that over 90 percent of these submissions are electronic using Livescan machines at booking facilities. A required field in these automated submissions (and for entry into the Computerized Criminal History file) is the offender based transaction system number. This number is recorded on the arrest affidavit and provided to the Clerk of Court. The number is used to help link the reported arrest to the subsequent court disposition.

Additionally, all 67 Clerks of Court submit electronic files of prosecutor and court disposition information to the FDLE. These files are in an established format that allows the FDLE to receive and process them automatically. The Department of Corrections (DOC) submits fingerprints and palm prints electronically for each inmate being processed into prison through one of their reception centers and the Department of Juvenile Justice (DJJ) has Livescan

fingerprint capability (booking devices) at their juvenile assessment facilities and submits fingerprints and palm prints of juvenile offenders.

The bill changes the reference from fingerprint cards to fingerprint submissions in recognition of the fact that over 90 percent of incoming arrests are electronic. The bill also updates the court disposition provision of the statute to reflect current practice. All 67 Clerks report electronically at least monthly, and they have to use a format that the FDLE can receive and process electronically.

The bill also removes the requirement to submit information to the FDLE upon a person being released from a state correctional institution, since there is currently no fingerprint Type of Transaction for a release and there is no automated way to enter release information into the computerized criminal history file.

The bill also removes the requirement to submit information to the FDLE upon a person being released from DJJ custody since currently the FDLE does not get release information from the DJJ.

Section 18 (Dissemination of criminal justice information)

Section 18 of the bill amends s. 943.053, F.S., which provides that criminal justice information derived from federal criminal justice information systems or criminal justice information systems of other states shall not be disseminated in a manner inconsistent with the laws, regulations, or rules of the originating agency.

The National Crime Prevention and Privacy Compact Act of 1998 established an infrastructure by which states can exchange criminal history records for noncriminal justice purposes according to the laws of the requesting state. The act also provides for reciprocity among the states to share records without charging each other for the information. The Compact establishes a council to promulgate rules and procedures for the effective use of the Interstate Identification Index (III) System for noncriminal justice purposes.

The bill provides that criminal justice information derived from federal criminal justice information systems or systems of other states shall not be disseminated in a manner inconsistent with the rules instituted by the National Crime Prevention and Privacy Compact or with other applicable laws or rules.

Section 19 (Exchange of federal criminal history records and information)

Section 19 of the bill amends s. 943.054, F.S., which, in part, provides that criminal history information derived from any U.S. Department of Justice criminal justice information system is available to certain entities, including criminal justice agencies for criminal justice purposes and, pursuant to applicable federal laws and regulations, for use in connection with licensing or local or state employment.

The bill provides that this information is available pursuant to applicable federal laws and regulations, including those instituted by the National Crime Prevention and Privacy Compact, for use in connection with licensing or local or state employment.

Section 20 (Access to criminal history information provided by the FDLE to qualified entities)

Section 20 of the bill amends s. 943.0542, F.S., which provides for access to criminal history information by certain qualified entities. A qualified entity must submit to the FDLE a request for screening an employee or volunteer "on a completed fingerprint card" or the request may be submitted electronically. Each such request must be accompanied by a fee for a statewide criminal history check as established in s. 943.053, F.S., plus the amount charged by the FBI for the national criminal history check.

The bill updates language to remove the reference to hard fingerprint cards and only reference electronic fingerprint submissions. The FBI stopped accepting fingerprint cards in April 2011. It also provides that payments made for criminal history checks must be made in the manner prescribed by the FDLE by rule. These fees are set in law but the timing of payments is established in administrative rule. The FDLE states that last year the Legislature authorized invoicing of these entities and the bill clarifies that this option may be set in rule in the future.

Section 21 (Criminal justice information network and information management)

Section 21 of the bill amends s. 943.0544, F.S., which provides that the FDLE manages and operates the Criminal Justice Network which allows for information and data sharing by criminal justice agencies across the state.

The bill specifies the name of the statewide telecommunications and data network as the "Criminal Justice Network" and corrects a reference relating to the Criminal Justice Network (changing the term "intraagency" to "intrastate").

Section 22 (Records and audits)

Section 22 amends s. 943.055, F.S., which addresses audits conducted by the Criminal Justice Information Program. This program audits state and local criminal justice agencies to assure compliance with federal and state laws and regulations pertaining to the operation of criminal justice information systems. The program also audits noncriminal justice agencies, including state agencies that receive state and national criminal history record checks and public and private organizations that submit record check requests under the National Child Protection Act (1993), as amended, and s. 943.0542, F.S. The FBI Criminal Justice Information Services Security Policy, v. 5.1 Appendix J, offers guidelines for auditing noncriminal justice agencies.

The bill conforms the statute to current practice by expanding audit requirements for the Criminal Justice Information Program to apply to noncriminal justice agencies.

Section 23 (Access to, and review and challenge of, criminal history records)

Section 23 amends s. 943.056, F.S., which provides a mechanism for an individual to verify the accuracy and completeness of a criminal history record. Upon determining what the record should contain in order to be complete and accurate, the Criminal Justice Information Program must conform state and federal records to reflect corrected criminal history information.

The bill clarifies that the FDLE will request that federal records be corrected by notifying the FBI of the need for correction of records. The FDLE cannot make corrections directly to federal records.

Section 24 (Prearrest, postarrest, or teen court diversion program expunction)

Section 24 of the bill amends s. 943.0582, F.S. The FDLE processes expunction applications for minors who successfully complete a prearrest, postarrest, or teen court diversion program after being arrested for a nonviolent misdemeanor under s. 943.0582, F.S. Applications for prearrest or postarrest diversion expunction must be submitted no later than 6 months after completion of the diversion program. In compliance with the statute, the FDLE must reject juvenile diversion applications that are received after the 6-month application deadline, even though an applicant has completed the diversion program and met all local criteria.

The FDLE believes that current s. 943.0582(3)(c), F.S., is unworkable in practice, as it conditions eligibility for this form of expunction on the admission criteria of the particular diversion program in which the juvenile defendant participated. The FDLE believes that eligibility should not (and was not intended) to vary according to the way different diversion programs are organized and administered from county to county, and should be based on criteria (first-time, non-violent misdemeanor, as defined) applied to the juvenile applicant as an individual, not to the diversion program in which he or she participates.

The bill extends the time limit for applying for a juvenile diversion expunction after completion of the diversion program from 6 to 12 months, and conditions eligibility on the qualifications of the applicant rather than on those of the diversion program in which he or she participates.

Sections 25 and 26 (Court-ordered expunction of criminal history records; court-ordered sealing of criminal history records)

Sections 25 and 26 of the bill amend ss. 943.0585 and 943.059, F.S., which, respectively, address court-ordered expunction of criminal history records and court-ordered sealing of criminal history records. These statutes set forth the criteria that must be met in order to be eligible to have a criminal history record expunged or sealed. In addition, these statutes also provide that in order to have a criminal history record expunged or sealed within Florida, an individual must first apply to the FDLE for a Certificate of Eligibility.

Currently, the FDLE understands the law to mean that a person can only get one court-ordered expunction (s. 943.0585, F.S.) or one court-ordered seal (s. 943.059, F.S.) in a lifetime. The exception is that a person can apply to have a record expunged after it has been sealed for 10

years. The juvenile diversion expunction (s. 943.0582, F.S.) and the automatic juvenile "purge" expunction (s. 943.0515, F.S.) do not count against this once-in-a-lifetime limitation.

Current law provides that a subject of an expunged or sealed record may lawfully deny or fail to acknowledge the arrest covered by the expunged or sealed record except when the subject of the record meets any of a number of exceptions to this general authorization. One of those exceptions is that the subject of record is seeking authorization from a seaport for employment within or access to one or more seaports.

The FDLE believes that a very close reading of the current statutes could potentially open to dispute this once-in-a-lifetime limitation. The FDLE states that, for example, under current law a person must state, when applying for a seal under s. 943.059, F.S., that he or she "has never secured a prior sealing or expunction of a criminal history record under this section." However, s. 943.059, F.S., relates to sealing only, so a person could argue that he or she does not have an expunction under s. 943.059, F.S. (though the person may actually have received an expunction under the appropriate expunction statute, s. 943.0585, F.S.). This same glitch appears in s. 943.0585, F.S.

The statutes make receipt of an expunction or seal from another jurisdiction a disqualification, without elaboration. The FDLE states that the laws of other states vary widely with regard to sealing and expunging criminal history records. In order to make a determination of whether an action taken on a record from another state should disqualify a person from applying for a court-ordered expunction or seal in Florida, FDLE attorneys must conduct extensive research to determine if the action more closely resembles Florida's court-ordered expunction or seal (limited to once in a lifetime) or one of the other kinds of expunction that would not disqualify an application if it occurred in Florida, e.g., juvenile diversion expunction, automatic juvenile "purge" expunction, or administrative expunction.

The bill replaces the phrase "under this section" in both seal and expunge statutes with a clarification that the subject cannot have secured either a court-ordered expunction or a court-ordered seal under s. 943.0585 or s. 943.059, F.S., as applicable.

The bill also removes references to having received an expunction or sealing "from any jurisdiction outside the state" as a disqualifier for seeking expunction or sealing in Florida.

The bill removes an exception from the general authorization for a subject of an expunged or sealed record to lawfully deny or fail to acknowledge the arrest covered by the expunged or sealed record: when the subject of the record is seeking authorization from a seaport for employment within or access to one or more seaports.

Section 27 (Law enforcement agency accreditation)

Section 27 of the bill amends s. 943.125, F.S., which provides for a law enforcement accreditation program to address certain aspects of law enforcement, including, but not limited to: law enforcement disciplinary procedures and rights; collection and preservation of evidence; use of force; use of criminal investigative funds; seizure and forfeiture of contraband articles; vehicle pursuits; recording and processing citizens' complaints; and handling natural and

manmade disasters. The Commission for Florida Law Enforcement Accreditation (CFA) was created in 1995 and is staffed by the FDLE.

In 1996, the Legislature repealed the Department of Corrections' oversight authority of county correctional facilities. As a result, county correctional professionals determined that a state accreditation process should be established. The Florida Corrections Accreditation Commission (FCAC) was formed in 1998 to create a process for correctional facilities to incorporate uniform standards for county jails.

In 2005, the Association of Pretrial Professionals (APPF) approached the FCAC and requested an accreditation program for agencies with pretrial responsibilities. Two years later, Florida's Chief Inspector General asked for the development of an accreditation program for the Inspectors General investigation function. As a result of requests by county correctional, pretrial diversion, and inspectors general professionals for accreditation programs, accreditation duties were expanded beyond law enforcement. FDLE staff currently supports the Commission for Florida Law Enforcement Accreditation and the Florida Corrections Accreditation Commission.

The bill provides for accreditation of state and local LEAs, correctional facilities, public agency offices of inspectors general, and the pretrial diversion operations within offices of the state attorneys, county government, or sheriffs' offices. The bill further provides that, subject to available funding, the FDLE will employ support staff to the Commission for Florida Law Enforcement Accreditation and the Florida Corrections Accreditation Commission.

The bill clarifies that the state accreditation process is voluntary. The bill also makes technical changes to correct the name of the Corrections Accreditation Commission.

Section 28 (Officers' minimum qualifications for employment or appointment)

Section 28 of the bill amends s. 943.13, F.S., which provides the minimum qualifications for employment as a law enforcement officer or correctional officer. Under this statute, in the case of administrative delays in processing fingerprints, a person may be employed for a period not to exceed 1 year while the fingerprint check is pending if he or she meets other hiring criteria. Previously when the FBI received paper-inked fingerprint cards, the delay in processing was often 6 weeks, and at times up to 3 months. Because of these delays, there was a need to hire an applicant before the state and national criminal history results were available to the employing agency.

The bill deletes the provision allowing an individual to be employed up to 1 year while a fingerprint check is pending. Technology has improved response times to the point that response times are measured in hours rather than months. All submissions to the FDLE and the FBI are electronic so mailing time is eliminated. In addition, the FDLE has committed to a 3 business day turn around on these submissions. The FDLE packages the state and national responses into a single response and provides it to the employing agency via secure email or secure file transfer. The FDLE states that since response delays no longer exist, this provision is not needed.

Section 29 (Implementation of federal Law Enforcement Officers Safety Act of 2004)

Section 29 of the bill amends s. 943.132, F.S., which requires the Criminal Justice Standards and Training Commission (CJSTC) to authorize a uniform firearms proficiency verification card to facilitate implementation of the federal Law Enforcement Officers Safety Act of 2004. The federal act relates to the carrying of concealed firearms by qualified law enforcement officers and qualified retired law enforcement officers.

The bill deletes references to the "Law Enforcement Officers Safety Act of 2004." References to the underlying U.S. Code are retained. By not referring to a particular Congressional Act but rather to the underlying U.S. Code, the statute will not have to be amended each time Congress makes changes to the federal law as each such change is made by a bill with a particular "common name."

Section 30 (Revocation of employment; investigation)

Section 30 of the bill amends s. 943.1395, F.S., which, in part, authorizes the CJSTC to revoke the certification of an officer who is not in compliance with specified provisions. Section 943.1395(6)(a), F.S., provides that the CJSTC shall cause to be investigated any ground for revocation from the employing agency or from the Governor, and the commission may investigate verifiable complaints against an officer.

The FDLE states that the CJSTC is a politically appointed body that does not have the authority to investigate verifiable complaints against an officer. The bill clarifies that the CJSTC may cause verifiable complaints to be investigated.

Sections 31 and 32 (Florida Criminal Justice Executive Institute)

Sections 30 and 31 of the bill, respectively, amend s. 943.1755, F.S, and s. 943.1757, F.S.

Section 943.1755, F.S., provides that the Florida Criminal Justice Executive Institute (FCJEI) is housed within the FDLE. Through the FCJEI, the FDLE delivers educational programs for Florida criminal justice executives. The FCJEI provides external training for high-level criminal justice executives, as well as law enforcement officers and officials. The FCJEI is a CJSTC-certified training center subject to specific rules and audits.

Section 943.1757, F.S., requires the FCJEI Policy Board to identify the needs of criminal justice executives regarding issues related to diverse populations to ensure that appropriate training is provided. Beginning January 1, 1995, and every 5 years thereafter, the policy board is required to submit a report to the appropriate substantive committees of the Legislature describing executive training needs. The board must also prepare a biennial report to the appropriate substantive committees describing how the training needs are being met.

The bill amends s. 943.1755, F.S., to clarify that the FDLE maintains responsibility for delivering and facilitating all FCJEI training.

The bill amends s. 943.1757, F.S., to allow for the appointment of designees to the FCJEI Policy Board to act on behalf of the Secretary of the DOC, the Secretary of the DJJ, and the Executive Director of the FDLE. This change allows these individual agency heads to appoint designees from within their agency that have background and experience in leadership and management training. As designee members of the FCJEI Policy Board, they will represent their respective agency interests in the development and delivery of leadership programs offered through and sponsored by the FCJEI. This provision is already allowed for the Commissioner of Education.

The bill corrects the number of members that constitute a quorum of the FCJEI Policy Board. Seven members are needed to obtain a quorum for the 12-person board.

In order to eliminate redundant reporting requirements, the bill deletes the requirement to report to substantive committees of the Legislature every 5 years. The FDLE will continue to submit the required biennial report describing how these training needs are being met. Additionally, the FDLE prepares an annual report for the policy board that addresses these training requirements and is available upon request.

Section 33 (Regional Training Councils)

Section 33 of the bill amends s. 943.25, F.S., which, in part, addresses regional training councils. These councils advise and assist the CJSTC in assessing regional criminal justice training needs and act as extensions of the CJSTC in planning, programming, and budgeting for expenditures of moneys in the Criminal Justice Standards and Training Trust Fund. The CJSTC is required to annually forward to each regional training council a list of its specific recommended priority issues or items to be funded. According to the FDLE, the CJSTC defers to each regional training council to make their own determination of priorities for their jurisdictions, as this is a specific duty for each council.

The bill authorizes, rather than requires, the CJSTC to annually forward to each regional training council a list of specific recommended priority issues or items for funding.

Section 34 (DNA database)

Section 34 of the bill amends s. 943.325, F.S., relating to the DNA database, which, in part, provides that the results of a DNA analysis and the comparison of analytic results shall be released only to criminal justice agencies, at the request of the agency. The term “criminal justice agencies” is defined by reference to a statutory provision which has changed as a result of other changes in the bill. The bill corrects the statutory citation (conforming change).

Section 35 (State-operated criminal analysis laboratories)

Section 35 of the bill amends s. 943.33, F.S., which, in part, provides that testing services of state-operated criminal analysis laboratories shall be available to any defendant in a criminal case upon showing of good cause and upon order of the court with jurisdiction in the case. The term “good cause” is defined as a finding by the court that the laboratory service being sought by the defendant is anticipated to produce evidence that is relevant and material to the defense, that the service sought is one which is reasonably within the capacity of the state-operated laboratory

and will not be unduly burdensome upon the laboratory, and that the service cannot be obtained from any qualified private or nonstate operated laboratory within the state or otherwise reasonably available to the defense. The court shall assess the costs of such service ordered by the court to the defendant or the local public defender's office.

The FDLE states that it has recently encountered a spate of orders seeking to allow defense experts access to the FDLE labs for purposes of testing evidence relevant to the defendant's defense in an ongoing prosecution. The FDLE further states that the presence of any non-FDLE personnel in the FDLE labs causes significant concern regarding contamination, misuse of equipment, and other recognized lab protocol concerns. The FDLE has always considered s. 943.33, F.S., to allow court-ordered testing on behalf of a defendant to be conducted by FDLE personnel, not defense experts or others acting on behalf of the defense.

The bill amends the definition of "good cause" to add that the service sought is one that will not impede normal daily laboratory operations, negatively impact the laboratory's certifications or equipment calibration, and violate the laboratory's national certification or accreditation standards.

The bill also provides that s. 943.33, F.S., does not authorize the presence of defense experts or others representing the defense inside a state-operated laboratory facility where actual testing or analysis is occurring, and does not authorize the use of state-operated laboratory equipment or facilities by defense experts or other persons not employed by or acting on behalf of the FDLE.

The bill also requires the FDLE to assess the costs of all testing, equipment operation, personnel costs, and any other costs directly attributable to the court-ordered testing to the defendant or the defendant's counsel, whether public, private, or pro bono, who obtained the testing order.

Section 36 (Transportation and protective services)

Section 36 of the bill amends s. 943.68, F.S., which, in part, provides that the FDLE shall submit a report each July 15 to the Governor, the Legislature, and the Cabinet, detailing all transportation and protective services provided under specified subsections of the statute within the preceding fiscal year.

The FDLE is charged with providing protective services to the Governor, the Governor's immediate family, and the Governor's office and mansion. The FDLE also provides protective or transportation services to other individuals in certain circumstances when requested by the Governor, the Lieutenant Governor, a member of the Cabinet, the President of the Senate, the Speaker of the House, or the Chief Justice of the Supreme Court.

The FDLE special agents are assigned to two different pay cycles (160 hours) in which they document their hours of service in the FDLE's Automated Investigative Management System (AIM). Therefore, some agents may be at the beginning or middle of a pay cycle on June 30 (the end of the fiscal year) when the transportation and protective services costs are obtained from the AIM.

The bill changes the due date of the annual Transportation and Protective Services Report from July 15 to August 15. The FDLE states this change will allow for a more accurate reflection of costs associated with protective services provided during a fiscal year. This change will allow all agents who worked protective operations during the fiscal year but whose pay cycle has not ended by June 30 to submit their hours at the end of their cycle.

Section 37 (Tribal council as governing body; powers and duties)

Section 37 of the bill amends s. 285.18, F.S., which provides that the law enforcement agencies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida are "criminal justice agencies." The term "criminal justice agencies" is defined by reference to a statutory provision which has changed as a result of other changes in the bill. The bill corrects the statutory citation (conforming change).

Section 38 (Stop Inmate Fraud Program)

Section 38 of the bill amends s. 414.40, F.S., which addresses the Stop Inmate Fraud Program in the Department of Financial Services. The terms "record" and "criminal justice agencies" are defined by reference to statutory provisions which have changed as a result of other changes in the bill. The bill corrects the statutory citations (conforming changes).

Sections 39-70 (Technical changes to remove outdated or obsolete fingerprinting terminology and tasks from licensing statutes and other statutes)

Various statutes, including, but not limited to, licensing statutes and sexual predator/offender statutes contain outdated, obsolete, or inapplicable terms and tasks relating to fingerprinting. The bill modifies terminology in these statutes relating to fingerprinting and makes other minor, technical wording corrections (unrelated to fingerprinting) as follows:

- **Section 39** of the bill amends s. 447.045, F.S., which relates to confidential information of business agent license applicants held by the Department of Business and Professional Regulation, to replace a reference to "fingerprint cards" with the term "fingerprints."
- **Section 40** of the bill amends s. 455.213, F.S., which relates to general licensing provisions under chapter 455, F.S. (Business and Professional Regulation), to replace references to "fingerprint card" with the term "fingerprints."
- **Section 41** of the bill amends s. 468.453, F.S., which relates to licensure of athletic agents, to replace references to "fingerprint card" with the term "fingerprints."
- **Section 42** of the bill amends s. 476.615, F.S., which relates to qualifications for registration and certification of real estate appraisers, to replace references to "fingerprint card" with the term "fingerprints."
- **Section 43** of the bill amends s. 493.6105, F.S., which relates to initial application for licensure for private investigators and others, to replace references to "fingerprint card" with the term "fingerprints."
- **Section 44** of the bill amends s. 493.6108, F.S., which relates to investigation of private investigator applicants and other applicants, to replace a reference to "fingerprint card" with the term "fingerprints."

- **Section 45** of the bill amends s. 494.00312, F.S., which relates to loan originator licenses, to delete a reference to "in lieu of a paper finger print card" and replace a reference to "fingerprint" with the term "biometric."
- **Section 46** of the bill amends s. 494.00321, F.S., which relates to mortgage broker licenses, to delete references to "in lieu of a paper finger print card" and replace references to "fingerprint" with the term "biometric."
- **Section 47** of the bill amends s. 494.00611, F.S., which relates to mortgage lender licenses, to delete a reference to "in lieu of a paper finger print card" and replace a reference to "fingerprint" with the term "biometric."
- **Section 48** of the bill amends s. 517.12, F.S., which relates to registration of securities dealers and others, to replace references to "fingerprint card" with the term "fingerprints."
- **Section 49** of the bill amends s. 538.09, F.S., which relates to registration of secondhand dealers, to replace a reference to "fingerprint cards" with the term "fingerprints."
- **Section 50** of the bill amends s. 538.25, F.S., which relates to registration of secondary metal recyclers, to replace a reference to "fingerprint cards" with the term "fingerprints."
- **Section 51** of the bill amends s. 548.024, F.S., which relates to pugilistic match promoters, to replace references to "fingerprint card" with the term "fingerprints."
- **Section 52** of the bill amends s. 550.105, F.S., which relates to occupational licenses of racetrack employees, to replace a reference to "fingerprint cards" with the term "fingerprints" and to replace references to "fingerprint" with the term "biometric."
- **Section 53** of the bill amends s. 550.908, F.S., which relates to powers and duties of the Compact Committee (pari-mutuel wagering), to delete a reference to "fingerprint card" (where a substituted term is not required).
- **Section 54** of the bill amends s. 551.107, F.S., which relates to slot machine occupational licenses, to replace a reference to "fingerprint" with the term "fingerprints" and to replace references to "fingerprint" and "fingerprint card" with the term "biometric."
- **Section 55** of the bill amends s. 560.141, F.S., which relates to license applications for money service businesses, to replace a reference to "fingerprint card" with the term "set of fingerprints."
- **Section 56** of the bill amends s. 628.906, F.S., which relates to application requirements for captive insurance (and reinsurance) companies, to replace a reference to "fingerprint cards" with the term "fingerprints" and replace "fingerprint card" with the term "set of fingerprints."
- **Section 57** of the bill amends s. 633.34, F.S., which relates to qualification for employment as a firefighter, to replace a reference to "fingerprint card" with the term "set of fingerprints."
- **Section 58** of the bill amends s. 744.3135, F.S., which relates to credit and criminal investigations of nonprofessional guardian applicants, to replace reference to "fingerprint card" with the term "fingerprints," delete a reference to "completed fingerprint card," delete language relating to tasks required by the clerk of court and guardian relating to fingerprint cards, and replace reference to "fingerprint" with the term "biometric."
- **Section 59** of the bill amends s. 775.21, F.S., relating to sexual predator registration, to replace a reference to "fingerprint card" with the term "fingerprints" and delete the word "Card" in reference to "Sexual Predator Registration Card."
- **Section 60** of the bill amends s. 775.261, F.S., which relates to career offender registration, to replace a reference to "fingerprint card" with the term "fingerprints" and delete the word "Card" in reference to "Career Offender Registration Card."

- **Section 61** of the bill amends s. 790.06, F.S., which relates to a license to carry a concealed weapon or firearm, to replace references to "completed fingerprint card" with the term "complete set of fingerprints" or "fingerprints" (as applicable).
- **Section 62** of the bill amends s. 944.607, F.S., which relates to notification to the FDLE of information on sexual offenders, to replace a reference to "fingerprint card" with the term "fingerprints" and delete the word "Card" in reference to "Sexual Offender Registration Card."
- **Section 63** of the bill amends s. 944.608, F.S., which relates to notification to the FDLE of information on career offenders, to replace a reference to "fingerprint card" with the term "fingerprints" and delete the word "Card" in reference to "Career Offender Registration Card."
- **Section 64** of the bill amends s. 985.11, F.S., which relates to fingerprinting and photographing of a child charged with or found to have committed any of a number of specified offenses, to correct the description of and citation regarding one of those offenses.
- **Section 65** of the bill amends s. 985.644, F.S., which relates to background screenings of DJJ employees and contracted providers, to replace reference to "fingerprint" with the term "biometric" or "biometric identification" (as applicable).
- **Section 66** of the bill amends s. 985.4815, F.S., which relates to notification to the FDLE of information on juvenile sexual offenders, to replace a reference to "fingerprint card" with the term "fingerprints" and delete the word "Card" in reference to "Sexual Offender Registration Card."
- **Section 67** of the bill amends s. 1002.395, F.S., which relates to the Florida Tax Credit Scholarship Program, to delete 2007 dates in regard to fingerprint submissions and searches, replace references to "fingerprint" with the term "biometric" and replace references to "fingerprint cards" with the term "fingerprints."
- **Section 68** of the bill amends s. 1002.421, F.S., which relates to accountability of private schools participating in state school choice scholarship programs, to delete 2007 and 2004 dates in regard to fingerprint submissions and searches, replace references to "fingerprint" with the term "biometric," and replace references to "fingerprint cards" with the term "fingerprints."
- **Section 69** of the bill amends s. 1012.32, F.S., which, in part, relates to background screenings of instructional personnel, to delete 2004 dates in regard to fingerprint submissions and searches, replace references to "fingerprint" with the term "biometric," and replace references to "fingerprint cards" with the term "fingerprints."
- **Section 70** of the bill amends s. 1012.467, F.S., which, in part, relates to background screenings of noninstructional contractors permitted access to school grounds when students are present, to replace references to "fingerprint" with the term "biometric" and replace references to "fingerprint cards" with the term "fingerprints."
- **Section 71** of the bill provides that the bill takes effect on 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:

It is unknown at this time if changes relating to court-ordered costs of laboratory services provided by the FDLE will substantially impact defendants and private defense counsel (relative to the current law on court-ordered costs for these services).

C. Government Sector Impact:

It is unknown at this time if changes relating to court-ordered costs of laboratory services provided by the FDLE will substantially impact public defenders (relative to the current law on court-ordered costs for these services).

The bill does not have a fiscal impact on the FDLE.[15]

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 Criminal Justice on March 18, 3013:

- Amends various statutes, including, but not limited to, licensing statutes and sexual predator/offender statutes, to modify or remove outdated, obsolete, or inapplicable terms and tasks relating to fingerprinting, and to make other minor, technical wording corrections (unrelated to fingerprinting).

[15] FDLE Analyses.

- Adds the following property to the list of regulated metal property which secondary metals recyclers may only purchase if certain conditions are met: more than two lead-acid batteries, or any part or component thereof, in a single purchase or from the same individual in a single day.

B. Amendments:

None.

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

951118

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 26 - 81
4 and insert:
5 transportation concurrency within its jurisdiction and may not
6 require a proportionate-share contribution or construction for
7 new business development before July 1, 2016, unless authorized
8 by the affirmative majority vote of the local government's
9 governing authority.
10 (b) Paragraph (a) does not apply to proportionate-share
11 contribution or construction assessed on existing developments
12 before July 1, 2013.

951118

13 (c) In order to maintain the exemption from transportation
14 concurrency and proportionate-share contribution or construction
15 pursuant to paragraph (a), a new business development must
16 receive a certificate of occupancy by July 1, 2017. If the
17 certificate of occupancy is not received by July 1, 2017, the
18 local government may apply transportation concurrency and
19 require the appropriate proportionate-share contribution or
20 construction for the business development that would have been
21 applied but for this subsection. The new business development
22 must consist of 6,000 square feet or less for anything
23 classified as other than nonresidential. Any outstanding
24 obligation related to the proportionate-share contribution or
25 construction runs with the land and is enforceable against any
26 person claiming a fee interest in the land subject to that
27 obligation.
28 (d) This subsection does not apply if it requires any
29 modification to a local government's financing that would
30 invalidate existing contracts, including debt obligations or
31 covenants and agreements relating to bonds validated or issued
32 by the local government.
33 (e) Upon written notification to the local government, a
34 developer may elect to have the local government apply
35 transportation concurrency and proportionate-share contribution
36 or construction to a business development.
37 (f) This subsection expires July 1, 2017.
38 Section 2. Subsection (6) is added to section 163.31801,
39 Florida Statutes, to read:
40 163.31801 Impact fees; short title; intent; definitions;
41 ordinances levying impact fees.—

951118

42 (6)(a) Notwithstanding any provision of law, ordinance, or
43 resolution to the contrary, a county, municipality, or special
44 district may not impose any new or existing impact fee or any
45 new or existing fee associated with the mitigation of
46 transportation impacts on new business development until July 1,
47 2016, unless authorized by the affirmative majority vote of the
48 governing authority of the county, municipality, or special
49 district. Any governing authority of a local government imposing
50 an impact fee in existence on July 1, 2012, must reauthorize the
51 imposition of the fee pursuant to this paragraph.
52 (b) Paragraph (a) does not apply to any impact fee or fee
53 associated with the mitigation of transportation impacts
54 previously enacted by law, ordinance, or resolution assessed on
55 existing business development before July 1, 2013.
56 (c) In order to maintain the exemption from impact fees and
57 fees associated with the mitigation of transportation impacts
58 pursuant to paragraph (a), a new business development must
59 receive a
60
61 ========== T I T L E A M E N D M E N T ==========
62 And the title is amended as follows:
63 Delete lines 4 - 6
64 and insert:
65 applying transportation concurrency or requiring
66 proportionate-share contribution or construction for
67 new business development for a specified

By Senator Garcia

38-01211-13 20131716__

A bill to be entitled

An act relating to growth management; amending s. 163.3180, F.S.; prohibiting a local government from applying transportation or school concurrency or requiring proportionate-share contribution or construction for new development for a specified period; providing an exception; providing for an extension of the prohibition under certain conditions; providing for applicability; providing for future expiration; amending s. 163.31801, F.S.; prohibiting certain counties, municipalities, and special districts from imposing certain new or existing impact fees for a specified period; providing an exception; providing for an extension of the prohibition under certain conditions; providing for applicability; providing for future expiration; providing an effective date.

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

Section 1. Subsection (7) is added to section 163.3180, Florida Statutes, to read:

163.3180 Concurrency.—

(7)(a) Notwithstanding any provision of law, ordinance, or resolution to the contrary, a local government may not apply transportation or school concurrency within its jurisdiction and may not require a proportionate-share contribution or construction for new development before July 1, 2016, unless authorized by the affirmative vote of two-thirds of the local

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

30 government's governing authority.
31 (b) Paragraph (a) does not apply to proportionate-share
32 contribution or construction assessed on existing developments
33 before July 1, 2013.
34 (c) In order to maintain the exemption from transportation
35 or school concurrency and proportionate-share contribution or
36 construction pursuant to paragraph (a), a new development must
37 receive a certificate of occupancy by July 1, 2017. If the
38 certificate of occupancy is not received by July 1, 2017, the
39 local government may apply transportation or school concurrency
40 and require the appropriate proportionate-share contribution or
41 construction for the development that would have been applied
42 but for this subsection. The new development must consist of
43 10,000 square feet or less for anything classified as other than
44 nonresidential; 50 dwelling units or less for anything
45 classified as multifamily residential; or 30 dwelling units or
46 less for anything classified as single-family residential. Any
47 outstanding obligation related to the proportionate-share
48 contribution or construction runs with the land and is
49 enforceable against any person claiming a fee interest in the
50 land subject to that obligation.
51 (d) This subsection does not apply if it requires any
52 modification to a local government's financing that would
53 invalidate existing contracts, including debt obligations or
54 covenants and agreements relating to bonds validated or issued
55 by the local government.
56 (e) Upon written notification to the local government, a
57 developer may elect to have the local government apply
58 transportation or school concurrency and proportionate-share

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

59 contribution or construction to a development.
60 (f) This subsection expires July 1, 2017.
61 Section 2. Subsection (6) is added to section 163.31801,
62 Florida Statutes, to read:
63 163.31801 Impact fees; short title; intent; definitions;
64 ordinances levying impact fees.—
65 (6)(a) Notwithstanding any provision of law, ordinance, or
66 resolution to the contrary, a county, municipality, or special
67 district may not impose any new or existing impact fee or any
68 new or existing fee associated with the mitigation of
69 transportation impacts on new development until July 1, 2016,
70 unless authorized by the affirmative vote of two-thirds of the
71 governing authority of the county, municipality, or special
72 district. Any governing authority of a local government imposing
73 an impact fee in existence on July 1, 2012, must reauthorize the
74 imposition of the fee pursuant to this paragraph.
75 (b) Paragraph (a) does not apply to any impact fee or fee
76 associated with the mitigation of transportation impacts
77 previously enacted by law, ordinance, or resolution assessed on
78 existing development before July 1, 2013.
79 (c) In order to maintain the exemption from impact fees and
80 fees associated with the mitigation of transportation impacts
81 pursuant to paragraph (a), a new development must receive a
82 certificate of occupancy by July 1, 2017. If the certificate of
83 occupancy is not received by July 1, 2017, the county,
84 municipality, or special district may impose the appropriate
85 impact fees and fees associated with the mitigation of
86 transportation impacts on the development that would have been
87 applied but for this subsection. Any outstanding obligation

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

88 related to impact fees and fees associated with the mitigation
89 of transportation impacts on the development runs with the land
90 and is enforceable against any person claiming a fee interest in
91 the land subject to that obligation.
92 (d) This subsection does not apply if it requires any
93 modification to the financing of a county, municipality, or
94 special district that would invalidate existing contracts,
95 including debt obligations or covenants and agreements relating
96 to bonds validated or issued by the county, municipality, or
97 special district.
98 (e) Upon notification to the county, municipality, or
99 special district, a developer may elect to have impact fees and
100 fees associated with the mitigation of transportation impacts
101 imposed on a development.
102 (f) This subsection expires July 1, 2017.
103 Section 3. This act shall take effect July 1, 2013.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: growth management

Bill Number: 1716 as amended *(if applicable)*

Name: CHARLES PATTISON

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT

Address: 308 N. Monroe St.
Street

Tallahassee, 32301
City *State* *Zip*

Phone:

E-mail: cpattison@1000f.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: 1000 FRIENDS 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 (10/20/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Growth Management

Bill Number: SB 1716 *(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 ☐ N

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)

Meeting Date

Topic: Impact Fees / Currency

Bill Number: 1716 (if applicable)

Name: ERIC Poole

Amendment Barcode: (if applicable)

Job Title: Asst. Leg Director

Address: 100 Monroe (Street)

Tall Fl (City, State, Zip)

Phone: 9224300

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida Assoc. Counties

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ 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 th 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/

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 1716

INTRODUCER: Community Affairs Committee and Senator Garcia

SUBJECT: Growth Management

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.			TR	
3.			ED	
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 1716 exempts certain new development from having to comply with impact fee, transportation concurrency or proportionate share requirements for three years. The exemption lasts from July 1, 2013, through June 30, 2016. The exemption window will not apply to a new development if it is revoked by a majority vote of the local government's governing authority, alters a local government's financing contracts or bonds, or the developer elects to not have the exemption applied.

This bill substantially amends sections 163.3180 and 163.31801 of the Florida Statutes.

II. Present Situation:

Concurrency and Proportionate Share

Concurrency requires public facilities and services to be available concurrent with the impacts of new development. Concurrency in Florida is required for sanitary sewer, solid waste, drainage, and potable water.[1] Concurrency was formerly required for transportation, schools, and parks

[1] Section 163.3180(1), F.S.

and recreation, but in 2011, the Legislature made concurrency for these facilities optional with the passage of the Community Planning Act.[2] Many local governments continue to exercise the option to impose concurrency on transportation and school facilities.

Concurrency is tied to provisions requiring local governments to adopt level-of-service (LOS) standards, address existing deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.[3] Local governments are charged with setting LOS standards within their jurisdiction, and if the LOS standards are not met, development permits may not be issued without an applicable exception.

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development. Proportionate share requires developers to contribute to or build facilities necessary to offset a new development's impacts.[4] The State provides specific formulas local governments must use when calculating proportionate share and specify criteria for when developers have satisfied proportionate share. Local governments may require proportionate share contributions from developers for both transportation and school impacts.[5]

Chapter 2011-139, Laws of Florida, the Community Planning Act (Act), enacted fundamental changes to growth management, including the statutory requirements for transportation concurrency and the calculation of proportionate share contributions. Most notably, the Act made transportation concurrency optional. If local governments elect to retain transportation concurrency, then their comprehensive plans must comply with the requirements included in s. 163.3180(5), F.S.

According to the Florida Department of Transportation, as of January 2013, nineteen local governments in Florida had rescinded transportation concurrency. In many instances, these local governments replaced transportation concurrency with alternative transportation mitigation strategies such as mobility fees, or developer agreements.

Impact Fees

The Florida Constitution grants local governments broad home rule authority. Special assessments, impact fees, franchise fees, and user fees or service charges are examples of these home rule revenue sources. Impact fees are enacted by local ordinance. These fees require total or partial payment to counties, municipalities, special districts, and school districts for the cost of additional infrastructure necessary as a result of new development. Impact fees are tailored to meet the infrastructure needs of new growth at the local level. As a result, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost of the fee's earmarked purposes.

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[2] Section 15, ch. 2011-139, L.O.F.
[3] Id.
[4] Fla. Dep't of Comty. Affairs, Transportation Concurrency: Best Practices Guide pg. 64 (2007), retrieved from http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (3/11/2013).
[5] Sections163.3180 (5), F.S., and 163.3180(6), F.S.

There are several characteristics common to legally sufficient impact fees. The fee is levied on new development or new expansion of existing development. The fee is a one-time charge, although collection may be spread out over time. The fee is earmarked for capital outlay only; operating costs are excluded. The fee represents a proportional share of the cost of the facilities needed to serve the new development. To withstand legal challenge, the governing authority should adopt a properly drafted impact fee ordinance. Such ordinance should specifically earmark funds collected for use in acquiring capital facilities to benefit new residents.

The legislature has found that impact fees are an important source of revenue for local governments to use in funding the infrastructure necessitated by growth. Due to the growth of impact fee collections and local governments' reliance on impact fees, the legislature imposes minimum standards local governments must comply with when adopting impact fees.[6]

At minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must:

- Require that the calculation of the impact fee be based on the most recent and localized data.
- Provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.
- Limit administrative charges for the collection of impact fees to actual costs.
- Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.[7]

In 2009, HB 227 amended s. 163.31801, F.S., to codify the burden of proof for impact fee ordinance challenges.[8] Subsequently, several cities and counties and the Florida Association of Counties sued the Florida House and Senate claiming the bill was unconstitutional. One of the arguments raised by the plaintiffs was that the bill was an unconstitutional mandate.[9] As a result of the litigation, the legislature revisited the same bill in 2011, passing it with a vote of over two-thirds of both chambers to insure the constitutionality of the bill.[10]

According to a 2012 National Impact Fee Survey, 58 Florida jurisdictions have impact fees in place.[11] The same source indicates that 41 of Florida's 67 counties had enacted impact fees which cover a variety of facilities (roads, water, wastewater, school, etc.). It should be noted that at least 17 counties had voluntarily suspended the collection of impact fees at the time of the survey. Of the counties presently suspending impact fees eight are rural or designated Rural Areas of Critical Economic Concern.

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[6] Section 163.31801, F.S.
[7] Section 163.31801(3), F.S.
[8] 2009-49, L.O.F.
[9] *Alachua County v. Cretul*, Case No. 10-CA-0478 (Fla. 2d Jud. Cir. 2010).
[10] 2011-149, L.O.F.
[11] Duncan Associates, *National Impact Fee Survey: 2012*, available at http://www.impactfees.com/publications%20pdf/2012_survey.pdf (last visited March 28, 2013).

III. Effect of Proposed Changes:

Section 1 creates subsection (7) in s. 163.3180, F.S., to provide that a local government may not apply transportation concurrency within its jurisdiction and may not require a proportionate-share contribution or construction for new development before July 1, 2016, unless authorized by a majority vote of the local government's governing authority. The bill provides exceptions for existing developments before July 1, 2013. The bill requires a certificate of occupancy by July 1, 2017, to maintain the exemption.

In order to maintain the exemption the bill provides the new development must consist of 6,000 square feet or less for anything classified as other than nonresidential.

The bill states that this provision of law does not apply if it requires any modification to a local government's financing that would invalidate existing contracts, including debt obligations or covenants and agreements relating to bonds validated or issued by the local government. Upon written notification to the local government, a developer may elect to have the local government apply transportation concurrency and proportionate-share contribution or construction to a development.

The bill provides that the subsection expires on July 1, 2017.

Section 2 creates subsection (6) in s. 163.31801, F.S., to prohibit local governments from imposing any new or existing impact fee or any new or existing fee associated with the mitigation of transportation impacts on new business development until July 1, 2016, unless authorized by a majority vote of the local government's governing authority. Any governing authority of a local government imposing an impact fee in existence on July 1, 2012, must reauthorize the imposition of the fee pursuant to this paragraph. The bill provides exceptions for existing developments before July 1, 2013. The bill requires a certificate of occupancy by July 1, 2017, to maintain the exemption.

The bill states that this provision of law does not apply if it requires any modification to the financing of a county, municipality, or special district that would invalidate existing contracts, including debt obligations or covenants and agreements relating to bonds validated or issued by the county, municipality, or special district. Upon notification to the county, municipality, or special district, a developer may elect to have impact fees and fees associated with the mitigation of transportation impacts imposed on a development.

The bill provides that the subsection expires on July 1, 2017.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates that impose negative fiscal consequences. Subsections (b) and (c) of the provision prohibits the Legislature from "enacting, amending, or repealing any general law if the anticipated effect" is to reduce county or municipal aggregate revenue generating authority or aggregate percentage of state shared revenues as they exist on February 1, 1989, unless certain requirements are met. However, several exemptions and exceptions exist.

Subsection (d) of Art. VII, Sec. 18, of the Constitution of the State of Florida, 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[12]), are exempt.[13]

The Revenue Estimating Conference has not met on this bill, so the financial impact is unknown at this time. If the overall collective financial impact exceeds $1.9 million per year in the aggregate, the bill would require the Legislature pass the bill by 2/3 of the membership of each chamber.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

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

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

B. Private Sector Impact:

The exemptions could save private developers of the identified new developments and their clients substantial funds for a three-year period. This may lead to increased development based on the lower costs associated.

C. Government Sector Impact:

The proposed changes could reduce the amount of revenue collected by local governments and special districts for transportation and public school facilities if not reaffirmed by a majority vote of the governing body.

VI. Technical Deficiencies:

The bill title includes "providing for an extension of the prohibition under certain conditions" (lines 7-8 and 14-15), but there does not appear to be any such provisions in the bill itself.

According to a Department of Economic Opportunity analysis of an identical House bill, "the first phrase in the sentence on lines 42-46 of the bill is unclear: The phrase states that "New development must consist of 6,000 square feet or less for anything classified as other than nonresidential." Development is either residential or nonresidential, so the only development that is "classified as other than nonresidential" is residential. The bill could be read to mean that the 6,000 square foot limitation applies to residential land uses and there is no size limitation for nonresidential development (commercial, industrial, office, institutional, etc). That does not appear to be the intent of the bill. This is likely a scrivener's error and the sentence should be corrected to say "6,000 square feet or less for anything classified as other than *residential*" or "6,000 square feet or less for anything classified as nonresidential" (deleting the words "other than").[14]

The term "new business development" is not defined for the proposed moratorium on impact fees.

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 April 2, 2013
The committee substitute made the following changes to the bill:

- Changes 10,000 square feet to 6,000 square feet for new business development eligible for the exemption from transportation concurrency and proportionate-share contribution;

[14] Department of Economic Opportunity, *House Bill 321 Analysis*, (February 18, 2013) (on file with the Senate Community Affairs Committee).

- Changes vote of local government for authorization of impact fees, transportation concurrency and proportionate-share contribution from 2/3 to affirmative majority vote;
- Removes school concurrency from the bill;
- Removes multifamily and single-family residential from new business development eligible for the exemption from transportation concurrency and proportionate-share contribution.

B. Amendments:

None.

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

866118

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2013	.	
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	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 245 - 427
4 and insert:
5 (1) For purposes of this section, the term:
6 (a) "Defect" means:
7 1. Any failure, fault, or flaw in an electronic or
8 electromechanical voting system approved pursuant to s. 101.5605
9 which results in nonconformance with the standards in a manner
10 that affects the timeliness or accuracy of the casting or
11 counting of ballots; or
12 2. Any failure or inability of the voting system

866118

13 manufacturer or vendor to make available or provide approved
14 replacements of hardware or software to the counties that have
15 purchased the approved voting system, the unavailability of
16 which results in the system's nonconformance with the standards
17 in a manner that affects the timeliness or accuracy of the
18 casting or counting of ballots.
19 (b) "Standards" refers to the requirements in ss. 101.5606
20 and 101.56062 under which a voting system was approved for use
21 in the state.
22 (c) "Vendor" means a person who submits or previously
23 submitted a voting system that was approved by the Department of
24 State in accordance with s. 101.5605, or a person who enters
25 into a contract for the sale or lease of a voting system to any
26 county, or that previously entered into such a contract that has
27 not expired.
28 (2)(a) No later than December 31, 2013, and, thereafter, on
29 January 1 of every odd-numbered year, each vendor shall file a
30 written disclosure with the department identifying any known
31 defect in the voting system or the fact that there is no known
32 defect, the effect of any defect on the operation and use of the
33 approved voting system, and any known corrective measures to
34 cure a defect, including, but not limited to, advisories and
35 bulletins issued to system users.
36 (b) Implementation of corrective measures approved by the
37 department which enable a system to conform to the standards and
38 ensure the timeliness and accuracy of the casting and counting
39 of ballots constitutes a cure of a defect.
40 (c) If a vendor becomes aware of the existence of a defect,
41 he or she must file a new disclosure with the department as

866118

42 provided in paragraph (a) within 30 days after the date the
43 vendor determined or reasonably should have determined that the
44 defect existed.
45 (d) If a vendor discloses to the department that a defect
46 exists, the department may suspend all sales or leases of the
47 voting system in the state and may suspend the use of the system
48 in any election in the state. The department shall provide
49 written notice of any such suspension to each affected vendor
50 and supervisor of elections. If the department determines that
51 the defect no longer exists, the department shall lift the
52 suspension and provide written notice to each affected vendor
53 and supervisor of elections.
54 (e) If a vendor fails to file a required disclosure for a
55 voting system previously approved by the department, that system
56 may not be sold, leased, or used for elections in the state
57 until it has been submitted for examination and approval and
58 adopted for use pursuant to s. 101.5605. The department shall
59 provide written notice to all supervisors of elections that the
60 system is no longer approved.
61 (3)(a) If the department has reasonable cause to believe a
62 voting system approved pursuant to s. 101.5605 contains a defect
63 either before, during, or after an election which has not been
64 disclosed pursuant to subsection (2), the department may
65 investigate whether the voting system has a defect.
66 (b) The department may initiate an investigation pursuant
67 to paragraph (a) on its own initiative or upon the written
68 request of the supervisor of elections of a county that
69 purchased or leased a voting system that contains the alleged
70 defect.

866118

71 (c) Upon initiating an investigation, the department shall
72 provide written notice to the vendor and all of the supervisors
73 of elections.
74 (4)(a) If the department determines by a preponderance of
75 the evidence that a defect exists in the voting system, or that
76 a vendor failed to timely disclose a defect pursuant to
77 subsection (2), the department shall provide written notice to
78 the affected vendor and supervisors of elections.
79 (b) A vendor entitled to receive notice pursuant to
80 paragraph (a) shall, within 10 days, file a written response to
81 the department which:
82 1. Denies that the alleged defect exists or existed as
83 alleged by the department or that the vendor failed to timely
84 disclose a defect, and sets forth the reasons for such denial;
85 or
86 2. Admits that the defect exists or existed as alleged by
87 the department or that the vendor failed to timely disclose a
88 defect.
89 (c) If the defect has been cured, the vendor shall provide
90 an explanation of how the defect was cured.
91 (d) If the defect has not been cured, the vendor shall
92 inform the department whether the defect can be cured and shall
93 provide the department with a plan for curing the defect. If the
94 defect can be cured, the department shall establish a timeframe
95 within which to cure the defect.
96 (5) If after receiving a response from the vendor, the
97 department determines that a defect does not exist or has been
98 cured within the timeframe established by the department, the
99 department shall take no further action.

866118

100 (6) If the department determines that: a vendor failed to
101 timely disclose a defect; or that a defect exists and a vendor
102 has not filed a written response or has failed to cure within
103 the timeframe established by the department, or if the defect
104 cannot be cured, the department shall impose a civil penalty of
105 $25,000 for the defect plus an amount equal to the actual costs
106 incurred by the department in conducting the investigation.
107 (7) If the department finds that a defect existed:
108 (a) The department may suspend all sales and leases of the
109 voting system and may suspend its use in any county in the
110 state. The department shall provide written notice of the
111 suspension to each affected vendor and supervisor of elections.
112 (b) If the department determines that a defect no longer
113 exists in a voting system that has been suspended from use
114 pursuant to paragraph (a), the department shall lift the
115 suspension and authorize the sale, lease, and use of the voting
116 system in any election in the state. The department shall
117 provide written notice that the suspension has been lifted to
118 each affected vendor and supervisor of elections.
119 (c) If the defect cannot be cured, the department may
120 disapprove the voting system for use in elections in the state.
121 The department shall provide written notice to all supervisors
122 of elections that the system is no longer approved. After
123 approval of a system has been withdrawn pursuant to this
124 paragraph, the system may not be sold, leased, or used in
125 elections in the state until it has been submitted for
126 examination and approval and adopted for use pursuant to s.
127 101.5605.
128 (d) Any vendor against whom a civil penalty was imposed

866118

129 under this section may not submit a voting system for approval
130 by the Department of State in accordance with s. 101.5605 or
131 enter into a contract for sale or lease of a voting system in
132 the state until the civil penalties have been paid and the
133 department provides written confirmation to the supervisors of
134 elections of the payment.
135 (8) The department shall prepare a written report of any
136 investigation conducted pursuant to this section.
137 (9) The authority of the department under this section is
138 in addition to, and not exclusive of, any other authority
139 provided by law.
140 (10) All proceedings under this section are exempt from
141 chapter 120.
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 22 - 27
146 and insert:
147 notice; creating s. 101.56065, F.S.; providing
148 definitions; requiring a vendor to file a written
149 disclosure with the department; providing requirements
150 for the disclosure; providing what constitutes a cure
151 of a defect; requiring a vendor to file a new
152 disclosure with the department if a vendor becomes
153 aware of a defect within a specified period;
154 authorizing the department to suspend all sales or
155 leases or use in an election of a defective voting
156 system; authorizing the

399758

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 720 - 727
4 and insert:
5 practicable. In addition, a supervisor may designate one early
6 voting site per election in an area of the county that does not
7 have any of the eligible early voting locations. Such additional
8 early voting site must be geographically located so as to
9 provide all voters in that area with an equal opportunity to
10 cast a ballot, insofar as is practicable. Each county shall, at
11 a minimum, operate the same total number of early voting sites
12 for a general election which the county operated for the 2012

399758

13 general election. The results or tabulation of votes cast during
14 early
15
16 ========== T I T L E A M E N D M E N T ==========
17 And the title is amended as follows:
18 Delete line 58
19 and insert:
20 for early voting; authorizing the supervisor to
21 designate one additional early voting site per
22 election; providing requirements; requiring each
23 county to operate at

938842

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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	.	

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

Senate Amendment (with title amendment)

Delete line 727
and insert:
election. Each county shall operate at least one early voting site for each complete set of 50,000 registered voters in the county as of July 1 of each general election year. In the event that the waiting time at an early voting site exceeds 90 minutes during an election that contains state or federal races, the supervisor shall provide additional personnel or voting equipment to such early voting site within 4 hours in order to expedite voting. The results or tabulation of votes cast during

938842

13 early
14
15 ========== T I T L E A M E N D M E N T ==========
16 And the title is amended as follows:
17 Delete line 60
18 and insert:
19 for the 2012 general election; providing requirements
20 for determining the number of early voting sites each
21 county must operate; requiring a supervisor to provide
22 additional personnel or voting equipment to an early
23 voting site under specified conditions; revising the
24 number of

155566

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 569
and insert:
5. In-person to an elector at the supervisor's office beginning on the 29th day before an election containing state and federal races through the 2nd day before an election containing state and federal races.
6. Except as provided in s. 101.655, the supervisor may not

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:

155566

13 Delete line 49
14 and insert:
15 specified circumstances; requiring the supervisor to
16 allow an elector to request an absentee ballot in-
17 person for a specified timeframe; prohibiting the
18 supervisor

929070

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2013	.	
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	.	

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

Senate Amendment

Delete lines 730 - 738
and insert:
(d) Early voting shall begin on the 10th day before an election that contains state or federal races and end on the 2nd ~~3rd~~ day before the election, and shall be provided for no less than ~~6 hours and no more than~~ 12 hours per day at each site during the applicable period. In addition, early voting may be offered, at the discretion of the supervisor of elections, on the 15th, 14th, 13th, 12th, and 11th days before an election that contains state or federal races. On the 2nd day before an

929070

13 election that contains state or federal races, the supervisor
14 must provide early voting in the main office of the supervisor
15 and any branch offices. The opening of additional early voting
16 sites on the 2nd day before an election is at the discretion of
17 the supervisor. The supervisor of elections

528194

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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	.	
	.	

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

Senate Amendment

Delete lines 713 - 724
and insert:
designate <u>any suitable location as an early voting site</u> ~~any city hall or permanent public library facility as early voting sites~~; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. <u>Each</u>

180402

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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The Committee on Community Affairs (Smith) recommended the following:

Senate Amendment (with title amendment)

Between lines 139 and 140
insert:
Section 4. Paragraphs (a) and (b) of subsection (2) of section 101.045, Florida Statutes, are amended to read:
101.045 Electors must be registered in precinct; provisions for change of residence or name.—
(2)(a) An elector who moves from the precinct in which the elector is registered may ~~be permitted to~~ vote <u>by regular ballot</u> in the precinct to which he or she has moved his or her legal residence~~,~~ if the change of residence is within the same county<u>,</u>

180402

13 or the precinct to which the elector has moved his or her legal
14 residence is within a county that uses an electronic database as
15 a precinct register at the polling place, and the elector
16 completes an affirmation in substantially the following form:
17
18 Change of Legal Residence of Registered
19 Voter
20
21 Under penalties for false swearing, I, ...(Name of voter)...,
22 swear (or affirm) that the former address of my legal residence
23 was ...(Address of legal residence)... in the municipality of
24 ...., in .... County, Florida, and I was registered to vote in
25 the .... precinct of .... County, Florida; that I have not voted
26 in the precinct of my former registration in this election; that
27 I now reside at ...(Address of legal residence)... in the
28 Municipality of ...., in .... County, Florida, and am therefore
29 eligible to vote in the .... precinct of .... County, Florida;
30 and I further swear (or affirm) that I am otherwise legally
31 registered and entitled to vote.
32
33 ...(Signature of voter whose address of legal residence has
34 changed)...
35
36 (b) Except for an active uniformed services voter or a
37 member of his or her family and except for an elector who has
38 moved his or her legal residence to a precinct within a county
39 that uses an electronic database as a precinct register at the
40 polling place, an elector whose change of address is from
41 outside the county may not change his or her legal residence at

180402

42 the polling place and vote a regular ballot; however, such
43 elector is entitled to vote a provisional ballot.
44
45 ========== T I T L E A M E N D M E N T ==========
46 And the title is amended as follows:
47 Between lines 9 and 10
48 insert:
49 amending s. 101.045, F.S.; authorizing an elector to
50 vote a regular ballot at the polling place in the
51 precinct to which he or she has moved if such county
52 uses an electronic database as a precinct register;

730616

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2013	.	
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The Committee on Community Affairs (Smith) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 155 - 156
4 and insert:
5 than one ballot statement, additional ballot summaries may not
6 exceed 150 words in length.

943324

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2013	.	
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	.	
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The Committee on Community Affairs (Smith) recommended the following:

Senate Amendment (with title amendment)

Delete line 846
and insert:
rejected as illegal within 48 hours of rejecting the ballot and provide the specific reason the ballot

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 72
and insert:
her ballot was rejected within a certain timeframe;

943324

13 requiring the supervisor to

386482

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2013	.	
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	.	

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

Senate Amendment (with title amendment)

Delete line 846
and insert:
rejected as illegal within 72 hours of rejecting the ballot and provide the specific reason the ballot

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 72
and insert:
her ballot was rejected within a certain timeframe;

386482

13 requiring the supervisor to

797954

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 709 - 712
and insert:
each early voted ballot. In order for a branch office to be used for early voting, it shall be a permanent facility of the supervisor ~~and shall have been designated and used as such for at least 1 year prior to the election~~. The supervisor may also

422386

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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	.	
	.	

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

1 **Senate Substitute for Amendment (929070)**
2
3 Delete lines 730 - 738
4 and insert:
5 (d) Early voting shall begin on the 15th ~~10th~~ day before an
6 election that contains state or federal races and end on the 2nd
7 ~~3rd~~ day before the election, and shall be provided for no less
8 than ~~6 hours and no more than~~ 12 hours per day at each site
9 during the applicable period. For early voting on the 2nd day
10 before an election that contains state or federal races, the
11 supervisor must provide early voting in the main office of the
12 supervisor and any branch offices. The opening of additional

422386

13 early voting sites on the 2nd day before the election is at the
14 discretion of the supervisor. The supervisor of elections

119654

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
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	.	

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

Senate Substitute for Amendment (943324) (with title amendment)

Delete line 862
and insert:
affidavit in order to cure the unsigned absentee ballot. A supervisor who receives an absentee ballot that does not include the elector's signature must notify the elector of that fact along with the procedure for curing such deficiency within 48 hours of receipt.

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

119654

13 And the title is amended as follows:
14 Before line 75
15 insert:
16 requiring notification of missing signature within 48
17 hours of receipt;

314626

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/03/2013	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (730616)**
2
3 Delete line 156
4 and insert:
5 priority, may not exceed 75 words in length and additional
6 ballot summaries may not exceed 150 words in length.

By the Committee on Ethics and Elections; and Senator Latvala

582-02595A-13 2013600c1

A bill to be entitled

An act relating to elections; amending s. 97.0555, F.S.; revising qualifications for late voter registration; creating s. 100.032, F.S.; requiring supervisors of elections to submit a report to the Secretary of State at least 3 months before a general election; specifying the content of the report; amending s. 100.061, F.S.; decreasing the time period between a primary election and a general election; amending s. 101.161, F.S.; providing a limitation on the number of words for certain ballot summaries in joint resolutions proposed by the Legislature; deleting a provision providing that a ballot statement consisting of the full text of a constitutional amendment or revision is presumed to be a clear and unambiguous statement; amending s. 101.5605, F.S.; requiring a person to provide the name, mailing address, and telephone number of a registered agent of a voting systems vendor to the Department of State under certain circumstances; providing that proof of delivery or attempt to deliver constitutes valid notice; creating s. 101.56065, F.S.; providing a definition for the term “defect”; requiring any person who submitted a voting system to the department for approval or sold or leased any approved voting system to file a disclosure with the department; providing requirements for the disclosure; authorizing the department to suspend all sales or leases or use in an election of a defective voting system; providing

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

30 procedures for the suspension of voting systems;
31 authorizing the department to withdraw approval of
32 voting systems under certain circumstances;
33 authorizing the department to initiate an
34 investigation of a defective voting system;
35 establishing procedures and requirements of
36 investigations; providing a penalty; repealing s.
37 101.56075(4), F.S., relating to the requirement that
38 all voting systems used by voters in a state election
39 allow placement of the full text of a constitutional
40 amendment or revision containing stricken or
41 underlined text by a specified date; amending s.
42 101.591, F.S.; authorizing use of automated,
43 independent audits of voting systems; providing audit
44 requirements; requiring the Division of Elections to
45 adopt rules; amending s. 101.62, F.S.; revising the
46 requirements for a valid absentee ballot request;
47 requiring the supervisor to record the absence of the
48 voter’s signature on the voter’s certificate under
49 specified circumstances; prohibiting the supervisor
50 from providing an absentee ballot on the day of an
51 election under certain circumstances; requiring a
52 person who requests an absentee ballot to complete an
53 affidavit under certain circumstances; amending s.
54 101.64, F.S.; revising the requirements for a voter’s
55 certificate; amending s. 101.65, F.S.; revising the
56 instructions to absent electors; amending s. 101.657,
57 F.S.; revising the list of permissible sites available
58 for early voting; requiring each county to operate at

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

59 least the same number of early voting sites as used
60 for the 2012 general election; revising the number of
61 days and hours for early voting; amending s. 101.67,
62 F.S.; conforming a provision to changes made by the
63 act; amending s. 101.68, F.S., and reenacting
64 subsection (2), relating to the canvassing of absentee
65 ballots; authorizing the supervisor to use the
66 elector’s signature in a precinct register to compare
67 with the elector’s signature on the voter’s
68 certificate; providing that an absentee ballot must
69 clearly identify the name of the witness in order to
70 be considered legal; requiring the supervisor to
71 provide the elector with the specific reason his or
72 her ballot was rejected; requiring the supervisor to
73 allow electors to complete an affidavit to cure an
74 unsigned absentee ballot prior to canvassing;
75 providing the form and contents of the affidavit;
76 providing instructions to accompany each absentee
77 ballot affidavit; requiring the affidavit,
78 instructions, and the supervisor’s office mailing
79 address to be posted on certain websites; requiring
80 the supervisor to attach a received affidavit to the
81 appropriate absentee ballot mailing envelope; amending
82 s. 101.6921, F.S.; revising the voter’s certificate
83 accompanying a special absentee ballot; amending s.
84 101.6923, F.S.; revising special absentee ballot
85 instructions; amending s. 101.6952, F.S.; providing
86 that absentee ballots received from overseas voters in
87 certain elections may be received up to 10 days after

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

88 the date of the election; amending s. 102.031, F.S.;
89 revising restrictions relating to the solicitation of
90 voters; amending s. 102.141, F.S.; revising methods of
91 selecting canvassing board members; requiring a
92 supervisor to upload certain canvassed election
93 results into a county's election management system
94 prior to the election; prohibiting public disclosure
95 of uploaded results before the close of the polls on
96 election day; amending s. 104.0616, F.S.; providing a
97 definition for the term "immediate family";
98 prohibiting possession of more than two absentee
99 ballots under certain circumstances; providing an
100 effective date.
101
102 Be It Enacted by the Legislature of the State of Florida:
103
104 Section 1. Section 97.0555, Florida Statutes, is amended to
105 read:
106 97.0555 Late registration.—An individual or accompanying
107 family member who has been discharged or separated from the
108 uniformed services or the United States Merchant Marine, has
109 returned from a combat zone or forward-deployed area, or has
110 separated from employment outside the territorial limits of the
111 United States, after the book-closing date for an election
112 pursuant to s. 97.055 and who is otherwise qualified may
113 register to vote in such election until 5 p.m. on the Friday
114 before that election in the office of the supervisor of
115 elections. Such persons must produce sufficient documentation
116 showing evidence of qualifying for late registration pursuant to

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

117 this section.
118 Section 2. Section 100.032, Florida Statutes, is created to
119 read:
120 100.032 Election preparation report; general election.—Each
121 supervisor of elections must submit a report to the Secretary of
122 State at least 3 months before a general election which outlines
123 preparations for the upcoming general election. The report must
124 include, at a minimum, the following elements: the anticipated
125 staffing levels during the early voting period, on election day,
126 and after election day; and the anticipated amount of automatic
127 tabulating equipment at each early voting site and polling
128 place.
129 Section 3. Section 100.061, Florida Statutes, is amended to
130 read:
131 100.061 Primary election.—In each year in which a general
132 election is held, a primary election for nomination of
133 candidates of political parties shall be held on the Tuesday 10
134 ~~12~~ weeks prior to the general election. The candidate receiving
135 the highest number of votes cast in each contest in the primary
136 election shall be declared nominated for such office. If two or
137 more candidates receive an equal and highest number of votes for
138 the same office, such candidates shall draw lots to determine
139 which candidate is nominated.
140 Section 4. Subsection (3) of section 101.161, Florida
141 Statutes, is amended to read:
142 101.161 Referenda; ballots.—
143 (3)(a) Each joint resolution that proposes a constitutional
144 amendment or revision shall include one or more ballot
145 statements set forth in order of priority. Each ballot statement

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

146 shall consist of a ballot title, by which the measure is
147 commonly referred to or spoken of, not exceeding 15 words in
148 length, and ~~either~~ a ballot summary that describes the chief
149 purpose of the amendment or revision in clear and unambiguous
150 language~~, or the full text of the amendment or revision~~. If a
151 joint resolution that proposes a constitutional amendment or
152 revision contains only one ballot statement, the ballot summary
153 may not exceed 75 words in length. If a joint resolution that
154 proposes a constitutional amendment or revision contains more
155 than one ballot statement, the first ballot summary, in order of
156 priority, may not exceed 75 words in length.
157 (b) The Department of State shall furnish a designating
158 number pursuant to subsection (2) and the appropriate ballot
159 statement to the supervisor of elections of each county. The
160 ballot statement shall be printed on the ballot after the list
161 of candidates, followed by the word "yes" and also by the word
162 "no," and shall be styled in such a manner that a "yes" vote
163 will indicate approval of the amendment or revision and a "no"
164 vote will indicate rejection.
165 (c) ~~(b)~~1. Any action for a judicial determination that one
166 or more ballot statements embodied in a joint resolution are
167 defective must be commenced by filing a complaint or petition
168 with the appropriate court within 30 days after the joint
169 resolution is filed with the Secretary of State. The complaint
170 or petition shall assert all grounds for challenge to each
171 ballot statement. Any ground not asserted within 30 days after
172 the joint resolution is filed with the Secretary of State is
173 waived.
174 2. The court, including any appellate court, shall accord

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

175 an action described in subparagraph 1. priority over other
176 pending cases and render a decision as expeditiously as
177 possible. If the court finds that all ballot statements embodied
178 in a joint resolution are defective and further appeals are
179 declined, abandoned, or exhausted, unless otherwise provided in
180 the joint resolution, the Attorney General shall, within 10
181 days, prepare and submit to the Department of State a revised
182 ballot title or ballot summary that corrects the deficiencies
183 identified by the court, and the Department of State shall
184 furnish a designating number and the revised ballot title or
185 ballot summary to the supervisor of elections of each county for
186 placement on the ballot. The revised ballot summary may exceed
187 75 words in length. The court shall retain jurisdiction over
188 challenges to a revised ballot title or ballot summary prepared
189 by the Attorney General, and any challenge to a revised ballot
190 title or ballot summary must be filed within 10 days after a
191 revised ballot title or ballot summary is submitted to the
192 Department of State.
193 ~~3. A ballot statement that consists of the full text of an~~
194 ~~amendment or revision shall be presumed to be a clear and~~
195 ~~unambiguous statement of the substance and effect of the~~
196 ~~amendment or revision, providing fair notice to the electors of~~
197 ~~the content of the amendment or revision and sufficiently~~
198 ~~advising electors of the issue upon which they are to vote.~~
199 Section 5. Subsection (3) of section 101.5605, Florida
200 Statutes, is amended to read:
201 101.5605 Examination and approval of equipment.—
202 (3)(a) Before the Department of State approves the
203 electronic or electromechanical voting system, the person who

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

204 submitted it for examination shall provide the department with
205 the name, mailing address, and telephone number of a registered
206 agent, which agent must have and continuously maintain an office
207 in this state. Any change in the name, address, or telephone
208 number of the registered agent shall promptly be made known to
209 the department.
210 (b) Before entering into a contract for the sale or lease
211 of a voting system approved under this section to any county,
212 the person entering into such contract shall provide the
213 department with the name, mailing address, and telephone number
214 of a registered agent, which agent must have and continuously
215 maintain an office in this state. Any change in the name,
216 address, or telephone number of the registered agent shall
217 promptly be made known to the department.
218 (c) The department's proof of delivery or attempted
219 delivery to the last mailing address of the registered agent on
220 file with the department at the time of delivery or attempted
221 delivery is valid for all notice purposes.
222 (d) Within 30 days after completing the examination and
223 upon approval of any electronic or electromechanical voting
224 system, the Department of State shall make and maintain a report
225 on the system, together with a written or printed description
226 and drawings and photographs clearly identifying the system and
227 the operation thereof. As soon as practicable after such filing,
228 the department shall send a notice of certification and, upon
229 request, a copy of the report to the governing bodies of the
230 respective counties of the state. Any voting system that does
231 not receive the approval of the department may ~~shall~~ not be
232 adopted for or used at any election.

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

233 (e) ~~(b)~~ After a voting system has been approved by the
234 Department of State, any change or improvement in the system is
235 required to be approved by the department prior to the adoption
236 of such change or improvement by any county. If any such change
237 or improvement does not comply with the requirements of this
238 act, the department shall suspend all sales of the equipment or
239 system in the state until the equipment or system complies with
240 the requirements of this act.
241 Section 6. Section 101.56065, Florida Statutes, is created
242 to read:
243 101.56065 Voting system defects; disclosure;
244 investigations; penalties.—
245 (1) For purposes of this section, the term "defect" means:
246 (a) Any failure, fault, or flaw in an electronic or
247 electromechanical voting system approved pursuant to s. 101.5605
248 which results in nonconformance with the standards under which
249 the voting system was approved in a manner that affects the
250 accuracy of the casting or counting of ballots; or
251 (b) Any failure or inability of the voting system
252 manufacturer or vendor to make available hardware or software to
253 the counties that have purchased the approved voting system, the
254 unavailability of which results in the system's nonconformance
255 with the standards under which the voting system was approved in
256 a manner that affects the accuracy of the casting or counting of
257 ballots.
258 (2)(a) Any person who submits a voting system for approval
259 by the Department of State in accordance with s. 101.5605 which
260 was approved by the department prior to the effective date of
261 this section, and any person who has sold or leased to a county

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262 any voting system approved by the department prior to the
263 effective date of this section, shall file with the department a
264 disclosure of any defect in the voting system. If there are no
265 defects in the voting system, the person shall state in the
266 disclosure that no defects exist in the voting system.
267 (b) The disclosure required under this subsection must
268 identify the defect, if any, the effect of the defect on the
269 operation and use of the approved voting system, and any known
270 corrective measures that users of the voting system may take to
271 cure the defect, including, but not limited to, advisories and
272 bulletins issued to users of the system. Implementation of
273 corrective measures approved by the department which enable a
274 system to conform to the standards under which the system was
275 approved and ensure the accuracy of the casting and counting of
276 ballots constitutes a cure of a defect.
277 (c) Each person required to file a disclosure or statement
278 under paragraph (a) shall file it no later than January 1, 2014,
279 and, thereafter, shall file it no later than January 1 of every
280 odd-numbered year. The disclosure or statement required to be
281 filed by January 1, 2014, must include information regarding the
282 filer’s registered agent as provided in s. 101.5605(3).
283 (d) If at any time a person who has submitted a voting
284 system for approval by the department in accordance with s.
285 101.5605 or any person who has sold or leased to a county any
286 voting system approved by the department becomes aware of the
287 existence of a defect in a system that person has submitted for
288 approval or sold or leased to a county, that person shall file
289 with the department a disclosure of the defect within 30 days
290 after a determination by that person that the defect exists.

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291 (e) If a person discloses to the department that a defect
292 exists in a voting system, the department may suspend all sales
293 or leases of the voting system in the state and may suspend the
294 use of the system in any elections in the state. The department
295 shall provide written notice of any such suspension to the
296 supervisor of elections in each county in which use of the
297 voting system is suspended. If the department at any time
298 determines that the defect no longer exists, the department may
299 lift the suspension. The department shall provide written notice
300 that the suspension has been lifted to the supervisor of
301 elections in each county in which use of the voting system was
302 suspended.
303 (f) If no person files a required disclosure for a voting
304 system previously approved by the department, that system may
305 not be approved for sale or lease in the state or for use in
306 elections in the state. The department shall provide written
307 notice to all supervisors of elections that the system is no
308 longer approved. After approval of a system has been withdrawn
309 pursuant to this paragraph, no such system may be sold or leased
310 or used in any election in the state until it has been submitted
311 for examination and approval and adopted for use pursuant to s.
312 101.5605.
313 (3)(a) When the department has reasonable cause to believe
314 a voting system approved pursuant to s. 101.5605 contains a
315 defect either before, during, or after an election which has not
316 been disclosed pursuant to subsection (2), the department may
317 investigate whether the voting system has a defect.
318 (b) The department may initiate an investigation pursuant
319 to paragraph (a) on its own initiative or upon the written

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320 request of the supervisor of elections of a county that
321 purchased or leased a voting system which contains the alleged
322 defect.
323 (c) Upon initiating an investigation, the department shall
324 provide written notice to any person who submitted the voting
325 system for approval by the department in accordance with s.
326 101.5605, any person who has entered into a contract with any
327 county for the sale or lease of the voting system to any county,
328 and all of the supervisors of elections.
329 (d) In order to carry out the responsibilities prescribed
330 by this section, the department is empowered to subpoena and
331 bring before its duly authorized representatives any person in
332 the state or doing business in the state, or any person who has
333 filed or is required to have filed any application, document,
334 papers, or other information with an office or agency of this
335 state or a political subdivision thereof, to require the
336 production of papers, books, or other records relevant to any
337 investigation. Duly authorized representatives of the department
338 are empowered to administer all oaths and affirmations in the
339 manner prescribed by law to witnesses who appear before them
340 concerning any relevant matter of the investigation. Should any
341 witness fail to respond to the lawful subpoena of the department
342 or fail to answer all lawful inquiries or to turn over evidence
343 that has been subpoenaed, the department may file a complaint
344 before any circuit court of the state, upon the filing of which
345 the court shall take jurisdiction of the witness and the subject
346 matter of said complaint and shall direct the witness to respond
347 to all lawful questions and to produce all documentary evidence
348 in the witness's possession which is lawfully demanded. The

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349 failure of any witness to comply with such order of the court
350 constitutes a direct and criminal contempt of court, and the
351 court shall punish said witness accordingly.
352 (e) The department shall prepare a written report of any
353 investigation conducted pursuant to this section.
354 (4)(a) If the department determines by a preponderance of
355 evidence that a defect exists in the voting system, the
356 department shall provide written notice to any person who
357 submitted the voting system for approval by the department in
358 accordance with s. 101.5605 and any person who entered into a
359 contract for the sale or lease of the voting system to any
360 county in which the system contains the defect.
361 (b) A person entitled to receive notice pursuant to
362 paragraph (a) shall, within 10 days, file a written response to
363 the department which:
364 1. Denies that the alleged defect exists or existed as
365 alleged by the department and sets forth the reasons for such
366 denial; or
367 2. Admits that the defect exists or existed as alleged by
368 the department.
369 (c) If the defect has been cured, the person shall provide
370 an explanation of how the defect was cured.
371 (d) If the defect has not been cured, the person shall
372 inform the department whether the defect can be cured and may
373 provide to the department a plan for curing the defect. If the
374 defect can be cured, the department shall establish a timeframe
375 within which the defect must be cured, and may consult the
376 person filing the response before establishing this timeframe.
377 (5) If after receiving a response from a person entitled to

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378 notice, the department determines that a defect does not exist
379 or has been cured within the timeframe established by the
380 department, the department shall take no further action.
381 (6) If the department determines that a defect exists and a
382 person entitled to notice has not filed a written response or
383 has failed to cure a defect within the timeframe established by
384 the department, or if the defect cannot be cured, the department
385 shall impose a civil penalty of $25,000 for the defect plus an
386 amount equal to the actual costs incurred by the department in
387 conducting the investigation against:
388 (a) Any person who submitted the voting system for approval
389 by the department in accordance with s. 101.5605.
390 (b) Any person who entered into a contract with any county
391 for the sale or lease of the voting system to any county in
392 which the defect existed.
393 (7) If the department finds that a defect existed:
394 (a) The department may suspend all sales and leases of the
395 voting system that is the subject of the investigation and may
396 suspend its use in any county in the state. The department shall
397 provide written notice of the suspension to the supervisor of
398 elections in each county in which use of the voting system is
399 suspended.
400 (b) If the department determines that a defect no longer
401 exists in a voting system that has been suspended from use
402 pursuant to paragraph (a), the department may lift the
403 suspension and authorize the sale, lease, and use of the voting
404 system in any election in the state. The department shall
405 provide written notice that the suspension has been lifted and
406 the voting system is authorized for sale and lease and use in

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407 elections to the supervisor of elections in each county in which
408 use of the voting system was suspended.
409 (c) If the defect cannot be cured, the department may
410 disapprove the voting system for use in elections in the state.
411 The department shall provide written notice to all supervisors
412 of elections that the system is no longer approved. After
413 approval of a system has been withdrawn pursuant to this
414 paragraph, the system may not be sold, leased, or used in
415 elections in the state until it has been submitted for
416 examination and approval and adopted for use pursuant to s.
417 101.5605.
418 (d) Any person against whom a civil penalty was imposed
419 under this section may not enter into a contract for sale or
420 lease of a voting system in the state until the civil penalties
421 have been paid and the department provides written confirmation
422 to the supervisors of elections of the payment.
423 (8) The authority of the department under this section is
424 in addition to, and not exclusive of, any other authority
425 provided by law.
426 (9) All proceedings under this section are exempt from
427 chapter 120.
428 Section 7. Subsection (4) of section 101.56075, Florida
429 Statutes, is repealed.
430 Section 8. Subsections (1) and (2) of section 101.591,
431 Florida Statutes, are amended, and subsection (4) of that
432 section is republished, to read:
433 101.591 Voting system audit.—
434 (1) Immediately following the certification of each
435 election, the county canvassing board or the local board

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436 responsible for certifying the election shall conduct a manual
437 audit or an automated, independent audit of the voting systems
438 used in randomly selected precincts.
439 (2)(a) A manual ~~The~~ audit shall consist of a public manual
440 tally of the votes cast in one randomly selected race that
441 appears on the ballot. The tally sheet shall include election-
442 day, absentee, early voting, provisional, and overseas ballots,
443 in at least 1 percent but no more than 2 percent of the
444 precincts chosen at random by the county canvassing board or the
445 local board responsible for certifying the election. If 1
446 percent of the precincts is less than one entire precinct, the
447 audit shall be conducted using at least one precinct chosen at
448 random by the county canvassing board or the local board
449 responsible for certifying the election. Such precincts shall be
450 selected at a publicly noticed canvassing board meeting.
451 (b) An automated audit shall consist of a public automated
452 tally of the votes cast across every race that appears on the
453 ballot. The tally sheet shall include election day, absentee,
454 early voting, provisional, and overseas ballots in at least 20
455 percent of the precincts chosen at random by the county
456 canvassing board or the local board responsible for certifying
457 the election. Such precincts shall be selected at a publicly
458 noticed canvassing board meeting.
459 (c) The division shall adopt rules for approval of an
460 independent audit system which provide that the system, at a
461 minimum, must be:
462 1. Completely independent of the primary voting system.
463 2. Fast enough to produce final audit results within the
464 timeframe prescribed in subsection (4).

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465 3. Capable of demonstrating that the ballots of record have
466 been accurately adjudicated by the audit system.
467 (4) The audit must be completed and the results made public
468 no later than 11:59 p.m. on the 7th day following certification
469 of the election by the county canvassing board or the local
470 board responsible for certifying the election.
471 Section 9. Subsections (1) and (3) and paragraph (c) of
472 subsection (4) of section 101.62, Florida Statutes, are amended
473 to read:
474 101.62 Request for absentee ballots.—
475 (1)(a) The supervisor shall accept a request for an
476 absentee ballot from an elector in person or in writing. One
477 request shall be deemed sufficient to receive an absentee ballot
478 for all elections through the end of the calendar year of the
479 second ensuing regularly scheduled general election, unless the
480 elector or the elector's designee indicates at the time the
481 request is made the elections for which the elector desires to
482 receive an absentee ballot. Such request may be considered
483 canceled when any first-class mail sent by the supervisor to the
484 elector is returned as undeliverable.
485 (b) The supervisor may accept a written or telephonic
486 request for an absentee ballot to be mailed to an elector's
487 address on file in the Florida Voter Registration System from
488 the elector, or, if directly instructed by the elector, a member
489 of the elector's immediate family, or the elector's legal
490 guardian; if the ballot is requested to be mailed to an address
491 other than the elector's address on file in the Florida Voter
492 Registration System, the request must be made in writing and
493 signed by the elector. For purposes of this section, the term

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494 “immediate family” has the same meaning as specified in
495 paragraph (4)(c). The person making the request must disclose:
496 1. The name of the elector for whom the ballot is
497 requested.
498 2. The elector’s address.
499 3. The elector’s date of birth.
500 4. The requester’s name.
501 5. The requester’s address.
502 6. The requester’s driver’s license number, if available.
503 7. The requester’s relationship to the elector.
504 8. The requester’s signature (written requests only).
505 (c) Upon receiving a request for an absentee ballot from an
506 absent voter, the supervisor of elections shall notify the voter
507 of the free access system that has been designated by the
508 department for determining the status of his or her absentee
509 ballot.
510 (3) For each request for an absentee ballot received, the
511 supervisor shall record the date the request was made, the date
512 the absentee ballot was delivered to the voter or the voter’s
513 designee or the date the absentee ballot was delivered to the
514 post office or other carrier, the date the ballot was received
515 by the supervisor, the absence of the voter’s signature on the
516 voter’s certificate, if applicable, and such other information
517 he or she may deem necessary. This information shall be provided
518 in electronic format as provided by rule adopted by the
519 division. The information shall be updated and made available no
520 later than 8 a.m. of each day, including weekends, beginning 60
521 days before the primary until 15 days after the general election
522 and shall be contemporaneously provided to the division. This

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523 information shall be confidential and exempt from ~~the provisions~~
524 ~~of~~ s. 119.07(1) and shall be made available to or reproduced
525 only for the voter requesting the ballot, a canvassing board, an
526 election official, a political party or official thereof, a
527 candidate who has filed qualification papers and is opposed in
528 an upcoming election, and registered political committees or
529 registered committees of continuous existence, for political
530 purposes only.
531 (4)
532 (c) The supervisor shall provide an absentee ballot to each
533 elector by whom a request for that ballot has been made by one
534 of the following means:
535 1. By nonforwardable, return-if-undeliverable mail to the
536 elector’s current mailing address on file with the supervisor or
537 any other address the elector specifies in the request.
538 2. By forwardable mail, e-mail, or facsimile machine
539 transmission to absent uniformed services voters and overseas
540 voters. The absent uniformed services voter or overseas voter
541 may designate in the absentee ballot request the preferred
542 method of transmission. If the voter does not designate the
543 method of transmission, the absentee ballot shall be mailed.
544 3. By personal delivery before 7 p.m. on election day to
545 the elector, upon presentation of the identification required in
546 s. 101.043.
547 4. By delivery to a designee on election day or up to 5
548 days prior to the day of an election. Any elector may designate
549 in writing a person to pick up the ballot for the elector;
550 however, the person designated may not pick up more than two
551 absentee ballots per election, other than the designee’s own

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552 ballot, except that additional ballots may be picked up for
553 members of the designee's immediate family. For purposes of this
554 section, "immediate family" means the designee's spouse or the
555 parent, child, grandparent, or sibling of the designee or of the
556 designee's spouse. The designee shall provide to the supervisor
557 the written authorization by the elector and a picture
558 identification of the designee and must complete an affidavit.
559 The designee shall state in the affidavit that the designee is
560 authorized by the elector to pick up that ballot and shall
561 indicate if the elector is a member of the designee's immediate
562 family and, if so, the relationship. The department shall
563 prescribe the form of the affidavit. If the supervisor is
564 satisfied that the designee is authorized to pick up the ballot
565 and that the signature of the elector on the written
566 authorization matches the signature of the elector on file, the
567 supervisor shall give the ballot to that designee for delivery
568 to the elector.
569 5. Except as provided in s. 101.655, the supervisor may not
570 deliver an absentee ballot to an elector or an elector's
571 immediate family member on the day of the election unless there
572 is an emergency, to the extent that the elector will be unable
573 to go to his or her assigned polling place. If an absentee
574 ballot is delivered, the elector or his or her designee shall
575 execute an affidavit affirming to the facts which allow for
576 delivery of the absentee ballot. The department shall adopt a
577 rule providing for the form of the affidavit.
578 Section 10. Subsections (1) through (3) of section 101.64,
579 Florida Statutes, are amended to read:
580 101.64 Delivery of absentee ballots; envelopes; form.—

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581 (1) The supervisor shall enclose with each absentee ballot
582 two envelopes: a secrecy envelope, into which the absent elector
583 shall enclose his or her marked ballot; and a mailing envelope,
584 into which the absent elector shall then place the secrecy
585 envelope, which shall be addressed to the supervisor and also
586 bear on the back side a certificate in substantially the
587 following form:
588
589 Note: Please Read Instructions Carefully Before
590 Marking Ballot and Completing Voter's Certificate.
591
592 VOTER'S CERTIFICATE
593 I, ..., do solemnly swear or affirm that I am a qualified
594 and registered voter of .... County, Florida, and that I have
595 not and will not vote more than one ballot in this election. I
596 understand that if I commit or attempt to commit any fraud in
597 connection with voting, vote a fraudulent ballot, or vote more
598 than once in an election, I can be convicted of a felony of the
599 third degree and fined up to $5,000 and/or imprisoned for up to
600 5 years. I also understand that failure to sign this certificate
601 will invalidate my ballot.
602
603 ...(Date)... ...(Voter's Signature)...
604
605 Note: Your Signature Must Be Witnessed by One Witness 18 Years
606 of Age or Older as Provided in the Instruction Sheet.
607
608 I swear or affirm that the voter signed this Voter's Certificate
609 in my presence.

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610
611 ...(Signature of Witness)...
612
613 ...(Printed Name of Witness)...
614
615 ...(Date)...
616 ...(Address)...
617
618 (2) The certificate shall be arranged on the back of the
619 mailing envelope so that the line for the signature of the
620 absent elector is across the seal of the envelope; however, no
621 statement shall appear on the envelope which indicates that a
622 signature of the voter must cross the seal of the envelope. The
623 absent elector and the attesting witness shall execute the
624 certificate on the envelope. A candidate may not serve as an
625 attesting witness.
626 (3) In lieu of the voter's certificate provided in this
627 section, the supervisor of elections shall provide each person
628 voting absentee under the Uniformed and Overseas Citizens
629 Absentee Voting Act with the standard oath prescribed by the
630 presidential designee with an appended section in substantially
631 the following form:~~.~~
632
633 Witness signature and date:
634
635 ...(Signature of Witness)...
636
637 ...(Printed Name of Witness)...
638

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639 ...(Address)...
640 ...(Date)...
641 Section 11. Section 101.65, Florida Statutes, is amended to
642 read:
643 101.65 Instructions to absent electors.—The supervisor
644 shall enclose with each absentee ballot separate printed
645 instructions in substantially the following form:
646
647 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.
648 1. VERY IMPORTANT. In order to ensure that your absentee
649 ballot will be counted, it should be completed and returned as
650 soon as possible so that it can reach the supervisor of
651 elections of the county in which your precinct is located no
652 later than 7 p.m. on the day of the election. However, if you
653 are an overseas voter casting a ballot in a presidential
654 preference primary or general election, your absentee ballot
655 must be postmarked or signed and dated no later than the date of
656 the election and received by the supervisor of elections of the
657 county in which you are registered to vote no later than 10 days
658 after the date of the election.
659 2. Mark your ballot in secret as instructed on the ballot.
660 You must mark your own ballot unless you are unable to do so
661 because of blindness, disability, or inability to read or write.
662 3. Mark only the number of candidates or issue choices for
663 a race as indicated on the ballot. If you are allowed to "Vote
664 for One" candidate and you vote for more than one candidate,
665 your vote in that race will not be counted.
666 4. Place your marked ballot in the enclosed secrecy
667 envelope.

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668 5. Insert the secrecy envelope into the enclosed mailing
669 envelope which is addressed to the supervisor.
670 6. Seal the mailing envelope and completely fill out the
671 Voter's Certificate on the back of the mailing envelope.
672 7. VERY IMPORTANT. In order for your absentee ballot to be
673 counted, you must sign your name on the line above (Voter's
674 Signature). An absentee ballot will be considered illegal and
675 not be counted if the signature on the voter's certificate does
676 not match the signature on record. The signature on file at the
677 start of the canvass of the absentee ballots is the signature
678 that will be used to verify your signature on the voter's
679 certificate. If you need to update your signature for this
680 election, send your signature update on a voter registration
681 application to your supervisor of elections so that it is
682 received no later than the start of the canvassing of absentee
683 ballots, which occurs no earlier than the 15th day before
684 election day.
685 8. VERY IMPORTANT. In order for your absentee ballot to be
686 counted, it must include the signature and legible address of an
687 attesting witness 18 years of age or older affixed to the
688 Voter's Certificate. If the signature is illegible, the Voter's
689 Certificate must also include a readable printed name of the
690 attesting witness. A candidate may not serve as an attesting
691 witness.
692 9.~~8.~~ VERY IMPORTANT. If you are an overseas voter, you must
693 include the date you signed the Voter's Certificate on the line
694 above (Date) or your ballot may not be counted.
695 10.~~9.~~ Mail, deliver, or have delivered the completed
696 mailing envelope. Be sure there is sufficient postage if mailed.

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697 11.~~10.~~ FELONY NOTICE. It is a felony under Florida law to
698 accept any gift, payment, or gratuity in exchange for your vote
699 for a candidate. It is also a felony under Florida law to vote
700 in an election using a false identity or false address, or under
701 any other circumstances making your ballot false or fraudulent.
702 Section 12. Paragraphs (a) and (d) of subsection (1) of
703 section 101.657, Florida Statutes, are amended to read:
704 101.657 Early voting.—
705 (1)(a) As a convenience to the voter, the supervisor of
706 elections shall allow an elector to vote early in the main or
707 branch office of the supervisor. The supervisor shall mark,
708 code, indicate on, or otherwise track the voter's precinct for
709 each early voted ballot. In order for a branch office to be used
710 for early voting, it shall be a permanent facility of the
711 supervisor and shall have been designated and used as such for
712 at least 1 year prior to the election. The supervisor may also
713 designate any city hall, ~~or~~ permanent public library facility,
714 fairground, civic center, courthouse, county commission
715 building, stadium, convention center, government-owned senior
716 center, or government-owned community center as early voting
717 sites; however, if so designated, the sites must be
718 geographically located so as to provide all voters in the county
719 an equal opportunity to cast a ballot, insofar as is
720 practicable. If a supervisor is unable to provide an early
721 voting site in an area of the county due to the nonexistence of
722 any of the designated locations, the supervisor may designate
723 one early voting site that is geographically located to provide
724 all voters an equal opportunity to vote early in that area. Each
725 county shall, at a minimum, operate the same total number of

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726 early voting sites that the county used for the 2012 general
727 election. The results or tabulation of votes cast during early
728 voting may not be made before the close of the polls on election
729 day. Results shall be reported by precinct.
730 (d) Early voting shall begin on the 10th day before an
731 election that contains state or federal races and end on the 3rd
732 day before the election, and shall be provided for no less than
733 8 ~~6~~ hours and no more than 12 hours per day at each site during
734 the applicable period. In addition, early voting may be offered
735 at the discretion of the supervisor of elections on the 15th,
736 14th, 13th, 12th, 11th, or 2nd day before an election that
737 contains state or federal races for at least 8 hours per day,
738 but not more than 12 hours per day. The supervisor of elections
739 may provide early voting for elections that are not held in
740 conjunction with a state or federal election. However, the
741 supervisor has the discretion to determine the hours of
742 operation of early voting sites in those elections.
743 Section 13. Subsection (2) of section 101.67, Florida
744 Statutes, is amended to read:
745 101.67 Safekeeping of mailed ballots; deadline for
746 receiving absentee ballots.—
747 (2) Except as provided in s. 101.6952(5), all marked absent
748 electors' ballots to be counted must be received by the
749 supervisor by 7 p.m. the day of the election. All ballots
750 received thereafter shall be marked with the time and date of
751 receipt and filed in the supervisor's office.
752 Section 14. Subsections (1) and (4) of section 101.68,
753 Florida Statutes, are amended, and subsection (2) of that
754 section is reenacted and amended, to read:

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755 101.68 Canvassing of absentee ballot.—
756 (1) The supervisor of the county where the absent elector
757 resides shall receive the voted ballot, at which time the
758 supervisor shall compare the signature of the elector on the
759 voter's certificate with the signature of the elector in the
760 registration books or the precinct register to determine whether
761 the elector is duly registered in the county and may record on
762 the elector's registration certificate that the elector has
763 voted. However, effective July 1, 2005, an elector who dies
764 after casting an absentee ballot but on or before election day
765 shall remain listed in the registration books until the results
766 have been certified for the election in which the ballot was
767 cast. The supervisor shall safely keep the ballot unopened in
768 his or her office until the county canvassing board canvasses
769 the vote. Except as provided in subsection (4), after an
770 absentee ballot is received by the supervisor, the ballot is
771 deemed to have been cast, and changes or additions may not be
772 made to the voter's certificate.
773 (2)(a) The county canvassing board may begin the canvassing
774 of absentee ballots at 7 a.m. on the 15th day before the
775 election, but not later than noon on the day following the
776 election. In addition, for any county using electronic
777 tabulating equipment, the processing of absentee ballots through
778 such tabulating equipment may begin at 7 a.m. on the 15th day
779 before the election. However, notwithstanding any such
780 authorization to begin canvassing or otherwise processing
781 absentee ballots early, no result shall be released until after
782 the closing of the polls in that county on election day. Any
783 supervisor of elections, deputy supervisor of elections,

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784 canvassing board member, election board member, or election
785 employee who releases the results of a canvassing or processing
786 of absentee ballots prior to the closing of the polls in that
787 county on election day commits a felony of the third degree,
788 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
789 (b) To ensure that all absentee ballots to be counted by
790 the canvassing board are accounted for, the canvassing board
791 shall compare the number of ballots in its possession with the
792 number of requests for ballots received to be counted according
793 to the supervisor's file or list.
794 (c)1. The canvassing board shall, if the supervisor has not
795 already done so, compare the signature of the elector on the
796 voter's certificate or on the absentee ballot affidavit as
797 provided in subsection (4) with the signature of the elector in
798 the registration books or the precinct register to see that the
799 elector is duly registered in the county and to determine the
800 legality of that absentee ballot. The ballot of an elector who
801 casts an absentee ballot shall be counted even if the elector
802 dies on or before election day, as long as, prior to the death
803 of the voter, the ballot was postmarked by the United States
804 Postal Service, date-stamped with a verifiable tracking number
805 by common carrier, or already in the possession of the
806 supervisor of elections. An absentee ballot shall be considered
807 illegal if the voter's certificate or absentee ballot affidavit
808 ~~it~~ does not include the signature of the elector, as shown by
809 the registration records or the precinct register, along with
810 the signature and legible address of an attesting witness;
811 however, if the signature of the attesting witness is illegible,
812 the printed name of the attesting witness must clearly identify

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813 the name of the witness or the ballot shall be considered
814 illegal. However, an absentee ballot is ~~shall~~ not ~~be~~ considered
815 illegal if the signature of the elector does not cross the seal
816 of the mailing envelope. If the canvassing board determines that
817 any ballot is illegal, a member of the board shall, without
818 opening the envelope, mark across the face of the envelope:
819 "rejected as illegal." The absentee ballot affidavit, if
820 applicable, the envelope and the ballot contained therein shall
821 be preserved in the manner that official ballots voted are
822 preserved.
823 2. If any elector or candidate present believes that an
824 absentee ballot is illegal due to a defect apparent on the
825 voter's certificate or the absentee ballot affidavit, he or she
826 may, at any time before the ballot is removed from the envelope,
827 file with the canvassing board a protest against the canvass of
828 that ballot, specifying the precinct, the ballot, and the reason
829 he or she believes the ballot to be illegal. A challenge based
830 upon a defect in the voter's certificate or absentee ballot
831 affidavit may not be accepted after the ballot has been removed
832 from the mailing envelope.
833 (d) The canvassing board shall record the ballot upon the
834 proper record, unless the ballot has been previously recorded by
835 the supervisor. The mailing envelopes shall be opened and the
836 secrecy envelopes shall be mixed so as to make it impossible to
837 determine which secrecy envelope came out of which signed
838 mailing envelope; however, in any county in which an electronic
839 or electromechanical voting system is used, the ballots may be
840 sorted by ballot styles and the mailing envelopes may be opened
841 and the secrecy envelopes mixed separately for each ballot

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842 style. The votes on absentee ballots shall be included in the
843 total vote of the county.
844 (4)(a) The supervisor of elections shall, on behalf of the
845 county canvassing board, notify each elector whose ballot was
846 rejected as illegal and provide the specific reason the ballot
847 was rejected ~~because of a difference between the elector's~~
848 ~~signature on the ballot and that on the elector's voter~~
849 ~~registration record~~. The supervisor shall mail a voter
850 registration application to the elector to be completed
851 indicating the elector's current signature if the elector's
852 ballot was rejected due to a difference between the elector's
853 signature on the voter's certificate or absentee ballot
854 affidavit and the elector's signature in the registration books
855 or precinct register. This section does not prohibit the
856 supervisor from providing additional methods for updating an
857 elector's signature.
858 (b) If the canvassing board has not begun the canvassing of
859 absentee ballots pursuant to subsection (2), the supervisor
860 shall allow an elector who has returned an absentee ballot that
861 does not include the elector's signature to complete an
862 affidavit in order to cure the unsigned absentee ballot.
863 (c) The elector shall provide identification to the
864 supervisor and must complete an absentee ballot affidavit in
865 substantially the following form:
866
867 ABSENTEE BALLOT AFFIDAVIT
868 I, ..., am a qualified voter in this election and
869 registered voter of .... County, Florida. I do solemnly swear or
870 affirm that I requested and returned the absentee ballot and

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871 that I have not and will not vote more than one ballot in this
872 election. I understand that if I commit or attempt any fraud in
873 connection with voting, vote a fraudulent ballot, or vote more
874 than once in an election, I may be convicted of a felony of the
875 third degree and fined up to $5,000 and imprisoned for up to 5
876 years. I understand that my failure to sign this affidavit means
877 that my absentee ballot will be invalidated.
878
879 ...(Voter's Signature)...
880
881 ...(Address)...
882
883 Note: Your Signature Must Be Witnessed by One Witness 18 Years
884 of Age or Older.
885
886 I swear or affirm that the voter signed this Absentee
887 Ballot Affidavit in my presence.
888
889 ...(Signature of Witness)...
890
891 ...(Printed Name of Witness)...
892
893 ...(Date)...
894 ...(Address)...
895
896 (d) Instructions must accompany the absentee ballot
897 affidavit in substantially the following form:
898
899 READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE

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900 AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR
901 BALLOT NOT TO COUNT.
902
903 1. In order to ensure that your absentee ballot will be
904 counted, your affidavit should be completed and returned as soon
905 as possible so that it can reach the supervisor of elections of
906 the county in which your precinct is located no later than the
907 start of the canvassing of absentee ballots, which occurs no
908 earlier than the 15th day before an election.
909 2. You must sign your name on the line above (Voter's
910 Signature).
911 3. You must have your signature witnessed by a person 18
912 years of age or older. Have the witness sign on the line above
913 (Signature of Witness) and include his or her legible address.
914 If the signature is illegible, the affidavit must also include a
915 readable, printed name of the attesting witness. A candidate may
916 not serve as an attesting witness.
917 4. You must make a copy of one of the following forms of
918 identification:
919 a. Identification which must include your name and
920 photograph: United States passport; debit or credit card;
921 military identification; student identification; retirement
922 center identification; neighborhood association identification;
923 or public assistance identification; or
924 b. Identification which shows your name and current
925 residence address: current utility bill, bank statement,
926 government check, paycheck, or government document (excluding
927 voter identification card).
928 5. Place the envelope bearing the affidavit into a mailing

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929 envelope addressed to the supervisor. Insert a copy of your
930 identification in the mailing envelope.
931 6. Mail, deliver, or have delivered the completed affidavit
932 along with the copy of your identification to your county
933 supervisor of elections. Be sure there is sufficient postage if
934 mailed and that the supervisor's address is correct.
935 (e) The department and each supervisor shall include the
936 affidavit and instructions on their respective websites. The
937 supervisor must include his or her office's mailing address on
938 the page containing the affidavit instructions; the department's
939 instruction page must include the office mailing addresses of
940 all supervisors of elections or provide a conspicuous link to
941 such addresses.
942 (f) The supervisor shall attach each affidavit received to
943 the appropriate absentee ballot mailing envelope.
944 Section 15. Subsections (3) and (4) of section 101.6921,
945 Florida Statutes, are amended to read:
946 101.6921 Delivery of special absentee ballot to certain
947 first-time voters.—
948 (3) The Voter's Certificate shall be in substantially the
949 following form:
950
951 Note: Please Read Instructions Carefully Before Marking Ballot
952 and Completing Voter's Certificate.
953
954 VOTER'S CERTIFICATE
955
956 I, ..., do solemnly swear or affirm that I am a qualified
957 and registered voter of .... County, Florida, and that I have

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958 not and will not vote more than one ballot in this election. I
959 understand that if I commit or attempt to commit any fraud in
960 connection with voting, vote a fraudulent ballot, or vote more
961 than once in an election, I can be convicted of a felony of the
962 third degree and fined up to $5,000 and/or imprisoned for up to
963 5 years. I also understand that failure to sign this certificate
964 will invalidate my ballot. I understand that unless I meet one
965 of the exemptions below, I must provide a copy of a current and
966 valid identification as provided in the instruction sheet to the
967 supervisor of elections in order for my ballot to count.
968 I further certify that I am exempt from the requirements to
969 furnish a copy of a current and valid identification with my
970 ballot because of one or more of the following (check all that
971 apply):
972 ☐ I am 65 years of age or older.
973 ☐ I have a permanent or temporary physical disability.
974 ☐ I am a member of a uniformed service on active duty who,
975 by reason of such active duty, will be absent from the county on
976 election day.
977 ☐ I am a member of the Merchant Marine who, by reason of
978 service in the Merchant Marine, will be absent from the county
979 on election day.
980 ☐ I am the spouse or dependent of a member of the uniformed
981 service or Merchant Marine who, by reason of the active duty or
982 service of the member, will be absent from the county on
983 election day.
984 ☐ I am currently residing outside the United States.
985
986 ...(Date)... ...Voter's Signature...

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987
988 Note: Your Signature Must Be Witnessed as Provided in the
989 Instruction Sheet By One Witness 18 Years of Age or Older.
990
991 I swear or affirm that the voter signed this Voter's Certificate
992 in my presence.
993
994 ...(Signature of Witness)...
995
996 ...(Printed Name of Witness)...
997
998 ...(Date)...
999 ...(Address)...
1000
1001 (4) The certificate shall be arranged on the back of the
1002 envelope so that the line for the signature of the absent
1003 elector is across the seal of the envelope.
1004 Section 16. Subsection (2) of section 101.6923, Florida
1005 Statutes, is amended to read:
1006 101.6923 Special absentee ballot instructions for certain
1007 first-time voters.—
1008 (2) A voter covered by this section shall be provided with
1009 printed instructions with his or her absentee ballot in
1010 substantially the following form:
1011
1012 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR
1013 BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE
1014 YOUR BALLOT NOT TO COUNT.
1015

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1016 1. In order to ensure that your absentee ballot will be
1017 counted, it should be completed and returned as soon as possible
1018 so that it can reach the supervisor of elections of the county
1019 in which your precinct is located no later than 7 p.m. on the
1020 date of the election. <u>However, if you are an overseas voter</u>
1021 <u>casting a ballot in a presidential preference primary or general</u>
1022 <u>election, your absentee ballot must be postmarked or signed and</u>
1023 <u>dated no later than the date of the election and received by the</u>
1024 <u>supervisor of elections of the county in which you are</u>
1025 <u>registered to vote no later than 10 days after the date of the</u>
1026 <u>election.</u>
1027 2. Mark your ballot in secret as instructed on the ballot.
1028 You must mark your own ballot unless you are unable to do so
1029 because of blindness, disability, or inability to read or write.
1030 3. Mark only the number of candidates or issue choices for
1031 a race as indicated on the ballot. If you are allowed to "Vote
1032 for One" candidate and you vote for more than one, your vote in
1033 that race will not be counted.
1034 4. Place your marked ballot in the enclosed secrecy
1035 envelope and seal the envelope.
1036 5. Insert the secrecy envelope into the enclosed envelope
1037 bearing the Voter's Certificate. Seal the envelope and
1038 completely fill out the Voter's Certificate on the back of the
1039 envelope.
1040 a. You must sign your name on the line above (Voter's
1041 Signature).
1042 <u>b. You must have your signature witnessed by a person 18</u>
1043 <u>years of age or older. Have the witness sign on the line above</u>
1044 <u>(Signature of Witness) and include his or her legible address.</u>

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1045 If the signature is illegible, the Voter's Certificate must also
1046 include a readable printed name of the attesting witness. A
1047 candidate may not serve as an attesting witness.
1048 c.~~b.~~ If you are an overseas voter, you must include the
1049 date you signed the Voter's Certificate on the line above (Date)
1050 or your ballot may not be counted.
1051 d.~~c.~~ An absentee ballot will be considered illegal and will
1052 not be counted if the signature on the Voter's Certificate does
1053 not match the signature on record. The signature on file at the
1054 start of the canvass of the absentee ballots is the signature
1055 that will be used to verify your signature on the Voter's
1056 Certificate. If you need to update your signature for this
1057 election, send your signature update on a voter registration
1058 application to your supervisor of elections so that it is
1059 received no later than the start of canvassing of absentee
1060 ballots, which occurs no earlier than the 15th day before
1061 election day.
1062 6. Unless you meet one of the exemptions in Item 7., you
1063 must make a copy of one of the following forms of
1064 identification:
1065 a. Identification which must include your name and
1066 photograph: United States passport; debit or credit card;
1067 military identification; student identification; retirement
1068 center identification; neighborhood association identification;
1069 or public assistance identification; or
1070 b. Identification which shows your name and current
1071 residence address: current utility bill, bank statement,
1072 government check, paycheck, or government document (excluding
1073 voter identification card).

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1074 7. The identification requirements of Item 6. do not apply
1075 if you meet one of the following requirements:
1076 a. You are 65 years of age or older.
1077 b. You have a temporary or permanent physical disability.
1078 c. You are a member of a uniformed service on active duty
1079 who, by reason of such active duty, will be absent from the
1080 county on election day.
1081 d. You are a member of the Merchant Marine who, by reason
1082 of service in the Merchant Marine, will be absent from the
1083 county on election day.
1084 e. You are the spouse or dependent of a member referred to
1085 in paragraph c. or paragraph d. who, by reason of the active
1086 duty or service of the member, will be absent from the county on
1087 election day.
1088 f. You are currently residing outside the United States.
1089 8. Place the envelope bearing the Voter’s Certificate into
1090 the mailing envelope addressed to the supervisor. Insert a copy
1091 of your identification in the mailing envelope. DO NOT PUT YOUR
1092 IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR
1093 INSIDE THE ENVELOPE WHICH BEARS THE VOTER’S CERTIFICATE OR YOUR
1094 BALLOT WILL NOT COUNT.
1095 9. Mail, deliver, or have delivered the completed mailing
1096 envelope. Be sure there is sufficient postage if mailed.
1097 10. FELONY NOTICE. It is a felony under Florida law to
1098 accept any gift, payment, or gratuity in exchange for your vote
1099 for a candidate. It is also a felony under Florida law to vote
1100 in an election using a false identity or false address, or under
1101 any other circumstances making your ballot false or fraudulent.
1102 Section 17. Subsection (5) is added to section 101.6952,

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1103 Florida Statutes, to read:
1104 101.6952 Absentee ballots for absent uniformed services and
1105 overseas voters.—
1106 (5) An absentee ballot from an overseas voter in any
1107 presidential preference primary or general election which is
1108 postmarked or signed and dated no later than the date of the
1109 election and is received by the supervisor of elections of the
1110 county in which the overseas voter is registered no later than
1111 10 days after the date of the election shall be counted as long
1112 as the absentee ballot is otherwise proper.
1113 Section 18. Paragraphs (b) and (d) of subsection (4) of
1114 section 102.031, Florida Statutes, are amended to read:
1115 102.031 Maintenance of good order at polls; authorities;
1116 persons allowed in polling rooms and early voting areas;
1117 unlawful solicitation of voters.—
1118 (4)
1119 (b) For the purpose of this subsection, the terms "solicit"
1120 or "solicitation" shall include, but not be limited to, seeking
1121 or attempting to seek any vote, fact, opinion, or contribution;
1122 distributing or attempting to distribute any political or
1123 campaign material, leaflet, or handout; conducting a poll except
1124 as specified in this paragraph; seeking or attempting to seek a
1125 signature on any petition; and selling or attempting to sell any
1126 item. The terms "solicit" or "solicitation" may ~~shall~~ not be
1127 construed to prohibit exit polling.
1128 (d) Except as provided in paragraph (a), the supervisor may
1129 not designate a no-solicitation zone or otherwise restrict
1130 access to any person, political committee, committee of
1131 continuous existence, candidate, or other group or organization

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1132 for the purposes of soliciting voters. This paragraph applies to
1133 any public or private property used as a polling place or early
1134 voting site.
1135 Section 19. Subsections (1) and (4) of section 102.141,
1136 Florida Statutes, are amended to read:
1137 102.141 County canvassing board; duties.—
1138 (1) The county canvassing board shall be composed of the
1139 supervisor of elections; a county court judge, who shall act as
1140 chair; and the chair of the board of county commissioners.
1141 Alternate canvassing board members must be appointed pursuant to
1142 paragraph (e). In the event any member of the county canvassing
1143 board is unable to serve, is a candidate who has opposition in
1144 the election being canvassed, or is an active participant in the
1145 campaign or candidacy of any candidate who has opposition in the
1146 election being canvassed, such member shall be replaced as
1147 follows:
1148 (a) If no county court judge is able to serve or if all are
1149 disqualified, the chief judge of the judicial circuit in which
1150 the county is located shall appoint as a substitute member a
1151 qualified elector of the county who is not a candidate with
1152 opposition in the election being canvassed and who is not an
1153 active participant in the campaign or candidacy of any candidate
1154 with opposition in the election being canvassed. In such event,
1155 the members of the county canvassing board shall meet and elect
1156 a chair.
1157 (b) If the supervisor of elections is unable to serve or is
1158 disqualified, the chair of the board of county commissioners
1159 shall appoint as a substitute member a member of the board of
1160 county commissioners who is not a candidate with opposition in

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1161 the election being canvassed and who is not an active
1162 participant in the campaign or candidacy of any candidate with
1163 opposition in the election being canvassed. The supervisor,
1164 however, shall act in an advisory capacity to the canvassing
1165 board.
1166 (c) If the chair of the board of county commissioners is
1167 unable to serve or is disqualified, the board of county
1168 commissioners shall appoint as a substitute member one of its
1169 members who is not a candidate with opposition in the election
1170 being canvassed and who is not an active participant in the
1171 campaign or candidacy of any candidate with opposition in the
1172 election being canvassed.
1173 (d) If a substitute member or alternate member cannot be
1174 appointed as provided elsewhere in this subsection, or in the
1175 event of a vacancy in such office, the chief judge of the
1176 judicial circuit in which the county is located shall appoint as
1177 a substitute member or alternate member a qualified elector of
1178 the county who is not a candidate with opposition in the
1179 election being canvassed and who is not an active participant in
1180 the campaign or candidacy of any candidate with opposition in
1181 the election being canvassed.
1182 (e)1. The chief judge of the judicial circuit in which the
1183 county is located shall appoint a county court judge as an
1184 alternate member of the county canvassing board or, if each
1185 county court judge is unable to serve or is disqualified, shall
1186 appoint an alternate member who is qualified to serve as a
1187 substitute member under paragraph (a).
1188 2. The chair of the board of county commissioners shall
1189 appoint a member of the board of county commissioners as an

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1190 alternate member of the county canvassing board or, if each
1191 member of the board of county commissioners is unable to serve
1192 or is disqualified, shall appoint an alternate member who is
1193 qualified to serve as a substitute member under paragraph (d).
1194 3. If a member of the county canvassing board is unable to
1195 participate in a meeting of the board, the chair of the county
1196 canvassing board or his or her designee shall designate which
1197 alternate member will serve as a member of the board in the
1198 place of the member who is unable to participate at that
1199 meeting.
1200 4. If not serving as one of the three members of the county
1201 canvassing board, an alternate member may be present, observe,
1202 and communicate with the three members constituting the county
1203 canvassing board, but may not vote in the board's decisions or
1204 determinations.
1205 (4)(a) The supervisor of elections shall upload into the
1206 county's election management system by 7 p.m. on the day before
1207 the election the results of all early voting and absentee
1208 ballots that have been canvassed and tabulated by the end of the
1209 early voting period. Pursuant to ss. 101.5614(9), 101.657, and
1210 101.68(2), the tabulation of votes cast or the results of such
1211 uploads may not be made public before the close of the polls on
1212 election day.
1213 (b) The canvassing board shall report all early voting and
1214 all tabulated absentee results to the Department of State within
1215 30 minutes after the polls close. Thereafter, the canvassing
1216 board shall report, with the exception of provisional ballot
1217 results, updated precinct election results to the department at
1218 least every 45 minutes until all results are completely

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1219 reported. The supervisor of elections shall notify the
1220 department immediately of any circumstances that do not permit
1221 periodic updates as required. Results shall be submitted in a
1222 format prescribed by the department.
1223 Section 20. Section 104.0616, Florida Statutes, is amended
1224 to read:
1225 104.0616 Absentee ballots and voting; violations.—
1226 (1) For purposes of this section, the term "immediate
1227 family" means a person's spouse or the parent, child,
1228 grandparent, or sibling of the person or the person's spouse.
1229 (2) Any person who provides or offers to provide, and any
1230 person who accepts, a pecuniary or other benefit in exchange for
1231 distributing, ordering, requesting, collecting, delivering, or
1232 otherwise physically possessing more than two absentee ballots
1233 per election in addition to his or her own ballot or a ballot
1234 belonging to an immediate family member, ~~with intent to alter,~~
1235 ~~change, modify, or erase any vote on the absentee ballot,~~ except
1236 as provided in ss. 101.6105-101.695, commits a felony of the
1237 third degree, punishable as provided in s. 775.082, s. 775.083,
1238 or s. 775.084.
1239 Section 21. This act shall take effect October 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)

4-2-13
Meeting Date

Topic: Elections

Bill Number: SB 600 *(if applicable)*

Name: Stephanie Kunkel

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 1143 Albritton Dr
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-320-4208

E-mail: Stef.Kunkel@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing: America Votes

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)

4/2/2013
Meeting Date

Topic: Election Reform

Bill Number: SB 600 *(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: [x] For [ ] Against [ ] Information

Representing: Common Cause FL

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Elections

Bill Number: SB 600 *(if applicable)*

Name: Jessica Lowe-Minor

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 540 Beverly Ct.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-2545

E-mail: LWVFExecutiveDirector@gmail.com

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

Representing: League of Women Voters of Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: ELECTION REFORM

Bill Number: 600 (if applicable)

Name: ROW LABASKY

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 225 S. ADAMS ST
Street

TALL FL 32302
City State Zip

Phone: 222-7718

E-mail:

Speaking: ☐ For ☐ Against ☑ Information

Representing: FLA. STATE ASSOC. OF SUPERVISORS OF ELECTIONS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2 Apr 13
Meeting Date

Topic: Witness Reg. / ABallot Req.

Bill Number: 600 *(if applicable)*

Name: Paul Lux

Amendment Barcode: *(if applicable)*

Job Title: Sup. of Elections

Address: 196 Villacrest Dr.
Street

Crestview FL 32536
City *State* *Zip*

Phone: 850-689-5600

E-mail: plux@co.okaloosa.fl.us

Speaking: ☐ For ☐ Against ☒ Information

Representing: Self / FL. Assoc. Sup. of Elections

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)

4/2/13
Meeting Date

Topic: Voting Rights / Election Reform

Bill Number: 600 *(if applicable)*

Name: Angie Nixon

Amendment Barcode: _____ *(if applicable)*

Job Title: North Florida Regional Coordinator

Address: 1336 W. Myrtle Ave
Street

Jax, FL 32209
City *State* *Zip*

Phone: 904-503-0455

E-mail: angie@flnewmajority.org

Speaking: ☐ For ☐ Against ☐ Information

Representing: Florida New Majority

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)

4/2/13
Meeting Date

Topic: Elections

Bill Number: SB 600 *(if applicable)*

Name: J.C. Planas

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 18851 NE 29 Avenue Suite 303
Street

Aventura, FL 33180
City, State, Zip

Phone: 850-980-6542

E-mail: JCPlanas@KB-Attorneys.com

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

Representing: Self

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JACK LATVALA
20th District

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

March 28, 2013

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

Dear Chairman Simpson:

I respectfully request consideration of Senate Bill 600 regarding Elections at your earliest convenience.

I have filed this bill in order to update, clarify, and streamline several provisions in Florida Statutes that govern elections administration, and I would greatly appreciate the opportunity to present this legislation to the Committee on Community Affairs as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

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

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

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 600

INTRODUCER: Community Affairs Committee; Ethics and Elections Committee; and Senator Latvala

SUBJECT: Elections

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
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/CS/SB 600 is an omnibus election administration bill containing the following major provisions:

- Allows late voter registration for military personnel who have returned from a combat zone or forward-deployed area to register to vote until the Friday before the election.
- Requires each Supervisor of Elections to submit an election preparation report to the Secretary of State three months prior to a general election.
- Changes the primary date from 12 weeks before the general election to 10 weeks before the general election.
- Provides that the first ballot summary for joint resolutions amending or revising the State Constitution may not exceed 75 words.
- Removes the provisions permitting use of the full text of a Constitutional amendment or revision as a ballot statement.
- Establishes a process by which the Department of State ("Department") can approve or disapprove electronic or electromechanical voting equipment which:
  - Requires designation of a registered agent(s);
  - Defines defect, standards, and vendor as they pertain to voting system defects.

  - Requires a vendor to file a written disclosure with the Department, and provides what constitutes a cure of a defect;
  - Requires a vendor to file a new disclosure with the Department if a vendor becomes aware of a defect within a specified period;
  - Authorizes the Department to suspend use and/or sales and leases of defective systems;
  - Authorizes the Department to undertake certain investigations and submit a written report thereon;
  - Permits imposition of certain penalties under specified circumstances; and
  - Provides that all proceedings are exempt from the Administrative Procedures Act in ch. 120, F.S.
- Permits an automated, independent audit and specifies how such audit will be conducted.
- Revises the absentee ballot process as follows:
  - Specifies that a request for an absentee ballot that is not being sent to a residential address must be made in writing and signed by the elector;
  - Prohibits delivery of absentee ballots on election day, unless an emergency exists and the requestor provides an affidavit;
  - Reinstates the witness requirement pertaining to the Voter's Certificate;
  - Provides that a candidate cannot be a witness;
  - Amends the conditions under which an overseas absentee ballot will be counted;
  - Requires a legible signature and legible address on the Voter's Certificate; and,
  - Provides an opportunity for voters to sign an absentee ballot submitted without a signature under certain circumstances.[1]
- Provides additional early voting sites, hours, and days.
- Revises the 100 foot no-solicitation zone provisions to specify that access by certain individuals to solicit voters outside of that zone may not be restricted.
- Permits designation of canvassing board alternates.
- Requires Supervisors of Elections to upload into their election management system the results of all early voting and absentee ballots canvassed and tabulated by the end of the early voting period by 7 p.m. on the day before the election.
- Prohibits paid ballot collectors from possessing more than 2 ballots that belong to someone other than "immediate family" and defines that term.

This bill creates ss. 100.032 and 101.56065, F.S., repeals s. 101.56075(4), F.S., and substantially amends the following sections of the Florida Statutes: ss. 97.0555, 100.061, 101.161, 101.5605, 101.591, 101.62, 101.64, 101.65, 101.657, 101.67, 101.68, 101.6921, 101.6923, 101.6952, 102.031, 102.141, and 104.0616.

II. Present Situation:

The present situation is discussed below in **Effect of Proposed Changes** in this bill analysis.

[1] Conforming changes are also made to the provisions governing special absentee ballots and absent military and overseas voters.

III. Effect of Proposed Changes:

Late Voter Registration

Current Situation

Currently, only individuals who have been discharged or separated from the uniformed services or the Merchant Marine, or from employment outside of the United States may register to vote during the period of time between book-closing and 5 p.m. on the Friday before an election.[2]

Effects of Proposed Change **(Section 1)**

The bill permits any member of the military who has returned from a combat zone or forward-deployed area to register between the book-closing deadline and 5 p.m. on the Friday before an election.

Election Preparation Report

Current Situation

Current law does not address this topic.

Effects of Proposed Change **(Section 2)**

The bill creates new s. 100.032, F.S., which requires each Supervisor of Elections to submit, at least three months before a general election, a report outlining preparations for the upcoming general election. The report must address: anticipated staffing levels during the early voting period, on election day, and after election day; and the anticipated amount of automatic tabulating equipment at each early voting site and polling place.

Primary Election Date

Current Situation

Currently, the primary date is on the Tuesday occurring 12 weeks before the general election.[3]

Effect of Proposed Change **(Section 3)**

The bill would move the primary date back to the Tuesday occurring 10 weeks before the general election.

[2] Section 97.0555, F.S.
[3] Section 100.061, F.S.

Referenda

Current Situation

Currently, a joint resolution proposing a constitutional amendment or revision must contain one or more ballot statements which are required to be set forth in order of priority.[4] The ballot statement must contain a title, not to exceed 15 words, and either a ballot summary that describes the chief purpose of the amendment in clear and unambiguous language or the full text of the amendment or revision.[5] The law presumes that a ballot statement consisting of the full text of an amendment or revision is a clear and unambiguous statement of the substance and effect of the amendment or revision; that it provides fair notice to the electors of the content of the amendment or revision; and, sufficiently advises electors of the issue upon which they are to vote.[6]

Effect of Proposed Changes **(Section 4)**

The bill provides that the ballot statement shall consist of a ballot title of up to 15 words and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language. The bill authorizes submission of multiple ballot statements and provides that the ballot statement that is the first in order of priority must be limited to a maximum of 75 words. The ballot summary for any additional ballot statements is not subject to the 75 word maximum.

The bill also removes the option to submit the full text of an amendment or revision in place of a ballot summary and removes the presumption that the full text is a clear and unambiguous statement of the substance and effect of the amendment or revision; that it provides fair notice to the electors of the content of the amendment or revision; and, sufficiently advises electors of the issue upon which they are to vote. A conforming change is made by repealing a provision requiring all equipment to be able to place the full text of an amendment or revision, with insertions and deletions, shown on the ballot.[7]

Finally, the bill clarifies that a ballot summary revised by the Attorney General to correct deficiencies identified by a court is not subject to the 75 word limitation.

Approval of Electronic and Electromechanical Voting Systems and Vendor Fines

Current Situation

The Department of State is required to adopt rules establishing the minimum standards for certification, and provisional certification, of hardware and software for electronic and

[4] Section 101.161(3)(a), F.S.
[5] *Id.*
[6] Section 101.161(3)(b)3., F.S.
[7] Section 101.56075(4), F.S., is repealed in **Section 7** of the bill.

electromechanical voting systems and review the rules every odd-numbered year.[8] The Bureau of Voting Systems Certification is responsible for standards and certification for those systems.[9]

The Electronic Voting Systems Act[10] provides for adoption of an electronic or electromechanical voting system by county commissions.[11] The Act lays out the process for approval of, and requirements for, electronic and electromechanical voting systems.[12] The Electronic Voting Systems Act also provides the authority to seek funds from the federal government for improving equipment and access to voting.[13] Finally, the Act addresses conduct of an election using electronic or electromechanical voting systems.[14]

Effect of Proposed Changes **(Sections 5 and 6)**

The bill requires, prior to approval of an electronic or electromechanical voting system, that the person who submits the system for approval designate a registered agent in this state. It also requires designation of a registered agent within this state prior to entering a contract for lease or sale of such voting systems. The identity and contact information is required to be updated if it changes. For purposes of the notice requirements herein, the bill specifies that the Department's proof of delivery or attempted delivery to the last mailing address of the registered agent on file with the Department at the time of delivery or attempted delivery is valid for all notice purposes.[15]

The bill also addresses reporting and investigation of defects. For purposes of the bill, the term defect means:

- Any failure, fault, or flaw in an electronic or electromechanical voting system approved pursuant to s. 101.5605, F.S., which results in nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots; or
- Any failure or inability of the voting system manufacturer or vendor to make available or provide approved replacements of hardware or software to the counties that have purchased the approved voting system, the unavailability of which results in the system's nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots.

For purposes of the bill, the term 'standards' refers to the requirements in ss. 101.5606 and 101.56062, F.S., under which a voting system was approved for use in the state. The term 'vendor' is defined as a person who submits or previously submitted a voting system that was approved by the Department of State in accordance with s. 101.5605, F.S., or a person who enters into a contract for the sale or lease of a voting system to any county, or that previously entered into such a contract that has not expired.

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[8] Section 101.015, F.S.
[9] Section 101.017, F.S.
[10] Sections 101.5601-101.5614, F.S.
[11] Section 101.5604, F.S.
[12] Sections 101.5604-101.56062, F.S.
[13] Sections 101.56063-101.56064, F.S.
[14] Sections 101.56075-101.5614, F.S.
[15] Proof of attempted delivery may not be sufficient to demonstrate notice for purposes of Due Process Clause in the 14th Amendment to the U.S. Constitution.

The bill requires that no later than December 31, 2013, and, thereafter, on January 1 of every odd-numbered year, each vendor shall file a written disclosure with the Department identifying any known defect in the voting system or the fact that there is no known defect, the effect of any defect on the operation and use of the approved voting system, and any known corrective measures to cure a defect, including, but not limited to, advisories and bulletins issued to system users. Implementation of corrective measures approved by the Department which enable a system to conform to the standards and ensure the timeliness and accuracy of the casting and counting of ballots constitutes a cure of a defect.

The bill specifies that if a vendor becomes aware of the existence of a defect, he or she must file a new disclosure with the Department within 30 days after the date the vendor determined or reasonably should have determined that the defect existed. If a vendor discloses to the Department that a defect exists, the Department may suspend all sales or leases of the voting system in the state and may suspend the use of the system in any election in the state. The Department shall provide written notice of any such suspension to each affected vendor and supervisor of elections. If the Department determines that the defect no longer exists, the Department shall lift the suspension and provide written notice to each affected vendor and supervisor of elections. If a vendor fails to file a required disclosure for a voting system previously approved by the Department, that system may not be sold, leased, or used for elections in the state until it has been submitted for examination and approval and adopted for use pursuant to s. 101.5605, F.S. The Department shall provide written notice to all supervisors of elections that the system is no longer approved.

If the Department has reasonable cause to believe a voting system approved pursuant to s. 101.5605, F.S., contains a defect either before, during, or after an election which has not been disclosed, the Department may investigate whether the voting system has a defect. If the Department determines by a preponderance of the evidence that a defect exists in the voting system, or that a vendor failed to timely disclose a defect, the Department shall provide written notice to the affected vendor and supervisors of elections. If the defect has been cured, the vendor shall provide an explanation of how the defect was cured. If after receiving a response from the vendor, the Department determines that a defect does not exist or has been cured within the timeframe established by the Department, the Department shall take no further action. The Department shall prepare a written report of any investigation conducted pursuant to this section.

If the Department determines that: a vendor failed to timely disclose a defect; or that a defect exists and a vendor has not filed a written response or has failed to cure within the timeframe established by the Department, or if the defect cannot be cured, the Department shall impose a civil penalty of $25,000 for the defect plus an amount equal to the actual costs incurred by the Department in conducting the investigation.

If the Department finds that a defect existed the Department may suspend all sales and leases of the voting system and may suspend its use in any county in the state. The Department shall provide written notice of the suspension to each affected vendor and supervisor of elections. If the Department determines that a defect no longer exists in a voting system that has been suspended from use, the Department shall lift the suspension and authorize the sale, lease, and use of the voting system in any election in the state.

Finally, the bill specifies that this authority is supplemental to any other legal authority and that all proceedings are exempt from the Administrative Procedures Act in Ch. 120, F.S.

Voting System Audits

Current Situation

Currently, the law requires that canvassing boards (or local boards responsible for certifying an election) are required to manually audit voting systems that are used in randomly selected precincts.[16] The audit must consist of a public manual tally of votes cast in a randomly selected race. The tally must include election day, absentee, early voting, provisional, and overseas ballots in at least 1 percent, but no more than 2 percent, of the randomly-selected precincts.[17] If one percent of precincts is less than one entire precinct, the audit must be conducted using an entire precinct. The results of the audit must be made public no later than 11:59 p.m. on the seventh day after certification of the election[18] and reported to the Department within 15 days of completing the audit.[19]

Effects of Proposed Changes **(Section 8)**

The bill authorizes the use of an automated, independent audit of voting systems. This audit option must consist of a public automated tally of the votes cast across every race appearing on the ballot. The tally sheet must consist of election day, absentee, early voting, provisional, and overseas ballots in at least 20 percent of the precincts chosen at random by the county canvassing board or the local board responsible for certifying the election. The bill requires rules to be adopted for the approval of such equipment. The rules must provide that the system be:

- Completely independent of the primary voting system;
- Fast enough to produce final results within the current statutory time limit; and,
- Capable of demonstrating that the ballots of record have been accurately adjudicated by the audit system.

Requests for Absentee Ballots

Current Situation

An elector, a member of his or her immediate family, or the elector's legal guardian may make a request for an elector to receive an absentee ballot.[20] The request may be made in person, including via telephone, or in writing and is valid through the end of the calendar year of the second ensuing general election, unless the request specifies the elections for which he or she would like to receive absentee ballots.[21] The Supervisor of Elections is required to record the

[16] Section 101.591, F.S.
[17] Section 101.591(2), F.S.
[18] Section 101.591(4), F.S.
[19] Section 101.591(5), F.S.
[20] Section 101.62(1)(b), F.S.
[21] Section 101.62(1)(a), F.S.

dates of the request, delivery to the voter or delivery to the post office or other carrier, the date the ballot was received by the Supervisor, and any other information the Supervisor deems necessary.[22]

Effects of Proposed Changes **(Section 9)**

The bill requires that a request for an absentee ballot which is to be sent to a place other than the address on file in the Florida Voter Registration System must be made in writing and signed by the elector.

The bill prohibits a Supervisor of Elections from providing or delivering an absentee ballot to an elector or his or her immediate family member on the day of an election unless there is an emergency which prevents the elector from going to his or her polling place. If the ballot is provided, the elector or his designee must execute an affidavit attesting to the facts constituting an emergency. The Department must adopt the form for the affidavit by rule.

The bill also requires the Supervisor to record the absence of a signature if the absentee ballot was returned without a signature on the Voter's Certificate.

Absentee Ballots

Current Situation

Absentee ballots are required to be sent to an elector with instructions, a secrecy envelope for his or her ballot, and a mailing envelope addressed by the Supervisor. The Voter's Certificate must be printed on the back of the envelope. The form of the instructions and the Voter's Certificate are prescribed by statute.[23] If a voter that registered by mail has not previously voted in this state, and has not been issued a current Florida identification card or drivers license, he or she receives a "special absentee ballot."[24] The "special absentee ballot" is sent with a secrecy envelope for his or her marked ballot, an envelope with the Voter's Certificate required by statute for special absentee ballots, and a mailing envelope.[25] There is also a separate set of instructions provided for voters required to vote by "special absentee ballot."[26] Absentee ballots are required to be received by the Supervisor by 7 p.m. on the day of the election. However, an absentee ballot from an overseas voter must be postmarked or signed and dated no later than general election day and received within 10 days after the general election. Only the federal race votes cast by such a ballot are included in the final certified vote results data. If an absentee ballot is returned unsigned, the ballot is rejected as illegal.[27]

Section 104.0616, F.S., does not contain a restriction on the number of ballots that any person may possess. However, it is currently a third degree felony for a person to provide, offer to provide, or accept a pecuniary benefit in exchange for distributing, ordering, requesting,

[22] Section 101.62(3), F.S.
[23] Sections 101.64, F.S., and 101.65, F.S.
[24] Sections 101.6921, F.S., and 97.0535, F.S.
[25] Section 101.6921, F.S.
[26] Section 101.6923, F.S.
[27] Section 101.68(2)(c)1., F.S.

collecting, delivering, or otherwise physically possessing absentee ballots, with intent to alter, change, modify, or erase any vote on the absentee ballot.

Effects of Proposed Changes **(Sections 10, 11, 14 - 17, 20)**

The bill requires that a voter who is voting by an absentee ballot or special absentee ballot must have his or her signature on the Voter's Certificate witnessed by a person over the age of 18 who is not a candidate. The bill makes corresponding changes to the form of the Voter's Certificate form prescribed by the statutes. The witness must sign the Voter's Certificate to swear or affirm that he or she witnessed the signature. Under the bill, the witness cannot be a candidate for office in Florida.

The following information is required to be added to the instructions provided by statute for completing the absentee or special absentee ballot:

- If you are an overseas voter casting a ballot in a presidential preference primary or general election, your absentee must be postmarked or signed and dated no later than the date of the election and received by the supervisor of elections of the county in which you are registered to vote no later than 10 days after the date of the election; and,
- In order for your absentee ballot to be counted, it must include the signature and legible address of an attesting witness 18 years of age or older affixed to the Voter's Certificate. If the signature is illegible, the Voter's Certificate must also include a readable printed name of the attesting witness. A candidate may not serve as an attesting witness.

The bill clarifies that an absentee ballot from an overseas voter will be counted in ***any races*** in a general election or presidential preference primary if it is postmarked or signed and dated no later than election day and arrives at the Supervisor's office no later than 10 days after the election.[28]

The bill also specifies that the Supervisor can use the signature on the precinct register to verify the signature on a Voter's Certificate. Additionally, the bill allows a voter who has submitted an absentee ballot without a signature to complete an affidavit, which must be witnessed, in order to cure that defect. The form of the affidavit will be prescribed by the statute. Upon completion of the affidavit and verification of the affidavit by the Supervisor, the supervisor must attach the affidavit to the absentee ballot. The ballot will then be canvassed.

Finally, with regard to absentee ballots, the bill makes it a third degree felony for any person to possess more than two absentee ballots that do not belong to the person or his or her immediate family member. For purposes of the bill, "immediate family member" means a person's spouse, or the parent, child, grandparent, or sibling of the person or the person's spouse.

Early Voting

Current Situation

[28] Section 101.6952, F.S.; A conforming change was also made to s. 101.67, F.S. **(Section 13)**

The Supervisors of Elections shall allow early voting in the following locations:

- The Supervisor's main office;
- The Supervisor's or branch office, if it is a permanent facility that has been in use for at least one year prior to the election;
- Any city hall; or
- Permanent public library.[29]

The early voting period for an election containing state and federal races runs between the 10th and 3rd days before the election with hours being set at no less than 6 hours and no more than 12 hours per day at each site during the early voting period.[30]

Effects of Proposed Changes **(Section 12)**

The bill requires each county to have at least the same number of early voting sites in future general elections as the county used in the 2012 general election. In addition to the sites currently authorized, the bill allows early voting to occur at the following sites:

- Fairgrounds;
- Civic center;
- Courthouse;
- County commission building;
- Stadium;
- Convention center;
- Government-owned senior center;
- Government-owned community center; or,
- A supervisor may designate one early voting site per election in an area of the county that does not have any of the eligible early voting locations. Such additional early voting site must be geographically located so as to provide all voters in that area with an equal opportunity to cast a ballot.

Additionally, the bill expands the early voting period by requiring that early voting sites be open for a minimum of 8 hours per day up to a maximum of 12 hours per day. It also permits the Supervisor of Elections to make early voting available for the 15th through 11th days and the 2nd day before the election. The new maximum number of days allowable for early voting will be 14 days.

Solicitation at the Polls

Current Situation

People, political committees, committees of continuous existence, or other groups or organizations are prohibited from soliciting voters inside the polling place or within 100 feet of the entrance to a polling place, polling room, or early voting site. Prior to opening the polling

[29] Section 101.657(1)(a), F.S.
[30] Section 101.657(1)(d), F.S.

place or early voting site, the Supervisor of Elections or clerk must designate and mark the boundaries of the no-solicitation zone.[31] Each Supervisor shall inform the clerk of the area in which soliciting is unlawful based upon the characteristics of that site. The Supervisor or clerk may take any reasonable actions to ensure order at the polls, including removal from the polls and/or the no-solicitation zone.[32]

Effect of Proposed Changes **(Section 18)**

The bill prohibits a Supervisor from designating a no-solicitation zone or otherwise restricting access, outside of the 100 foot no-solicitation zone, to any person, political committee, committee of continuous existence, candidate, or other group or organization for the purpose of soliciting voters.

County Canvassing Boards - Membership and Canvassing

Current Situation

The county canvassing board must be composed of the Supervisor of Elections, a county court judge (chair), and the chairman of the board of county commissioners.[33] If no county court judge is able to serve, or all are disqualified, the chief judge of the judicial circuit court appoints a qualified elector who is not a candidate with opposition in the election being canvassed and who has not been an active participant in a campaign or candidacy of any candidate with opposition in the election being canvassed.[34] If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners shall appoint as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. The supervisor, however, shall act in an advisory capacity to the canvassing board.[35] If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners shall appoint as a substitute member one of its members who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.[36] If a substitute member cannot be appointed as provided elsewhere in this subsection, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.[37]

Currently, the law requires county canvassing boards to report all early voting and tabulated absentee ballots to the Department of State within 30 minutes after the polls close. The county canvassing boards must update results thereafter every 45 minutes until complete. These reports

[31] Section 102.031(4)(a), F.S.
[32] Section 102.031(4)(c), F.S.
[33] Section 102.141(1), F.S.
[34] Section 102.141(1)(a), F.S.
[35] Section 102.141(1)(b), F.S.
[36] Section 102.141(1)(c), F.S.
[37] Section 102.141(1)(d), F.S.

do not include provisional ballots. The law does not address when the canvassing board must begin to upload into the county's internal database.

Effect of Proposed Changes **(Section 19)**

The bill provides for alternate members of the county canvassing board. Selection of the alternate members is as follows:

County court judge seat - The chief judge of the judicial circuit shall appoint a county court judge as an alternate. If that county court judge is unable to serve as an alternate, and all other county court judges are unable to serve, or are disqualified, then the chief judge of the circuit shall appoint a qualified elector who is not a candidate or active in any campaign being canvassed as the alternate.

Chair of the board of county commissioners seat - The chairman of the board of county commissioners shall appoint a member of the board of county commissioners as an alternate member of the county canvassing board or, if each member of the board of county commissioners is unable to serve or is disqualified, shall appoint a qualified elector who is not a candidate or active in any campaign being canvassed as the alternate.

If a member of the county canvassing board is unable to participate in a meeting, the chair of the canvassing board, or his or her designee, must designate which alternate member will serve. The bill clarifies that any decision made by the board must be made of 2 of the 3 sitting board members, regardless of whether he or she is an alternate member. Alternate members may be present, observe, and communicate with the three members constituting the county canvassing board, but may not vote in the board's decisions or determinations.

The bill also requires the Supervisors of Elections to upload early voting and absentee ballots that have been canvassed and tabulated by the end of the early voting period by 7 p.m. on the day before the election.

Section 21 provides an effective date of October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Community Affairs on April 2, 2013:
The committee substitute differs from the original bill in that it:

- provides definitions for standards, and vendor;
- requires a vendor to file a written disclosure with the Department;
- provides what constitutes a cure of a defect;
- requires a vendor to file a new disclosure with the Department if a vendor becomes aware of a defect within a specified period;
- clarifies that a county is required to operate the same number of early voting sites in future general elections as it operated in the 2012 general election; and
- authorizes the supervisor to designate one additional early voting site per election.

CS by Ethics and Elections on March 18, 2013:
The committee substitute differs from the original bill in that it:

- requires supervisors of elections to submit a election preparation report to the Secretary of State at least 3 months before a general election;
- specifies the content of the report; decreases the time period between a primary election and a general election;
- specifies that the 75 word limitation on ballot statement length does not apply to a ballot summary revised by the Attorney General;
- requires a person to provide the name, mailing address, and telephone number of a registered agent of a voting systems vendor to the Department of State under certain

circumstances; provides that proof of delivery or attempt to deliver constitutes valid notice; requires any person who submitted a voting system to the Department for approval or sold or leased any approved voting system to file a defect disclosure with the Department;

- authorizes the Department to suspend all sales or leases or use in an election of a defective voting system;
- provides procedures for the suspension of voting systems; authorizes the Department to withdraw approval of voting systems under certain circumstances; authorizes the Department to investigate whether a voting system is defective;
- establishes investigatory procedures and requirements;
- provides a penalty for certain vendor failures;
- authorizes use of automated, independent audits of voting systems; provides audit requirements for automated, independent audits;
- revises the requirements for a valid absentee ballot request;
- prohibits the supervisor from providing an absentee ballot on the day of an election under certain circumstances;
- requires a person who requests an absentee ballot to complete an affidavit if the requestor returns an unsigned ballot;
- revises the requirements for a voter's certificate;
- revises the instructions to absent electors;
- revises the permissible sites for early voting;
- requires each county to operate at least the same number of early voting sites as used for the 2012 general election;
- revises the number of days and hours for early voting; authorizes the supervisor to use the elector's signature in a precinct register to compare with the elector's signature on the voter's certificate;
- provides that an absentee ballot must clearly identify the name of the witness in order to be considered legal;
- requires the supervisor to provide the elector with the specific reason his or her ballot was rejected;
- requires the supervisor to allow electors to complete an affidavit to cure an unsigned absentee ballot prior to canvassing;
- provides the form and contents of the affidavit; requires the supervisor to attach a completed affidavit to the elector's absentee ballot;
- provides that absentee ballots received from overseas voters in certain elections may be received up to 10 days after the date of the election;
- revises restrictions relating to the solicitation of voters;
- provides for the selection of alternate canvassing board members; requires a supervisor to upload certain canvassed election results into a county's election management system prior to the election;
- prohibits public disclosure of uploaded results before the close of the polls on election day;
- prohibits possession of more than two absentee ballots under certain circumstances.

B. Amendments:

None.

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

By Senator Thrasher

6-00397C-13 20131026__

A bill to be entitled

An act relating to tax collectors; amending s. 197.332, F.S.; specifying that the tax collector may collect delinquent taxes by processing tax deed applications; providing an effective date.

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

Section 1. Subsection (1) of section 197.332, Florida Statutes, is amended to read:

197.332 Duties of tax collectors; branch offices.—

(1) The tax collector has the authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or ~~to~~ collect delinquent taxes, interest, and costs~~,~~ by sale of tax certificates on real property, by processing tax deed applications, and by seizure and sale of personal property. In exercising their powers to contract, the tax collector may perform such duties by use of contracted services or products or by electronic means. The use of contracted services, products, or vendors does not diminish the responsibility or liability of the tax collector to perform such duties pursuant to law. The tax collector may collect the cost of contracted services. The tax collector may also collect ~~and~~ reasonable attorney ~~attorney's~~ fees and court costs in actions on proceedings to recover delinquent taxes, interest, and costs.

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOHN THRASHER
6th District

COMMITTEES:
Rules, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Community Affairs
Ethics and Elections
Gaming
Judiciary
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Budget Commission

March 19, 2013

To: Senator Wilton Simpson, Chairman
Senate Committee on Community Affairs

Fm: Senator John Thrasher

Re: Senate Bill 1026; Tax Collectors/Tax Deed Applications

Please agenda my Senate Bill 1026 for a hearing by the Community Affairs Committee at your earliest convenience.

Thank you for your favorable consideration.

REPLY TO:
❒ 113 Nature Walk Parkway, Suite 106, St. Augustine, Florida 32092 (904) 287-4222 FAX: 1-888-263-3475
❒ 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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 1026

INTRODUCER: Senator Thrasher

SUBJECT: Tax Collectors

DATE: March 28, 2013 REVISED:

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

I. Summary:

SB 1026 adds deed application processing as a means for tax collectors to fulfill their duties and obligations to collect delinquent taxes, interest and costs.

The bill also allows tax collectors, in addition to current authority, to collect the cost of contracted services not associated with actions on proceedings to recover delinquent taxes, interest, and costs.

This bill amends section 197.332 of the Florida Statutes.

II. Present Situation:

Tax Certificates

Property taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector and tax notices are mailed to taxpayers notifying them of the amount of taxes due and any discounts that are available to them.[1] Taxes are considered delinquent if they are not paid by April 1 following the year in which they are assessed.[2] By April 30, the tax collector mails an additional tax notice to each taxpayer whose payment has not been received, notifying the taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.[3]

[1] Sections 197.322 and 197.333, F.S.
[2] *Id.*
[3] Section 197.343(1), F.S.

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes which "shall be struck off to the person who will pay the taxes, interest, cost and charges and will demand the lowest rate of interest under the maximum rate of interest."[4] A tax certificate is a legal document, representing unpaid delinquent real property taxes, non-ad valorem assessments, including special assessments, interest, and related costs and charges, issued in accordance with ch. 197, F.S., against a specific parcel of real property.[5] Tax certificates that are not sold are issued to the county at the maximum interest rate (18 percent). The sale of the tax certificate acts as first lien on the property that is superior to all other liens; but it does not convey any property rights to the investor.[6]

A property owner can redeem a tax certificate anytime before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing the tax certificate is required to pay the investor or county "all taxes, interest, costs, charges, and [any] omitted taxes" and a $6.25 fee to the tax collector.[7]

Tax Deeds

If the property owner has not redeemed the tax certificate, a tax certificate holder may apply for a tax deed on the property on or after the second year following the sale of the certificate and before the expiration of seven years from issuance. The holder files the certificate with the county tax collector and pays all amounts required for redemption or purchase of all other outstanding tax certificates, any omitted taxes or delinquent taxes, and any current taxes due, plus interest.[8] The tax collector is authorized to collect a tax deed application fee of $75 at the time of application for the tax deed.[9] The property is then placed on the list of lands available for sale and sold to the highest bidder at a public auction held by the clerk of the circuit court.[10] If property placed on the list of lands available for sale is not sold within three years after the public auction, the land escheats to the county in which the property is located free and clear of all liens.[11] Tax certificates that are not redeemed or, for which a tax deed has not been applied for within seven years, become null and void.[12]

Duties of Tax Collectors

Section 197.332(1), F.S., relates to the duties of tax collectors and provides:

> The tax collector has the authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes, interest, and costs, by sale of tax certificates on real property and by seizure and sale of personal property. In

[4] Section 197.432(5), F.S.
[5] Section 197.102(3), F.S.
[6] Section 197.122, F.S., *see also* s. 197.432, F.S.
[7] Section 197.472, F.S.
[8] Section 197.502(2), F.S.
[9] Section 197.502(1), F.S.
[10] Section 197.542(1), F.S.
[11] Section 197.502(8), F.S.
[12] Section 197.482(1), F.S.

exercising their powers to contract, the tax collector may perform such duties by use of contracted services or products or by electronic means. The use of contracted services, products, or vendors does not diminish the responsibility or liability of the tax collector to perform such duties pursuant to law. The tax collector may collect the cost of contracted services and reasonable attorney's fees and court costs in actions on proceedings to recover delinquent taxes, interest, and costs.

III. Effect of Proposed Changes:

Section 1 amends s. 197.332, F.S., to include that the tax collector's authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes, interest, and costs, is done in part "by processing tax deed applications."

The bill also allows tax collectors, in addition to current authority, to collect the cost of contracted services not associated with actions on proceedings to recover delinquent taxes, interest, and costs.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Revenue Estimating Conference has not met to review any impact of SB 1026.

C. Government Sector Impact:

The Revenue Estimating Conference has not met to review any impact of SB 1026.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By the Committee on Health Policy; and Senator Thompson

588-02387-13 2013462c1

A bill to be entitled

An act relating to death certificates; amending s. 382.008, F.S.; requiring the State Registrar to electronically transfer a data file of permanent death certificates to the Florida Association of Court Clerks and Comptrollers, Inc.; requiring the association to submit that data file to the clerk of the circuit court, or local recording entity, for each county; requiring the clerk of the circuit court, or local recording entity, to record the permanent death certificate for each death that occurred within its respective county; requiring the clerk of the circuit court, or local recording entity, to waive associated fees; providing an effective date.

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

Section 1. Subsection (7) is added to section 382.008, Florida Statutes, to read:

382.008 Death and fetal death registration.—

(7) The State Registrar shall electronically submit twice each month to the Florida Association of Court Clerks and Comptrollers, Inc., a data file of each permanent certificate of death or fetal death that is filed in each county, excluding any information that is confidential and exempt from s. 119.07(1). The Florida Association of Court Clerks and Comptrollers, Inc., shall electronically submit the data file to the clerk of the circuit court, or the local entity that records documents in the public record, for each county. The clerk of the circuit court,

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

30 or the local recording entity, shall record the permanent death
31 certificate for each death that occurred within its respective
32 county. The clerk of the circuit court shall waive all fees and
33 service charges associated with recording any permanent death
34 certificates mandated by this paragraph.
35 Section 2. 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:
Appropriations Subcommittee on General Government, *Vice Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR GERALDINE F. THOMPSON
12th District

March 14, 2013

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

Dear Chair Simpson,

I respectfully request *SB 462—Death Certificates* be placed on the agenda of the Committee on Community Affairs as soon as possible.

Florida has no legal requirements for local governments to automatically record death certificates. This has created problems like properties receiving homestead exemptions for years after the owner's death.

This bill will require each certificate of death to be recorded by the local registrar in the public records of the county. The Clerk of Courts shall receive a service charge from their county commission to cover the cost of the recording.

Thank you for your consideration.

Sincerely,

Geraldine F. Thompson

Senator Geraldine Thompson, District 12
GT:dr

cc: Tom Yeatman

REPLY TO:
☐ 511 W. South Street, Suite 204, Orlando, Florida 32805 (407) 245-1511 FAX: (407) 245-1513
☐ 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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 462

INTRODUCER: Health Policy Committee and Senator Thompson

SUBJECT: Death Certificates

DATE: March 14, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Fav/CS**
2.	Toman	Yeatman	CA	**Favorable**
3.			AHS	
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 462 amends the Florida Statutes to require the clerk of the circuit court, or local recording entity, to record permanent death certificates for local deaths which they receive electronically from the State Registrar. Any fees associated with recording such death certificates must be waived.

This bill substantially amends section 382.008, Florida Statutes.

II. Present Situation:

In 2012, the Department of Health (DOH) implemented a statewide Electronic Death Registration System (EDRS) and presently 98 percent of all Florida death records are filed electronically. The EDRS allows funeral directors and physicians to complete and certify death records online through a secure internet site. Funeral directors complete the demographic information on the decedent within EDRS once they have met with the family, after which the physician receives an email notification and the physician logs on to the EDRS to complete the

medical information.[1] Before the EDRS, the process of registering and recording a death was a slow and laborious paper process, requiring travel to and from the local county health department along with the record having to pass through multiple units within the county and state offices.[2]

Once on file with the DOH's Bureau of Vital Statistics (Bureau), certified copies of registered death and fetal death records are issued by the Bureau upon request. These records may be needed for families to close out estates, to claim social security benefits, to be aware of any medical issues that need to be noted for future generations, or for tracing one's family roots, etc.[3] Certified death records issued by the Bureau may also be delivered to the county clerk's office to be officially recorded.

In 2012, there were 405,600 requests received for certified death and fetal death records, but only a small percentage of certified death certificates issued were delivered to their respective county clerk's office by citizens who wished them recorded.[4] The Bureau also transmits an electronic copy of all Florida death records to the Florida Association of Clerks of Court on a bi-weekly basis.[5] However, the information in the electronic copy is not officially recorded by the clerks of court.[6]

Service Charges by Clerk of the Circuit Court

Section 28.222, F.S., instructs the clerk of the circuit court to record certified copies of death certificates authorized for issuance by the Department of Health which exclude the information that is confidential under s. 382.008, F.S.[7] Clerk charges for services rendered in recording documents and instruments are outlined in s. 28.24, F.S. Charges for recording, indexing and filing instruments such as death certificates include $5 for a first page, $4 for each additional page, and an additional service charge of $4 per page for each instrument listed in s. 28.222, F.S.[8]

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[1] Electronic Death Registration System Brochure, found at: http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/EDRSBrochure4web.pdf, last visited on Mar. 11, 2013.
[2] Electronic Death Registration System, found at: http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/index.html, last visited Mar. 11, 2013.
[3] The Bureau of Vital Statistics, found at: http://www.doh.state.fl.us/planning_eval/vital_statistics/index.html, last visited on Mar. 8, 2013.
[4] Department of Health, *Bill Analysis for SB 462* (Jan. 25, 2013) on file with the Senate Committee on Community Affairs. According to the analysis, the clerk of courts record only a small percentage of Florida certified death certificates issued. In Miami-Dade County in 2011 only 4,300 of 18,723, or 23 percent, of death certificates issued were recorded.
[5] The Association is a private, non-profit, member education association. The files received are delivered as a data stream (not an image) derived from death records from the Bureau. Clerks can use the data to check against the names provided from the Department of Highway Safety and Motor Vehicles on their jury lists and remove any names from those lists that appear on the death data. Email from Randy Long, Director of Research and Analysis, Florida Association of Court Clerks and Comptrollers (Mar. 26, 2013) (on file with the Senate committee on Community Affairs).
[6] *Supra* at n. 4.
[7] All information relating to cause of death in all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records are confidential and exempt from the public records provisions of s. 119.07(1), F.S.
[8] Section 28.24(12), F.S.

III. Effect of Proposed Changes:

Section 1 amends 382.008, F.S., to require:

- The State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers (Association), Inc., twice a month.
- The Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- The clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- The clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution, prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 or $1.9 million for FY 2012-13.[9]

The extent of this bill's fiscal impact related to the waived fees and service charges has not been determined; however, if the costs incurred by counties are greater than $1.9 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[9] 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.

B. Private Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 462.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed CS/SB 462.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A survey of 43 clerks of courts conducted by the Florida Association of Court Clerks and Comptrollers estimated a loss to reporting counties of approximately $500,000 as a result of the waived fees.[10] The Association also noted a potential additional negative indeterminate fiscal impact if confidential information such as cause of death must be redacted from files.

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 Health Policy on March 14, 2013:
The CS substantially amends SB 462 to:

- Require the State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers, Inc., twice a month.
- Require the Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- Require the clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- Require the clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.
- Delete provisions requiring counties to pay fees associated with filing permanent death certificates.
- Delete provisions requiring the local registrar to record each issued permanent death certificate.

B. Amendments:

None.

[10] Florida Association of Court Clerks and Comptrollers, *Fees Associated with Recording Death Certificates SB 462: Impact on Clerks of the Court* (on file with the Senate committee on Community Affairs).

136542

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

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.

633482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

633482

13 is impractical.
14 (b) For one-story or two-story structures that are less
15 than 10,000 square feet, whose occupancy is defined in the
16 Florida Building Code and the Florida Fire Prevention Code as
17 business or mercantile, a fire official shall enforce the wall
18 fire-rating provisions for occupancy separation as defined in
19 the Florida Building Code.
20 (c) A farming or ranching structure, as part of an
21 operation that employs fewer than 25 full-time equivalent
22 workers, calculated as cumulative hours worked divided by 40
23 hours, which is not used by the public for direct sales or as an
24 educational outreach facility, is exempt from the Florida Fire
25 Prevention Code, including the national codes and Life Safety
26 Code incorporated by reference. This paragraph does not include
27 structures used for residential or assembly occupancies, as
28 defined in the Florida Fire Prevention Code.
29 Section 2. This act shall take effect July 1, 2013.
30
31
32 ========== T I T L E A M E N D M E N T ==========
33 And the title is amended as follows:
34 Delete everything before the enacting clause
35 and insert:
36 A bill to be entitled
37 An act relating to the Florida Fire Prevention Code;
38 amending s. 633.0215, F.S.; providing that certain authorities
39 in rural areas or small communities may decrease fire flow
40 requirements; providing that fire officials shall enforce
41 Florida Building Code provisions for occupancy separation for

633482

42 certain structures with certain occupancies; exempting certain
43 farming and ranching structures from the code; providing an
44 effective date.
45
46

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)

4/2
Meeting Date

Topic

Bill Number 1122 (if applicable)

Name Jim Spratt

Amendment Barcode (if applicable)

Job Title

Address PO Box 10011
Street

Tally FL 32302
City State Zip

Phone 850-228-1296

E-mail jim@magnoliastrategies llc.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)

4/2/13
Meeting Date

Topic: 1122

Bill Number: 1122 *(if applicable)*

Name: Casey Cook

Amendment Barcode: _____ *(if applicable)*

Job Title: Legislative Advocate

Address: PO Box 1757
Street

Tallahassee, Fl 32302
City, State, Zip

Phone: 850 701 3701

E-mail: ccook@flcities.com

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

Representing: Florida League of Cities

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-13
Meeting Date

Topic _____ Bill Number SB 1122 *(if applicable)*

Name Buddy Dewar Amendment Barcode _____ *(if applicable)*

Job Title Vice President

Address 200 W. College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 566-8733

E-mail Dewar@NFSA.org

Speaking: ☐ For ☐ Against ☐ Information

Representing National Fire Sprinkler Assn

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)

4/2/13
Meeting Date

Topic: Fire Safety

Bill Number: 1122 *(if applicable)*

Name: Jim Snyder

Amendment Barcode: 633482 *(if applicable)*

Job Title: Public Policy Associates

Address: PO Box 10615
Street

Tallahassee FL 32302
City *State* *Zip*

Phone: 850-294-3611

E-mail: jsnyder@publicpolicyassociates.com

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

Representing: American Fire Sprinkler Assoc.

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 1122

INTRODUCER: Community Affairs and Senators Simpson and Dean

SUBJECT: Florida Fire Prevention Code

DATE: April 2, 2013 REVISED:

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

I. Summary:

CS/SB 1122 establishes the following Florida Fire Prevention Code (FFPC) related provisions:

- the authority having jurisdiction may decrease fire flow requirements for isolated buildings in rural or small counties under certain circumstances,
- fire officials shall enforce fire wall separation ratings for certain mercantile or business occupancies as outlined in the Florida Building Code, and
- certain farming or ranching operations are exempt from the FFPC.

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 requirements are intended to assure an adequate water supply for fire suppression by establishing minimum water flow rates to control and extinguish fires within certain types of property subject to specific occupancy classifications. The "required fire flow" is the rate of flow needed for firefighting purposes to confine a major fire to the buildings within a block or other contiguous grouping. The determination of this flow depends upon the size, construction, occupancy, and exposure of buildings within and surrounding the block or group of buildings.

Historically, the determination of required fire flow has been made by local fire authorities having jurisdiction. An important resource in making this determination is the Guide for Determination of Required Fire Flow, published by the Insurance Services Office (ISO), a private ratings agency that measures the major elements of a community's fire suppression system, including its fire department, emergency communications, and water supply.[4] Following inspection and review of a community's firefighting capabilities, ISO issues a numerical grade, called a Public Protection Classification, which is often used by property and casualty insurers as a tool for calculating insurance rates. This means that a community's investment in fire protection infrastructure often has a direct impact in reducing the community's property insurance rates.

The current 2010 edition of the FFPC adopted the 2009 editions of NFPA 1 and 101.[5] 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] 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] Insurance Services Office: Mitigation Online, *Fire Suppression Rating Schedule Overview, available at* http://www.isomitigation.com/fsrs/Fire-Suppression-Rating-Schedule-Overview.html (last visited Apr. 2, 2013).
[5] 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).

1:18.4). The current code specifies *requirements* for fire flow in both residential and commercial buildings.[6]

Fire Rated Walls or Partitions in the FFPC

Both the FFPC[7] and the Building Code[8] require that where different parts of a building comprise different categories of occupancy, those buildings must provide passive fire protection systems to slow or prevent a fire from spreading from one part of the building to another. For example, if a restaurant abuts a day care center or a hotel, the codes will require a fire wall between the two occupancies rated to certain wall fire-rating. These fire ratings are often expressed in "hours," expressing how long the wall can resist a fire of a certain temperature.[9] The rules are intended to protect life safety, slow the spread of fire, and reduce insurance rates by restricting the ability of a commercial tenant to offload his or her fire risk onto adjoining tenant occupancies.

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. Fire resistance ratings are permitted to be reduced by 1 hour where the building is protected throughout by an approved automatic sprinkler system.[10]

FFPC Classification of Agricultural Buildings

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.[11]
- Provisions of ch. 633, F.S., do not apply to owners of property who are building or improving farm outbuildings.[12] This means that structures such as barns need not be constructed to the fire code nor are they subject to fine by fire marshals or inspectors.

[6] Reductions in the fire flow requirements are permissible through the installation of a fire sprinkler system.
[7] NFPA 101 s. 6.1.14.4.1, as specified in 6.1.14.4.2 and 6.1.14.4.3, and tables 6.1.14.4.1(a) and (b).
[8] Florida Building Code sections 508.1, 508.2, 508.3 and 508.4.
[9] Separations are categorized as 3-hour fire resistance-rated, 2-hour fire resistance-rated, or 1-hour fire resistance-rated.
[10] In no case may the rating be reduced to less than 1 hour.
[11] Section 633.0215, F.S.
[12] 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..

III. Effect of Proposed Changes:

Section 1 amends s. 633.0215, F.S., to permit the authority having jurisdiction to decrease fire flow requirements for isolated buildings in rural or small counties if the authority determines that full fire flow requirements are impractical. The statute is additionally amended to require that a fire official enforce certain wall fire-rating occupancy separations as defined in the Florida Building Code. The ratings apply to one- and two-story structures that are less than 10,000 square feet whose occupancy is defined as business or mercantile. Finally, s. 633.0215, F.S., is amended to exempt specified farming or ranching structures from the Florida Fire Prevention Code. To qualify, structures must employ fewer than 25 full-time equivalent employees and cannot be used by the public for direct sales or as educational outreach facilities. This exemption does not include structures used for residential or assembly operations.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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.[13]

[13] 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).

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.[14]

VI. Technical Deficiencies:

None.

VII. Related Issues:

A DFS analysis of SB 1122 provides department positions on the various provisions of the bill.[15] These are provided below.

Fire Flow
According to the DFS, the bill's original exemption of the minimum water fire flow could have significantly affected fire-fighting operations. The CS incorporates DFS suggestions to address this concern.

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 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.

Agricultural Operations
The CS incorporates a DFS suggestion to replace "agricultural operation" with "farming and ranching operations" to narrow the scope of the bill's outright exemption from the FFPC for these types of operations. The DFS additionally suggested the operations 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.)

CS by Community Affairs on April 2, 2013:
- Revises specifications related to the decrease of fire flow requirements.
- Changes wall fire-rating enforcement provisions for certain structure occupancy separations.
- Modifies conditions that trigger an exemption from the Florida Fire Prevention Code for farming or ranching structures.

[14] *Id.*
[15] *Id.*

B. Amendments:

None.

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

833144

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 58
4 and insert:
5 combustion products in building products, substitutes for raw

By the Committee on Environmental Preservation and Conservation; and Senator Simpson

592-02850-13 2013682c1

A bill to be entitled

An act relating to fossil fuel combustion products; creating s. 403.7047, F.S.; providing definitions; providing standards for storage of certain fossil fuel combustion products; providing an exemption for beneficial use of fossil fuel combustion products from certain rules; providing that the act does not prohibit the Department of Environmental Protection from taking appropriate action to regulate a beneficial use in certain circumstances; providing that the act does not limit other requirements applicable to the beneficial use of fossil fuel combustion products; providing that the act does not limit the recovery of beneficial use products or the authority of the department to approve the beneficial use of materials other than fossil fuel combustion products; clarifying that the act does not limit or modify any fossil fuel combustion product beneficial use previously approved by the department; amending s. 403.7222, F.S.; excluding certain types of facilities from provisions on hazardous waste landfills; providing an effective date.

WHEREAS, fossil fuel combustion products are currently used in a variety of beneficial applications, and

WHEREAS, beneficial use of fossil fuel combustion products allows certain industries and end users to avoid the mining and processing of virgin materials through the substitution of fossil fuel combustion products for virgin materials, thereby

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

30 preserving natural resources and minimizing environmental
31 emissions, and
32 WHEREAS, beneficial use of fossil fuel combustion products
33 reduces the volume of materials placed in disposal facilities
34 and ultimately lowers overall energy consumption required for
35 processing and disposing of fossil fuel combustion products, and
36 WHEREAS, beneficial use of fossil fuel combustion products
37 promotes economic activity, and
38 WHEREAS, beneficial use of fossil fuel combustion products
39 is consistent with the purpose of Florida's Resource Recovery
40 and Management Act and furthers the purpose of the act by
41 encouraging waste reduction and recycling as a means of managing
42 solid waste and conserving resources, and
43 WHEREAS, after balancing all the competing needs of the
44 state, the Legislature has determined that it is in the state's
45 best interest to conserve natural resources, reduce overall
46 energy consumption, reduce or eliminate the need to dispose of
47 fossil fuel combustion products in disposal facilities, and
48 facilitate the development of readily available markets for
49 fossil fuel combustion products, NOW, THEREFORE,
50
51 Be It Enacted by the Legislature of the State of Florida:
52
53 Section 1. Section 403.7047, Florida Statutes, is created
54 to read:
55 403.7047 Regulation of fossil fuel combustion products.—
56 (1) As used in this section, the term:
57 (a) "Beneficial use" means the use of fossil fuel
58 combustion products as building products, substitutes for raw

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

59 materials, necessary ingredients, or additives in products,
60 according to accepted industry practices, including the
61 following:
62 1. Asphalt, concrete or cement products, flowable fill, and
63 roller-compacted concrete.
64 2. Structural fill or pavement aggregate that meets the
65 following requirements:
66 a. The fossil fuel combustion product is not in contact
67 with groundwater, surface water bodies, or wetlands and is not
68 placed within 100 feet of a potable well that is being used or
69 might be used for human or livestock water consumption; and
70 b. The placement of the fossil fuel combustion product does
71 not extend beyond the outside edge of the structure or pavement.
72 Placement of the structure or pavement must be completed as soon
73 as practicable after placement of the fossil fuel combustion
74 product.
75 3. Use of flue-gas emission control materials which meet
76 the definition of gypsum and are used in accordance with
77 applicable Florida Department of Agriculture and Consumer
78 Services rules.
79 4. Waste stabilization, or initial or intermediate cover
80 material used for lined Class I or III landfills, provided that
81 the material meets applicable department rules for landfill
82 cover or a landfill's permit conditions for cover.
83 5. Any other use that meets the criteria of
84 s.403.7045(1)(f) or that is approved by the department prior to
85 use as having an equivalent or reduced potential for
86 environmental impacts, when used in equivalent quantities,
87 compared to the substituted raw products or materials.

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88 (b) “Fossil fuel combustion products” means fly ash, bottom
89 ash, boiler slag, flue-gas emission control materials, and other
90 non-hazardous materials, such as gasifier slag, fluidized-bed
91 combustion system products, and similar combustion materials
92 produced from the operation of a fossil fuel-fired electric or
93 steam generation facility, from a clean coal or other innovative
94 technology process at a fossil fuel-fired electric or steam
95 generation facility, or from any combination thereof.
96 (c) “Fossil fuel-fired electric or steam generation
97 facility” means any electric or steam generation facility that
98 is fueled with coal, alone or in combination with petroleum
99 coke, oil, coal gas, natural gas, other fossil fuels, or
100 alternative fuels.
101 (d) “Pavement aggregate” means fossil fuel combustion
102 products used as sub-base material under a paved road, sidewalk,
103 walkway, or parking lot as a substitute for conventional
104 aggregate, raw material, or soil.
105 (e) “Structural fill” means the use of a fossil fuel
106 combustion product as a substitute for a conventional aggregate,
107 raw material, or soil under an industrial or commercial building
108 or structure. Structural fill does not include uses of fossil
109 fuel combustion products that involve general filling or grading
110 operations or valley fills.
111 (2) The storage of fossil fuel combustion products destined
112 for beneficial use must comply with applicable department rules
113 and be conducted in a manner that does not pose a significant
114 risk to public health or violate applicable air or water quality
115 standards.
116 (3) Fossil fuel combustion products beneficially used in

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117 accordance with this section are not subject to regulation as a
118 solid or hazardous waste, but the department may take
119 appropriate action if the beneficial use is demonstrated to be
120 causing violations of applicable air or water quality standards
121 or criteria in department rules, or if such beneficial use poses
122 a significant risk to public health. This section does not
123 limit any other requirements applicable to the beneficial use of
124 fossil fuel combustion products established under this chapter
125 or chapter 376 or under local or federal laws, including
126 requirements governing air pollution control permits, national
127 pollutant discharge elimination system permits, and water
128 quality certifications pursuant to s. 401 of the Clean Water
129 Act.
130 (4) Nothing in this section shall be construed to limit the
131 department's authority to approve the beneficial use of
132 materials other than fossil fuel combustion products as defined
133 in this section pursuant to other provisions of this part. This
134 section may not be construed to limit or otherwise modify any
135 fossil fuel combustion product beneficial use previously
136 approved by the department, use in the onsite construction of
137 surface impoundments, roads, or similar works at fossil fuel-
138 fired electric or steam generation facilities, or the recovery
139 of these products for beneficial use from fossil fuel combustion
140 product landfills, impoundments, or storage areas.
141 Section 2. Section 403.7222, Florida Statutes, is amended
142 to read:
143 403.7222 Prohibition of hazardous waste landfills.—
144 (1) As used in this section, the term "hazardous waste
145 landfill" means a disposal facility or part of a facility at

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

146 which hazardous waste that has not undergone treatment is placed
147 in or on land, including an injection well, which is not a land
148 treatment facility. However, hazardous waste may not be disposed
149 of through an injection well or other subsurface method of
150 disposal, which is defined as a Class IV well in 40 C.F.R. s.
151 144.6(d), except those Class I wells permitted for hazardous
152 waste disposal as of January 1, 1992. The department shall
153 annually review the operations of any such Class I well
154 permitted as of January 1, 1992, and prepare a report analyzing
155 any impact on groundwater systems. ~~Nothing in~~ This section may
156 not ~~shall~~ be construed to refer to the products of membrane
157 technology, including reverse osmosis, for the production of
158 potable water where disposal is through a Class I well as
159 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
160 corrective action activities conducted in accordance with 40
161 C.F.R. s. 144.13.
162 (2) The Legislature declares that, due to the permeability
163 of the soil and high water table in Florida, future hazardous
164 waste landfills are prohibited. Therefore, the department may
165 not issue a permit pursuant to s. 403.722 for a newly
166 constructed hazardous waste landfill. However, if by executive
167 order the Governor declares a hazardous waste management
168 emergency, the department may issue a permit for a temporary
169 hazardous waste landfill. Any such landfill shall be used only
170 until such time as an appropriate alternative method of disposal
171 can be derived and implemented. Such a permit may not be issued
172 for a period exceeding 6 months without a further declaration of
173 the Governor. A Class IV injection well, as defined in 40 C.F.R.
174 s. 144.6(d), may not be permitted for construction or operation

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175 under this section.
176 (3) This section does not prohibit the department from
177 banning the disposal of hazardous waste in other types of waste
178 management units in a manner consistent with federal
179 requirements, except as provided under s. 403.804(2).
180 (4) This section does not apply to a disposal facility or
181 part of a facility that accepts fly ash, bottom ash, boiler
182 slag, or flue-gas emission control materials from the operation
183 of a fossil fuel-fired electric or steam generation facility,
184 from a clean coal or other innovative technology process at a
185 fossil fuel-fired electric or steam generation facility, or from
186 any combination thereof.
187 Section 3. 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)

Meeting Date: _____

Topic: FFCP SB 672

Bill Number: _____ (if applicable)

Name: Mike Petrovich

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: _____ (Street)

Phone: _____

_____ (City, State, Zip)

E-mail: _____

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

Representing: Florida Electric Power Coordinating Group, Inc.

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/2/13
Meeting Date

Topic: FFCPs (Cost Ash)

Bill Number: 687 (if applicable)

Name: David Cullen

Amendment Barcode: (if applicable)

Job Title:

Address: 1674 University Pkwy #286
Street

Sarasota FL 34243
City State Zip

Phone: 941.323.2404

E-mail: cullensea@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Sierra Club Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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Meeting Date: _____

Topic: Fossil Fuel Combustion Products

Bill Number: SB 682 (if applicable)

Name: Mary Jean Yon

Amendment Barcode: _____ (if applicable)

Job Title: Legislative Director

Address: 3324 Charleston Rd (Street)

Tallahassee (City) FL (State) 32309 (Zip)

Phone: 850/519-7859

E-mail: maryjeanyon@comcast.net

Speaking: ☐ For ☑ Against ☐ Information

Representing: Audubon Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-13
Meeting Date

Topic: Coal Ash

Bill Number: CS/SB 682 *(if applicable)*

Name: Stephanie Kunkel

Amendment Barcode: *(if applicable)*

Job Title:

Address: 1143 Albritton DR
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-320-4208

E-mail: Stef.Kunkel@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Clean Water Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Fossil Fuel Combustion Products

Bill Number: SB 682 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: Senior Vice President

Address: 516 N. Adams St
Street

Tallahassee, Fl 32312
City, State, Zip

Phone: 850-224-7173

E-mail: bbevis@aif.com

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

Representing: Associated Industries of Florida

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 682

INTRODUCER: Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Simpson

SUBJECT: Fossil Fuel Combustion Products

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
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/CS/SB 682 specifies that certain uses of fossil fuel combustion products (FFCPs) would be defined as beneficial uses and exempts the beneficial use of FFCPs from certain provisions in Part IV of ch. 403, F.S. The bill also exempts disposal facilities that accept FFCPs from the prohibition on hazardous waste landfills in Florida.

This bill creates section 403.7047 and amends section 403.7222 of the Florida Statutes.

II. Present Situation:

Fossil Fuel Combustion

Fossil fuels, particularly coal, are the most common source of fuel for electricity production in the United States. Coal is an abundant natural resource in the United States, which has the largest recoverable coal reserves in the world. Coal is relatively inexpensive; however, the emissions

from coal combustion have an adverse affect on human health and the environment.[1] The Clean Air Act (CAA) of 1970 authorized the National Ambient Air Quality Standards, which placed limitations on coal combustion emissions.[2] The CAA was significantly amended in 1990 and required more stringent emissions standards for coal power plants. Since the passage of the CAA, many coal plants have been retrofitted to reduce harmful emissions and new plants are constructed using advanced technologies that greatly reduce air-born pollutants.[3]

Fossil fuel combustion creates byproducts, referred to as FFCPs. The U.S. Environmental Protection Agency (EPA) estimates that between 130 and 140 million tons of FFCPs are produced each year in the United States.[4] Landfills and surface impoundments are used to manage the majority of FFCPs. The remainder is sold for beneficial use in construction materials, such as concrete and wallboard, and for agricultural purposes.[5] There are four types of FFCPs generated during coal combustion:[6]

- Fly ash is a non-combustible particulate matter that is transported from the combustion chamber by exhaust gases and accounts for approximately 74 percent of the ash generated.
- Bottom ash is heavier than fly ash, and collects in the bottom of boilers and accounts for approximately 20 percent of the ash generated.
- Boiler slag is formed when the ash melts under extreme heat and collects in wet-bottom boilers and accounts for approximately six percent of the ash generated.
- Flue-gas Desulfurization (FGD) material is created from the chemical process used to remove sulfur dioxide from combustion emissions by converting the sulfur dioxide to calcium sulfate (gypsum).

Federal Regulation of Fossil Fuel Combustion Products

In 1976, Congress passed the Federal Resource Conservation and Recovery Act (RCRA) in order to address the increase in industrial and municipal waste. The RCRA established a solid waste program under RCRA Subtitle D and a hazardous waste program under RCRA Subtitle C. The solid waste program allows states to develop plans to manage nonhazardous industrial solid waste and municipal solid waste, sets the criteria for solid waste disposal facilities, and prohibits the open dumping of solid waste. The hazardous waste program establishes a system for controlling hazardous waste from generation to ultimate disposal. In 1984, the RCRA was amended to provide more stringent hazardous waste management standards and required that the land disposal of hazardous waste be phased out. The RCRA was amended again in 1992 and

[1]U.S. Energy Information Administration, *Energy in Brief*, http://www.eia.gov/energy_in_brief/article/role_coal_us.cfm (last visited Feb. 25, 2013).
[2] *See* 42 U.S.C. s. 7401-7671.
[3] Institute for Energy Research, *The Facts About Air Quality and Coal-Fired Power Plants*, http://www.instituteforenergyresearch.org/pdf/the-facts-about-air-quality-and-coal-fired-power-plants-final.pdf (last visited Mar. 11, 2013). Examples of technological innovations include chemical scrubbers for combustion emissions and integrated gasification combined cycle power plants.
[4]EPA, *Coal Combustion Residuals* , http://www.epa.gov/osw/nonhaz/industrial/special/fossil/coalashletter.htm (last visited Feb. 21, 2013).
[5] American Coal Ash Assoc., *Frequently Asked Questions*, http://acaa.affiniscape.com/displaycommon.cfm?an=1&subarticlenbr=5 (last visited Feb. 21, 2013).
[6]EPA, *Radiation Protection, Coal Ash*, http://www.epa.gov/radiation/tenorm/coalandcoalash.html (last visited Mar. 5, 2013).

1996 in order to strengthen the enforcement of the act at federal facilities and to provide regulatory flexibility for land disposal of certain wastes.[7]

In 1978 and 2000, the EPA determined that FFCPs are a "special waste" and exempt from federal hazardous waste regulations under RCRA Subtitle C.[8] Coal combustion wastes that are disposed of in surface impoundments and landfills are regulated under RCRA Subtitle D. The EPA also determined that the beneficial use of FFCPs, other than minefilling, does not pose a significant risk and does not require additional federal regulation.[9]

In 2010, the EPA proposed a rule to regulate the FFCP under more stringent requirements following a spill at the Tennessee Valley Authority's Kingston Fossil Plant. Approximately 5.4 million cubic yards of fly ash sludge was released after a surface impoundment failed.[10]

The proposed EPA rule would apply to all FFCPs generated by electric utilities and independent power producers but would not include FFCPs that are beneficially used. The EPA is considering two options. The first would be to classify FFCPs as special waste subject to regulation under RCRA Subtitle C, which regulates hazardous wastes, when disposed of in landfills or surface impoundments. The second would exempt FFCPs from federal hazardous waste regulations under RCRA subtitle C but would require national minimum criteria under RCRA Subtitle D, which regulates solid wastes. Both alternatives include safety requirements for surface impoundments to prevent future releases.[11] The rulemaking process is ongoing and is expected to conclude in 2014.

Beneficial Use and Management of Fossil Fuel Combustion Products

The beneficial use of FFCPs is a multibillion dollar industry that creates a variety of products and provides numerous benefits to the environment by reducing the need for virgin material, emissions, and the amount of FFCPs disposed of in landfills.[12]

Fly ash can be used in portland cement concrete and provides greater durability than straight portland cement concrete.[13] Bottom ash can be used in place of sand and gravel aggregates and can also be used for concrete blocks, shingles, asphalt, flowable fill and brick. Boiler slag can replace sand blasting grit and is silica free, which reduces the health risks associated with

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[7] EPA, *Waste Laws and Regulations, History of RCRA,* http://www.epa.gov/osw/laws-regs/rcrahistory.htm (last visited Mar. 6, 2013).
[8] The EPA defined "special waste" in RCRA (1978) to be large volume waste that had a low potential to be hazardous and includes cement kiln dust, coal combustion waste, phosphate mining and processing waste, gas and oil drilling mud, and oil production brines. *See* http://www.epa.gov/wastes/hazard/tsd/permit/tsd-regs/frns/43fr58946.pdf (last visited Mar. 11, 2013).
[9] 42 U.S.C. 6901, et. seq. *See* http://www.epa.gov/osw/nonhaz/industrial/special/fossil/regs.htm (last visited Mar. 12, 2013).
[10] EPA, *Hazardous and Solid Waste Management System: Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals from Electric Utilities* (June 21, 2010), *available at* http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2009-0640-0352 (last visited Mar. 11, 2013).
[11] *Id.*
[12] American Coal Ash Association Educational Foundation, *Coal Ash Facts*, *About Coal Ash*, http://www.coalashfacts.org/ (last visited Mar. 11, 2013).
[13] U.S. Dept. of Transportation, *Fly Ash Facts for Highway Engineers*, http://www.fhwa.dot.gov/pavement/recycling/fach03.cfm (last visited Mar. 11, 2013).

blasting grit. FGD materials are used in 30 percent of the wallboard products manufactured in the United States and reduce the need to mine gypsum.[14]

Florida has 16 coal-powered electric plants that use approximately 25 million tons of coal per year and produce approximately 6.6 million tons of FFCPs per year. Approximately 40 percent of FFCPs produced in Florida are beneficially used. They are regulated on a case-by-case basis by the Department of Environmental Protection (DEP). The beneficial use of FFCPs is authorized under s. 403.7045(1)(f), F.S., which allows the beneficial use of industrial byproducts as long as they are not hazardous waste, are used for a beneficial purpose, and do not pose a public health threat. FFCPs that are not beneficially used are disposed of at designated solid waste disposal areas. Section 403.7222, F.S. prohibits hazardous waste landfills in Florida; because FFCPs are exempt from the hazardous waste designation, the DEP and utilities are able to manage the beneficial use and disposal of these materials in-state.[15]

III. Effect of Proposed Changes:

Section 1 creates s. 403.7047, F.S., providing for the regulation of fossil fuel combustion products (FFCP). It defines "fossil fuel combustion products" as fly ash; bottom ash; boiler slag; flue-gas emission control materials; gasifier slag; fluidized-bed combustion system products; and similar products produced from the operation of a fossil fuel-fired electric or steam generation facility, from a clean coal or other innovative technology process at a fossil fuel-fired electric or steam generation facility or from any combination thereof. The bill defines "fossil fuel-fired electric or steam generation facility" as any electric or steam generation facility that is fueled with coal, alone or in combination with petroleum, coke, oil, coal gas, natural gas, or other fossil fuels, or alternative fuels.

The bill defines "beneficial use" as the use of FFCPs in building products, and as substitutes for raw materials, necessary ingredients, or additives in products, used according to accepted industry practices.

The bill authorizes the beneficial use of FFCPs in asphalt, concrete or cement products, flowable fill roller compacted concrete structural fill and pavement aggregate. The bill defines "pavement aggregate" to be FFCPs that are substitutes for conventional aggregate, raw material or soil that is the sub-base material under a paved road, walkway, sidewalk, or parking lot. The bill defines "structural fill" to be the use of FFCPs as substitutes for conventional aggregate, raw material, or soil that is under an industrial or commercial building. The bill clarifies that "structural fill" does not include uses for general filling or grading operations, or valley fills.

The bill specifies that FFCPs in structural fill and pavement aggregate are not authorized to come into contact with groundwater, surface water, or wetlands. FFCPs used for this purpose are also prohibited from being placed within 100 feet of a potable well that might be used for human and livestock consumption. The bill prohibits the placement of the FFCPs from extending beyond the outside edge of the structure or pavement, and the placement of the structure or pavement must be completed as soon as possible after the placement of the FFCPs.

[14] *See supra* note 12.
[15] DEP, *Senate Bill 682 Agency Analysis* (Feb. 12, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

The bill authorizes the use of flue-gas emission control material that meets the definition of gypsum and is used in accordance with the Florida Department of Agriculture and Consumer Services rules.[16]
The bill requires that the storage of FFCPs for beneficial use must be done in compliance with DEP rules and must not pose a significant risk to public health or violate air and water quality standards.

The bill specifies that the beneficial uses of FFCPs are not subject to regulation as a solid or hazardous waste under Part IV of ch. 403, F.S. However, the DEP may take appropriate action if the beneficial use is in violation of air or water quality standards or in violation of department rules. The department may also take action if the beneficial use poses a significant risk to public health. The bill does not limit the requirements that are applicable to the beneficial use established in ch. 403, F.S., ch. 376, F.S., or local or federal laws. The beneficial use of FFCPs is also subject to air pollution control limits, national pollution discharge elimination systems permits, and water quality certification pursuant to s. 401 of the Clean Water Act.

The bill does not limit the DEP's authority to approve the beneficial use of materials other than the FFCPs defined in the bill. The bill does not limit or modify the beneficial use of FFCPs that have been previously approved by the DEP or the recovery of products for beneficial use from landfills, impoundments, or storage areas.

Section 2 amends s. 403.7222, F.S., to allow for disposal of fly ash, bottom ash, boiler slag, or flue-gas emissions materials generated from the operation of fossil fuel-fired electric or steam generation facility, from a clean coal or other innovative technology process at a fossil fuel-fired electric or steam generation facility or any combination thereof.

Section 3 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.

[16] The United States Geological Survey defines gypsum as "[t]he mineral form of hydrated calcium sulfate." *See* http://pubs.usgs.gov/ha/ha747/pdf/definition.pdf (last visited Mar. 25, 2013)

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An EPA decision to classify FFCPs as a hazardous waste would prohibit the beneficial use of FFCPs, as well as their in-state disposal; therefore, all of the FFCPs produced in Florida would have to be transported to an out-of-state hazardous waste disposal facility.[17] The DEP estimates the cost to transport FFCPs as a hazardous waste to an out-of-state facility would be approximately $2.5 billion per year. The increase in disposal costs would increase the retail cost approximately $0.46 per kilowatt hour, or 44 percent.[18]

The DEP estimates that the beneficial use of FFCPs in the production of concrete provides a cost savings of approximately $36 million a year.[19]

The construction industry would realize an indeterminate cost increase in construction materials if the beneficial use of FFCPs was prohibited as a result of the hazardous waste designation.[20]

C. Government Sector Impact:

The state and local governments would realize an indeterminate cost increase in construction materials if the beneficial use of FFCPs was prohibited as a result of the hazardous waste designation.[21] Publically-owned utilities using coal to generate power would see similar increases in disposal costs of FFCPs if they are designated as hazardous waste.

VI. Technical Deficiencies:

The bill removes the specific reference to use FFCPs as roofing materials, blasting grit, aggregate in products, wallboard products, plastic paints, insulation products, and extraction or recovery of materials and compounds retained within FFCPs but includes the term "building products" to incorporate these uses; however, the term "building products" is not defined in statute or rule.

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[17] *Supra* note 15.

[18] Costs estimates were provided by the DEP and based on the assumption that the FFCPs would be transported to the hazardous waste facility in Emelle, AL. It is unclear how the EPA would regulate FFCPs as a hazardous waste, which may result in a higher cost than what was estimated by the DEP. The estimated relative increase in retail power cost for coal-fired electricity was calculated based on the December 2012 average regardless of the fuel mix utilized in Florida. The DEP cost analysis is on file with the Senate Committee on Environmental Preservation and Conservation.

[19] The costs savings for the production of concrete when using fly ash was calculated using the amount of concrete produced in Florida in 2010 and the amount of fly ash that FDOT specifies for use in cement mix.

[20] The DEP was unable to calculate the total cost savings of using FFCPs due to a lack of information but reports, based on the concrete calculations alone, the savings of using FFCPs is economically significant.

[21] *Id*.

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 Committee on April 2, 2013:
The committee substitute made technical and clarifying changes to the bill.

CS by Environmental Preservation and Conservation on March 21, 2013:
The committee substitute differs from the original bill in that it:

- removes the use of FFCPs for pipe-bedding aggregate, in metallurgical applications, as filtercloth precoat for sludge dewatering, and for the extraction or recovery of materials and compounds contained within fossil fuel combustion products;
- increases the distance FFCPs used in structural fill or pavement aggregate must be from a potable well to 100 feet;
- limits the placement of FFCPs used in structural fill or pavement aggregate to immediately under the structure or pavement to avoid any uncovered FFCPs;
- removes the specific reference to use FFCPs as roofing materials, blasting grit, aggregate in products, wallboard products, plastic paints, insulation products, and extraction or recovery of materials and compounds retained within FFCPs;
- includes the term "building products" to incorporate these uses;
- clarifies that the beneficial use of FFCPs in agriculture is limited to FGD material in accordance with FDACS;
- removes the use of FFCPs for land application, land reclamations, or pilot demonstration projects or any use that meets the criteria of s. 403.7045(1)(f), F.S.;
- removes the reference to "blowdown" for FFCPs.

B. Amendments:

None.

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

By the Committee on Environmental Preservation and Conservation; and Senator Simpson

592-02851-13 2013768c1

A bill to be entitled

An act relating to Everglades improvement and management; amending s. 373.4592, F.S.; revising legislative findings for achieving water quality goals; revising the definition of the term "Long-Term Plan"; revising provisions for use of certain ad valorem tax proceeds; directing the South Florida Water Management District to complete a specified analysis; revising provisions for collection of the agricultural privilege tax; providing for the use of such tax proceeds; providing that payment of the tax and certain costs fulfills certain constitutional obligations; providing appropriations; providing effective dates.

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

Section 1. Paragraph (g) of subsection (1), paragraph (j) of subsection (2), paragraphs (d) and (e) of subsection (3), paragraph (a) of subsection (4), and paragraphs (c) and (h) of subsection (6) of section 373.4592, Florida Statutes, are amended, and paragraph (h) is added to subsection (4) of that section, to read:

373.4592 Everglades improvement and management.—

(1) FINDINGS AND INTENT.—

(g) The Legislature finds that the Statement of Principles of July 1993, the Everglades Construction Project, and the regulatory requirements of this section provide a sound basis for the state's long-term cleanup and restoration objectives for

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30 the Everglades. It is the intent of the Legislature to provide a
31 sufficient period of time for construction, testing, and
32 research, so that the benefits of the Long-Term Plan ~~Everglades~~
33 ~~Construction Project~~ will be determined and maximized prior to
34 requiring additional measures. The Legislature finds that STAs
35 and BMPs are currently the best available technology for
36 achieving the ~~interim~~ water quality goals of the Everglades
37 Program and that implementation of BMPs, funded by the owners
38 and users of land in the EAA, effectively reduces nutrients in
39 waters flowing into the Everglades Protection Area. A combined
40 program of agricultural BMPs, STAs, and requirements of this
41 section is a reasonable method of achieving ~~interim~~ total
42 phosphorus discharge reductions. The Everglades Program is an
43 appropriate foundation on which to build a long-term program to
44 ultimately achieve restoration and protection of the Everglades
45 Protection Area.
46 (2) DEFINITIONS.—As used in this section:
47 (j) "Long-Term Plan" or "Plan" means the district's
48 "Everglades Protection Area Tributary Basins Conceptual Plan for
49 Achieving Long-Term Water Quality Goals Final Report" dated
50 March 2003, as subsequently modified in accordance with
51 paragraph (3)(b), and the district's "Restoration Strategies
52 Regional Water Quality Plan" dated April 27, 2012, as may be
53 subsequently modified pursuant to paragraph (3)(b) ~~modified~~
54 ~~herein~~.
55 (3) EVERGLADES LONG-TERM PLAN.—
56 (d) ~~The Legislature recognizes that the Long-Term Plan~~
57 ~~contains an initial phase and a 10-year second phase.~~ The
58 Legislature intends that a review of this act at least 10 years

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59 after implementation of the Long-Term Plan ~~initial phase~~ is
60 appropriate and necessary to the public interest. The review is
61 the best way to ensure that the Everglades Protection Area is
62 achieving state water quality standards, including phosphorus
63 reduction, and the Long-Term Plan is using the best technology
64 available. ~~A 10-year second phase of the Long-Term Plan must be~~
65 ~~approved by the Legislature and codified in this act prior to~~
66 ~~implementation of projects, but not prior to development,~~
67 ~~review, and approval of projects by the department.~~
68 (e) The Long-Term Plan shall be implemented ~~for an initial~~
69 ~~13-year phase (2003-2016)~~ and shall achieve water quality
70 standards relating to the phosphorus criterion in the Everglades
71 Protection Area as determined by a network of monitoring
72 stations established for this purpose. Not later than December
73 31, 2008, and each 5 years thereafter, the department shall
74 review and approve incremental phosphorus reduction measures.
75 (4) EVERGLADES PROGRAM.—
76 (a) *Everglades Construction Project.*—The district shall
77 implement the Everglades Construction Project. By the time of
78 completion of the project, the state, district, or other
79 governmental authority shall purchase the inholdings in the
80 Rotenberger and such other lands necessary to achieve a 2:1
81 mitigation ratio for the use of Brown’s Farm and other similar
82 lands, including those needed for the STA 1 Inflow and
83 Distribution Works. The inclusion of public lands as part of the
84 project is for the purpose of treating waters not coming from
85 the EAA for hydroperiod restoration. It is the intent of the
86 Legislature that the district aggressively pursue the
87 implementation of the Everglades Construction Project in

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88 accordance with the schedule in this subsection. The Legislature
89 recognizes that adherence to the schedule is dependent upon
90 factors beyond the control of the district, including the timely
91 receipt of funds from all contributors. The district shall take
92 all reasonable measures to complete timely performance of the
93 schedule in this section in order to finish the Everglades
94 Construction Project. The district shall not delay
95 implementation of the project beyond the time delay caused by
96 those circumstances and conditions that prevent timely
97 performance. The district shall not levy ad valorem taxes in
98 excess of 0.1 mill within the Okeechobee Basin for the purposes
99 of the design, construction, and acquisition of the Everglades
100 Construction Project. The ad valorem tax proceeds not exceeding
101 0.1 mill levied within the Okeechobee Basin for such purposes
102 shall also be used for design, construction, and implementation
103 ~~of the initial phase~~ of the Long-Term Plan, including operation
104 and maintenance, and research for the projects and strategies in
105 ~~the initial phase of~~ the Long-Term Plan, and including the
106 enhancements and operation and maintenance of the Everglades
107 Construction Project and shall be the sole direct district
108 contribution from district ad valorem taxes appropriated or
109 expended for the design, construction, and acquisition of the
110 Everglades Construction Project unless the Legislature by
111 specific amendment to this section increases the 0.1 mill ad
112 valorem tax contribution, increases the agricultural privilege
113 taxes, or otherwise reallocates the relative contribution by ad
114 valorem taxpayers and taxpayers paying the agricultural
115 privilege taxes toward the funding of the design, construction,
116 and acquisition of the Everglades Construction Project.

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117 Notwithstanding the provisions of s. 200.069 to the contrary,
118 any millage levied under the 0.1 mill limitation in this
119 paragraph shall be included as a separate entry on the Notice of
120 Proposed Property Taxes pursuant to s. 200.069. Once the STAs
121 are completed, the district shall allow these areas to be used
122 by the public for recreational purposes in the manner set forth
123 in s. 373.1391(1), considering the suitability of these lands
124 for such uses. These lands shall be made available for
125 recreational use unless the district governing board can
126 demonstrate that such uses are incompatible with the restoration
127 goals of the Everglades Construction Project or the water
128 quality and hydrological purposes of the STAs or would otherwise
129 adversely impact the implementation of the project. The district
130 shall give preferential consideration to the hiring of
131 agricultural workers displaced as a result of the Everglades
132 Construction Project, consistent with their qualifications and
133 abilities, for the construction and operation of these STAs. The
134 following milestones apply to the completion of the Everglades
135 Construction Project as depicted in the February 15, 1994,
136 conceptual design document:
137 1. The district must complete the final design of the STA 1
138 East and West and pursue STA 1 East project components as part
139 of a cost-shared program with the Federal Government. The
140 district must be the local sponsor of the federal project that
141 will include STA 1 East, and STA 1 West if so authorized by
142 federal law;
143 2. Construction of STA 1 East is to be completed under the
144 direction of the United States Army Corps of Engineers in
145 conjunction with the currently authorized C-51 flood control

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146 project;
147 3. The district must complete construction of STA 1 West
148 and STA 1 Inflow and Distribution Works under the direction of
149 the United States Army Corps of Engineers, if the direction is
150 authorized under federal law, in conjunction with the currently
151 authorized C-51 flood control project;
152 4. The district must complete construction of STA 3/4 by
153 October 1, 2003; however, the district may modify this schedule
154 to incorporate and accelerate enhancements to STA 3/4 as
155 directed in the Long-Term Plan;
156 5. The district must complete construction of STA 6;
157 6. The district must, by December 31, 2006, complete
158 construction of enhancements to the Everglades Construction
159 Project recommended in the Long-Term Plan and initiate other
160 pre-2006 strategies in the plan; and
161 7. East Beach Water Control District, South Shore Drainage
162 District, South Florida Conservancy District, East Shore Water
163 Control District, and the lessee of agricultural lease number
164 3420 shall complete any system modifications described in the
165 Everglades Construction Project to the extent that funds are
166 available from the Everglades Fund. These entities shall divert
167 the discharges described within the Everglades Construction
168 Project within 60 days of completion of construction of the
169 appropriate STA. Such required modifications shall be deemed to
170 be a part of each district's plan of reclamation pursuant to
171 chapter 298.
172 (h) After completion of all projects and improvements in
173 the Long-Term Plan, the district shall complete a use
174 attainability analysis to determine if those projects and

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175 improvements will achieve the water quality based effluent
176 limits established in permits and orders authorizing the
177 operation of those facilities.
178 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—
179 (c) The initial Everglades agricultural privilege tax roll
180 shall be certified for the tax notices mailed in November 1994.
181 Incentive credits to the Everglades agricultural privilege taxes
182 to be included on the initial Everglades agricultural privilege
183 tax roll, if any, shall be based upon the total phosphorus load
184 reduction for the year ending April 30, 1993. The Everglades
185 agricultural privilege taxes for each year shall be computed in
186 the following manner:
187 1. Annual Everglades agricultural privilege taxes shall be
188 charged for the privilege of conducting an agricultural trade or
189 business on each acre of real property or portion thereof. The
190 annual Everglades agricultural privilege tax shall be $24.89 per
191 acre for the tax notices mailed in November 1994 through
192 November 1997; $27 per acre for the tax notices mailed in
193 November 1998 through November 2001; $31 per acre for the tax
194 notices mailed in November 2002 through November 2005; and $35
195 per acre for the tax notices mailed in November 2006 through
196 November 2013.
197 2. It is the intent of the Legislature to encourage the
198 performance of best management practices to maximize the
199 reduction of phosphorus loads at points of discharge from the
200 EAA by providing an incentive credit against the Everglades
201 agricultural privilege taxes set forth in subparagraph 1. The
202 total phosphorus load reduction shall be measured for the entire
203 EAA by comparing the actual measured total phosphorus load

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204 attributable to the EAA for each annual period ending on April
205 30 to the total estimated phosphorus load that would have
206 occurred during the 1979-1988 base period using the model for
207 total phosphorus load determinations provided in chapter 40E-63,
208 Florida Administrative Code, utilizing the technical information
209 and procedures contained in Section IV-EAA Period of Record Flow
210 and Phosphorus Load Calculations; Section V-Monitoring
211 Requirements; and Section VI-Phosphorus Load Allocations and
212 Compliance Calculations of the Draft Technical Document in
213 Support of chapter 40E-63, Florida Administrative Code - Works
214 of the District within the Everglades, March 3, 1992, and the
215 Standard Operating Procedures for Water Quality Collection in
216 Support of the Everglades Water Condition Report, dated February
217 18, 1994. The model estimates the total phosphorus load that
218 would have occurred during the 1979-1988 base period by
219 substituting the rainfall conditions for such annual period
220 ending April 30 for the conditions that were used to calibrate
221 the model for the 1979-1988 base period. The data utilized to
222 calculate the actual loads attributable to the EAA shall be
223 adjusted to eliminate the effect of any load and flow that were
224 not included in the 1979-1988 base period as defined in chapter
225 40E-63, Florida Administrative Code. The incorporation of the
226 method of measuring the total phosphorus load reduction provided
227 in this subparagraph is intended to provide a legislatively
228 approved aid to the governing board of the district in making an
229 annual ministerial determination of any incentive credit.
230 3. Phosphorus load reductions calculated in the manner
231 described in subparagraph 2. and rounded to the nearest whole
232 percentage point for each annual period beginning on May 1 and

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233 ending on April 30 shall be used to compute incentive credits to
234 the Everglades agricultural privilege taxes to be included on
235 the annual tax notices mailed in November of the next ensuing
236 calendar year. Incentive credits, if any, will reduce the
237 Everglades agricultural privilege taxes set forth in
238 subparagraph 1. only to the extent that the phosphorus load
239 reduction exceeds 25 percent. Subject to subparagraph 4., the
240 reduction of phosphorus load by each percentage point in excess
241 of 25 percent, computed for the 12-month period ended on April
242 30 of the calendar year immediately preceding certification of
243 the Everglades agricultural privilege tax, shall result in the
244 following incentive credits: $0.33 per acre for the tax notices
245 mailed in November 1994 through November 1997; $0.54 per acre
246 for the tax notices mailed in November 1998 through November
247 2001; $0.61 per acre for the tax notices mailed in November 2002
248 through November 2005, and $0.65 per acre for the tax notices
249 mailed in November 2006 through November 2013. The determination
250 of incentive credits, if any, shall be documented by resolution
251 of the governing board of the district adopted prior to or at
252 the time of the adoption of its resolution certifying the annual
253 Everglades agricultural privilege tax roll to the appropriate
254 tax collector.
255 4. Notwithstanding subparagraph 3., incentive credits for
256 the performance of best management practices shall not reduce
257 the minimum annual Everglades agricultural privilege tax to less
258 than $24.89 per acre, which annual Everglades agricultural
259 privilege tax as adjusted in the manner required by paragraph
260 (e) shall be known as the “minimum tax.” To the extent that the
261 application of incentive credits for the performance of best

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

262 management practices would reduce the annual Everglades
263 agricultural privilege tax to an amount less than the minimum
264 tax, then the unused or excess incentive credits for the
265 performance of best management practices shall be carried
266 forward, on a phosphorus load percentage basis, to be applied as
267 incentive credits in subsequent years. Any unused or excess
268 incentive credits remaining after certification of the
269 Everglades agricultural privilege tax roll for the tax notices
270 mailed in November 2013 shall be canceled.
271 5. Notwithstanding the schedule of Everglades agricultural
272 privilege taxes set forth in subparagraph 1., the owner, lessee,
273 or other appropriate interestholder of any property shall be
274 entitled to have the Everglades agricultural privilege tax for
275 any parcel of property reduced to the minimum tax, commencing
276 with the tax notices mailed in November 1996 for parcels of
277 property participating in the early baseline option as defined
278 in chapter 40E-63, Florida Administrative Code, and with the tax
279 notices mailed in November 1997 for parcels of property not
280 participating in the early baseline option, upon compliance with
281 the requirements set forth in this subparagraph. The owner,
282 lessee, or other appropriate interestholder shall file an
283 application with the executive director of the district prior to
284 July 1 for consideration of reduction to the minimum tax on the
285 Everglades agricultural privilege tax roll to be certified for
286 the tax notice mailed in November of the same calendar year and
287 shall have the burden of proving the reduction in phosphorus
288 load attributable to such parcel of property. The phosphorus
289 load reduction for each discharge structure serving the parcel
290 shall be measured as provided in chapter 40E-63, Florida

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291 Administrative Code, and the permit issued for such property
292 pursuant to chapter 40E-63, Florida Administrative Code. A
293 parcel of property which has achieved the following annual
294 phosphorus load reduction standards shall have the minimum tax
295 included on the annual tax notice mailed in November of the next
296 ensuing calendar year: 30 percent or more for the tax notices
297 mailed in November 1994 through November 1997; 35 percent or
298 more for the tax notices mailed in November 1998 through
299 November 2001; 40 percent or more for the tax notices mailed in
300 November 2002 through November 2005; and 45 percent or more for
301 the tax notices mailed in November 2006 through November 2013.
302 In addition, any parcel of property that achieves an annual flow
303 weighted mean concentration of 50 parts per billion (ppb) of
304 phosphorus at each discharge structure serving the property for
305 any year ending April 30 shall have the minimum tax included on
306 the annual tax notice mailed in November of the next ensuing
307 calendar year. Any annual phosphorus reductions that exceed the
308 amount necessary to have the minimum tax included on the annual
309 tax notice for any parcel of property shall be carried forward
310 to the subsequent years' phosphorus load reduction to determine
311 if the minimum tax shall be included on the annual tax notice.
312 The governing board of the district shall deny or grant the
313 application by resolution adopted prior to or at the time of the
314 adoption of its resolution certifying the annual Everglades
315 agricultural privilege tax roll to the appropriate tax
316 collector.
317 6. The annual Everglades agricultural privilege tax shall
318 be: for the tax notices mailed in November 2014 through November
319 2026, ~~2016~~ ~~shall be~~ $25 per acre; for the tax notices mailed in

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

320 November 2027 through 2029, $20 per acre; for the tax notices
321 mailed in November 2030 through 2035, $15 per acre; and for the
322 tax notices mailed in November 2036 ~~2017~~ and thereafter, ~~shall~~
323 ~~be~~ $10 per acre. Proceeds from the tax shall be used for design,
324 construction, and implementation of the Long-Term Plan,
325 including operation and maintenance, and research for the
326 projects and strategies in the Long-Term Plan, including the
327 enhancements and operation and maintenance of the Everglades
328 Construction Project.
329 (h) In recognition of the findings set forth in subsection
330 (1), the Legislature finds that the assessment and use of the
331 Everglades agricultural privilege tax is a matter of concern to
332 all areas of Florida. ~~and~~ The Legislature intends this act to be
333 a general law authorization of the Everglades agricultural
334 privilege tax within the meaning of s. 9, Art. VII of the State
335 Constitution and further intends that payment of the tax, in
336 addition to payment of the cost of continuing implementation of
337 BMPs, fulfills ~~complies with~~ the obligations of owners and users
338 of land under s. 7(b), Art. II of the State Constitution.
339 Section 2. Beginning in the 2013-2014 fiscal year and each
340 year thereafter through the 2023-2024 fiscal year, the sum of
341 $12 million in recurring general revenue funds and $20 million
342 in recurring funds from the Water Management Lands Trust Fund is
343 appropriated to the Department of Environmental Protection for
344 the Restoration Strategies Regional Water Quality Plan. This
345 section shall take effect July 1, 2013.
346 Section 3. Except as otherwise expressly provided in this
347 act, this act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic _____

Bill Number 766 *(if applicable)*

Name Pierce Schwessler

Amendment Barcode _____ *(if applicable)*

Job Title Legislative Affairs Director

Address 3900 Commonwealth Dr
Street

Tallahassee FL 32399
City *State* *Zip*

Phone 245-2140

E-mail Pierce.schwessler@dep.state.fl.us

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

Representing _____

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Everglades Improvement

Bill Number: SB 768 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: Senior Vice President

Address: 516 N. Adams St
Street

Tallahassee, Fl 32312
City, State, Zip

Phone: 850-224-7173

E-mail: bbevis@aif.com

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

Representing: Associated Industries of Florida

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic: Everglades Improvement + Management

Bill Number: 7168 (if applicable)

Name: Dave Ericks

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 205 S. Adams St.
Street

Tallahassee FL 32301
City State Zip

Phone: 850-591-7550

E-mail: Dave@ericksconsultants.com

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

Representing: Everglades Foundation

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)

4/2
Meeting Date

Topic

Bill Number 768 (if applicable)

Name Jim Spratt

Amendment Barcode (if applicable)

Job Title

Address PO Box 10011
Street

Tally 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.

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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)

4-2-13
Meeting Date

Topic: Everglades

Bill Number: 768 *(if applicable)*

Name: Eric Draper

Amendment Barcode: *(if applicable)*

Job Title:

Address: 308 N. Monroe
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850 222 2473

E-mail: edraper@audubon.org

Speaking: ☐ ~~For~~ ☐ Against ☐ Information

Representing: Audubon

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)

4-2-13
Meeting Date

Topic: Everglades Improvement + Mgt

Bill Number: 768 *(if applicable)*

Name: Ernie Barnett

Amendment Barcode: *(if applicable)*

Job Title: Asst. Exec Director

Address: 3301 Gun Club Rd
Street

West Palm Bch FL 33406
City *State* *Zip*

Phone: 561 957 2840

E-mail: ebarnett@sfwmd.gov

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

Representing: SFWMD

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 768

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Simpson

SUBJECT: Everglades Improvement and Management

DATE: March 28, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Fav/CS**
2.	Toman	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 768 amends section 373.4592, Florida Statutes, to amend legislative intent to include the revised definition of the Long-Term Plan and that best management practices (BMPs) in the Everglades Agricultural Area (EAA) are effective nutrient management tools. The CS revises the definition of "Long-Term Plan" to incorporate the Restoration Strategies Water Quality Plan. It also allows the South Florida Water Management District (SFWMD) to continue to collect and use ad valorem funds for the continued implementation of the Long-Term Plan. The CS requires the SFWMD to conduct a use attainability analysis after completion of all projects and improvements. The CS also extends the agricultural privilege tax and allocates recurring funds from general revenue and recurring funds from the Water Management Lands Trust Fund for the Long-Term Plan.

CS/SB 768 amends section 373.4592 of the Florida Statutes, and creates an unnumbered section of law.

II. Present Situation:

The Everglades is a series of rivers, lakes, and estuaries that support a variety of flora and fauna not found anywhere else in the world. The historical Everglades covered 11,000 square miles of south Florida extending from Kissimmee through the tip of the Florida Peninsula.[1]

In the 1800s, early colonial settlers began to drain the Everglades in an effort to make the land more suitable for agriculture. By the early 1900s, the drainage process was well developed and urban areas along the east coast were beginning to grow.[2]

In 1948, Congress authorized the Central and South Florida Project for Flood Control to provide flood control, supply water for municipal, industrial and agricultural uses, prevent salt water intrusion, and preserve fish and wildlife in the Everglades.[3] The project included 1,000 miles of levees, 720 miles of canals and almost 200 water control structures. A portion of the area drained was designated the EAA, which spans 700,000 acres and is approximately 27 percent of the historic Everglades.[4]

The flood control project dramatically changed the quantity and quality of water delivered to the Everglades, which significantly impacted the ecosystem. The high concentration of phosphorus delivered through urban and agricultural stormwater runoff promoted algae growth and the growth of non-native plants. By the 1980s, the freshwater flow through the Everglades declined by 70 percent, the wading bird population dropped by 90 percent, and the Everglades was reduced to half the historical size.[5]

In 1988, the federal government filed a suit against the SFWMD, and Florida alleging state water quality standards on federal lands were being violated as a result of the high nutrient concentrations discharged into the Everglades from urban and agricultural areas. In 1992, all parties to the lawsuit entered into a settlement agreement.[6]

In 1991, the Legislature passed the Marjorie Stoneman Douglas Everglades Protection Act (Act) to restore the Everglades. The Act directed the SFWMD to adopt the Everglades Surface Water Improvement and Management (SWIM) Plan, which included strategies to bring facilities into compliance with water quality standards. The SFWMD was also directed to identify and acquire lands for the purpose of water management, create a permitting system, and develop funding mechanisms. The Act provided the SFWMD the ability to adopt stormwater management utility

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[1] National Parks Service, *Everglades, History and Culture*, http://www.nps.gov/ever/historyculture/index.htm (last visited Mar. 18, 2013).
[2] *Id*.
[3] Clay J. Landry, *Who drained the everglades? The same folks who are now restoring them*. (March 2002), *available at* http://perc.org/sites/default/files/mar02.pdf (last visited Mar. 28, 2013).
[4] Duke University Wetland Center, *Everglades Agricultural Area*, http://www.nicholas.duke.edu/wetland/eaa.htm (last visited Mar. 28, 2013).
[5] DEP, *Everglades Radio Network*, http://www.dep.state.fl.us/evergladesforever/about/default.htm (last visited Mar. 28, 2013).
[6] *United States vs. South Florida Water Management District*, Case No. 88-1886 CIV-HOEVELER (S.D. Fla.) *available at* http://www.law.miami.edu/library/everglades/lawarticles/fsu_landuse_vol17_1_rizzardi%20(86kb).pdf (last visited Mar. 18, 2013).

fees and gave it the authority to levy a per-acre ad valorem assessment in the Everglades Agricultural Area.[7]

The 1992 federal settlement agreement established interim and long-term phosphorus concentration limits for the Everglades National Park and the Loxahatchee National Wildlife Refuge. The agreement also required the state build and operate a minimum of 32,000 acres of storm water treatment areas (STAs) and implement a regulatory program to require farms to implement BMPs and directed the state to adopt the SWIM plan.[8]

Everglades Forever Act

In 1994, the Legislature enacted the Everglades Forever Act (EFA). The EFA outlines the state's commitment to restore the Everglades by improving water quality and quantity and works in conjunction with the federal government's Comprehensive Everglades Restoration Program (CERP), which focuses on improving water delivery and timing within the Everglades. The primary goals of the EFA are to improve water quality by reducing phosphorus levels, to restore the hydrology of the ecosystem, and to restore and protect the native plant and animals by reducing the invasive, exotic species in the Everglades.[9]

The EFA requires the SFWMD and the DEP to numerically interpret the Class III phosphorus criterion that is necessary to meet water quality standards in the Everglades Protection Area[10] in a manner that does not cause an imbalance in the natural populations of aquatic flora and fauna. The EFA required a 10 part per billion default phosphorus criterion go into effect until a rule was adopted. The deadline for rule adoption was December 31, 2003.[11] In 2003, the DEP adopted the rule to establish a long-term geometric numeric phosphorus criterion of 10 parts per billion for Class III waters in the Everglades Protection Area.[12]

In 2003, the Legislature passed SB 626 to amend the EFA and implement the "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-term Water Quality Goals" (Long-Term Plan). The SFWMD is responsible for implementing the Long-Term Plan and the subsequently approved amendments. The Long-Term Plan identifies the best available phosphorus reduction technology to be used in combination with BMPs and STAs to achieve the phosphorus criterion in the Everglades Protection Area.[13]

The EFA specifies that the Long-Term Plan is to be implemented in two phases. The initial phase is from 2003 to 2016, followed by a second 10-year phase. The second phase must be approved and codified in the EFA prior to the implementation of projects. The law specifies that it is in the public interest to review the EFA at least 10 years after implementation of the initial

[7] *See* Chapter 91-80, Laws of Fla.
[8] *United States v. South Florida Water Management District*, 847 F. Supp. 1567 (S.D. Fla. 1992).
[9] *See* s. 373.4592, F.S.
[10] The Everglades Protection Area includes Water Conservation Areas 1, 2A and 2B, 3A and 3B, and Everglades National Park.
[11] *Supra* note 9.
[12] *See* Chapter 62-302, F.A.C.
[13] *Id*.

phase. The review ensures that the Everglades Protection Area is achieving state water quality standards and that the Long-Term Plan is using the best available technology.[14]

The agricultural privilege tax was implemented in 2003 under SB 626. The "polluter pays" principle was passed as a constitutional amendment in the 1996 General Election but had not yet been implemented due to some question as to whether the amendment was self-executing, required legislative action, or whether the EFA implemented the amendment. The Supreme Court of Florida determined the amendment was not self-executing and required legislative implementation.[15] The EFA specifies that those that cause or contribute to pollution in the C-139 Basin and the EAA are responsible for the cost of the cleanup and are required to pay an agricultural privilege tax. In the C-139 basin, the per-acre tax for tax notices mailed from November 2003 through November 2013 is assessed using the total acreage on the basin tax roll in 2001. The agricultural privilege tax in the EAA is assessed at $35 per-acre for notices mailed from 2006 through 2013. In order to encourage the performance of BMPs an incentive discount of $10 per acre is provided against the agricultural privilege tax.[16]

The legislature also passed SB 54A in 2003, which provided bonding authority for an additional $800 million to improve water quality in the Everglades.

The SFWMD has implemented the Long-Term Plan over the last decade, as well as the research and design components of the plan. The information gathered under the Long-Term Plan process has been valuable for optimizing STA design, engineering, construction, maintenance, and operation techniques. The performance of the STAs is limited by existing configurations and footprints, biogeochemical interactions and hydrological constraints; therefore, the SFWMD has been identifying new technologies to implement the next phase of the Long-Term Plan.[17]

In 2010, the U.S. District Court, Southern District of Florida, issued an order requiring, among other items, that the U.S. Environmental Protection Agency (EPA) issue an "Amended Determination" on its review of the state water quality standards. The court also required the DEP to amend the phosphorus rule and required the Legislature to revise the EFA to conform to federally-approved water quality standards. The EPA issued the Amended Determination on September 3, 2010, which identified a discharge phosphorus limit and the STA expansions, that the EPA believed was necessary to achieve the phosphorus criterion. As part of the Amended Determination, the EPA also recognized that other projects may be identified by the state as an alternative to those identified in the Amended Determination in order to achieve the phosphorus criterion.[18]

As a result of the Amended Determination, Governor Scott directed the DEP and the SFWMD to develop a feasible alternative for phosphorus reduction. The DEP and SFWMD, in consultation

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[14] *Id*.
[15] *Advisory Opinion to the Governor, 1996 Amendment 5 (Everglades),* 706 So. 2d 278 (Fla. 1997), *available at* http://www.law.fsu.edu/library/flsupct/90042/90042ever.pdf (last visited Mar. 28, 2013).
[16] *Supra* note 9.
[17] DEP, *Senate Bill 768 Agency Analysis* (Mar. 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).
[18] U.S. EPA, *Amended Determination*, *available at* http://www.epa.gov/region4/water/wqs/documents/1_AD_final_version_09_03_10.pdf (last visited Mar. 28, 2013).

with the EPA, used the information collected through implementation of the Long-Term Plan to develop feasible, cost effective alternatives based on the best available science and that would result in compliance with the discharge limitation necessary to achieve the Everglades phosphorus criterion. The alternatives were included in state-issued National Pollutant Discharge Elimination System (NPDES) permits, the EFA permits, and the accompanying consent orders.

The EFA authorizes the SFWMD to levy ad valorem taxes up to 0.1 mill within the Okeechobee Basin. The proceeds are the sole, direct district contribution from district ad valorem taxes appropriated or expended for the design, construction, and implementation of the Long-Term Plan. In order for the projects to be implemented beyond 2016 and have district ad valorem revenues contribute to the funding of the projects, the Legislature must approve the Restoration Strategies plan as the second phase of the Long-Term Plan.[19]

The Restoration Strategies Regional Water Quality Plan

On September 12, 2012, Governor Scott announced the DEP-issued final permits and consent orders to the SFWMD for the implementation of the "Restoration Strategies Regional Water Quality Plan."[20] The second 12-year phase of the Long-Term Plan identifies a combination of STA expansions, internal construction, conveyance and structure improvements, and features known as "Flow Equalization Basins," or "FEBs." Specifically, the plan includes milestones for project completion and enforcement mechanisms to ensure the milestones are achieved. The plan includes 6,500 acres of STAs and approximately 110,000 acre-feet of water storage. The implementation of the Restoration Strategies plan would be consistent with the schedules identified in the consent orders issued in conjunction with the NPDES and EFA permits.[21]

Use Attainability Analysis

The federal Clean Water Act requires states to adopt water quality standards and designate the uses of their navigable waters based on the use and value of the water body. Water quality standards are based on the recreational, agricultural, industrial and navigational uses of the water body, as well as the quality of habitat for wildlife. The standards include the use and value of the water body, protection of wildlife, recreational, agricultural, industrial, and navigational uses. If a state proposes a use designation that that does not include the "fishable/swimmable" goals of the Clean Water Act or changes a use that would apply less stringent measures, then a use attainability analysis is required. A use attainability analysis is a scientific assessment of the physical, chemical, biological, and economic conditions affecting a water body.[22]

Pursuant to EPA water quality standards, states may change the current use designation if any of the following apply:[23]

- Naturally occurring pollutant levels prevent attainment of the use;

[19] *Supra* note 17.
[20] Press Release, Florida Department of Environmental Protection, *Governor Scott and DEP Announce Everglades Restoration Projects Will Move Forward* (Sept. 11, 2012), *available at* http://content.govdelivery.com/bulletins/gd/FLDEP-516d48 (last visited Mar. 28, 2013).
[21] *Supra* note 17.
[22] *See* 33 U.S.C s. 1313(c)(2)(A).
[23] *See* 40 CFR 131.10(g)(1)-(6).

- Natural ephemeral, intermittent, or low flow prevents attainment of the use;
- Human caused pollution prevents attainment of the use and cannot be remedied without causing worse environmental harm;
- Dams, diversions, and other hydrologic modifications prevent attainment of the use and it is not feasible to restore the water or operate the modification in a way that would result in attainment of the use;
- Natural physical features prevent attainment of the use; or
- More stringent controls would be necessary to attain the use and would result in substantial and widespread social and economic hardship.

III. Effect(s) of Proposed Changes:

Section 1 amends s. 373.4592, F.S., to include the Long-Term Plan and the implementation of BMPs as effective nutrient management tools in the Statement of Principles.

The CS includes the SFWMD's Restoration Strategies plan in the definition of "Long-Term Plan" and eliminates obsolete phasing requirements of the Long-Term Plan. The proposed changes would merge the state's existing Long-Term Plan components and the Restoration Strategies plan into a single comprehensive plan for achieving the restoration efforts envisioned under the EFA.

The CS also allows the SFWMD to continue to use ad-valorem funds currently collected in accordance with the EFA for the continued implementation of the Long-Term Plan beyond the initial phase.

The CS directs the SFWMD to conduct a use attainability analysis after all of the projects and improvements in the Long-Term Plan are complete.

The CS extends the agricultural privilege tax for the design, construction, and implementation of the Long-Term Plan as follows:
- $25 an acre for tax notices mailed November 2014 to November 2026;
- $20 per acre for tax notices mailed November 2027 to November 2029;
- $15 per acre for tax notices mailed November 2030 to November 2035; and
- $10 per acre for tax notices mailed on or after November 2036.

This section also includes conforming changes.

Section 2 creates an unnumbered section of law to appropriate $12 million in recurring general revenue funds and $20 million in recurring funds from the Water Management Lands Trust Fund for the Restoration Strategies Regional Water Quality Plan starting in Fiscal Year 2013-2014 and each year thereafter through Fiscal Year 2023-2024 July. This section takes effect July 1, 2013.

Section 3 provides the CS shall take effect upon becoming law unless otherwise 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:

CS/SB 768 allows the continued collection of up to 0.1 mill in the Okeechobee Basin through completion of the Long-Term Plan.

The agricultural privilege tax is increased and extended for all acreage within the EAA.

B. Private Sector Impact:

CS/SB 768 is estimated to result in the creation of approximately 7,200 on-site construction jobs over the life of the projects.[24] The estimate is approximated using data provided by the Associated General Contractors of America.[25]

CS/SB 768 extends the Everglades agricultural privilege tax which will continue to generate approximately $10.8 million per year until 2027. Tax revenues will be reduced to approximately $8.64 million per year for 2027 through 2029. Revenues will be further reduced to approximately $6.48 million per year for 2030 through 2035 and then to approximately $4.32 million per year for 2036 and thereafter.[26]

C. Government Sector Impact:

The DEP and SFWMD have developed a finance plan that does not rely on an increase of existing ad valorem taxes as a mechanism to further implement the state's Long-Term Plan. Funds required for the implementation of the plan are comprised of the SFWMD

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[24] *Supra* note 17.

[25] The Associated General Contractors of America estimates that $1 billion invested in nonresidential construction creates or sustains 9,405 direct on-site construction jobs. This multiplier was used to extrapolate the number of on-site construction jobs created based on $766 million of construction costs included in the Long-Term Plan. *See* Ken Simonson, *The Economic Impact of Construction in the United States and California*, (Sep. 27, 2012), *available at* http://www.agc.org/galleries/econ/CAstim.pdf (last visited Mar. 20, 2013).

[26] Email from Ernie Barnett, Director of Everglades Policy, South Florida Water Management District, to Stephanie Gudeman, Legislative Analyst, Senate Committee on Environmental Preservation and Conservation (Mar. 24, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

reserves, of which some are specifically accumulated for Everglades restoration purposes, ad valorem taxes generated from new construction within the SFWMD's service area and appropriations from the Legislature over the course of the project schedule. SFWMD cash reserves for use in the construction of project features are expected to be depleted by Fiscal Year 2017. Ad valorem growth is based on conservative new construction estimates of 1 percent through 2017 and 1.5 percent starting in 2018 and continuing through completion of the project schedule. The remainder of the funds necessary for implementing the plan would be sought by the DEP through annual legislative budget requests.[27]

CS/SB 768 provides $12 million in recurring general revenue funds and $20 million in recurring funds from the Water Management Lands Trust Fund for the Restoration Strategies Regional Water Quality Plan starting in Fiscal Year 2013-2014 and each year thereafter through Fiscal Year 2023-2024 July.

Proceeds from the agricultural privilege tax must be used for design, construction, and implementation of the Long-Term Plan, including operation and maintenance, and research for the projects and strategies in the Long-Term Plan, including the enhancements and operation and maintenance of the Everglades Construction Project.[28]

Completion of the next phase of the Long-Term Plan is estimated to cost $880 million.[29]

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 Environmental Preservation and Conservation on March 21, 2013:
The CS includes the Long-Term Plan and the implementation of BMPs as effective nutrient management tools in legislative intent.

The CS directs the SFWMD to conduct a use attainability analysis after all of the projects and improvements in the Long-Term Plan are complete.

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[27] *Supra* note 17.
[28] *Supra* note 17 and the agricultural privilege tax revenues are calculated based on the number of acres in production in 2013.
[29] Press Release, South Florida Water Management District, *SFWMD Approves Pump Construction for Everglades Restoration Reservoir* (Sept. 13, 2012), *available at* http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/nr_2012_0913_l8_pumps_contract_final.pdf (last visited Mar. 19, 2013).

The CS revises and extends the taxing schedule of the agricultural privilege tax for the design, construction, and implementation of the Long-Term Plan.

The CS provides $12 million in recurring general revenue funds and $20 million in recurring funds from the Water Management Lands Trust Fund for the Restoration Strategies Regional Water Quality Plan starting in Fiscal Year 2013-2014 and each year thereafter through Fiscal Year 2023-2024 July.

B. Amendments:

None.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DARREN SOTO
Deputy Democratic Whip
14th District

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Community Affairs
Environmental Preservation and Conservation
Ethics and Elections

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

March 20, 2013

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

Chairman Simpson,

Please excuse my tardiness to your 3 o'clock committee meeting today. I will be presenting Senate Bill 1598 and Senate Memorial 1266 in the Committee of Military and Veteran Affairs, Space, and Domestic Security. I plan to be present at your committee meeting directly after my presentation.

Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

Darren M. Soto
State Senator, District 14

Cc: Ann Whittaker, Committee Administrative Assistant

REPLY TO:
☐ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301 **Case:** **Type:**
Caption: Senate Committee on Community Affairs **Judge:**

Started: 4/2/2013 12:38:05 PM
Ends: 4/2/2013 3:23:11 PM Length: 02:45:07

12:38:35 PM	Attendance by secretary
12:39:38 PM	Tab 17 SB 768
12:39:45 PM	Senator Simpson
12:42:13 PM	Senator Soto comments
12:42:53 PM	Secretary calls roll on SB 768
12:43:07 PM	Tab 16 SB 682
12:43:10 PM	Senator Simpson
12:44:30 PM	Senator Soto questions
12:45:09 PM	Amendment 1 late filed technical amendment barcode 833155
12:45:39 PM	Speaker Stephanie Kunkel Representing Clean Water Action
12:46:48 PM	Speaker Mary Jane Yon Representing Audubon Florida
12:48:42 PM	Speaker David Cullen Representing Sierra Club Florida
12:50:25 PM	Speaker Mike
12:51:21 PM	Senator Soto
12:52:05 PM	Secretary calls roll on SB 682
12:52:27 PM	Tab 15 SB 1122
12:52:32 PM	Senator Simpson
12:52:44 PM	Amendment 1 strike all amendment barcode 633482
12:53:57 PM	Strike all adopted
12:54:46 PM	Secretary calls roll on SB 1122
12:55:31 PM	Tab 8 SB 500
12:55:43 PM	Senator Clemens explains bill
12:56:26 PM	Amendment 1 barcode 801224
12:56:50 PM	Senator Stargel questions
12:57:28 PM	Amendment adopted
12:57:30 PM	Amendment 2 barcode 323280 Senator Smith explains amendment
12:58:18 PM	Amendment adopted
12:58:59 PM	Secretary calls roll on SB 500
12:59:30 PM	Tab 11 SB 1716
12:59:56 PM	Representative
1:01:28 PM	Amendment 1 barcode 951118
1:02:10 PM	Senator Bradley
1:04:48 PM	Senator Soto
1:07:33 PM	Senator Bradley
1:08:40 PM	Amendment adopted
1:08:44 PM	Speaker Eric Poole
1:11:20 PM	Speaker David Cruz Representing Florida League of Cities
1:12:53 PM	Speaker Charles Pattison Representing 1,000 Friends of Florida
1:13:49 PM	Senator Thrasher
1:15:10 PM	Representative Larosa close
1:16:50 PM	Secretary calls roll on SB 1716
1:17:09 PM	Tab 4 SB 674
1:17:25 PM	Senator Montford
1:17:56 PM	Amendment 1 strike all barcode 585102
1:19:42 PM	Speaker Marion Hammer Representing NRA and Unified Sportsmen of Florida
1:22:19 PM	Secretary calls roll on SB 674
1:22:43 PM	Tab 2 SB 754
1:24:49 PM	Secretary calls roll on SB 754
1:25:04 PM	Tab 9 SB 1160 Terrell Hall
1:26:01 PM	Secretary calls roll on SB 1160
1:26:15 PM	Tab 1 SB 934
1:27:36 PM	Secretary calls roll on SB 934

1:27:51 PM	Tab 7 SB 802 Jessica Crawford
1:29:02 PM	Secretary calls roll on SB 802
1:29:41 PM	Tab 10 SB 1434
1:31:56 PM	Secretary calls roll on SB 1434
1:32:21 PM	Tab 3 SB 554
1:33:29 PM	Amendment 1 barcode 358122 Senator Smith
1:34:22 PM	Amendment Adopted
1:34:59 PM	Secretary calls roll on SB 554
1:35:32 PM	Tab 13 SB 1026 Senator Thrasher
1:36:30 PM	Secretary calls roll on SB 1026
1:36:53 PM	Tab 6 SB 606 Senator Gibson
1:38:05 PM	Secretary calls roll on SB 606
1:38:31 PM	Tab 14 SB 462 Senator Thompson
1:39:37 PM	Secretary calls roll on SB 462
1:40:05 PM	Tab 12 SB 600 Senator Latvala
1:44:34 PM	Senator Smith questions
1:46:09 PM	Senator Stargel
1:47:37 PM	Senator Bradley
1:47:43 PM	Senator Latvala
1:48:27 PM	Senator Thrasher
1:49:04 PM	Senator Latvala
1:51:32 PM	Senator Thompson
1:52:32 PM	Temporarily Postponed SB 600
1:52:38 PM	Tab 5 SB 952 Senator Simmons
1:56:16 PM	Senator Soto
2:01:28 PM	Speaker Atlee Mercer Representing Osceola County Expressway Authority
2:05:53 PM	Speaker Gerald O'Rourke Representing FDOT
2:06:23 PM	Senator Soto
2:07:09 PM	Senator Stargel
2:07:39 PM	Senator Bradley
2:08:15 PM	Secretary calls roll on SB 952
2:08:29 PM	Tab 12 SB 600
2:08:56 PM	Amendment 1 barcode 866118 Senator Latvala
2:10:01 PM	Amendment 2 barcode 399758 Senator Latvala
2:10:45 PM	Amendment 3 barcode 938842 Senator Smith
2:11:58 PM	Senator Latvala
2:13:04 PM	Senator Soto
2:13:49 PM	Amendment 4 barcode 155566 Senator Smith
2:14:51 PM	Senator Latvala
2:15:31 PM	Senator Smith
2:16:19 PM	Amendment 5 barcode 929070 Senator Smith SA barcode 422386
2:19:47 PM	Senator Latvala
2:21:05 PM	Senator Soto
2:21:59 PM	Senator Smith
2:24:14 PM	Amendment 6 barcode 528194 Senator Smith
2:26:19 PM	Amendment 7 barcode 180402 Senator Smith
2:26:53 PM	Senator Latvala
2:29:02 PM	Senator Thompson
2:30:21 PM	Senator Soto
2:31:28 PM	Senator Thrasher
2:32:06 PM	Senator Stargel
2:32:57 PM	Senator Soto
2:33:27 PM	Senator Smith
2:34:07 PM	Amendment 8 barcode 730616 Late Filed SA
2:35:24 PM	Senator Latvala
2:37:23 PM	Amendment 9 barcode 943324 late filed SA
2:37:48 PM	Senator Smith
2:38:20 PM	Senator Latvala
2:40:55 PM	Senator Smith
2:41:54 PM	Senator Thompson
2:42:58 PM	Amendment 10 barcode 386482
2:43:14 PM	Amendment withdrawn

2:43:15 PM	Amendment 11 barcode 797954
2:43:23 PM	Amendment withdrawn
2:43:48 PM	Speaker J.C Planas
2:49:02 PM	Speaker Angie Nixon Representing Florida New Majority
2:52:08 PM	Speaker Paul Lux Representing Florida Association Supervisor of Elections
2:56:45 PM	Speaker Ron Labasky Representing Florida State Association of Supervisors of Elections
2:59:16 PM	Speaker Jessica Lowe Minor Representing League of Women Voters of Florida
3:00:39 PM	Speaker Brad Ashwell Representing Common Cause Florida
3:04:48 PM	Speaker Stephanie Kunkel Representing America Votes
3:07:25 PM	Senator Thrasher
3:12:19 PM	Senator Smith
3:15:07 PM	Senator Soto
3:15:59 PM	Senator Latvala closes
3:22:38 PM	Secretary calls roll on SB 600
3:23:07 PM	Meeting adjourned