

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 16, 2013
TIME: 1:30 —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 1472 Communications, Energy, and Public Utilities / Legg (Compare H 7167)	Nuclear and Integrated Gasification Combined Cycle Power Plants; Modifying an alternative cost recovery mechanism for the recovery of costs for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants; establishing a procedure and requirements for cost recovery based on preconstruction and construction phases; requiring the Public Service Commission to review the circumstances surrounding a proposed nuclear power plant if the anticipated cost and completion date exceed the original cost and completion date by a certain amount or period, etc. CU 04/08/2013 Fav/CS CA 04/16/2013 Fav/CS	Fav/CS Yeas 9 Nays 0
2	SB 1376 Abruzzo (Similar CS/CS/H 1005)	Motorist Safety; Authorizing the governing body of a county to create a yellow dot critical motorist medical information program for certain purposes; authorizing a county to solicit sponsorships for the medical information program and enter into an interlocal agreement with another county to solicit such sponsorships; providing for a yellow dot decal and a yellow dot folder to be issued to participants and a form containing specified information about the participant; providing for limited use of information on the forms by emergency medical responders, etc. CA 04/16/2013 Fav/CS HP JU	Fav/CS Yeas 8 Nays 0
3	CS/SB 1128 Banking and Insurance / Health Policy (Compare H 1157, S 1278)	Health Flex Plans; Revising the definition of the terms "health care coverage" or "health flex plan coverage" to include certain specified benefits; deleting the section's expiration date, etc. BI 04/09/2013 Fav/CS CA 04/16/2013 Fav/CS	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 16, 2013, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1080 Governmental Oversight and Accountability / Evers (Identical CS/CS/H 269)	Public Construction Projects; Requiring governmental entities to specify certain products associated with public works projects; requiring state agencies to use certain building rating systems and building codes for each new construction and renovation project, etc. GO 04/09/2013 Fav/CS CA 04/16/2013 Fav/1 Amendment AGG AP	Fav/1 Amendment (453686) Yeas 8 Nays 0
5	SB 514 Sobel (Identical H 873, Compare H 1175)	Public School Safety; Citing this act as the "School Safety Act"; authorizing each county to create an independent special district by ordinance to provide funding for public school security and mental health services; requiring elector approval to annually levy ad valorem taxes; creating a governing council for the district; basing the size of the council on the population of the county, etc. ED 03/12/2013 Favorable CA 04/16/2013 Favorable AFT AP	Favorable Yeas 8 Nays 0
6	CS/SB 1028 Environmental Preservation and Conservation / Clemens (Identical CS/CS/H 743, Compare CS/H 745, Link S 1776)	Fracturing Chemical Usage Disclosure Act; Directing the Department of Environmental Protection to establish an online hydraulic fracturing chemical registry; requiring owners and operators of wells on which a hydraulic fracturing treatment is performed to disclose certain information; requiring certain service providers and vendors to disclose certain information, etc. EP 04/09/2013 Fav/CS CA 04/16/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 16, 2013, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/CS/SB 1594 Environmental Preservation and Conservation / Communications, Energy, and Public Utilities / Bradley (Similar CS/H 1357)	Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act; Revising the terms "agency," "energy, water, and wastewater efficiency and conservation measure," and "energy, water, or wastewater cost savings"; providing that a contract may provide for repayments to a lender of an installation construction loan in installments for a period not to exceed 20 years; authorizing certain facility alterations to be included in a performance contract and to be supervised by the performance savings contractor; requiring that a proposed contract include an investment-grade audit certified by the Department of Management Services which states that the cost savings are appropriate and sufficient for the term of the contract, etc. CU 04/01/2013 Fav/CS EP 04/09/2013 Fav/CS CA 04/16/2013 Fav/CS	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents



529882

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
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The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment

Delete line 20
and insert:
aggregate fixed-sum basis. The terms may also

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 116 2013

Meeting Date

Topic _____

Bill Number 1128

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR AARON BEAN
4th District

April 10, 2013

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

Dear Chairman Simpson:

I am writing to respectfully request you consider placing CS/SB 1128, relating to Health Flex Plans on the next Community Affairs agenda.

Thank you in advance for your consideration. As always, please do not hesitate to contact me with any question or comments you, or your staff may have.

Respectfully,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
Senator, 4th District

Cc: Tom Yeatman, Staff Director
315 Knott

REPLY TO:

- 1919 Atlantic Boulevard, Jacksonville, Florida 32207 (904) 348-5039 FAX: (888) 263-1578
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

II. Present Situation:

The Health Flex program was created by the 2002 Legislature to address the health insurance needs of Florida's lower income uninsured adult population.¹ At the time, Florida's uninsured rate was reported as 16.8 percent, or 2.1 million while for those under 150 percent of the federal poverty level (FPL) the rate was reported at 34 percent.² Initially launched as a pilot program limited to three areas of the state with the highest incidences of uninsured adults and Indian River County, the program had an original expiration date of July 2004.³

Subsequent legislative acts removed the limited geographic reach of the project extending the scope statewide as well as modified the expiration date multiple times until it reached its current expiration date of June 30, 2013.⁴ Plans are currently available in six counties: Broward, Hillsborough, Miami-Dade, Palm Beach, Polk, and St. Lucie.⁵

The enacting legislation's intent emphasized alternative approaches for affordable health care options over traditional insurance coverage for the uninsured. Products offered as Health Flex plans were to include basic and preventive health care services and to coordinate with local service programs.⁶

Health Flex plans can be offered through a variety of means, including by licensed insurers, health maintenance organizations (HMOs), health care providers, local governments, health care districts or other public or private organizations.⁷ Products sold under the program are not subject to the Florida Insurance Code.⁸ As of September 30, 2012, three plans covered 12,127 members.⁹

Plan Name	Enrollment – September 30, 2012
American Care, Inc.	347
Preferred Medical Plan, Inc.	1,630
Vita Health Plan, Inc.	10,150
Total Enrollment:	12,127

Eligibility for the program has also been modified multiple times since inception. Today, an individual must meet the following requirements:¹⁰

- Be a resident of the state;

¹ SB 46-E (2003-E Session).

² Analysis for SB 46-E by the Senate Committee on Health, Aging and Long Term Care (April 30, 2002), available at <http://archive.flsenate.gov/data/session/2002E/Senate/bills/analysis/pdf/2002s0046E.hc.pdf> (last visited Feb. 11, 2013).

³ Id.

⁴ See Chapter Law 2003-405, Chapter Law 2004-270, Chapter Law 2005-231, Chapter Law 2008-32, Chapter Law 2011-195.

⁵ Florida Agency for Health Care Administration and Florida Office of Insurance Regulation, *Health Flex Plan Program, Annual Report*, 3-5, (January 2013).

⁶ SB 46-E (2003-E Session).

⁷ Section 408.909(1), F.S.

⁸ Section 408.909(4), F.S., *supra* at n. 2.

⁹ *Supra*, note 5 at 5-6.

¹⁰ *Supra*, note 5, at p. 2-3.

- Have a family income equal to or less than 300 percent FPL (\$69,150 for a family of four based on 2012 federal guidelines);
- Not be covered by a private insurance policy and not be eligible for public coverage such as Medicare, Medicaid, or KidCare, or have not been covered at anytime in the last 6 months;
- Have applied for health care coverage through an approved Health Flex plan and have agreed to make any payments required for participation, including periodic payments or payments due at the time health care services are provided; or,
- Be part of an employer group of which at least 75 percent of the employees have a family income equal to or less than 300 percent of the federal poverty level and the employer group is not covered by a private health insurance policy and has not been covered at any time during the past 6 months. If the Health Flex plan entity is a health insurer, health plan or HMO, only 50 percent of the employees must meet the income requirement.

In addition, if a person did have coverage in the past 6 months under an individual HMO contract licensed in the Florida which was also a licensed Health Flex plan on October 1, 2008, the individual may apply for coverage under that same Health Flex plan without a lapse in coverage if all other eligibility requirements are met. If a person was covered under Medicaid or KidCare and lost eligibility for Medicaid or KidCare subsidy due to income restrictions within 90 days prior to applying for health care coverage through an approved Health Flex plan, the individual may apply for coverage in a Health Flex plan without a lapse in coverage if all other eligibility requirements are met.

Responsibility for the Health Flex program resides with both the Agency for Health Care Administration (Agency) and the Office of Insurance Regulation (OIR). The Agency and the OIR jointly review applications for Health Flex plans, develop necessary rules, evaluate the program, and produce an annual report. The Agency has primary responsibility for reviewing Health Flex applications and determining whether plans meet quality of care standards and follow standard grievance procedures. The OIR is responsible for monitoring the financial condition of each plan.

Under s. 408.909(4), F.S., the Health Flex plans are not subject to the licensing requirements of the Florida Insurance Code or ch. 641, F.S., relating to HMOs, unless expressly made applicable. However, for the purpose of prohibiting unfair trade practices, Health Flex plans are considered insurance subject to the applicable provisions of part IX of chapter 626, F.S., except as otherwise provided. The plans are not required to cover Florida's mandated benefits or meet solvency requirements. Neither do the current benefits schedules of the Health Flex plans comply with the essential health coverage as the packages do not offer all ten essential health benefit categories based on a review of the web-based marketing materials for the three plans.¹¹

In March 2010, Congress passed and the President signed the Patient Protection and Affordable Care Act (PPACA).¹² Beginning January 1, 2014, the federal government and some states plan to

¹¹ Websites for three Health Flex plans reviewed on February 12, 2013: American Care Plans, *Health Flex Plans*, <http://www.healthflex.org/files/HealthFlexBrochure.pdf>, Preferred Medical Plan, Medi-Flex Plan, <https://www.pmphmo.com/plans.php>, and Vita Health Plan, <http://www.vitahealth.org/index.aspx?page=453>, (last visited Apr. 12, 2013).

¹² Pub. Law No. 111-148, H.R. 3590, 111th Cong. (March 23, 2010).

launch one of the largest components of the PPACA legislation, health benefits exchanges.¹³ The exchange implementation coincides with the requirement that, with few exceptions, all individuals must maintain a minimum level of health insurance coverage for themselves and their dependants.¹⁴ Subsidies, advanced premium tax credits, and out of pocket cost sharing maximums become effective at the same time to assist lower income enrollees with the cost of that coverage.¹⁵ These premium assistance measures assist individuals at varying levels from 100 percent FPL up to 400 percent FPL (\$45,960 for an individual in 2013).¹⁶

Health care coverage will be available through Medicaid or the Children's Health Insurance Program (CHIP) for the lowest income individuals. Children are covered under Medicaid or CHIP in Florida currently up to 200 percent FPL.¹⁷ The state may also elect to extend Medicaid eligibility to adults up to 133 percent FPL.^{18, 19}

Under PPACA, a state may operate its own exchange, partner with the federal government, or default to a federal exchange.²⁰ Regardless of the option selected by a state, individuals will have a choice of qualified health plans that meet established standards and offer the minimum set of essential health benefits. In order to be offered on the exchanges, a health plan has to offer the benefits in ten categories: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance abuse disorder, prescription drugs, rehabilitative and habilitative services, laboratory services, preventive and wellness services and chronic disease management and pediatric services, including oral and vision care.²¹

The essential health benefits requirement does not apply to all plans, including certain self-insured group plans, health insurance coverage offered in the large group market, and grandfathered health plans.²² Individuals who do not maintain health insurance coverage that meets the PPACA minimum requirements and cannot show a hardship or meet some other allowable exemption, will be subject to a tax penalty.²³ To qualify for the hardship exemption, an individual who is not eligible for Medicaid and who is above the filing threshold for income

¹³ *Id.*

¹⁴ Hinda Chaikind, *Individual Mandate and Related Information Requirements under PPACA*, Congressional Research Service, 1, (September 21, 2010), http://www.ncsl.org/documents/health/Individual_Mandate_Under_PPACA.pdf, (last visited Feb. 11, 2013).

¹⁵ Kaiser Family Foundation, *Explaining Health Care Reform: Questions About Health Insurance Subsidies* (July 2012), <http://www.kff.org/healthreform/upload/7962-02.pdf> (last visited Apr. 12, 2013).

¹⁶ 78 FR 5182 (5182-5183), January 24, 2013.

¹⁷ State of Florida, Florida KidCare Program, Title XXI State Plan, *Amendment #22, (5)*, http://www.fdhc.state.fl.us/medicaid/medikids/PDF/KidCare_Program_Amendment_21_to_Title_XXI_2012-07-01.pdf, (last visited Apr. 12, 2013).

¹⁸ *Supra*, Note 10.

¹⁹ *National Federation of Independent Business (NFIB) et al v. Sebelius*, 567 U.S., ___ (2012).

²⁰ Center for Consumer Information and Insurance Oversight, Centers for Medicare and Medicaid Services, *General Guidance on Federally-facilitated Exchanges*, (May 16, 2012), <http://cciio.cms.gov/resources/files/ffe-guidance-05-16-2012.pdf> (last visited Apr. 12, 2013).

²¹ Healthcare.gov, <http://www.healthcare.gov/news/factsheets/2012/11/ehb11202012a.html>, (last visited Apr. 12, 2013).

²² PPACA exempts "grandfathered health plan coverage" from many of its insurance requirements. For an insured plan, grandfathered health plan coverage is group or individual coverage in which an individual was enrolled on March 23, 2010, subject to conditions for maintaining grandfathered status as specified by law and rule. Grandfathered health plan coverage is tied to the individual or employer who obtained the coverage, not to the policy or contract form itself. PPACA s. 1251; 42 U.S.C. s. 18011; 45 C.F.R. s. 147.140.

²³ Pub. Law No. 111-148, H.R. 3590, 111th Cong. (March 23, 2010).

taxes must show that the cost of his or her contribution towards self-only coverage for a calendar year will exceed 8 percent of household income.²⁴

Under the federal definitions of health insurance coverage, coverage includes medical and hospital benefits that are offered by an issuer licensed in the state and whose coverage is regulated by that state.²⁵ Some insurance coverage may meet the definition of excepted benefits, which would not qualify as minimum essential coverage for the individual mandate.²⁶ Examples of excepted benefits would include coverage limited to dental or on-site medical clinics.²⁷ Excepted benefit plans are not required to provide the essential health benefits.

III. Effect of Proposed Changes:

The bill eliminates the repeal of the Health Flex program that was scheduled to be effective July 1, 2013. Instead, the bill eliminates any reference to a termination date. The bill also allows Health Flex plans coverage to include excepted benefits (such as hospital indemnity or other fixed indemnity insurance, and limited scope dental or vision), as provided in s. 627.6561(5)(b),(c), and (d), F.S. Currently, coverage is health care services that are covered as benefits provided under an approved Health Flex plan or otherwise provided either directly or through arrangements with other persons, via a Health Flex plan on a prepaid per capita basis or on a prepaid aggregate fixed-sum basis.

This act would take effect June 30, 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.

²⁴ Chaikind, *supra* Note 14 at 3.

²⁵ 42 U.S.C. s. 300gg-91(b).

²⁶ Chaikind, *supra* note 14, at 1-2.

²⁷ 42 U.S.C. s. 300gg-91(c)

B. Private Sector Impact:

Currently, individuals eligible for enrollment in the Health Flex program are at or below 300 percent FPL. Under PPACA, premium tax credits, and subsidies would be available for qualified individuals between 100 FPL and 400 FPL who obtain coverage in the exchange. It is anticipated that many individuals above 100 FPL may transition to the exchange.

However, individuals below 100 FPL are not eligible for premium tax credits or subsidies through an exchange. If Florida elects not to expand Medicaid for adults to 133 percent FPL, there may be a gap in subsidized coverage options for individuals under 100 percent FPL. The bill would continue access to affordable, alternative coverage through the Health Flex plan.

C. Government Sector Impact:

One plan, Vita offered by the Health Care District of Palm Beach County, offsets the cost of coverage. The Health Care District currently subsidizes approximately two thirds of the total premium with the enrollee paying the remaining one third of the total premium.²⁸ The estimated number of individuals that would transition from Health Flex plans to the exchange is indeterminate at this time. The fiscal impact on the District is unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Community Affairs on April 16, 2013:

The CS/CS provides that the allowed coverage of excepted benefits occurs upon the effective date of the bill rather than January 1, 2014.

CS by Banking and Insurance on April 9, 2013:

The CS eliminates the sunset date of the Health Flex program and also allows such coverage to include excepted benefits as well as current benefits specified in s. 408.909(2)(d), F.S.

²⁸ *Supra*, Note 5, at 6.

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 Committees on Banking and Insurance; and Health Policy

597-03990-13

20131128c1

1 A bill to be entitled
2 An act relating to health flex plans; amending s.
3 408.909, F.S.; revising the definition of the terms
4 "health care coverage" or "health flex plan coverage"
5 to include certain specified benefits; deleting the
6 section's expiration date; providing an effective
7 date.

8

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

10

11 Section 1. Paragraph (d) of subsection (2) and subsection
12 (10) of section 408.909, Florida Statutes, are amended to read:
13 408.909 Health flex plans.—

14 (2) DEFINITIONS.—As used in this section, the term:

15 (d) "Health care coverage" or "health flex plan coverage"
16 means health care services that are covered as benefits under an
17 approved health flex plan or that are otherwise provided, either
18 directly or through arrangements with other persons, via a
19 health flex plan on a prepaid per capita basis or on a prepaid
20 aggregate fixed-sum basis. Effective January 1, 2014, the terms
21 include one or more of the excepted benefits under s.
22 627.6561(5)(b), the benefits under s. 627.6561(5)(c) if offered
23 separately, or the benefits under s. 627.6561(5)(d) if offered
24 as independent, noncoordinated benefits.

25 ~~(10) EXPIRATION. This section expires July 1, 2013.~~

26 Section 2. This act shall take effect June 30, 2013.



455976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
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The Committee on Community Affairs (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Yellow dot critical motorist medical information program; yellow dot decal, folder, and information form.-

(1) The governing body of a county may create a yellow dot critical motorist medical information program to assist emergency medical responders and drivers and passengers who participate in the program by making critical medical information readily available to a responder in the event of a motor vehicle accident or a medical emergency involving a



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13 participant's vehicle.

14 (2) (a) The governing body of a county may solicit
15 sponsorships from interested business entities and not-for-
16 profit organizations to cover costs of the program, including
17 the cost of the yellow dot decals and folders that shall be
18 provided free of charge to participants. Two or more counties
19 may enter into an interlocal agreement to solicit such
20 sponsorships.

21 (b) The Department of Highway Safety and Motor Vehicles or
22 the Department of Transportation may provide education and
23 training to encourage emergency medical responders to
24 participate in the program and may take reasonable measures to
25 publicize the program.

26 (3) (a) Any owner or lessee of a motor vehicle may
27 participate in the program upon submission of an application and
28 documentation, in the form and manner prescribed by the
29 governing body of the county.

30 (b) The application form must include a statement that the
31 information submitted will be disclosed only to authorized
32 personnel of law enforcement and public safety agencies,
33 emergency medical services agencies, and hospitals for the
34 purposes authorized in subsection (5).

35 (c) The application form must describe the confidential
36 nature of the medical information voluntarily provided by the
37 participant and must state that, by providing the medical
38 information, the participant has authorized the use and
39 disclosure of the medical information to authorized personnel
40 solely for the purposes listed in subsection (5). The
41 application form must also require the participant's express



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42 written consent for such use and disclosure.

43 (d) The county may not charge any fee to participate in the
44 yellow dot program.

45 (4) A participant shall receive a yellow dot decal, a
46 yellow dot folder, and a form with the participant's
47 information.

48 (a) The participant shall affix the decal onto the rear
49 window in the left lower corner of a motor vehicle or in a
50 clearly visible location on a motorcycle.

51 (b) A person who rides in a motor vehicle as a passenger
52 may also participate in the program but may not be issued a
53 decal if a decal is issued to the owner or lessee of the motor
54 vehicle in which the person rides.

55 (c) The yellow dot folder, which shall be stored in the
56 glove compartment of the motor vehicle or in a compartment
57 attached to a motorcycle, must contain a form with the following
58 information about the participant:

59 1. The participant's name.

60 2. The participant's photograph.

61 3. Emergency contact information of no more than two
62 persons for the participant.

63 4. The participant's medical information, including medical
64 conditions, recent surgeries, allergies, and medications being
65 taken.

66 5. The participant's hospital preference.

67 6. Contact information for no more than two physicians for
68 the participant.

69 (5) (a) If a driver or passenger of a motor vehicle becomes
70 involved in a motor vehicle accident or emergency situation, and



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71 a yellow dot decal is affixed to the vehicle, an emergency
72 medical responder at the scene may search the glove compartment
73 of the vehicle for the corresponding yellow dot folder.

74 (b) An emergency medical responder at the scene may use the
75 information in the yellow dot folder for the following purposes
76 only:

77 1. To positively identify the participant.

78 2. To ascertain whether the participant has a medical
79 condition that might impede communications between the
80 participant and the responder.

81 3. To inform the participant's emergency contacts about the
82 location, condition, or death of the participant.

83 4. To learn the nature of any medical information reported
84 by the participant on the form.

85 5. To ensure that the participant's current medications and
86 preexisting medical conditions are considered when emergency
87 medical treatment is administered for any injury to or condition
88 of the participant.

89 (6) Except for wanton or willful conduct, an emergency
90 medical responder or the employer of a responder does not incur
91 any liability if a responder is unable to make contact, in good
92 faith, with a participant's emergency contact person, or if a
93 responder disseminates or fails to disseminate any information
94 from the yellow dot folder to any other emergency medical
95 responder, hospital, or healthcare provider who renders
96 emergency medical treatment to the participant.

97 (7) The governing body of a participating county shall
98 adopt guidelines and procedures for ensuring that any
99 information that is confidential is not made public through the



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100 program.

101 Section 2. This act shall take effect July 1, 2014, or on
102 the same date that legislation which exempts the information
103 required under the yellow dot critical motorist medical
104 information program created pursuant to section 1 of this act
105 from s. 119.071(1), Florida Statutes, and s. 24(a), Article I of
106 the State Constitution, takes effect, whichever occurs later, if
107 such legislation is adopted in the 2014 Regular Session of the
108 Legislature or an extension thereof and becomes law.

109
110 ===== T I T L E A M E N D M E N T =====

111 And the title is amended as follows:

112 Delete everything before the enacting clause
113 and insert:

114 A bill to be entitled
115 An act relating to motorist safety; authorizing the
116 governing body of a county to create a yellow dot
117 critical motorist medical information program for
118 certain purposes; authorizing a county to solicit
119 sponsorships for the medical information program and
120 enter into an interlocal agreement with another county
121 to solicit such sponsorships; authorizing the
122 Department of Highway Safety and Motor Vehicles and
123 the Department of Transportation to provide education
124 and training and publicize the program; requiring the
125 program to be free to participants; providing for
126 applications to participate; providing for a yellow
127 dot decal and a yellow dot folder to be issued to
128 participants and a form containing specified



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129 information about the participant; providing
130 procedures for use of the decal, folder, and form;
131 providing for limited use of information on the forms
132 by emergency medical responders; limiting liability of
133 emergency medical responders; requiring the governing
134 body of a participating county to adopt guidelines and
135 procedures to ensure that confidential information is
136 not made public; providing a contingent effective
137 date.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

25th District

April 10th, 2013

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

Dear Chair Simpson:

I respectfully request that Senate Bill 1376, related to motorist safety and the yellow dot program, be placed on the Community Affairs Committee agenda.

Thank you for your consideration. Please let me know if I can provide further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Abruzzo".

Joseph Abruzzo

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1376

INTRODUCER: Community Affairs Committee and Senator Abruzzo

SUBJECT: Motorist Safety

DATE: April 16, 2013 REVISED: _____

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

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1376 authorizes a county or counties to establish a "yellow dot program" whereby motor vehicle owners can provide health and medical information to be placed in the motor vehicle to be accessible to first responders. The bill provides that there is to be no cost to the motor vehicle owner and that the county may solicit sponsorships to cover the costs.

The bill also provides that necessary steps should be taken by counties and others to ensure the security of the confidential information provided. The bill authorizes the Department of Highway Safety and Motor Vehicles and the Department of Transportation to provide education and training and publicize the program.

The bill will take effect on July 1, 2014, only if legislation is adopted during the 2014 legislative session creating a public records exemption for the information required in Section 1 of the bill.

This bill substantially creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Yellow Dot Program¹

The Yellow Dot program is a system to alert first responders at an accident scene to search for medical information about the injured. This program, long in place in some eastern and midwestern states, is now available nationwide. The Yellow Dot program has proved valuable in providing medical personnel with vital information about the victims during the first critical hours after injury, often called the “crucial golden hour,” when prompt treatment is most effective, especially if the victim is unconscious or unable to speak.

According to an article in USA today, “It is simple but effective: Participants in the program receive a yellow dot to place on the rear window [of their vehicle]; it alerts emergency services personnel to look for a corresponding yellow folder in the glove box. That folder contains a photograph, their medical information, their medical conditions, prescriptions and other vital information.”²

The program began in Connecticut in 2002, and now, with slight variations, is in counties scattered across at least eight other states: Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York.³

III. Effect of Proposed Changes:

Section 1 authorizes, but does not require, the governing body of a county to create a yellow dot critical motorist medical information program for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant’s vehicle.

Under the bill, a person’s participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships from interested business entities and not-for-profit organizations to cover expenditures, including the cost of the yellow dot decals and folders that are provided free of charge to participants. Two or more counties also may enter into an interlocal agreement to solicit these sponsorships.

The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

Any owner or lessee of a motor vehicle may participate in the program upon submission of an application. The application is created by the county and must include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and

¹ *See*, additional information about the Yellow Dot program at www.yellow-dot.com (last visited on April 12, 2013).

² Larry Copeland, *Yellow Dot car program speeds to help crash victims*, USA TODAY, May 24, 2011, at http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers_n.htm (last visited on April 12, 2013).

³ *Id.*

public safety agencies, emergency medical services agencies, and hospitals in the case of a motor vehicle accident or other emergency situation. The application must describe the confidential nature of the medical information voluntarily provided by the participant. The application must also require that the participant give express written consent for the use and disclosure of the yellow folder's contents to authorized personnel for the following purposes:

- to positively identify the participant;
- to ascertain whether the participant has a medical condition that might impede communications between the participant and the responder;
- to inform the participant's emergency contacts about the location, condition, or death of the participant;
- to learn the nature of any medical information reported by the participant; and
- to ensure that the participant's current medications and preexisting medical conditions are considered when emergency medical treatment is administered for any injury to or condition of the participant.

After submitting a completed application, the participant is given a yellow dot decal to affix onto the lower left corner of his or her vehicle's rear window (or a clearly visible location on a motorcycle), a yellow dot folder, and a form for the participant's information.

The form, which is to be placed inside the yellow folder, is to contain the following information:

- the participant's name;
- the participant's photograph;
- emergency contact information of no more than two persons;
- the participant's medical information, including medical conditions, recent surgeries, allergies and medications;
- the participant's hospital preference; and
- contact information for no more than two physicians.

When the driver of a vehicle with an affixed yellow dot decal is involved in an accident or emergency situation, an emergency medical responder at the scene may search the glove compartment of the vehicle for the corresponding yellow dot folder. With regard to liability, the bill provides that - except for wanton or willful conduct - an emergency medical responder, or the employer of a responder, does not incur any liability for:

- failing, in good faith, to make contact with a participant's emergency contact person; or
- disseminating, or failing to disseminate, any information from the yellow dot folder to any other emergency medical responder, hospital, or health care provider who renders emergency medical treatment to the participant.

The governing body of a participating county is required to adopt guidelines and procedures for ensuring that any information that is confidential is not made public through the program.

Section 2 provides that this act shall take effect July 1, 2014, or on the same date that legislation which exempts the information required under the yellow dot critical motorist medical

information program created pursuant to section 1 of this act from s. 119.071(1), F.S., and s. 24(a), Article I of the State Constitution, takes effect, whichever occurs later, if such legislation is adopted in the 2014 Regular Session of the Legislature or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

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:

Emergency medical responders and participants in the program will benefit by making critical medical information readily available to a responder in the event of a motor vehicle accident or a medical emergency.

C. Government Sector Impact:

The bill indicates the governing body of a county *may* create a yellow dot program (not required). The bill provides that the county may solicit sponsorships from business entities and not-for-profit organizations.

VI. Technical Deficiencies:

Line 74: While the bill provides that a person who rides in a motor vehicle as a passenger may also participate in the program, it provides no guidance for that participation.

VII. Related Issues:

The Department of Highway Safety and Motor Vehicles analysis of the bill states that it has some concerns including, “identity theft, targeting vulnerable drivers, keeping information up-to-date, and the concern that the yellow dot may be destroyed as a result of a crash.”⁴

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 16, 2013:

The committee substitute authorized instead of required a medical responder at the scene of an accident to search the glove compartment of the injured person’s vehicle for the corresponding yellow dot folder. The CS changed the bill’s effective date and makes it contingent upon passage of a separate bill creating a public records exemption during the 2014 session.

- B. **Amendments:**

None.

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

⁴ The Department of Highway Safety and Motor Vehicles, *SB 1376 Analysis*, (March 12, 2013) (on file with the Senate Community Affairs Committee).

By Senator Abruzzo

25-01462B-13

20131376__

1 A bill to be entitled
2 An act relating to motorist safety; authorizing the
3 governing body of a county to create a yellow dot
4 critical motorist medical information program for
5 certain purposes; authorizing a county to solicit
6 sponsorships for the medical information program and
7 enter into an interlocal agreement with another county
8 to solicit such sponsorships; authorizing the
9 Department of Highway Safety and Motor Vehicles and
10 the Department of Transportation to provide education
11 and training and publicize the program; requiring the
12 program to be free to participants; providing for
13 applications to participate; providing for a yellow
14 dot decal and a yellow dot folder to be issued to
15 participants and a form containing specified
16 information about the participant; providing
17 procedures for use of the decal, folder, and form;
18 providing for limited use of information on the forms
19 by emergency medical responders; limiting liability of
20 emergency medical responders; requiring the governing
21 body of a participating county to adopt guidelines and
22 procedures to ensure that confidential information is
23 not made public; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Yellow dot critical motorist medical information
28 programs; yellow dot decal, folder, and information form.-

29 (1) The governing body of a county may create a yellow dot

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30 critical motorist medical information program to assist
31 emergency medical responders and drivers and passengers who
32 participate in the program by making critical medical
33 information readily available to a responder in the event of a
34 motor vehicle accident or a medical emergency involving a
35 participant's vehicle.

36 (2) (a) The governing body of a county may solicit
37 sponsorships from interested business entities and not-for-
38 profit organizations to cover costs of the program, including
39 the cost of the yellow dot decals and folders that shall be
40 provided free of charge to participants. Two or more counties
41 may enter into an interlocal agreement to solicit such
42 sponsorships.

43 (b) The Department of Highway Safety and Motor Vehicles or
44 the Department of Transportation may provide education and
45 training to encourage emergency medical responders to
46 participate in the program and may take reasonable measures to
47 publicize the program.

48 (3) (a) Any owner or lessee of a motor vehicle may
49 participate in the program upon submission of an application and
50 documentation, in the form and manner prescribed by the
51 governing body of the county.

52 (b) The application form shall include a statement that the
53 information submitted will be disclosed only to authorized
54 personnel of law enforcement and public safety agencies,
55 emergency medical services agencies, and hospitals for the
56 purposes authorized in subsection (5).

57 (c) The application form shall describe the confidential
58 nature of the medical information voluntarily provided by the

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59 participant and shall state that, by providing the medical
60 information, the participant has authorized the use and
61 disclosure of the medical information to authorized personnel
62 solely for the purposes listed in subsection (5). The
63 application form shall also require the participant's express
64 written consent for such use and disclosure.

65 (d) The county may not charge any fee to participate in the
66 yellow dot program.

67 (4) A participant shall receive a yellow dot decal, a
68 yellow dot folder, and a form with the participant's
69 information.

70 (a) The participant shall affix the decal onto the rear
71 window in the left lower corner of a motor vehicle or in a
72 clearly visible location on a motorcycle.

73 (b) A person who rides in a motor vehicle as a passenger
74 may also participate in the program but may not be issued a
75 decal if a decal is issued to the owner or lessee of the motor
76 vehicle in which the person rides.

77 (c) The yellow dot folder, which shall be stored in the
78 glove compartment of the motor vehicle or in a compartment
79 attached to a motorcycle, shall contain a form with the
80 following information about the participant:

81 1. The participant's name.

82 2. The participant's photograph.

83 3. Emergency contact information of no more than two
84 persons for the participant.

85 4. The participant's medical information, including medical
86 conditions, recent surgeries, allergies, and medications being
87 taken.

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88 5. The participant's hospital preference.

89 6. Contact information for no more than two physicians for
90 the participant.

91 (5) (a) If a driver or passenger of a motor vehicle becomes
92 involved in a motor vehicle accident or emergency situation, and
93 a yellow dot decal is affixed to the vehicle, an emergency
94 medical responder at the scene shall search the glove
95 compartment of the vehicle for the corresponding yellow dot
96 folder.

97 (b) An emergency medical responder at the scene may use the
98 information in the yellow dot folder for the following purposes
99 only:

100 1. To positively identify the participant.

101 2. To ascertain whether the participant has a medical
102 condition that might impede communications between the
103 participant and the responder.

104 3. To inform the participant's emergency contacts about the
105 location, condition, or death of the participant.

106 4. To learn the nature of any medical information reported
107 by the participant on the form.

108 5. To ensure that the participant's current medications and
109 preexisting medical conditions are considered when emergency
110 medical treatment is administered for any injury to or condition
111 of the participant.

112 (6) Except for wanton or willful conduct, an emergency
113 medical responder or the employer of a responder does not incur
114 any liability if a responder is unable to make contact, in good
115 faith, with a participant's emergency contact person, or if a
116 responder disseminates or fails to disseminate any information

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20131376__

117 from the yellow dot folder to any other emergency medical
118 responder, hospital, or healthcare provider who renders
119 emergency medical treatment to the participant.

120 (7) The governing body of a participating county shall
121 adopt guidelines and procedures for ensuring that any
122 information that is confidential is not made public through the
123 program.

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



713900

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 102 - 117
and insert:

b. The projected costs for the plant are reasonable and prudent.

(d) After a utility obtains approval to proceed with post-licensing or post-certification preconstruction work, it must petition the commission for approval of any preconstruction materials or equipment purchases that exceed 1 percent of the total projected cost for the project.

(e) A utility must petition the commission for approval



713900

13 before beginning the construction phase.

14 1. The only costs that a utility that has obtained
15 commission approval may recover before beginning construction
16 work are those that are previously approved or necessary to
17 maintain the license or certification.

18 2. In order for the commission to approve proceeding with
19 construction on a plant, it must determine that:

20 a. There is still a need for the plant; and

21 b. The projected costs for the plant are reasonable and
22 prudent.



368550

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 138 and 139
insert:

(6) If the utility does ~~elects~~ not ~~to~~ complete ~~or is~~
~~precluded from completing~~ construction of the nuclear power
plant, including new, expanded, or relocated electrical
transmission lines or facilities necessary thereto, or of the
integrated gasification combined cycle power plant, the utility
may ~~shall be allowed to~~ recover all prudent preconstruction and
construction costs incurred following the commission's issuance
of a final order granting a determination of need for the



368550

13 nuclear power plant and electrical transmission lines and
14 facilities necessary thereto or for the integrated gasification
15 combined cycle power plant. The utility shall recover such costs
16 through the capacity cost recovery clause over a period equal to
17 the period during which the costs were incurred or 5 years,
18 whichever is greater. The unrecovered balance during the
19 recovery period will accrue interest at the utility's weighted
20 average cost of capital as reported in the commission's earnings
21 surveillance reporting requirement for the prior year. However,
22 if the utility elects not to complete construction of the
23 nuclear power plant, rather than being precluded from completing
24 such construction, the utility may not recover or retain any
25 rate of return. Any cost recovery after the date of the decision
26 not to complete construction of the plant may not include a rate
27 of return. A utility that elects not to complete construction
28 shall refund to its customers the costs recovered before the
29 date of the decision which are attributable to a recovery of a
30 rate of return.

31
32 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

33 And the directory clause is amended as follows:

34 Delete line 20
35 and insert:

36 Section 1. Subsections (1), (2), (3), and (6) of section
37 366.93,

38
39 ===== T I T L E A M E N D M E N T =====

40 And the title is amended as follows:

41 Delete line 9



368550

42 and insert:
43 on preconstruction and construction phases; providing
44 that a utility that elects not to complete
45 construction of a nuclear power plant may not recover
46 or retain any rate of return for related costs;
47 requiring

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-13

Meeting Date

Topic Nuclear Cost Recovery

Bill Number _____

Name Susan Colickman

Amendment Barcode 368550
(if applicable)

Job Title Lobbyist

Address PO Box 310

Phone 727-7429003

Street
Indian Rocks Bch FL 33785
City State Zip

E-mail susanglickman@verizon.net

Speaking: For Against Information

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-13

Meeting Date

Topic Energy - Early Cost Recovery

Bill Number 1472
(if applicable)

Name Susan Glickman

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address PO Box 310

Phone 727-7429003

Indian Rocks Bch FL 33785
Street City State Zip

E-mail Susan.glickman
@verizon

Speaking: For Against Information

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-13

Meeting Date

Topic Energy - Early Cost Recovery

Bill Number _____
(if applicable)

Name Susan Glickman

Amendment Barcode 713900
(if applicable)

Job Title Lobbyist

Address PO Box 310

Phone 727-742-9003

Street

Indian Rocks Bch FL 3385

City

State

Zip

E-mail susanglickman@
verizon.net

Speaking: For Against Information

Representing Southern Alliance for Clean Energy

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)

April 16, 2013

Meeting Date

Topic Nuclear and Integrated Gasification Combined cycle Power Plants Bill Number SB 1472
(if applicable)

Name Hannah Wiseman (leaving at 3:30 - will not speak after 3:30) Amendment Barcode _____
(if applicable)

Job Title Assistant Professor, Florida State University College of Law

Address ~~615~~ 425 W. Jefferson St. Phone 850-644-0073
Street

Tallahassee, FL 32306 E-mail hwiseman@law.fsu.edu
City State Zip

Speaking: For ^{in part} Against Information

Representing SELF

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Honorable Senator Wilton Simpson, Chair
Community Affairs

CC: Tom Yeatman, Staff Director

Subject: Committee Agenda Request

Date: April 9, 2013

I respectfully request that **Senate Bill #1472**, relating to Nuclear and Integrated Gasification Combined Cycle Power Plants, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "John Legg", written over a horizontal line.

Senator John Legg
Florida Senate, District 17
316 Senate Office Building
(850) 487-5017

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 1472

INTRODUCER: Community Affairs Committee; Communications, Energy, and Public Utilities Committee; and Senator Legg and others

SUBJECT: Nuclear and Integrated Gasification Combined Cycle Power Plants

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.	Toman	Yeatman	CA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1472 revises the cost recovery provisions for the siting, design, licensing and construction of nuclear and integrated gasification combined cycle power plants in the following ways:

- provides that the allowance for funds used during construction (AFUDC) rate is the rate in effect at the time the increment of cost is incurred and recovery is sought,
- establishes a process for review and approval by the Public Service Commission (PSC) before a utility continues with specified steps in developing a new power plant for which it is obtaining early cost recovery, and
- requires that the PSC conduct a comprehensive review of any proposed nuclear power plant that meets specified conditions and for which early cost recovery has been authorized.

This bill substantially amends section 366.93 of the Florida Statutes.

II. Present Situation:

Section 366.93, F.S., was enacted in 2006. The statute provides the following definitions.

- “Cost” includes, but is not limited to, “all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant, including new, expanded, or relocated electrical transmission lines or facilities of any size that are necessary thereto, or of the integrated gasification combined cycle power plant.”
- “Preconstruction” is “that period of time after a site, including any related electrical transmission lines or facilities, has been selected through and including the date the utility completes site clearing work. Preconstruction costs shall be afforded deferred accounting treatment and shall accrue a carrying charge equal to the utility’s AFUDC rate until recovered in rates (by implication, everything after completion of site clearing is construction).”

The statute requires the Public Service Commission (PSC) to establish, by rule, alternative cost recovery mechanisms designed to promote utility investment in nuclear power plants and to allow for the recovery in rates of all prudently incurred costs. The mechanisms must include:

- Recovery through the capacity cost recovery clause of any preconstruction costs.
- Recovery through an incremental increase in the utility’s capacity cost recovery clause rates of the carrying costs on the utility’s projected construction cost balance associated with the nuclear or integrated gasification combined cycle power plant. To encourage investment and provide certainty, for nuclear or integrated gasification combined cycle power plant need petitions submitted on or before December 31, 2010, associated carrying costs shall be equal to the pretax AFUDC in effect upon this act becoming law. For nuclear or integrated gasification combined cycle power plants for which need petitions are submitted after December 31, 2010, the utility’s existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear or integrated gasification combined cycle power plant.

Thus, under this section, the utility recovers all preconstruction costs in full as they are incurred, but recovers only the carrying charges on construction costs.¹ Generally, this means that non-capital costs and the interest on capital costs will be recovered in advance of the plant becoming operational.

The preconstruction phase includes both licensing and preconstruction. Examples of activities performed during this combined phase include:

- site selection and purchase;
- filing of the combined construction and operating license (COL) application with the Nuclear Regulatory Commission (NRC);
- obtaining the determination of need from the PSC;
- execution of the engineering, procurement, and construction (EPC) agreement;
- obtaining the state site certification;
- the U.S. NRC Safety Review, a multi-phase process;
- the U.S. EPA Environmental Review, also a multi-phase process; and

¹ For any recovery to occur, the PSC must make a finding that the costs were prudently incurred (s. 366.93(2), F.S.).

- hearings before the Atomic Safety & Licensing Board and the NRC Commissioners to obtain the COL.²

Licensing phase costs will constitute approximately 1 percent of total project costs recovered.³ Preconstruction phase costs will constitute approximately 2-5 percent of total project costs recovered.⁴ Estimated amounts will vary by project size and duration.⁵

Examples of costs incurred during the construction phase include: major equipment, materials, labor, and construction management.⁶ During the construction phase, only the carrying costs are recovered: these costs will constitute approximately 8-10 percent of total project costs recovered.⁷

Until the nuclear plant becomes commercially operational, the utility must annually report to the PSC the budgeted and actual costs compared to the in-service cost of the nuclear power plant as estimated by the utility during the determination of need hearing.

When the nuclear power plant becomes operational and is placed in commercial service, the utility may increase its base rate charges by the projected annual revenue requirements of the nuclear power plant.

If the utility either elects not to complete or is precluded from completing construction of the nuclear power plant, it must be allowed to recover all prudent preconstruction and construction costs incurred following the commission's issuance of a final order granting a determination of need.

The statute provides for advanced, or early, cost recovery in that the utility recovers some costs earlier under the statute than it would under traditional recovery. Under traditional recovery of the costs related to constructing a power plant, the utility fronts the money to pay these costs by providing the initial funding for the project through money it holds for capital projects or by raising capital through borrowing or selling stock, and does not begin to recover any costs until the plant is placed into operation. Under s. 366.93, F.S., the utility still fronts the money, but it begins to recover some costs earlier, those being all preconstruction costs and the carrying costs on the utility's projected construction cost balance that is associated with the nuclear power plant. One arguable benefit of this advanced recovery is that the carrying costs, primarily interest, may not be as high and do not accumulate and compound in the time period until the plant is placed into operation, which may be as long as 17-20 years from the time the first costs are incurred. By recovering these costs earlier, the increase in rates when the plant is placed into operation and recovery of capital costs begins is also significantly reduced. One past estimate of

² Statement of Alex Glenn, State President, Progress Energy Florida, before the Florida Senate Committee on Communications, Energy, and Public Utilities (March 18, 2013).

³ Statement of Steven Scroggs, Senior Director, Nuclear Development, Florida Power & Light Company, before the Florida Senate Committee on Communications, Energy, and Public Utilities (March 18, 2013).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

the impact on the monthly bill was that the statute would reduce the amount of this increase by \$3.44, from \$8.91 to \$5.47.⁸

There were other potential incentives for enacting the statute, including the following.

- Florida's population was growing quickly, as was the related demand for electricity.⁹
- Natural gas was increasingly the fuel of choice for generating electricity and concern was growing about over-dependence on one fuel type.¹⁰ In 1980, natural gas was the fuel for approximately 15 percent of the electricity generation in Florida; in 2010, it was over 50 percent.¹¹ Florida is in the top quartile of states in its reliance on natural gas.¹²
- Natural gas prices were high and spot market prices were fluctuating greatly.¹³
- Florida had just been through the extremely bad, back-to-back hurricane seasons of 2004 and 2005, which had interrupted natural gas deliveries to Florida and the power plants.¹⁴
- The federal government was considering potential limitations on carbon emissions due to concerns about climate change, which would have hit coal-fired plants hard, decreasing their output, increasing the expense of production, or both.¹⁵

However, circumstances have changed since 2006.

- Florida's real estate market collapsed and the resulting recession significantly reduced the demand for electricity.¹⁶
- With the advent of fracking, the supply of natural gas has increased and prices have decreased and stabilized.¹⁷

III. Effect of Proposed Changes:

The changes made by the bill can be placed in three categories:

- Changing the applicable AFUDC rate;
- Creating a series of project reviews by the PSC; and
- Requiring a comprehensive review by the PSC of projects meeting specified criteria.

⁸ Statement of Jeff Lyash, President and CEO, Progress Energy Florida, before the Florida Senate Committee on Communications and Public Utilities (January 13, 2009).

⁹ *Supra*, note 2, PowerPoint slides 6 and 7.

¹⁰ The same legislation that created the early cost recovery statute (s. 44, Ch. 2006-230, Laws of Florida) also: required that the PSC, in reviewing utilities' 10-year site plans, consider the effect of the plan on fuel diversity within the state (s. 15, Ch. 2006-234, Laws of Florida, amending s. 186.801(2), F.S.); authorized the PSC to require installation of necessary generating plants if it determined that there is probable cause to believe that inadequacies exist with respect to the electric grid, including inadequacies in fuel diversity or fuel supply reliability (s. 17, Ch. 2006-230, Laws of Florida, amending s. 366.05(8), F.S.); and required that when the PSC determines the need for a proposed power plant, it must consider the need for fuel diversity and supply reliability (s. 43, Ch. 2006-230, Laws of Florida, amending s. 403.519, F.S.).

¹¹ *Supra*, note 2, PowerPoint slide 10.

¹² *Supra*, note 2, PowerPoint slide 11.

¹³ *Supra*, note 2, PowerPoint slides 12 and 13.

¹⁴ *Id.*

¹⁵ *Supra*, note 2, PowerPoint slide 8.

¹⁶ *Supra*, note 2, PowerPoint slides 5, 6, and 7.

¹⁷ *Supra*, note 2, PowerPoint slide 13.

AFUDC – Rate of Return

The bill changes the applicable AFUDC rate used during construction. The AFUDC rate is a method of allowing a utility to recover its costs of raising capital. It includes both a debt component (for borrowed funds for interest paid on bonds and short-term debt) and an equity component (for common and preferred equity funds used to support a project's construction). These components are weighted to determine that utility's overall cost of capital at that time.¹⁸

Under traditional cost recovery, the AFUDC charge accumulates until the plant becomes operational and cost recovery begins. Under the current statute, prior to the plant becoming operational, the utility recovers preconstruction costs in full (therefore, an AFUDC rate rarely accrues), and recovers only the carrying charges, the AFUDC rate, on construction costs. In practice, there will be very few, if any, occasions for an AFUDC rate to apply to preconstruction costs; it will apply almost exclusively to construction costs. As stated above, the AFUDC rate represents the utility's cost of raising capital and has two components, debt and equity. These components reflect interest costs and a rate of return, respectively. The reasons the AFUDC rate will rarely, if ever, apply to preconstruction costs are 1) these costs are recovered in full as they are incurred, so no interest accumulates (the debt component), and 2) they will include very few, if any, capital costs on which to earn a rate of return (the equity component). In contrast, construction costs will not be recovered until the plant becomes operational, so interest would accrue if not for the early cost recovery statute, and the construction costs will include most, if not all, of the capital costs, the investments in brick and mortar capital investments on which a rate of return is allowed.¹⁹

The current statute provides:

To encourage investment and provide certainty, for nuclear or integrated gasification combined cycle power plant need petitions submitted on or before December 31, 2010, associated carrying costs must be equal to the pretax AFUDC in effect upon this act becoming law. For nuclear or integrated gasification combined cycle power plants for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear or integrated gasification combined cycle power plant.

The "pretax AFUDC in effect upon this act becoming law" was 8.84 percent for Progress Energy Florida (PEF) and 7.42 percent for Florida Power and Light (FPL).²⁰ As was stated above, the AFUDC rate consists of two portions, equity and interest. The interest portion was each utility's average interest rate at the time. The equity portion for each was 11.5 percent. The two components were weighted to determine the total percentage rate.

The bill changes this language to:

¹⁸ See, Public Service Commission, *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, pages 2-3.

¹⁹ Telephone conversation between Committee on Communications, Energy and Public Utilities staff and Mark Futrell and Marshall Willis, Public Service Commission staff, (Feb. 15, 2013).

²⁰ These are the two utilities that are developing nuclear power projects and have sought advance cost recovery under the statute. FPL did "uprates" or expansions at an existing nuclear power plant; both are pursuing new units.

To encourage investment and provide certainty, associated carrying costs must be equal to the most recently approved pretax AFUDC at the time an increment of cost recovery is sought.

The current AFUDC rates are 7.44 percent for PEF and 6.41 percent for FPL; they are less than the 2006 levels due to a decrease in both components, that is, decreased interest costs and decreased rate of return on capital investments.²¹ Thus, under current conditions, the bill would lower the AFUDC rate for each utility to fit its current circumstances. If either component of a utility's AFUDC rate increases in the future above its 2006 level (that is, if its interest rates for debt or its allowed rate of return increases), the applicable AFUDC rate could increase to above the 2006 level.

PSC Project Review

The bill creates a schedule for a series of PSC reviews of a power plant project, splitting the preconstruction phase into licensing and other preconstruction work.²²

During the licensing phase, while a utility seeks to obtain a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility may recover only costs related to, or necessary for, obtaining the license or certificate.

After obtaining the license or certificate, the utility must petition the PSC for approval before proceeding with preconstruction work beyond those activities necessary to maintain a license or certificate. The only costs a utility may recover before obtaining PSC approval are those that are previously approved or necessary to maintain the license or certification. For the PSC to approve preconstruction work on a plant, it must determine that:

- There is still a need for the plant; and
- The projected costs for the plant are reasonable and prudent.

During post-licensing or post-certification preconstruction work, the utility must petition the commission for approval of any preconstruction materials or equipment purchases that exceed 1 percent of the total projected cost for the project.²³

Before beginning the construction phase, a utility must petition the PSC for approval to do so. The only costs that a utility may recover before beginning construction work are those that are

²¹ *Supra*, note 19.

²² Although Alex Glenn's testimony divided the preconstruction phase into licensing and other preconstruction work and expenses, he also indicated that this was not two separate processes, that both were pursued somewhat simultaneously. As such, it is uncertain how recovery of some costs will compare between the current statute and the procedure established in the bill. A specific example of this uncertainty is discussed in note 23.

²³ Steven Scroggs stated in his presentation that there is such a backlog on some large pieces of equipment that a utility has to order them 5-6 years before they are actually needed to have them when they are needed in the construction process. PSC staff indicated that the PSC allowed both utilities to pre-order and put down a deposit on a boiler that can only be obtained from one manufacturer worldwide, and to recover this deposit during preconstruction. The bill appears to allow such a pre-order, with PSC approval required if the cost threshold is met, but with the cost of the deposit not recovered until after PSC approval to begin construction is obtained and construction actually begins. However, it is uncertain how it actually will be implemented.

previously approved or necessary to maintain the license or certification. For the commission to approve proceeding with construction on a plant, it must determine that:

- There is still a need for the plant; and
- The projected costs for the plant are reasonable.

A utility must begin construction of a plant within ten years after the date on which it obtains a combined license or a certification or it must petition the PSC to preserve the opportunity for future recovery under this section for costs relating to that plant. To preserve this cost recovery opportunity, the PSC commission must determine whether the utility remains intent on building the plant. If the PSC finds that the utility remains intent on building the plant, the utility retains the ability to recover costs under this section. If the commission finds a lack of such intent, it may enter an order prohibiting recovery of any future costs relating to the plant, notwithstanding any other provision of law.

A utility must begin construction within 20 years after the date on which it obtains a combined license or a certification or it may not recover future costs relating to that plant under this or another section, notwithstanding any other provision of law.

If a utility elects not to complete the construction of a nuclear power plant, the utility may not recover or retain any rate of return. Any cost recovery after the date of the decision may not include a rate of return. The utility shall refund to its customers the costs recovered before the date of the decision which are attributable to a recovery of a rate of return.

Comprehensive Review

Section 2 of the bill requires that the PSC conduct a comprehensive review of the continuing prudence, cost effectiveness, and need for any proposed nuclear power plant for which early cost recovery under s. 366.93, F.S., has been authorized:

- if the currently anticipated in-service date for the plant has been extended more than 6 years beyond the original proposed in-service date, and
- if the most recent estimate of the plant's total cost has increased by more than 50 percent of the original cost estimate for the plant.

In making its determination, the PSC must consider all relevant factors, including, but not limited to:

- the utility's need for the plant,
- technology and fuel choices,
- applicable federal and state licensing and permitting factors, and
- short- and long-term costs to ratepayers.

The review must begin on or before June 1, 2013, and be completed by February 1, 2014.

Based on its review, the commission must determine whether to authorize early cost recovery for any new or future costs for which cost recovery has not already been authorized.

Effective Date

The bill takes effect July 1, 2013.

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

Not applicable; this bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Not applicable; this bill does not have any effect on public records or open meetings.

C. Trust Funds Restrictions:

Not applicable; this bill does not relate to or have any effect on trust funds.

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

None; the bill has no effect on taxes or fees.

B. Private Sector Impact:

The bill will have the following economic impacts on the utilities recovering costs under this statute and their ratepayers.

- The bill applies an AFUDC rate that is based upon the circumstances at the time the cost is incurred. This will always allow each utility to recover all interest costs and a rate of return that is fair and reasonable at the time the cost is incurred. With current AFUDC rates lower than those in effect on June 19, 2006, when the original cost recovery bill became law, the applicable rate --- and the total costs to the utility's customers --- would decrease as a result of CS/SB 1472. *However*, if the total amount of the AFUDC components increase beyond those of the 2006 rates, both the applicable rate and the costs to ratepayers would increase beyond the amounts currently established in the statute.
- The PSC review and approval process will provide protection for ratepayers throughout the development of a power plant for which early cost recovery is being obtained, while not providing significant delay or burden on a utility. The timing on recovery of some costs may be different under the current statute and the bill. In the event that a utility elects not to complete construction of a nuclear power plant, customers will receive specified refunds.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

On lines 186-188, the bill requires that the PSC comprehensive review of a proposed power plant meeting specified criteria commence on or before June 1, 2013. However, as the bill does not take effect until July 1, 2013, the requirement to do the review is not effective until that later date.

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 16, 2013:

- Provides that the PSC must determine that the projected costs for a power plant are prudent; and
- Provides that a utility that elects not to complete the construction of a nuclear power plant may not recover or retain any rate of return for related costs.

CS by Communications, Energy, and Public Utilities on April 8, 2013:

- Deletes the provisions on the automatic repeal and the related reporting requirement;
- Deletes the prohibition on a utility that chooses not to complete a plant recovering or retaining a rate of return;
- Establishes a procedure and a schedule for the Public Service Commission to review and approve continuation of early cost recovery on a project; and
- Requires that the Public Service Commission conduct a comprehensive review of any proposed nuclear power plant that meets specified conditions and for which early cost recovery has been authorized for the purpose of determining whether to authorize early cost recovery for any new or future costs for which cost recovery has not already been authorized.

B. Amendments:

None.

By the Committee on Communications, Energy, and Public Utilities; and Senators Legg, Latvala, Simpson, and Brandes

579-03904-13

20131472c1

1 A bill to be entitled

2 An act relating to nuclear and integrated gasification
3 combined cycle power plants; amending s. 366.93, F.S.;
4 modifying an alternative cost recovery mechanism for
5 the recovery of costs for the siting, design,
6 licensing, and construction of nuclear and integrated
7 gasification combined cycle power plants; establishing
8 a procedure and requirements for cost recovery based
9 on preconstruction and construction phases; requiring
10 the Public Service Commission to review the
11 circumstances surrounding a proposed nuclear power
12 plant if the anticipated cost and completion date
13 exceed the original cost and completion date by a
14 certain amount or period; specifying factors to be
15 considered and dates by which the review must commence
16 and be completed; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (1) through (3) of section 366.93,
21 Florida Statutes, are amended to read:

22 366.93 Cost recovery for the siting, design, licensing, and
23 construction of nuclear and integrated gasification combined
24 cycle power plants.—

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

26 (a) "Cost" includes, but is not limited to, all capital
27 investments, including rate of return, any applicable taxes, and
28 all expenses, including operation and maintenance expenses,
29 related to or resulting from the siting, licensing, design,

579-03904-13

20131472c1

30 construction, or operation of the nuclear power plant, including
31 new, expanded, or relocated electrical transmission lines or
32 facilities of any size which ~~that~~ are necessary thereto, or of
33 the integrated gasification combined cycle power plant.

34 (b) "Electric utility" or "utility" has the same meaning as
35 that provided in s. 366.8255(1) (a).

36 (c) "Integrated gasification combined cycle power plant" or
37 "plant" means an electrical power plant as defined in s.
38 403.503(14) which ~~that~~ uses synthesis gas produced by integrated
39 gasification technology.

40 (d) "Nuclear power plant" or "plant" means an electrical
41 power plant as defined in s. 403.503(14) which ~~that~~ uses nuclear
42 materials for fuel.

43 (e) "Power plant" or "plant" means a nuclear power plant or
44 an integrated gasification combined cycle power plant.

45 (f) "Preconstruction" is that period of time after a site,
46 including ~~any~~ related electrical transmission lines or
47 facilities, has been selected through and including the date the
48 utility completes site clearing work. Preconstruction costs must
49 ~~shall~~ be afforded deferred accounting treatment and ~~shall~~ accrue
50 a carrying charge equal to the utility's allowance for funds
51 during construction (AFUDC) rate until recovered in rates.

52 (2) Within 6 months after the enactment of this act, the
53 commission shall establish, by rule, alternative cost recovery
54 mechanisms for the recovery of costs incurred in the siting,
55 design, licensing, and construction of a nuclear power plant,
56 including new, expanded, or relocated electrical transmission
57 lines and facilities that are necessary thereto, or of an
58 integrated gasification combined cycle power plant. Such

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59 mechanisms must ~~shall~~ be designed to promote utility investment
60 in nuclear or integrated gasification combined cycle power
61 plants and allow for the recovery in rates of all prudently
62 incurred costs, including ~~and shall include~~, but not be limited
63 to:

64 (a) Recovery through the capacity cost recovery clause of
65 any preconstruction costs.

66 (b) Recovery through an incremental increase in the
67 utility's capacity cost recovery clause rates of the carrying
68 costs on the utility's projected construction cost balance
69 associated with the nuclear or integrated gasification combined
70 cycle power plant. To encourage investment and provide
71 certainty, ~~for nuclear or integrated gasification combined cycle~~
72 ~~power plant need petitions submitted on or before December 31,~~
73 ~~2010,~~ associated carrying costs must ~~shall~~ be equal to the most
74 recently approved pretax AFUDC at the time an increment of cost
75 recovery is sought ~~in effect upon this act becoming law. For~~
76 ~~nuclear or integrated gasification combined cycle power plants~~
77 ~~for which need petitions are submitted after December 31, 2010,~~
78 ~~the utility's existing pretax AFUDC rate is presumed to be~~
79 ~~appropriate unless determined otherwise by the commission in the~~
80 ~~determination of need for the nuclear or integrated gasification~~
81 ~~combined cycle power plant.~~

82 (3) (a) After a petition for determination of need is
83 granted, a utility may petition the commission for cost recovery
84 as permitted by this section and commission rules.

85 (b) During the time that a utility seeks to obtain a
86 combined license from the Nuclear Regulatory Commission for a
87 nuclear power plant or a certification for an integrated

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88 gasification combined cycle power plant, the utility may recover
89 only costs related to, or necessary for, obtaining such
90 licensing or certification.

91 (c) After a utility obtains a license or certification, it
92 must petition the commission for approval before proceeding with
93 preconstruction work beyond those activities necessary to obtain
94 or maintain a license or certificate.

95 1. The only costs that a utility that has obtained a
96 license or certification may recover before obtaining commission
97 approval are those that are previously approved or necessary to
98 maintain the license or certification.

99 2. In order for the commission to approve preconstruction
100 work on a plant, it must determine that:

101 a. There is still a need for the plant; and

102 b. The projected costs for the plant are reasonable.

103 (d) After a utility obtains approval to proceed with post-
104 licensing or post-certification preconstruction work, it must
105 petition the commission for approval of any preconstruction
106 materials or equipment purchases that exceed 1 percent of the
107 total projected cost for the project.

108 (e) A utility must petition the commission for approval
109 before beginning the construction phase.

110 1. The only costs that a utility that has obtained
111 commission approval may recover before beginning construction
112 work are those that are previously approved or necessary to
113 maintain the license or certification.

114 2. In order for the commission to approve proceeding with
115 construction on a plant, it must determine that:

116 a. There is still a need for the plant; and

579-03904-13

20131472c1

117 b. The projected costs for the plant are reasonable.

118 (f) If a utility has not begun construction of a plant
119 within:

120 1. Ten years after the date on which it obtains a combined
121 license from the Nuclear Regulatory Commission for a nuclear
122 power plant or a certification for an integrated gasification
123 combined cycle power plant, it must petition the commission to
124 preserve the opportunity for future recovery under this section
125 for costs relating to that plant. The commission must determine
126 whether the utility remains intent on building the plant.

127 a. If the commission finds that the utility remains intent
128 on building the plant, the utility may continue to recover
129 costs.

130 b. If the commission finds a lack of such intent, it may
131 enter an order prohibiting recovery of any future costs relating
132 to the plant, notwithstanding any other provision of law.

133 2. Twenty years after the date on which it obtains a
134 combined license from the Nuclear Regulatory Commission for a
135 nuclear power plant or a certification for an integrated
136 gasification combined cycle power plant, the utility may not
137 recover future costs relating to that plant under this or
138 another section, notwithstanding any other provision of law.

139 Section 2. The Public Service Commission shall perform a
140 comprehensive review of the continuing prudence, cost
141 effectiveness, and need for any proposed nuclear power plant for
142 which cost recovery under section 366.93, Florida Statutes, has
143 been authorized if the currently anticipated inservice date for
144 the plant has been extended more than 6 years beyond the
145 original proposed inservice date and if the most recent estimate

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20131472c1

146 of the plant's total cost has increased by more than 50 percent
147 of the original cost estimate for the plant. In making this
148 determination, the commission must consider all relevant
149 factors, including, but not limited to, the utility's need for
150 the plant, technology and fuel choices, applicable federal and
151 state licensing and permitting factors, and short- and long-term
152 costs to ratepayers. Based on its review, the commission shall
153 determine whether to authorize for cost recovery under section
154 366.93, Florida Statutes, any new or future costs for which cost
155 recovery has not already been authorized. Such review shall
156 commence on or before June 1, 2013, and shall be completed by
157 February 1, 2014.

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



270770

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
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	.	

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

Senate Amendment

Delete line 42
and insert:
political subdivision, a county school district, or an



822376

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 143
and insert:
conservation measures is unlikely to ~~will not likely~~



223804

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 130
and insert:
accuracy or performance; and identified capital savings,



753256

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2013	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 283 and 284
insert:

Section 2. Section 489.1451, Florida Statutes, is created
to read:

489.1451 Qualified energy conservation bond allocation.-

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

(a) "Department" means the Department of Agriculture and
Consumer Services.

(b) "Eligible issuer" means an entity that is created under
or pursuant to the constitution or laws of this state and that



753256

13 is authorized by this state to issue bonds or enter into a
14 lease-purchase agreement, or any other entity in this state
15 authorized to issue qualified energy conservation bonds pursuant
16 to the Internal Revenue Code.

17 (c) "Qualified energy conservation bond" means a bond
18 described in 26 U.S.C. s. 54D(a).

19 (d) "Qualified project" means a project permitted to be
20 financed pursuant to 26 U.S.C. s. 54D(f).

21 (2) PURPOSE.—The purpose of this section is to allocate the
22 state volume limitation provided under 26 U.S.C. s. 54D for
23 qualified energy conservation bonds issued to finance qualified
24 projects.

25 (3) ALLOCATION OF STATE VOLUME LIMITATION.—

26 (a) The department shall establish an allocation program
27 for allocating or reallocating the qualified energy conservation
28 bond volume limitation provided by 26 U.S.C. s. 54D. The
29 allocation program must provide notification of all mandatory
30 allocations required or authorized pursuant to the Internal
31 Revenue Code.

32 1. All mandatory allocations pursuant to 26 U.S.C. s.
33 54D(e) (2) (A) shall be allocated to eligible issuers as provided
34 for therein.

35 2. An eligible issuer receiving a mandatory allocation
36 pursuant to subparagraph 1. may elect to reallocate all or any
37 portion of its allocation back to the state pursuant to 26
38 U.S.C. s. 54D(e) (2) (B).

39 (b) The department may reallocate to eligible issuers in
40 the state any allocation that was retained by the state from the
41 original federal allocation or any allocation that is waived by



753256

42 an eligible issuer pursuant to subparagraph 2. Such reallocation
43 shall be based on objective criteria established by the
44 department which must be considered in determining whether to
45 grant such discretionary requests for allocation, including, but
46 not limited to, the reduction in energy consumption by the
47 qualified project; the number of persons to be served by such
48 project; the investment payback period of the proposed project;
49 the economic benefit to be gained from the project; the number
50 of jobs created or retained due to the project, the duration of
51 such jobs, the estimated annual wages for such jobs, and the
52 number of jobs the project applicant already employs in the
53 state; the environmental benefits of the project, such as water
54 conservation, greenhouse gas reduction, or storm water
55 reduction; the impact on diversification of energy generation
56 and transportation sources in the state; the impact on aging
57 infrastructure; and the level of critical economic concern in
58 the area in which the project is located.

59 (c) Each eligible issuer receiving an allocation shall
60 notify the department in writing of the amount of bonds issued
61 and other information relating to the bonds or the allocation at
62 such time and in such manner as is required by the department.

63 (d) A bond subject to the limitations provided in 26 U.S.C.
64 s. 54D may not be issued in this state unless issued pursuant to
65 this section.

66 (4) INFORMATION AVAILABILITY.—The department shall
67 determine the amount of qualified energy conservation bond
68 allocations for each qualified issuer in this state under 26
69 U.S.C. s. 54D and shall make such information available upon
70 request to any person or agency.



753256

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

And the title is amended as follows:

Delete line 30

and insert:

language; creating s. 489.1451, F.S.; providing a
purpose; providing definitions; requiring the
Department of Agriculture and Consumer Services to
establish a program for allocating or reallocating the
qualified energy conservation bond volume limitation;
providing for the allocation or reallocation of
qualified energy conservation bonds; requiring the
department to make certain information available upon
request; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/13

Meeting Date

Topic Qualified Energy Conservation Bonds

Bill Number 1594

Name Ryan Matthews

Amendment Barcode 753256
(if applicable)

Job Title Leg Advocate

Address PO Box 1757

Phone 222 9684

Street
Tallahassee FL 32302
City State Zip

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/16/13

Meeting Date

Topic QUALIFIED ENERGY CONSERVATION BONDS Bill Number 1594
(if applicable)

Name TRAVIS YELVERTON Amendment Barcode 753256
(if applicable)

Job Title CEO, ENERGY CONSULTING

Address 411 EAST COLLEGE AVE
Street

Phone 850-321-7555

TLH FL 32301
City State Zip

E-mail capitalxpansion@gmail.com

Speaking: For Against Information

Representing CAPITAL EXPANSION LLC

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)

4/16/2013

Meeting Date

Topic _____

Bill Number 1594
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____

Bill Number SB1354
(if applicable)

Name JUSTIN HOLLIS

Amendment Barcode SOTO
753256
(if applicable)

Job Title DEPUTY LEGISLATIVE AFFAIRS DIRECTOR

Address PL-70
Street

Phone 617-7722

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing DACS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: April 10, 2013

I respectfully request that **Senate Bill # 1594**, relating to Guaranteed Performance, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

The Florida Senate
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/CS/SB 1594

INTRODUCER: Community Affairs Committee; Environmental Preservation and Conservation Committee; Communications, Energy, and Public Utilities Committee; and Senator Bradley

SUBJECT: Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.	Hinton	Uchino	EP	Fav/CS
3.	Anderson	Yeatman	CA	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/CS/CS/SB 1594 adds a county school district, or an institution of higher education, including all state universities, colleges, and technical colleges to the list of governmental entities authorized to enter into guaranteed energy, water, and wastewater performance savings contracts.

The bill revises the definition of the term “energy, water, and wastewater efficiency and conservation measure” to expressly include not only an addition to existing facilities or infrastructure but also a building retrofit or renovation. It also authorizes inclusion of a variety of new savings measures in a contract.

Finally, the bill requires that the Office of the Chief Financial Officer complete its review and approval of a performance savings contract, a contract or lease for third-party financing, or any combination of such contracts within 10 business days after receiving the proposed contract or lease. To make this review more efficient, the bill requires that a proposed contract or lease with a state agency must include an investment-grade audit, certified by the Department of

Management Services, which states the cost savings are appropriate and sufficient for the term of the contract.

This bill substantially amends section 489.145 of the Florida Statutes.

II. Present Situation:

Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act

Section 489.145, F.S., is the “Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act.” The act is based upon a legislative finding that investment in energy, water, and wastewater efficiency and conservation measures in agency facilities can reduce the amount of energy and water consumed and wastewater produced, and produce immediate and long-term savings. It encourages each agency to invest in these measures to minimize energy and water consumption and wastewater production and maximize energy, water, and wastewater savings, and to reinvest any resulting savings in additional efficiency and conservation measures.

The statute authorizes an agency seeking to achieve energy, water, or wastewater cost savings to enter into a guaranteed energy, water, and wastewater performance savings contract (performance contract) with a guaranteed energy, water, and wastewater performance savings contractor (contractor) and to have the contractor use an energy, water, and wastewater efficiency and conservation measure (measure).¹

Agency is defined as the state, a municipality, or a political subdivision, thus authorizing these entities to enter into performance contracts.²

A performance contract is a contract for the evaluation, recommendation, and implementation of energy, water, or wastewater efficiency or conservation measures. It must, at a minimum, include:

- The design and installation of equipment to implement one or more measures and, if applicable, operation and maintenance of the measures.
- The amount of any actual annual savings that meet or exceed total annual contract payments made by the agency for the contract and may include allowable cost avoidance if determined appropriate by the Chief Financial Officer.
- The finance charges incurred by the agency over the life of the contract.³

A contractor is a person or business with experience in the analysis, design, implementation, or installation of energy, water, and wastewater efficiency and conservation measures through energy performance contracts and that is licensed under:

- Chapter 471, F.S., – providing for the licensing of engineers;
- Chapter 481, F.S., – providing for the licensing of architects, interior designers, and landscape architects; or
- Chapter 489, F.S., – providing for the licensing of construction contractors.⁴

¹ Section 489.145(4)(a), F.S.

² Section 489.145(3)(a), F.S.

³ Section 489.145(3)(d), F.S.

⁴ Section 489.145(3)(e), F.S.

An energy, water, and wastewater efficiency and conservation measure is a training program incidental to the contract, facility alteration, or equipment purchase to be used in new construction, including an addition to existing facilities or infrastructure, which reduces energy or water consumption, wastewater production, or energy-related operating costs and includes, but is not limited to:

- Insulation of the facility structure and systems within the facility;
- Storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing, or heat-reflective, glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- Automatic energy control systems;
- Heating, ventilating, or air-conditioning system modifications or replacements;
- Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system, which, at a minimum, must conform to the applicable state or local building code;
- Energy recovery systems;
- Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a facility or complex of facilities;
- Energy conservation measures that reduce British thermal units (Btu), kilowatts (kW), or kilowatt hours (kWh) consumed or provide long-term operating cost reductions;
- Renewable energy systems, such as solar, biomass, or wind systems;
- Devices that reduce water consumption or sewer charges;
- Energy storage systems, such as fuel cells and thermal storage;
- Energy-generating technologies, such as microturbines; or
- Any other repair, replacement, or upgrade of existing equipment.⁵

Finally, energy, water, or wastewater cost savings is a measured reduction in the cost of fuel, energy or water consumption, wastewater production, and stipulated operation and maintenance created from the implementation of one or more measures when compared with an established baseline for the previous cost of fuel, energy or water consumption, wastewater production, and stipulated operation and maintenance.⁶

An agency may enter into a performance contract only if the agency finds that the amount the agency would spend on the measures is not likely exceed the amount of the cost savings for up to 20 years from the date of installation if the recommendations in the report were followed, with calculations based on the life-cycle cost calculations provided in s. 255.255, F.S. Additionally, the qualified provider or providers must give a written guarantee that the cost savings will meet or exceed the costs of the system. Actual computed cost savings must meet or exceed the estimated cost savings provided in each agency's program approval.⁷

Prior to entering into a performance contract, any contract or lease for third-party financing, or any combination of such contracts, a state agency must submit the proposed contract or lease to

⁵ Section 489.145(3)(b), F.S.

⁶ Section 489.145(3)(c), F.S.

⁷ Section 489.145(4)(c), F.S.

the Office of the Chief Financial Officer for review and approval.⁸ Section 489.145, F.S., provides that an investment grade energy audit is a detailed energy, water, and wastewater audit, including an accompanying analysis of proposed energy, water, and wastewater conservation measures along with their costs, savings and benefits, completed prior to entry into an energy savings contract.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 489.145, F.S., to add a county school district, or an institution of higher education, including all state universities, colleges, and technical colleges, to the definition of the term “agency,” which allows these entities to enter into performance contracts.

The bill revises the definition of the term “energy, water, and wastewater efficiency and conservation measure” to include not only an addition to existing facilities or infrastructure, but also a building retrofit or renovation. It also adds to the list of cost savings measures:

- Installing or modifying window and door systems that reduce energy consumption or operating costs;
- Installing or modifying automated, electronic, or remotely controlled technologies, systems, or measures that reduce utility or operating costs;
- Installing or modifying software-based systems that reduce facility management or other facility operating costs;
- Installing or modifying energy information and control systems that monitor consumption, redirect systems to optimal energy sources, and manage energy-using equipment;
- Installing, replacing, or modifying heating, ventilating, air-conditioning systems, or lighting fixtures;
- Implementing a program to reduce energy costs through rate adjustments, load shift to reduce peak demand, use demand response programs, change to more favorable rate schedules, or audit utility billing and metering;
- An improvement that reduces solid waste and associated removal costs;
- Meter replacement, installation of an automated meter reading system, or other construction, modification, installation, or remodeling of water, electric, gas, fuel, communication, or other supplied utility system;
- Any other energy conservation measure that reduces Btu, kW, or kWh; reduces fuel or water consumption in the building or wastewater production; or reduces an operating cost or provides long-term cost reductions;
- Any other repair, replacement, or upgrade of existing equipment that produces measurable savings, or any other construction, modification, installation, or remodeling that is approved by an agency and that is within the legislative authority granted the agency, such as an energy conservation measure; and
- Any other measure not otherwise defined in ch. 489, F.S., that is designed to reduce utility consumption, revenue enhancements, wastewater cost savings, avoided capital costs, or similar efficiency gains to a governmental unit.

⁸ Section 489.145(6), F.S.

⁹ Section 149.145(3)(f), F.S.

Finally, the bill requires that the Office of the Chief Financial Officer complete its review and approval of a performance savings contract, a contract or lease for third-party financing, or any combination of such contracts within 10 business days after receiving the proposed contract or lease. To make this review more efficient, the bill requires that a proposed contract or lease with a state agency must include an investment-grade audit, certified by the Department of Management Services, which states that the cost savings are appropriate and sufficient for the term of the contract.

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

Other Potential Implications:

Lines 226-231 allow a performance contract to include “a facility alteration that includes expenditures that are required to properly implement other energy conservation measures may be included as part of a performance contract. In such case, notwithstanding any provision of law, the installation of these additional measures may be supervised by the performance savings contractor.” As was set forth above, a “guaranteed energy, water, and wastewater performance savings contractor” is a person or business that is licensed pursuant to one of three specified chapters in the Florida Statutes and is experienced in the analysis, design, implementation, or installation of energy, water, and wastewater efficiency and conservation measures through energy performance contracts. These three chapters contain approximately 25 different types of licenses, as listed above. This language in the bill may allow a contractor to engage in activities that otherwise would be unlicensed activity and that the contractor is not qualified to do.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in more performance contracts with contractors. The effect is indeterminate at this time.

C. **Government Sector Impact:**

The bill may result in additional cost savings to agencies entering into performance contracts, including the state, a municipality, a political subdivision, a county or city school district, or an institution of higher education, including all state universities, colleges, and technical colleges. The effect is indeterminate at this time.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS/CS/CS by Community Affairs on April 16, 2013:

The committee substitute made technical and clarifying changes to the bill.

CS/CS by Environmental Preservation and Conservation Committee on April 9, 2013:

The CS removes language that conflicted with current law regarding alternative energy suppliers. The Florida Statutes grant energy suppliers exclusive territories.

CS by Communications, Energy, and Public Utilities on April 1, 2013:

- retains the existing statutory requirement that cost calculations be based on the life-cycle costs provided in s. 255.255, F.S., and the prohibition on applying any grants, etc., in performing these calculations;
- deletes the proposed language allowing a performance contract to include “an improvement that is not causally connected to an energy conservation measure;” and
- requires a proposed contract or lease to include an investment-grade audit certified by the Department of Management Services, which approves cost savings.

B. **Amendments:**

None.

By the Committees on Environmental Preservation and Conservation; and Communications, Energy, and Public Utilities; and Senator Bradley

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1 A bill to be entitled
2 An act relating to the Guaranteed Energy, Water, and
3 Wastewater Performance Savings Contracting Act;
4 amending s. 489.145, F.S.; revising the terms
5 "agency," "energy, water, and wastewater efficiency
6 and conservation measure," and "energy, water, or
7 wastewater cost savings"; providing that a contract
8 may provide for repayments to a lender of an
9 installation construction loan in installments for a
10 period not to exceed 20 years; requiring a contract to
11 provide that repayments to a lender of an installation
12 construction loan may be made over time, not to exceed
13 20 years from a certain date; requiring a contract to
14 provide for a certain amount of repayment to the
15 lender of the installation construction loan within 2
16 years of a specified date; authorizing certain
17 facility alterations to be included in a performance
18 contract and to be supervised by the performance
19 savings contractor; limiting the time allotted to the
20 Office of the Chief Financial Officer to review and
21 approve an agency's guaranteed energy, water, and
22 wastewater performance savings contract; requiring
23 that a proposed contract include an investment-grade
24 audit certified by the Department of Management
25 Services which states that the cost savings are
26 appropriate and sufficient for the term of the
27 contract; clarifying that, for funding purposes of
28 consolidated financing of deferred payment commodity
29 contracts, an agency means a state agency; conforming

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30 language; providing an effective date.

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

33
34 Section 1. Paragraphs (a) through (c) of subsection (3),
35 paragraphs (c) and (j) of subsection (4), and subsections (5)
36 through (7) of section 489.145, Florida Statutes, are amended to
37 read:

38 489.145 Guaranteed energy, water, and wastewater
39 performance savings contracting.—

40 (3) DEFINITIONS.—As used in this section, the term:

41 (a) "Agency" means the state, a municipality, ~~or a~~
42 political subdivision, a county or city school district, or an
43 institution of higher education, including all state
44 universities, colleges, and technical colleges.

45 (b) "Energy, water, and wastewater efficiency and
46 conservation measure" means a training program incidental to the
47 contract, facility alteration, or equipment purchase to be used
48 in a building retrofit, addition, or renovation or in new
49 ~~construction, including an addition to existing facilities or~~
50 ~~infrastructure,~~ which reduces energy or water consumption,
51 wastewater production, or energy-related operating costs and
52 includes, but is not limited to, any of the following:

53 1. Installing or modifying any of the following:

54 a. Insulation of the facility structure and systems within
55 the facility.

56 b. ~~2.~~ Window and door systems that reduce energy consumption
57 or operating costs, such as storm windows and doors, caulking or
58 weatherstripping, multiglazed windows and doors, heat-absorbing,

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59 or heat-reflective, glazed and coated window and door systems,
60 additional glazing, and reductions in glass area, ~~and other~~
61 ~~window and door system modifications that reduce energy~~
62 ~~consumption.~~

63 c.3. Automatic energy control systems.

64 ~~4. Heating, ventilating, or air-conditioning system~~
65 ~~modifications or replacements.~~

66 ~~5. Replacement or modifications of lighting fixtures to~~
67 ~~increase the energy efficiency of the lighting system, which, at~~
68 ~~a minimum, must conform to the applicable state or local~~
69 ~~building code.~~

70 d.6. Energy recovery systems.

71 e.7. Cogeneration systems that produce steam or forms of
72 energy such as heat, as well as electricity, for use primarily
73 within a facility or complex of facilities.

74 ~~8. Energy conservation measures that reduce British thermal~~
75 ~~units (Btu), kilowatts (kW), or kilowatt hours (kWh) consumed or~~
76 ~~provide long-term operating cost reductions.~~

77 f.9. Renewable energy systems, ~~such as solar, biomass, or~~
78 ~~wind systems.~~

79 g.10. Devices that reduce water consumption or sewer
80 charges.

81 h.11. Energy storage systems, such as fuel cells and
82 thermal storage.

83 i.12. Energy-generating technologies, ~~such as~~
84 ~~microturbines.~~

85 j. Automated, electronic, or remotely controlled
86 technologies, systems, or measures that reduce utility or
87 operating costs.

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88 k. Software-based systems that reduce facility management
89 or other facility operating costs.

90 1. Energy information and control systems that monitor
91 consumption, redirect systems to optimal energy sources, and
92 manage energy-using equipment.

93 2. Installing, replacing, or modifying any of the
94 following:

95 a. Heating, ventilating, or air-conditioning systems.

96 b. Lighting fixtures.

97 3. Implementing a program to reduce energy costs through
98 rate adjustments, load shifting to reduce peak demand, demand
99 response programs, changes to more favorable rate schedules, or
100 auditing utility billing and metering.

101 4. An improvement that reduces solid waste and associated
102 removal costs.

103 5. Meter replacement, installation, or modification;
104 installation of an automated meter reading system; or other
105 construction, modification, installation, or remodeling of
106 water, electric, gas, fuel, communication, or other supplied
107 utility system.

108 6. Any other energy conservation measure that reduces
109 British thermal units (Btu), kilowatts (kW), or kilowatt hours
110 (kWh); that reduces fuel or water consumption in the building or
111 waste water production; or that reduces operating costs or
112 provides long-term cost reductions.

113 ~~7.13.~~ Any other repair, replacement, or upgrade of existing
114 equipment that produces measurable savings, or any other
115 construction, modification, installation, or remodeling that is
116 approved by an agency and that is within the legislative

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117 authority granted the agency, such as an energy conservation
118 measure.

119 8. Any other measure not otherwise defined in this chapter
120 which is designed to reduce utility consumption, reduce
121 wastewater costs, enhance revenue, avoid capital costs, or
122 achieve similar efficiency gains at an agency or other
123 governmental unit.

124 (c) "Energy, water, or wastewater cost savings" means a
125 measured reduction in the cost of fuel, energy or water
126 consumption, or wastewater production;~~and~~ stipulated operation
127 and maintenance savings; improvements in supplied utility
128 systems, including, without limitation, revenue enhancements or
129 reduction in net operating costs resulting from increased meter
130 accuracy or performance; and identified avoided capital savings,
131 created from the implementation of one or more energy, water, or
132 wastewater efficiency or conservation measures when compared
133 with an established baseline for the previous cost of fuel,
134 energy or water consumption, wastewater production, ~~and~~
135 stipulated operation and maintenance, meter accuracy or
136 performance, and identified capital costs.

137 (4) PROCEDURES.—

138 (c) ~~An~~ The agency may enter into a guaranteed energy,
139 water, and wastewater performance savings contract with a
140 guaranteed energy, water, and wastewater performance savings
141 contractor if the agency finds that the amount the agency would
142 spend on the energy, water, and wastewater efficiency and
143 conservation measure is unlikely to ~~measures will not likely~~
144 exceed the amount of the cost savings for up to 20 years after
145 ~~from~~ the date of installation, based on the life cycle cost

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146 calculations provided in s. 255.255, if the recommendations in
147 the report were followed and if the qualified provider or
148 providers give a written guarantee that the cost savings will
149 meet or exceed the costs of the system. However, actual computed
150 cost savings must meet or exceed the estimated cost savings
151 provided in each agency's program approval. Baseline adjustments
152 used in calculations must be specified in the contract. The
153 contract may provide for repayment to the lender of the
154 installation construction loan through installment payments for
155 a period not to exceed 20 years.

156 (j) In determining the amount the agency will finance to
157 acquire the energy, water, and wastewater efficiency and
158 conservation measures, the agency may reduce such amount by the
159 application of ~~any~~ grant moneys, rebates, or capital funding
160 available to the agency for the purpose of buying down the cost
161 of the guaranteed energy, water, and wastewater performance
162 savings contract. However, in calculating the life cycle cost as
163 required in paragraph (c), the agency shall not apply any
164 grants, rebates, or capital funding.

165 (5) CONTRACT PROVISIONS.—

166 (a) A guaranteed energy, water, and wastewater performance
167 savings contract must include a written guarantee that may
168 include, but is not limited to the form of, a letter of credit,
169 insurance policy, or corporate guarantee by the guaranteed
170 energy, water, and wastewater performance savings contractor
171 that annual cost savings will meet or exceed the amortized cost
172 of energy, water, and wastewater efficiency and conservation
173 measures.

174 (b) The guaranteed energy, water, and wastewater

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175 performance savings contract or the loan agreement related
176 thereto must provide that all repayments to the lender of the
177 installation construction loan payments, except obligations on
178 termination of the contract before its expiration, may be made
179 over time, but may not ~~to~~ exceed 20 years from the date of
180 complete installation and acceptance by the agency, and that the
181 annual cost savings are guaranteed to the extent necessary to
182 make annual payments to satisfy the guaranteed energy, water,
183 and wastewater performance savings contract.

184 (c) The guaranteed energy, water, and wastewater
185 performance savings contract must require that the guaranteed
186 energy, water, and wastewater performance savings contractor to
187 whom the contract is awarded provide a 100-percent public
188 construction bond to the agency for its faithful performance, as
189 required by s. 255.05.

190 (d) The guaranteed energy, water, and wastewater
191 performance savings contract may contain a provision allocating
192 to the parties to the contract ~~any~~ annual cost savings that
193 exceed the amount of the cost savings guaranteed in the
194 contract.

195 (e) The guaranteed energy, water, and wastewater
196 performance savings contract must ~~shall~~ require the guaranteed
197 energy, water, and wastewater performance savings contractor to
198 provide to the agency an annual reconciliation of the guaranteed
199 energy or associated cost savings. If the reconciliation reveals
200 a shortfall in annual energy or associated cost savings, the
201 guaranteed energy, water, and wastewater performance savings
202 contractor is liable for such shortfall. If the reconciliation
203 reveals an excess in annual cost savings, the excess savings may

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204 be allocated under paragraph (d) but may not be used to cover
205 potential energy or associated cost savings shortages in
206 subsequent contract years.

207 (f) The guaranteed energy, water, and wastewater
208 performance savings contract or the loan agreement related
209 thereto must provide for repayment to the lender of the
210 installation construction loan payments of not less than one-
211 twentieth of the price to be paid within 2 years from the date
212 of the complete installation and acceptance by the agency using
213 straight-line amortization for the term of the loan, and the
214 remaining costs to be paid at least quarterly, not to exceed a
215 20-year term, based on life cycle cost calculations.

216 (g) The guaranteed energy, water, and wastewater
217 performance savings contract may extend beyond the fiscal year
218 in which it becomes effective; however, the term of a ~~any~~
219 contract expires at the end of each fiscal year and may be
220 automatically renewed annually for up to 20 years, subject to
221 the agency making sufficient annual appropriations based upon
222 continued realized energy, water, and wastewater savings.

223 (h) The guaranteed energy, water, and wastewater
224 performance savings contract must stipulate that it does not
225 constitute a debt, liability, or obligation of the state.

226 (i) A facility alteration that includes expenditures that
227 are required to properly implement other energy conservation
228 measures may be included as part of a performance contract. In
229 such case, notwithstanding any provision of law, the
230 installation of these additional measures may be supervised by
231 the performance savings contractor.

232 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The

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233 Department of Management Services, with the assistance of the
234 Office of the Chief Financial Officer, shall, within available
235 resources, provide technical content assistance to state
236 agencies contracting for energy, water, and wastewater
237 efficiency and conservation measures and engage in other
238 activities considered appropriate by the department for
239 promoting and facilitating guaranteed energy, water, and
240 wastewater performance contracting by state agencies. The
241 Department of Management Services shall review the investment-
242 grade audit for each proposed project and certify that the cost
243 savings are appropriate and sufficient for the term of the
244 contract. The Office of the Chief Financial Officer, with the
245 assistance of the Department of Management Services, shall,
246 within available resources, develop model contractual and
247 related documents for use by state agencies. Before ~~Prior to~~
248 entering into a guaranteed energy, water, and wastewater
249 performance savings contract, a ~~any~~ contract or lease for third-
250 party financing, or any combination of such contracts, a state
251 agency shall submit such proposed contract or lease to the
252 Office of the Chief Financial Officer for review and approval.
253 The Office of the Chief Financial Officer shall complete its
254 review and approval within 10 business days after receiving the
255 proposed contract or lease. A proposed contract or lease with a
256 state agency must ~~shall~~ include the following:

257 (a) Supporting information required by s. 216.023(4)(a)9.
258 in ss. 287.063(5) and 287.064(11). For contracts approved under
259 this section, the criteria may, at a minimum, include the
260 specification of a benchmark cost of capital and minimum real
261 rate of return on energy, water, or wastewater savings against

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262 which proposals shall be evaluated.

263 (b) Documentation supporting recurring funds requirements
264 in ss. 287.063(5) and 287.064(11).

265 (c) Approval by the head of the agency or his or her
266 designee.

267 (d) An agency measurement and verification plan to monitor
268 cost savings.

269 (e) An investment-grade audit, certified by the Department
270 of Management Services, which states that the cost savings are
271 appropriate and sufficient for the term of the contract.

272 (7) FUNDING SUPPORT.—For purposes of consolidated financing
273 of deferred payment commodity contracts under this section by a
274 state ~~an~~ agency, any such contract must be supported from
275 available funds appropriated to the state agency in an
276 appropriation category, as defined in chapter 216, that the
277 Chief Financial Officer has determined is appropriate or that
278 the Legislature has designated for payment of the obligation
279 incurred under this section.

280
281 The Office of the Chief Financial Officer shall not approve any
282 contract submitted under this section from a state agency that
283 does not meet the requirements of this section.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 116 12013

Meeting Date

Topic _____

Bill Number 514
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

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Speaking: For Against Information

Representing JUSTICE-2-JESUS

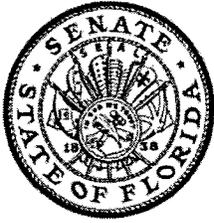
Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

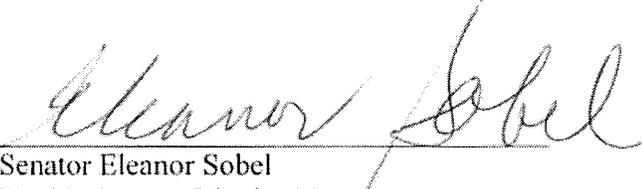
To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

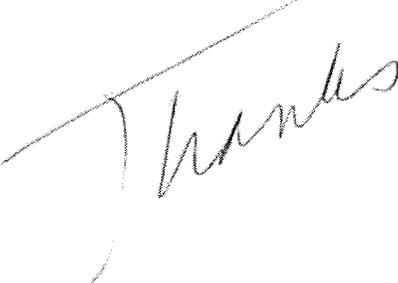
Date: April 10, 2013

I respectfully request that **Senate Bill # 514**, relating to Public School Safety, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Eleanor Sobel
Florida Senate, District 33



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 514

INTRODUCER: Senator Sobel

SUBJECT: Public School Safety

DATE: April 11, 2013

REVISED: _____

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

I. Summary:

SB 514 creates the School Safety Act to authorize a county to create an independent special district by ordinance to identify and assess the security and mental health referral needs of all schools served by the school board.

Funding would be through an annual ad valorem tax of up to 0.5 mills, if approved by a majority of the electors in the county voting in a referendum held for that purpose. Funds collected are intended to be used to support improvements in services for county schools and students, rather than a substitute for existing resources or resources that would otherwise be available for security and mental health referral needs.

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

This bill creates an undesignated section of law.

II. Present Situation:

School Safety and Security

There are numerous provisions of law relating to school safety and security for public schools, including the following:

Emergency Preparedness

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies and procedures include responding to fires, natural disasters, bomb threats, weapon-use and hostage situations, hazardous materials or toxic chemical spills, and weather emergencies.¹

School district cooperation with emergency response agencies is incorporated into the Safety and Security Best Practices, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies.²

School Safety Zones

A “school safety zone” is defined as being in, on, or within 500 feet of real property owned by or leased to any public or private elementary, middle, or high school or school board which is used for elementary, middle, or high school education.³ Principals are required to notify law enforcement to prohibit persons who have no legitimate business or any other authorization from loitering in a school safety zone.⁴

School Resource Officers and School Safety Officers; Mutual Aid Agreements

School districts may establish school resource officer (SRO) programs through a cooperative agreement with law enforcement agencies.⁵ SROs are certified law enforcement officers, who are employed by a law enforcement agency.⁶ The powers and duties of a law enforcement officer continue throughout the employee’s tenure as a SRO.⁷ School safety officers (SSOs) are law enforcement officers who are employed by either a law enforcement agency or by a school district.⁸

A school district may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23, F.S. A SSO’s salary may be paid jointly by the school district and a law enforcement agency, as mutually agreed to.

Zero Tolerance Policies

School districts are required to have zero tolerance policies.⁹ However, cooperative agreements between the school district and local law enforcement do not require school districts to report petty misconduct and misdemeanors to law enforcement.¹⁰

¹ Section 1006.07(4), F.S.

² Section 1006.07(6), F.S.

³ Section 810.0975(1), F.S.

⁴ Section 810.0975(2)(a), F.S.

⁵ Section 1006.12(1), F.S.

⁶ *Id.* SROs abide by school district policies and coordinate activities with the school principal. They are responsible to the law enforcement agency in employment matters unless agreements are otherwise made with the school district.

⁷ *Id.*

⁸ Section 1006.12(2), F.S. A SSO has the power to make arrests on school district property and to arrest persons under the same conditions that deputy sheriffs are authorized to make arrests.

⁹ Section 1006.13(1), F.S.

Mental Health Referrals

Some components relating to mental health referrals and associated services include the following:

School Health Services

The Department of Health, in conjunction with the Department of Education, supervises the administration of the school health services program.¹¹ Each county health department develops a school health services plan in conjunction with the school board and health advisory committee. The district school board must include health services and health education as part of the comprehensive plan for the school district, make physical facilities available for health services, and provide to parents information concerning ways to help children be physically active and practice healthy eating.¹²

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school.¹³ District school boards are responsible for ensuring mental health services are provided for those exceptional education students who require such services to benefit from education.¹⁴

Medicaid School Funding

Each school district is authorized to certify funds provided for a category of required Medicaid “school-based services,” which are reimbursable under the federal Medicaid program. Such services must include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, and Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administrative outreach and services.¹⁵

The Agency for Health Care Administration is responsible for monitoring compliance of each participating school district with Medicaid provider agreements. In addition, the Agency for Health Care Administration must develop standardized recordkeeping procedures for the school districts that meet Medicaid requirements for audit purposes.¹⁶

Multiagency Services for Severely Emotionally Disturbed Students

Students who are severely emotionally disturbed are eligible for an intensive, integrated educational program, a continuum of mental health treatment services, and, when needed, residential services necessary to enable students to develop appropriate behaviors and

¹⁰ Section 1006.13(4)(c), F.S.

¹¹ Section 381.0056(3), F.S.

¹² Section 381.0056(6), F.S.

¹³ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

¹⁴ Section 1001.42(8), F.S.

¹⁵ Section 1011.70(1), F.S.

¹⁶ Section 1011.70(2), F.S.

demonstrate academic and career education skills.¹⁷ Multiagency programs are required to provide access to appropriate services for all students with a severe emotional disturbance.¹⁸ District school boards are responsible for providing educational programs, while state agencies administering children's mental health funds provide mental health treatment and residential services when needed.¹⁹

Special Districts

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.²⁰ Section 189.403(1), F.S., defines a "special district" as a confined local government unit established for a special purpose.²¹ The public policy intent of special districts is to provide private and public sectors an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."²² A special district can be created by general law, special act, local ordinance, or by Governor or Cabinet rule.²³ A special district does not include:

- a school district,
- a community college district,
- a special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.),
- a municipal service taxing or benefit unit (MSTU/MSBU), or
- a political subdivision board of a municipality providing electrical service.²⁴

While special districts have similar governing powers and restrictions as counties and municipalities, they do not have "local home rule" power that has been granted to general-purpose governments. Special districts have only the explicit authority granted by statute.²⁵ Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.²⁶

Ad valorem Tax and Special Districts

Local governments may levy ad valorem taxes subject to the following limitations:

- ten mills for county purposes,
- ten mills for municipal purposes,
- ten mills for school purposes,
- a millage fixed by law for a county furnishing municipal services,

¹⁷ Section 1006.04(1)(a), F.S.

¹⁸ *Id.* See s. 394.495, F.S., which requires that the local child and adolescent mental health system of care include the local educational multiagency network under s. 1006.04, F.S.

¹⁹ *Id.*

²⁰ Chapter 189, F.S.; see s. 189.401, F.S.

²¹ Section 189.403(1), F.S.

²² Section 189.402(4), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ See *Roach v. Loxahatchee Groves Water Control District*, 417 So. 2d 814 (Fla. 4th DCA 1982).

²⁶ Presentation by Jack Gaskins Jr., from the Division of Community Development in the Department of Economic Opportunity, SPECIAL DISTRICT BASICS PRESENTATION (October 4, 2011) (on file with the Senate Committee on Community Affairs). See also ss. 189.417 and 189.418, F.S.

- a millage authorized by law and approved by voters for special districts.²⁷

County government millages are composed of four categories of millage rates:²⁸

- the nonvoted county millage rate set by the county's governing body,
- county debt service millage,
- county voted millage, and
- county dependent special district millage as set by the county's governing body.

III. Effect of Proposed Changes:

Creation and Funding of District

The bill authorizes counties to create an independent special district to provide countywide school security and mental health referral services. Upon county adoption of the ordinance creating the district, the county would place on the ballot the question of levying ad valorem taxes at a rate of up to 0.5 mills to fund the district. The tax must be approved by a majority of the electors of the county voting in a referendum held for such purpose.

Depending on the size of the county, the district would be governed by a council consisting of a statutorily prescribed number of: county commissioners (appointed by the board of county commissioners); school board members (appointed by the county school board); an elected member of the governing body of the largest municipality within the county (appointed by the municipality mayor); and elected members of the county legislative delegation (appointed by the chair of the delegation, with assent of the delegation) serving as ex officio members.

Transparency and Accountability

The district is required to:

- Provide an annual written report to the school board and board of county commissioners;
- Prepare and file with the county governing body a financial report within ten days after the expiration of each annual quarter; and
- Prepare a tentative annual budget and compute a proposed millage rate (up to 0.5 mills) as necessary.

The bill also specifies the following governing requirements:

- After the budget is certified and delivered to the county governing body, the budget may not be changed or modified by the governing body or any other authority;
- Withdrawal of moneys received by the district may only be by checks signed by the chair of the council and countersigned by one other council member or by a chief executive officer authorized by the council;
- The chair and other member of the council or chief executive officer authorized to sign checks must each file a surety bond conditioned upon the faithful discharge of his or her office. The premium on the bond may be paid by the district as part of the expenses of the council;

²⁷ See Section 9, Article VII, Florida Constitution, Chapters 192-197 and 200, Florida Statutes.

²⁸ Section 200.001(1), F.S.

- Governing members serve without compensation, but are entitled to reimbursement for per diem and travel expenses;
- The council may not require any service provider to provide additional matching funds as a condition of providing district services or programs to schools and students; and
- Two or more districts may enter into a cooperative agreement to share administrative costs and seek grants, accept donations, or jointly fund programs serving multicounty areas.

Security and Mental Health Related Duties and Responsibilities

The bill requires the council to identify and assess the security and mental health referral needs of all schools served by the school board, including the following:

- Collecting information and statistical data to use in determining the needs of security and mental health referral services within schools operated by the school board;
- Determining the funding sources; and
- Developing a strategy for interagency coordination that maximizes existing human and fiscal resources.

Additionally, the bill authorizes the council to:

- Seek grants from state, federal, and local agencies and accept donations of monies or properties from public and private sources;
- Consult with other agencies that provide security and mental health referral services to schools operated by the school board; and
- Collect information, conduct research, and provide and maintain services needed for the safety of the schools and students.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill establishes authority for an annual ad valorem tax of up to 0.5 mills if approved by a majority of the electors in the county voting in a referendum held for that purpose.

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.)

None.

B. Amendments:

None.

By Senator Sobel

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1 A bill to be entitled
2 An act relating to public school safety; providing a
3 short title; authorizing each county to create an
4 independent special district by ordinance to provide
5 funding for public school security and mental health
6 services; requiring elector approval to annually levy
7 ad valorem taxes; requiring the district to comply
8 with statutory requirements related to levying and
9 fixing millage and filing financial or compliance
10 reports; providing for the dissolution of the
11 district; requiring the governing body of the county
12 to periodically submit to the electorate the question
13 of retention or dissolution of the district; creating
14 a governing council for the district; basing the size
15 of the council on the population of the county;
16 specifying criteria for council membership; providing
17 terms of office; requiring the council to appoint a
18 chair and vice chair and elect other officers;
19 providing procedures for filling a vacancy on the
20 council; requiring council members to serve without
21 compensation; requiring members to follow certain
22 financial disclosure, noticing, and reporting
23 procedures; specifying the powers and functions of the
24 council; authorizing two or more districts to enter
25 into cooperative agreements; requiring the district to
26 provide an annual report to the school board and
27 county governing body; providing for the content of
28 the report; requiring the council to prepare a
29 tentative annual budget and compute a millage rate to

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30 fund the district; requiring that all tax moneys
31 collected be paid directly to the council by the
32 county tax collector and be deposited in qualified
33 public depositories; requiring certain members to file
34 a surety bond; specifying expenditures of funds;
35 requiring the council to prepare and file quarterly
36 financial reports with the county governing body;
37 prohibiting the council from requiring certain
38 matching funds; providing that all district financial
39 records be subject to audit; providing legislative
40 intent with respect to the use of funds collected by
41 the council; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. This act may be cited as the "School Safety
46 Act."

47 Section 2. School Safety Act.-

48 (1) SPECIAL DISTRICT.-Each county may, by ordinance, create
49 an independent special district, as defined in s. 189.403,
50 Florida Statutes, to provide countywide school security and
51 mental health referral services. The boundaries of such district
52 must be coterminous with the boundaries of the county.

53 (a) Upon adoption of the ordinance creating the district,
54 the governing body of the county enacting the ordinance shall
55 place on the ballot the question of levying ad valorem taxes at
56 a rate of up to 0.5 mills of assessed valuation of all
57 properties subject to ad valorem taxes within the county, which
58 shall be used to fund the district. The tax must be approved by

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59 a majority of the electors of the county voting in a referendum
60 held for such purpose. The ballot for the referendum must
61 conform to s. 101.161, Florida Statutes.

62 (b) A district created under this section shall:

63 1. Levy and fix millage as provided in s. 200.065, Florida
64 Statutes.

65 2. Maintain the same fiscal year as the county.

66 3. Comply with all other statutory requirements of general
67 application which relate to the filing of any financial or
68 compliance reports required under part III of chapter 218,
69 Florida Statutes, or any other report or documentation required
70 by law, including the requirements of ss. 189.415, 189.417, and
71 189.418, Florida Statutes.

72 (c) The district may be dissolved by special act of the
73 Legislature, or the county governing body may, by ordinance,
74 dissolve the district subject to approval by a majority of the
75 electors in the county voting on the issue. The district may
76 also be dissolved pursuant to s. 189.4042, Florida Statutes.
77 Before dissolving the district, the county shall obligate itself
78 to assume the debts, liabilities, contracts, and outstanding
79 obligations of the district within the total millage available
80 to the county for all county and municipal purposes as provided
81 under s. 9, Article VII of the State Constitution.

82 (d) A referendum by the electorate creating the district
83 may specify that the district is not subject to reauthorization
84 or may specify the number of years the initial authorization
85 remains effective. If the referendum does not prescribe terms of
86 reauthorization, the governing body of the county shall submit
87 the question of retention or dissolution to the electorate in

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88 the general election 12 years after the initial authorization.

89 1. The district council may specify, and submit to the
90 governing body of the county within 9 months before the
91 scheduled election, that the district is not subject to
92 reauthorization or may specify the number of years for which
93 reauthorization remains effective. If the district council makes
94 such specification and submission, the governing body of the
95 county shall include that information in the question submitted
96 to the electorate. If the district council does not specify and
97 submit such information, the governing body of the county shall
98 resubmit the question of reauthorization to the electorate every
99 12 years after the prior authorization. The district council may
100 recommend to the governing body of the county language for the
101 question submitted to the electorate.

102 2. This paragraph does not preclude the district council
103 from requesting that the governing body of the county submit the
104 question of retention or dissolution of a district with voter-
105 approved taxing authority to the electorate at an earlier date.

106 3. This paragraph does not limit authority to dissolve a
107 district as provided under paragraph (c).

108 (e) This section does not prohibit a county from exercising
109 such power as is provided by general or special law to provide
110 or fund safety services for public schools.

111 (2) COUNCIL MEMBERSHIP.—

112 (a) If the county has a population of fewer than 100,000
113 according to the latest state census, the district shall be
114 governed by a 7-member council consisting of:

115 1. Two members who are county commissioners, appointed by
116 the board of county commissioners.

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117 2. Two members who are school board members, appointed by
118 the county school board.

119 3. One member, who is an elected member of the governing
120 body of the largest municipality within the county, appointed by
121 the mayor of the municipality.

122 4. Two elected members of the county legislative
123 delegation, appointed by the chair of the delegation with the
124 assent of the delegation. Such members must be state senators or
125 state representatives in districts in which 50 percent or more
126 of the district lies within the county. Such members shall be ex
127 officio members and shall participate in all council matters but
128 may not vote on any binding resolution, motion, or matter that
129 relates to levying ad valorem taxation or assessments that may
130 be considered by the council.

131 (b) If the county has a population of 100,000 but fewer
132 than 600,000 according to the last state census, the district
133 shall be governed by a 9-member council consisting of:

134 1. Three members who are county commissioners, appointed by
135 the board of county commissioners.

136 2. Three members who are school board members, appointed by
137 the county school board.

138 3. One member, who is an elected member of the governing
139 body of the largest municipality within the county who shall be
140 appointed by the mayor of the municipality.

141 4. Two elected members of the county legislative
142 delegation, appointed by the chair of the delegation with the
143 assent of the delegation. Such members must be state senators or
144 state representatives in districts in which 50 percent or more
145 of the district lies within the county. Such members shall be ex

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146 officio members and shall participate in all council matters but
147 may not vote on any binding resolution, motion, or matter that
148 relates to levying ad valorem taxation or assessments that may
149 be considered by the council.

150 (c) If the county has a population equal to or greater than
151 600,000 according to the last state census, the district shall
152 be governed by an 11-member council consisting of:

153 1. Three members who are county commissioners, appointed by
154 the board of county commissioners.

155 2. Three members who are school board members, appointed by
156 the county school board.

157 3. Three members, who are elected members of the governing
158 body of the three municipalities within the county who shall be
159 appointed by the county League of Cities, or any similar
160 successor organization.

161 4. Two elected members of the county legislative
162 delegation, appointed by the chair of the delegation with the
163 assent of the delegation. Such members must be state senators or
164 state representatives in districts in which 50 percent or more
165 of the district lies within the county. Such members shall be ex
166 officio members and shall participate in all council matters but
167 may not vote on any binding resolution, motion, or matter that
168 relates to levying ad valorem taxation or assessments that may
169 be considered by the council.

170 (d) The members shall be appointed to 4-year terms and may
171 be reappointed for one additional term of office. The length of
172 the terms of the initial appointees shall be adjusted to stagger
173 the terms.

174 (e) Immediately after appointment, the members shall elect

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175 a chair and vice chair from among its members and elect other
176 officers as deemed necessary by the council.

177 (f) If any council member resigns, dies, or is removed from
178 office for cause, the vacancy shall be filled using the same
179 method as the original appointment, and the new member shall be
180 appointed for the remainder of the unexpired term.

181 (g) Members of the council shall serve without
182 compensation, but are entitled to reimbursement for per diem and
183 travel expenses in accordance with s. 112.061, Florida Statutes.

184 (h) The applicable financial disclosure, noticing, and
185 reporting requirements of the council are those of their
186 respective elected offices. The applicable financial disclosure,
187 noticing, and reporting requirements of other officers and
188 employees shall be the same as corresponding municipal
189 positions.

190 (3) COUNCIL DUTIES.—

191 (a) The council shall:

192 1. Make and adopt bylaws and rules for the council's
193 guidance, operation, governance, and maintenance. Such rules
194 must be consistent with federal or state laws or county
195 ordinances.

196 2. Arrange for and provide training and orientation to all
197 new members sufficient to allow them to perform their duties.

198 3. Immediately after the members are appointed and the
199 officers are elected, identify and assess the security and
200 mental health referral needs of all schools served by the school
201 board. This includes, but is not limited to:

202 a. Collecting information and statistical data that will be
203 helpful to the council in determining the needs of security and

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204 mental health referral services within schools operated by the
205 school board.

206 b. Determining the manner in which the council will seek
207 and provide funding for needs.

208 c. Developing a strategy that will be used for interagency
209 coordination to maximize existing human and fiscal resources.

210 4. Consult with other agencies providing security and
211 mental health referral services to schools operated by the
212 school board.

213 5. Seek grants from state, federal, and local agencies and
214 accept donations of moneys or properties from public and private
215 sources.

216 6. Lease or buy such real estate, equipment, and personal
217 property and construct such buildings as are needed to execute
218 the foregoing powers and duties. Purchases or building may not
219 be done except with funds on hand or secured by funds deposited
220 in financial institutions. This section does not authorize
221 issuance of bonds of any nature.

222 7. Sell or dispose of property or properties owned by the
223 district for fair market value.

224 8. Maintain minutes of each meeting, including a record of
225 all votes cast, and make the minutes available to any interested
226 person.

227 9. Employ, pay, and provide benefits for any part-time or
228 full-time personnel needed to carry out the powers, functions,
229 and duties of the district.

230 10. Have all powers necessary and expedient to carry out
231 the duties and functions described in this section.

232 (b) The council may:

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233 1. Collect information and statistical data and conduct
234 research and assessments that are helpful to the council and the
235 county in determining the safety needs of county schools and
236 students.

237 2. Consult and coordinate with other agencies providing
238 mental health services in order to prevent the duplication of
239 services.

240 3. Provide and maintain in the county the services which
241 the council determines are needed for the safety of the schools
242 and students, which may include:

243 a. Providing funding for all necessary school security for
244 all schools operated directly by the school board.

245 b. Providing mental health referral services for all
246 students and staff within schools operated by the school board.

247 c. Allocating and providing funds to other agencies that
248 provide services.

249 (c) Two or more districts may enter into a cooperative
250 agreement to:

251 1. Share administrative costs, including staff and office
252 space if a more efficient or effective operation will result.
253 The cooperative agreement must include provisions for
254 apportioning costs between the districts, keeping separate and
255 distinct financial records for each district, and resolving any
256 conflicts that might arise under the agreement.

257 2. Seek grants, accept donations, or jointly fund programs
258 serving multicounty areas. The cooperative agreement must
259 include provisions for the adequate accounting of separate and
260 joint funds.

261 (4) ANNUAL REPORT.—The district shall provide an annual

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262 written report, to be presented by January 1, to the school
263 board and the board of county commissioners. At a minimum, the
264 report must include:

265 (a) Detailed information on the various activities,
266 programs, and services available to schools, staff, and students
267 and the degree to which the programs, services, and activities
268 have been successfully used.

269 (b) Information on the effectiveness of programs, services,
270 and activities offered by the district, including cost
271 effectiveness.

272 (c) A detailed anticipated budget for continuation of
273 programs, services, or activities offered by the district, and a
274 list of all sources of funding, both public and private.

275 (d) Procedures for identification of at-risk school
276 children or staff who need additional or continued mental health
277 services and methods for ensuring that the additional or
278 continued services are received.

279 (e) Information on programs, services, and activities that
280 should be eliminated; programs, services, and activities that
281 should be continued; and programs, services, and activities that
282 should be added to the district's basic format.

283 (f) A description of the degree to which the district's
284 objectives and activities are consistent with the goals of this
285 section.

286 (5) DISTRICT BUDGET AND FINANCIAL MATTERS.-

287 (a) On or before July 1 of each year, the council shall,
288 pursuant to s. 189.418, Florida Statutes, prepare a tentative
289 annual budget of the district's expected income and
290 expenditures, including a contingency fund. In addition, the

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291 council shall compute a proposed millage rate of up to 0.5 mills
292 of assessed value, as necessary to fund the tentative budget.
293 The council must comply with s. 200.065, Florida Statutes.

294 (b) After the district's budget is certified and delivered
295 to the county governing body, the budget may not be changed or
296 modified by the governing body or any other authority.

297 (c) As soon after collection as is reasonably practicable,
298 all taxes collected under this section shall be paid directly to
299 the district by the county's revenue-collection entity.

300 (d) All moneys received by the district shall be deposited
301 into qualified public depositories, as defined in s. 280.02,
302 Florida Statutes, with separate and distinguishable accounts
303 established specifically for the district, and may be withdrawn
304 only by checks signed by the chair of the council and
305 countersigned by one other council member or by a chief
306 executive officer authorized by the council.

307 1. Upon taking office, the chair and the other member of
308 the council or chief executive officer authorized to sign checks
309 shall each file a surety bond in the sum of at least \$1,000 for
310 each \$1 million, or portion of such amount, of the district's
311 annual budget, which shall be conditioned upon the faithful
312 discharge of the duties of his or her office. The premium on
313 such bond may be paid by the district as part of the expenses of
314 the council. Other members of the council are not required to
315 give bond or other security.

316 2. Funds of the district may not be expended except by
317 check, except for expenditures of up to \$100, which may be made
318 from a petty cash account. All expenditures from petty cash must
319 be recorded on the books and records of the council. District

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320 funds, except expenditures from petty cash, may not be expended
321 without prior approval of the council, in addition to the
322 budgeting of such funds.

323 (e) Within 10 business days after the expiration of each
324 annual quarter, the council shall prepare and file with the
325 county governing body a financial report that includes:

- 326 1. The council's total expenditures for the quarter.
327 2. The council's total receipts during the quarter.
328 3. A statement of the funds the council has on hand, has
329 invested, or has deposited at the end of the quarter.
330 4. The council's total administrative costs for the
331 quarter.

332 (f) The council may not require any service provider to
333 provide additional matching funds as a condition of providing
334 district services or programs to schools and students.

335 (g) All financial records and accounts relating to the
336 district shall be available for audit by state auditors as they
337 are assigned from time to time to audit the affairs of the
338 county. If no annual audit of the district is conducted by the
339 state, the council shall cause an independent audit of the
340 district to be conducted.

341 (h) It is the intent of the Legislature that the funds
342 collected pursuant to this section be used to support
343 improvements in services for county schools and students and
344 that such funds not be used as a substitute for existing
345 resources or for resources that would otherwise be available for
346 such services.

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



117098

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 27 - 42
and insert:

(b) Solely for the purposes of this section, the department shall require that a service provider, vendor, or well owner or operator report to the Chemical Disclosure Registry, at a minimum, the total volume of water used in the hydraulic fracturing treatment, each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g) (2), and the ingredient concentration in the hydraulic fluid by mass for each well on which hydraulic fracturing treatments are performed.



117098

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14

(c) If the Chemical Disclosure Registry is unable to

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Hydraulic Frac. Chem. Bill Number 1028
~~7008~~ (if applicable)

Name Dale Dickert Amendment Barcode _____ (if applicable)

Job Title resident

Address 193 NW Hamillon Ave. Phone 850 973-3699
Street
MADISON, FL E-mail johnw512@yahoo.com
City State Zip

Speaking: For Against Information

Representing self

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

16 April 2013

Meeting Date

1029

~~1028~~

Topic _____

Bill Number _____
(if applicable)

Name Row SAFF MD

Amendment Barcode _____
(if applicable)

Job Title Doctor

Address 2300 Centerville Road

Phone 766-7866

1011Amm FL 32308
City State Zip

E-mail rowsaff@aol.com

Speaking: For Against Information

Representing ~~Physicians for Social Responsibility~~
Physicians for Social Responsibility

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 1 16/2013

Meeting Date

Topic _____

Bill Number 1028
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

1028

Meeting Date

Topic Hydrolic Fracking

Bill Number 1028
(if applicable)

Name DAVID MICA

Amendment Barcode _____
(if applicable)

Job Title Exec Director

Address 215 S. MONROE

Phone 561-6300

Street

Tallahassee FL 32301

City

State

Zip

E-mail MICAD@API.ORG

Speaking: For Against Information

Representing FLORIDA PAPER COUNCIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Fracking in Florida

Bill Number 1028
(if applicable)

Name Warren Brackmann

Amendment Barcode _____
(if applicable)

Job Title Photographer

Address 616 8TH Ave

Phone (229) 221-0338

Street
Cairo GA 39828
City State Zip

E-mail brackmann@warren701@gmail.com
dot →

Speaking: For Against Information

Representing Bill 1028 American Citizens

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/16/13
Meeting Date

Topic Fracking in Florida Bill Number 1028
(if applicable)

Name Patricia Oxford Amendment Barcode _____
(if applicable)

Job Title RN Clinical Nurse BS Performance Process Improvement Specialist

Address 1403 Fernando Dr Phone _____
Street

Tallahassee FL 32303 E-mail treejournal@embargmail.com
City State Zip

Speaking: For Against Information

Representing Concerned Florida Citizen

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Fracking Bill Number 1028
(if applicable)

Name Marilyn Price Amendment Barcode _____
(if applicable)

Job Title Salesclerk

Address 616 8th Ave SE Phone 229-377-7954
Street

Cairo GA 39828 E-mail _____
City State Zip

Speaking: For Against Information

Representing Citizens

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.

and has become the standard method for stimulating production of oil and gas wells.¹

Hydraulic fracturing is a technique that is done after a well has been drilled. Large amounts of fluid at high pressure are injected into a wellbore to create and extend fractures in the rock formation. The fractures are held open by a slurry mixture which allows natural gas to flow from the fractures into the production well.²

The injected fluid is composed of water, proppants, and chemical additives. The composition of the injected fluid varies between rock formations but the majority of the fluid, 98 to 99.5 percent, is water. The proppants are made of sand, ceramic pellets or other small incompressible particles that hold the fractures open. The chemical additives include bactericides, buffers, stabilizers, fluid-loss additives, and surfactants that improve the effectiveness of the fracturing process and prevent damage to the rock formation.³

The placement of the fracturing fluid is sequenced and the blend and proportions of the additives used vary depending on the characteristics of the rock formation; however, all of the additives are used during the fracturing process. The acid stage consists of several thousand gallons of water mixed with hydrochloric acid or muriatic acid that work to clear cement debris and create an open path for the fracturing fluids. The pad stage consists of approximately 100,000 gallons of “slick-water,” which is a friction reducing agent that reduces the pressure needed to pump fluid into the wellbore and facilitate the flow and placement of the proppant material. The proppant stage, which may include several sub-stages, uses several hundred thousand gallons of water mixed with varying sized particulates that keep the fractures open. Finally, there is a flushing stage that consists of enough water to adequately flush the excess proppant from the wellbore.⁴

Additional additives are used in the fracturing of Marcellus shale, including dilute acid solution, biocide or disinfectant to reduce the growth of bacteria, a scale inhibitor to reduce the build-up of carbonates and sulfate minerals, an iron control agent to inhibit the precipitation of iron compounds, friction reducing agents to decrease the amount of pressure needed to pump fluid to the wellbore, corrosion inhibitors to prevent the degradation of the steel well casing, gelling agents to help transport the proppant material, and a cross-linking additive to enhance the characteristics of the gelling agent.⁵

In 1986, Congress enacted the Emergency Planning and Community Right to Know Act (EPCRA), which requires federal, local and state governments to report hazardous and toxic chemicals in order to increase the public’s knowledge and access to information on chemicals at individual facilities. The EPCRA includes the Toxic Release Inventory (TRI), which is a publicly available database that contains information on chemical releases and waste management reported by certain industries. The U.S. Environmental Protection Agency (EPA)

¹ U.S. Environmental Protection Agency, *White Paper: Hydraulic Fracturing White Paper* (2004), available at http://www.epa.gov/ogwdw/uic/pdfs/cbmstudy_attach_uic_append_a_doe_whitepaper.pdf (last visited Mar. 27, 2013).

² FracFocus Chemical Disclosure Registry, *Hydraulic Fracturing: The Process*, <http://fracfocus.org/hydraulic-fracturing-how-it-works/hydraulic-fracturing-process> (last visited Mar. 27, 2013).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

has not included oil and gas extraction as an industry that must report under the TRI because the EPA determined the oil and gas extraction industry is not a high priority for reporting. The decision is based on the fact that most of the information that the TRI requires is already reported by oil and gas providers to the individual state agencies and reporting for the hundreds and thousands of oil and gas sites would overwhelm the system.⁶

In May 2012, the Bureau of Land Management (BLM) published a proposed rule that would require companies that conduct hydraulic fracturing on lands managed by the BLM to disclose the composition of the fracturing fluid. Congress has also proposed legislation requiring the disclosure of chemicals under the Fracturing Responsibility and Awareness of Chemicals Act.⁷

To date, federal legislation has not been implemented to require the disclosure of chemicals used in hydraulic fracturing; therefore, many states have taken steps to develop their own chemical disclosure laws. The disclosure requirements that have been established in certain states include the information about the chemical additives and whether the disclosures are made to state agencies or available to the public, the composition of the chemicals, the protections provided in trade secrets, and when the disclosure of the chemicals is to take place in relation to the fracturing process.⁸

The Department of Environmental Protection's Oil and Gas Program is in the Mining and Minerals Regulation Program and is regulated under s. 377.01, F.S. Companies that are interested in oil and gas exploration or production in Florida must apply for a permit to drill the exploration well. Hydraulic fracturing is not currently being conducted in Florida.⁹

Chemical Disclosure Registry

The Chemical Disclosure Registry is the national hydraulic fracturing chemical registry. It is managed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The registry was created to provide the public access to reported chemicals used for hydraulic fracturing within their area. To help users put this information into perspective, the registry also provides objective information on hydraulic fracturing, the chemicals used, the purposes they serve and the means by which groundwater is protected. The Chemical Disclosure Registry does not replace state governmental information systems but is used by ten states as the primary means of state chemical disclosure. Currently, there are 41,118 well sites registered with the database.¹⁰

III. Effect of Proposed Changes:

Section 1 creates an unnumbered section of law to establish the "Fracturing Chemical Usage Disclosure Act."

⁶ *Id.*

⁷ *Id.*

⁸ Congressional Research Service, *Hydraulic Fracturing: Chemical Disclosure Requirements* (June 19, 2012) available at <http://www.fas.org/sgp/crs/misc/R42461.pdf> (last visited Mar. 27, 2013).

⁹ See s. 377.01, F.S.

¹⁰ *Supra* note 2.

Section 2 creates s. 377.45, F.S., to establish the hydraulic fracturing chemical registry. The bill requires the DEP to establish and maintain an online hydraulic fracturing registry for all wells that use hydraulic fracturing.

The bill provides that DEP must require that a service provider, vendor, or well owner or operator report to the Chemical Disclosure Registry. The report must include the volume of water used, the chemical ingredients that are subject to regulation under 29 C.F.R. s. 1910.1200(g)(2), and the ingredient concentration in the hydraulic fluid by mass for each well on which hydraulic fracturing treatments are performed.

If the Chemical Disclosure Registry is unable to accept and make any information available to the public, then the well owner or operator is required to submit the information to the DEP.

The bill requires the service provider, vendor, or well owner or operator to report on which wells hydraulic fracturing is performed. The bill also requires the service provider, vendor, or well owner or operator to notify the DEP of any chemical that has not been previously reported. It also requires service companies that perform hydraulic fracturing treatments or the supplier of the additives to disclose the chemical ingredients to the owner or operator of the well.

The bill exempts chemicals that were not purposefully added to the hydraulic fracturing treatment, occur incidentally or are unintentionally in the treatment, or are not disclosed to the well owner or operator by the supplier.

The DEP may adopt rules to administer the requirements of the bill.

Section 3 provides an effective date 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:

As there are currently no hydraulic fracturing operations in Florida, there is no impact to the private sector.

C. Government Sector Impact:

The cost to input information into Chemical Disclosure Registry or implement a registry required in the bill is minimal and may be done with existing resources at the DEP.¹¹ However, as stated above, there are currently no hydraulic fracturing operations in Florida.

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 16, 2013:

The committee substitute made the following changes:

- deletes provision linking FracFocus from DEP's website;
- deletes provision that DEP may not require chemical ingredients to be identified by concentration or based on the additive in which they are found.

CS by Environmental Preservation and Conservation on April 9, 2013:

The CS made the following substantive changes to the bill:

- specifies that the DEP, not the division, must establish and maintain the chemical registry;
- requires that the DEP provide a link to FracFocus on its website and if the registry is not able to accept the information specified in the bill, then the service provider, vendor, or well owner or operator must submit the information to the DEP.

B. Amendments:

None.

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

¹¹ Email from Pierce Schuessler, DEP, Legislative Affairs Director (Mar. 28, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

592-04033-13

20131028c1

1 A bill to be entitled
2 An act relating to the Fracturing Chemical Usage
3 Disclosure Act; creating such act and providing a
4 short title; creating s. 377.45, F.S.; directing the
5 Department of Environmental Protection to establish an
6 online hydraulic fracturing chemical registry;
7 requiring owners and operators of wells on which a
8 hydraulic fracturing treatment is performed to
9 disclose certain information; requiring certain
10 service providers and vendors to disclose certain
11 information; providing for applicability; authorizing
12 the department to adopt rules; providing an effective
13 date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. This act may be cited as the "Fracturing
18 Chemical Usage Disclosure Act."

19 Section 2. Section 377.45, Florida Statutes, is created to
20 read:

21 377.45 Hydraulic fracturing chemical registry.-

22 (1) For the purposes of this section, "department" means
23 the Department of Environmental Protection.

24 (2) (a) The department shall establish and maintain an
25 online hydraulic fracturing chemical registry for all wells on
26 which hydraulic fracturing treatments are performed.

27 (b) The registry shall include, at a minimum, the total
28 volume of water used in the hydraulic fracturing treatment and
29 each chemical ingredient that is subject to 29 C.F.R. s.

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20131028c1

30 1910.1200(g)(2) for each well on which hydraulic fracturing
31 treatments are performed by a service provider or vendor or by
32 the well owner or operator if the owner or operator provides
33 such chemical ingredients. Solely for the purposes of this
34 subsection, the department may not require chemical ingredients
35 to be identified by concentration or based on the additive in
36 which they are found.

37 (c) The department shall provide a link through the
38 department's website to FracFocus.org, the national hydraulic
39 fracturing chemical registry website operated by the Ground
40 Water Protection Council and the Interstate Oil and Gas Compact
41 Commission.

42 (d) If the Chemical Disclosure Registry is unable to accept
43 and make publicly available any information specified in this
44 section, the well owner or operator shall submit the information
45 to the department.

46 (3) A service provider, vendor, or well owner or operator
47 shall:

48 (a) Report information as required by the department with
49 respect to wells on which a hydraulic fracturing treatment is
50 performed.

51 (b) Notify the department of any chemical ingredients not
52 previously reported that are intentionally included and used for
53 the purpose of hydraulically fracturing a well.

54 (4) This section does not apply to ingredients that:

55 (a) Were not purposefully added to the hydraulic fracturing
56 treatment.

57 (b) Occur incidentally or are otherwise unintentionally
58 present in the treatment.

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59 (5) The department may adopt rules to administer this
60 section.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 12 and 13
insert:

Section 1. Section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must be provided to the alleged violator by:

(a) Certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices, or to the address listed in the county property appraiser's



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13 database. The local government may also provide an additional
14 notice to any other address it may find for ~~provided by the~~
15 ~~property owner in writing to the local government for the~~
16 ~~purpose of receiving notices.~~ For property owned by a
17 corporation, notices may be provided by certified mail to the
18 registered agent of the corporation. If any notice sent by
19 certified mail is not signed as received within 30 days after
20 the postmarked date of mailing, notice may be provided by
21 posting as described in subparagraphs (2) (b)1. and 2.;

22 (b) Hand delivery by the sheriff or other law enforcement
23 officer, code inspector, or other person designated by the local
24 governing body;

25 (c) Leaving the notice at the violator's usual place of
26 residence with any person residing therein who is above 15 years
27 of age and informing such person of the contents of the notice;
28 or

29 (d) In the case of commercial premises, leaving the notice
30 with the manager or other person in charge.

31 (2) In addition to providing notice as set forth in
32 subsection (1), at the option of the code enforcement board or
33 the local government, notice may ~~also~~ be served by publication
34 or posting, as follows:

35 (a)1. Such notice shall be published once during each week
36 for 4 consecutive weeks (four publications being sufficient) in
37 a newspaper of general circulation in the county where the code
38 enforcement board is located. The newspaper shall meet such
39 requirements as are prescribed under chapter 50 for legal and
40 official advertisements.

41 2. Proof of publication shall be made as provided in ss.



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42 50.041 and 50.051.

43 (b)1. In lieu of publication as described in paragraph (a),
44 such notice may be posted at least 10 days prior to the hearing,
45 or prior to the expiration of any deadline contained in the
46 notice, in at least two locations, one of which shall be the
47 property upon which the violation is alleged to exist and the
48 other of which shall be, in the case of municipalities, at the
49 primary municipal government office, and in the case of
50 counties, at the front door of the courthouse or the main county
51 governmental center in said county.

52 2. Proof of posting shall be by affidavit of the person
53 posting the notice, which affidavit shall include a copy of the
54 notice posted and the date and places of its posting.

55 (c) Notice by publication or posting may run concurrently
56 with, or may follow, an attempt or attempts to provide notice by
57 hand delivery or by mail as required under subsection (1).

58

59 Evidence that an attempt has been made to hand deliver or
60 mail notice as provided in subsection (1), together with proof
61 of publication or posting as provided in subsection (2), shall
62 be sufficient to show that the notice requirements of this part
63 have been met, without regard to whether or not the alleged
64 violator actually received such notice.

65 Section 2. Paragraph (aa) of subsection (4) of section
66 381.0065, Florida Statutes, is amended to read:

67 381.0065 Onsite sewage treatment and disposal systems;
68 regulation.—

69 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
70 construct, repair, modify, abandon, or operate an onsite sewage



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71 treatment and disposal system without first obtaining a permit
72 approved by the department. The department may issue permits to
73 carry out this section, but shall not make the issuance of such
74 permits contingent upon prior approval by the Department of
75 Environmental Protection, except that the issuance of a permit
76 for work seaward of the coastal construction control line
77 established under s. 161.053 shall be contingent upon receipt of
78 any required coastal construction control line permit from the
79 Department of Environmental Protection. A construction permit is
80 valid for 18 months from the issuance date and may be extended
81 by the department for one 90-day period under rules adopted by
82 the department. A repair permit is valid for 90 days from the
83 date of issuance. An operating permit must be obtained prior to
84 the use of any aerobic treatment unit or if the establishment
85 generates commercial waste. Buildings or establishments that use
86 an aerobic treatment unit or generate commercial waste shall be
87 inspected by the department at least annually to assure
88 compliance with the terms of the operating permit. The operating
89 permit for a commercial wastewater system is valid for 1 year
90 from the date of issuance and must be renewed annually. The
91 operating permit for an aerobic treatment unit is valid for 2
92 years from the date of issuance and must be renewed every 2
93 years. If all information pertaining to the siting, location,
94 and installation conditions or repair of an onsite sewage
95 treatment and disposal system remains the same, a construction
96 or repair permit for the onsite sewage treatment and disposal
97 system may be transferred to another person, if the transferee
98 files, within 60 days after the transfer of ownership, an
99 amended application providing all corrected information and



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100 proof of ownership of the property. There is no fee associated
101 with the processing of this supplemental information. A person
102 may not contract to construct, modify, alter, repair, service,
103 abandon, or maintain any portion of an onsite sewage treatment
104 and disposal system without being registered under part III of
105 chapter 489. A property owner who personally performs
106 construction, maintenance, or repairs to a system serving his or
107 her own owner-occupied single-family residence is exempt from
108 registration requirements for performing such construction,
109 maintenance, or repairs on that residence, but is subject to all
110 permitting requirements. A municipality or political subdivision
111 of the state may not issue a building or plumbing permit for any
112 building that requires the use of an onsite sewage treatment and
113 disposal system unless the owner or builder has received a
114 construction permit for such system from the department. A
115 building or structure may not be occupied and a municipality,
116 political subdivision, or any state or federal agency may not
117 authorize occupancy until the department approves the final
118 installation of the onsite sewage treatment and disposal system.
119 A municipality or political subdivision of the state may not
120 approve any change in occupancy or tenancy of a building that
121 uses an onsite sewage treatment and disposal system until the
122 department has reviewed the use of the system with the proposed
123 change, approved the change, and amended the operating permit.

124 (aa) An existing-system inspection or evaluation and
125 assessment, or a modification, replacement, or upgrade of an
126 onsite sewage treatment and disposal system is not required for
127 a remodeling addition or modification to a single-family home if
128 a bedroom is not added. However, a remodeling addition or



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129 modification to a single-family home may not cover any part of
130 the existing system or encroach upon a required setback or the
131 unobstructed area. To determine if a setback or the unobstructed
132 area is impacted, the local health department shall review and
133 verify a floor plan and site plan of the proposed remodeling
134 addition or modification to the home submitted by a remodeler
135 which shows the location of the system, including the distance
136 of the remodeling addition or modification to the home from the
137 onsite sewage treatment and disposal system. The local health
138 department may visit the site or otherwise determine the best
139 means of verifying the information submitted. A verification of
140 the location of a system is not an inspection or evaluation and
141 assessment of the system. The review and verification must be
142 completed within 7 business days after receipt by the local
143 health department of a floor plan and site plan. If the review
144 and verification is not completed within such time, the
145 remodeling addition or modification to the single-family home,
146 for the purposes of this paragraph, is approved.

147 Section 3. Subsection (3) of section 489.105, Florida
148 Statutes, is amended to read:

149 489.105 Definitions.—As used in this part:

150 (3) "Contractor" means the person who is qualified for, and
151 is only responsible for, the project contracted for and means,
152 except as exempted in this part, the person who, for
153 compensation, undertakes to, submits a bid to, or does himself
154 or herself or by others construct, repair, alter, remodel, add
155 to, demolish, subtract from, or improve any building or
156 structure, including related improvements to real estate, for
157 others or for resale to others; and whose job scope is



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158 substantially similar to the job scope described in one of the
159 paragraphs of this subsection. For the purposes of regulation
160 under this part, the term "demolish" applies only to demolition
161 of steel tanks more than 50 feet in height; towers more than 50
162 feet in height; other structures more than 50 feet in height,
163 other than buildings or residences more than three stories tall;
164 and ~~all~~ buildings or residences more than three stories tall.
165 Contractors are subdivided into two divisions, Division I,
166 consisting of those contractors defined in paragraphs (a)-(c),
167 and Division II, consisting of those contractors defined in
168 paragraphs (d)-(q):

169 (a) "General contractor" means a contractor whose services
170 are unlimited as to the type of work which he or she may do, who
171 may contract for any activity requiring licensure under this
172 part, and who may perform any work requiring licensure under
173 this part, except as otherwise expressly provided in s. 489.113.

174 (b) "Building contractor" means a contractor whose services
175 are limited to construction of commercial buildings and single-
176 dwelling or multiple-dwelling residential buildings, which do
177 not exceed three stories in height, and accessory use structures
178 in connection therewith or a contractor whose services are
179 limited to remodeling, repair, or improvement of any size
180 building if the services do not affect the structural members of
181 the building.

182 (c) "Residential contractor" means a contractor whose
183 services are limited to construction, remodeling, repair, or
184 improvement of one-family, two-family, or three-family
185 residences not exceeding two habitable stories above no more
186 than one uninhabitable story and accessory use structures in



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187 connection therewith.

188 (d) "Sheet metal contractor" means a contractor whose
189 services are unlimited in the sheet metal trade and who has the
190 experience, knowledge, and skill necessary for the manufacture,
191 fabrication, assembling, handling, erection, installation,
192 dismantling, conditioning, adjustment, insulation, alteration,
193 repair, servicing, or design, if not prohibited by law, of
194 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
195 equivalent or lighter gauge and of other materials, including,
196 but not limited to, fiberglass, used in lieu thereof and of air-
197 handling systems, including the setting of air-handling
198 equipment and reinforcement of same, the balancing of air-
199 handling systems, and any duct cleaning and equipment sanitizing
200 that requires at least a partial disassembling of the system.

201 (e) "Roofing contractor" means a contractor whose services
202 are unlimited in the roofing trade and who has the experience,
203 knowledge, and skill to install, maintain, repair, alter,
204 extend, or design, if not prohibited by law, and use materials
205 and items used in the installation, maintenance, extension, and
206 alteration of all kinds of roofing, waterproofing, and coating,
207 except when coating is not represented to protect, repair,
208 waterproof, stop leaks, or extend the life of the roof. The
209 scope of work of a roofing contractor also includes skylights
210 and any related work, required roof-deck attachments, and any
211 repair or replacement of wood roof sheathing or fascia as needed
212 during roof repair or replacement and any related work.

213 (f) "Class A air-conditioning contractor" means a
214 contractor whose services are unlimited in the execution of
215 contracts requiring the experience, knowledge, and skill to



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216 install, maintain, repair, fabricate, alter, extend, or design,
217 if not prohibited by law, central air-conditioning,
218 refrigeration, heating, and ventilating systems, including duct
219 work in connection with a complete system if such duct work is
220 performed by the contractor as necessary to complete an air-
221 distribution system, boiler and unfired pressure vessel systems,
222 and all appurtenances, apparatus, or equipment used in
223 connection therewith, and any duct cleaning and equipment
224 sanitizing that requires at least a partial disassembling of the
225 system; to install, maintain, repair, fabricate, alter, extend,
226 or design, if not prohibited by law, piping, insulation of
227 pipes, vessels and ducts, pressure and process piping, and
228 pneumatic control piping; to replace, disconnect, or reconnect
229 power wiring on the load side of the dedicated existing
230 electrical disconnect switch; to install, disconnect, and
231 reconnect low voltage heating, ventilating, and air-conditioning
232 control wiring; and to install a condensate drain from an air-
233 conditioning unit to an existing safe waste or other approved
234 disposal other than a direct connection to a sanitary system.
235 The scope of work for such contractor also includes any
236 excavation work incidental thereto, but does not include any
237 work such as liquefied petroleum or natural gas fuel lines
238 within buildings, except for disconnecting or reconnecting
239 changeouts of liquefied petroleum or natural gas appliances
240 within buildings; potable water lines or connections thereto;
241 sanitary sewer lines; swimming pool piping and filters; or
242 electrical power wiring. A Class A air-conditioning contractor
243 may test and evaluate central air-conditioning, refrigeration,
244 heating, and ventilating systems, including duct work; however,



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245 a mandatory licensing requirement is not established for the
246 performance of these specific services.

247 (g) "Class B air-conditioning contractor" means a
248 contractor whose services are limited to 25 tons of cooling and
249 500,000 Btu of heating in any one system in the execution of
250 contracts requiring the experience, knowledge, and skill to
251 install, maintain, repair, fabricate, alter, extend, or design,
252 if not prohibited by law, central air-conditioning,
253 refrigeration, heating, and ventilating systems, including duct
254 work in connection with a complete system only to the extent
255 such duct work is performed by the contractor as necessary to
256 complete an air-distribution system being installed under this
257 classification, and any duct cleaning and equipment sanitizing
258 that requires at least a partial disassembling of the system; to
259 install, maintain, repair, fabricate, alter, extend, or design,
260 if not prohibited by law, piping and insulation of pipes,
261 vessels, and ducts; to replace, disconnect, or reconnect power
262 wiring on the load side of the dedicated existing electrical
263 disconnect switch; to install, disconnect, and reconnect low
264 voltage heating, ventilating, and air-conditioning control
265 wiring; and to install a condensate drain from an air-
266 conditioning unit to an existing safe waste or other approved
267 disposal other than a direct connection to a sanitary system.
268 The scope of work for such contractor also includes any
269 excavation work incidental thereto, but does not include any
270 work such as liquefied petroleum or natural gas fuel lines
271 within buildings, except for disconnecting or reconnecting
272 changeouts of liquefied petroleum or natural gas appliances
273 within buildings; potable water lines or connections thereto;



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274 sanitary sewer lines; swimming pool piping and filters; or
275 electrical power wiring. A Class B air-conditioning contractor
276 may test and evaluate central air-conditioning, refrigeration,
277 heating, and ventilating systems, including duct work; however,
278 a mandatory licensing requirement is not established for the
279 performance of these specific services.

280 (h) "Class C air-conditioning contractor" means a
281 contractor whose business is limited to the servicing of air-
282 conditioning, heating, or refrigeration systems, including any
283 duct cleaning and equipment sanitizing that requires at least a
284 partial disassembling of the system, and whose certification or
285 registration, issued pursuant to this part, was valid on October
286 1, 1988. Only a person who was registered or certified as a
287 Class C air-conditioning contractor as of October 1, 1988, shall
288 be so registered or certified after October 1, 1988. However,
289 the board shall continue to license and regulate those Class C
290 air-conditioning contractors who held Class C licenses before
291 October 1, 1988.

292 (i) "Mechanical contractor" means a contractor whose
293 services are unlimited in the execution of contracts requiring
294 the experience, knowledge, and skill to install, maintain,
295 repair, fabricate, alter, extend, or design, if not prohibited
296 by law, central air-conditioning, refrigeration, heating, and
297 ventilating systems, including duct work in connection with a
298 complete system if such duct work is performed by the contractor
299 as necessary to complete an air-distribution system, boiler and
300 unfired pressure vessel systems, lift station equipment and
301 piping, and all appurtenances, apparatus, or equipment used in
302 connection therewith, and any duct cleaning and equipment



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303 sanitizing that requires at least a partial disassembling of the
304 system; to install, maintain, repair, fabricate, alter, extend,
305 or design, if not prohibited by law, piping, insulation of
306 pipes, vessels and ducts, pressure and process piping, pneumatic
307 control piping, gasoline tanks and pump installations and piping
308 for same, standpipes, air piping, vacuum line piping, oxygen
309 lines, nitrous oxide piping, ink and chemical lines, fuel
310 transmission lines, liquefied petroleum gas lines within
311 buildings, and natural gas fuel lines within buildings; to
312 replace, disconnect, or reconnect power wiring on the load side
313 of the dedicated existing electrical disconnect switch; to
314 install, disconnect, and reconnect low voltage heating,
315 ventilating, and air-conditioning control wiring; and to install
316 a condensate drain from an air-conditioning unit to an existing
317 safe waste or other approved disposal other than a direct
318 connection to a sanitary system. The scope of work for such
319 contractor also includes any excavation work incidental thereto,
320 but does not include any work such as potable water lines or
321 connections thereto, sanitary sewer lines, swimming pool piping
322 and filters, or electrical power wiring. A mechanical contractor
323 may test and evaluate central air-conditioning, refrigeration,
324 heating, and ventilating systems, including duct work; however,
325 a mandatory licensing requirement is not established for the
326 performance of these specific services.

327 (j) "Commercial pool/spa contractor" means a contractor
328 whose scope of work involves, but is not limited to, the
329 construction, repair, and servicing of any swimming pool, or hot
330 tub or spa, whether public, private, or otherwise, regardless of
331 use. The scope of work includes the installation, repair, or



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332 replacement of existing equipment, any cleaning or equipment
333 sanitizing that requires at least a partial disassembling,
334 excluding filter changes, and the installation of new pool/spa
335 equipment, interior finishes, the installation of package pool
336 heaters, the installation of all perimeter piping and filter
337 piping, and the construction of equipment rooms or housing for
338 pool/spa equipment, and also includes the scope of work of a
339 swimming pool/spa servicing contractor. The scope of such work
340 does not include direct connections to a sanitary sewer system
341 or to potable water lines. The installation, construction,
342 modification, or replacement of equipment permanently attached
343 to and associated with the pool or spa for the purpose of water
344 treatment or cleaning of the pool or spa requires licensure;
345 however, the usage of such equipment for the purposes of water
346 treatment or cleaning does not require licensure unless the
347 usage involves construction, modification, or replacement of
348 such equipment. Water treatment that does not require such
349 equipment does not require a license. In addition, a license is
350 not required for the cleaning of the pool or spa in a way that
351 does not affect the structural integrity of the pool or spa or
352 its associated equipment.

353 (k) "Residential pool/spa contractor" means a contractor
354 whose scope of work involves, but is not limited to, the
355 construction, repair, and servicing of a residential swimming
356 pool, or hot tub or spa, regardless of use. The scope of work
357 includes the installation, repair, or replacement of existing
358 equipment, any cleaning or equipment sanitizing that requires at
359 least a partial disassembling, excluding filter changes, and the
360 installation of new pool/spa equipment, interior finishes, the



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361 installation of package pool heaters, the installation of all
362 perimeter piping and filter piping, and the construction of
363 equipment rooms or housing for pool/spa equipment, and also
364 includes the scope of work of a swimming pool/spa servicing
365 contractor. The scope of such work does not include direct
366 connections to a sanitary sewer system or to potable water
367 lines. The installation, construction, modification, or
368 replacement of equipment permanently attached to and associated
369 with the pool or spa for the purpose of water treatment or
370 cleaning of the pool or spa requires licensure; however, the
371 usage of such equipment for the purposes of water treatment or
372 cleaning does not require licensure unless the usage involves
373 construction, modification, or replacement of such equipment.
374 Water treatment that does not require such equipment does not
375 require a license. In addition, a license is not required for
376 the cleaning of the pool or spa in a way that does not affect
377 the structural integrity of the pool or spa or its associated
378 equipment.

379 (1) "Swimming pool/spa servicing contractor" means a
380 contractor whose scope of work involves, but is not limited to,
381 the repair and servicing of a swimming pool, or hot tub or spa,
382 whether public or private, or otherwise, regardless of use. The
383 scope of work includes the repair or replacement of existing
384 equipment, any cleaning or equipment sanitizing that requires at
385 least a partial disassembling, excluding filter changes, and the
386 installation of new pool/spa equipment, interior refinishing,
387 the reinstallation or addition of pool heaters, the repair or
388 replacement of all perimeter piping and filter piping, the
389 repair of equipment rooms or housing for pool/spa equipment, and



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390 the substantial or complete draining of a swimming pool, or hot
391 tub or spa, for the purpose of repair or renovation. The scope
392 of such work does not include direct connections to a sanitary
393 sewer system or to potable water lines. The installation,
394 construction, modification, substantial or complete disassembly,
395 or replacement of equipment permanently attached to and
396 associated with the pool or spa for the purpose of water
397 treatment or cleaning of the pool or spa requires licensure;
398 however, the usage of such equipment for the purposes of water
399 treatment or cleaning does not require licensure unless the
400 usage involves construction, modification, substantial or
401 complete disassembly, or replacement of such equipment. Water
402 treatment that does not require such equipment does not require
403 a license. In addition, a license is not required for the
404 cleaning of the pool or spa in a way that does not affect the
405 structural integrity of the pool or spa or its associated
406 equipment.

407 (m) "Plumbing contractor" means a contractor whose services
408 are unlimited in the plumbing trade and includes contracting
409 business consisting of the execution of contracts requiring the
410 experience, financial means, knowledge, and skill to install,
411 maintain, repair, alter, extend, or, if not prohibited by law,
412 design plumbing. A plumbing contractor may install, maintain,
413 repair, alter, extend, or, if not prohibited by law, design the
414 following without obtaining an additional local regulatory
415 license, certificate, or registration: sanitary drainage or
416 storm drainage facilities, water and sewer plants and
417 substations, venting systems, public or private water supply
418 systems, septic tanks, drainage and supply wells, swimming pool



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419 piping, irrigation systems, and solar heating water systems and
420 all appurtenances, apparatus, or equipment used in connection
421 therewith, including boilers and pressure process piping and
422 including the installation of water, natural gas, liquefied
423 petroleum gas and related venting, and storm and sanitary sewer
424 lines. The scope of work of the plumbing contractor also
425 includes the design, if not prohibited by law, and installation,
426 maintenance, repair, alteration, or extension of air-piping,
427 vacuum line piping, oxygen line piping, nitrous oxide piping,
428 and all related medical gas systems; fire line standpipes and
429 fire sprinklers if authorized by law; ink and chemical lines;
430 fuel oil and gasoline piping and tank and pump installation,
431 except bulk storage plants; and pneumatic control piping
432 systems, all in a manner that complies with all plans,
433 specifications, codes, laws, and regulations applicable. The
434 scope of work of the plumbing contractor applies to private
435 property and public property, including any excavation work
436 incidental thereto, and includes the work of the specialty
437 plumbing contractor. Such contractor shall subcontract, with a
438 qualified contractor in the field concerned, all other work
439 incidental to the work but which is specified as being the work
440 of a trade other than that of a plumbing contractor. This
441 definition does not limit the scope of work of any specialty
442 contractor certified pursuant to s. 489.113(6), and does not
443 require certification or registration under this part of any
444 authorized employee of a public natural gas utility or of a
445 private natural gas utility regulated by the Public Service
446 Commission when disconnecting and reconnecting water lines in
447 the servicing or replacement of an existing water heater. A



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448 plumbing contractor may perform drain cleaning and clearing and
449 install or repair rainwater catchment systems; however, a
450 mandatory licensing requirement is not established for the
451 performance of these specific services.

452 (n) "Underground utility and excavation contractor" means a
453 contractor whose services are limited to the construction,
454 installation, and repair, on public or private property, whether
455 accomplished through open excavations or through other means,
456 including, but not limited to, directional drilling, auger
457 boring, jacking and boring, trenchless technologies, wet and dry
458 taps, grouting, and slip lining, of main sanitary sewer
459 collection systems, main water distribution systems, storm sewer
460 collection systems, and the continuation of utility lines from
461 the main systems to a point of termination up to and including
462 the meter location for the individual occupancy, sewer
463 collection systems at property line on residential or single-
464 occupancy commercial properties, or on multioccupancy properties
465 at manhole or wye lateral extended to an invert elevation as
466 engineered to accommodate future building sewers, water
467 distribution systems, or storm sewer collection systems at storm
468 sewer structures. However, an underground utility and excavation
469 contractor may install empty underground conduits in rights-of-
470 way, easements, platted rights-of-way in new site development,
471 and sleeves for parking lot crossings no smaller than 2 inches
472 in diameter if each conduit system installed is designed by a
473 licensed professional engineer or an authorized employee of a
474 municipality, county, or public utility and the installation of
475 such conduit does not include installation of any conductor
476 wiring or connection to an energized electrical system. An



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477 underground utility and excavation contractor may not install
478 piping that is an integral part of a fire protection system as
479 defined in s. 633.021 beginning at the point where the piping is
480 used exclusively for such system.

481 (o) "Solar contractor" means a contractor whose services
482 consist of the installation, alteration, repair, maintenance,
483 relocation, or replacement of solar panels for potable solar
484 water heating systems, swimming pool solar heating systems, and
485 photovoltaic systems and any appurtenances, apparatus, or
486 equipment used in connection therewith, whether public, private,
487 or otherwise, regardless of use. A contractor, certified or
488 registered pursuant to this chapter, is not required to become a
489 certified or registered solar contractor or to contract with a
490 solar contractor in order to provide services enumerated in this
491 paragraph that are within the scope of the services such
492 contractors may render under this part.

493 (p) "Pollutant storage systems contractor" means a
494 contractor whose services are limited to, and who has the
495 experience, knowledge, and skill to install, maintain, repair,
496 alter, extend, or design, if not prohibited by law, and use
497 materials and items used in the installation, maintenance,
498 extension, and alteration of, pollutant storage tanks. Any
499 person installing a pollutant storage tank shall perform such
500 installation in accordance with the standards adopted pursuant
501 to s. 376.303.

502 (q) "Specialty contractor" means a contractor whose scope
503 of work and responsibility is limited to a particular phase of
504 construction established in a category adopted by board rule and
505 whose scope is limited to a subset of the activities described



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506 in one of the paragraphs of this subsection.

507 Section 4. The amendments to s. 489.113(2), Florida
508 Statutes, by section 11 of chapter 2012-13, Laws of Florida, are
509 remedial in nature and intended to clarify existing law. This
510 section applies retroactively to any action initiated or pending
511 on or after March 23, 2012.

512 Section 5. Paragraphs (c) and (f) of subsection (5) and
513 subsection (6) of section 489.127, Florida Statutes, are amended
514 to read:

515 489.127 Prohibitions; penalties.-

516 (5) Each county or municipality may, at its option,
517 designate one or more of its code enforcement officers, as
518 defined in chapter 162, to enforce, as set out in this
519 subsection, the provisions of subsection (1) and s. 489.132(1)
520 against persons who engage in activity for which a county or
521 municipal certificate of competency or license or state
522 certification or registration is required.

523 (c) The local governing body of the county or municipality
524 ~~may is authorized to~~ enforce codes and ordinances against
525 unlicensed contractors under the provisions of this subsection
526 and may enact an ordinance establishing procedures for
527 implementing this subsection, including a schedule of penalties
528 to be assessed by the code enforcement officer. The maximum
529 civil penalty which may be levied ~~may shall~~ not exceed \$2,000
530 ~~\$500~~. Moneys collected pursuant to this subsection shall be
531 retained locally, as provided for by local ordinance, and may be
532 set aside in a specific fund to support future enforcement
533 activities against unlicensed contractors.

534 (f) If the enforcement or licensing board or designated



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535 special magistrate finds that a violation exists, the
536 enforcement or licensing board or designated special magistrate
537 may order the violator to pay a civil penalty of not less than
538 the amount set forth on the citation but not more than \$1,500
539 ~~\$1,000~~ per day for each violation. In determining the amount of
540 the penalty, the enforcement or licensing board or designated
541 special magistrate shall consider the following factors:

542 1. The gravity of the violation.

543 2. Any actions taken by the violator to correct the
544 violation.

545 3. Any previous violations committed by the violator.

546 (6) Local building departments may collect outstanding
547 fines against registered or certified contractors issued by the
548 Construction Industry Licensing Board and may retain 75 ~~25~~
549 percent of the fines they are able to collect, provided that
550 they transmit 25 ~~75~~ percent of the fines they are able to
551 collect to the department according to a procedure to be
552 determined by the department.

553 Section 6. Paragraph (a) of subsection (7) of section
554 489.131, Florida Statutes, is amended to read:

555 489.131 Applicability.—

556 (7) (a) It is the policy of the state that the purpose of
557 regulation is to protect the public by attaining compliance with
558 the policies established in law. Fines and other penalties are
559 provided in order to ensure compliance; ~~however, the collection~~
560 ~~of fines and the imposition of penalties are intended to be~~
561 ~~secondary to the primary goal of attaining compliance with state~~
562 ~~laws and local jurisdiction ordinances. It is the intent of the~~
563 ~~Legislature that a local jurisdiction agency charged with~~



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564 ~~enforcing regulatory laws shall issue a notice of noncompliance~~
565 ~~as its first response to a minor violation of a regulatory law~~
566 ~~in any instance in which it is reasonable to assume that the~~
567 ~~violator was unaware of such a law or unclear as to how to~~
568 ~~comply with it. A violation of a regulatory law is a "minor~~
569 ~~violation" if it does not result in economic or physical harm to~~
570 ~~a person or adversely affect the public health, safety, or~~
571 ~~welfare or create a significant threat of such harm. A "notice~~
572 ~~of noncompliance" is a notification by the local jurisdiction~~
573 ~~agency charged with enforcing the ordinance, which is issued to~~
574 ~~the licensee that is subject to the ordinance. A notice of~~
575 ~~noncompliance should not be accompanied with a fine or other~~
576 ~~disciplinary penalty. It should identify the specific ordinance~~
577 ~~that is being violated, provide information on how to comply~~
578 ~~with the ordinance, and specify a reasonable time for the~~
579 ~~violator to comply with the ordinance. Failure of a licensee to~~
580 ~~take action correcting the violation within a set period of time~~
581 ~~would then result in the institution of further disciplinary~~
582 ~~proceedings.~~

583 Section 7. Section 489.514, Florida Statutes, is amended to
584 read:

585 489.514 Certification for registered contractors;
586 grandfathering provisions.—

587 (1) The board shall, upon receipt of a completed
588 application, appropriate fee, and proof of compliance with the
589 provisions of this section, issue:

590 (a) To an applying registered electrical contractor, a
591 certificate as an electrical contractor, as defined in s.
592 489.505(12); ~~or~~



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593 (b) To an applying registered alarm system contractor, a
594 certificate in the matching alarm system contractor category, as
595 defined in s. 489.505(2) (a) or (b); or

596 (c) To an applying registered electrical specialty
597 contractor, a certificate in the matching electrical specialty
598 contractor category, as defined in s. 489.505(19).

599 (2) Any contractor registered under this part who makes
600 application under this section to the board shall meet each of
601 the following requirements for certification:

602 (a) Currently holds a valid registered local license in the
603 category of electrical contractor, alarm system contractor, or
604 electrical specialty contractor.

605 (b) Has, for that category, passed a written, proctored
606 examination that the board finds to be substantially similar to
607 the examination required to be licensed as a certified
608 contractor under this part. For purposes of this subsection, a
609 written, proctored examination such as that produced by the
610 National Assessment Institute, Block and Associates, NAI/Block,
611 Experior Assessments, Professional Testing, Inc., or Assessment
612 Systems, Inc., shall be considered to be substantially similar
613 to the examination required to be licensed as a certified
614 contractor. The board may not impose or make any requirements
615 regarding the nature or content of these cited examinations.

616 (c) Has at least 5 years of experience as a contractor in
617 that contracting category, or as an inspector or building
618 administrator with oversight over that category, at the time of
619 application. For contractors, only time periods in which the
620 contractor license is active and the contractor is not on
621 probation ~~shall~~ count toward the 5 years required under this



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622 subsection.

623 (d) Has not had his or her contractor's license revoked at
624 any time, had his or her contractor's license suspended in the
625 last 5 years, or been assessed a fine in excess of \$500 in the
626 last 5 years.

627 (e) Is in compliance with the insurance and financial
628 responsibility requirements in s. 489.515(1)(b).

629 (3) An applicant must make application by November 1, 2015
630 ~~2004~~, to be licensed pursuant to this section.

631 Section 8. Paragraph (c) of subsection (4) of section
632 489.531, Florida Statutes, is amended to read:

633 489.531 Prohibitions; penalties.-

634 (4) Each county or municipality may, at its option,
635 designate one or more of its code enforcement officers, as
636 defined in chapter 162, to enforce, as set out in this
637 subsection, the provisions of subsection (1) against persons who
638 engage in activity for which county or municipal certification
639 is required.

640 (c) The local governing body of the county or municipality
641 ~~may is authorized to~~ enforce codes and ordinances against
642 unlicensed contractors under the provisions of this section and
643 may enact an ordinance establishing procedures for implementing
644 this section, including a schedule of penalties to be assessed
645 by the code enforcement officers. The maximum civil penalty
646 which may be levied ~~may shall~~ not exceed \$2,000 ~~\$500~~. Moneys
647 collected pursuant to this section shall be retained locally as
648 provided for by local ordinance and may be set aside in a
649 specific fund to support future enforcement activities against
650 unlicensed contractors.



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651 Section 9. Subsection (17) of section 553.73, Florida
652 Statutes, is amended to read:

653 553.73 Florida Building Code.—

654 (17) A provision ~~The provisions of section R313 of the most~~
655 ~~current version~~ of the International Residential Code relating
656 to mandated fire sprinklers may not be incorporated into the
657 Florida Building Code as adopted by the Florida Building
658 Commission and may not be adopted as a local amendment to the
659 Florida Building Code. This subsection does not prohibit the
660 application of cost-saving incentives for residential fire
661 sprinklers that are authorized in the International Residential
662 Code upon a mutual agreement between the builder and the code
663 official. This subsection does not apply to a local government
664 that has a lawfully adopted ordinance relating to fire
665 sprinklers which has been in effect since January 1, 2010.

666 Section 10. Subsection (1) of section 553.74, Florida
667 Statutes, is amended to read:

668 553.74 Florida Building Commission.—

669 (1) The Florida Building Commission is created and located
670 within the Department of Business and Professional Regulation
671 for administrative purposes. Members are ~~shall be~~ appointed by
672 the Governor subject to confirmation by the Senate. The
673 commission is ~~shall be~~ composed of 26 ~~25~~ members, consisting of
674 the following:

675 (a) One architect registered to practice in this state and
676 actively engaged in the profession. The American Institute of
677 Architects, Florida Section, is encouraged to recommend a list
678 of candidates for consideration.

679 (b) One structural engineer registered to practice in this



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680 state and actively engaged in the profession. The Florida
681 Engineering Society is encouraged to recommend a list of
682 candidates for consideration.

683 (c) One air-conditioning or mechanical contractor certified
684 to do business in this state and actively engaged in the
685 profession. The Florida Air Conditioning Contractors
686 Association, the Florida Refrigeration and Air Conditioning
687 Contractors Association, and the Mechanical Contractors
688 Association of Florida are encouraged to recommend a list of
689 candidates for consideration.

690 (d) One electrical contractor certified to do business in
691 this state and actively engaged in the profession. The Florida
692 Electrical Contractors Association and the National Electrical
693 Contractors Association, Florida Chapter, are encouraged to
694 recommend a list of candidates for consideration.

695 (e) One member from fire protection engineering or
696 technology who is actively engaged in the profession. The
697 Florida Chapter of the Society of Fire Protection Engineers and
698 the Florida Fire Marshals and Inspectors Association are
699 encouraged to recommend a list of candidates for consideration.

700 (f) One general contractor certified to do business in this
701 state and actively engaged in the profession. The Associated
702 Builders and Contractors of Florida, the Florida Associated
703 General Contractors Council, and the Union Contractors
704 Association are encouraged to recommend a list of candidates for
705 consideration.

706 (g) One plumbing contractor licensed to do business in this
707 state and actively engaged in the profession. The Florida
708 Association of Plumbing, Heating, and Cooling Contractors is



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709 encouraged to recommend a list of candidates for consideration.

710 (h) One roofing or sheet metal contractor certified to do
711 business in this state and actively engaged in the profession.
712 The Florida Roofing, Sheet Metal, and Air Conditioning
713 Contractors Association and the Sheet Metal and Air Conditioning
714 Contractors National Association are encouraged to recommend a
715 list of candidates for consideration.

716 (i) One residential contractor licensed to do business in
717 this state and actively engaged in the profession. The Florida
718 Home Builders Association is encouraged to recommend a list of
719 candidates for consideration.

720 (j) Three members who are municipal or district codes
721 enforcement officials, one of whom is also a fire official. The
722 Building Officials Association of Florida and the Florida Fire
723 Marshals and Inspectors Association are encouraged to recommend
724 a list of candidates for consideration.

725 (k) One member who represents the Department of Financial
726 Services.

727 (l) One member who is a county codes enforcement official.
728 The Building Officials Association of Florida is encouraged to
729 recommend a list of candidates for consideration.

730 (m) One member of a Florida-based organization of persons
731 with disabilities or a nationally chartered organization of
732 persons with disabilities with chapters in this state.

733 (n) One member of the manufactured buildings industry who
734 is licensed to do business in this state and is actively engaged
735 in the industry. The Florida Manufactured Housing Association is
736 encouraged to recommend a list of candidates for consideration.

737 (o) One mechanical or electrical engineer registered to



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738 practice in this state and actively engaged in the profession.
739 The Florida Engineering Society is encouraged to recommend a
740 list of candidates for consideration.

741 (p) One member who is a representative of a municipality or
742 a charter county. The Florida League of Cities and the Florida
743 Association of Counties are encouraged to recommend a list of
744 candidates for consideration.

745 (q) One member of the building products manufacturing
746 industry who is authorized to do business in this state and is
747 actively engaged in the industry. The Florida Building Material
748 Association, the Florida Concrete and Products Association, and
749 the Fenestration Manufacturers Association are encouraged to
750 recommend a list of candidates for consideration.

751 (r) One member who is a representative of the building
752 owners and managers industry who is actively engaged in
753 commercial building ownership or management. The Building Owners
754 and Managers Association is encouraged to recommend a list of
755 candidates for consideration.

756 (s) One member who is a representative of the insurance
757 industry. The Florida Insurance Council is encouraged to
758 recommend a list of candidates for consideration.

759 (t) One member who is a representative of public education.

760 (u) One member who is a swimming pool contractor licensed
761 to do business in this state and actively engaged in the
762 profession. The Florida Swimming Pool Association and the United
763 Pool and Spa Association are encouraged to recommend a list of
764 candidates for consideration.

765 (v) One member who is a representative of the green
766 building industry and who is a third-party commission agent, a



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767 Florida board member of the United States Green Building Council
768 or Green Building Initiative, a professional who is accredited
769 under the International Green Construction Code (IGCC), or a
770 professional who is accredited under Leadership in Energy and
771 Environmental Design (LEED).

772 (w) One member who is a representative of a natural gas
773 distribution system and who is actively engaged in the
774 distribution of natural gas in this state. The Florida Natural
775 Gas Association is encouraged to recommend a list of candidates
776 for consideration.

777 (x)~~(w)~~ One member who shall be the chair.
778

779 Any person serving on the commission under paragraph (c) or
780 paragraph (h) on October 1, 2003, and who has served less than
781 two full terms is eligible for reappointment to the commission
782 regardless of whether he or she meets the new qualification.

783 Section 11. Subsection (18) is added to section 553.79,
784 Florida Statutes, to read:

785 553.79 Permits; applications; issuance; inspections.—

786 (18) For the purpose of inspection and record retention,
787 site plans for a building may be maintained in the form of an
788 electronic copy at the worksite. These plans must be open to
789 inspection by the building official or a duly authorized
790 representative, as required by the Florida Building Code.

791 Section 12. Paragraph (a) of subsection (5) of section
792 553.842, Florida Statutes, is amended to read:

793 553.842 Product evaluation and approval.—

794 (5) Statewide approval of products, methods, or systems of
795 construction may be achieved by one of the following methods.



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796 One of these methods must be used by the commission to approve
797 the following categories of products: panel walls, exterior
798 doors, roofing, skylights, windows, shutters, impact protective
799 systems, and structural components as established by the
800 commission by rule. A product may not be advertised, sold,
801 offered, provided, distributed, or marketed as hurricane,
802 windstorm, or impact protection from wind-borne debris from a
803 hurricane or windstorm unless it is approved pursuant to this
804 section or s. 553.8425. Any person who advertises, sells,
805 offers, provides, distributes, or markets a product as
806 hurricane, windstorm, or impact protection from wind-borne
807 debris without such approval is subject to the Florida Deceptive
808 and Unfair Trade Practices Act under part II of chapter 501
809 brought by the enforcing authority as defined in s. 501.203.

810 (a) Products for which the code establishes standardized
811 testing or comparative or rational analysis methods shall be
812 approved by submittal and validation of one of the following
813 reports or listings indicating that the product or method or
814 system of construction was in compliance with the Florida
815 Building Code and that the product or method or system of
816 construction is, for the purpose intended, at least equivalent
817 to that required by the Florida Building Code:

- 818 1. A certification mark or listing of an approved
819 certification agency, which may be used only for products for
820 which the code designates standardized testing;
- 821 2. A test report from an approved testing laboratory;
- 822 3. A product evaluation report based upon testing or
823 comparative or rational analysis, or a combination thereof, from
824 an approved product evaluation entity; or



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825 4. A product evaluation report based upon testing or
826 comparative or rational analysis, or a combination thereof,
827 developed and signed and sealed by a professional engineer or
828 architect, licensed in this state.

829

830 A product evaluation report or a certification mark or
831 listing of an approved certification agency which demonstrates
832 that the product or method or system of construction complies
833 with the Florida Building Code for the purpose intended is
834 equivalent to a test report and test procedure referenced in the
835 Florida Building Code. An application for state approval of a
836 product under subparagraph 1. or 3. must be approved by the
837 department after the commission staff or a designee verifies
838 that the application and related documentation are complete.
839 This verification must be completed within 10 business days
840 after receipt of the application. Upon approval by the
841 department, the product shall be immediately added to the list
842 of state-approved products maintained under subsection (13).
843 Approvals by the department shall be reviewed and ratified by
844 the commission's program oversight committee except for a
845 showing of good cause that a review by the full commission is
846 necessary. The commission shall adopt rules providing means to
847 cure deficiencies identified within submittals for products
848 approved under this paragraph.

849 Section 13. Section 553.901, Florida Statutes, is amended
850 to read:

851 553.901 Purpose of thermal efficiency code.—The Department
852 of Business and Professional Regulation shall prepare a thermal
853 efficiency code to provide for a statewide uniform standard for



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854 energy efficiency in the thermal design and operation of all
855 buildings statewide, consistent with energy conservation goals,
856 and to best provide for public safety, health, and general
857 welfare. The Florida Building Commission shall adopt the Florida
858 Building Code-Energy Conservation ~~Florida Energy Efficiency Code~~
859 ~~for Building Construction within the Florida Building Code~~, and
860 shall modify, revise, update, and maintain the code to implement
861 the provisions of this thermal efficiency code and amendments
862 thereto, in accordance with the procedures of chapter 120. The
863 department shall, at least triennially, determine the most cost-
864 effective energy-saving equipment and techniques available and
865 report its determinations to the commission, which shall update
866 the code to incorporate such equipment and techniques. The
867 proposed changes shall be made available for public review and
868 comment no later than 6 months before ~~prior to~~ code
869 implementation. The term "cost-effective," as used in ~~for the~~
870 ~~purposes of this part~~, means ~~shall be construed to mean~~ cost-
871 effective to the consumer.

872 Section 14. Section 553.902, Florida Statutes, is reordered
873 and amended to read:

874 553.902 Definitions.—As used in ~~For the purposes of this~~
875 ~~part~~, the term:

876 (2) ~~(1)~~ "Exempted building" means:

877 (a) A ~~Any~~ building or portion thereof whose peak design
878 rate of energy usage for all purposes is less than 1 watt (3.4
879 Btu per hour) per square foot of floor area for all purposes.

880 (b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
881 by a mechanical system designed to control or modify the indoor
882 temperature and powered by electricity or fossil fuels.



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883 (c) A ~~Any~~ building for which federal mandatory standards
884 preempt state energy codes.

885 (d) A ~~Any~~ historical building as described in s.
886 267.021(3).

887

888 The Florida Building Commission may recommend to the
889 Legislature additional types of buildings which should be
890 exempted from compliance with the Florida Building Code-Energy
891 Conservation ~~Florida Energy Efficiency Code for Building~~
892 ~~Construction~~.

893 (4)~~(2)~~ "HVAC" means a system of heating, ventilating, and
894 air-conditioning.

895 (6)~~(3)~~ "Renovated building" means a residential or
896 nonresidential building undergoing alteration that varies or
897 changes insulation, HVAC systems, water heating systems, or
898 exterior envelope conditions, if ~~provided~~ the estimated cost of
899 renovation exceeds 30 percent of the assessed value of the
900 structure.

901 (5)~~(4)~~ "Local enforcement agency" means the agency of local
902 government which has the authority to make inspections of
903 buildings and to enforce the Florida Building Code. The term ~~It~~
904 includes any agency within the definition of s. 553.71(5).

905 (3)~~(5)~~ "Exterior envelope physical characteristics" means
906 the physical nature of those elements of a building which
907 enclose conditioned spaces through which energy may be
908 transferred to or from the exterior.

909 (1)~~(6)~~ "Energy performance level" means the indicator of
910 the energy-related performance of a building, including, but not
911 limited to, the levels of insulation, the amount and type of



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912 glass, and the HVAC and water heating system efficiencies.

913 Section 15. Section 553.903, Florida Statutes, is amended
914 to read:

915 553.903 Applicability.—This part applies ~~shall apply~~ to all
916 new and renovated buildings in the state, except exempted
917 buildings, for which building permits are obtained after March
918 15, 1979, and to the installation or replacement of building
919 systems and components with new products for which thermal
920 efficiency standards are set by the Florida Building Code-Energy
921 Conservation ~~Florida Energy Efficiency Code for Building~~
922 ~~Construction~~. The provisions of this part shall constitute a
923 statewide uniform code.

924 Section 16. Section 553.904, Florida Statutes, is amended
925 to read:

926 553.904 Thermal efficiency standards for new nonresidential
927 buildings.—Thermal designs and operations for new nonresidential
928 buildings for which building permits are obtained after March
929 15, 1979, must ~~shall~~ at a minimum take into account exterior
930 envelope physical characteristics, including thermal mass; HVAC,
931 service water heating, energy distribution, lighting, energy
932 managing, and auxiliary systems design and selection; and HVAC,
933 service water heating, energy distribution, lighting, energy
934 managing, and auxiliary equipment performance, and are ~~shall~~ not
935 ~~be~~ required to meet standards more stringent than the provisions
936 of the Florida Building Code-Energy Conservation ~~Florida Energy~~
937 ~~Efficiency Code for Building Construction~~.

938 Section 17. Section 553.905, Florida Statutes, is amended
939 to read:

940 553.905 Thermal efficiency standards for new residential



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941 buildings.—Thermal designs and operations for new residential
942 buildings for which building permits are obtained after March
943 15, 1979, must ~~shall~~ at a minimum take into account exterior
944 envelope physical characteristics, HVAC system selection and
945 configuration, HVAC equipment performance, and service water
946 heating design and equipment selection and are ~~shall~~ not ~~be~~
947 required to meet standards more stringent than the provisions of
948 the Florida Building Code-Energy Conservation ~~Florida Energy~~
949 ~~Efficiency Code for Building Construction~~. HVAC equipment
950 mounted in an attic or a garage is ~~shall~~ not ~~be~~ required to have
951 supplemental insulation in addition to that installed by the
952 manufacturer. All new residential buildings, except those herein
953 exempted, must ~~shall~~ have insulation in ceilings rated at R-19
954 or more, space permitting. Thermal efficiency standards do not
955 apply to a building of less than 1,000 square feet which is not
956 primarily used as a principal residence and which is constructed
957 and owned by a natural person for hunting or similar
958 recreational purposes; however, ~~no~~ such person may not build
959 more than one exempt building in any 12-month period.

960 Section 18. Section 553.906, Florida Statutes, is amended
961 to read:

962 553.906 Thermal efficiency standards for renovated
963 buildings.—Thermal designs and operations for renovated
964 buildings for which building permits are obtained after March
965 15, 1979, must ~~shall~~ take into account insulation; windows;
966 infiltration; and HVAC, service water heating, energy
967 distribution, lighting, energy managing, and auxiliary systems
968 design and equipment selection and performance. Such buildings
969 are ~~shall~~ not ~~be~~ required to meet standards more stringent than



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970 the provisions of the Florida Building Code-Energy Conservation
971 ~~Florida Energy Efficiency Code for Building Construction~~. These
972 standards apply only to those portions of the structure which
973 are actually renovated.

974 Section 19. Section 553.912, Florida Statutes, is amended
975 to read:

976 553.912 Air conditioners.—All air conditioners that are
977 sold or installed in the state must ~~shall~~ meet the minimum
978 efficiency ratings of the Florida Building Code-Energy
979 Conservation ~~Energy Efficiency Code for Building Construction~~.
980 These efficiency ratings must ~~shall~~ be minimums and may be
981 updated in the Florida Building Code-Energy Conservation ~~Florida~~
982 ~~Energy Efficiency Code for Building Construction~~ by the
983 department in accordance with s. 553.901, following its
984 determination that more cost-effective energy-saving equipment
985 and techniques are available. It is the intent of the
986 Legislature that all replacement air-conditioning systems be
987 installed using energy-saving, quality installation procedures
988 in residential, including, but not limited to, equipment sizing
989 analysis and duct inspection. Notwithstanding this section,
990 existing heating and cooling equipment in residential
991 applications need not meet the minimum equipment efficiencies,
992 including system sizing and duct sealing, except to preserve the
993 original approval or listing of the equipment.

994 Section 20. Section 553.991, Florida Statutes, is amended
995 to read:

996 553.991 Purpose.—The purpose of this part is to identify
997 systems ~~provide for a statewide uniform system~~ for rating the
998 energy efficiency of buildings. It is in the interest of the



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999 state to encourage the consideration of ~~the~~ energy-efficiency
1000 rating systems ~~system~~ in the market so as to provide market
1001 rewards for energy-efficient buildings and to those persons or
1002 companies designing, building, or selling energy-efficient
1003 buildings.

1004 Section 21. Section 553.992, Florida Statutes, is repealed.

1005 Section 22. Section 553.993, Florida Statutes, is amended
1006 to read:

1007 553.993 Definitions.—For purposes of this part:

1008 (1) "Acquisition" means to gain the sole or partial use of
1009 a building through a purchase agreement.

1010 (2) "Builder" means the primary contractor who possesses
1011 the requisite skill, knowledge, and experience, and has the
1012 responsibility, to supervise, direct, manage, and control the
1013 contracting activities of the business organization with which
1014 she or he is connected and who has the responsibility to
1015 supervise, direct, manage, and control the construction work on
1016 a job for which she or he has obtained the building permit.
1017 Construction work includes, but is not limited to, foundation,
1018 framing, wiring, plumbing, and finishing work.

1019 (3) "Building energy-efficiency rating system" means a
1020 whole building energy evaluation system established by the
1021 Residential Energy Services Network, the Commercial Energy
1022 Services Network, the Building Performance Institute, or the
1023 Florida Solar Energy Center.

1024 (4) ~~(3)~~ "Designer" means the architect, engineer, landscape
1025 architect, builder, interior designer, or other person who
1026 performs the actual design work or under whose direct
1027 supervision and responsible charge the construction documents



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1028 are prepared.

1029 (5) "Energy auditor" means a trained and certified
1030 professional who conducts energy evaluations of an existing
1031 building and uses tools to identify the building's current
1032 energy usage and the condition of the building and equipment.

1033 (6) "Energy-efficiency rating" means an unbiased indication
1034 of a building's relative energy efficiency based on consistent
1035 inspection procedures, operating assumptions, climate data, and
1036 calculation methods.

1037 (7) "Energy rater" means an individual certified by a
1038 building energy-efficiency rating system to perform building
1039 energy-efficiency ratings for the 810 building type and in the
1040 rating class for which the rater is certified.

1041 (8)-(4) "New building" means commercial occupancy buildings
1042 permitted for construction after January 1, 1995, and
1043 residential occupancy buildings permitted for construction after
1044 January 1, 1994.

1045 (9)-(5) "Public building" means a building comfort-
1046 conditioned for occupancy that is owned or leased by the state,
1047 a state agency, or a governmental subdivision, including, but
1048 not limited to, a city, county, or school district.

1049 Section 23. Section 553.994, Florida Statutes, is amended
1050 to read:

1051 553.994 Applicability.—Building energy-efficiency ~~The~~
1052 rating systems system shall apply to all public, commercial, and
1053 residential buildings in the state.

1054 Section 24. Section 553.995, Florida Statutes, is amended
1055 to read:

1056 553.995 Energy-efficiency ratings for buildings.—



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1057 (1) Building ~~The~~ energy-efficiency rating systems must,
1058 ~~system shall~~ at a minimum:

1059 ~~(a) Provide a uniform rating scale of the efficiency of~~
1060 ~~buildings based on annual energy usage.~~

1061 ~~(a)(b)~~ Take into account local climate conditions,
1062 construction practices, and building use.

1063 ~~(b)(e)~~ Be compatible with standard federal rating systems
1064 and state building codes and standards, where applicable, and
1065 shall satisfy the requirements of s. 553.9085 with respect to
1066 residential buildings and s. 255.256 with respect to state
1067 buildings.

1068 ~~(c)(2) The energy-efficiency rating system adopted by the~~
1069 ~~department shall~~ Provide a means of analyzing and ~~comparing~~ the
1070 relative energy efficiency of buildings upon the sale of new or
1071 existing residential, public, or commercial buildings.

1072 ~~(3) The department shall establish a voluntary working~~
1073 ~~group of persons interested in the energy-efficiency rating~~
1074 ~~system or energy efficiency, including, but not limited to, such~~
1075 ~~persons as electrical engineers, mechanical engineers,~~
1076 ~~architects, public utilities, and builders. The interest group~~
1077 ~~shall advise the department in the development of the energy-~~
1078 ~~efficiency rating system and shall assist the department in the~~
1079 ~~implementation of the rating system by coordinating educational~~
1080 ~~programs for designers, builders, businesses, and other~~
1081 ~~interested persons to assist compliance and to facilitate~~
1082 ~~incorporation of the rating system into existing practices.~~

1083 ~~(2)(a)(4) The department shall develop a training and~~
1084 ~~certification program to certify raters. In addition to the~~
1085 ~~department,~~ Ratings may be conducted by a ~~any~~ local government



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1086 or private entity ~~if, provided that~~ the appropriate persons have
1087 completed the necessary training established by the applicable
1088 building energy-efficiency rating system ~~and have been certified~~
1089 ~~by the department.~~

1090 (b) The Department of Management Services shall rate state-
1091 owned or state-leased buildings ~~if, provided that~~ the
1092 appropriate persons have completed the necessary training
1093 established by the applicable building energy-efficiency rating
1094 system ~~and have been certified by the Department of Business and~~
1095 ~~Professional Regulation.~~

1096 (c) A state agency that ~~which~~ has building construction
1097 regulation authority may rate its own buildings and those it is
1098 responsible for, if the appropriate persons have completed the
1099 necessary training established by the applicable building
1100 energy-efficiency rating system ~~and have been certified by the~~
1101 ~~Department of Business and Professional Regulation. The~~
1102 ~~Department of Business and Professional Regulation may charge a~~
1103 ~~fee not to exceed the costs for the training and certification~~
1104 ~~of raters. The department shall by rule set the appropriate~~
1105 ~~charges for raters to charge for energy ratings, not to exceed~~
1106 ~~the actual costs.~~

1107 Section 25. Section 553.996, Florida Statutes, is amended
1108 to read:

1109 553.996 Energy-efficiency information provided by building
1110 energy-efficiency rating systems providers brochure.—A
1111 prospective purchaser of real property with a building for
1112 occupancy located thereon shall be provided ~~with a copy of an~~
1113 ~~information brochure,~~ at the time of or before ~~prior to~~ the
1114 purchaser's execution of the contract for sale and purchase



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1115 ~~which notifies, notifying~~ the purchaser of the option for an
1116 energy-efficiency rating on the building. Building energy-
1117 efficiency rating system providers identified in this part shall
1118 prepare such information and make it available for distribution
1119 ~~Such brochure shall be prepared, made available for~~
1120 ~~distribution, and provided at no cost by the department.~~ Such
1121 ~~brochure shall contain~~ information relevant to that class of
1122 building must include, including, but need not be limited to:

1123 (1) How to analyze the building's energy-efficiency rating.

1124 (2) Comparisons to statewide averages for new and existing
1125 construction of that class.

1126 (3) Information concerning methods to improve the
1127 building's energy-efficiency rating.

1128 (4) A notice to residential purchasers that the energy-
1129 efficiency rating may qualify the purchaser for an energy-
1130 efficient mortgage from lending institutions.

1131 Section 26. Subsection (2) of section 553.997, Florida
1132 Statutes, is amended to read:

1133 553.997 Public buildings.—

1134 (2) ~~The department, together with other~~ State agencies
1135 having building construction and maintenance responsibilities,
1136 shall make available energy-efficiency practices information to
1137 be used by individuals involved in the design, construction,
1138 retrofitting, and maintenance of buildings for state and local
1139 governments.

1140 Section 27. Section 553.998, Florida Statutes, is amended
1141 to read:

1142 553.998 Compliance.—All ratings must ~~shall~~ be determined
1143 using tools and procedures developed by the systems recognized



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1144 under this part adopted by the department by rule in accordance
1145 with chapter 120 and must shall be certified by the rater as
1146 accurate and correct and in compliance with procedures of the
1147 system under which the rater is certified adopted by the
1148 department by rule in accordance with chapter 120.

1149 Section 28. Concrete Masonry Products Research, Education,
1150 and Promotion Act.-

1151 (1) SHORT TITLE.-This section may be cited as the "Concrete
1152 Masonry Products Research, Education, and Promotion Act."

1153 (2) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;
1154 PURPOSES.-

1155 (a) There is created the Florida Concrete Masonry Council,
1156 Inc., a nonprofit corporation organized under the laws of this
1157 state and operating as a direct-support organization of the
1158 Florida Building Commission.

1159 (b) The council shall:

1160 1. Develop, implement, and monitor a system for the
1161 definition of masonry products and for the collection of self-
1162 imposed voluntary assessments.

1163 2. Plan, implement, and conduct programs of education,
1164 promotion, research, and consumer information and industry
1165 information which are designed to strengthen the market position
1166 of the concrete masonry industry in this state and in the
1167 nation, to maintain and expand domestic and foreign markets, and
1168 to expand the uses for concrete masonry products.

1169 3. Use the means authorized by this subsection for the
1170 purpose of funding research, education, promotion, and consumer
1171 and industry information of concrete masonry products in this
1172 state and in the nation.



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1173 4. Coordinate research, education, promotion, industry, and
1174 consumer information programs with national programs or programs
1175 of other states.

1176 5. Develop new uses and markets for concrete masonry
1177 products.

1178 6. Develop and improve educational access to individuals
1179 seeking employment in the field of concrete masonry.

1180 7. Develop methods of improving the quality of concrete
1181 masonry products for the purpose of windstorm protection.

1182 8. Develop methods of improving the energy efficiency
1183 attributes of concrete masonry products.

1184 9. Inform and educate the public concerning the
1185 sustainability and economic benefits of concrete masonry
1186 products.

1187 10. Do all other acts necessary or expedient for the
1188 administration of the affairs and attainment of the purposes of
1189 the council.

1190 (c) The council may:

1191 1. Conduct or contract for scientific research with any
1192 accredited university, college, or similar institution and enter
1193 into other contracts or agreements that will aid in carrying out
1194 the purposes of this section, including contracts for the
1195 purchase or acquisition of facilities or equipment necessary to
1196 carry out the purposes of this section.

1197 2. Disseminate reliable information benefiting the consumer
1198 and the concrete masonry industry.

1199 3. Provide to governmental bodies, on request, information
1200 relating to subjects of concern to the concrete masonry industry
1201 and act jointly or in cooperation with the state or Federal



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1202 Government, and agencies thereof, in the development or
1203 administration of programs that the council considers to be
1204 consistent with the objectives of this section.

1205 4. Sue and be sued as a council without individual
1206 liability of the members for acts of the council when acting
1207 within the scope of the powers of this section and in the manner
1208 prescribed by the laws of this state.

1209 5. Maintain a financial reserve for emergency use, the
1210 total of which must not exceed 50 percent of the council's
1211 anticipated annual income.

1212 6. Employ subordinate officers and employees of the
1213 council, prescribe their duties, and fix their compensation and
1214 terms of employment.

1215 7. Cooperate with any local, state, regional, or nationwide
1216 organization or agency engaged in work or activities consistent
1217 with the objectives of the program.

1218 8. Do all other things necessary to further the intent of
1219 this section which are not prohibited by law.

1220 (d) The council and concrete masonry manufacturers may meet
1221 and coordinate the collection of self-imposed voluntary
1222 assessments for each concrete masonry unit that is produced and
1223 sold by manufacturers in the state.

1224 (e)1. The council may not participate or intervene in any
1225 political campaign on behalf of or in opposition to any
1226 candidate for public office or any state or local ballot
1227 initiative. This restriction includes, but is not limited to, a
1228 prohibition against publishing or distributing any statement.

1229 2. The net receipts of the council may not in any part
1230 inure to the benefit of or be distributable to its directors,



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1231 its officers, or other private persons, except that the council
1232 may pay reasonable compensation for services rendered by staff
1233 employees and may make payments and distributions in furtherance
1234 of the purposes of this section.

1235 3. Notwithstanding any other provision of law, the council
1236 may not carry on any other activity not permitted to be carried
1237 on by a corporation:

1238 a. That is exempt from federal income tax under s.
1239 501(c)(3) of the Internal Revenue Code; or

1240 b. To which charitable contributions are deductible under
1241 s. 170(c)(2) of the Internal Revenue Code.

1242 (3) GOVERNING BOARD.—

1243 (a) The Florida Concrete Masonry Council, Inc., shall be
1244 governed by a board of directors composed of 15 members as
1245 follows:

1246 1. Nine members representing concrete masonry
1247 manufacturers. Of these board members, at least five must be a
1248 representative of a manufacturer that is a member of the Masonry
1249 Association of Florida. These members must be representatives of
1250 concrete masonry manufacturers of various sizes. A manufacturer
1251 may not be represented by more than one member of the board.

1252 2. One member representing the Florida Building Commission.

1253 3. One member representing the Florida Home Builders
1254 Association.

1255 4. One member having expertise in apprenticeship or
1256 vocational training.

1257 5. Two members who are masonry contractors and who are
1258 members of the Masonry Association of Florida.

1259 6. One member who is not a masonry contractor or



1260 manufacturer or an employee of a masonry contractor or
1261 manufacturer, but who is otherwise a stakeholder in the masonry
1262 industry.

1263 (b) The initial board of directors shall be appointed by
1264 the chair of the commission based on recommendations from the
1265 Masonry Association of Florida. Five of the initial board
1266 members shall be appointed to a 1-year term. Five shall be
1267 appointed for a 2-year term. The remaining board members shall
1268 be appointed for a 3-year term. Thereafter, each member shall be
1269 appointed to serve a 3-year term and may be reappointed to serve
1270 an additional consecutive term. After the initial appointments
1271 are made, each subsequent vacancy shall be filled in accordance
1272 with the bylaws of the council. A member may not serve more than
1273 two consecutive terms. A member representing a manufacturer or a
1274 contractor must be employed by a manufacturer or contractor
1275 engaging in the trade of manufacture of concrete masonry
1276 products for at least 5 years immediately preceding the first
1277 day of his or her service on the board. All members of the board
1278 shall serve without compensation. However, the board members are
1279 entitled to reimbursement for per diem and travel expenses
1280 incurred in carrying out the intents and purposes of this
1281 section in accordance with s. 112.061, Florida Statutes.

1282 (c) The council shall elect from its members a chair, vice
1283 chair, and a secretary-treasurer to a 2-year term each. The
1284 chair of the board must be a concrete masonry manufacturer.

1285 (d) The initial board of directors shall adopt bylaws to
1286 govern initial terms of directors, governance of board members
1287 and meetings, term limits, and procedures for filling vacancies.

1288 (4) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept



1289 grants, donations, contributions, or gifts from any source if
1290 the use of such resources is not restricted in any manner that
1291 the council considers to be inconsistent with the objectives of
1292 this section.

1293 (5) PAYMENTS TO ORGANIZATIONS.—

1294 (a) The council may make payments to other organizations
1295 for work or services performed which are consistent with the
1296 objectives of the program.

1297 (b) Before making payments described in this subsection,
1298 the council must secure a written agreement that the
1299 organization receiving payment will furnish at least annually,
1300 or more frequently on request of the council, written or printed
1301 reports of program activities and reports of financial data that
1302 are relative to the council's funding of such activities.

1303 (c) The council may require adequate proof of security
1304 bonding on the payments to any individual, business, or other
1305 organization.

1306 (6) COLLECTION OF MONEYS AT TIME OF SALE.—

1307 (a) If a self-imposed voluntary assessment is paid by a
1308 manufacturer, each manufacturer shall list on its invoice to the
1309 purchaser, at the time of sale by the manufacturer, such
1310 assessment. The amount of the assessment must be separately
1311 stated on all receipts, invoices, or other evidence of sale as
1312 the "Florida Building Sustainability Assessment."

1313 (b) Each manufacturer that elects to self-impose a
1314 voluntary assessment shall commit to the assessment for a period
1315 of not less than 1 year and shall annually be authorized to
1316 renew or end the self-imposed voluntary assessment.

1317 (c) The manufacturer shall collect all such moneys and



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1318 forward them quarterly to the council.

1319 (d) The council shall maintain within its financial records
1320 a separate accounting of all moneys received under this
1321 subsection. The council shall provide for an annual financial
1322 audit of its accounts and records to be conducted by an
1323 independent certified public accountant licensed under chapter
1324 473.

1325 (7) BYLAWS.—The council shall, by September 30, 2013, adopt
1326 bylaws to carry out the intents and purposes of this section.
1327 These bylaws may be amended upon 30 days' notice to board
1328 members at any regular or special meeting called for this
1329 purpose. The bylaws must conform to the requirements of this
1330 section but may also address any matter not in conflict with the
1331 general laws of this state.

1332
1333
1334 ===== T I T L E A M E N D M E N T =====

1335 And the title is amended as follows:

1336 Delete line 2

1337 and insert:

1338 An act relating to building construction; amending s.
1339 162.12, F.S.; revising notice requirements in the Local
1340 Government Code Enforcement Boards Act; amending s. 381.0065,
1341 F.S.; specifying that certain actions relating to onsite sewage
1342 treatment and removal are not required if a bedroom is not added
1343 during a remodeling addition or modification to a single-family
1344 home; prohibiting a remodeling addition or modification from
1345 certain coverage or encroachment; authorizing a local health
1346 board to review specific plans; requiring a review to be



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1347 completed within a specific time period after receipt of
1348 specific plans; amending s. 489.105, F.S.; revising a
1349 definition; providing that amendments to s. 489.113(2), F.S.,
1350 enacted in s. 11, ch. 2012-13, Laws of Florida, are remedial and
1351 intended to clarify existing law; providing for retroactivity;
1352 amending s. 489.127, F.S.; revising civil penalties; authorizing
1353 a local building department to retain 75 percent of certain
1354 fines collected if it transmits 25 percent to the Department of
1355 Business and Professional Regulation; amending s. 489.131, F.S.;
1356 deleting legislative intent referring to a local agency's
1357 enforcement of regulatory laws; deleting the definitions of
1358 "minor violation" and "notice of noncompliance"; deleting
1359 provisions that provide for what a notice of noncompliance
1360 should or should not include; deleting a provision that provides
1361 for further disciplinary proceedings for certain licensees;
1362 amending s. 489.514, F.S.; extending the date by which an
1363 applicant must make application for a license to be
1364 grandfathered; amending s. 489.531, F.S.; revising a maximum
1365 civil penalty; amending s. 553.73, F.S.; prohibiting any
1366 provision of the International Residential Code relating to
1367 mandated fire sprinklers from incorporation into the Florida
1368 Building Code; amending s. 553.74, F.S.; revising membership of
1369 the Florida Building Commission; amending s. 553.79, F.S.;
1370 authorizing a site plan to be maintained at the worksite as an
1371 electronic copy; requiring the copy to be open to inspection by
1372 certain officials; amending s. 553.842, F.S.; requiring an
1373 application for state approval of a certain product to be
1374 approved by the department after the application and related
1375 documentation are complete; amending ss. 553.901, 553.902,



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1376 553.903, 553.904, 553.905, and 553.906, F.S.; requiring the
1377 Florida Building Commission to adopt the Florida Building Code-
1378 Energy Conservation; conforming subsequent sections of the
1379 thermal efficiency code; amending s. 553.912, F.S.; providing
1380 that certain existing heating and cooling equipment is not
1381 required to meet the minimum equipment efficiencies; amending s.
1382 553.991, F.S.; revising the purpose of the Florida Building
1383 Energy-Efficiency Rating Act; repealing s. 553.992, F.S.,
1384 relating to the adoption of a rating system; amending s.
1385 553.993, F.S.; providing definitions; amending s. 553.994, F.S.;
1386 providing for the applicability of building energy-efficiency
1387 rating systems; amending s. 553.995, F.S.; deleting a minimum
1388 requirement for the building energy-efficiency rating systems;
1389 revising language; deleting provisions relating to a certain
1390 interest group; deleting provisions relating to the Department
1391 of Business and Professional Regulation; amending s. 553.996,
1392 F.S.; requiring building energy-efficiency rating system
1393 providers to provide certain information; amending s. 553.997,
1394 F.S.; deleting a provision relating to the department; amending
1395 s. 553.998, F.S.; revising provisions relating to rating
1396 compliance; providing a short title; creating the Florida
1397 Concrete Masonry Council, Inc.; authorizing the council to levy
1398 an assessment on the sale of concrete masonry units under
1399 certain circumstances; providing the powers and duties of the
1400 council and restrictions upon actions of the council; providing
1401 for appointment of the governing board of the council;
1402 authorizing the council to submit a referendum to manufacturers
1403 of concrete masonry units for authorization to levy an
1404 assessment on the sale of concrete masonry units; providing



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1405 procedure for holding the referendum; authorizing the council to
1406 accept grants, donations, contributions, and gifts under certain
1407 circumstances; authorizing the council to make payments to other
1408 organizations under certain circumstances; providing
1409 requirements for the manufacturer's collection of assessments;
1410 requiring the council to adopt bylaws;
1411



222346

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/16/2013	.	
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The Committee on Community Affairs (Simpson) recommended the following:

Senate Amendment to Amendment (785058)

Delete line 1039
and insert:
energy-efficiency ratings for the building type and in the



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/16/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 12 and 13
insert:

Section 1. Section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must be provided to the alleged violator by:

(a) Certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices, or to the address listed in the county property appraiser's



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13 database. The local government may also provide an additional
14 notice to any other address it may find for ~~provided by the~~
15 ~~property owner in writing to the local government for the~~
16 ~~purpose of receiving notices.~~ For property owned by a
17 corporation, notices may be provided by certified mail to the
18 registered agent of the corporation. If any notice sent by
19 certified mail is not signed as received within 30 days after
20 the postmarked date of mailing, notice may be provided by
21 posting as described in subparagraphs (2) (b)1. and 2.;

22 (b) Hand delivery by the sheriff or other law enforcement
23 officer, code inspector, or other person designated by the local
24 governing body;

25 (c) Leaving the notice at the violator's usual place of
26 residence with any person residing therein who is above 15 years
27 of age and informing such person of the contents of the notice;
28 or

29 (d) In the case of commercial premises, leaving the notice
30 with the manager or other person in charge.

31 (2) In addition to providing notice as set forth in
32 subsection (1), at the option of the code enforcement board or
33 the local government, notice may ~~also~~ be served by publication
34 or posting, as follows:

35 (a)1. Such notice shall be published once during each week
36 for 4 consecutive weeks (four publications being sufficient) in
37 a newspaper of general circulation in the county where the code
38 enforcement board is located. The newspaper shall meet such
39 requirements as are prescribed under chapter 50 for legal and
40 official advertisements.

41 2. Proof of publication shall be made as provided in ss.



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42 50.041 and 50.051.

43 (b)1. In lieu of publication as described in paragraph (a),
44 such notice may be posted at least 10 days prior to the hearing,
45 or prior to the expiration of any deadline contained in the
46 notice, in at least two locations, one of which shall be the
47 property upon which the violation is alleged to exist and the
48 other of which shall be, in the case of municipalities, at the
49 primary municipal government office, and in the case of
50 counties, at the front door of the courthouse or the main county
51 governmental center in said county.

52 2. Proof of posting shall be by affidavit of the person
53 posting the notice, which affidavit shall include a copy of the
54 notice posted and the date and places of its posting.

55 (c) Notice by publication or posting may run concurrently
56 with, or may follow, an attempt or attempts to provide notice by
57 hand delivery or by mail as required under subsection (1).

58

59 Evidence that an attempt has been made to hand deliver or
60 mail notice as provided in subsection (1), together with proof
61 of publication or posting as provided in subsection (2), shall
62 be sufficient to show that the notice requirements of this part
63 have been met, without regard to whether or not the alleged
64 violator actually received such notice.

65 Section 2. Paragraph (aa) of subsection (4) of section
66 381.0065, Florida Statutes, is amended to read:

67 381.0065 Onsite sewage treatment and disposal systems;
68 regulation.—

69 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
70 construct, repair, modify, abandon, or operate an onsite sewage



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71 treatment and disposal system without first obtaining a permit
72 approved by the department. The department may issue permits to
73 carry out this section, but shall not make the issuance of such
74 permits contingent upon prior approval by the Department of
75 Environmental Protection, except that the issuance of a permit
76 for work seaward of the coastal construction control line
77 established under s. 161.053 shall be contingent upon receipt of
78 any required coastal construction control line permit from the
79 Department of Environmental Protection. A construction permit is
80 valid for 18 months from the issuance date and may be extended
81 by the department for one 90-day period under rules adopted by
82 the department. A repair permit is valid for 90 days from the
83 date of issuance. An operating permit must be obtained prior to
84 the use of any aerobic treatment unit or if the establishment
85 generates commercial waste. Buildings or establishments that use
86 an aerobic treatment unit or generate commercial waste shall be
87 inspected by the department at least annually to assure
88 compliance with the terms of the operating permit. The operating
89 permit for a commercial wastewater system is valid for 1 year
90 from the date of issuance and must be renewed annually. The
91 operating permit for an aerobic treatment unit is valid for 2
92 years from the date of issuance and must be renewed every 2
93 years. If all information pertaining to the siting, location,
94 and installation conditions or repair of an onsite sewage
95 treatment and disposal system remains the same, a construction
96 or repair permit for the onsite sewage treatment and disposal
97 system may be transferred to another person, if the transferee
98 files, within 60 days after the transfer of ownership, an
99 amended application providing all corrected information and



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100 proof of ownership of the property. There is no fee associated
101 with the processing of this supplemental information. A person
102 may not contract to construct, modify, alter, repair, service,
103 abandon, or maintain any portion of an onsite sewage treatment
104 and disposal system without being registered under part III of
105 chapter 489. A property owner who personally performs
106 construction, maintenance, or repairs to a system serving his or
107 her own owner-occupied single-family residence is exempt from
108 registration requirements for performing such construction,
109 maintenance, or repairs on that residence, but is subject to all
110 permitting requirements. A municipality or political subdivision
111 of the state may not issue a building or plumbing permit for any
112 building that requires the use of an onsite sewage treatment and
113 disposal system unless the owner or builder has received a
114 construction permit for such system from the department. A
115 building or structure may not be occupied and a municipality,
116 political subdivision, or any state or federal agency may not
117 authorize occupancy until the department approves the final
118 installation of the onsite sewage treatment and disposal system.
119 A municipality or political subdivision of the state may not
120 approve any change in occupancy or tenancy of a building that
121 uses an onsite sewage treatment and disposal system until the
122 department has reviewed the use of the system with the proposed
123 change, approved the change, and amended the operating permit.

124 (aa) An existing-system inspection or evaluation and
125 assessment, or a modification, replacement, or upgrade of an
126 onsite sewage treatment and disposal system is not required for
127 a remodeling addition or modification to a single-family home if
128 a bedroom is not added. However, a remodeling addition or



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129 modification to a single-family home may not cover any part of
130 the existing system or encroach upon a required setback or the
131 unobstructed area. To determine if a setback or the unobstructed
132 area is impacted, the local health department shall review and
133 verify a floor plan and site plan of the proposed remodeling
134 addition or modification to the home submitted by a remodeler
135 which shows the location of the system, including the distance
136 of the remodeling addition or modification to the home from the
137 onsite sewage treatment and disposal system. The local health
138 department may visit the site or otherwise determine the best
139 means of verifying the information submitted. A verification of
140 the location of a system is not an inspection or evaluation and
141 assessment of the system. The review and verification must be
142 completed within 7 business days after receipt by the local
143 health department of a floor plan and site plan. If the review
144 and verification is not completed within such time, the
145 remodeling addition or modification to the single-family home,
146 for the purposes of this paragraph, is approved.

147 Section 3. Subsection (3) of section 489.105, Florida
148 Statutes, is amended to read:

149 489.105 Definitions.—As used in this part:

150 (3) "Contractor" means the person who is qualified for, and
151 is only responsible for, the project contracted for and means,
152 except as exempted in this part, the person who, for
153 compensation, undertakes to, submits a bid to, or does himself
154 or herself or by others construct, repair, alter, remodel, add
155 to, demolish, subtract from, or improve any building or
156 structure, including related improvements to real estate, for
157 others or for resale to others; and whose job scope is



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158 substantially similar to the job scope described in one of the
159 paragraphs of this subsection. For the purposes of regulation
160 under this part, the term "demolish" applies only to demolition
161 of steel tanks more than 50 feet in height; towers more than 50
162 feet in height; other structures more than 50 feet in height,
163 other than buildings or residences more than three stories tall;
164 and ~~all~~ buildings or residences more than three stories tall.
165 Contractors are subdivided into two divisions, Division I,
166 consisting of those contractors defined in paragraphs (a)-(c),
167 and Division II, consisting of those contractors defined in
168 paragraphs (d)-(q):

169 (a) "General contractor" means a contractor whose services
170 are unlimited as to the type of work which he or she may do, who
171 may contract for any activity requiring licensure under this
172 part, and who may perform any work requiring licensure under
173 this part, except as otherwise expressly provided in s. 489.113.

174 (b) "Building contractor" means a contractor whose services
175 are limited to construction of commercial buildings and single-
176 dwelling or multiple-dwelling residential buildings, which do
177 not exceed three stories in height, and accessory use structures
178 in connection therewith or a contractor whose services are
179 limited to remodeling, repair, or improvement of any size
180 building if the services do not affect the structural members of
181 the building.

182 (c) "Residential contractor" means a contractor whose
183 services are limited to construction, remodeling, repair, or
184 improvement of one-family, two-family, or three-family
185 residences not exceeding two habitable stories above no more
186 than one uninhabitable story and accessory use structures in



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187 connection therewith.

188 (d) "Sheet metal contractor" means a contractor whose
189 services are unlimited in the sheet metal trade and who has the
190 experience, knowledge, and skill necessary for the manufacture,
191 fabrication, assembling, handling, erection, installation,
192 dismantling, conditioning, adjustment, insulation, alteration,
193 repair, servicing, or design, if not prohibited by law, of
194 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
195 equivalent or lighter gauge and of other materials, including,
196 but not limited to, fiberglass, used in lieu thereof and of air-
197 handling systems, including the setting of air-handling
198 equipment and reinforcement of same, the balancing of air-
199 handling systems, and any duct cleaning and equipment sanitizing
200 that requires at least a partial disassembling of the system.

201 (e) "Roofing contractor" means a contractor whose services
202 are unlimited in the roofing trade and who has the experience,
203 knowledge, and skill to install, maintain, repair, alter,
204 extend, or design, if not prohibited by law, and use materials
205 and items used in the installation, maintenance, extension, and
206 alteration of all kinds of roofing, waterproofing, and coating,
207 except when coating is not represented to protect, repair,
208 waterproof, stop leaks, or extend the life of the roof. The
209 scope of work of a roofing contractor also includes skylights
210 and any related work, required roof-deck attachments, and any
211 repair or replacement of wood roof sheathing or fascia as needed
212 during roof repair or replacement and any related work.

213 (f) "Class A air-conditioning contractor" means a
214 contractor whose services are unlimited in the execution of
215 contracts requiring the experience, knowledge, and skill to



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216 install, maintain, repair, fabricate, alter, extend, or design,
217 if not prohibited by law, central air-conditioning,
218 refrigeration, heating, and ventilating systems, including duct
219 work in connection with a complete system if such duct work is
220 performed by the contractor as necessary to complete an air-
221 distribution system, boiler and unfired pressure vessel systems,
222 and all appurtenances, apparatus, or equipment used in
223 connection therewith, and any duct cleaning and equipment
224 sanitizing that requires at least a partial disassembling of the
225 system; to install, maintain, repair, fabricate, alter, extend,
226 or design, if not prohibited by law, piping, insulation of
227 pipes, vessels and ducts, pressure and process piping, and
228 pneumatic control piping; to replace, disconnect, or reconnect
229 power wiring on the load side of the dedicated existing
230 electrical disconnect switch; to install, disconnect, and
231 reconnect low voltage heating, ventilating, and air-conditioning
232 control wiring; and to install a condensate drain from an air-
233 conditioning unit to an existing safe waste or other approved
234 disposal other than a direct connection to a sanitary system.
235 The scope of work for such contractor also includes any
236 excavation work incidental thereto, but does not include any
237 work such as liquefied petroleum or natural gas fuel lines
238 within buildings, except for disconnecting or reconnecting
239 changeouts of liquefied petroleum or natural gas appliances
240 within buildings; potable water lines or connections thereto;
241 sanitary sewer lines; swimming pool piping and filters; or
242 electrical power wiring. A Class A air-conditioning contractor
243 may test and evaluate central air-conditioning, refrigeration,
244 heating, and ventilating systems, including duct work; however,



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245 a mandatory licensing requirement is not established for the
246 performance of these specific services.

247 (g) "Class B air-conditioning contractor" means a
248 contractor whose services are limited to 25 tons of cooling and
249 500,000 Btu of heating in any one system in the execution of
250 contracts requiring the experience, knowledge, and skill to
251 install, maintain, repair, fabricate, alter, extend, or design,
252 if not prohibited by law, central air-conditioning,
253 refrigeration, heating, and ventilating systems, including duct
254 work in connection with a complete system only to the extent
255 such duct work is performed by the contractor as necessary to
256 complete an air-distribution system being installed under this
257 classification, and any duct cleaning and equipment sanitizing
258 that requires at least a partial disassembling of the system; to
259 install, maintain, repair, fabricate, alter, extend, or design,
260 if not prohibited by law, piping and insulation of pipes,
261 vessels, and ducts; to replace, disconnect, or reconnect power
262 wiring on the load side of the dedicated existing electrical
263 disconnect switch; to install, disconnect, and reconnect low
264 voltage heating, ventilating, and air-conditioning control
265 wiring; and to install a condensate drain from an air-
266 conditioning unit to an existing safe waste or other approved
267 disposal other than a direct connection to a sanitary system.
268 The scope of work for such contractor also includes any
269 excavation work incidental thereto, but does not include any
270 work such as liquefied petroleum or natural gas fuel lines
271 within buildings, except for disconnecting or reconnecting
272 changeouts of liquefied petroleum or natural gas appliances
273 within buildings; potable water lines or connections thereto;



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274 sanitary sewer lines; swimming pool piping and filters; or
275 electrical power wiring. A Class B air-conditioning contractor
276 may test and evaluate central air-conditioning, refrigeration,
277 heating, and ventilating systems, including duct work; however,
278 a mandatory licensing requirement is not established for the
279 performance of these specific services.

280 (h) "Class C air-conditioning contractor" means a
281 contractor whose business is limited to the servicing of air-
282 conditioning, heating, or refrigeration systems, including any
283 duct cleaning and equipment sanitizing that requires at least a
284 partial disassembling of the system, and whose certification or
285 registration, issued pursuant to this part, was valid on October
286 1, 1988. Only a person who was registered or certified as a
287 Class C air-conditioning contractor as of October 1, 1988, shall
288 be so registered or certified after October 1, 1988. However,
289 the board shall continue to license and regulate those Class C
290 air-conditioning contractors who held Class C licenses before
291 October 1, 1988.

292 (i) "Mechanical contractor" means a contractor whose
293 services are unlimited in the execution of contracts requiring
294 the experience, knowledge, and skill to install, maintain,
295 repair, fabricate, alter, extend, or design, if not prohibited
296 by law, central air-conditioning, refrigeration, heating, and
297 ventilating systems, including duct work in connection with a
298 complete system if such duct work is performed by the contractor
299 as necessary to complete an air-distribution system, boiler and
300 unfired pressure vessel systems, lift station equipment and
301 piping, and all appurtenances, apparatus, or equipment used in
302 connection therewith, and any duct cleaning and equipment



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303 sanitizing that requires at least a partial disassembling of the
304 system; to install, maintain, repair, fabricate, alter, extend,
305 or design, if not prohibited by law, piping, insulation of
306 pipes, vessels and ducts, pressure and process piping, pneumatic
307 control piping, gasoline tanks and pump installations and piping
308 for same, standpipes, air piping, vacuum line piping, oxygen
309 lines, nitrous oxide piping, ink and chemical lines, fuel
310 transmission lines, liquefied petroleum gas lines within
311 buildings, and natural gas fuel lines within buildings; to
312 replace, disconnect, or reconnect power wiring on the load side
313 of the dedicated existing electrical disconnect switch; to
314 install, disconnect, and reconnect low voltage heating,
315 ventilating, and air-conditioning control wiring; and to install
316 a condensate drain from an air-conditioning unit to an existing
317 safe waste or other approved disposal other than a direct
318 connection to a sanitary system. The scope of work for such
319 contractor also includes any excavation work incidental thereto,
320 but does not include any work such as potable water lines or
321 connections thereto, sanitary sewer lines, swimming pool piping
322 and filters, or electrical power wiring. A mechanical contractor
323 may test and evaluate central air-conditioning, refrigeration,
324 heating, and ventilating systems, including duct work; however,
325 a mandatory licensing requirement is not established for the
326 performance of these specific services.

327 (j) "Commercial pool/spa contractor" means a contractor
328 whose scope of work involves, but is not limited to, the
329 construction, repair, and servicing of any swimming pool, or hot
330 tub or spa, whether public, private, or otherwise, regardless of
331 use. The scope of work includes the installation, repair, or



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332 replacement of existing equipment, any cleaning or equipment
333 sanitizing that requires at least a partial disassembling,
334 excluding filter changes, and the installation of new pool/spa
335 equipment, interior finishes, the installation of package pool
336 heaters, the installation of all perimeter piping and filter
337 piping, and the construction of equipment rooms or housing for
338 pool/spa equipment, and also includes the scope of work of a
339 swimming pool/spa servicing contractor. The scope of such work
340 does not include direct connections to a sanitary sewer system
341 or to potable water lines. The installation, construction,
342 modification, or replacement of equipment permanently attached
343 to and associated with the pool or spa for the purpose of water
344 treatment or cleaning of the pool or spa requires licensure;
345 however, the usage of such equipment for the purposes of water
346 treatment or cleaning does not require licensure unless the
347 usage involves construction, modification, or replacement of
348 such equipment. Water treatment that does not require such
349 equipment does not require a license. In addition, a license is
350 not required for the cleaning of the pool or spa in a way that
351 does not affect the structural integrity of the pool or spa or
352 its associated equipment.

353 (k) "Residential pool/spa contractor" means a contractor
354 whose scope of work involves, but is not limited to, the
355 construction, repair, and servicing of a residential swimming
356 pool, or hot tub or spa, regardless of use. The scope of work
357 includes the installation, repair, or replacement of existing
358 equipment, any cleaning or equipment sanitizing that requires at
359 least a partial disassembling, excluding filter changes, and the
360 installation of new pool/spa equipment, interior finishes, the



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361 installation of package pool heaters, the installation of all
362 perimeter piping and filter piping, and the construction of
363 equipment rooms or housing for pool/spa equipment, and also
364 includes the scope of work of a swimming pool/spa servicing
365 contractor. The scope of such work does not include direct
366 connections to a sanitary sewer system or to potable water
367 lines. The installation, construction, modification, or
368 replacement of equipment permanently attached to and associated
369 with the pool or spa for the purpose of water treatment or
370 cleaning of the pool or spa requires licensure; however, the
371 usage of such equipment for the purposes of water treatment or
372 cleaning does not require licensure unless the usage involves
373 construction, modification, or replacement of such equipment.
374 Water treatment that does not require such equipment does not
375 require a license. In addition, a license is not required for
376 the cleaning of the pool or spa in a way that does not affect
377 the structural integrity of the pool or spa or its associated
378 equipment.

379 (1) "Swimming pool/spa servicing contractor" means a
380 contractor whose scope of work involves, but is not limited to,
381 the repair and servicing of a swimming pool, or hot tub or spa,
382 whether public or private, or otherwise, regardless of use. The
383 scope of work includes the repair or replacement of existing
384 equipment, any cleaning or equipment sanitizing that requires at
385 least a partial disassembling, excluding filter changes, and the
386 installation of new pool/spa equipment, interior refinishing,
387 the reinstallation or addition of pool heaters, the repair or
388 replacement of all perimeter piping and filter piping, the
389 repair of equipment rooms or housing for pool/spa equipment, and



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390 the substantial or complete draining of a swimming pool, or hot
391 tub or spa, for the purpose of repair or renovation. The scope
392 of such work does not include direct connections to a sanitary
393 sewer system or to potable water lines. The installation,
394 construction, modification, substantial or complete disassembly,
395 or replacement of equipment permanently attached to and
396 associated with the pool or spa for the purpose of water
397 treatment or cleaning of the pool or spa requires licensure;
398 however, the usage of such equipment for the purposes of water
399 treatment or cleaning does not require licensure unless the
400 usage involves construction, modification, substantial or
401 complete disassembly, or replacement of such equipment. Water
402 treatment that does not require such equipment does not require
403 a license. In addition, a license is not required for the
404 cleaning of the pool or spa in a way that does not affect the
405 structural integrity of the pool or spa or its associated
406 equipment.

407 (m) "Plumbing contractor" means a contractor whose services
408 are unlimited in the plumbing trade and includes contracting
409 business consisting of the execution of contracts requiring the
410 experience, financial means, knowledge, and skill to install,
411 maintain, repair, alter, extend, or, if not prohibited by law,
412 design plumbing. A plumbing contractor may install, maintain,
413 repair, alter, extend, or, if not prohibited by law, design the
414 following without obtaining an additional local regulatory
415 license, certificate, or registration: sanitary drainage or
416 storm drainage facilities, water and sewer plants and
417 substations, venting systems, public or private water supply
418 systems, septic tanks, drainage and supply wells, swimming pool



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419 piping, irrigation systems, and solar heating water systems and
420 all appurtenances, apparatus, or equipment used in connection
421 therewith, including boilers and pressure process piping and
422 including the installation of water, natural gas, liquefied
423 petroleum gas and related venting, and storm and sanitary sewer
424 lines. The scope of work of the plumbing contractor also
425 includes the design, if not prohibited by law, and installation,
426 maintenance, repair, alteration, or extension of air-piping,
427 vacuum line piping, oxygen line piping, nitrous oxide piping,
428 and all related medical gas systems; fire line standpipes and
429 fire sprinklers if authorized by law; ink and chemical lines;
430 fuel oil and gasoline piping and tank and pump installation,
431 except bulk storage plants; and pneumatic control piping
432 systems, all in a manner that complies with all plans,
433 specifications, codes, laws, and regulations applicable. The
434 scope of work of the plumbing contractor applies to private
435 property and public property, including any excavation work
436 incidental thereto, and includes the work of the specialty
437 plumbing contractor. Such contractor shall subcontract, with a
438 qualified contractor in the field concerned, all other work
439 incidental to the work but which is specified as being the work
440 of a trade other than that of a plumbing contractor. This
441 definition does not limit the scope of work of any specialty
442 contractor certified pursuant to s. 489.113(6), and does not
443 require certification or registration under this part of any
444 authorized employee of a public natural gas utility or of a
445 private natural gas utility regulated by the Public Service
446 Commission when disconnecting and reconnecting water lines in
447 the servicing or replacement of an existing water heater. A



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448 plumbing contractor may perform drain cleaning and clearing and
449 install or repair rainwater catchment systems; however, a
450 mandatory licensing requirement is not established for the
451 performance of these specific services.

452 (n) "Underground utility and excavation contractor" means a
453 contractor whose services are limited to the construction,
454 installation, and repair, on public or private property, whether
455 accomplished through open excavations or through other means,
456 including, but not limited to, directional drilling, auger
457 boring, jacking and boring, trenchless technologies, wet and dry
458 taps, grouting, and slip lining, of main sanitary sewer
459 collection systems, main water distribution systems, storm sewer
460 collection systems, and the continuation of utility lines from
461 the main systems to a point of termination up to and including
462 the meter location for the individual occupancy, sewer
463 collection systems at property line on residential or single-
464 occupancy commercial properties, or on multioccupancy properties
465 at manhole or wye lateral extended to an invert elevation as
466 engineered to accommodate future building sewers, water
467 distribution systems, or storm sewer collection systems at storm
468 sewer structures. However, an underground utility and excavation
469 contractor may install empty underground conduits in rights-of-
470 way, easements, platted rights-of-way in new site development,
471 and sleeves for parking lot crossings no smaller than 2 inches
472 in diameter if each conduit system installed is designed by a
473 licensed professional engineer or an authorized employee of a
474 municipality, county, or public utility and the installation of
475 such conduit does not include installation of any conductor
476 wiring or connection to an energized electrical system. An



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477 underground utility and excavation contractor may not install
478 piping that is an integral part of a fire protection system as
479 defined in s. 633.021 beginning at the point where the piping is
480 used exclusively for such system.

481 (o) "Solar contractor" means a contractor whose services
482 consist of the installation, alteration, repair, maintenance,
483 relocation, or replacement of solar panels for potable solar
484 water heating systems, swimming pool solar heating systems, and
485 photovoltaic systems and any appurtenances, apparatus, or
486 equipment used in connection therewith, whether public, private,
487 or otherwise, regardless of use. A contractor, certified or
488 registered pursuant to this chapter, is not required to become a
489 certified or registered solar contractor or to contract with a
490 solar contractor in order to provide services enumerated in this
491 paragraph that are within the scope of the services such
492 contractors may render under this part.

493 (p) "Pollutant storage systems contractor" means a
494 contractor whose services are limited to, and who has the
495 experience, knowledge, and skill to install, maintain, repair,
496 alter, extend, or design, if not prohibited by law, and use
497 materials and items used in the installation, maintenance,
498 extension, and alteration of, pollutant storage tanks. Any
499 person installing a pollutant storage tank shall perform such
500 installation in accordance with the standards adopted pursuant
501 to s. 376.303.

502 (q) "Specialty contractor" means a contractor whose scope
503 of work and responsibility is limited to a particular phase of
504 construction established in a category adopted by board rule and
505 whose scope is limited to a subset of the activities described



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506 in one of the paragraphs of this subsection.

507 Section 4. The amendments to s. 489.113(2), Florida
508 Statutes, by section 11 of chapter 2012-13, Laws of Florida, are
509 remedial in nature and intended to clarify existing law. This
510 section applies retroactively to any action initiated or pending
511 on or after March 23, 2012.

512 Section 5. Paragraphs (c) and (f) of subsection (5) and
513 subsection (6) of section 489.127, Florida Statutes, are amended
514 to read:

515 489.127 Prohibitions; penalties.-

516 (5) Each county or municipality may, at its option,
517 designate one or more of its code enforcement officers, as
518 defined in chapter 162, to enforce, as set out in this
519 subsection, the provisions of subsection (1) and s. 489.132(1)
520 against persons who engage in activity for which a county or
521 municipal certificate of competency or license or state
522 certification or registration is required.

523 (c) The local governing body of the county or municipality
524 ~~may is authorized to~~ enforce codes and ordinances against
525 unlicensed contractors under the provisions of this subsection
526 and may enact an ordinance establishing procedures for
527 implementing this subsection, including a schedule of penalties
528 to be assessed by the code enforcement officer. The maximum
529 civil penalty which may be levied ~~may shall~~ not exceed \$2,000
530 ~~\$500~~. Moneys collected pursuant to this subsection shall be
531 retained locally, as provided for by local ordinance, and may be
532 set aside in a specific fund to support future enforcement
533 activities against unlicensed contractors.

534 (f) If the enforcement or licensing board or designated



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535 special magistrate finds that a violation exists, the
536 enforcement or licensing board or designated special magistrate
537 may order the violator to pay a civil penalty of not less than
538 the amount set forth on the citation but not more than \$1,500
539 ~~\$1,000~~ per day for each violation. In determining the amount of
540 the penalty, the enforcement or licensing board or designated
541 special magistrate shall consider the following factors:

542 1. The gravity of the violation.

543 2. Any actions taken by the violator to correct the
544 violation.

545 3. Any previous violations committed by the violator.

546 (6) Local building departments may collect outstanding
547 fines against registered or certified contractors issued by the
548 Construction Industry Licensing Board and may retain 75 ~~25~~
549 percent of the fines they are able to collect, provided that
550 they transmit 25 ~~75~~ percent of the fines they are able to
551 collect to the department according to a procedure to be
552 determined by the department.

553 Section 6. Paragraph (a) of subsection (7) of section
554 489.131, Florida Statutes, is amended to read:

555 489.131 Applicability.—

556 (7) (a) It is the policy of the state that the purpose of
557 regulation is to protect the public by attaining compliance with
558 the policies established in law. Fines and other penalties are
559 provided in order to ensure compliance; ~~however, the collection~~
560 ~~of fines and the imposition of penalties are intended to be~~
561 ~~secondary to the primary goal of attaining compliance with state~~
562 ~~laws and local jurisdiction ordinances. It is the intent of the~~
563 ~~Legislature that a local jurisdiction agency charged with~~



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564 ~~enforcing regulatory laws shall issue a notice of noncompliance~~
565 ~~as its first response to a minor violation of a regulatory law~~
566 ~~in any instance in which it is reasonable to assume that the~~
567 ~~violator was unaware of such a law or unclear as to how to~~
568 ~~comply with it. A violation of a regulatory law is a "minor~~
569 ~~violation" if it does not result in economic or physical harm to~~
570 ~~a person or adversely affect the public health, safety, or~~
571 ~~welfare or create a significant threat of such harm. A "notice~~
572 ~~of noncompliance" is a notification by the local jurisdiction~~
573 ~~agency charged with enforcing the ordinance, which is issued to~~
574 ~~the licensee that is subject to the ordinance. A notice of~~
575 ~~noncompliance should not be accompanied with a fine or other~~
576 ~~disciplinary penalty. It should identify the specific ordinance~~
577 ~~that is being violated, provide information on how to comply~~
578 ~~with the ordinance, and specify a reasonable time for the~~
579 ~~violator to comply with the ordinance. Failure of a licensee to~~
580 ~~take action correcting the violation within a set period of time~~
581 ~~would then result in the institution of further disciplinary~~
582 ~~proceedings.~~

583 Section 7. Section 489.514, Florida Statutes, is amended to
584 read:

585 489.514 Certification for registered contractors;
586 grandfathering provisions.—

587 (1) The board shall, upon receipt of a completed
588 application, appropriate fee, and proof of compliance with the
589 provisions of this section, issue:

590 (a) To an applying registered electrical contractor, a
591 certificate as an electrical contractor, as defined in s.
592 489.505(12); ~~or~~



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593 (b) To an applying registered alarm system contractor, a
594 certificate in the matching alarm system contractor category, as
595 defined in s. 489.505(2) (a) or (b); or

596 (c) To an applying registered electrical specialty
597 contractor, a certificate in the matching electrical specialty
598 contractor category, as defined in s. 489.505(19).

599 (2) Any contractor registered under this part who makes
600 application under this section to the board shall meet each of
601 the following requirements for certification:

602 (a) Currently holds a valid registered local license in the
603 category of electrical contractor, alarm system contractor, or
604 electrical specialty contractor.

605 (b) Has, for that category, passed a written, proctored
606 examination that the board finds to be substantially similar to
607 the examination required to be licensed as a certified
608 contractor under this part. For purposes of this subsection, a
609 written, proctored examination such as that produced by the
610 National Assessment Institute, Block and Associates, NAI/Block,
611 Experior Assessments, Professional Testing, Inc., or Assessment
612 Systems, Inc., shall be considered to be substantially similar
613 to the examination required to be licensed as a certified
614 contractor. The board may not impose or make any requirements
615 regarding the nature or content of these cited examinations.

616 (c) Has at least 5 years of experience as a contractor in
617 that contracting category, or as an inspector or building
618 administrator with oversight over that category, at the time of
619 application. For contractors, only time periods in which the
620 contractor license is active and the contractor is not on
621 probation ~~shall~~ count toward the 5 years required under this



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622 subsection.

623 (d) Has not had his or her contractor's license revoked at
624 any time, had his or her contractor's license suspended in the
625 last 5 years, or been assessed a fine in excess of \$500 in the
626 last 5 years.

627 (e) Is in compliance with the insurance and financial
628 responsibility requirements in s. 489.515(1)(b).

629 (3) An applicant must make application by November 1, 2015
630 ~~2004~~, to be licensed pursuant to this section.

631 Section 8. Paragraph (c) of subsection (4) of section
632 489.531, Florida Statutes, is amended to read:

633 489.531 Prohibitions; penalties.-

634 (4) Each county or municipality may, at its option,
635 designate one or more of its code enforcement officers, as
636 defined in chapter 162, to enforce, as set out in this
637 subsection, the provisions of subsection (1) against persons who
638 engage in activity for which county or municipal certification
639 is required.

640 (c) The local governing body of the county or municipality
641 ~~may is authorized to~~ enforce codes and ordinances against
642 unlicensed contractors under the provisions of this section and
643 may enact an ordinance establishing procedures for implementing
644 this section, including a schedule of penalties to be assessed
645 by the code enforcement officers. The maximum civil penalty
646 which may be levied ~~may shall~~ not exceed \$2,000 ~~\$500~~. Moneys
647 collected pursuant to this section shall be retained locally as
648 provided for by local ordinance and may be set aside in a
649 specific fund to support future enforcement activities against
650 unlicensed contractors.



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651 Section 9. Subsection (17) of section 553.73, Florida
652 Statutes, is amended to read:

653 553.73 Florida Building Code.—

654 (17) A provision ~~The provisions of section R313 of the most~~
655 ~~current version~~ of the International Residential Code relating
656 to mandated fire sprinklers may not be incorporated into the
657 Florida Building Code as adopted by the Florida Building
658 Commission and may not be adopted as a local amendment to the
659 Florida Building Code. This subsection does not prohibit the
660 application of cost-saving incentives for residential fire
661 sprinklers that are authorized in the International Residential
662 Code upon a mutual agreement between the builder and the code
663 official. This subsection does not apply to a local government
664 that has a lawfully adopted ordinance relating to fire
665 sprinklers which has been in effect since January 1, 2010.

666 Section 10. Subsection (1) of section 553.74, Florida
667 Statutes, is amended to read:

668 553.74 Florida Building Commission.—

669 (1) The Florida Building Commission is created and located
670 within the Department of Business and Professional Regulation
671 for administrative purposes. Members are ~~shall be~~ appointed by
672 the Governor subject to confirmation by the Senate. The
673 commission is ~~shall be~~ composed of 26 ~~25~~ members, consisting of
674 the following:

675 (a) One architect registered to practice in this state and
676 actively engaged in the profession. The American Institute of
677 Architects, Florida Section, is encouraged to recommend a list
678 of candidates for consideration.

679 (b) One structural engineer registered to practice in this



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680 state and actively engaged in the profession. The Florida
681 Engineering Society is encouraged to recommend a list of
682 candidates for consideration.

683 (c) One air-conditioning or mechanical contractor certified
684 to do business in this state and actively engaged in the
685 profession. The Florida Air Conditioning Contractors
686 Association, the Florida Refrigeration and Air Conditioning
687 Contractors Association, and the Mechanical Contractors
688 Association of Florida are encouraged to recommend a list of
689 candidates for consideration.

690 (d) One electrical contractor certified to do business in
691 this state and actively engaged in the profession. The Florida
692 Electrical Contractors Association and the National Electrical
693 Contractors Association, Florida Chapter, are encouraged to
694 recommend a list of candidates for consideration.

695 (e) One member from fire protection engineering or
696 technology who is actively engaged in the profession. The
697 Florida Chapter of the Society of Fire Protection Engineers and
698 the Florida Fire Marshals and Inspectors Association are
699 encouraged to recommend a list of candidates for consideration.

700 (f) One general contractor certified to do business in this
701 state and actively engaged in the profession. The Associated
702 Builders and Contractors of Florida, the Florida Associated
703 General Contractors Council, and the Union Contractors
704 Association are encouraged to recommend a list of candidates for
705 consideration.

706 (g) One plumbing contractor licensed to do business in this
707 state and actively engaged in the profession. The Florida
708 Association of Plumbing, Heating, and Cooling Contractors is



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709 encouraged to recommend a list of candidates for consideration.

710 (h) One roofing or sheet metal contractor certified to do
711 business in this state and actively engaged in the profession.
712 The Florida Roofing, Sheet Metal, and Air Conditioning
713 Contractors Association and the Sheet Metal and Air Conditioning
714 Contractors National Association are encouraged to recommend a
715 list of candidates for consideration.

716 (i) One residential contractor licensed to do business in
717 this state and actively engaged in the profession. The Florida
718 Home Builders Association is encouraged to recommend a list of
719 candidates for consideration.

720 (j) Three members who are municipal or district codes
721 enforcement officials, one of whom is also a fire official. The
722 Building Officials Association of Florida and the Florida Fire
723 Marshals and Inspectors Association are encouraged to recommend
724 a list of candidates for consideration.

725 (k) One member who represents the Department of Financial
726 Services.

727 (l) One member who is a county codes enforcement official.
728 The Building Officials Association of Florida is encouraged to
729 recommend a list of candidates for consideration.

730 (m) One member of a Florida-based organization of persons
731 with disabilities or a nationally chartered organization of
732 persons with disabilities with chapters in this state.

733 (n) One member of the manufactured buildings industry who
734 is licensed to do business in this state and is actively engaged
735 in the industry. The Florida Manufactured Housing Association is
736 encouraged to recommend a list of candidates for consideration.

737 (o) One mechanical or electrical engineer registered to



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738 practice in this state and actively engaged in the profession.
739 The Florida Engineering Society is encouraged to recommend a
740 list of candidates for consideration.

741 (p) One member who is a representative of a municipality or
742 a charter county. The Florida League of Cities and the Florida
743 Association of Counties are encouraged to recommend a list of
744 candidates for consideration.

745 (q) One member of the building products manufacturing
746 industry who is authorized to do business in this state and is
747 actively engaged in the industry. The Florida Building Material
748 Association, the Florida Concrete and Products Association, and
749 the Fenestration Manufacturers Association are encouraged to
750 recommend a list of candidates for consideration.

751 (r) One member who is a representative of the building
752 owners and managers industry who is actively engaged in
753 commercial building ownership or management. The Building Owners
754 and Managers Association is encouraged to recommend a list of
755 candidates for consideration.

756 (s) One member who is a representative of the insurance
757 industry. The Florida Insurance Council is encouraged to
758 recommend a list of candidates for consideration.

759 (t) One member who is a representative of public education.

760 (u) One member who is a swimming pool contractor licensed
761 to do business in this state and actively engaged in the
762 profession. The Florida Swimming Pool Association and the United
763 Pool and Spa Association are encouraged to recommend a list of
764 candidates for consideration.

765 (v) One member who is a representative of the green
766 building industry and who is a third-party commission agent, a



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767 Florida board member of the United States Green Building Council
768 or Green Building Initiative, a professional who is accredited
769 under the International Green Construction Code (IGCC), or a
770 professional who is accredited under Leadership in Energy and
771 Environmental Design (LEED).

772 (w) One member who is a representative of a natural gas
773 distribution system and who is actively engaged in the
774 distribution of natural gas in this state. The Florida Natural
775 Gas Association is encouraged to recommend a list of candidates
776 for consideration.

777 (x)~~(w)~~ One member who shall be the chair.

778
779 Any person serving on the commission under paragraph (c) or
780 paragraph (h) on October 1, 2003, and who has served less than
781 two full terms is eligible for reappointment to the commission
782 regardless of whether he or she meets the new qualification.

783 Section 11. Subsection (18) is added to section 553.79,
784 Florida Statutes, to read:

785 553.79 Permits; applications; issuance; inspections.—

786 (18) For the purpose of inspection and record retention,
787 site plans for a building may be maintained in the form of an
788 electronic copy at the worksite. These plans must be open to
789 inspection by the building official or a duly authorized
790 representative, as required by the Florida Building Code.

791 Section 12. Paragraph (a) of subsection (5) of section
792 553.842, Florida Statutes, is amended to read:

793 553.842 Product evaluation and approval.—

794 (5) Statewide approval of products, methods, or systems of
795 construction may be achieved by one of the following methods.



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796 One of these methods must be used by the commission to approve
797 the following categories of products: panel walls, exterior
798 doors, roofing, skylights, windows, shutters, impact protective
799 systems, and structural components as established by the
800 commission by rule. A product may not be advertised, sold,
801 offered, provided, distributed, or marketed as hurricane,
802 windstorm, or impact protection from wind-borne debris from a
803 hurricane or windstorm unless it is approved pursuant to this
804 section or s. 553.8425. Any person who advertises, sells,
805 offers, provides, distributes, or markets a product as
806 hurricane, windstorm, or impact protection from wind-borne
807 debris without such approval is subject to the Florida Deceptive
808 and Unfair Trade Practices Act under part II of chapter 501
809 brought by the enforcing authority as defined in s. 501.203.

810 (a) Products for which the code establishes standardized
811 testing or comparative or rational analysis methods shall be
812 approved by submittal and validation of one of the following
813 reports or listings indicating that the product or method or
814 system of construction was in compliance with the Florida
815 Building Code and that the product or method or system of
816 construction is, for the purpose intended, at least equivalent
817 to that required by the Florida Building Code:

- 818 1. A certification mark or listing of an approved
819 certification agency, which may be used only for products for
820 which the code designates standardized testing;
- 821 2. A test report from an approved testing laboratory;
- 822 3. A product evaluation report based upon testing or
823 comparative or rational analysis, or a combination thereof, from
824 an approved product evaluation entity; or



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825 4. A product evaluation report based upon testing or
826 comparative or rational analysis, or a combination thereof,
827 developed and signed and sealed by a professional engineer or
828 architect, licensed in this state.

829

830 A product evaluation report or a certification mark or
831 listing of an approved certification agency which demonstrates
832 that the product or method or system of construction complies
833 with the Florida Building Code for the purpose intended is
834 equivalent to a test report and test procedure referenced in the
835 Florida Building Code. An application for state approval of a
836 product under subparagraph 1. or 3. must be approved by the
837 department after the commission staff or a designee verifies
838 that the application and related documentation are complete.
839 This verification must be completed within 10 business days
840 after receipt of the application. Upon approval by the
841 department, the product shall be immediately added to the list
842 of state-approved products maintained under subsection (13).
843 Approvals by the department shall be reviewed and ratified by
844 the commission's program oversight committee except for a
845 showing of good cause that a review by the full commission is
846 necessary. The commission shall adopt rules providing means to
847 cure deficiencies identified within submittals for products
848 approved under this paragraph.

849 Section 13. Section 553.901, Florida Statutes, is amended
850 to read:

851 553.901 Purpose of thermal efficiency code.—The Department
852 of Business and Professional Regulation shall prepare a thermal
853 efficiency code to provide for a statewide uniform standard for



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854 energy efficiency in the thermal design and operation of all
855 buildings statewide, consistent with energy conservation goals,
856 and to best provide for public safety, health, and general
857 welfare. The Florida Building Commission shall adopt the Florida
858 Building Code-Energy Conservation ~~Florida Energy Efficiency Code~~
859 ~~for Building Construction within the Florida Building Code~~, and
860 shall modify, revise, update, and maintain the code to implement
861 the provisions of this thermal efficiency code and amendments
862 thereto, in accordance with the procedures of chapter 120. The
863 department shall, at least triennially, determine the most cost-
864 effective energy-saving equipment and techniques available and
865 report its determinations to the commission, which shall update
866 the code to incorporate such equipment and techniques. The
867 proposed changes shall be made available for public review and
868 comment no later than 6 months before ~~prior to~~ code
869 implementation. The term "cost-effective," as used in ~~for the~~
870 ~~purposes of this part, means shall be construed to mean~~ cost-
871 effective to the consumer.

872 Section 14. Section 553.902, Florida Statutes, is reordered
873 and amended to read:

874 553.902 Definitions. As used in ~~For the purposes of this~~
875 ~~part, the term:~~

876 (2) ~~(1)~~ "Exempted building" means:

877 (a) A ~~Any~~ building or portion thereof whose peak design
878 rate of energy usage for all purposes is less than 1 watt (3.4
879 Btu per hour) per square foot of floor area for all purposes.

880 (b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
881 by a mechanical system designed to control or modify the indoor
882 temperature and powered by electricity or fossil fuels.



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883 (c) A ~~Any~~ building for which federal mandatory standards
884 preempt state energy codes.

885 (d) A ~~Any~~ historical building as described in s.
886 267.021(3).

887

888 The Florida Building Commission may recommend to the
889 Legislature additional types of buildings which should be
890 exempted from compliance with the Florida Building Code-Energy
891 Conservation ~~Florida Energy Efficiency Code for Building~~
892 ~~Construction~~.

893 (4)~~(2)~~ "HVAC" means a system of heating, ventilating, and
894 air-conditioning.

895 (6)~~(3)~~ "Renovated building" means a residential or
896 nonresidential building undergoing alteration that varies or
897 changes insulation, HVAC systems, water heating systems, or
898 exterior envelope conditions, if ~~provided~~ the estimated cost of
899 renovation exceeds 30 percent of the assessed value of the
900 structure.

901 (5)~~(4)~~ "Local enforcement agency" means the agency of local
902 government which has the authority to make inspections of
903 buildings and to enforce the Florida Building Code. The term ~~It~~
904 includes any agency within the definition of s. 553.71(5).

905 (3)~~(5)~~ "Exterior envelope physical characteristics" means
906 the physical nature of those elements of a building which
907 enclose conditioned spaces through which energy may be
908 transferred to or from the exterior.

909 (1)~~(6)~~ "Energy performance level" means the indicator of
910 the energy-related performance of a building, including, but not
911 limited to, the levels of insulation, the amount and type of



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912 glass, and the HVAC and water heating system efficiencies.

913 Section 15. Section 553.903, Florida Statutes, is amended
914 to read:

915 553.903 Applicability.—This part applies ~~shall apply~~ to all
916 new and renovated buildings in the state, except exempted
917 buildings, for which building permits are obtained after March
918 15, 1979, and to the installation or replacement of building
919 systems and components with new products for which thermal
920 efficiency standards are set by the Florida Building Code-Energy
921 Conservation ~~Florida Energy Efficiency Code for Building~~
922 ~~Construction~~. The provisions of this part shall constitute a
923 statewide uniform code.

924 Section 16. Section 553.904, Florida Statutes, is amended
925 to read:

926 553.904 Thermal efficiency standards for new nonresidential
927 buildings.—Thermal designs and operations for new nonresidential
928 buildings for which building permits are obtained after March
929 15, 1979, must ~~shall~~ at a minimum take into account exterior
930 envelope physical characteristics, including thermal mass; HVAC,
931 service water heating, energy distribution, lighting, energy
932 managing, and auxiliary systems design and selection; and HVAC,
933 service water heating, energy distribution, lighting, energy
934 managing, and auxiliary equipment performance, and are ~~shall~~ not
935 ~~be~~ required to meet standards more stringent than the provisions
936 of the Florida Building Code-Energy Conservation ~~Florida Energy~~
937 ~~Efficiency Code for Building Construction~~.

938 Section 17. Section 553.905, Florida Statutes, is amended
939 to read:

940 553.905 Thermal efficiency standards for new residential



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941 buildings.—Thermal designs and operations for new residential
942 buildings for which building permits are obtained after March
943 15, 1979, must ~~shall~~ at a minimum take into account exterior
944 envelope physical characteristics, HVAC system selection and
945 configuration, HVAC equipment performance, and service water
946 heating design and equipment selection and are ~~shall~~ not ~~be~~
947 required to meet standards more stringent than the provisions of
948 the Florida Building Code-Energy Conservation ~~Florida Energy~~
949 ~~Efficiency Code for Building Construction~~. HVAC equipment
950 mounted in an attic or a garage is ~~shall~~ not ~~be~~ required to have
951 supplemental insulation in addition to that installed by the
952 manufacturer. All new residential buildings, except those herein
953 exempted, must ~~shall~~ have insulation in ceilings rated at R-19
954 or more, space permitting. Thermal efficiency standards do not
955 apply to a building of less than 1,000 square feet which is not
956 primarily used as a principal residence and which is constructed
957 and owned by a natural person for hunting or similar
958 recreational purposes; however, ~~no~~ such person may not build
959 more than one exempt building in any 12-month period.

960 Section 18. Section 553.906, Florida Statutes, is amended
961 to read:

962 553.906 Thermal efficiency standards for renovated
963 buildings.—Thermal designs and operations for renovated
964 buildings for which building permits are obtained after March
965 15, 1979, must ~~shall~~ take into account insulation; windows;
966 infiltration; and HVAC, service water heating, energy
967 distribution, lighting, energy managing, and auxiliary systems
968 design and equipment selection and performance. Such buildings
969 are ~~shall~~ not ~~be~~ required to meet standards more stringent than



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970 the provisions of the Florida Building Code-Energy Conservation
971 ~~Florida Energy Efficiency Code for Building Construction~~. These
972 standards apply only to those portions of the structure which
973 are actually renovated.

974 Section 19. Section 553.912, Florida Statutes, is amended
975 to read:

976 553.912 Air conditioners.—All air conditioners that are
977 sold or installed in the state must ~~shall~~ meet the minimum
978 efficiency ratings of the Florida Building Code-Energy
979 Conservation ~~Energy Efficiency Code for Building Construction~~.
980 These efficiency ratings must ~~shall~~ be minimums and may be
981 updated in the Florida Building Code-Energy Conservation ~~Florida~~
982 ~~Energy Efficiency Code for Building Construction~~ by the
983 department in accordance with s. 553.901, following its
984 determination that more cost-effective energy-saving equipment
985 and techniques are available. It is the intent of the
986 Legislature that all replacement air-conditioning systems be
987 installed using energy-saving, quality installation procedures
988 in residential, including, but not limited to, equipment sizing
989 analysis and duct inspection. Notwithstanding this section,
990 existing heating and cooling equipment in residential
991 applications need not meet the minimum equipment efficiencies,
992 including system sizing and duct sealing, except to preserve the
993 original approval or listing of the equipment.

994 Section 20. Section 553.991, Florida Statutes, is amended
995 to read:

996 553.991 Purpose.—The purpose of this part is to identify
997 systems ~~provide for a statewide uniform system~~ for rating the
998 energy efficiency of buildings. It is in the interest of the



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999 state to encourage the consideration of ~~the~~ energy-efficiency
1000 rating systems ~~system~~ in the market so as to provide market
1001 rewards for energy-efficient buildings and to those persons or
1002 companies designing, building, or selling energy-efficient
1003 buildings.

1004 Section 21. Section 553.992, Florida Statutes, is repealed.

1005 Section 22. Section 553.993, Florida Statutes, is amended
1006 to read:

1007 553.993 Definitions.—For purposes of this part:

1008 (1) "Acquisition" means to gain the sole or partial use of
1009 a building through a purchase agreement.

1010 (2) "Builder" means the primary contractor who possesses
1011 the requisite skill, knowledge, and experience, and has the
1012 responsibility, to supervise, direct, manage, and control the
1013 contracting activities of the business organization with which
1014 she or he is connected and who has the responsibility to
1015 supervise, direct, manage, and control the construction work on
1016 a job for which she or he has obtained the building permit.
1017 Construction work includes, but is not limited to, foundation,
1018 framing, wiring, plumbing, and finishing work.

1019 (3) "Building energy-efficiency rating system" means a
1020 whole building energy evaluation system established by the
1021 Residential Energy Services Network, the Commercial Energy
1022 Services Network, the Building Performance Institute, or the
1023 Florida Solar Energy Center.

1024 (4) ~~(3)~~ "Designer" means the architect, engineer, landscape
1025 architect, builder, interior designer, or other person who
1026 performs the actual design work or under whose direct
1027 supervision and responsible charge the construction documents



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1028 are prepared.

1029 (5) "Energy auditor" means a trained and certified
1030 professional who conducts energy evaluations of an existing
1031 building and uses tools to identify the building's current
1032 energy usage and the condition of the building and equipment.

1033 (6) "Energy-efficiency rating" means an unbiased indication
1034 of a building's relative energy efficiency based on consistent
1035 inspection procedures, operating assumptions, climate data, and
1036 calculation methods.

1037 (7) "Energy rater" means an individual certified by a
1038 building energy-efficiency rating system to perform building
1039 energy-efficiency ratings for the building type and in the
1040 rating class for which the rater is certified.

1041 (8)-(4) "New building" means commercial occupancy buildings
1042 permitted for construction after January 1, 1995, and
1043 residential occupancy buildings permitted for construction after
1044 January 1, 1994.

1045 (9)-(5) "Public building" means a building comfort-
1046 conditioned for occupancy that is owned or leased by the state,
1047 a state agency, or a governmental subdivision, including, but
1048 not limited to, a city, county, or school district.

1049 Section 23. Section 553.994, Florida Statutes, is amended
1050 to read:

1051 553.994 Applicability.—Building energy-efficiency ~~The~~
1052 rating systems system shall apply to all public, commercial, and
1053 residential buildings in the state.

1054 Section 24. Section 553.995, Florida Statutes, is amended
1055 to read:

1056 553.995 Energy-efficiency ratings for buildings.—



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1057 (1) Building ~~The~~ energy-efficiency rating systems must,
1058 ~~system shall~~ at a minimum:

1059 ~~(a) Provide a uniform rating scale of the efficiency of~~
1060 ~~buildings based on annual energy usage.~~

1061 ~~(a)(b)~~ Take into account local climate conditions,
1062 construction practices, and building use.

1063 ~~(b)(e)~~ Be compatible with standard federal rating systems
1064 and state building codes and standards, where applicable, and
1065 shall satisfy the requirements of s. 553.9085 with respect to
1066 residential buildings and s. 255.256 with respect to state
1067 buildings.

1068 ~~(c)(2) The energy-efficiency rating system adopted by the~~
1069 ~~department shall~~ Provide a means of analyzing and ~~comparing~~ the
1070 relative energy efficiency of buildings upon the sale of new or
1071 existing residential, public, or commercial buildings.

1072 ~~(3) The department shall establish a voluntary working~~
1073 ~~group of persons interested in the energy-efficiency rating~~
1074 ~~system or energy efficiency, including, but not limited to, such~~
1075 ~~persons as electrical engineers, mechanical engineers,~~
1076 ~~architects, public utilities, and builders. The interest group~~
1077 ~~shall advise the department in the development of the energy-~~
1078 ~~efficiency rating system and shall assist the department in the~~
1079 ~~implementation of the rating system by coordinating educational~~
1080 ~~programs for designers, builders, businesses, and other~~
1081 ~~interested persons to assist compliance and to facilitate~~
1082 ~~incorporation of the rating system into existing practices.~~

1083 (2) (a)(4) ~~The department shall develop a training and~~
1084 ~~certification program to certify raters. In addition to the~~
1085 ~~department,~~ Ratings may be conducted by a ~~any~~ local government



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1086 or private entity ~~if, provided that~~ the appropriate persons have
1087 completed the necessary training established by the applicable
1088 building energy-efficiency rating system ~~and have been certified~~
1089 ~~by the department.~~

1090 (b) The Department of Management Services shall rate state-
1091 owned or state-leased buildings ~~if, provided that~~ the
1092 appropriate persons have completed the necessary training
1093 established by the applicable building energy-efficiency rating
1094 system ~~and have been certified by the Department of Business and~~
1095 ~~Professional Regulation.~~

1096 (c) A state agency that ~~which~~ has building construction
1097 regulation authority may rate its own buildings and those it is
1098 responsible for, if the appropriate persons have completed the
1099 necessary training established by the applicable building
1100 energy-efficiency rating system ~~and have been certified by the~~
1101 ~~Department of Business and Professional Regulation. The~~
1102 ~~Department of Business and Professional Regulation may charge a~~
1103 ~~fee not to exceed the costs for the training and certification~~
1104 ~~of raters. The department shall by rule set the appropriate~~
1105 ~~charges for raters to charge for energy ratings, not to exceed~~
1106 ~~the actual costs.~~

1107 Section 25. Section 553.996, Florida Statutes, is amended
1108 to read:

1109 553.996 Energy-efficiency information provided by building
1110 energy-efficiency rating systems providers brochure.—A
1111 prospective purchaser of real property with a building for
1112 occupancy located thereon shall be provided ~~with a copy of an~~
1113 information ~~brochure~~, at the time of or before ~~prior to~~ the
1114 purchaser's execution of the contract for sale and purchase



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1115 ~~which notifies, notifying~~ the purchaser of the option for an
1116 energy-efficiency rating on the building. Building energy-
1117 efficiency rating system providers identified in this part shall
1118 prepare such information and make it available for distribution
1119 ~~Such brochure shall be prepared, made available for~~
1120 ~~distribution, and provided at no cost by the department.~~ Such
1121 ~~brochure shall contain~~ information relevant to that class of
1122 building must include, including, but need not be limited to:

1123 (1) How to analyze the building's energy-efficiency rating.

1124 (2) Comparisons to statewide averages for new and existing
1125 construction of that class.

1126 (3) Information concerning methods to improve the
1127 building's energy-efficiency rating.

1128 (4) A notice to residential purchasers that the energy-
1129 efficiency rating may qualify the purchaser for an energy-
1130 efficient mortgage from lending institutions.

1131 Section 26. Subsection (2) of section 553.997, Florida
1132 Statutes, is amended to read:

1133 553.997 Public buildings.—

1134 (2) ~~The department, together with other~~ State agencies
1135 having building construction and maintenance responsibilities,
1136 shall make available energy-efficiency practices information to
1137 be used by individuals involved in the design, construction,
1138 retrofitting, and maintenance of buildings for state and local
1139 governments.

1140 Section 27. Section 553.998, Florida Statutes, is amended
1141 to read:

1142 553.998 Compliance.—All ratings must ~~shall~~ be determined
1143 using tools and procedures developed by the systems recognized



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1144 under this part adopted by the department by rule in accordance
1145 with chapter 120 and must shall be certified by the rater as
1146 accurate and correct and in compliance with procedures of the
1147 system under which the rater is certified adopted by the
1148 department by rule in accordance with chapter 120.

1149 Section 28. Concrete Masonry Products Research, Education,
1150 and Promotion Act.-

1151 (1) SHORT TITLE.-This section may be cited as the "Concrete
1152 Masonry Products Research, Education, and Promotion Act."

1153 (2) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;
1154 PURPOSES.-

1155 (a) There is created the Florida Concrete Masonry Council,
1156 Inc., a nonprofit corporation organized under the laws of this
1157 state and operating as a direct-support organization of the
1158 Florida Building Commission.

1159 (b) The council shall:

1160 1. Develop, implement, and monitor a system for the
1161 definition of masonry products and for the collection of self-
1162 imposed voluntary assessments.

1163 2. Plan, implement, and conduct programs of education,
1164 promotion, research, and consumer information and industry
1165 information which are designed to strengthen the market position
1166 of the concrete masonry industry in this state and in the
1167 nation, to maintain and expand domestic and foreign markets, and
1168 to expand the uses for concrete masonry products.

1169 3. Use the means authorized by this subsection for the
1170 purpose of funding research, education, promotion, and consumer
1171 and industry information of concrete masonry products in this
1172 state and in the nation.



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1173 4. Coordinate research, education, promotion, industry, and
1174 consumer information programs with national programs or programs
1175 of other states.

1176 5. Develop new uses and markets for concrete masonry
1177 products.

1178 6. Develop and improve educational access to individuals
1179 seeking employment in the field of concrete masonry.

1180 7. Develop methods of improving the quality of concrete
1181 masonry products for the purpose of windstorm protection.

1182 8. Develop methods of improving the energy efficiency
1183 attributes of concrete masonry products.

1184 9. Inform and educate the public concerning the
1185 sustainability and economic benefits of concrete masonry
1186 products.

1187 10. Do all other acts necessary or expedient for the
1188 administration of the affairs and attainment of the purposes of
1189 the council.

1190 (c) The council may:

1191 1. Conduct or contract for scientific research with any
1192 accredited university, college, or similar institution and enter
1193 into other contracts or agreements that will aid in carrying out
1194 the purposes of this section, including contracts for the
1195 purchase or acquisition of facilities or equipment necessary to
1196 carry out the purposes of this section.

1197 2. Disseminate reliable information benefiting the consumer
1198 and the concrete masonry industry.

1199 3. Provide to governmental bodies, on request, information
1200 relating to subjects of concern to the concrete masonry industry
1201 and act jointly or in cooperation with the state or Federal



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1202 Government, and agencies thereof, in the development or
1203 administration of programs that the council considers to be
1204 consistent with the objectives of this section.

1205 4. Sue and be sued as a council without individual
1206 liability of the members for acts of the council when acting
1207 within the scope of the powers of this section and in the manner
1208 prescribed by the laws of this state.

1209 5. Maintain a financial reserve for emergency use, the
1210 total of which must not exceed 50 percent of the council's
1211 anticipated annual income.

1212 6. Employ subordinate officers and employees of the
1213 council, prescribe their duties, and fix their compensation and
1214 terms of employment.

1215 7. Cooperate with any local, state, regional, or nationwide
1216 organization or agency engaged in work or activities consistent
1217 with the objectives of the program.

1218 8. Do all other things necessary to further the intent of
1219 this section which are not prohibited by law.

1220 (d) The council and concrete masonry manufacturers may meet
1221 and coordinate the collection of self-imposed voluntary
1222 assessments for each concrete masonry unit that is produced and
1223 sold by manufacturers in the state.

1224 (e)1. The council may not participate or intervene in any
1225 political campaign on behalf of or in opposition to any
1226 candidate for public office or any state or local ballot
1227 initiative. This restriction includes, but is not limited to, a
1228 prohibition against publishing or distributing any statement.

1229 2. The net receipts of the council may not in any part
1230 inure to the benefit of or be distributable to its directors,



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1231 its officers, or other private persons, except that the council
1232 may pay reasonable compensation for services rendered by staff
1233 employees and may make payments and distributions in furtherance
1234 of the purposes of this section.

1235 3. Notwithstanding any other provision of law, the council
1236 may not carry on any other activity not permitted to be carried
1237 on by a corporation:

1238 a. That is exempt from federal income tax under s.
1239 501(c)(3) of the Internal Revenue Code; or

1240 b. To which charitable contributions are deductible under
1241 s. 170(c)(2) of the Internal Revenue Code.

1242 (3) GOVERNING BOARD.—

1243 (a) The Florida Concrete Masonry Council, Inc., shall be
1244 governed by a board of directors composed of 15 members as
1245 follows:

1246 1. Nine members representing concrete masonry
1247 manufacturers. Of these board members, at least five must be a
1248 representative of a manufacturer that is a member of the Masonry
1249 Association of Florida. These members must be representatives of
1250 concrete masonry manufacturers of various sizes. A manufacturer
1251 may not be represented by more than one member of the board.

1252 2. One member representing the Florida Building Commission.

1253 3. One member representing the Florida Home Builders
1254 Association.

1255 4. One member having expertise in apprenticeship or
1256 vocational training.

1257 5. Two members who are masonry contractors and who are
1258 members of the Masonry Association of Florida.

1259 6. One member who is not a masonry contractor or



1260 manufacturer or an employee of a masonry contractor or
1261 manufacturer, but who is otherwise a stakeholder in the masonry
1262 industry.

1263 (b) The initial board of directors shall be appointed by
1264 the chair of the commission based on recommendations from the
1265 Masonry Association of Florida. Five of the initial board
1266 members shall be appointed to a 1-year term. Five shall be
1267 appointed for a 2-year term. The remaining board members shall
1268 be appointed for a 3-year term. Thereafter, each member shall be
1269 appointed to serve a 3-year term and may be reappointed to serve
1270 an additional consecutive term. After the initial appointments
1271 are made, each subsequent vacancy shall be filled in accordance
1272 with the bylaws of the council. A member may not serve more than
1273 two consecutive terms. A member representing a manufacturer or a
1274 contractor must be employed by a manufacturer or contractor
1275 engaging in the trade of manufacture of concrete masonry
1276 products for at least 5 years immediately preceding the first
1277 day of his or her service on the board. All members of the board
1278 shall serve without compensation. However, the board members are
1279 entitled to reimbursement for per diem and travel expenses
1280 incurred in carrying out the intents and purposes of this
1281 section in accordance with s. 112.061, Florida Statutes.

1282 (c) The council shall elect from its members a chair, vice
1283 chair, and a secretary-treasurer to a 2-year term each. The
1284 chair of the board must be a concrete masonry manufacturer.

1285 (d) The initial board of directors shall adopt bylaws to
1286 govern initial terms of directors, governance of board members
1287 and meetings, term limits, and procedures for filling vacancies.

1288 (4) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept



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1289 grants, donations, contributions, or gifts from any source if
1290 the use of such resources is not restricted in any manner that
1291 the council considers to be inconsistent with the objectives of
1292 this section.

1293 (5) PAYMENTS TO ORGANIZATIONS.—

1294 (a) The council may make payments to other organizations
1295 for work or services performed which are consistent with the
1296 objectives of the program.

1297 (b) Before making payments described in this subsection,
1298 the council must secure a written agreement that the
1299 organization receiving payment will furnish at least annually,
1300 or more frequently on request of the council, written or printed
1301 reports of program activities and reports of financial data that
1302 are relative to the council's funding of such activities.

1303 (c) The council may require adequate proof of security
1304 bonding on the payments to any individual, business, or other
1305 organization.

1306 (6) COLLECTION OF MONEYS AT TIME OF SALE.—

1307 (a) If a self-imposed voluntary assessment is paid by a
1308 manufacturer, each manufacturer shall list on its invoice to the
1309 purchaser, at the time of sale by the manufacturer, such
1310 assessment. The amount of the assessment must be separately
1311 stated on all receipts, invoices, or other evidence of sale as
1312 the "Florida Building Sustainability Assessment."

1313 (b) Each manufacturer that elects to self-impose a
1314 voluntary assessment shall commit to the assessment for a period
1315 of not less than 1 year and shall annually be authorized to
1316 renew or end the self-imposed voluntary assessment.

1317 (c) The manufacturer shall collect all such moneys and



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1318 forward them quarterly to the council.

1319 (d) The council shall maintain within its financial records
1320 a separate accounting of all moneys received under this
1321 subsection. The council shall provide for an annual financial
1322 audit of its accounts and records to be conducted by an
1323 independent certified public accountant licensed under chapter
1324 473.

1325 (7) BYLAWS.—The council shall, by September 30, 2013, adopt
1326 bylaws to carry out the intents and purposes of this section.
1327 These bylaws may be amended upon 30 days' notice to board
1328 members at any regular or special meeting called for this
1329 purpose. The bylaws must conform to the requirements of this
1330 section but may also address any matter not in conflict with the
1331 general laws of this state.

1332
1333
1334 ===== T I T L E A M E N D M E N T =====

1335 And the title is amended as follows:

1336 Delete line 2

1337 and insert:

1338 An act relating to building construction; amending s.
1339 162.12, F.S.; revising notice requirements in the Local
1340 Government Code Enforcement Boards Act; amending s. 381.0065,
1341 F.S.; specifying that certain actions relating to onsite sewage
1342 treatment and removal are not required if a bedroom is not added
1343 during a remodeling addition or modification to a single-family
1344 home; prohibiting a remodeling addition or modification from
1345 certain coverage or encroachment; authorizing a local health
1346 board to review specific plans; requiring a review to be



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1347 completed within a specific time period after receipt of
1348 specific plans; amending s. 489.105, F.S.; revising a
1349 definition; providing that amendments to s. 489.113(2), F.S.,
1350 enacted in s. 11, ch. 2012-13, Laws of Florida, are remedial and
1351 intended to clarify existing law; providing for retroactivity;
1352 amending s. 489.127, F.S.; revising civil penalties; authorizing
1353 a local building department to retain 75 percent of certain
1354 fines collected if it transmits 25 percent to the Department of
1355 Business and Professional Regulation; amending s. 489.131, F.S.;
1356 deleting legislative intent referring to a local agency's
1357 enforcement of regulatory laws; deleting the definitions of
1358 "minor violation" and "notice of noncompliance"; deleting
1359 provisions that provide for what a notice of noncompliance
1360 should or should not include; deleting a provision that provides
1361 for further disciplinary proceedings for certain licensees;
1362 amending s. 489.514, F.S.; extending the date by which an
1363 applicant must make application for a license to be
1364 grandfathered; amending s. 489.531, F.S.; revising a maximum
1365 civil penalty; amending s. 553.73, F.S.; prohibiting any
1366 provision of the International Residential Code relating to
1367 mandated fire sprinklers from incorporation into the Florida
1368 Building Code; amending s. 553.74, F.S.; revising membership of
1369 the Florida Building Commission; amending s. 553.79, F.S.;
1370 authorizing a site plan to be maintained at the worksite as an
1371 electronic copy; requiring the copy to be open to inspection by
1372 certain officials; amending s. 553.842, F.S.; requiring an
1373 application for state approval of a certain product to be
1374 approved by the department after the application and related
1375 documentation are complete; amending ss. 553.901, 553.902,



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1376 553.903, 553.904, 553.905, and 553.906, F.S.; requiring the
1377 Florida Building Commission to adopt the Florida Building Code-
1378 Energy Conservation; conforming subsequent sections of the
1379 thermal efficiency code; amending s. 553.912, F.S.; providing
1380 that certain existing heating and cooling equipment is not
1381 required to meet the minimum equipment efficiencies; amending s.
1382 553.991, F.S.; revising the purpose of the Florida Building
1383 Energy-Efficiency Rating Act; repealing s. 553.992, F.S.,
1384 relating to the adoption of a rating system; amending s.
1385 553.993, F.S.; providing definitions; amending s. 553.994, F.S.;
1386 providing for the applicability of building energy-efficiency
1387 rating systems; amending s. 553.995, F.S.; deleting a minimum
1388 requirement for the building energy-efficiency rating systems;
1389 revising language; deleting provisions relating to a certain
1390 interest group; deleting provisions relating to the Department
1391 of Business and Professional Regulation; amending s. 553.996,
1392 F.S.; requiring building energy-efficiency rating system
1393 providers to provide certain information; amending s. 553.997,
1394 F.S.; deleting a provision relating to the department; amending
1395 s. 553.998, F.S.; revising provisions relating to rating
1396 compliance; providing a short title; creating the Florida
1397 Concrete Masonry Council, Inc.; authorizing the council to levy
1398 an assessment on the sale of concrete masonry units under
1399 certain circumstances; providing the powers and duties of the
1400 council and restrictions upon actions of the council; providing
1401 for appointment of the governing board of the council;
1402 authorizing the council to submit a referendum to manufacturers
1403 of concrete masonry units for authorization to levy an
1404 assessment on the sale of concrete masonry units; providing



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1405 procedure for holding the referendum; authorizing the council to
1406 accept grants, donations, contributions, and gifts under certain
1407 circumstances; authorizing the council to make payments to other
1408 organizations under certain circumstances; providing
1409 requirements for the manufacturer's collection of assessments;
1410 requiring the council to adopt bylaws;
1411

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-13

Meeting Date

Topic BUILDING CODES

Bill Number SB 1080
(if applicable)

Name CAM FENTRISS

Amendment Barcode 785058
(if applicable)

Job Title _____

Address 1400 VILLAGE SQ # 3-243
Street

Phone 850-222-2772

TALL FL 32312
City State Zip

E-mail AFENTRISS@AOL.COM

Speaking: For Against Information

Representing FLORIDA RAU'CA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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4-16-13

Meeting Date

Topic BUILDING CODES

Bill Number 5B 1080

Name CHRIS FENTRISS

Amendment Barcode 785058
(if applicable)

Job Title _____

Address 1400 VILLAGE SQ # 3-243

Phone 850-222-2772

Street
TALL FL 32312
City State Zip

E-mail CFENTRISS@AOL.COM

Speaking: For Against Information

Representing FLA. ASSN OF PLUMBING HEATING COOLING CONTRACTORS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
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4/16/13
Meeting Date

Topic Building Construction

Bill Number 1080
(if applicable)

Name Deborah Lawson

Amendment Barcode 785058
(if applicable)

Job Title _____

Address 4125 Pecan Branch

Phone 850-570-0033

Street
Tallah FL 32309
City State Zip

E-mail deborahlawson@comcast.net

Speaking: For Against Information

Representing NACM-ICPC, Kalmanson

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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THE FLORIDA SENATE
APPEARANCE RECORD

4-16-13

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

Meeting Date

Topic BUILDING CODES

Bill Number SB 1080
(if applicable)

Name KARI HERBANK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 113 EAST COLLEGE AVE, #200
Street
TALLAHASSEE, FL 32301
City State Zip

Phone 566-1824

E-mail Kherbank@wilsonmgmt.com

Speaking: For Against Information

Representing FLORIDA HOME BUILDERS ASSOC. / FLORIDA SWIMMING POOL

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)

4/16/13

Meeting Date

Topic Public Construction Projects

Bill Number 1080
(if applicable)

Name Jamie Sheehan

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 310 W. College Ave.

Phone 850-443-5937

Street

Tallahassee

City

FL

State

32301

Zip

E-mail jamie@littlejohnmarr.com

Speaking: For Against Information

Representing Plum Creek

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)

4/16/13

Meeting Date

Topic Public Construction Projects

Bill Number 1080
(if applicable)

Name Alan Shelby

Amendment Barcode _____
(if applicable)

Job Title EVP

Address POB 1696
Street

Phone 850-222-5646

T911 FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Forestry Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

4-16-13

Meeting Date

Topic SB 1080 Public Construction Projects Bill Number SB 1080
(if applicable)

Name Justin Fleming Amendment Barcode _____
(if applicable)

Job Title Advocate

Address 10920 Subtle Trail Dr. Phone 813-769-9303

Street

Riverview FL 33579

City

State

Zip

E-mail jfleming@titanamerica.com

Speaking: For Against Information

Representing Titan America / Florida Concrete & Products Association

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/16/13

Meeting Date

Topic SB1080 / Construction

Bill Number 1080
(if applicable)

Name Curtis Leonard

Amendment Barcode _____
(if applicable)

Job Title _____

Address 645 River Park Circle

Phone 407-709-9000

Street

Longwood, FL 32779

City

State

Zip

E-mail cleonard@TitanAmerica.com

Speaking: For Against Information

Representing Titan America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Construction Bill

Bill Number 1080
(if applicable)

Name Patrick McLaughlin

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 398 Camino Gardens Blvd

Phone 561-239-2462

Street
Boca Raton FL 33432
City State Zip

E-mail Pat@FloridaMasonry.com

Speaking: For Against Information

Representing Florida Masonry Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-16-13

Meeting Date

Topic Construction Bill

Bill Number 1080
(if applicable)

Name Rocky Jenkins

Amendment Barcode _____
(if applicable)

Job Title Director

Address 880 Maple Ridge Dr

Phone 321 543-1415

Street

Merritt Island FL 32952

City

State

Zip

E-mail rockys.jenkins@cemex.com

Speaking: For Against Information

Representing CEMEX

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

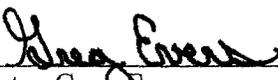
To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request – “if received”

Date: April 2, 2013

I respectfully request that **Senate Bill #1080**, relating to Public Construction Projects, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda, marked “if received.”



Senator Greg Evers
Florida Senate, District 2



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: April 9, 2013

I respectfully request that **Senate Bill #1080**, relating to Public Construction Projects, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda, marked **if received**.



Senator Greg Evers
Florida Senate, District 2

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 1080

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Evers

SUBJECT: Public Construction Projects

DATE: April 16, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1080 clarifies that a state agency constructing new buildings or renovating existing buildings is required to select a sustainable building rating system or national model green building code, and the selection is made for each building or renovation.

The bill also requires all state agencies, when constructing public bridges, buildings and other structures, to use lumber, timber, and other forest products produced and manufactured in Florida if such products are available, and their price, fitness, and quality are equal. This tiebreaker preference does not apply to transportation projects for which federal aid funds are available, in either local or state construction contracting.

This bill substantially amends sections 255.20, 255.257, and 255.2575 of the Florida Statutes.

II. Present Situation:

Florida Energy Conservation and Sustainable Buildings Act

In recent years, the Florida Legislature has placed an increased emphasis on promoting renewable energy, energy conservation, and enhanced energy efficiency on a state and local level. In 2008, the Legislature passed a comprehensive energy package,¹ which contained the Florida Energy Conservation and Sustainable Buildings Act (Act). This Act (ss. 255.51-255.2575, F.S.) provides that:

Significant efforts are needed to build energy-efficient state-owned buildings that meet environmental standards and provide energy savings over the life of the building structure. With buildings lasting many decades and with energy costs escalating rapidly, it is essential that the costs of operation and maintenance for energy-using equipment and sustainable materials be included in all design proposals for state-owned buildings.²

Section 255.252(3), F.S., provides legislative intent that “it is the policy of the state that buildings constructed and financed by the state be designed and constructed to comply with a sustainable building rating or a national model green building code” and “[i]t is further the policy of the state that the renovation of existing state facilities be in accordance with a sustainable building rating or a national model green building code.”

“Sustainable building rating or national model green building code” means a rating system established by one of the following:

- United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system,
- International Green Construction Code (IgCC),
- Green Building Initiative’s Green Globes rating system,
- Florida Green Building Coalition standards, or
- A nationally recognized, high-performance green building rating system as approved by the Department of Management Services.³

Section 255.257(4)(a), F.S., specifies that: “[a]ll state agencies shall adopt a sustainable building rating system or use a national model green building code for all new buildings and renovations to existing buildings.” Section 255.2575(2), F.S., provides that “[a]ll county, municipal, school district, water management district, state university, community college, and state court buildings shall be constructed to comply with a sustainable building rating system or a national model green building code.”⁴

The Department of Management Services (DMS) states on its website the following:

¹ Chapter 2008-227, L.O.F.

² Section 255.252(2), F.S.

³ Section 255.253(7), F.S.

⁴ This section applies to all county, municipal, school district, water management district, state university, community college, and state court buildings the architectural plans of which are commenced after July 1, 2008.

State agencies are required by law to comply with the various green aspects of a sustainable rating system such as LEED or the others approved in statute. However, when it comes to energy consumption in particular, state agencies are now required by rule to consider at least one design option that far outperforms their preferred rating system. Nevertheless, an agency's ultimate decision must be made on the basis of long-term cost-effectiveness.⁵

Administrative rules adopted by DMS pertaining to sustainable building ratings⁶ implement the statutes by requiring all agencies that are designing, constructing, or renovating a facility to perform a life-cycle cost analysis for at least three distinct energy-related designs that progressively meet and exceed the minimum energy performance requirements of the particular sustainable building rating or national model green building code adopted by the agency. The DMS then evaluates this life-cycle cost analysis for technical correctness and completeness.⁷ According to the DMS, these Rules allow the agencies sole discretion as it pertains to the selection of a sustainable building rating or national model green building code.

The following are basic, brief descriptions of the four statutorily-authorized sustainable building rating systems:

- **Leadership in Energy and Environmental Design (LEED)** is a “voluntary, consensus-based, market-driven” program that provides third-party verification of green buildings [and] addresses the entire lifecycle of a building. LEED projects have been established in 135 countries.... For commercial buildings and neighborhoods, to earn LEED certification, a project must satisfy all LEED prerequisites and earn a minimum 40 points on a 110-point LEED rating system scale.⁸
- **International Green Construction Code (IgCC)** is the “first model code to include sustainability measures for the entire construction project and its site - from design through construction, certificate of occupancy and beyond. The new code is expected to make buildings more efficient, reduce waste, and have a positive impact on health, safety and community welfare....” The IgCC “creates a regulatory framework for new and existing buildings, establishing minimum green requirements for buildings and complementing voluntary rating systems, which may extend beyond baseline of the IgCC. The code acts as an overlay to the existing set of *International Codes*....”⁹
- **Green Globes** is a web-based program for green building guidance and certification that includes an onsite assessment by a third party. “Green Globes offers a streamlined and affordable...way to advance the overall environmental performance and sustainability of commercial buildings. The program has modules supporting new construction... [and]...existing buildings.... It is suitable for a wide range of buildings from large and small

⁵http://www.dms.myflorida.com/business_operations/real_estate_development_management/facilities_management/sustainablebuildings_and_energy_initiatives.

⁶ Chapter 60D, F.A.C.

⁷ Rule 60D-4.004(1)(c)1 and 2, F.A.C.

⁸ <http://new.usgbc.org/leed>.

⁹ <http://www.iccsafe.org/cs/igcc/pages/default.aspx>.

offices, multi-family structures, hospitals, and institutional buildings such as courthouses, schools, and universities.”¹⁰

- The **Florida Green Building Coalition (FGBC)** is a nonprofit corporation “dedicated to improving the built environment, [whose] mission is to lead and promote sustainability with environmental, economic, and social benefits through regional education and certification programs. FGBC was conceived and founded in the belief that green building programs will be most successful if there are clear and meaningful principles on which ‘green’ qualification and marketing are based.”¹¹

According to proponents of the bill, LEED is the only sustainable building rating system that does not award points for timber that is grown on a majority of Florida’s 16 million acres of forest, leaving only approximately 200 acres of Florida-grown wood being certified under this rating system, because LEED only awards points for timber that is grown under the Forest Stewardship Council requirements.¹² The DMS has chosen the LEED rating system to meet its own needs.

Florida Timber Industry

According to the Florida Forestry Association, there are almost 16 million acres of forests in Florida. Seventy percent (11.2 million acres) is privately owned, 16 percent (2.6 million acres) is owned by the state, 11 percent (1.7 million acres) is owned by the federal government, and three percent (0.5 million acres) is owned by local governments.^{13, 14} Although forests cover about 50 percent of the state’s land area, Florida’s timberlands are located mostly north of Orlando. In the northern half of the state most counties are at least 50 percent forested. Liberty County in northwest Florida is the most forested with timber lands covering more than 90 percent of its area. The peninsula is forested at 40 percent or less and a number of counties in southeast Florida are less than 10 percent forested.¹⁵

In 2010, there were 59 primary wood-using mills in Florida. Almost half of those are sawmills (27). Other types of mills include mulch (7), pulp/paper (6), chip-and-saw (5), chip mill (3), post (3), plywood (2), pole (2), pellet, strand board, veneer and firewood (1 each). The primary wood-using mills in Florida are located mostly in the northern part of the state.¹⁶

There are several forest certification standard programs that provide guidance and certification that timber land is being used in a sustainable manner. The Forest Stewardship Council, the American Tree Farm System, and the Sustainable Forestry Initiative are some commonly-used programs.

¹⁰ <http://www.thegbi.org/green-globes/>.

¹¹ <http://www.floridagreenbuilding.org/home>.

¹² “‘Backlash’ bill against LEED green-building certification program moving in House,” available at: <http://www.thefloridacurrent.com/article.cfm?id=32144596>.

¹³ Florida Forestry Association website: <http://floridaforest.org/about-us/fl-forests-facts/>.

¹⁴ 2010 Florida’s Forestry and Forest Product Industry Economic Impacts, by the Florida Forest Service (PDF file accessed at <http://floridaforest.org/about-us/fl-forests-facts/>).

¹⁵ *Ibid.*

¹⁶ *Ibid.*

The Forest Stewardship Council (FSC) is an independent, non-profit organization. “[M]embership consists of three equally weighted chambers -- environmental, economic, and social -- to ensure the balance and the highest level of integrity. Independent FSC-accredited certification bodies verify that all FSC-certified forests conform to the requirements contained within an FSC forest management standard. . . . Certifiers are independent of FSC and the companies they are auditing.”¹⁷

The Sustainable Forestry Initiative (SFI) program is a widely-used standard. The organization asserts that their “forest certification standard is based on principles that promote sustainable forest management, including measures to protect water quality, biodiversity, wildlife habitat, species at risk, and Forests with Exceptional Conservation Value.” Further, that the standard “has strong acceptance in the global marketplace so we can deliver a steady supply of wood and paper products from legal and responsible sources. This is especially important at a time when there is growing demand for green building and responsible paper purchasing, and less than 10 percent of the world’s forests are certified.”¹⁸

The American Tree Farm System (ATFS), another commonly-used program, “offers certification to landowners who are committed to good forest management. . . . Forest certification is the certification of land management practices to a standard of sustainability. A written certification is issued by an independent third-party that attests to the sustainable management of a working forest. . . . protect[ing] economic, social and environmental benefits.”¹⁹

Florida Lumber Preference in Local Government Construction Contracting

Section 255.20, F.S., specifies requirements for local government construction contracting. Section 255.20(3), F.S., provides as follows:

All county officials, boards of county commissioners, school boards, city councils, city commissioners, and all other public officers of state boards or commissions that are charged with the letting of contracts for public work, for the construction of public bridges, buildings, and other structures must specify lumber, timber, and other forest products produced and manufactured in this state if such products are available and their price, fitness, and quality are equal. This subsection does not apply to plywood specified for monolithic concrete forms, if the structural or service requirements for timber for a particular job cannot be supplied by native species, or if the construction is financed in whole or in part from federal funds with the requirement that there be no restrictions as to species or place of manufacture.

III. Effect of Proposed Changes:

Section 1 amends s. 255.20, F.S., to exempt transportation projects for which federal aid funds are available from the operation of an existing tiebreaker preference for Florida lumber in local government construction contracting. The bill also reorganizes the provision.

¹⁷ Forest Stewardship Council website: <https://us.fsc.org/about-certification.198.htm>.

¹⁸ Sustainable Forestry Initiative website: <http://www.sfiprogram.org/sustainable-forestry-initiative/>.

¹⁹ American Tree Farm System website: <https://us.fsc.org/about-certification.198.htm>.

Section 2 amends s. 255.2575, F.S., to require all state agencies, when constructing public bridges, buildings, and other structures, to use lumber, timber, and other forest products produced and manufactured in Florida if such products are available and their price, fitness, and quality are equal. This tiebreaker language does not apply to transportation projects for which federal aid funds are available, and mirrors the language in s. 255.20(3), F.S., in section 1 of the bill.

Section 3 clarifies that a state agency constructing new buildings or renovating existing buildings is required to select a sustainable building rating system or national model green building code in accordance with s. 255.257(4)(a), F.S. The selection is made for each building and renovation to a building.

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:

Florida-based lumber and timber companies could see an increase in sales.

C. Government Sector Impact:

The tiebreaker preference for Florida-based lumber and timber only applies if the price is equal to that of such products not produced in Florida, so there should be no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The tiebreaker preference for Florida lumber created in s. 255.2575, F.S., mirrors the existing local government tiebreaker preference in s. 255.20(3), F.S., and adds state agencies to the list of entities which must use such a preference. The preference will therefore be specified for local government entities in two sections, which is duplicative.

According to the DMS, virtually all construction performed by the DMS is of the commercial, non-combustible type. The wood or timber found within this construction is the plywood specified for monolithic concrete forms, not applicable to the requirement under this bill, or for light framing or millwork. In this construction, the department does not procure “wood or timber” directly, but rather competitively procures a general contractor or construction manager for a low bid, lump sum of materials and labor.²⁰

VIII. Additional Information:

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

CS by Governmental Oversight and Accountability on April 9, 2013:

The CS exempts transportation projects for which federal aid funds are available from the operation of the tiebreaker preference for Florida lumber in local and state construction contracting.

- B. **Amendments:**

Barcode 453686 by Community Affairs on April 16, 2013:

- Revises noticing requirements of alleged violators of local codes and ordinances;
- Exempts specified septic tank system inspections and evaluations when remodeling a home and establishes guidelines for construction proximity to a system;
- Revises the meaning of ‘demolish’ as it is used to define licensed contractors;
- Provides that amendments enacted in 2012 related to the licensing of contractors and subcontractors are remedial in nature, are intended to clarify existing law, and apply retroactively;
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- Revises local government and Department of Business and Professional Regulation (DBPR) collection retention percentages for unpaid fines and costs ordered by the Construction Industry Licensing Board;
- Removes a requirement that local governments send minor violation notices to contractors prior to seeking fines and other disciplinary penalties;
- Extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses;
- Clarifies a prohibition to adopt any mandatory sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code;

²⁰ Department of Management Services’ bill analysis of SB 1080, dated February 29, 2013.

- Adds a member to Florida Building Commission from the natural gas distribution industry;
- Authorizes that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site;
- Specifies DBPR procedures for Florida Building Code product approval compliance and authorizes the process for expedited 10-day approval reviews;
- Renames the statewide standard for energy efficiency;
- Specifies that residential heating and cooling systems need only meet the manufacturer's approval and listing of equipment;
- Eliminates the DBPR's responsibilities regarding a statewide uniform building energy-efficiency rating system;
- Provides building energy-efficiency system definitions; and
- Creates the Florida Concrete and Masonry Council, Inc., as a direct support organization of the Florida Building Commission and specifies its composition and duties.

(WITH TITLE AMENDMENT)

By the Committee on Governmental Oversight and Accountability;
and Senator Evers

585-04017-13

20131080c1

1 A bill to be entitled

2 An act relating to public construction projects;
3 amending ss. 255.20 and 255.2575, F.S.; requiring
4 governmental entities to specify certain products
5 associated with public works projects; providing for
6 applicability; amending s. 255.257, F.S.; requiring
7 state agencies to use certain building rating systems
8 and building codes for each new construction and
9 renovation project; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (3) of section 255.20, Florida
14 Statutes, is amended to read:

15 255.20 Local bids and contracts for public construction
16 works; specification of state-produced lumber.—

17 (3) (a) All county officials, boards of county
18 commissioners, school boards, city councils, city commissioners,
19 and all other public officers of state boards or commissions
20 that are charged with the letting of contracts for public work,
21 for the construction of public bridges, buildings, and other
22 structures must specify in the contract lumber, timber, and
23 other forest products produced and manufactured in this state,
24 if wood is a component of the public work, and if such products
25 are available and their price, fitness, and quality are equal.

26 (b) This subsection does not apply:

27 1. To plywood specified for monolithic concrete forms.τ

28 2. If the structural or service requirements for timber for
29 a particular job cannot be supplied by native species.τ~~or~~

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30 3. If the construction is financed in whole or in part from
31 federal funds with the requirement that there be no restrictions
32 as to species or place of manufacture.

33 4. To transportation projects for which federal aid funds
34 are available.

35 Section 2. Subsection (4) is added to section 255.2575,
36 Florida Statutes, to read:

37 255.2575 Energy-efficient and sustainable buildings.-

38 (4) (a) All state agencies, county officials, boards of
39 county commissioners, school boards, city councils, city
40 commissioners, and all other public officers of state boards or
41 commissions that are charged with the letting of contracts for
42 public work, for the construction of public bridges, buildings,
43 and other structures must specify in the contract lumber,
44 timber, and other forest products produced and manufactured in
45 this state, if wood is a component of the public work, and if
46 such products are available and their price, fitness, and
47 quality are equal.

48 (b) This subsection does not apply:

49 1. To plywood specified for monolithic concrete forms.

50 2. If the structural or service requirements for timber for
51 a particular job cannot be supplied by native species.

52 3. If the construction is financed in whole or in part from
53 federal funds with the requirement that there be no restrictions
54 as to species or place of manufacture.

55 4. To transportation projects for which federal aid funds
56 are available.

57 Section 3. Paragraph (a) of subsection (4) of section
58 255.257, Florida Statutes, is amended to read:

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59 255.257 Energy management; buildings occupied by state
60 agencies.-

61 (4) ADOPTION OF STANDARDS.-

62 (a) Each ~~All~~ state agency ~~agencies~~ shall use ~~adopt~~ a
63 sustainable building rating system or ~~use~~ a national model green
64 building code for each ~~all~~ new building ~~buildings~~ and renovation
65 ~~renovations~~ to an existing building ~~buildings~~.

66 Section 4. This act shall take effect July 1, 2013.

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Committee on Community Affairs

Judge:

Started: 4/16/2013 1:36:57 PM

Ends: 4/16/2013 2:33:59 PM

Length: 00:57:03

1:37:06 PM Secretary calls roll
1:37:55 PM Tab 1 SB 1472
1:38:36 PM Senator Legg
1:38:57 PM Amendment 1 barcode 713900
1:39:19 PM Senator Latvala
1:39:33 PM Amendment 2 barcode 368550
1:39:38 PM Senator Latvala
1:41:14 PM Speaker Hannah Wiseman
1:45:08 PM Speaker Susan Glickman Representing Southern Alliance for Clean Energy
1:48:10 PM Secretary calls roll on SB 1472
1:48:40 PM Tab 6 SB 1028
1:48:44 PM Senator Clemens
1:49:15 PM Amendment 1
1:51:03 PM Speaker Brian Pitts
1:53:51 PM Speaker Aon Saff Representing Physicians for Social Responsibility
1:57:45 PM Senator Latvala
1:58:51 PM Speaker Gale Dickert
2:00:54 PM Senator Latvala
2:02:23 PM Senator Clemens
2:02:55 PM Secretary calls roll on SB 1028
2:03:14 PM Tab 5 SB 514
2:03:23 PM Chris Lipton
2:05:11 PM Speaker Brian Pitts
2:08:00 PM Senator Bradley
2:10:44 PM Senator Hukill
2:12:54 PM Senator Soto
2:14:04 PM Secretary calls roll on SB 514
2:14:22 PM Tab 2 SB 1376
2:14:38 PM Senator Abruzzo
2:15:00 PM Senator Stargel
2:16:02 PM Secretary calls roll on SB 1376
2:16:41 PM Tab 4 SB 1080
2:17:37 PM Amendment 1 barcode 785058
2:20:58 PM Secretary calls roll on SB 1080
2:21:17 PM Tab 3 SB 1128
2:21:39 PM James Kotas
2:22:34 PM Amendment 1 barcode 529882
2:22:55 PM Speaker Brian Pitts
2:24:06 PM Secretary calls roll on SB 1128
2:24:39 PM Tab 7 SB 1594
2:24:44 PM Senator Bradley
2:25:33 PM Amendment 1 barcode 270770
2:25:46 PM Amendment 2 barcode 822376
2:25:50 PM Amendment 3 barcode 223804
2:26:08 PM Amendment 4 barcode 753256
2:26:14 PM Senator Soto
2:27:12 PM Speaker Travis Yelverton Representing Capital Xpansion LLC
2:28:51 PM Senator Bradley
2:30:48 PM Senator Soto
2:31:44 PM Amendment withdrawn
2:31:57 PM Senator Bradley
2:32:39 PM Secretary calls roll on SB 1594

2:33:55 PM Meeting adjourned