

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Wednesday, March 5, 2014

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	SB 626 Hays (Identical H 587)	Charitable Exemption from Ad Valorem Taxation; Providing that, for purposes of the charitable exemption from ad valorem taxation, property owned by an exempt organization is used for a charitable purpose if the organization has taken affirmative steps to prepare the property for a charitable purpose, etc. CA 03/05/2014 Favorable AFT AP	Favorable Yeas 9 Nays 0
2	SB 730 Galvano (Identical H 503)	Municipal Governing Body Meetings; Authorizing the governing body of a municipality to hold joint meetings with the governing body of the county within which the municipality is located, etc. CA 03/05/2014 Fav/CS GO	Fav/CS Yeas 9 Nays 0
3	CS/SB 378 Military and Veterans Affairs, Space, and Domestic Security / Abruzzo (Similar H 677)	County and Municipal Parks; Requiring counties and municipalities to provide partial or full discounts on park entrance fees to military members, veterans, and the spouses and parents of certain deceased military members, law enforcement officers, and firefighters; requiring that individuals seeking the discount present written documentation satisfactory to the county or municipality which evidences eligibility; defining the term "park entrance fee" and providing certain exclusions, etc. MS 02/18/2014 Fav/CS CA 03/05/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 5, 2014, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 358 Ring (Compare CS/H 139)	Volunteers for Organized Youth Sports and Recreational Programs; Expanding provisions relating to athletic coaches for independent sanctioning authorities to require youth sports or recreation authorities to conduct specified background screening of all volunteers with any youth athletic team or organized youth recreational program using publicly owned facilities; prohibiting a youth sports or recreation authority from delegating such duty; requiring that specified documentation be maintained for a specified period by such authorities, etc. CF 02/04/2014 Favorable CA 03/05/2014 Favorable RC	Favorable Yeas 9 Nays 0
5	SB 392 Brandes / Clemens (Identical H 761)	State Speed Zones; Raising the maximum allowable speed limit on certain highways; increasing the maximum allowable speed limit on roadways under the jurisdiction of the Department of Transportation, etc. TR 01/16/2014 Favorable CA 03/05/2014 Favorable AP	Favorable Yeas 7 Nays 2
6	CS/SB 586 Environmental Preservation and Conservation / Altman (Similar CS/H 325)	Brownfields; Revising legislative intent with regard to community revitalization in certain areas; revising procedures for designation of brownfield areas by local governments; providing procedures for adoption of a resolution; providing requirements for notice and public hearings; authorizing local governments to use a term other than "brownfield area" when naming such areas; providing an exemption from liability for property damages for entities that execute and implement certain brownfield site rehabilitation agreements, etc. EP 02/05/2014 Fav/CS CA 03/05/2014 Favorable JU	Favorable Yeas 8 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 5, 2014, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 846 Ethics and Elections / Latvala (Compare H 655, S 606)	Governmental Ethics; Specifying the applicability of certain provisions of the Code of Ethics for Public Officers and Employees to members of the executive council of the Florida Clerks of Court Operations Corporation; requiring an officer required to participate in annual ethics training to certify participation on his or her full and public disclosure of financial interests; specifying the applicability of certain provisions of the Code of Ethics for Public Officers and Employees to division officers of Enterprise Florida, Inc., etc. EE 02/17/2014 Fav/CS CA 03/05/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0
8	SB 806 Bradley (Identical H 651)	Value Adjustment Board Proceedings; Requiring the clerk of the value adjustment board to have available and distribute specified forms; authorizing the owner of multiple items of tangible personal property to file a joint petition with the value adjustment board under certain circumstances; requiring the property appraiser to include the property record card in an evidence list for a value adjustment board hearing under certain circumstances, etc. CA 03/05/2014 Favorable AFT AP	Favorable Yeas 9 Nays 0
9	CS/SB 544 Agriculture / Simpson (Similar CS/H 523, Compare CS/H 525, Link S 546)	Licensure to Carry a Concealed Weapon or Firearm; Authorizing an applicant for a license to carry a concealed weapon or firearm to submit the application to an appointed tax collector; authorizing the Department of Agriculture and Consumer Services to appoint tax collectors to accept applications for new or renewal licenses to carry a concealed weapon or firearm on behalf of the Division of Licensing of the Department of Agriculture and Consumer Services; providing an appropriation, etc. CJ 02/03/2014 Favorable AG 02/17/2014 Fav/CS CA 03/05/2014 Favorable AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 5, 2014, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 926 Simpson (Similar H 957)	Local Regulation of Wage Theft; Providing requirements for county ordinances regulating wage theft; authorizing county funding to assist in addressing claims of wage theft; preempting further regulation of wage theft to the state; providing an exception for an ordinance enacted by a specified date, etc. CA 03/05/2014 Favorable JU RC	Favorable Yeas 6 Nays 3

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 626

INTRODUCER: Senator Hays

SUBJECT: Charitable Exemption from Ad Valorem Taxation

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Favorable
2.			AFT	
3.			AP	

I. Summary:

SB 626 expands the ad valorem tax exemption for charitable purpose to include when the exempt organization owning the property takes affirmative steps to prepare the property for a charitable purpose.

II. Present Situation:

Property Tax Assessments

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹ Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property's just valuation.²

Article VII, section 4 of the Florida Constitution provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.³ The State Constitution also limits the amount by which the assessed value may increase in a given year for certain classes of property.⁴

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² See s. 193.011(1)-(8), F.S.

³ Section 196.185, F.S.

⁴ See FLA. CONST. art. VII, s. 4(d) & (g)

Article VII, sections 3 and 6 of the Florida Constitution permits a number of tax exemptions.

Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

In determining whether the use of a property qualifies the property for an ad valorem tax exemption under s. 196.196, F.S., the property appraiser must consider the nature and extent of the charitable or other qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other charitable or other qualifying entities.⁵ Only the portions of the property used predominantly for the charitable or other qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt entity is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

Property used for religious purposes may be exempt if the entity has taken affirmative steps to prepare the property for use as a house of worship. The term "affirmative steps" is defined by statute to mean:

- environmental or land use permitting activities,
- creation of architectural or schematic drawings,
- land clearing or site preparation,
- construction or renovation activities, or
- other similar activities that demonstrate a commitment to a religious use.⁶

In 2009, the Legislature amended s. 196.196, F.S., to provide that property owned by an exempt organization that is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code, is considered to be used for a charitable purpose if the organization has taken "affirmative steps" to prepare the property to provide affordable housing to persons or families meeting the income restrictions for extremely-low, very-low, low, and moderate income families.⁷ The 2009 amendment also provided penalties for properties granted a charitable exemption under this subsection that are transferred for purposes other than affordable housing, or if the property is not actually used as affordable housing, within 5 years after the exemption is granted.

Charitable Organizations

Under section 501(c)(3) of the Internal Revenue Code, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes. None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Section 196.012(7), F.S., defines a charitable purpose as a function or service which is of such a community service that its discountenance could legally result in the allocation of public funds for the continuance of the function or the service.

⁵ Section 196.196(1)(a)-(b), F.S.

⁶ Section 196.196(3), F.S.

⁷ Chapter 2009-96, Laws of Fla. (2009 SB 360).

Determining Profit vs. Non-Profit Status of an Entity

Section 196.195, F.S., outlines the statutory criteria that a property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture. When applying for an exemption under this section, an applicant is required to provide the property appraiser with “such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year.”⁸

The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”⁹

Based on the information provided by the applicant, the property appraiser must use the specified statutory criteria outlined in subsection (2) of s. 196.195, F.S., to determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.¹⁰

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, has determined the applicant to be nonprofit under s. 196.195, F.S.¹¹

After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the property’s taxable value. The taxable value multiplied by the millage rate equals the property’s yearly tax bill.

III. Effect of Proposed Changes:

Section 1 amends s. 196.196, F.S., to extend the ad valorem tax exemption for charitable purposes to properties that are owned by exempt organizations that have taken affirmative steps to prepare the property for a charitable purpose, as defined in s. 196.012, F.S.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government’s authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature.¹² By reducing the tax base upon which counties and municipalities may raise ad valorem revenue, this bill will reduce a local government’s revenue-raising authority.

⁸ Section 196.195(1), F.S.

⁹ Section 196.195(3), F.S.

¹⁰ Section 196.195(2)(a)-(e), F.S.

¹¹ Section 196.195(4), F.S.

¹² FLA. CONST. art. VII, s. 18(b).

Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact.¹³ An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.¹⁴ A fiscal estimate is not available for this bill. If it is determined that this bill has more than an insignificant fiscal impact, it will require a two-thirds vote of the membership of each house of the Legislature for passage.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Non-profit organizations that own real property and take affirmative steps to prepare that property for a charitable purpose will be exempt from ad valorem taxation.

B. Private Sector Impact:

Non-profit organizations that own real property and take affirmative steps to prepare that property for a charitable purpose will be exempt from ad valorem taxation.

C. Government Sector Impact:

This bill may have an impact on local government revenue as a result of extending the ad valorem tax exemption for charitable purposes to properties that are owned by exempt organizations that have taken affirmative steps to prepare the property for a charitable purpose. The Revenue Estimating Conference has not determined the fiscal impact of this bill.

The Department of Revenue may need to review and update Form DR-504, Ad Valorem Tax Exemption Application and Return, as a result of this bill.

VI. Technical Deficiencies:

None.

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ As of April 1, 2013, the total state population is estimated to be 19,259,543. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population 2013* (Apr. 1, 2013), at 21.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.196 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



188614

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/05/2014	.	
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	.	

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

Senate Amendment (with title amendment)

Delete lines 22 - 23

and insert:

steps to prepare the property for a charitable purpose and the property is not being used for profitmaking purposes while affirmative steps are taken. If the property owned by an exempt organization is not in actual use for a charitable purpose within 5 years after the date the organization is granted an exemption, the organization is subject to sanctions as set forth



188614

11 in paragraph (5) (b). The term "affirmative steps" means

12

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

14 And the title is amended as follows:

15 Delete lines 4 - 6

16 and insert:

17 the property for a charitable purpose; clarifying that
18 an organization claiming an exception for property
19 that is not used for charitable purposes is subject to
20 sanctions; providing an

By Senator Hays

11-00900-14

2014626__

1 A bill to be entitled
2 An act relating to the charitable exemption from ad
3 valorem taxation; amending s. 196.196, F.S.; providing
4 that, for purposes of the charitable exemption from ad
5 valorem taxation, property owned by an exempt
6 organization is used for a charitable purpose if the
7 organization has taken affirmative steps to prepare
8 the property for a charitable purpose; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (3) of section 196.196, Florida
14 Statutes, is amended to read:

15 196.196 Determining whether property is entitled to
16 charitable, religious, scientific, or literary exemption.-

17 (3) Property owned by an exempt organization is used for a
18 religious purpose if the institution has taken affirmative steps
19 to prepare the property for use as a house of public worship.
20 Property owned by an exempt organization is used for a
21 charitable purpose if the institution has taken affirmative
22 steps to prepare the property for a charitable purpose as
23 defined in s. 196.012. The term "affirmative steps" means
24 environmental or land use permitting activities, creation of
25 architectural plans or schematic drawings, land clearing or site
26 preparation, construction or renovation activities, or other
27 similar activities that demonstrate a commitment of the property
28 to a charitable use or a religious use as a house of public
29 worship. For purposes of this subsection, the term "public

11-00900-14

2014626__

30 worship" means religious worship services and those other
31 activities that are incidental to religious worship services,
32 such as educational activities, parking, recreation, partaking
33 of meals, and fellowship.

34 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/2014

Meeting Date

Topic CHARITABLE EXEMPTIONS

Bill Number SB 626
(if applicable)

Name ROGER A. SUGGS

Amendment Barcode 188614
(if applicable)

Job Title CLAY COUNTY PROPERTY APPRAISER

Address 477 HOUSTON STREET

Phone 904 813 4024

Street
GREEN COVE SPRINGS FL 32043
City State Zip

E-mail rsuggs@ccpaad.com

Speaking: For Against Information

Representing FLORIDA ASSOCIATION OF PROPERTY APPRAISERS, INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

COMMITTEES:
Appropriations Subcommittee on General
Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Governmental Oversight and
Accountability, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Banking and Insurance
Commerce and Tourism

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining,
Co-Chair
Joint Legislative Auditing Committee
Joint Legislative Budget Commission

MEMORANDUM

To: Senator Wilton Simpson, Chair
Community Affairs Committee
CC: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 626 – Charitable Exemption from Ad Valorem Taxation

Date: January 17, 2014

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 110, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS

11th District

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism

SELECT COMMITTEE:

Select Committee on Indian River Lagoon and Lake Okeechobee Basin

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining, *Co-Chair*
Joint Legislative Auditing Committee
Joint Legislative Budget Commission

March 3, 2014

Senator Wilton Simpson, Chair
Community Affairs Committee
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 626 Charitable Organizations

Dear Chair Simpson,

I respectfully request that you allow my aide, Nanci Cornwell to present the above reference bill in committee. I will be in another committee presenting bills and will be unable to make it to the Community Affairs Committee in time to present the information.

Thank you for your favorable consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator
District 11

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

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 110, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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 730

INTRODUCER: Community Affairs Committee and Senator Galvano

SUBJECT: Municipal Governing Body Meetings

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Fav/CS
2.			GO	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 730 authorizes the governing body of a municipality to hold joint meetings upon matters of mutual interest with the governing body of the county within which the municipality is located at a time and place prescribed by ordinance or resolution. The meeting may be located inside or outside the boundaries of the municipality.

II. Present Situation:

County Government Meeting Authority

The Florida Constitution provides non-charter counties the power of self-government as is provided by general or special law.¹ The legislative and governing body of a non-charter county has the power to carry on county government to the extent not inconsistent with general or special law.² Non-charter counties are further authorized to hold special and regular meetings at “any appropriate public place in the county,” after giving proper public notice.³ Charter counties have all powers of local self-government not inconsistent with general law or special law.⁴ These provisions give charter and non-charter counties the authority to hold joint meetings with cities at any place within the county.

¹ Fla. Const. art. VIII, s. 1(f).

² Section 125.01, F.S.

³ Section 125.001, F.S.

⁴ Fla. Const. art VIII, s. 1(g).

Municipal Government Meeting Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.⁵ However, the Florida Constitution states that annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.⁶ Similarly, s. 166.021, F.S., gives municipalities home rule powers with the following exceptions: annexation, merger, exercise of extraterritorial power, and subjects prohibited by the state constitution or preempted to state or county government.

In 2011, the Legislature created s. 166.0213, F.S., to allow small municipalities that did not have the proper facilities available to act as a temporary city hall to hold public meetings within five miles of their jurisdictional boundaries. Prior to the enactment of that law, multiple attorney general opinions had indicated that there was no statutory authorization to hold public meetings outside of the municipality, as required by the Florida Constitution.⁷ “[I]n the absence of such statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction are void unless such actions are statutorily authorized.”⁸

Joint meetings between the governing bodies of cities and counties are common practice across the state. These meetings generally take place in the concerned city, however, legislative staff has found several instances of joint meetings held beyond municipal boundaries, including in the counties of Highlands, Charlotte and Indian River.⁹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 166.0213, F.S., to authorize the governing body of a municipality to hold joint meetings to receive, discuss, and act upon matters of mutual interest with the governing body of the county within which the municipality is located. The time and place of the joint meeting may be prescribed by municipal ordinance or resolution. The meeting may be located inside or outside the municipality boundaries.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵ Art. VIII, s. 2(b), Fla. Const.; *see also* s. 166.021, F.S.

⁶ Art. VIII, s. 2(c), Fla. Const.

⁷ Art. VIII, s. 2(c), Fla. Const.; s. 166.021, F.S., Op. Att’y Gen. Fla 2008-01 (2008); Op. Att’y Gen. Fla 2003-03 (2003); Op. Att’y Gen. Fla 75-139 (1975); *see also County of Okeechobee v. Florida Nat. Bank*, 150 So. 124, 126 (Fla. 1933).

⁸ Op. Att’y Gen. Fla 2008-01 (2008).

⁹ List of Meeting Notices for Joint meetings held beyond municipal boundaries on file with Community Affairs Committee Staff.

B. Public Records/Open Meetings Issues:

Article I, section 24(b) of the Florida Constitution, and s. 286.011, F.S., known as the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.¹⁰

At least one public meeting over 100 miles from the relevant jurisdiction has been held to be a violation of the Sunshine Laws because it was decided that affected citizens were not given reasonable opportunity to attend.¹¹

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 166.0213 of the Florida Statutes.

¹⁰ Section 286.011, F.S.

¹¹ *Rhea v. School Bd. of Alachua County*, 636 So.2d 1383 (Fla. 1st DCA 1994).

IX. Additional Information:

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

CS by Community Affairs on March 5, 2014:

Provides that the county governing body may attend a joint meeting with a municipal governing body within the municipal boundaries under certain circumstances.

- B. **Amendments:**

None.



199272

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 18 - 22

and insert:

(2) The governing body of a municipality may hold joint meetings with the governing body of the county within which the municipality is located in order to receive, discuss, and act upon matters of mutual interest. A joint meeting may be held within the municipality or the county at such time and place as may be prescribed by ordinance or resolution.



199272

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18

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

And the title is amended as follows:

 Delete line 6

and insert:

 municipality is located; providing for the location
 and time of such meetings; providing an effective
 date.

By Senator Galvano

26-00887A-14

2014730__

1 A bill to be entitled

2 An act relating to municipal governing body meetings;
3 amending s. 166.0213, F.S.; authorizing the governing
4 body of a municipality to hold joint meetings with the
5 governing body of the county within which the
6 municipality is located; providing an effective date.
7

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

10 Section 1. Section 166.0213, Florida Statutes, is amended
11 to read:

12 166.0213 Governing body meetings.—

13 (1) The governing body of a municipality having a
14 population of 500 or fewer residents may hold meetings within 5
15 miles of the exterior jurisdictional boundary of the
16 municipality at such time and place as may be prescribed by
17 ordinance or resolution.

18 (2) The governing body of a municipality may hold joint
19 meetings to receive, discuss, and act upon matters of mutual
20 interest with the governing body of the county within which the
21 municipality is located at such time and place as may be
22 prescribed by ordinance or resolution.

23 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/2014

Meeting Date

Topic Municipal Governing Body Public Meetings

Bill Number SB 730
(if applicable)

Name Ryan Padgett

Amendment Barcode _____
(if applicable)

Job Title Asst. General Counsel

Address PO Box 1757
Street
Tallahassee FL 32302
City State Zip

Phone 850.701.3616

E-mail rpadgett@flcities.com

Speaking: For Against Information

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Education, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Gaming
Health Policy
Regulated Industries
Rules

SENATOR BILL GALVANO

26th District

February 10, 2014

Senator Wilton Simpson
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 730, Municipal Governing Body Meetings, be scheduled for a hearing in the Committee on Community Affairs at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill".

Bill Galvano

cc: Tom Yeatman
Ann Whittaker

REPLY TO:

- 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 378

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

SUBJECT: County and Municipal Parks

DATE: March 5, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 378 requires county and municipal departments of parks and recreation to provide a full or partial discount on park entrance fees to the following individuals:

- An active duty military servicemember;
- An honorably discharged military veteran;
- An honorably discharged military veteran with a service-connected disability;
- The surviving spouse or parents of a military servicemember who died in combat; and
- The surviving spouse or parent of a law enforcement officer or a firefighter who died in the line of duty.

The bill also requires regional transportation authorities to provide disabled veterans with discounts on fares or charges.

II. Present Situation:

Veteran and Military Presence in Florida

The composition of military personnel who reside in Florida consists of the following:

- 1.6 million veterans;¹
- 249,000 veterans with a service-connected disability;²
- 56,700 active duty personnel;³
- 35,600 reservists;⁴ and
- 12,000 Florida National Guard members.⁵

After their military service, veterans may qualify for a variety of benefits administered by the U.S. Department of Veteran’s Affairs (VA), and by the State of Florida. Family members of veterans also may qualify for benefits, and for monthly VA payments as survivors of disabled or pensioned veterans.⁶

State Park Entrance Fee Discounts

The Division of Recreation and Parks (DRP) within the Department of Environmental Protection oversees Florida’s 160 state parks. The DRP offers two types of annual entrance passes: the individual annual entrance pass for \$60 and the family annual entrance pass for \$120. The DRP currently provides park entrance fee discounts pursuant to the following:⁷

- Active duty members and honorably discharged veterans of the U.S. Armed Forces, National Guard, or reserve components receive a 25 percent discount on an annual entrance pass;
- Veterans with service-connected disabilities receive a free-for-life family annual entrance pass;
- Surviving spouses and parents of deceased members of the U.S. Armed Forces, National Guard, or reserve components who have fallen in combat receive a free-for-life family annual entrance pass; and
- Surviving spouses and parents of a law enforcement officer or firefighter who died in the line of duty receive a free-for-life family annual entrance pass.

The table below reflects the application of the Florida state park entrance fee discounts provided in s. 258.0145, F.S., for fiscal year 2012-13.⁸

State Park Entrance Fee Discounts: FY 2012-13 (Pursuant to s. 258.0145, F.S.)	
Individual Entrance Pass (25% discount: active duty servicemembers and veterans)	1,115
<u>Value of Discount</u>	\$16,725
Family Annual Entrance Pass (25% discount: active duty servicemembers and veterans)	3,200

¹ Florida Department of Veterans’ Affairs, *Fast Facts*, http://floridavets.org/?page_id=50 (last visited Feb. 28, 2014).

² *Id.*

³ Data provided by Haas Center for Business Research and Economic Development at the University of West Florida.

⁴ *Id.*

⁵ Florida Department of Military Affairs, *About Us*, <http://www.floridaguard.army.mil/about-us> (last visited Feb. 28, 2014).

⁶ U.S. Dep’t of Veterans Affairs, Office of Public Affairs, *State Summary: Florida* (Nov. 2010); Florida Dep’t of Veteran’s Affairs, *Florida Veteran’s Benefits Guide* (2013), available at http://floridavets.org/?page_id=110 (last visited Mar. 5, 2014); Florida Dep’t of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited Mar. 5, 2014).

⁷ Section 258.0145, F.S.

⁸ Data provided by Department of Environmental Protection staff on 2-12-14.

<u>Value of Discount</u>	\$96,000
Lifetime Family Annual Entrance Pass (Full discount: disabled veterans; the spouse and parents of a fallen military servicemember, law enforcement officer, or firefighter)	14,381
<u>Value of Discount</u>	\$1,725,720
Total Passes FY 12-13	18,696
<u>Total Value of Discount</u>	<u>\$1,838,445</u>

Current law does not address entrance fee discounts for county and municipal parks for current and former military personnel and their families or the families of deceased first responders. There are approximately 250 county and municipal parks and recreation agencies in Florida, each managing a number of park areas, which offer a variety of amenities.⁹

Florida Transportation Authorities and Passenger Rail Systems

Chapters 348 and 349, F.S., govern the Florida Regional Transportation Authorities. Chapter 343, F.S., provides for the creation of the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348, F.S., provides for the creation of the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349, F.S., establishes the Jacksonville Transportation Authority.

Tri-Rail, operated by the South Florida Regional Transportation Authority, is the only publicly funded passenger rail system in the state.¹⁰ Tri-Rail currently offers a 50 percent discount on Fare EASY Cards to persons with disabilities. A few of the acceptable forms of documentation to present at the ticket kiosk include a Disabled Veterans ID, a letter from a physician, a Drivers License indicating disability, a Medicare Card, or Social Security documentation for Disability Benefits.¹¹

III. Effect of Proposed Changes:

The bill creates sections 125.028 and 166.0447, F.S., to require county departments of parks and recreation and municipal departments of parks and recreation, respectively, to provide a partial or a full discount on park entrance fees to the following persons:

- A current member of the U.S. Armed Forces, including its reserve and National Guard components;
- An honorably discharged veteran of the U.S. Armed Forces, including its reserve and National Guard components;
- An honorably discharged veteran with a service-connected disability as determined by the U.S. Department of Veterans Affairs;

⁹ Data provided by the Florida Recreation and Parks Association, Inc., on 2-14-14.

¹⁰ South Florida Regional Transportation Authority, Overview, <http://www.sfrrta.fl.gov/overview.aspx> (last visited Mar. 5, 2014).

¹¹ Tri-Rail, *Discount Policy*, <http://www.tri-rail.com/fares/discount-policy/> (last visited Mar. 5, 2014).

- The surviving spouse and parents of a deceased member of the U.S. Armed Forces, including its reserve and National Guard components, who died in the line of duty under combat-related conditions; and
- The surviving spouse and parents of a law enforcement officer or firefighter who died in the line of duty.

The bill also defines the term “park entrance fee” to mean a fee charged to access lands managed by a county or city park or recreation department, excluding expanded amenity fees for amenities such as, campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

The bill also provides disabled veterans, as described in section 295.07(1)(a), with discounts when using a transportation system or facility owned or operated by a regional transportation authority. The regional transportation authority may offer either a full or partial discount to a disabled veteran, upon a showing of written documentation evidencing eligibility.

The bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government’s authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature.¹² This bill has the effect of reducing municipal and county revenues generated from park entrance fees by adding discounts for the military, their families, and the families of deceased first responders. The bill may be exempt from needing a two-thirds vote due to insignificant fiscal impact,¹³ but no fiscal impact estimate is available at this time.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹² FLA. CONST. art. VII, s. 18(b).

¹³ FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.

B. Private Sector Impact:

Current and former military personnel, spouses and parents of deceased military servicemembers who have fallen in combat and also the spouses and parents of law enforcement officers or firefighters who have fallen in the line of duty will be eligible for a full or partial discount on entrance fees at county and municipal parks. Disabled military veterans will be eligible for a full or partial discount when using a transportation system or facility owned or operated by a regional transportation authority.

C. Government Sector Impact:

County and municipal departments of parks and recreation will experience a decrease in revenue generated from park entrance fees as a result of this bill. To the extent disabled veterans use the discount provided at transportation systems, regional transportation authorities will experience a decrease in revenue from tickets and fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates Sections 125.028 and 166.0447 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Community Affairs on March 5, 2014:

Requires regional transportation authorities to offer a discount to disabled veterans using their transportation systems or facilities.

CS by Military and Veterans Affairs, Space, and Domestic Security on February 18, 2014:

Requires county and city departments of parks and recreation to provide a partial or a full discount on park entrance fees to persons listed in the bill. It also defines the term “park entrance fee.”

B. Amendments:

None.



280972

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 78 and 79

insert:

Section 3. Section 163.58, Florida Statutes, is created to read:

163.58 Transportation fare discounts.-A regional transportation authority shall provide a partial or a full discount on fares and on other charges to a disabled veteran as described in s. 295.07(1)(a) for the use of a transportation



280972

11 system or transportation facility owned or operated by the
12 authority upon a showing of written documentation satisfactory
13 to the authority which evidences eligibility for the discount.
14

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

16 And the title is amended as follows:

17 Delete lines 2 - 12

18 and insert:

19 An act relating to discounts on public facility fees
20 and fares; creating ss. 125.028 and 166.0447, F.S.;
21 requiring counties and municipalities to provide
22 partial or full discounts on park entrance fees to
23 military members, veterans, and the spouses and
24 parents of certain deceased military members, law
25 enforcement officers, and firefighters; requiring that
26 individuals seeking the discount present written
27 documentation satisfactory to the county or
28 municipality which evidences eligibility; defining the
29 term "park entrance fee" and providing certain
30 exclusions; creating s. 163.58, F.S.; requiring
31 regional transportation authorities to provide partial
32 or full discounts on fares and on other charges for
33 certain disabled veterans;

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

583-01865-14

2014378c1

1 A bill to be entitled
2 An act relating to county and municipal parks;
3 creating ss. 125.028 and 166.0447, F.S.; requiring
4 counties and municipalities to provide partial or full
5 discounts on park entrance fees to military members,
6 veterans, and the spouses and parents of certain
7 deceased military members, law enforcement officers,
8 and firefighters; requiring that individuals seeking
9 the discount present written documentation
10 satisfactory to the county or municipality which
11 evidences eligibility; defining the term "park
12 entrance fee" and providing certain exclusions;
13 providing an effective date.

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

16
17 Section 1. Section 125.028, Florida Statutes, is created to
18 read:

19 125.028 Military, law enforcement, and firefighter county
20 park fee discounts.-

21 (1) A county park or recreation department shall provide a
22 partial or a full discount on park entrance fees to the
23 following individuals who present written documentation
24 satisfactory to the county department which evidences
25 eligibility for the discount:

26 (a) A current member of the United States Armed Forces or
27 its reserve components, or the National Guard.

28 (b) An honorably discharged veteran of the United States
29 Armed Forces or its reserve components, or the National Guard.

583-01865-14

2014378c1

30 (c) An honorably discharged veteran of the United States
31 Armed Forces or its reserve components, or the National Guard,
32 who has a service-connected disability as determined by the
33 United States Department of Veterans Affairs.

34 (d) A surviving spouse or parent of a deceased member of
35 the United States Armed Forces or its reserve components, or the
36 National Guard, who died in the line of duty under combat-
37 related conditions.

38 (e) A surviving spouse or parent of a law enforcement
39 officer, as defined in s. 943.10(1), or a firefighter, as
40 defined in s. 633.102, who died in the line of duty.

41 (2) As used in this section, the term "park entrance fee"
42 means a fee charged to access lands managed by a county park or
43 recreation department. The term does not include expanded
44 amenity fees for amenities such as, campgrounds, aquatic
45 facilities, stadiums or arenas, facility rentals, special
46 events, boat launching, golf, zoos, museums, gardens, or
47 programs taking place within public lands.

48 Section 2. Section 166.0447, Florida Statutes, is created
49 to read:

50 166.0447 Military, law enforcement, and firefighter
51 municipal park fee discounts.—

52 (1) A municipal park or recreation department shall provide
53 a partial or a full discount on park entrance fees to the
54 following individuals who present written documentation
55 satisfactory to the municipal department which evidences
56 eligibility for the discount:

57 (a) A current member of the United States Armed Forces or
58 its reserve components, or the National Guard.

583-01865-14

2014378c1

59 (b) An honorably discharged veteran of the United States
60 Armed Forces or its reserve components, or the National Guard.

61 (c) An honorably discharged veteran of the United States
62 Armed Forces or its reserve components, or the National Guard,
63 who has a service-connected disability as determined by the
64 United States Department of Veterans Affairs.

65 (d) A surviving spouse or parent of a deceased member of
66 the United States Armed Forces or its reserve components, or the
67 National Guard, who died in the line of duty under combat-
68 related conditions.

69 (e) A surviving spouse or parent of a law enforcement
70 officer, as defined in s. 943.10(1), or a firefighter, as
71 defined in s. 633.102, who died in the line of duty.

72 (2) As used in this section, the term "park entrance fee"
73 means a fee charged to access lands managed by a municipal park
74 or recreation department. The term does not include expanded
75 amenity fees for amenities such as, campgrounds, aquatic
76 facilities, stadiums or arenas, facility rentals, special
77 events, boat launching, golf, zoos, museums, gardens, or
78 programs taking place within public lands.

79 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

5 Mar 14
Meeting Date

Topic County & Municipal Parks Bill Number 378
Name Bobby Carbonell Amendment Barcode 280972
Job Title Legislative & Cabinet Affairs Director (if applicable)
Address 400 S. Monroe St. Suite 2105 Phone _____
Street City State Zip E-mail _____
Tallahassee, FL 32399

Speaking: For Against Information

Representing Florida Department of Veterans' Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 358

INTRODUCER: Senator Ring

SUBJECT: Volunteers for Organized Youth Sports and Recreational Programs

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanford</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 358 expands the current background screening requirements for coaches of youth athletic teams to cover all volunteers of youth sports and recreation authorities. The bill provides definitions for “volunteer” and “youth sports or recreation authority.”

The bill creates a rebuttable presumption that an authority that has followed the requirements of the bill was not negligent in authorizing a volunteer to participate in authority activities.

The bill requires recreational programs to adopt bylaws and policies related to concussions and head injuries, including the removal of any youth that suffers a concussion or head injury from participation. The bill also requires programs to obtain the informed consent of parents or guardians related to the nature and risks of concussions and head injuries.

The bill encourages youth sports and recreation authorities to participate in the Volunteer and Employee Criminal History System described in s. 943.0542, F.S.

II. Present Situation:

Definitions

Current law defines an “athletic coach” as a person who is authorized by an independent sanctioning authority to work for 20 or more hours within a calendar year, whether for compensation or as a volunteer, for a youth athletic team based in this state, and has direct contact with one or more minors on the youth athletic team.

An “independent sanctioning authority” means a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in this state if the team includes one or more minors and is not affiliated with a private school as defined in s. 1002.01, F.S.

Background Screenings for Athletic Coaches

Independent sanctioning authorities are required to conduct background screenings of athletic coaches. A background screening consists of a name search of the state and federal registries of sexual predators and sexual offenders on websites maintained by the Florida Department of Law Enforcement (FDLE) and the Attorney General of the United States.¹

Background Screenings for Employment at Parks, Playgrounds, and Day Care Centers

A state agency or governmental subdivision must search for a potential volunteer or employee's identifying information in the sexual predators and sexual offenders registry maintained by the FDLE prior to employing that person at any park, playground, day care center, or other place where children regularly congregate.²

Prohibited Employment for Registered Sexual Predators

It is a third degree felony for a registered sexual predator to work or volunteer at any business, school, day care center, park, playground or other place where children regularly congregate.³ This law appears to prohibit a registered sexual predator from volunteering for a recreational program that involves children.

Sexual Predator and Offender Information

The FDLE compiles information regarding sex offenders and makes that information available to the public. The information on the FDLE public website of sexual offenders and sexual predators is derived from the Florida Department of Corrections, the Florida Department of Highway Safety and Motor Vehicles, and various law enforcement officials.⁴ The Dru Sjodin National Sex Offender Public Website of the United States Department of Justice provides a centralized database to search for information about the location of people convicted of sexual crimes.

Liability for Negligent Hiring

In a civil action for the death, injury or damage to a third person caused by an intentional tort of an employee, the employee's employer is presumed not to have been negligent in hiring the employee if the employer conducted a background investigation of the prospective employee prior to hiring and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or the employment in general.⁵

¹ Section 943.0438, F.S.

² Section 943.04351, F.S.

³ Section 775.21(10)(b), F.S.

⁴ Florida Department of Law Enforcement, *Florida Sexual Offenders and Predators*, available at <http://offender.fdle.state.fl.us> (last visited Feb. 13, 2014).

⁵ Section 768.096, F.S.

The background investigation must include:

- a criminal background check obtained from the FDLE;
- reasonable efforts to contact references and former employers;
- a job application form that includes questions requesting detailed information regarding previous criminal convictions;
- a check of the applicant's driver's license record, if relevant to the work to be performed; or
- an interview of the prospective employee.⁶

However, the election by an employer not to conduct an investigation prior to hiring does not raise a presumption that the employer failed to use reasonable care in hiring an employee.⁷

Volunteer and Employee Criminal History System

The FDLE and the Federal Bureau of Investigation (FBI) provide criminal record information on applicants, employees, and volunteers to qualified, Florida-based organizations through the Volunteer and Employee Criminal History System (VECHS) program. This allows qualified organizations to more effectively screen out current and prospective volunteers and employees who are not suitable for contact with children, the elderly, or the disabled.

Generally, to be qualified to participate in the VECHS program, an organization must provide "care"⁸ or "care placement services" to children, the elderly, or the disabled.⁹

The VECHS program is not available to organizations currently required to obtain criminal history record checks on their employees and/or volunteers under other statutory provisions, such as day care centers. Those organizations must continue to follow the statutory mandates that specifically apply to them. If, however, an organization is required to obtain state and national checks on only specific types of employees or volunteers, the VECHS program may be able to process requests for state and national checks on the organization's other employees or volunteers.

To qualify to access the VECHS program, an organization must:

- submit an application to FDLE explaining what functions the organization performs that serve children, the elderly, or disabled persons;
- sign an agreement that the criminal history information will only be used to screen employees and volunteers of that organization for employment purposes;
- submit a Civil Workflow Customer Registration form; and
- submit \$40.50 for each employee or \$33.00 for each volunteer electronic submission.¹⁰

⁶ *Id.*

⁷ *Id.*

⁸ The word "care" is defined in s. 943.0542, F.S., to include the provision of recreation to children.

⁹ Florida Department of Law Enforcement, *Volunteer And Employee Background Checks*, available at <http://www.fdle.state.fl.us/content/getdoc/9023f5ac-2c0c-465c-995c-f949db57d0dd/VECHS.aspx> (last visited Feb. 13, 2014).

¹⁰ *Id.*

If an organization becomes qualified and provides the required information for criminal history record requests, FDLE, with the assistance of the FBI, will provide the organization with the following:

- an indication that the person has no criminal history, i.e., no serious arrests in state or national databases, if there are none;
- the criminal history record showing arrests and/or convictions for Florida and other states, if any; and
- notification of any warrants or domestic violence injunctions that the person may have.¹¹

III. Effect of Proposed Changes:

Section 1 substitutes “volunteers” for “athletic coaches” and “organized youth sports and recreation” for “independent sanctioning” authorities throughout s. 943.0438, F.S. As a result, the bill enlarges the number of persons and organizations subject to the background screening requirements.

The bill defines “volunteer” as a person who:

- is authorized by a youth sports or recreation authority to work, whether for compensation or as a volunteer, for a youth athletic team or organized youth recreational program using publicly owned facilities based in this state; and
- has direct contact with one or more minors on this youth athletic team.

The bill defines “youth sports or recreation authority” as a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team or organized youth recreational program using publicly owned facilities in this state if the team or program includes one or more minors and is not affiliated with a private school as defined in s. 1002.01, F.S.

The bill requires background screenings of each prospective volunteer and annual screenings of current volunteers. The screenings are required to use either the sexual predator and sexual offender database maintained by the FDLE in accordance with s. 943.043, F.S., or the database maintained by the Attorney General of the United States in accordance with 42 U.S.C. s. 16920. Alternatively, an authority may utilize a commercial consumer reporting agency that complies with the federal Fair Credit Reporting Act and includes a search of the sexual predator and sexual offender websites listed above.

The authority must disqualify any volunteer identified on a registry. The authority must provide written notice to a disqualified volunteer within seven days of disqualification.

In the event of a civil action related to sexual misconduct committed by a volunteer, the bill creates a rebuttable presumption that an authority that complied with the background screening and disqualification requirements was not negligent in authorizing the volunteer to participate in authority-sponsored activities.

The bill also requires that “youth sports or recreation authorities”:

- maintain records of screenings and disqualifications for at least 5 years;

¹¹ *Id.*

- adopt guidelines to educate volunteers and others about the nature and risk of concussions and head injuries;
- adopt bylaws and policies requiring the parents or guardians of a youth that is participating in or a candidate for an athletic or recreational program to sign and return an informed consent relating to concussions and head injuries; and
- adopt bylaws or policies that require each youth suspected of having sustained a concussion or head injury to be immediately removed from the activity and prevented from returning without clearance from an authorized doctor.

Youth sports and recreation authorities are encouraged to participate in the Volunteer and Employee Criminal History System, as authorized by the National Child Protection Act of 1993 and s. 943.0542, F.S.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The sex offender registry screening requirements of the bill are expected to have a nominal effect on the authorities. The state and national registries are public websites that can be accessed by persons with minimal computer skills, and searches can be conducted relatively quickly. Those authorities electing to perform searches via a commercial consumer reporting agency may incur moderate expenses for the screening. The authorities may pass these screening costs on to volunteer applicants and incur no costs from this screening requirement.

Screening through the VECHS program does require payment of a fee. While the bill does not require authorities to do a VECHS search, the authorities are encouraged to use the VECHS system.

C. Government Sector Impact:

FDLE reports no projected fiscal impact from the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 943.0438 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Ring

29-00558-14

2014358__

1 A bill to be entitled
2 An act relating to volunteers for organized youth
3 sports and recreational programs; amending s.
4 943.0438, F.S.; defining the terms "volunteer" and
5 "youth sports or recreation authority"; expanding
6 provisions relating to athletic coaches for
7 independent sanctioning authorities to require youth
8 sports or recreation authorities to conduct specified
9 background screening of all volunteers with any youth
10 athletic team or organized youth recreational program
11 using publicly owned facilities; prohibiting a youth
12 sports or recreation authority from delegating such
13 duty; requiring that specified documentation be
14 maintained for a specified period by such authorities;
15 conforming provisions to changes made by the act;
16 providing an effective date.

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

19
20 Section 1. Section 943.0438, Florida Statutes, is amended
21 to read:

22 943.0438 Volunteers ~~Athletic coaches~~ for organized youth
23 sports and recreation ~~independent sanctioning~~ authorities.-

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

25 (a) "Volunteer Athletic coach" means a person who:

26 1. Is authorized by a youth sports or recreation ~~an~~
27 ~~independent sanctioning~~ authority to work ~~for 20 or more hours~~
28 ~~within a calendar year~~, whether for compensation or as a
29 volunteer, for a youth athletic team or organized youth

29-00558-14

2014358__

30 recreational program using publicly owned facilities based in
31 this state; and

32 2. Has direct contact with one or more minors on the youth
33 athletic team.

34 (b) "Youth sports or recreation ~~Independent sanctioning~~
35 authority" means a private, nongovernmental entity that
36 organizes, operates, or coordinates a youth athletic team or
37 organized youth recreational program using publicly owned
38 facilities in this state if the team or program includes one or
39 more minors and is not affiliated with a private school as
40 defined in s. 1002.01.

41 (2) A youth sports or recreation ~~An independent sanctioning~~
42 authority shall:

43 (a)1. Conduct a background screening of each current and
44 prospective volunteer athletic coach. The authority may not
45 delegate this responsibility to an individual team or program
46 and may not authorize a ~~No person shall be authorized by the~~
47 ~~independent sanctioning authority~~ to act as a volunteer an
48 ~~athletic coach~~ unless a background screening is ~~has been~~
49 conducted and does ~~did~~ not result in disqualification under
50 paragraph (b). Background screenings shall be conducted annually
51 for each volunteer athletic coach. For purposes of this section,
52 a background screening shall be conducted with a search of the
53 volunteer's ~~athletic coach's~~ name or other identifying
54 information against state and federal registries of sexual
55 predators and sexual offenders, which are available to the
56 public on Internet sites provided by:

- 57 a. The Department of Law Enforcement under s. 943.043; and
58 b. The Attorney General of the United States under 42

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2014358__

59 U.S.C. s. 16920.

60 2. For purposes of this section, a background screening
61 conducted by a commercial consumer reporting agency in
62 compliance with the federal Fair Credit Reporting Act using the
63 identifying information referenced in subparagraph 1. and that
64 includes searching that information against the sexual predator
65 and sexual offender Internet sites listed in sub-subparagraphs
66 1.a. and b. ~~is shall be~~ deemed to satisfy ~~in compliance with the~~
67 requirements of this paragraph ~~section~~.

68 (b) Disqualify a ~~any~~ person from acting as a volunteer ~~an~~
69 ~~athletic coach~~ if he or she is identified on a registry
70 described in paragraph (a).

71 (c) Provide, within 7 business days after ~~following~~ the
72 background screening under paragraph (a), written notice to a
73 person disqualified under this section advising the person of
74 the results and of his or her disqualification.

75 (d) Maintain for at least 5 years documentation of:

76 1. The results for each person screened under paragraph
77 (a); and

78 2. The written notice of disqualification provided to each
79 person under paragraph (c).

80 (e) Adopt guidelines to educate volunteers ~~athletic~~
81 ~~coaches~~, officials, administrators, and youth athletes and their
82 parents or guardians of the nature and risk of concussion and
83 head injury.

84 (f) Adopt bylaws or policies that require the parent or
85 guardian of a youth who is participating in athletic competition
86 or other recreational programs or who is a candidate for an
87 athletic team or recreational program to sign and return an

29-00558-14

2014358__

88 informed consent that explains the nature and risk of concussion
89 and head injury, including the risk of continuing to play after
90 concussion or head injury, each year before participating in
91 athletic competition or other recreational programs, or engaging
92 in any practice, tryout, workout, or other physical activity
93 associated with the youth's candidacy for an athletic team or
94 recreational program.

95 (g) Adopt bylaws or policies that require each youth
96 athlete or recreational program participant who is suspected of
97 sustaining a concussion or head injury in a practice or
98 competition to be immediately removed from the activity. A youth
99 athlete or recreational program participant who is ~~has been~~
100 removed from an activity may not return to practice or
101 competition until the youth or participant submits to a
102 volunteer or volunteer supervisor ~~the athletic coach~~ a written
103 medical clearance ~~to return~~ stating that he or she ~~the youth~~
104 ~~athlete~~ no longer exhibits signs, symptoms, or behaviors
105 consistent with a concussion or other head injury. Medical
106 clearance must be authorized by the appropriate health care
107 practitioner trained in the diagnosis, evaluation, and
108 management of concussions as defined by the Sports Medicine
109 Advisory Committee of the Florida High School Athletic
110 Association.

111 (3) In a civil action for the death of, or injury or damage
112 to, a third person caused by the intentional tort of a volunteer
113 ~~an athletic coach~~ that relates to alleged sexual misconduct by
114 the volunteer athletic coach, there is a rebuttable presumption
115 that the youth sports or recreation ~~independent sanctioning~~
116 authority was not negligent in authorizing the person to act as

29-00558-14

2014358__

117 a volunteer ~~athletic coach~~ if the authority complied with the
118 background screening and disqualification requirements of
119 subsection (2) before ~~prior to~~ such authorization.

120 (4) The Legislature encourages youth sports and recreation
121 ~~independent sanctioning~~ authorities ~~for youth athletic teams~~ to
122 participate in the Volunteer and Employee Criminal History
123 System, as authorized by the National Child Protection Act of
124 1993 and s. 943.0542.

125 Section 2. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEES:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR JEREMY RING

29th District

February 5, 2014

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

Dear Chairman Simpson,

I am writing to respectfully request your cooperation in placing Senate Bill 358, relating to volunteers for organized youth sports and recreational programs, on the Committee on Community Affairs agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

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

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEES:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR JEREMY RING

29th District

March 3, 2014

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

Dear Chairman Simpson

I appreciate you including my legislation, SB 358, relating to Volunteers for Organized Youth Sports and Recreational Programs, on the Committee on Community Affairs agenda. During the committee meeting on March 5, my legislative assistant J.J. Piskadlo will be presenting the bill on my behalf.

Please do not hesitate to contact me if you or your staff have any questions.

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
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Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 392

INTRODUCER: Senators Brandes and Clemens

SUBJECT: State Speed Zones

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Favorable
2.	White	Yeatman	CA	Favorable
3.			AP	

I. Summary:

SB 392 raises the maximum allowable speed limit on certain highways and authorizes, but does not require, the Florida Department of Transportation (FDOT) to increase the speed limit on certain roadway types, subject to the new maximum limits. The bill also directs the FDOT to determine the minimum speed limit on certain highways and makes technical and conforming changes.

II. Present Situation:

Speed Limit History and Current Law

The FDOT has long been charged with posting maximum and minimum speed limits on state and federal highways in Florida, subject at various times to national speed limits. Prior to 1974, state law authorized the FDOT to set maximum and minimum speed limits for travel on roadways under its authority, not to exceed 70 mph, with discretion for certain highways outside of a city or state roads connecting links or extensions thereof within a city.¹

In 1974, a National Maximum Speed Limit (NMSL), designed chiefly to conserve fuel, took effect, establishing a national maximum speed limit of 55 mph. Congress relaxed the law in 1987, allowing states to set speed limits of up to 65 mph on interstate roads in areas with fewer than 50,000 people ("rural interstates"). In 1995, Congress repealed the NMSL, allowing states to set their own speed limits (or none at all) on their roads. Most states have since increased the speed limits on some or all of their roads.

Since 1996, the authorized maximum speed limits on state highways are as follows:

- 70 mph on limited access highways,

¹ Chapter 71-135, Laws of Fla.

- 65 mph on any other highways outside an urban area of 5,000 or more persons with at least four lanes divided by a median strip, and
- 60 mph on other roadways under FDOT jurisdiction.²

As to minimum speeds on state roads in Florida, s. 316.183(2), F.S., establishes 40 mph as the minimum on all highways that are a part of the National System of Interstate and Defense Highways and have not fewer than four lanes. If the posted speed limit is 70 mph, the minimum speed is 50 mph.

Moving Violation Fines and Surcharges

Section 318.18(3), F.S., provides the following fines, in addition to court costs, for moving violations involving unlawful speed:

For speed exceeding the limit by:	Fine
1-5 mph	Warning
6-9 mph	\$25
10-14 mph	\$100
15-19 mph	\$150
20-29 mph	\$175
30 mph and above	\$250

In addition, a motorist must pay an additional fine for exceeding the speed limit in: a school zone, designated school crossing, construction zone, enhanced penalty zone, or toll collection facility.³ Section 318.21, F.S., provides for the disposition of civil penalties by county courts. Of the civil penalties collected by county courts for monthly distribution, 50.8 percent is to be paid to the municipality where the violation occurred.⁴

Intent of Speed Limits

The Traffic Engineering & Operations Office of the FDOT notes that the “primary intent for establishing a speed zone is to improve vehicular and pedestrian safety by reducing the probability and severity of crashes.”

“The “statutory” or allowable speed limits mandated by state statutes prevail on the types of roads and/or locations identified within state, municipality, and county jurisdictions. Such speed limits may be altered upward or downward by speed zoning thus creating specific or altered speed limits or restrictions for prescribed segments of highways...”⁵

Establishment of Speed Limits/Speed Differential/85th Percentile Rule

² Section 316.187(2), F.S.

³ Section 318.18(3)(c)-(f), F.S.

⁴ Section 318.21(2)(g)2, F.S.

⁵ FDOT, *Speed Zoning for Highways, Roads & Streets*, Topic No. 750-010-002 (March 2010), available at http://www.dot.state.fl.us/trafficoperations/speedzone/Speed_Zoning_Manual_Complete_03_17_2011.pdf (last visited Feb. 20, 2014).

The 85th percentile rule is used by all states to establish speed limits. The Institute of Transportation Engineers reports:

“The most widely accepted method by state and local agencies is to set the limit at or below the speed at which 85 percent of the traffic is moving. . . . Studies have shown crash rates are lowest at around the 85th percentile speed. Drivers traveling significantly faster OR slower than this speed are at a greater risk for being in a crash. It is not high speeds alone that relate to crash risk; it is the variation of speed within the traffic stream.”

“Large variations in speed within the traffic stream create more conflicts and passing maneuvers.”

“According to a Federal Highway Administration study, all states and most local agencies use the 85th percentile speed of free flowing traffic as the basic factor in establishing speed limits.

“Radar, laser and other methods are used to collect speed data from random vehicles on a given roadway. This speed is subject to revision based upon such factors as: crash experience, roadway geometrics, parking, pedestrians, curves, adjacent development and engineering judgment. This practice is in accordance with the MUTCD.⁶

“In the final analysis, it is the judgment of the traffic engineer that determines which, if any, of the factors in the speed study warrant an adjustment of the 85th percentile speeds. After all variables are considered and a speed limit is established, traffic should flow at a safe and efficient level.”⁷

The FDOT performs spot speed studies, calculates the 85th percentile speed, and then establishes speed limits on state highways, subject to the statutory maximum limits.⁸ The FDOT advises that:

“It is common traffic engineering knowledge that about 85% of all drivers travel at reasonably safe speeds for the various roadway conditions they encounter, regardless of speed limit signs.”

“Based on this knowledge, a traffic engineering study is conducted to establish speed limits on the state highway. The Department uses the “85th percentile” method of determining appropriate and safe posted speed limits in conjunction with the maximum statute-based speeds. This method is based on extensive nationally accepted studies and observations. By measuring the speed of hundreds of vehicles at various points along the

⁶ The Manual on Uniform Traffic Control Devices, which is a uniform system of traffic control devices for use on the streets and highways of the state adopted by the FDOT pursuant to s. 316.0745, F.S. Per s. 316.0745(3), F.S., “All official traffic control signals or official traffic control devices purchased and installed in this state by any public body or official shall conform with the manual and specifications published by the Department of Transportation. . . .”

⁷ Institute of Traffic Engineers, *Speed Zoning Information, A Case of “Majority Rule,”* available at <http://www.motorists.org/other/Winter05.pdf> (last visited Feb. 19, 2014).

⁸ FDOT, *Speed Zoning for Highways, Roads & Streets*, *supra* note 4, at 16-23.

roadway, traffic engineers are able to use data to determine a reasonable and safe maximum speed to post for all vehicles to travel.”⁹

Once the 85th percentile speed is identified and revised based on factors such as roadway conditions, crash experience, and applied engineering judgment, a maximum limit is established. Because vehicle speed differential; *i.e.*, large variations in speed within the traffic stream, have a clearly established impact on crash risk, an appropriate minimum allowable speed may also be set. The FDOT then periodically reviews maximum speed limits on state roads for a variety of reasons, such as a request for review from a citizen or an effort to study the effects of a prior increase in the limit.

Speed/Safety Relationship

Noting a disparity in findings among various studies of aggregate data relating to the relationship between increased speed and vehicle crashes, the National Cooperative Highway Research Program (NCHRP,) a branch of the National Academy of Science, analyzed the results of several studies of specific locations before and after an increase in the posted speed limit.¹⁰ Results of the NCHRP study are encapsulated in the following table:

Increase in Speed Limit (mph)	Change in Avg Actual Speed	Change in Total Crash	Change in Probability of Fatal Injury	Total Change in Fatal Injury Count
55 to 65	+3 mph	+3.3%	+24%	+28%
65 to 75	+3 mph	+0.64%	+12%	+13%

Similarly, the Federal Highway Administration notes that “the effects of speed on safety are complex and only partially known.”¹¹ However:

“There is clear and convincing evidence that crash severity increases with individual vehicle speed. This finding is supported by theory and statistical analysis.

“A vehicle’s kinetic energy is proportional to its velocity squared. When a crash occurs, all or part of the kinetic energy is dissipated, primarily through friction and mass deformation. As kinetic energy increases exponentially with speed, so does the potential for mass deformation, including humans that are inside and outside of the vehicle. Analysis of crash statistics have shown that the probability of being injured in a crash increases as the change in speed at impact increases, particularly when this change in speed occurs over a short time duration.”¹²

⁹ FDOT, *Frequently Asked Questions – Speed Limits*, <http://www.dot.state.fl.us/trafficoperations/faqs/speedlimitfaq.shtm> (last visited Feb. 19, 2014).

¹⁰ National Cooperative Highway Research Program, *Safety Impacts and Other Implications of Raised Speed Limits on High-Speed Roads*, Research Results Digest 303 (March 2006), available at http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_w90.pdf (last visited Feb. 20, 2014).

¹¹ Federal Highway Administration, *Speed Concepts: Informational Guide*, Chapter 3 (Sep. 2009), available at http://safety.fhwa.dot.gov/speedmgt/ref_mats/fhwasa10001/ (last visited Feb. 19, 2014).

¹² *Id.*

Speed/Fuel Use Relationship

A study by the Fuels, Engines and Emissions Research Center of the Oak Ridge National Laboratory,¹³ conducted on 74 vehicles, model years 2003 to 2012, including “various sizes of sedans, wagons, and SUVs, as well as pickup trucks, minivans and a few “muscle cars” and sports cars,” showed the following general negative effect of increased speed on fuel economy:

Speed Increase	Average mpg decrease for a given 10 mph increase in speed
50 to 60 mph	12.4
60 to 70 mph	14.0
70 to 80 mph	15.4
All three increments	13.9

Speed Limits in Areas of Local Government

While provisions related to traffic control are applicable and uniform throughout the state,¹⁴ municipalities and counties have original jurisdiction over all streets and highways located within their respective boundaries, other than state roads.¹⁵ Local governments may also exercise jurisdiction over any private road, or limited access road owned or controlled by a special district, located within its boundaries, if the local government and the party owning or controlling such road provide for municipal traffic control jurisdiction by written agreement approved by the governing body of the municipality.

Section 316.189, F.S., stipulates that the maximum speed within any municipality or county is 30 mph. However, municipalities and counties may set speed zones altering such speeds, both as to maximum and minimum, in accordance with an investigation determining such a change is reasonable and in conformity to criteria promulgated by the FDOT.¹⁶ Within residential districts, a municipality may lower the maximum speed limit to 20 or 25 mph on local streets and highways after an investigation determines that such a limit is reasonable. No speed zone in a municipality or county shall permit a speed of more than 60 miles per hour.

III. Effect of Proposed Changes:

Generally, the bill revises statutes that control minimum and maximum speed limits on certain roadways in the state. The bill does not require raising posted speed limits on any road. Rather, the FDOT is authorized to increase the speed limits on the identified roadways, subject to the new maximum limits, and to set minimum speed limits on those roadways, as described below.

Section 1 amends s. 316.183(2), F.S., to eliminate statutorily specified minimum speed limits on all highways that are a part of the National System of Interstate and Defense Highways with at least four lanes and to authorize the FDOT to determine the safe and advisable minimum speed

¹³ Green Car Congress, *ORNL researchers quantify the effect of increasing highway speed on fuel economy* (Jan. 18, 2013), <http://www.greencarcongress.com/2013/01/thomas-20130117.html> (last visited Feb. 19, 2014).

¹⁴ Section 316.007, F.S.

¹⁵ Section 316.006(2), (3), F.S.

¹⁶ Any alteration of speed limits on municipal or county streets and roads must be based upon an engineering and traffic investigation. “Altered speed limits established solely on the basis of individual or group opinions are considered contrary to the intent of the statute.” FDOT, *Speed Zoning for Highways, Roads & Streets*, *supra* note 4, at 22.

limit on all such highways. Discretion to set minimum speed limits on all highways that are a part of the National System of Interstate and Defense Highways with at least four lanes is granted to the FDOT.

Section 2 amends s. 316.187(2), F.S., to increase by five miles per hour the existing authorized maximum speed limits on state highways in Florida as follows:

- 75 mph on limited access highways,
- 70 mph on any other highways outside an urban area of 5,000 or more persons with at least four lanes divided by a median strip, and
- 65 mph on other roadways under FDOT jurisdiction.

Section 3 provides the bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be an indeterminate impact on the private sector. Increased personal injury or deaths, property damage, and litigation costs associated with increased crash severity might be anticipated. Increased fuel consumption by individual travelers choosing to travel at higher speeds on any roadways upon which the speed limit may be increased is also expected.

C. Government Sector Impact:

The FDOT advises it expects an “indeterminate insignificant” fiscal impact and reports “[a]ny increases to speed limits would involve engineering study costs and speed limit signage change including fabrication and installation costs, on a case by case basis.”¹⁷

¹⁷ Florida Dep’t of Transportation, *Senate Bill 392 Analysis* (July 1, 2014).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.183 and 316.87.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senators Brandes and Clemens

22-00244B-14

2014392__

1 A bill to be entitled
2 An act relating to state speed zones; amending s.
3 316.183, F.S.; conforming a provision to changes made
4 by the act; making technical changes; amending s.
5 316.187, F.S.; raising the maximum allowable speed
6 limit on certain highways; increasing the maximum
7 allowable speed limit on roadways under the
8 jurisdiction of the Department of Transportation;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (2) of section 316.183, Florida
14 Statutes, is amended to read:

15 316.183 Unlawful speed.—

16 (2) On all streets or highways, the maximum speed limits
17 for all vehicles must be 30 miles per hour in business or
18 residence districts, and 55 miles per hour at any time at all
19 other locations. However, with respect to a residence district,
20 a county or municipality may set a maximum speed limit of 20 or
21 25 miles per hour on local streets and highways after an
22 investigation determines that such a limit is reasonable. It is
23 not necessary to conduct a separate investigation for each
24 residence district. The Department of Transportation shall
25 determine the safe and advisable minimum speed limit on all
26 highways that are ~~comprise~~ a part of the National System of
27 Interstate and Defense Highways and have at least ~~not fewer than~~
28 four lanes ~~is 40 miles per hour, except that when the posted~~
29 ~~speed limit is 70 miles per hour, the minimum speed limit is 50~~

22-00244B-14

2014392__

30 ~~miles per hour.~~

31 Section 2. Subsection (2) of section 316.187, Florida
32 Statutes, is amended to read:

33 316.187 Establishment of state speed zones.—

34 (2) (a) The maximum allowable speed limit on limited access
35 highways is 75 ~~70~~ miles per hour.

36 (b) The maximum allowable speed limit on any other highway
37 that ~~which~~ is outside an urban area of 5,000 or more persons and
38 that ~~which~~ has at least four lanes divided by a median strip is
39 70 ~~65~~ miles per hour.

40 (c) The Department of Transportation is authorized to set
41 such maximum and minimum speed limits for travel over other
42 roadways under its authority as it deems safe and advisable, not
43 to exceed as a maximum limit 65 ~~60~~ miles per hour.

44 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 5, 2014

Meeting Date

Topic State Speed Zones

Bill Number SB 392

(if applicable)

Name H. Lee Moffitt

Amendment Barcode _____

(if applicable)

Job Title Attorney

Address 101 East Kennedy Blvd., Suite 4000

Phone 813-402-2880

Street

Tampa FL 33602

City

State

Zip

E-mail lee.moffitt@arlaw.com

Speaking: For Against Information

Representing AAA - The Auto Club Group

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: January 17, 2014

I respectfully request that **Senate Bill #392**, relating to State Speed Zones, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 22

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 586

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Altman

SUBJECT: Brownfields

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.	Stearns	Yeatman	CA	Favorable
3.			JU	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 586 clarifies procedures for brownfield designation under the Brownfields Redevelopment Act. The bill provides additional liability protection for individuals responsible for rehabilitating brownfield sites.

II. Present Situation:

The Brownfields Redevelopment Act

The term “brownfield” came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”¹ In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities access to federal funds allocated for

¹ Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, (Sept. 2010), available at <http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf> (last visited Jan. 27, 2014).

redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.²

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).³ The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.⁴ The Act required the Department of Environmental Protection (DEP) to adopt rules to determine site-specific investigation methods, clean-up methods, and cleanup target levels by incorporating risk based corrective action (RBCA) principles,⁵ which it did in 1998.⁶ In 2013, in an effort to provide consistency and consolidate the cleanup criteria rules, the DEP repealed Rule 62-785, Florida Administrative Code, and is currently merging the rules with Rule 62-780, Florida Administrative Code.

The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997. A person who successfully completes a brownfield site rehabilitation agreement (BSRA) is relieved from further liability for remediation of the contaminated site or sites to the state and to third parties.⁷ The Act also provides protection from liability for contribution to any other party who has or may incur liability for cleanup of the contaminated site.⁸ The Act does not limit the right of a third party, other than the state, to pursue an action for damages to property or person. An action may not require rehabilitation in excess of what is outlined in the approved BSRA, or required by the DEP or the local pollution control program.⁹

The Act provides lenders the same liability protections as program participants as long as the lender has not caused or contributed to the contamination of a brownfield site. The lender liability protections are provided to encourage financing of real-property transactions involving brownfield sites.¹⁰

The Act also created the brownfield redevelopment bonus refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.¹¹ The Act identifies specific

²The Florida Brownfields Association, *Brownfields 101*, available at <http://floridabrownfields.org/associations/11916/files/Brownfields101.pdf> (last visited Jan. 27, 2014).

³ See ch. 97-277, Laws of Fla.

⁴ DEP, *Florida Brownfields Redevelopment Act-1998 Annual Report*, available at http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Jan. 27, 2014).

⁵ ASTM International defines “risk based corrective action principles” as consistent decision-making processes for assessment and response to chemical releases. See <http://www.astm.org/Standards/E2081.htm> (last visited Jan. 27, 2014).

⁶ See Rule 62-785, F.A.C.

⁷*Id.* “Brownfield site rehabilitation agreement (BSRA) means an agreement entered into between the person responsible for brownfield site rehabilitation and the DEP or a delegated local program. The BSRA shall at a minimum establish the time frames, schedules, and milestones for completion of site rehabilitation tasks and submission of technical reports, and other commitments or provisions pursuant to s. 376.80(5), F.S., and [Rule 62-780, F.A.C.]”

⁸ Todd S. Davis, *Brownfields: A Comprehensive Guide to Redeveloping Contaminated Property*, 525 (2d ed. 2002).

⁹ Section 376.82, F.S.

¹⁰ *Id.*

¹¹ Section 288.107, F.S.

procedures and criteria for the designation of a brownfield area by local governments, counties, and municipalities.¹²

Economic Incentives

In 1998, the Legislature passed SBs 244, 1202, and 1204, providing economic and financial incentives to promote the redevelopment of brownfield areas.¹³ SB 1202 created the Brownfield Area Loan Guarantee Program, which authorizes up to five years of state loan guarantees for redevelopment and applies to 50 percent of the primary lender loan.¹⁴ The loan guarantee applies to 75 percent of the lender loan if the brownfield area redevelopment is for “affordable” housing.¹⁵ SB 244 authorized a voluntary cleanup tax credit of up to 35 percent of the costs of voluntary cleanup activity of brownfield areas with a maximum allowable amount of \$250,000 per site per year.¹⁶ SB 1204 authorized the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund to facilitate the redevelopment of properties that may be more difficult to redevelop due to various liens on the property or complications from bankruptcy. The trust fund was created to help clear prior liens on the property through the negotiation process. The loans would then be repaid by the resale of the brownfield property and other activities that may have enhanced the property’s value.¹⁷ This trust fund was never capitalized or used for its intended purpose and was later repealed.¹⁸

In 2006, the Legislature passed HB 7131, which substantially increased the economic and financial incentives for redevelopment of brownfield areas and repealed the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund.¹⁹ The voluntary cleanup tax credit increased from 35 percent to 50 percent, which may be applied against intangible property tax and corporate income tax for the remediation of the brownfield area with a maximum allowable amount of \$500,000 per year per site. The Brownfield Areas Loan Guarantee Program increased from 10 percent to 25 percent. The percentage of tax credit that may be received during the final year of cleanup was increased from 10 percent to 25 percent and the amount was increased from \$50,000 to \$500,000. The total amount of tax credits that may be granted for brownfield cleanup was increased from \$2 million annually to \$5 million annually. The law also provides incentives for cleaning unlicensed or historic solid waste dumpsites and requires Enterprise Florida, Inc., to market brownfields for redevelopment and job growth.²⁰

¹² See ss. 376.80, 125.66, and 166.041, F.S., respectively.

¹³ See chs. 98-198, 98-75, and 98-118, Laws of Fla., respectively.

¹⁴ Section 376.86, F.S.

¹⁵ “Affordable” housing, as defined in s. 420.0004, F.S., means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of median adjusted gross annual income for the households as indicated in ss. 420.0004(9), (11), (12), or (17), F.S.

¹⁶ Section 220.1845, F.S.

¹⁷ See ch. 98-118, Laws of Fla.

¹⁸ The Florida Senate, Comm. On Government Efficiency Appropriations, *Senate Bill CS/SB 1092 Staff Analysis*, (April 4, 2006), available at <http://archive.flsenate.gov/data/session/2006/Senate/bills/analysis/pdf/2006s1092.ge.pdf> (last visited Feb. 4, 2014).

¹⁹ See ch. 2006-291, Laws of Fla.

²⁰ See ss. 196.012, 196.1995, 199.1055, 220.1845, 288.9015, 376.30781, 376.80, and 376.86, F.S. Sections 376.87 and 376.875, F.S., were repealed.

In 2008, the Legislature passed HB 527 providing additional tax credits for brownfield area developers.²¹ The law allows a tax credit for the costs incurred to remove solid waste from a brownfield site. The tax credit applicant may claim 50 percent of the cost of solid waste removal, not to exceed \$500,000. An additional 25 percent of the total site rehabilitation costs, up to \$500,000, may be claimed if a health care facility is constructed on the brownfield site.²² The DEP must submit an annual report to the President of the Senate and Speaker of the House by August 1 each year. The annual report must include the number, locations and sizes of the brownfield sites that have been remediated or are currently being rehabilitated under the provisions of the Act.²³

Brownfield Designation Procedures

Currently, a local government that has jurisdiction over a proposed brownfield area is required to notify the DEP of the decision to designate the brownfield area for rehabilitation according to the Act. The notification must include a resolution containing a map of the proposed area and the parcels to be included in the brownfield designation. Municipalities and counties that propose to designate a brownfield area must do so according to the resolution adoption procedures outlined in ss. 166.041 and 125.66, F.S., respectively, and notice the public hearing according to ss. 166.041(3)(c)2. and 125.66(4)(b)2., F.S., respectively.²⁴

The Act requires a local government that proposes to designate a brownfield area that is outside of a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project, to notify the DEP of the proposed designation. The notification must include a resolution that contains a map of the proposed area and the parcels to be included in the brownfield designation. The local government is also required to consider if the area warrants development, confirm the area is not too large, determine if the area has the potential for the private sector to participate in the rehabilitation, and determine whether the area has sites that can be used for recreation, cultural or historical preservation.²⁵

The Act allows a local government to designate a brownfield area if the person who owns or controls a potential brownfield area is requesting the designation and has agreed to rehabilitate and redevelop the area. The redevelopment must provide an economic benefit to the area and create at least five permanent new jobs. The redevelopment of the proposed area must be consistent with the local comprehensive plan and be able to be permitted. Notice of the proposed designation must be provided to the residents of the area and published in a newspaper of local circulation. The person requesting the designation must also provide reasonable assurance of sufficient financial resources to complete the rehabilitation and redevelopment of the brownfield area and enter into a site rehabilitation agreement with the department or local pollution control program.²⁶

²¹ See ch. 2008-238, Laws of Fla.

²² Section 376.30781, F.S.

²³ Section 376.85, F.S.

²⁴ Chapter 97-277, Laws of Fla.

²⁵ *Id.*

²⁶ *Id.*

The Act also requires that if property owners within the proposed designation area request in writing to the local government to have their properties removed from the designation, then the request must be granted.²⁷

As of November 22, 2013, local governments have adopted 352 resolutions to officially designate brownfield areas and 190 BSRAs have been executed. A total of 69 Site Rehabilitation Completion Orders or “No Further Action” orders have been issued since the inception of the program for sites that have been remediated to levels protective of human health and the environment. The remaining sites are in some phase of site assessment or cleanup.²⁸

III. Effect of Proposed Changes:

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

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

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

- A local government with jurisdiction over the brownfield area must adopt a resolution to designate the proposed area.
- The local government must notify the DEP, and, if applicable, the local pollution control program within 30 days of the adoption of the resolution.
- The resolution must continue to include a detailed map of the parcels to be designated or a legal description of the parcels along with a less detailed map.
- Municipalities must adopt the resolution according to s. 166.041, F.S., and the procedures for public hearings must comply with s. 166.041(3)(c)2, F.S.
- Counties must adopt the resolution according to s. 125.66, F.S., and the procedures for the public hearings must comply with s. 125.66(4)(b), F.S.
- Property owners within the proposed brownfield area who make written requests to have their properties removed from the designation before the adoption of the resolution must be granted the request.

The bill specifies that if a designation is proposed by a local government that has jurisdiction over the area and the area is located outside an existing community redevelopment area, or if designation is proposed by a non-governmental entity, then the following public hearing and notification procedures are required:

- At least one of the required public hearings must be conducted as close to the proposed area as possible to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic development, and residents’ considerations.

²⁷ *Id.*

²⁸ DEP, *Senate Bill 586 Agency Analysis* (Jan. 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

The bill specifies that if the designation is proposed by a local government that has jurisdiction over the area and the area is located inside an existing community redevelopment area, an enterprise zone, an empowerment zone, a closed military base, or a designated brownfield pilot project, then the public hearing considerations outlined above are not required. However, the local government must comply with the notification and resolution adoption procedures outlined earlier.

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

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

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

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

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

The liability protection applies to causes of action occurring on or after July 1, 2014. The bill specifies that the liability protection does not apply to a person who commits fraud in demonstrating site conditions, in completing a site rehabilitation agreement, or who exacerbates contamination of a property subject to a BSRA in violation of applicable laws, which causes property damage.

Section 4 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates the right of a third party to pursue an action for property damages, unless a person commits fraud in demonstrating site conditions, in completing a site rehabilitation agreement, or exacerbates contamination of a property subject to a BSRA in violation of applicable laws. The elimination of this legal remedy may harm third parties whose properties are damaged. However, individuals, corporations, community-based organizations, and not-for-profit corporations proposing to designate brownfield areas should benefit from this limitation of liability provision. The fiscal impacts are too remote to determine at this time.

C. **Government Sector Impact:**

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

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 376.78, 376.80, and 376.82.

IX. **Additional Information:**

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

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

CS by Environmental Preservation and Conservation on February 5, 2014:

The committee substitute:

- resolves the technical deficiency that was present in the bill by requiring the municipalities and counties to adhere to the public hearing procedures outlined in ss. 166.041(3)(c)2. and 125.66(4)(b), F.S., respectively;
- resolves the technical deficiency that was present in the bill by eliminating the conflicting newspaper publication size requirement; and
- allows the local government that designates a brownfield area to eliminate the term “brownfield area” within the name of the brownfield area once it has been designated by the local government.

B. **Amendments:**

None.

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

592-01670-14

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1 A bill to be entitled
2 An act relating to brownfields; amending s. 376.78,
3 F.S.; revising legislative intent with regard to
4 community revitalization in certain areas; amending s.
5 376.80, F.S.; revising procedures for designation of
6 brownfield areas by local governments; providing
7 procedures for adoption of a resolution; providing
8 requirements for notice and public hearings;
9 authorizing local governments to use a term other than
10 "brownfield area" when naming such areas; amending s.
11 376.82, F.S.; providing an exemption from liability
12 for property damages for entities that execute and
13 implement certain brownfield site rehabilitation
14 agreements; providing for applicability; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (8) of section 376.78, Florida
20 Statutes, is amended to read:

21 376.78 Legislative intent.—The Legislature finds and
22 declares the following:

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

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30 and availability, provision of governmental services, and other
31 socioeconomic factors. Brownfields redevelopment, properly done,
32 can be a significant element in community revitalization,
33 especially within community redevelopment areas, enterprise
34 zones, empowerment zones, closed military bases, or designated
35 brownfield pilot project areas.

36 Section 2. Subsections (1) and (2) of section 376.80,
37 Florida Statutes, are amended, and subsection (12) is added to
38 that section, to read:

39 376.80 Brownfield program administration process.—

40 (1) The following general procedures apply to brownfield
41 designations:

42 (a) The local government with jurisdiction over a proposed
43 brownfield area shall designate such area pursuant to this
44 section.

45 (b) For a brownfield area designation proposed by:

46 1. The jurisdictional local government, the designation
47 criteria under paragraph (2) (a) apply unless the local
48 government proposes to designate a brownfield area within a
49 specified redevelopment area as provided in paragraph (2) (b).

50 2. Any person other than a governmental entity, including,
51 but not limited to, individuals, corporations, partnerships,
52 limited liability companies, community-based organizations, or
53 not-for-profit corporations, the designation criteria under
54 paragraph (2) (c) apply.

55 (c) Except as otherwise provided, the following provisions
56 apply to all proposed brownfield area designations:

57 1. Notification to the department following adoption.—A
58 local government with jurisdiction over the brownfield area must

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59 notify the department, and, if applicable, the local pollution
60 control program under s. 403.182, of its decision to designate a
61 brownfield area for rehabilitation for the purposes of ss.
62 376.77-376.86. The notification must include a resolution
63 adopted, by the local government body. The local government
64 shall notify the department and, if applicable, the local
65 pollution control program under s. 403.182, of the designation
66 within 30 days after adoption of the resolution.

67 2. Resolution adoption.—The brownfield area designation
68 must be carried out by a resolution adopted by the
69 jurisdictional local government, to which includes is attached a
70 map adequate to clearly delineate exactly which parcels are to
71 be included in the brownfield area or alternatively a less-
72 detailed map accompanied by a detailed legal description of the
73 brownfield area. For municipalities, the governing body shall
74 adopt the resolution in accordance with the procedures outlined
75 in s. 166.041, except that the procedures for the public
76 hearings on the proposed resolution must be in the form
77 established in s. 166.041(3)(c)2. For counties, the governing
78 body shall adopt the resolution in accordance with the
79 procedures outlined in s. 125.66, except that the procedures for
80 the public hearings on the proposed resolution must be in the
81 form established in s. 125.66(4)(b).

82 3. Right to be removed from proposed brownfield area.—If a
83 property owner within the area proposed for designation by the
84 local government requests in writing to have his or her property
85 removed from the proposed designation, the local government
86 shall grant the request. For municipalities, the governing body
87 shall adopt the resolution in accordance with the procedures

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88 ~~outlined in s. 166.041, except that the notice for the public~~
89 ~~hearings on the proposed resolution must be in the form~~
90 ~~established in s. 166.041(3)(c)2. For counties, the governing~~
91 ~~body shall adopt the resolution in accordance with the~~
92 ~~procedures outlined in s. 125.66, except that the notice for the~~
93 ~~public hearings on the proposed resolution shall be in the form~~
94 ~~established in s. 125.66(4)(b)2.~~

95 4. Notice and public hearing requirements for designation
96 of a proposed brownfield area outside a redevelopment area or by
97 a nongovernmental entity.—Compliance with the following
98 provisions is required before designation of a proposed
99 brownfield area under paragraph (2)(a) or paragraph (2)(c):

100 a. At least one of the required public hearings shall be
101 conducted as close as is reasonably practicable to the area to
102 be designated to provide an opportunity for public input on the
103 size of the area, the objectives for rehabilitation, job
104 opportunities and economic developments anticipated,
105 neighborhood residents' considerations, and other relevant local
106 concerns.

107 b. Notice of a public hearing must be made in a newspaper
108 of general circulation in the area, must be made in ethnic
109 newspapers or local community bulletins, must be posted in the
110 affected area, and must be announced at a scheduled meeting of
111 the local governing body before the actual public hearing.

112 (2)(a) Local government-proposed brownfield area
113 designation outside specified redevelopment areas.—If a local
114 government proposes to designate a brownfield area that is
115 outside a community redevelopment area areas, enterprise zone
116 zones, empowerment zone zones, closed military base bases, or

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117 designated brownfield pilot project area ~~areas~~, the local
118 government shall provide notice, adopt the resolution, and
119 conduct ~~the~~ public hearings pursuant to paragraph ~~in accordance~~
120 ~~with the requirements of subsection (1) (c)~~, ~~except at least one~~
121 ~~of the required public hearings shall be conducted as close as~~
122 ~~reasonably practicable to the area to be designated to provide~~
123 ~~an opportunity for public input on the size of the area, the~~
124 ~~objectives for rehabilitation, job opportunities and economic~~
125 ~~developments anticipated, neighborhood residents'~~
126 ~~considerations, and other relevant local concerns. Notice of the~~
127 ~~public hearing must be made in a newspaper of general~~
128 ~~circulation in the area and the notice must be at least 16~~
129 ~~square inches in size, must be in ethnic newspapers or local~~
130 ~~community bulletins, must be posted in the affected area, and~~
131 ~~must be announced at a scheduled meeting of the local governing~~
132 ~~body before the actual public hearing. At a public hearing to~~
133 designate the proposed brownfield area ~~In determining the areas~~
134 ~~to be designated~~, the local government must consider:

- 135 1. Whether the brownfield area warrants economic
136 development and has a reasonable potential for such activities;
137 2. Whether the proposed area to be designated represents a
138 reasonably focused approach and is not overly large in
139 geographic coverage;
140 3. Whether the area has potential to interest the private
141 sector in participating in rehabilitation; and
142 4. Whether the area contains sites or parts of sites
143 suitable for limited recreational open space, cultural, or
144 historical preservation purposes.

145 (b) Local government-proposed brownfield area designation

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146 within specified redevelopment areas.-Paragraph (a) does not
147 apply to a proposed brownfield area if the local government
148 proposes to designate the brownfield area inside a community
149 redevelopment area, enterprise zone, empowerment zone, closed
150 military base, or designated brownfield pilot project area and
151 the local government complies with paragraph (1)(c).

152 (c) ~~(b)~~ Brownfield area designation proposed by persons
153 other than a governmental entity.-For designation of a
154 brownfield area that is proposed by a person other than the
155 local government, the local government with jurisdiction over
156 the proposed brownfield area shall provide notice and adopt a
157 resolution to designate the a brownfield area pursuant to
158 paragraph (1)(c) if, at the public hearing to adopt the
159 resolution, the person establishes all of the following under
160 the provisions of this act provided that:

161 1. A person who owns or controls a potential brownfield
162 site is requesting the designation and has agreed to
163 rehabilitate and redevelop the brownfield site.†

164 2. The rehabilitation and redevelopment of the proposed
165 brownfield site will result in economic productivity of the
166 area, along with the creation of at least 5 new permanent jobs
167 at the brownfield site that are full-time equivalent positions
168 not associated with the implementation of the brownfield site
169 rehabilitation agreement and that are not associated with
170 redevelopment project demolition or construction activities
171 pursuant to the redevelopment of the proposed brownfield site or
172 area. However, the job creation requirement does shall not apply
173 to the rehabilitation and redevelopment of a brownfield site
174 that will provide affordable housing as defined in s. 420.0004

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175 or the creation of recreational areas, conservation areas, or
176 parks.~~†~~

177 3. The redevelopment of the proposed brownfield site is
178 consistent with the local comprehensive plan and is a
179 permittable use under the applicable local land development
180 regulations.~~†~~

181 4. Notice of the proposed rehabilitation of the brownfield
182 area has been provided to neighbors and nearby residents of the
183 proposed area to be designated pursuant to paragraph (1)(c), and
184 the person proposing the area for designation has afforded to
185 those receiving notice the opportunity for comments and
186 suggestions about rehabilitation. Notice pursuant to this
187 subparagraph ~~must be made in a newspaper of general circulation~~
188 ~~in the area, at least 16 square inches in size, and the notice~~
189 ~~must be posted in the affected area.~~†~~ and~~

190 5. The person proposing the area for designation has
191 provided reasonable assurance that he or she has sufficient
192 financial resources to implement and complete the rehabilitation
193 agreement and redevelopment of the brownfield site.

194 (d)(e) Negotiation of brownfield site rehabilitation
195 agreement.—The designation of a brownfield area and the
196 identification of a person responsible for brownfield site
197 rehabilitation simply entitles the identified person to
198 negotiate a brownfield site rehabilitation agreement with the
199 department or approved local pollution control program.

200 (12) A local government that designates a brownfield area
201 pursuant to this section is not required to use the term
202 "brownfield area" within the name of the brownfield area
203 designated by the local government.

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204 Section 3. Paragraphs (a) and (b) of subsection (2) of
205 section 376.82, Florida Statutes, are amended to read:

206 376.82 Eligibility criteria and liability protection.—

207 (2) LIABILITY PROTECTION.—

208 (a) Any person, including his or her successors and
209 assigns, who executes and implements to successful completion a
210 brownfield site rehabilitation agreement, is ~~shall be~~ relieved
211 of:

212 1. Further liability for remediation of the contaminated
213 site or sites to the state and to third parties. ~~and of~~

214 2. Liability in contribution to any other party who has or
215 may incur cleanup liability for the contaminated site or sites.

216 3. Liability for claims of any person for property damage,
217 including, but not limited to, diminished value of real property
218 or improvements; lost or delayed rent, sale, or use of real
219 property or improvements; or stigma to real property or
220 improvements caused by contamination addressed by a brownfield
221 site rehabilitation agreement. Notwithstanding any other
222 provision of this chapter, this subparagraph applies to causes
223 of action accruing on or after July 1, 2014. This subparagraph
224 does not apply to a person who commits fraud in demonstrating
225 site conditions or completing site rehabilitation of a property
226 subject to a brownfield site rehabilitation agreement or who
227 exacerbates contamination of a property subject to a brownfield
228 site rehabilitation agreement in violation of applicable laws,
229 which causes property damages.

230 (b) This section does not limit ~~shall not be construed as a~~
231 ~~limitation on~~ the right of a third party other than the state to
232 pursue an action for damages to persons for bodily harm ~~property~~

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233 ~~or person~~; however, such an action may not compel site
234 rehabilitation in excess of that required in the approved
235 brownfield site rehabilitation agreement or otherwise required
236 by the department or approved local pollution control program.

237 Section 4. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic BROWN FIELDS

Bill Number 586
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY #296
Street

Phone 941.323.2424

SARASOTA FL 34243
City State Zip

E-mail cullenage@
201.2011

Speaking: For Against Information

Representing SIEBERT GROUP FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic Brownfields

Bill Number CS/SB 586
(if applicable)

Name Phil Levey

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 1821 Carr St
Street

Phone _____

Palm FL 32177
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Ground Water Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.5.14

Meeting Date

Topic Brownfields

Bill Number 586

(if applicable)

Name Sarah Busk

Amendment Barcode _____

(if applicable)

Job Title _____

Address 215 S. Monroe #602

Phone 222 8900

JLH FL 32301
Street City State Zip

E-mail sjb@cardenaspartners.com

Speaking: For Against Information

Representing Associated Industries of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Braunfields

Bill Number SB0
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 126 S Bronough

Phone 521-1235

Street

Tallahassee

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL chamber

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14

Meeting Date

Topic Brownfields

Bill Number 586
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title leg Advocate

Address PO Box 1757

Phone 222 9684

Tallahassee FL 32302
City State Zip

E-mail rmatthews@flcritics.com

Speaking: For Against Information

Representing FL League

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)

Meeting Date _____

Topic BROWN FIELDS

Bill Number SB 586
(if applicable)

Name BO BOHANNON

Amendment Barcode _____
(if applicable)

Job Title LOBBYIST

Address 200 W. COLLEGE
Street

Phone 850-222-1959

T.S. / MIAMI FL
City State Zip

E-mail BO@THEFLORIDIANGROUP

Speaking: For Against Information

Representing FLORIDA BROWN FIELDS ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN

16th District

COMMITTEES:

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

SELECT COMMITTEE

Indian River Lagoon and Lake Okeechobee

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

March 4, 2014

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

Dear Chairman Simpson:

Senate Bill 0586, related to *Brownfields* is on the Community Affairs Committee agenda on March 5, 2014. Since I will be chairing the Military and Veterans Affairs, Space, and Domestic Security Committee, I will be unable to attend.

Please recognize my Legislative Assistant Rick Kendust to present SB 0586 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

cc: Tom Yeatman, Staff Director, 315 Knott Building
Ann Whittaker, Committee Administrative Assistant

TA/svb

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN

16th District

COMMITTEES:

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

SELECT COMMITTEE

Indian River Lagoon and Lake Okeechobee

JOINT COMMITTEE:

Joint Administrative Procedures Committee

February 5, 2014

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

Dear Chairman Simpson:

I respectfully request that SB 0586, related to *Brownsfields*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

cc: Tom Yeatman, Staff Director, 315 Knott Building
Ann Whittaker, Committee Administrative Assistant

TA/svb

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
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DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 846

INTRODUCER: Community Affairs Committee; Ethics and Elections Committee; and Senator Latvala

SUBJECT: Governmental Ethics

DATE: March 5, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carlton</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 846 contains ethical reforms for several quasi-governmental entities. The changes will apply to:

- The Florida Clerk of Courts Operation Corporation;
- Enterprise Florida, Inc.;
- The divisions, including any corporations created to carry out its missions, of Enterprise Florida, Inc.; and
- The Florida Development Finance Corporation.

Among those changes, the bill makes clear that members of the governing bodies of those entities are subject to certain standards of conduct, anti-nepotism provisions, voting conflicts, and post-service lobbying restrictions. A two year post-service prohibition on lobbying is also applied to members of Citizens Property Insurance Corporation.

The bill requires elected municipal officers to complete 4 hours of annual ethics, public records, and open meetings training.

The financial disclosure laws are amended to provide a mechanism for the Commission on Ethics (Commission) to initiate proceedings, without having first received a complaint, against a person who has failed or refused to file their annual financial disclosure form and has accrued the maximum automatic fine. If the Commission initiates a proceeding, it would determine whether the failure to file was willful and, if so, recommend to the appropriate person or governing board

that the officer be removed from office. Additionally, the bill amends how the Commission collects unpaid automatic fines for failure to file annual financial disclosure by making wage garnishment possible under certain circumstances.

The bill requires certain citizen support and direct support organizations to adopt a code of ethics and specifies that certain provisions must be included in the code of ethics.

The bill also regulates those who lobby certain independent special districts by creating a statute that closely resembles the legislative lobbying provisions in s. 11.045, F.S., and the executive branch lobbying provisions in s. 112.3215, F.S. The bill requires lobbyists to register in a district's lobbying registration system, and provides jurisdiction to the Commission concerning complaints alleging violations of the new requirements.

The bill has an effective date of July 1, 2014.

II. Present Situation:

For purposes of this analysis, the present situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Quasi-Governmental Entities

Florida Clerks of Court Operations Corporation

Present Situation: The Florida Clerks of Court Operations Corporation is created as a “**public corporation**” in s. 28.35, F.S.¹ Membership consists of each of the Florida Clerks of Circuit Court. The Corporation is governed by an executive council which is composed of eight Clerks who are elected by the members, a designee of the President of the Florida Senate, a designee of the Speaker of the Florida House of Representatives, and a designee of the Chief Justice of the Florida Supreme Court. The Clerks of the Circuit Court are subject to the Code of Ethics for Public Officers and Employees in part III, ch. 112, F.S., (“Code of Ethics”) in their official capacities as Clerks of Circuit Court.

It is not clear that the members of the Executive Council would be subject to the Code of Ethics in that capacity.² A public corporation like this Corporation would not be an “agency” unless there is specific language to that effect. In the case of this Corporation, s. 28.35(1)(c), F.S., states:

The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to chapter 120.

¹ Section 28.35(1)(a), F.S.

² Unless otherwise specified, the various provisions of the Code of Ethics only apply to public officers and public employees. Those provisions contemplate service to an “agency.” For purposes of the Code of Ethics, the term “agency” means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state herein; or any public school, community college, or state university. See, s. 112.312(2), F.S.

Political subdivisions are, in fact, an “agency” pursuant to s. 112.312(2), F.S. However, in the context of s. 28.35(1)(c), F.S., it appears that that phrase is used only to exempt the Corporation from corporate income tax. Moreover, if the Legislature intended to subject these types of entities to the Code of Ethics, in whole or in part, it has historically done so expressly.³

Effect of the Bill: The bill clarifies that members of the Florida Clerks of Court Operations Corporation Executive Council are subject to the standards of conduct in s. 112.313, F.S., the “anti-nepotism” provision in s. 112.3135, F.S., and the voting conflicts standard applicable to state officers in s. 112.3143(2), F.S. The bill clarifies that, for purposes of those sections, the members of the Executive Council are public officers or employees. Finally, members of the Executive Council are prohibited from representing others for compensation before the Corporation for a period of two years after the end of their service on the Council.⁴

Enterprise Florida, Inc. and its Divisions:

Present Situation: Enterprise Florida, Inc., is created in s. 288.901, F.S., as a non-profit corporation. It is expressly provided that Enterprise Florida, Inc., is “not a unit or entity of state government.” The members of the Board of Directors of Enterprise Florida, Inc., are composed of various state officers and private individuals.⁵

Notwithstanding that Enterprise Florida, Inc., is not a unit or entity of state government, the Legislature has provided that the members of its Board are subject to the anti-nepotism provision in s. 112.3135, F.S., the voting conflicts standard applicable to statewide officers in s. 112.3143(2), F.S., and the standards of conduct in s. 112.313, F.S. However, s. 288.901(1)(c), F.S., specifically exempts members of the Board from the prohibition on “quid pro quo” gifts in s. 112.313(2), F.S.⁶ Finally, members of the Board who are not otherwise required to file annual financial disclosure are required to file an Annual Statement of Financial Interests pursuant to s. 112.3145, F.S.

The statutes are silent concerning application of any provisions of the Code of Ethics to the Divisions of Enterprise Florida authorized pursuant to s. 288.92, F.S.

Effect of the Bill: The bill prohibits members of the Board from accepting “quid pro quo” gifts as provided in s. 112.313(2), F.S. The members of the Board of Directors would be prohibited from representing others for compensation before the Corporation for a period of two years after the end of their service on the Board of Directors pursuant to s. 112.313(9), F.S.⁷

³ See, for example, s. 627.351(6)(d)3., F.S.

⁴ By its own terms, s. 112.313(9), F.S., applies to various officers and employees throughout three branches of state government. The Executive Council of the Florida Clerk of Courts Operations Corporation does not appear to fit into any of the definitions limiting the scope of s. 112.313(9), F.S. While stylistically unusual, the use of “including s. 112.313(9), F.S.” is intended to clarify that the two year lobbying prohibition therein applies to members of the Executive Council.

⁵ Section 288.901(5)-(7), F.S.

⁶ Section 112.313(2), F.S., prohibits solicitation or acceptance of anything of value when based upon any understanding that the officer’s vote, official action, or judgment would be influenced by the gift.

⁷ By its own terms, s. 112.313(9), F.S., applies to various officers and employees throughout three branches of state government. Neither the Board of Directors of Enterprise Florida nor the officers and agents of its divisions fit into any of the

The officers and agents of the Divisions of Enterprise Florida, and corporations created to carry out its mission, would be subject to the standards of conduct in s. 112.313, F.S., the anti-nepotism provision in s. 112.3135, F.S., and the voting conflicts standard applicable to statewide officers in s. 112.3143(2), F.S. As with the members of the Board of Directors, the officers of the Divisions of Enterprise Florida (including corporations created to carry out its mission) are prohibited from representing others for compensation before Enterprise Florida, Inc. for a period of two years after the end of their service pursuant to s. 112.313(9), F.S. These ethics standards would apply to:

- Officers of the Divisions of Enterprise Florida;
- Officers of subsidiaries of Enterprise Florida;
- Officers of corporations created to carry out the missions of Enterprise Florida; and
- Officers of corporations that Enterprise Florida is required to contract with by law.

Florida Development Finance Corporation

Present Situation: The Florida Development Finance Corporation is created in s. 288.9604, F.S., to assist businesses interested in moving into Florida with obtaining financing and other economic information and services.⁸ The Corporation is “created a public body corporate and politic” and is “constituted as a public instrumentality.” The Board of Directors is composed of five members selected by the Governor who were nominated by Enterprise Florida, Inc.”⁹ The statutes are silent as to the applicability of the Code of Ethics to the members of the Board of Directors of the Florida Development Finance Corporation.

Effect of the Bill: While an argument could be made that the Florida Development Finance Corporation is subject to the entire Code of Ethics, the enabling legislation does not clearly state that any provision of the Code of Ethics applies to the Corporation. As noted above, the Legislature has historically expressly made entities like this subject to the Code in whole or in part. The Legislature has not done so in this case. So, the bill clarifies that members of the Florida Development Finance Corporation Board of Directors are subject to the standards of conduct in s. 112.313, F.S., the “anti-nepotism” provision in s. 112.3135, F.S., and the voting conflicts standard applicable to state officers in s. 112.3143(2), F.S. The bill clarifies that, for purposes of those sections, the members of the Board of Directors are public officers or employees. Finally, members of the Board of Directors would be prohibited from representing others for compensation before the Corporation for a period of two years after the end of their service on the Board.¹⁰

Citizens Property Insurance Corporation

Present Situation: Citizens Property Insurance Corporation is created in s. 627.351(6), F.S., to ensure there is an orderly market for property insurance for Floridians. Pursuant to

definitions limiting the scope of s. 112.313(9), F.S. While stylistically unusual, the use of “including s. 112.313(9), F.S.,” is intended to clarify that the two year lobbying prohibition therein applies to members of the Board.

⁸ Section 288.9602, F.S.

⁹ Section 288.9604(2), F.S.

¹⁰ By its own terms, s. 112.313(9), F.S., applies to various officers and employees throughout three branches of state government. The Florida Development Finance Corporation Board of Directors does not appear to fit into any of the definitions limiting the scope of s. 112.313(9), F.S. While stylistically unusual, the use of “including s. 112.313(9), F.S.” is intended to clarify that the two year lobbying prohibition therein applies to members of the Board of Directors.

s. 627.351(6)(d)3., F.S., senior managers and members of the Board of Governors are subject to the Code of Ethics and are required to file annual financial disclosure pursuant to s. 112.3145, F.S.

Effect of the Bill: The bill subjects the Executive Director of Citizens Property Insurance Corporation to the Code of Ethics, and the financial disclosure requirement. The bill prohibits a former Executive Director, or former member of the Board of Governors, from representing another person or entity before the corporation for a period of two years after leaving. Additionally, a former Executive Director, or former member of the Board of Governors may not enter employment or a contractual relationship with an insurer that entered into a take-out bonus agreement with the Corporation while he or she served, for a period of two years.

Annual Ethics Training

Present Situation: Currently, constitutional officers are required to complete a minimum of four hours of ethics training annually.¹¹ The law requires training in ethics, public records, and open meetings laws. In accordance with statutory requirement, the Commission has promulgated rules specifying what provisions of Florida's ethics laws must be covered.¹²

Effect of the Bill: The bill requires elected municipal officers to complete the required ethics training. Beginning January 1, 2015, all officers subject to the training requirement must certify completion of the requirement on their annual financial disclosure forms. The bill provides that an officer who assumes office after March 31 is not subject to the ethics training requirement until the following year. However, a person who assumes office on or before March 31 is required to complete ethics training in the year in which he or she assumes office. Finally, the bill specifies that failure to affirm completion of the ethics training requirement does not constitute an immaterial, inconsequential, or de minimis error or omission. Therefore, a person who fails to indicate he or she completed the ethics training requirement does not get the opportunity to amend their form. Rather, the complaint proceedings begin immediately.

Financial Disclosure

Present Situation: Pursuant to ss. 112.3144 and 112.3145, F.S., certain public officers are required to file financial disclosure annually. Failure to file financial disclosure results in an automatic fine of \$25 per day, up to a maximum of \$1,500. If a filer fails to pay the fine as required by law, the unpaid fine can be given to a collections agency for collection, money may be withheld from the filer's public paycheck, or the Commission on Ethics, or its collection agency, can seek garnishment of the filer's private wages.

Currently, the Commission on Ethics may not initiate an investigation into alleged violations of the financial disclosure laws, or any other laws, without having first received a complaint.

Effect of the Bill: The bill amends the financial disclosure laws by providing a mechanism for the Commission on Ethics to initiate proceedings, without having first received a complaint, against

¹¹ Section 112.3142, F.S.

¹² Rule 34-7.025, F.A.C.

a person who has failed or refused to file their annual financial disclosure form and has accrued the maximum automatic fine. These complaints would follow the same procedure in place for any other ethics complaint made to the Commission. If the Commission initiates a proceeding, it would determine whether the failure to file was willful and, if so, enter an order recommending that the officer be removed from office. The bill also clarifies the provisions concerning complaints that allege an immaterial, inconsequential, or de minimis error or omission. The linguistic changes are not intended to affect the current process for complaints alleging an immaterial, inconsequential, or de minimis error or omission. That process, passed as part of SB 2 in 2013, requires the Commission to allow the filer a chance to amend his or her financial disclosure form if the Commission receives a complaint after August 25 alleging only an immaterial, inconsequential, or de minimis error or omission. The bill clarifies that the Department of State is only required to send an incumbent's financial disclosure form upon qualifying.

The bill amends the provisions that were passed as part of SB 2 in 2013 providing the Commission additional tools to collect unpaid automatic fines for failure to file annual financial disclosure. Specifically, the bill clarifies that there are two separate processes available. The first provision codifies the common law right of employers to withhold salary-related payments as it would be applicable to public officers and employees.¹³ Under this provision, the bill authorizes withholding an amount up to the entire amount of any salary-related payment and any additional amount from the next salary-related payment necessary to pay off any remaining balance of the fine. There is an exception for current public officers and employees whose public salary is his or her primary source of income, and that withholding the full amount of the fine owed would present an undue hardship. Under those circumstances, the entity paying the salary-related payment would be authorized to reduce the withholding to not less than ten percent of the salary-related payment. The bill clarifies that this process is separate and distinct from the ability to garnish wages by moving those provisions to a newly created statute.

Citizen Support Organizations and Direct Support Organizations

Present Situation: Currently, s. 112.326, F.S., authorizes the governing body of any political subdivision, by ordinance, or agency, by rule, to impose upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in the Code of Ethics, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of the Code of Ethics.

Effect of the Bill: The bill requires citizen support and direct support organizations to adopt a code of ethics and specifies that certain provisions must be included in the code of ethics. Specifically, the code of ethics adopted must contain the standards of conduct in s. 112.313, F.S.¹⁴ Those organizations are authorized to adopt additional or more stringent standards of conduct and disclosure requirements than are contained in the state's Code of Ethics for Public

¹³ See, e.g. *Atwater v. Roudebush*, 42 F.Supp. 622 (D.C. IL, 1976).

¹⁴ Section 112.313, F.S., contains the major standards of conduct including, but not limited to: Solicitation and acceptance of anything of value under certain circumstances; doing business with one's own agency; misuse of public position, certain employment or contractual relationships; disclosure of certain information learned by virtue of one's public position in order to benefit oneself or others; and several other provisions.

Officers and Employees. Citizen support and direct support organizations are required to conspicuously post their code of ethics on their website.

Independent Special Districts

Present Situation: Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. According to the Official List of Special Districts maintained by the Department of Economic Opportunity (DEO),¹⁵ there are 1,008 independent special districts and 644 dependent special districts. All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act provides for the definitions, creation, operation, financial report, taxation and non-ad valorem assessments, elections and dissolution of most special districts.

Currently, there are no provisions of law that require lobbyists to register before lobbying special independent districts. Also, there is no requirement that the lobbyists disclose the identity of those who retained them or the compensation paid to the lobbyist for his or her services. Finally, there is no provision that is an outright ban on lobbyists giving anything of value to those who run or serve on boards of independent special districts.

Currently, the only applicable laws regulating what can be given to those who run or serve on boards of independent special districts are:

- the prohibition against “quid pro quo” gifts, regardless of value;¹⁶
- the prohibition against unauthorized compensation, regardless of value;¹⁷ and
- the “old” gifts law, which prohibits solicitation and acceptance of gifts from certain individuals, including lobbyists, over \$100 in value.¹⁸

Section 112.3148, F.S., also imposes certain disclosure requirements on the lobbyist and public officers and employees.

Effect of the Bill: The bill regulates those who lobby certain independent special districts by creating a statute that essentially mirrors the legislative lobbying provisions in s. 11.045, F.S., and the executive branch lobbying provisions in s. 112.3215, F.S. The bill applies to expressway authorities, port authorities, water management districts, hospital districts, children’s services districts, or independent special districts with annual revenues of \$5 million that exercise ad valorem taxing authority. Specifically, the bill will:

- Require the districts to maintain a lobbyist registration system.
- Require lobbyists of those districts to register prior to lobbying.
- Prohibit unregistered lobbyists from representing clients before districts.
- Require lobbyists to notify the district that their representation of a principal has ended.

¹⁵ The Special District Information Program within the DEO serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function.

¹⁶ Section 112.313(2), F.S.

¹⁷ Section 112.313(4), F.S.

¹⁸ Section 112.3148, F.S.

- Authorize districts to accept the same forms that are used by lobbyists to register with the Legislature or Executive Branch.
- Provides that complaints alleging a violation of the new requirements would be sent to the Commission on Ethics.
- Authorizes districts to establish a fee of up to \$40.
- Requires moneys collected to be used for administration of the lobbyist registration system.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires elected municipal officers to complete a 4 hour ethics training, and certify completion of the requirement on their annual financial disclosure forms. Often the county or city attorney already provides this training for new officers. Article VII, section 18(a) of the Florida Constitution limits the Legislature when attempting to pass any general law that requires a local government to take action that requires an expenditure of money.¹⁹ However, Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact.²⁰ An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.²¹ The fiscal impact of the bill on local governments has not been estimated, but the bill appears to be exempt.

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:

Section 8 of the bill, concerning lobbying special districts, may result in lobbyists having to pay a fee of up to \$40 per principal to the special district. Because the number of lobbyists vary depending on the district, and the permissive nature of the registration fee provision, the actual impact is indeterminate.

¹⁹ FLA. CONST. art. VII, s. 18(a).

²⁰ FLA. CONST. art. VII, s. 18(d).

²¹ As of April 1, 2013, the total state population is estimated to be 19,259,543. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population 2013* (Apr. 1, 2013), at 21.

C. Government Sector Impact:

The bill imposes additional requirements to conduct complaint proceedings related to financial disclosure and independent special district lobbying. The number of additional proceedings that may result is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.35, 112.3142, 112.3144, 112.3145, 112.31455, 288.901, 288.92, 288.9604, and 627.351.

This bill also creates the following sections of the Florida Statutes: 112.31456, 112.3251, and 112.3261.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Community Affairs on March 5, 2014:

- Narrows the scope of the lobbying restrictions imposed on independent special districts by providing applicability solely to expressway authorities, port authorities, water management districts, hospital districts, children's services districts, or independent special districts with annual revenues of \$5 million which exercise ad valorem taxing authority.
 - Those districts would be required to maintain a lobbyist registration system.
 - Lobbyists may not lobby those districts until they are registered.
 - Lobbyists are required to notify the district when their representation of a principal has ended.
 - Districts are permitted to accept the same forms used by lobbyists to register with the Legislature or Executive Branch.
 - Districts can establish a fee of up to \$40, to be used to maintain their lobbyist registration system.
 - Provisions related to quarterly compensation reports, and an expenditure ban have been removed.
- Limits the number of Form 6 financial disclosures that the Department of State is required to send to the Commission.
- Removes references to Space Florida.
- Extends the same ethics standards that apply to the Board of Enterprise Florida to other Officers throughout Enterprise Florida.

- Extends the ethics standards and post service standards that apply to the members of the Board of Directors of Citizens to the Executive Director of Citizens.

CS by Ethics and Elections on February 17, 2014:

- Provides that the requirement to certify completion of annual ethics training on financial disclosure forms is effective January 1, 2015;
- Subjects expressway authorities and port authorities to the lobbying provisions concerning independent special districts;
- Requires moneys collected pursuant to the special district lobbying provisions to be used solely for administration of those provisions; and
- Provides that those who assume office after March 31 do not have to complete annual ethics training until the next calendar year. Those assuming office on or before March 31 are required to complete ethics training prior to the end of the year in which they assume office.

B. Amendments:

None.



318152

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/05/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Before line 101

insert:

Section 1. Present subsections (2) through (9) of section 11.045, Florida Statutes, are renumbered as subsections (3) through (10), respectively, present subsections (8) and (9) of that section are amended, and a new subsection (2) is added to that section, to read:

11.045 Lobbying before the Legislature; registration and



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11 reporting; exemptions; penalties.-

12 (2) An elected county or municipal officer may not lobby or
13 register to lobby the Legislature on behalf of a person or
14 entity other than his or her political subdivision. This
15 subsection does not prohibit a person from being employed by, or
16 contracting with, a lobbying firm if he or she does not
17 personally represent clients before the Legislature.

18 (9)~~(8)~~ Any person required to be registered or to provide
19 information pursuant to this section or pursuant to rules
20 established in conformity with this section who knowingly fails
21 to disclose any material fact required by this section or by
22 rules established in conformity with this section, or who
23 knowingly provides false information on any report required by
24 this section or by rules established in conformity with this
25 section, commits a noncriminal infraction, punishable by a fine
26 not to exceed \$5,000. Such penalty shall be in addition to any
27 other penalty assessed by a house of the Legislature pursuant to
28 subsection (8) ~~(7)~~.

29 (10)~~(9)~~ There is hereby created the Legislative Lobbyist
30 Registration Trust Fund, to be used for the purpose of funding
31 any office established for the administration of the
32 registration of lobbyists lobbying the Legislature, including
33 the payment of salaries and other expenses, and for the purpose
34 of paying the expenses incurred by the Legislature in providing
35 services to lobbyists. The trust fund is not subject to the
36 service charge to general revenue provisions of chapter 215.
37 Fees collected pursuant to rules established in accordance with
38 subsection (3) ~~(2)~~ shall be deposited into the Legislative
39 Lobbyist Registration Trust Fund.



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40 Section 2. Present subsections (3) through (15) of section
41 112.3215, Florida Statutes, are renumbered as subsections (4)
42 through (16), respectively, present subsection (11) of that
43 section is amended, and a new subsection (3) is added to that
44 section, to read:

45 112.3215 Lobbying before the executive branch or the
46 Constitution Revision Commission; registration and reporting;
47 investigation by commission.—

48 (3) An elected county or municipal officer may not lobby or
49 register to lobby an agency on behalf of a person or entity
50 other than his or her political subdivision. This subsection
51 does not prohibit a person from being employed by, or
52 contracting with, a lobbying firm if he or she does not
53 personally represent clients before an agency.

54 (12) ~~(11)~~ Any person who is required to be registered or to
55 provide information under this section or under rules adopted
56 pursuant to this section and who knowingly fails to disclose any
57 material fact that is required by this section or by rules
58 adopted pursuant to this section, or who knowingly provides
59 false information on any report required by this section or by
60 rules adopted pursuant to this section, commits a noncriminal
61 infraction, punishable by a fine not to exceed \$5,000. Such
62 penalty is in addition to any other penalty assessed by the
63 Governor and Cabinet pursuant to subsection (11) ~~(10)~~.

64 Section 3. Subsections (3), (4), and (7) of section
65 11.0455, Florida Statutes, are amended to read:

66 11.0455 Electronic filing of compensation reports and other
67 information.—

68 (3) A report filed pursuant to this section must be



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69 completed and filed through the electronic filing system not
70 later than 11:59 p.m. of the day designated in s. 11.045. A
71 report not filed by 11:59 p.m. of the day designated is a late-
72 filed report and is subject to the penalties under s. 11.045(4)
73 ~~s. 11.045(3)~~.

74 (4) Each report filed pursuant to this section is deemed to
75 meet the certification requirements of s. 11.045(4)(a)4. ~~s.~~
76 ~~11.045(3)(a)4.~~, and as such subjects the person responsible for
77 filing and the lobbying firm to the provisions of s. 11.045(8)
78 and (9) ~~s. 11.045(7) and (8)~~. Persons given a secure sign-on to
79 the electronic filing system are responsible for protecting it
80 from disclosure and are responsible for all filings using such
81 credentials, unless they have notified the office that their
82 credentials have been compromised.

83 (7) Each house of the Legislature shall provide by rule
84 that the office make all the data filed available on the
85 Internet in an easily understood and accessible format. The
86 Internet website must also include, but not be limited to, the
87 names and business addresses of lobbyists, lobbying firms, and
88 principals, the affiliations between lobbyists and principals,
89 and the classification system designated and identified by each
90 principal pursuant to s. 11.045(3) ~~s. 11.045(2)~~.

91 Section 4. Subsections (3), (4), and (7) of section
92 112.32155, Florida Statutes, are amended to read:

93 112.32155 Electronic filing of compensation reports and
94 other information.—

95 (3) A report filed pursuant to this section must be
96 completed and filed through the electronic filing system not
97 later than 11:59 p.m. of the day designated in s. 112.3215. A



318152

98 report not filed by 11:59 p.m. of the day designated is a late-
99 filed report and is subject to the penalties under s.
100 112.3215(6) ~~s. 112.3215(5)~~.

101 (4) Each report filed pursuant to this section is
102 considered to meet the certification requirements of s.
103 112.3215(6)(a)4. ~~s. 112.3215(5)(a)4.~~ Persons given a secure
104 sign-on to the electronic filing system are responsible for
105 protecting it from disclosure and are responsible for all
106 filings using such credentials, unless they have notified the
107 commission that their credentials have been compromised.

108 (7) The commission shall make all the data filed available
109 on the Internet in an easily understood and accessible format.
110 The Internet website shall also include, but not be limited to,
111 the names and business addresses of lobbyists, lobbying firms,
112 and principals, the affiliations between lobbyists and
113 principals, and the classification system designated and
114 identified by each principal pursuant to s. 112.3215(4) ~~s.~~
115 ~~112.3215(3)~~.

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

118 And the title is amended as follows:

119 Delete line 2

120 and insert:

121 An act relating to governmental ethics; amending ss.
122 11.045 and 112.3215, F.S.; prohibiting an elected
123 county or municipal officer from registering to lobby
124 the Legislature or an agency on behalf of another
125 person or entity other than his or her political
126 subdivision; authorizing such an officer to be



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127 employed by or contracted with a lobbying firm under
128 certain circumstances; amending ss. 11.0455 and
129 112.32155, F.S.; conforming cross-references to
130 changes made by the act; amending s.



579214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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	.	

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

Senate Amendment

Delete lines 118 - 125
and insert:

2. The Legislature determines that it is in the public interest that the members of the executive council of the corporation be subject to the requirements of ss. 112.313, 112.3135, and 112.3143(2), notwithstanding the fact that the council members are not public officers or employees. For purposes of these sections, the council members shall be



579214

11 considered to be public officers or employees.

12 3. A member of the executive council of the corporation may
13 not represent another person or entity for compensation before
14 the corporation for a period of 2 years following his or her
15 service on the executive council.

16
17 Delete lines 625 - 642

18 and insert:

19 Section 9. Paragraph (c) of subsection (1) of section
20 288.901, Florida Statutes, is amended, and paragraph (d) is
21 added to that subsection, to read:

22 288.901 Enterprise Florida, Inc.-

23 (1) CREATION.-

24 (c) The Legislature determines that it is in the public
25 interest that ~~for~~ the members of the Enterprise Florida, Inc.,
26 board of directors ~~to~~ be subject to the requirements of ss.
27 112.313, 112.3135, and 112.3143(2), and ~~112.313, excluding s.~~
28 ~~112.313(2),~~ notwithstanding the fact that the board members are
29 not public officers or employees. For purposes of those
30 sections, the board members shall be considered to be public
31 officers or employees. The exemption set forth in s. 112.313(12)
32 for advisory boards applies to the members of the Enterprise
33 Florida, Inc., board of directors. Further, each member of the
34 board of directors who is not otherwise required to file
35 financial disclosures pursuant to s. 8, Art. II of the State
36 Constitution or s. 112.3144~~7~~, shall file disclosure of financial
37 interests pursuant to s. 112.3145.

38 (d) A member of the Enterprise Florida, Inc., board of
39 directors may not represent another person or entity for



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40 compensation before the corporation for a period of 2 years
41 following his or her service on the board of directors.

42

43 Delete lines 664 - 671

44 and insert:

45 2. The Legislature determines that it is in the public
46 interest that a director of the board of directors of the
47 Florida Development Finance Corporation be subject to ss.
48 112.313, 112.3135, and 112.3143(2), notwithstanding the fact
49 that the directors are not public officers or employees. For
50 purposes of these sections, the directors shall be considered to
51 be public officers or employees.

52 3. A director of the board of directors of the corporation
53 may not represent another person or entity for compensation
54 before the corporation for a period of 2 years following his or
55 her service on the board of directors.



368688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**

2
3
4 Delete lines 173 - 304

5 and insert:

6 Section 3. Subsection (1), paragraph (g) of subsection (5),
7 and paragraphs (a) and (c) of present subsection (7) of section
8 112.3144, Florida Statutes, are amended, present subsections (6)
9 through (9) of that section are redesignated as subsections (7)



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10 through (10), respectively, and a new subsection (6) is added to
11 that section, to read:

12 112.3144 Full and public disclosure of financial
13 interests.—

14 (1) An officer who is required by s. 8, Art. II of the
15 State Constitution to file a full and public disclosure of his
16 or her financial interests for any calendar or fiscal year shall
17 file that disclosure with the Florida Commission on Ethics.
18 Additionally, beginning January 1, 2015, an officer who is
19 required to complete annual ethics training pursuant to s.
20 112.3142 must certify on his or her full and public disclosure
21 of financial interests that he or she has completed the required
22 training.

23 (5) Forms for compliance with the full and public
24 disclosure requirements of s. 8, Art. II of the State
25 Constitution shall be created by the Commission on Ethics. The
26 commission shall give notice of disclosure deadlines and
27 delinquencies and distribute forms in the following manner:

28 (g) The notification requirements and fines of this
29 subsection do not apply to candidates or to the first filing
30 required of any person appointed to elective constitutional
31 office or other position required to file full and public
32 disclosure, unless the person's name is on the commission's
33 notification list and the person received notification from the
34 commission. The appointing official shall notify such newly
35 appointed person of the obligation to file full and public
36 disclosure by July 1. The notification requirements and fines of
37 this subsection do not apply to the final filing provided for in
38 subsection (7)-(6).



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39 (6) If a person holding public office or public employment
40 fails or refuses to file a full and public disclosure of
41 financial interests for any year in which the person received
42 notice from the commission regarding the failure to file and has
43 accrued the maximum automatic fine authorized under this
44 section, regardless of whether the fine imposed was paid or
45 collected, the commission may initiate an investigation and
46 conduct a public hearing without receipt of a complaint to
47 determine whether the person's failure to file is willful. Such
48 investigation and hearing must be conducted in accordance with
49 s. 112.324. Except as provided in s. 112.324(4), if the
50 commission determines that the person willfully failed to file a
51 full and public disclosure of financial interests, the
52 commission shall enter an order recommending that the officer or
53 employee be removed from his or her public office or public
54 employment.

55 (8)(7)(a) The commission shall treat an amended full and
56 public disclosure of financial interests which that is filed
57 before prior to September 1 of the current year in which the
58 disclosure is due as the original filing, regardless of whether
59 a complaint has been filed. If a complaint pertaining to the
60 current year alleges a failure to properly and accurately
61 disclose any information required by this section or if a
62 complaint filed pertaining to a previous reporting period within
63 the preceding 5 years alleges a failure to properly and
64 accurately disclose any information required to be disclosed by
65 this section, the commission may immediately follow complaint
66 procedures in s. 112.324. However, If a complaint filed after
67 August 25 alleges only an immaterial, inconsequential, or de



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68 minimis error or omission, the commission may not take any
69 action on the complaint, other than notifying the filer of the
70 complaint. The filer must be given 30 days to file an amended
71 full and public disclosure of financial interests correcting any
72 errors. If the filer does not file an amended full and public
73 disclosure of financial interests within 30 days after the
74 commission sends notice of the complaint, the commission may
75 continue with proceedings pursuant to s. 112.324.

76 (c) For purposes of this section, an error or omission is
77 immaterial, inconsequential, or de minimis if the original
78 filing provided sufficient information for the public to
79 identify potential conflicts of interest. However, failure to
80 certify completion of annual ethics training required under s.
81 112.3142 does not constitute an immaterial, inconsequential, or
82 de minimis error or omission.

83 Section 4. Present subsections (4) through (11) of section
84 112.3145, Florida Statutes, are redesignated as subsections (5)
85 through (12), respectively, a new subsection (4) is added to
86 that section, paragraph (c) is added to present subsection (7)
87 of that section, and paragraphs (a) and (c) of present
88 subsection (9) of that section are amended, to read:

89 112.3145 Disclosure of financial interests and clients
90 represented before agencies.—

91 (4) Beginning January 1, 2015, an officer who is required
92 to complete annual ethics training pursuant to s. 112.3142 must
93 certify on his or her statement of financial interests that he
94 or she has completed the required training.

95 (8) ~~(7)~~

96 (c) If a person holding public office or public employment



368688

97 fails or refuses to file an annual statement of financial
98 interests for any year in which the person received notice from
99 the commission regarding the failure to file and has accrued the
100 maximum automatic fine authorized under this section, regardless
101 of whether the fine imposed was paid or collected, the
102 commission may initiate an investigation and conduct a public
103 hearing without receipt of a complaint to determine whether the
104 person's failure to file is willful. Such investigation and
105 hearing must be conducted in accordance with s. 112.324. Except
106 as provided in s. 112.324(4), if the commission determines that
107 the person willfully failed to file a statement of financial
108 interests, the commission shall enter an order recommending that
109 the officer or employee be removed from his or her public office
110 or public employment.

111 (10)-(9)(a) The commission shall treat an amended annual
112 statement of financial interests which that is filed before
113 prior to September 1 of the current year in which the statement
114 is due as the original filing, regardless of whether a complaint
115 has been filed. If a complaint pertaining to the current year
116 alleges a failure to properly and accurately disclose any
117 information required by this section or if a complaint filed
118 pertaining to a previous reporting period within the preceding 5
119 years alleges a failure to properly and accurately disclose any
120 information required to be disclosed by this section, the
121 commission may immediately follow complaint procedures in s.
122 112.324. However, If a complaint filed after August 25 alleges
123 only an immaterial, inconsequential, or de minimis error or
124 omission, the commission may not take any action on the
125 complaint, other than notifying the filer of the complaint. The



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126 filer must be given 30 days to file an amended statement of
127 financial interests correcting any errors. If the filer does not
128 file an amended statement of financial interests within 30 days
129 after the commission sends notice of the complaint, the
130 commission may continue with proceedings pursuant to s. 112.324.

131 (c) For purposes of this section, an error or omission is
132 immaterial, inconsequential, or de minimis if the original
133 filing provided sufficient information for the public to
134 identify potential conflicts of interest. However, failure to
135 certify completion of annual ethics training required under s.
136 112.3142 does not constitute an immaterial, inconsequential, or
137 de minimis error or omission.

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

139 And the title is amended as follows:

140 Delete lines 21 - 37

141 and insert:

142 or omissions on a disclosure; providing that failure
143 to certify completion of annual ethics training on a
144 disclosure does not constitute an immaterial,
145 inconsequential, or de minimis error or omission;
146 amending s. 112.3145, F.S.; requiring an officer
147 required to participate in annual ethics training to
148 certify participation on his or her statement of
149 financial interests; authorizing the Commission on
150 Ethics to initiate an investigation and hold a public
151 hearing without receipt of a complaint in certain
152 circumstances; requiring the commission to enter an
153 order to remove an officer or public employee from
154 public office or public employment in certain



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155 circumstances; prohibiting the commission from taking
156 action on a complaint alleging certain errors or
157 omissions on a statement; providing that failure to
158 certify completion



401810

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 189 and 190

insert:

(2) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year



401810

11 or for any part thereof notwithstanding any requirement of this
12 part. If an incumbent in an elective office has filed the full
13 and public disclosure of financial interests to qualify for
14 election to the same office or if ~~When a candidate has qualified~~
15 for office holds another office subject to the annual filing
16 requirement, the qualifying officer shall forward an electronic
17 copy of the full and public disclosure ~~of financial interests~~ to
18 the commission no later than July 1. The electronic copy of the
19 full and public disclosure of financial interests satisfies the
20 annual disclosure requirement of this section. A candidate who
21 does not qualify until after the annual full and public
22 disclosure has been filed pursuant to this section shall file a
23 copy of his or her disclosure with the officer before whom he or
24 she qualifies.

25
26 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

27 And the directory clause is amended as follows:

28 Delete line 173

29 and insert:

30 Section 3. Subsections (1) and (2), paragraph (g) of
31 subsection (5),

32
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete line 13

36 and insert:

37 of financial interests; revising the conditions under
38 which a qualifying officer forwards a full and public
39 disclosure of financial interests to the Commission on



401810

40

Ethics; authorizing the Commission on



775920

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 404 - 624

and insert:

Section 8. Section 112.3261, Florida Statutes, is created to read:

112.3261 Lobbying before governmental entities;



775920

9 registration and reporting.-

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

11 (a) "Governmental entity" means a water management
12 district, a hospital district, a children's services district,
13 an expressway authority as the term "authority" is defined in s.
14 348.0002, a port authority as the term is defined in s. 315.02,
15 or an independent special district with annual revenues of more
16 than \$5 million, which exercises ad valorem taxing authority.

17 (b) "Principal" has the same meaning as in s. 112.3215.

18 (2) A person may not lobby a governmental entity until such
19 person has registered as a lobbyist with that entity. Such
20 registration shall be due upon initially being retained to lobby
21 and is renewable on a calendar-year basis thereafter. Upon
22 registration, the person shall provide a statement signed by the
23 principal or principal's representative stating that the
24 registrant is authorized to represent the principal. The
25 principal shall also identify and designate its main business on
26 the statement authorizing that lobbyist pursuant to a
27 classification system approved by the governmental entity. Any
28 changes to the information required by this section must be
29 disclosed within 15 days by filing a new registration form. The
30 registration form shall require each lobbyist to disclose, under
31 oath, the following:

32 (a) The lobbyist's name and business address.

33 (b) The name and business address of each principal
34 represented.

35 (c) The existence of any direct or indirect business
36 association, partnership, or financial relationship with any
37 officer or employee of a governmental entity with which he or



775920

38 she lobbies or intends to lobby.

39 (d) In lieu of creating its own lobbyist registration
40 forms, a governmental entity may accept a completed legislative
41 branch or executive branch lobbyist registration form.

42 (3) A governmental entity shall make lobbyist registrations
43 available to the public. If a governmental entity maintains a
44 website, a database of currently registered lobbyists and
45 principals must be available on the entity's website.

46 (4) A lobbyist shall promptly send a written statement to
47 the governmental entity cancelling the registration for a
48 principal upon termination of the lobbyist's representation of
49 that principal. A governmental entity may remove the name of a
50 lobbyist from the list of registered lobbyists if the principal
51 notifies the entity that a person is no longer authorized to
52 represent that principal.

53 (5) A governmental entity may establish an annual lobbyist
54 registration fee, not to exceed \$40, for each principal
55 represented. The governmental entity may use the moneys
56 collected only to administer the provisions of this section.

57 (6) A governmental entity shall be diligent to ascertain
58 whether persons required to register pursuant to this section
59 have complied. A governmental entity may not knowingly authorize
60 a person who is not registered pursuant to this section to lobby
61 the entity.

62 (7) Upon discovery of a violation of this section, a
63 governmental entity or any person may file a sworn complaint
64 with the commission.

65
66 ===== T I T L E A M E N D M E N T =====



775920

67 And the title is amended as follows:

68 Delete lines 58 - 75

69 and insert:

70 from lobbying a governmental entity until registering;
71 establishing registration requirements; requiring
72 public availability of lobbyist registrations;
73 establishing procedures for termination of a
74 lobbyist's registration; authorizing a governmental
75 entity to establish a registration fee; requiring a
76 governmental entity to monitor compliance with
77 registration requirements; authorizing a governmental
78 entity or person to file a complaint with the
79 commission; amending s. 288.901, F.S.; specifying



147526

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment to Amendment (775920)

Delete line 17

and insert:

(b) "Lobbies" means seeking, on behalf of another person, to influence a governmental entity with respect to a decision of the entity in an area of policy or procurement or an attempt to obtain the goodwill of an entity official or employee.

(c) "Lobbyist" has the same meaning as in s. 112.3215.

(d) "Principal" has the same meaning as in s. 112.3215.



233736

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 643 - 655
and insert:

Section 10. Present paragraph (b) of subsection (2) of section 288.92, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to that subsection, to read:



233736

10 288.92 Divisions of Enterprise Florida, Inc.-

11 (2)

12 (b)1. The Legislature determines that it is in the public
13 interest that the following officers be subject to s. 112.313;
14 s. 112.3135; and s. 112.3143(2), notwithstanding the fact that
15 such officers are not public officers or employees:

16 a. Officers of the divisions of Enterprise Florida, Inc.;

17 b. Officers of subsidiaries of Enterprise Florida, Inc.;

18 c. Officers of corporations created to carry out the
19 missions of Enterprise Florida, Inc.; and

20 d. Officers of corporations with which a division is
21 required by law to contract with to carry out its missions.

22 2. Such officers may not represent another person or entity
23 for compensation before Enterprise Florida, Inc., for a period
24 of 2 years after retirement from or termination of service to
25 the division.

26

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

28 And the title is amended as follows:

29 Delete lines 81 - 82

30 and insert:

31 Officers and Employees to certain officers associated
32 with the divisions of Enterprise Florida, Inc.;

33 prohibiting such officers from representing a person
34 or entity for compensation before Enterprise Florida,

35 Inc., for a specified timeframe; amending s. 288.9604,

36 F.S.;



516268

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 672 - 689.

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

And the title is amended as follows:

Delete lines 86 - 89

and insert:

Finance Corporation; amending



883636

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 690 - 767

and insert:

Section 13. Paragraph (d) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(d)1. All prospective employees for senior management positions, as defined by the plan of operation, are subject to



883636

11 background checks as a prerequisite for employment. The office
12 shall conduct the background checks pursuant to ss. 624.34,
13 624.404(3), and 628.261.

14 2. On or before July 1 of each year, employees of the
15 corporation must sign and submit a statement attesting that they
16 do not have a conflict of interest, as defined in part III of
17 chapter 112. As a condition of employment, all prospective
18 employees must sign and submit to the corporation a conflict-of-
19 interest statement.

20 3. The executive director, senior managers, and members of
21 the board of governors are subject to part III of chapter 112,
22 including, but not limited to, the code of ethics and public
23 disclosure and reporting of financial interests, pursuant to s.
24 112.3145. Notwithstanding s. 112.3143(2), a board member may not
25 vote on any measure that would inure to his or her special
26 private gain or loss; that he or she knows would inure to the
27 special private gain or loss of any principal by whom he or she
28 is retained or to the parent organization or subsidiary of a
29 corporate principal by which he or she is retained, other than
30 an agency as defined in s. 112.312; or that he or she knows
31 would inure to the special private gain or loss of a relative or
32 business associate of the public officer. Before the vote is
33 taken, such member shall publicly state to the assembly the
34 nature of his or her interest in the matter from which he or she
35 is abstaining from voting and, within 15 days after the vote
36 occurs, disclose the nature of his or her interest as a public
37 record in a memorandum filed with the person responsible for
38 recording the minutes of the meeting, who shall incorporate the
39 memorandum in the minutes. Senior managers and board members are



883636

40 also required to file such disclosures with the Commission on
41 Ethics and the Office of Insurance Regulation. The executive
42 director of the corporation or his or her designee shall notify
43 each existing and newly appointed member of the board of
44 governors and senior managers of their duty to comply with the
45 reporting requirements of part III of chapter 112. At least
46 quarterly, the executive director or his or her designee shall
47 submit to the Commission on Ethics a list of names of the senior
48 managers and members of the board of governors who are subject
49 to the public disclosure requirements under s. 112.3145.

50 4. Notwithstanding s. 112.3148, ~~or~~ s. 112.3149, or any
51 other provision of law, an employee or board member may not
52 knowingly accept, directly or indirectly, any gift or
53 expenditure from a person or entity, or an employee or
54 representative of such person or entity, which has a contractual
55 relationship with the corporation or who is under consideration
56 for a contract. An employee or board member who fails to comply
57 with subparagraph 3. or this subparagraph is subject to
58 penalties provided under ss. 112.317 and 112.3173.

59 5. The executive director, a member of the board of
60 governors, and a ~~any~~ senior manager of the corporation are ~~who~~
61 ~~is employed on or after January 1, 2007, regardless of the date~~
62 ~~of hire, who subsequently retires or terminates employment is~~
63 prohibited from representing another person or entity before the
64 corporation for 2 years after retirement from or termination of
65 service to employment from the corporation.

66 6. The executive director, a member of the board of
67 governors, and a ~~Any~~ senior manager of the corporation are ~~who~~
68 ~~is employed on or after January 1, 2007, regardless of the date~~



883636

69 ~~of hire, who subsequently retires or terminates employment is~~
70 prohibited from having any employment or contractual
71 relationship for 2 years after retirement from or termination of
72 service to the corporation with an insurer that has entered into
73 a take-out bonus agreement with the corporation.

74
75 ===== T I T L E A M E N D M E N T =====

76 And the title is amended as follows:

77 Delete lines 92 - 97

78 and insert:

79 Officers and Employees to the executive director of
80 Citizens Property Insurance Corporation; prohibiting a
81 former executive director, senior manager, or member
82 of the board of governors of the corporation from
83 representing another person or entity before the
84 corporation for a specified timeframe; prohibiting a
85 former executive director, senior manager, or member
86 of the board of governors from entering employment or
87 a contractual relationship for a specified timeframe
88 with certain insurers; providing an effective date.

By the Committee on Ethics and Elections; and Senator Latvala

582-01844-14

2014846c1

1 A bill to be entitled
2 An act relating to governmental ethics; amending s.
3 28.35, F.S.; specifying the applicability of certain
4 provisions of the Code of Ethics for Public Officers
5 and Employees to members of the executive council of
6 the Florida Clerks of Court Operations Corporation;
7 amending s. 112.3142, F.S.; requiring elected
8 municipal officers to participate in annual ethics
9 training; providing legislative intent; amending s.
10 112.3144, F.S.; requiring an officer required to
11 participate in annual ethics training to certify
12 participation on his or her full and public disclosure
13 of financial interests; authorizing the Commission on
14 Ethics to initiate an investigation and hold a public
15 hearing without receipt of a complaint in certain
16 circumstances; requiring the commission to enter an
17 order recommending removal of an officer or public
18 employee from public office or public employment in
19 certain circumstances; prohibiting the commission from
20 taking action on a complaint alleging certain errors
21 or omissions on a disclosure within a specified time
22 period; providing that failure to certify completion
23 of annual ethics training on a disclosure does not
24 constitute an immaterial, inconsequential, or de
25 minimis error or omission; amending s. 112.3145, F.S.;
26 requiring an officer required to participate in annual
27 ethics training to certify participation on his or her
28 statement of financial interests; authorizing the
29 Commission on Ethics to initiate an investigation and

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30 hold a public hearing without receipt of a complaint
31 in certain circumstances; requiring the commission to
32 enter an order to remove an officer or public employee
33 from public office or public employment in certain
34 circumstances; prohibiting the commission from taking
35 action on a complaint alleging certain errors or
36 omissions on a statement within a specified time
37 period; providing that failure to certify completion
38 of annual ethics training on a statement does not
39 constitute an immaterial, inconsequential, or de
40 minimis error or omission; amending s. 112.31455,
41 F.S.; authorizing the Chief Financial Officer or
42 governing body to withhold the entire amount of a fine
43 owed and related administrative costs from salary-
44 related payments of certain individuals; authorizing
45 the Chief Financial Officer or governing body to
46 reduce the amount withheld if an individual can
47 demonstrate a hardship; creating s. 112.31456, F.S.;
48 authorizing the commission to seek wage garnishment of
49 certain individuals to satisfy unpaid fines;
50 authorizing the commission to refer unpaid fines to a
51 collection agency; establishing a statute of
52 limitations with respect to the collection of an
53 unpaid fine; creating s. 112.3251, F.S.; requiring
54 citizen support and direct-support organizations to
55 adopt a code of ethics; establishing minimum
56 requirements for a code of ethics; creating s.
57 112.3261, F.S.; defining terms; prohibiting a person
58 from lobbying an expressway authority, independent

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59 special district, or port authority until registering;
60 establishing registration requirements; requiring
61 public availability of lobbyist registrations;
62 establishing procedures for termination of a
63 lobbyist's registration; authorizing an authority or
64 district to establish a registration fee; establishing
65 requirements for quarterly compensation reports;
66 requiring an authority or district to establish
67 procedures with respect to the receipt of reports;
68 prohibiting lobbying expenditures; prohibiting
69 compensation to a firm not registered to lobby;
70 providing for jurisdiction of complaints; providing a
71 penalty; authorizing a person to request an advisory
72 opinion from the commission; authorizing an authority,
73 district, or person to file a complaint; requiring an
74 authority or district to establish certain policies
75 and procedures; amending s. 288.901, F.S.; specifying
76 the applicability of certain provisions of the Code of
77 Ethics for Public Officers and Employees to members of
78 the Enterprise Florida, Inc., board of directors;
79 amending s. 288.92, F.S.; specifying the applicability
80 of certain provisions of the Code of Ethics for Public
81 Officers and Employees to division officers of
82 Enterprise Florida, Inc.; amending s. 288.9604, F.S.;
83 specifying the applicability of certain provisions of
84 the Code of Ethics for Public Officers and Employees
85 to the board of directors of the Florida Development
86 Finance Corporation; amending s. 331.3081, F.S.;
87 specifying the applicability of certain provisions of

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88 the Code of Ethics for Public Officers and Employees
89 to the board of directors of Space Florida; amending
90 s. 627.351, F.S.; specifying the applicability of
91 certain provisions of the Code of Ethics for Public
92 Officers and Employees to senior managers and members
93 of the board of governors of Citizens Property
94 Insurance Corporation; prohibiting a former member of
95 the board of governors from representing another
96 person or entity before the corporation for a
97 specified timeframe; providing an effective date.
98

99 Be It Enacted by the Legislature of the State of Florida:
100

101 Section 1. Paragraph (b) of subsection (1) of section
102 28.35, Florida Statutes, is amended to read:

103 28.35 Florida Clerks of Court Operations Corporation.—

104 (1)

105 (b)1. The executive council shall be composed of eight
106 clerks of the court elected by the clerks of the courts for a
107 term of 2 years, with two clerks from counties with a population
108 of fewer than 100,000, two clerks from counties with a
109 population of at least 100,000 but fewer than 500,000, two
110 clerks from counties with a population of at least 500,000 but
111 fewer than 1 million, and two clerks from counties with a
112 population of ~~more than~~ 1 million or more. The executive council
113 shall also include, as ex officio members, a designee of the
114 President of the Senate and a designee of the Speaker of the
115 House of Representatives. The Chief Justice of the Supreme Court
116 shall designate one additional member to represent the state

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117 courts system.

118 2. The Legislature determines that it is in the public
119 interest for the members of the executive council of the
120 corporation to be subject to the requirements of s. 112.313,
121 including s. 112.313(9); s. 112.3135; and s. 112.3143(2),
122 notwithstanding the fact that the council members are not public
123 officers or employees. For purposes of these sections, the
124 council members shall be considered to be public officers or
125 employees.

126 Section 2. Section 112.3142, Florida Statutes, is amended
127 to read:

128 112.3142 Ethics training for specified constitutional
129 officers and elected municipal officers.—

130 (1) As used in this section, the term “constitutional
131 officers” includes the Governor, the Lieutenant Governor, the
132 Attorney General, the Chief Financial Officer, the Commissioner
133 of Agriculture, state attorneys, public defenders, sheriffs, tax
134 collectors, property appraisers, supervisors of elections,
135 clerks of the circuit court, county commissioners, district
136 school board members, and superintendents of schools.

137 (2) (a) All constitutional officers must complete 4 hours of
138 ethics training each calendar year which ~~annually that~~
139 addresses, at a minimum, s. 8, Art. II of the State
140 Constitution, the Code of Ethics for Public Officers and
141 Employees, and the public records and public meetings laws of
142 this state. This requirement may be satisfied by completion of a
143 continuing legal education class or other continuing
144 professional education class, seminar, or presentation if the
145 required subjects are covered.

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146 (b) Beginning January 1, 2015, all elected municipal
147 officers must complete 4 hours of ethics training each calendar
148 year which addresses, at a minimum, s. 8, Art. II of the State
149 Constitution, the Code of Ethics for Public Officers and
150 Employees, and the public records and public meetings laws of
151 this state. This requirement may be satisfied by completion of a
152 continuing legal education class or other continuing
153 professional education class, seminar, or presentation if the
154 required subjects are covered.

155 ~~(c)-(b)~~ The commission shall adopt rules establishing
156 minimum course content for the portion of an ethics training
157 class which ~~that~~ addresses s. 8, Art. II of the State
158 Constitution and the Code of Ethics for Public Officers and
159 Employees.

160 (d) The Legislature intends that a constitutional officer
161 or elected municipal officer who is required to complete ethics
162 training pursuant to this section receive the required training
163 as close as possible to the date that he or she assumes office.
164 A constitutional officer or elected municipal officer assuming a
165 new office or new term of office on or before March 31 must
166 complete the annual training on or before December 31 of the
167 year in which the term of office began. A constitutional officer
168 or elected municipal officer assuming a new office after March
169 31 is not required to complete ethics training for the calendar
170 year in which he or she assumes the new office.

171 (3) Each house of the Legislature shall provide for ethics
172 training pursuant to its rules.

173 Section 3. Subsection (1), paragraph (g) of subsection (5),
174 and paragraphs (a) and (c) of present subsection (7) of section

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175 112.3144, Florida Statutes, are amended, present subsections (6)
176 through (9) of that section are redesignated as subsections (7)
177 through (10), respectively, and a new subsection (6) is added to
178 that section, to read:

179 112.3144 Full and public disclosure of financial
180 interests.—

181 (1) An officer who is required by s. 8, Art. II of the
182 State Constitution to file a full and public disclosure of his
183 or her financial interests for any calendar or fiscal year shall
184 file that disclosure with the Florida Commission on Ethics.
185 Additionally, beginning January 1, 2015, an officer who is
186 required to complete annual ethics training pursuant to s.
187 112.3142 must certify on his or her full and public disclosure
188 of financial interests that he or she has completed the required
189 training.

190 (5) Forms for compliance with the full and public
191 disclosure requirements of s. 8, Art. II of the State
192 Constitution shall be created by the Commission on Ethics. The
193 commission shall give notice of disclosure deadlines and
194 delinquencies and distribute forms in the following manner:

195 (g) The notification requirements and fines of this
196 subsection do not apply to candidates or to the first filing
197 required of any person appointed to elective constitutional
198 office or other position required to file full and public
199 disclosure, unless the person's name is on the commission's
200 notification list and the person received notification from the
201 commission. The appointing official shall notify such newly
202 appointed person of the obligation to file full and public
203 disclosure by July 1. The notification requirements and fines of

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204 this subsection do not apply to the final filing provided for in
205 subsection (7)~~(6)~~.

206 (6) If a person holding public office or public employment
207 fails or refuses to file a full and public disclosure of
208 financial interests for any year in which the person received
209 notice from the commission regarding the failure to file and has
210 accrued the maximum automatic fine authorized under this
211 section, regardless of whether the fine imposed was paid or
212 collected, the commission may initiate an investigation and
213 conduct a public hearing without receipt of a complaint to
214 determine whether the person's failure to file is willful. If
215 the commission determines that the person willfully failed to
216 file a full and public disclosure of financial interests, the
217 commission shall enter an order recommending that the officer or
218 employee be removed from his or her public office or public
219 employment.

220 (8)~~(7)~~ (a) The commission shall treat an amended full and
221 public disclosure of financial interests which ~~that~~ is filed
222 before ~~prior to~~ September 1 of the current ~~current~~ year in which the
223 disclosure is due as the original filing, regardless of whether
224 a complaint has been filed. ~~If a complaint pertaining to the~~
225 ~~current year alleges a failure to properly and accurately~~
226 ~~disclose any information required by this section or if a~~
227 ~~complaint filed pertaining to a previous reporting period within~~
228 ~~the preceding 5 years alleges a failure to properly and~~
229 ~~accurately disclose any information required to be disclosed by~~
230 ~~this section, the commission may immediately follow complaint~~
231 ~~procedures in s. 112.324. However, If a complaint filed after~~
232 August 25 of the year in which the disclosure is due is based

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233 upon an error or omission in the annual disclosure and if the
234 complaint alleges only an immaterial, inconsequential, or de
235 minimis error or omission, the commission may not take any
236 action on the complaint, other than notifying the filer of the
237 complaint. The filer must be given 30 days to file an amended
238 full and public disclosure of financial interests correcting any
239 errors. If the filer does not file an amended full and public
240 disclosure of financial interests within 30 days after the
241 commission sends notice of the complaint, the commission may
242 continue with proceedings pursuant to s. 112.324.

243 (c) For purposes of this section, an error or omission is
244 immaterial, inconsequential, or de minimis if the original
245 filing provided sufficient information for the public to
246 identify potential conflicts of interest. However, failure to
247 certify completion of annual ethics training required under s.
248 112.3142 does not constitute an immaterial, inconsequential, or
249 de minimis error or omission.

250 Section 4. Present subsections (4) through (11) of section
251 112.3145, Florida Statutes, are redesignated as subsections (5)
252 through (12), respectively, a new subsection (4) is added to
253 that section, paragraph (c) is added to present subsection (7)
254 of that section, and paragraphs (a) and (c) of present
255 subsection (9) of that section are amended, to read:

256 112.3145 Disclosure of financial interests and clients
257 represented before agencies.—

258 (4) Beginning January 1, 2015, an officer who is required
259 to complete annual ethics training pursuant to s. 112.3142 must
260 certify on his or her statement of financial interests that he
261 or she has completed the required training.

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262 (8)~~(7)~~

263 (c) If a person holding public office or public employment

264 fails or refuses to file an annual statement of financial

265 interests for any year in which the person received notice from

266 the commission regarding the failure to file and has accrued the

267 maximum automatic fine authorized under this section, regardless

268 of whether the fine imposed was paid or collected, the

269 commission may initiate an investigation and conduct a public

270 hearing without receipt of a complaint to determine whether the

271 person's failure to file is willful. If the commission

272 determines that the person willfully failed to file a statement

273 of financial interests, the commission shall enter an order

274 recommending that the officer or employee be removed from his or

275 her public office or public employment.

276 (10)~~(9)~~ (a) The commission shall treat an amended annual

277 statement of financial interests which that is filed before

278 prior to September 1 of the current year in which the statement

279 is due as the original filing, regardless of whether a complaint

280 has been filed. ~~If a complaint pertaining to the current year~~

281 ~~alleges a failure to properly and accurately disclose any~~

282 ~~information required by this section or if a complaint filed~~

283 ~~pertaining to a previous reporting period within the preceding 5~~

284 ~~years alleges a failure to properly and accurately disclose any~~

285 ~~information required to be disclosed by this section, the~~

286 ~~commission may immediately follow complaint procedures in s.~~

287 ~~112.324. However, If a complaint filed after August 25 of the~~

288 year in which the statement is due is based upon an error or

289 omission in the annual statement and if the complaint alleges

290 only an immaterial, inconsequential, or de minimis error or

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291 omission, the commission may not take any action on the
292 complaint, other than notifying the filer of the complaint. The
293 filer must be given 30 days to file an amended statement of
294 financial interests correcting any errors. If the filer does not
295 file an amended statement of financial interests within 30 days
296 after the commission sends notice of the complaint, the
297 commission may continue with proceedings pursuant to s. 112.324.

298 (c) For purposes of this section, an error or omission is
299 immaterial, inconsequential, or de minimis if the original
300 filing provided sufficient information for the public to
301 identify potential conflicts of interest. However, failure to
302 certify completion of annual ethics training required under s.
303 112.3142 does not constitute an immaterial, inconsequential, or
304 de minimis error or omission.

305 Section 5. Section 112.31455, Florida Statutes, is amended
306 to read:

307 112.31455 Withholding of public salary-related payments
308 ~~Collection methods~~ for unpaid automatic fines for failure to
309 timely file disclosure of financial interests.-

310 (1) Before referring any unpaid fine accrued pursuant to s.
311 112.3144(5) or s. 112.3145(7) ~~s. 112.3145(6)~~ to the Department
312 of Financial Services, the commission shall attempt to determine
313 whether the individual owing such a fine is a current public
314 officer or current public employee. If so, the commission may
315 notify the Chief Financial Officer or the governing body of the
316 appropriate county, municipality, or special district of the
317 total amount of any fine owed to the commission by such
318 individual.

319 (a) After receipt and verification of the notice from the

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320 commission, the Chief Financial Officer or the governing body of
321 the county, municipality, or special district shall withhold the
322 entire amount of any fine owed, and any administrative costs
323 incurred, from the individual's next salary-related payment. If
324 the fine exceeds the amount of the next salary-related payment,
325 all salary-related payments must be withheld until the fine and
326 administrative costs are paid in full ~~begin withholding the~~
327 ~~lesser of 10 percent or the maximum amount allowed under federal~~
328 ~~law from any salary-related payment.~~ The withheld payments shall
329 be remitted to the commission until the fine is satisfied.

330 (b) The Chief Financial Officer or the governing body of
331 the county, municipality, or special district may retain an
332 amount of each withheld payment, as provided in s. 77.0305, to
333 cover the administrative costs incurred under this section.

334 (c) If a current public officer or current public employee
335 demonstrates to the Chief Financial Officer or the governing
336 body responsible for paying him or her that the public salary is
337 his or her primary source of income and that withholding the
338 full amount of any fine owed from a salary-related payment would
339 present an undue hardship, the amount withheld from a public
340 salary may be reduced to not less than 10 percent of the salary-
341 related payment.

342 ~~(2) If the commission determines that the individual who is~~
343 ~~the subject of an unpaid fine accrued pursuant to s. 112.3144(5)~~
344 ~~or s. 112.3145(6) is no longer a public officer or public~~
345 ~~employee or if the commission is unable to determine whether the~~
346 ~~individual is a current public officer or public employee, the~~
347 ~~commission may, 6 months after the order becomes final, seek~~
348 ~~garnishment of any wages to satisfy the amount of the fine, or~~

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349 ~~any unpaid portion thereof, pursuant to chapter 77. Upon~~
350 ~~recording the order imposing the fine with the clerk of the~~
351 ~~circuit court, the order shall be deemed a judgment for purposes~~
352 ~~of garnishment pursuant to chapter 77.~~

353 ~~(2)~~⁽³⁾ The commission may refer unpaid fines to the
354 appropriate collection agency, as directed by the Chief
355 Financial Officer, to utilize any collection methods provided by
356 law. Except as expressly limited by this section, any other
357 collection methods authorized by law are allowed.

358 ~~(3)~~⁽⁴⁾ Action may be taken to collect any unpaid fine
359 imposed by ss. 112.3144 and 112.3145 within 20 years after the
360 date the final order is rendered.

361 Section 6. Section 112.31456, Florida Statutes, is created
362 to read:

363 112.31456 Garnishment of wages for unpaid automatic fines
364 for failure to timely file disclosure of financial interests.-

365 (1) Before referring any unpaid fine accrued pursuant to s.
366 112.3144(5) or s. 112.3145(7) to the Department of Financial
367 Services, the commission shall attempt to determine whether the
368 individual owing such fine is a current public officer or
369 current public employee. If the commission determines that an
370 individual who is the subject of an unpaid fine accrued pursuant
371 to s. 112.3144(5) or s. 112.3145(7) is no longer a public
372 officer or public employee or the commission is unable to
373 determine whether the individual is a current public officer or
374 public employee, the commission may, 6 months after the order
375 becomes final, seek garnishment of any wages to satisfy the
376 amount of the fine, or any unpaid portion thereof, pursuant to
377 chapter 77. Upon recording the order imposing the fine with the

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378 clerk of the circuit court, the order shall be deemed a judgment
379 for purposes of garnishment pursuant to chapter 77.

380 (2) The commission may refer unpaid fines to the
381 appropriate collection agency, as directed by the Chief
382 Financial Officer, to use any collection methods provided by
383 law. Except as expressly limited by this section, any other
384 collection methods authorized by law are allowed.

385 (3) Action may be taken to collect any unpaid fine imposed
386 by ss. 112.3144 and 112.3145 within 20 years after the date the
387 final order is rendered.

388 Section 7. Section 112.3251, Florida Statutes, is created
389 to read:

390 112.3251 Citizen support and direct-support organizations;
391 standards of conduct.—A citizen support or direct-support
392 organization created or authorized pursuant to law must adopt
393 its own ethics code. The ethics code must contain the standards
394 of conduct and disclosures required under ss. 112.313 and
395 112.3143(2), respectively. However, an ethics code adopted
396 pursuant to this section is not required to contain the
397 standards of conduct specified in s. 112.313(3) or (7). The
398 citizen support or direct-support organization may adopt
399 additional or more stringent standards of conduct and disclosure
400 requirements, provided that those standards of conduct and
401 disclosure requirements do not otherwise conflict with this
402 part. The ethics code must be conspicuously posted on the
403 website of the citizen support or direct-support organization.

404 Section 8. Section 112.3261, Florida Statutes, is created
405 to read:

406 112.3261 Lobbying before expressway authorities,

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407 independent special districts, port authorities; registration
408 and reporting.-

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

410 (a) "Compensation" has the same meaning as in s. 112.3215.

411 (b) "Expenditure" has the same meaning as in s. 112.3215.

412 (c) "Expressway authority" has the same meaning as the term
413 "authority" in s. 348.0002.

414 (d) "Independent special district" means a water management
415 district, hospital district, children's services district, or
416 any independent special district, as defined in s. 189.403, that
417 exercises ad valorem taxing authority.

418 (e) "Lobbies" means seeking, on behalf of another person,
419 to influence an expressway authority, independent special
420 district, or port authority with respect to a decision of the
421 authority or district in an area of policy or procurement or an
422 attempt to obtain the goodwill of an authority or district
423 official or employee.

424 (f) "Lobbying firm" has the same meaning as in s. 112.3215.

425 (g) "Lobbyist" has the same meaning as in s. 112.3215.

426 (h) "Port authority" has the same meaning as in s. 315.02.

427 (i) "Principal" has the same meaning as in s. 112.3215.

428 (2) A person may not lobby an expressway authority,
429 independent special district, or port authority until such
430 person has registered as a lobbyist with that authority or
431 district. Such registration shall be due upon initially being
432 retained to lobby and is renewable on a calendar-year basis
433 thereafter. Upon registration, the person shall provide a
434 statement signed by the principal or principal's representative
435 stating that the registrant is authorized to represent the

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436 principal. The principal shall also identify and designate its
437 main business on the statement authorizing that lobbyist
438 pursuant to a classification system approved by the authority or
439 district. The registration form shall require each lobbyist to
440 disclose, under oath, the following:

441 (a) The lobbyist's name and business address.

442 (b) The name and business address of each principal
443 represented.

444 (c) The lobbyist's area of interest.

445 (d) The existence of any direct or indirect business
446 association, partnership, or financial relationship with any
447 employee of an authority or district with which he or she
448 lobbies or intends to lobby.

449 (3) An expressway authority, independent special district,
450 or port authority shall make lobbyist registrations available to
451 the public. If an authority or district maintains a website, a
452 database of current registered lobbyists and principals must be
453 available on the authority's or district's website.

454 (4) A lobbyist shall promptly send a written statement to
455 the expressway authority, independent special district, or port
456 authority cancelling the registration for a principal upon
457 termination of the lobbyist's representation of that principal.
458 An authority or district may remove the name of a lobbyist from
459 the list of registered lobbyists if the principal notifies the
460 authority or district that a person is no longer authorized to
461 represent that principal.

462 (5) An expressway authority, independent special district,
463 or port authority may establish an annual lobbyist registration
464 fee, not to exceed \$40, for each principal represented.

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465 (6) (a) 1. Each lobbying firm shall file a compensation
466 report with the expressway authority, independent special
467 district, or port authority for each calendar quarter during any
468 portion of which one or more of the firm's lobbyists were
469 registered to represent a principal. The compensation report
470 shall include the following:

471 a. Full name, business address, and telephone number of the
472 lobbying firm;

473 b. Name of each of the firm's lobbyists; and

474 c. Total compensation provided or owed to the lobbying firm
475 from all principals for the reporting period, reported in one of
476 the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999;
477 \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to
478 \$999,999; \$1 million or more.

479 2. For each principal represented by one or more of the
480 firm's lobbyists, the lobbying firm's compensation report shall
481 also include the following:

482 a. Full name, business address, and telephone number of the
483 principal; and

484 b. Total compensation provided or owed to the lobbying firm
485 for the reporting period, reported in one of the following
486 categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to
487 \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or
488 more. If the category "\$50,000 or more" is selected, the
489 specific dollar amount of compensation must be reported, rounded
490 up or down to the nearest \$1,000.

491 3. If a lobbying firm subcontracts work from another
492 lobbying firm and not from the original principal:

493 a. The lobbying firm providing the work to be subcontracted

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494 shall be treated as the reporting lobbying firm's principal for
495 reporting purposes under this paragraph; and

496 b. The reporting lobbying firm shall, for each lobbying
497 firm identified under subparagraph 2., identify the name and
498 address of the principal originating the lobbying work.

499 4. The senior partner, officer, or owner of the lobbying
500 firm shall certify to the veracity and completeness of the
501 information submitted pursuant to this paragraph.

502 (b) For each principal represented by more than one
503 lobbying firm, the authority or district shall aggregate the
504 quarterly reporting period and calendar-year compensation
505 reported as provided or owed by the principal.

506 (c) The reporting statements shall be filed no later than
507 45 days after the end of each reporting period. The four
508 reporting periods are from January 1 through March 31, April 1
509 through June 30, July 1 through September 30, and October 1
510 through December 31, respectively. Reporting statements may be
511 filed by electronic means established by the authority or
512 district.

513 (d) The authority or district shall establish procedures
514 with respect to notifying a lobbying firm that fails to timely
515 file a report and is assessed a fine, the grounds for waiving a
516 fine, and the appeal of an assessed fine. The procedures shall
517 address the following:

518 1. Upon determining that the report is late, the person
519 designated to review the timeliness of reports shall immediately
520 notify the lobbying firm of its failure to timely file the
521 report and that a fine is being assessed for each late day. The
522 fine shall be \$50 per day per report for each late day, up to a

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523 maximum fine of \$5,000 per late report.

524 2. Upon receipt of the report, the person designated to
525 review the timeliness of reports shall determine the amount of
526 the fine due based upon the earliest of the following:

527 a. The date that a report is actually received by the
528 authority or district.

529 b. The date that an electronic receipt for the report is
530 issued.

531 3. Unless the fine is appealed, it shall be paid within 30
532 days after the notice of payment due is transmitted by the
533 authority or district. The authority or district may only use
534 the moneys collected to administer the provisions of this
535 section.

536 4. A fine may not be assessed against a lobbying firm the
537 first time any reports for which the lobbying firm is
538 responsible are not timely filed. However, to receive the one-
539 time fine waiver, all reports for which the lobbying firm is
540 responsible must be filed within 30 days after the notice that
541 any reports have not been timely filed is transmitted by the
542 authority or district. A fine shall be assessed for any
543 subsequent late-filed reports.

544 5. A lobbying firm may appeal or dispute a fine, based upon
545 unusual circumstances surrounding the failure to file on the
546 designated due date, and may request, and is entitled to, a
547 hearing before the authority or district, which may waive the
548 fine in whole or in part for good cause shown. Any such request
549 shall be made within 30 days after the notice of payment due is
550 transmitted by the authority or district. In such case, the
551 lobbying firm shall, within the 30-day period, notify the person

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552 designated to review the timeliness of reports in writing of his
553 or her intention to bring the matter before the authority or
554 district.

555 6. The person designated to review the timeliness of
556 reports shall notify the authority or district of the failure of
557 a lobbying firm to file a report after notice or the failure of
558 a lobbying firm to pay the fine imposed. All lobbyist
559 registrations for lobbyists who are partners, owners, officers,
560 or employees of a lobbying firm that fails to timely pay a fine
561 are automatically suspended until the fine is paid or waived,
562 and the authority or district shall promptly notify all affected
563 principals of each suspension and each reinstatement.

564 7. A fine imposed under this subsection which is not waived
565 by final order of the authority or district and which remains
566 unpaid more than 60 days after the notice of payment due or more
567 than 60 days after the authority or district renders a final
568 order on the lobbying firm's appeal may be recorded as a
569 judgment in the appropriate circuit court. The authority or
570 district may take any actions necessary to enforce the judgment.

571 (7) (a) Notwithstanding s. 112.3148, s. 112.3149, or any
572 other provision of law to the contrary, no lobbyist or principal
573 shall make, directly or indirectly, and no expressway authority,
574 independent special district, or port authority official,
575 member, or employee shall knowingly accept, directly or
576 indirectly, any expenditure.

577 (b) No person shall provide compensation for lobbying to an
578 individual or business entity that is not a lobbying firm.

579 (8) The commission has exclusive jurisdiction of complaints
580 alleging that a person covered by this section has failed to

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581 register, has failed to submit a compensation report, has made
582 or received a prohibited expenditure, or has knowingly submitted
583 false information in any report or registration required under
584 this section. The complaint proceedings must be conducted
585 pursuant to s. 112.324. The commission shall investigate any
586 lobbying firm, lobbyist, principal, agency, officer, or employee
587 upon receipt of information from a sworn complaint or from a
588 random audit of lobbying reports indicating a possible violation
589 other than a late-filed report.

590 (9) Any person who is required to be registered or to
591 provide information under this section or under procedures
592 established pursuant to this section and who knowingly fails to
593 disclose any material fact that is required by this section or
594 procedures established pursuant to this section, or who
595 knowingly provides false information on any report required by
596 this section or by procedures established pursuant to this
597 section, commits a noncriminal infraction, punishable by a fine
598 not to exceed \$5,000. Such penalty is in addition to any other
599 penalty assessed pursuant to subsection (8).

600 (10) If a person is uncertain about the applicability and
601 interpretation of this section, he or she may submit in writing
602 the facts of the situation to the commission with a request for
603 an advisory opinion to establish his or her standard of duty. An
604 advisory opinion shall be rendered by the commission and, until
605 amended or revoked, shall be binding on the conduct of the
606 person who sought the opinion, unless material facts were
607 omitted or misstated in the request.

608 (11) An expressway authority, independent special district,
609 or port authority shall be diligent to ascertain whether persons

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610 required to register pursuant to this section have complied. An
 611 authority or district may not knowingly authorize a person who
 612 is not registered pursuant to this section to lobby the
 613 authority or district.

614 (12) Upon discovery of a violation of this section, an
 615 expressway authority, an independent special district, a port
 616 authority, or any person may file a sworn complaint with the
 617 commission.

618 (13) An expressway authority, independent special district,
 619 and port authority shall establish policies and procedures to
 620 administer this section, including the forms for registration
 621 and compensation reports and procedures for registration. All
 622 policies and procedures adopted by an authority or district
 623 shall be posted on the authority's or district's website or be
 624 made available by regular mail or e-mail upon request.

625 Section 9. Paragraph (c) of subsection (1) of section
 626 288.901, Florida Statutes, is amended to read:

627 288.901 Enterprise Florida, Inc.—

628 (1) CREATION.—

629 (c) The Legislature determines that it is in the public
 630 interest that ~~for~~ the members of the Enterprise Florida, Inc.,
 631 board of directors ~~to~~ be subject to the requirements of s.
 632 112.313, including s. 112.313(9); s. 112.3135; ~~ss.112.3135,~~ and
 633 s. 112.3143(2), and ~~112.313, excluding s. 112.313(2),~~
 634 notwithstanding the fact that the board members are not public
 635 officers or employees. For purposes of those sections, the board
 636 members shall be considered to be public officers or employees.
 637 The exemption set forth in s. 112.313(12) for advisory boards
 638 applies to the members of the Enterprise Florida, Inc., board of

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639 directors. Further, each member of the board of directors who is
640 not otherwise required to file financial disclosures pursuant to
641 s. 8, Art. II of the State Constitution or s. 112.3144, shall
642 file disclosure of financial interests pursuant to s. 112.3145.

643 Section 10. Present paragraph (b) of subsection (2) of
644 section 288.92, Florida Statutes, is redesignated as paragraph
645 (c), and a new paragraph (b) is added to that subsection, to
646 read:

647 288.92 Divisions of Enterprise Florida, Inc.—

648 (2)

649 (b) The Legislature determines that it is in the public
650 interest that the officers and agents of the divisions of
651 Enterprise Florida, Inc., including any corporations created to
652 carry out its missions, be subject to s. 112.313, including s.
653 112.313(9); s. 112.3135; and s. 112.3143(2), notwithstanding the
654 fact that the division officers and agents are not public
655 officers or employees.

656 Section 11. Paragraph (a) of subsection (3) of section
657 288.9604, Florida Statutes, is amended to read:

658 288.9604 Creation of the authority.—

659 (3) (a) 1. A director may not ~~shall~~ receive ~~no~~ compensation
660 for his or her services, but is entitled to ~~the~~ necessary
661 expenses, including travel expenses, incurred in the discharge
662 of his or her duties. Each director shall hold office until his
663 or her successor has been appointed.

664 2. The Legislature determines that it is in the public
665 interest that a director of the board of directors of the
666 Florida Development Finance Corporation be subject to s.
667 112.313, including s. 112.313(9); s. 112.3135; and s.

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668 112.3143(2), notwithstanding the fact that the directors are not
669 public officers or employees. For purposes of these sections,
670 the directors shall be considered to be public officers or
671 employees.

672 Section 12. Section 331.3081, Florida Statutes, is amended
673 to read:

674 331.3081 Board of directors.—

675 (1) Space Florida shall be governed by a 13-member
676 independent board of directors that consists of the members
677 appointed to the board of directors of Enterprise Florida, Inc.,
678 by the Governor, the President of the Senate, and the Speaker of
679 the House of Representatives pursuant to s. 288.901(5)(a)7. and
680 the Governor, who shall serve ex officio, or who may appoint a
681 designee to serve, as the chair and a voting member of the
682 board.

683 (2) The Legislature determines that it is in the public
684 interest that members of Space Florida's board of directors be
685 subject to s. 112.313, including s. 112.313(9); s. 112.3135; and
686 s. 112.3143(2), notwithstanding the fact that the board members
687 are not public officers or employees. For purposes of these
688 sections, the board members shall be considered to be public
689 officers or employees.

690 Section 13. Paragraph (d) of subsection (6) of section
691 627.351, Florida Statutes, is amended to read:

692 627.351 Insurance risk apportionment plans.—

693 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

694 (d)1. All prospective employees for senior management
695 positions, as defined by the plan of operation, are subject to
696 background checks as a prerequisite for employment. The office

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697 shall conduct the background checks pursuant to ss. 624.34,
698 624.404(3), and 628.261.

699 2. On or before July 1 of each year, employees of the
700 corporation must sign and submit a statement attesting that they
701 do not have a conflict of interest, as defined in part III of
702 chapter 112. As a condition of employment, all prospective
703 employees must sign and submit to the corporation a conflict-of-
704 interest statement.

705 3. Senior managers and members of the board of governors
706 are subject to part III of chapter 112, including, but not
707 limited to, the code of ethics and public disclosure and
708 reporting of financial interests, pursuant to s. 112.3145. For
709 purposes of part III of chapter 112, the senior managers and
710 members of the board of governors shall be considered to be
711 public officers or employees. Notwithstanding s. 112.3143(2), a
712 board member may not vote on any measure that would inure to his
713 or her special private gain or loss; that he or she knows would
714 inure to the special private gain or loss of any principal by
715 whom he or she is retained or to the parent organization or
716 subsidiary of a corporate principal by which he or she is
717 retained, other than an agency as defined in s. 112.312; or that
718 he or she knows would inure to the special private gain or loss
719 of a relative or business associate of the public officer.
720 Before the vote is taken, such member shall publicly state to
721 the assembly the nature of his or her interest in the matter
722 from which he or she is abstaining from voting and, within 15
723 days after the vote occurs, disclose the nature of his or her
724 interest as a public record in a memorandum filed with the
725 person responsible for recording the minutes of the meeting, who

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726 shall incorporate the memorandum in the minutes. Senior managers
727 and board members are also required to file such disclosures
728 with the Commission on Ethics and the Office of Insurance
729 Regulation. The executive director of the corporation or his or
730 her designee shall notify each existing and newly appointed
731 member of the board of governors and senior managers of their
732 duty to comply with the reporting requirements of part III of
733 chapter 112. At least quarterly, the executive director or his
734 or her designee shall submit to the Commission on Ethics a list
735 of names of the senior managers and members of the board of
736 governors who are subject to the public disclosure requirements
737 under s. 112.3145.

738 4. A former member of the board of governors is prohibited
739 from representing another person or entity before the
740 corporation for 2 years after termination of service on the
741 board of governors. A former member of the board of governors is
742 also prohibited from entering into employment or a contractual
743 relationship with an insurer that entered into a take-out bonus
744 agreement with the corporation while the former member served on
745 the board of governors for a period of 2 years after the former
746 member's termination of service on the board of governors.

747 5.4. Notwithstanding s. 112.3148, ~~or~~ s. 112.3149, or any
748 other provision of law, an employee or board member may not
749 knowingly accept, directly or indirectly, any gift or
750 expenditure from a person or entity, or an employee or
751 representative of such person or entity, which has a contractual
752 relationship with the corporation or who is under consideration
753 for a contract. An employee or board member who fails to comply
754 with subparagraph 3. or this subparagraph is subject to

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755 penalties provided under ss. 112.317 and 112.3173.

756 ~~6.5.~~ Any senior manager of the corporation who is employed
757 on or after January 1, 2007, regardless of the date of hire, who
758 subsequently retires or terminates employment is prohibited from
759 representing another person or entity before the corporation for
760 2 years after retirement or termination of employment from the
761 corporation.

762 ~~7.6.~~ Any senior manager of the corporation who is employed
763 on or after January 1, 2007, regardless of the date of hire, who
764 subsequently retires or terminates employment is prohibited from
765 having any employment or contractual relationship for 2 years
766 with an insurer that has entered into a take-out bonus agreement
767 with the corporation.

768 Section 14. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic _____

Bill Number SB 846

Name Kraig Conn

Amendment Barcode 318152
(if applicable)

Job Title _____

Address 301 S. Bromough Ste. 300
Street
Tall FL 32301
City State Zip

Phone 222 9684

E-mail _____

Speaking: For Against Information

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Ethics 846

Bill Number SB 846
(if applicable)

Name Debbie Harrison Rumberger

Amendment Barcode _____
(if applicable)

Job Title Gov't Affairs

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic Ethics Bill Number 846
(if applicable)

Name Donia Roberts Amendment Barcode _____
(if applicable)

Job Title Board Member, Lakeside Medical Center

Address 1 Phone 561-992-3533
Street
Belle Glade FL 33430
City State Zip

Speaking: For Against Information

Representing Health Care Dist of POC

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14

Meeting Date

Topic Ethics Bill Number 846
(if applicable)

Name Carol Roberts Amendment Barcode _____
(if applicable)

Job Title Board Chair / Health Care District / Palm Beach

Address _____ Phone 561 992-3533
Street

City _____ State _____ Zip _____ E-mail _____

Speaking: For Against Information

Representing Health Care District of Palm Beach

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
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 806

INTRODUCER: Senator Bradley

SUBJECT: Value Adjustment Board Proceedings

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Favorable
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 806 alters the process for petitioning a value adjustment board to review tax assessments. The bill allows a taxpayer to file a single petition for multiple items of tangible personal property of a similar nature. Additionally, the bill requires that petition forms be made available by value adjustment boards. The bill also requires that the property appraiser's property record card be in the evidence list prior to the hearing.

II. Present Situation:

Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members¹ that reviews appeals of the ad valorem tax decisions made by county property appraisers.² The VAB hears evidence from both petitioners and property appraisers as to whether properties are appraised at their fair market value, as well as issues related to tax exemptions, deferments, and portability.³

Petition Process for VAB Hearing

Property appraisers establish the value of taxable property by January 1 each year, and review and apply exemptions, assessment limitations, and classifications that may reduce a property's taxable value.⁴ VABs have no authority to review, by their own motion, the determinations of the

¹ Section 194.015, F.S.

² Section 194.011, F.S.

³ Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions.

⁴ For timeframes and instructions on filing, see Dep't of Revenue, *Petitions to the Value Adjustment Board*, <http://dor.myflorida.com/dor/property/brochures/pt101.pdf> (last visited Feb. 27, 2014).

property appraiser.⁵ Rather, the property owner files a petition to initiate a review, which may cost up to \$15 per petition.⁶

The Florida Department of Revenue (DOR), in their property tax oversight role, maintains a calendar indicating when the petition process begins (early March), and when petitions must be received by (mid-September), each year.⁷ VAB petitions may be found at the DOR website,⁸ the County Property Appraiser's office, and in most counties at the office or website of the VAB Clerk. The clerk of the value adjustment board⁹ is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the value adjustment board.

Prior to the hearing, an exchange of evidence can take place between the petitioner and the property appraiser, if so requested in writing. Regardless of whether petitioners initiate an evidence exchange, the property appraiser is required to provide the property record card¹⁰ to petitioners on receipt of the petition, unless the property record card is available online from the property appraiser.¹¹

Filing Fees and Joint Petitions

The cost to file a petition is capped at \$15 by statute. There is no fee for timely-filed petitions appealing homestead exemption denials. All other petitions, including late-filed homestead exemption petitions, must be filed with a non-refundable \$15 filing fee. Cash, money orders, checks (made payable to the Clerk of Court) and credit cards (plus a 3.5 percent service fee) are accepted by most Clerks of Court. The VAB waives the filing fee of a petitioner who demonstrates at the time of filing that the petitioner is an eligible recipient of temporary assistance under ch. 414, s. 194.013(2), F.S.¹² All filing fees are allocated and utilized to defray costs incurred in connection with the operation of the VAB.¹³

Owners of "contiguous, undeveloped parcels" may file a single, joint petition if the Property Appraiser determines such parcels are substantially similar in nature. Condominium, cooperative, or homeowners' associations may file a single joint petition on behalf of any association members who own parcels of property that the "Property Appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition." A single filing fee for joint petitions is to be charged, and the fee must not

⁵ See Chapter 2013-95, ss. 1-4, Laws of Fla. (CS/HB 1193).

⁶ Section 190.013, F.S.

⁷ See the most recent calendar for exact dates. Dep't of Revenue, *Value Adjustment Board Calendar*, <http://dor.myflorida.com/dor/property/cofficials/pdf/pt902020.pdf> (last visited Feb. 27, 2014).

⁸ See Florida Administrative Code (FAC) 12D-9.015; Dep't of Revenue, *Value Adjustment Board Forms and Calendar*, <http://dor.myflorida.com/dor/property/forms/index.html#11> (last visited Feb. 27, 2014) (listed as Form DR-486).

⁹ The county clerk usually serves as the clerk of the value adjustment board. Section 194.015, F.S.

¹⁰ A property record card contains relevant information used in computing the petitioner's current assessment.

¹¹ Section 194.032(2)(a), F.S.; see Chapter 2013-109, s. 8, Laws of Fla. (SB 556).

¹² To be eligible for the waiver, the petitioner must submit appropriate documentation issued by the Department of Children and Family Services along with the petition. Section 194.013(2), F.S.

¹³ Section 194.013(4), F.S.

exceed \$5 per parcel, but will be no less than \$15 per petition, and is to be proportionately paid by affected parcel owners.¹⁴

III. Effect of Proposed Changes:

The bill alters the process for petitioning a value adjustment board to review tax assessments made by a county property appraiser.

Section 1 amends s. 194.011, F.S., to allow a taxpayer seeking resolution from a VAB to file a single petition for multiple items of tangible personal property of a similar nature, instead of submitting multiple petitions and associated fees. Current law requires anyone who owns tangible personal property¹⁵ on January 1 and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, to file a tangible personal property return to the property appraiser by April 1 each year.¹⁶ Property owners who lease, lend or rent property must also file. The bill would help them consolidate their filings onto one petition.

Several VABs currently exercise their discretion to offer petition forms on their websites or in their offices. The bill would require that all VABs have petition forms and distribute them.

It is currently unclear whether a situation could arise wherein a property appraiser's property record card is not included in the evidence list due to lack of transmission by the clerk. The bill removes that contingency, and thus requires that the property appraiser's property record card be in the evidence list prior to the hearing.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature.¹⁷ However, the bill appears to be exempt under article VII, section 18(d) of the Florida Constitution.¹⁸

B. Public Records/Open Meetings Issues:

None.

¹⁴ Section 194.013(1), F.S.

¹⁵ Examples are computers, furniture, tools, machinery, signs, equipment, leasehold improvements, supplies, and leased equipment.

¹⁶ Section 193.062, F.S.

¹⁷ FLA. CONST. art. VII, s. 18(b).

¹⁸ An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year. FLA. CONST. art. VII, s. 18(d); Revenue Estimating Conference, *Analysis of HB651/SB806* (adopted Feb. 14, 2014).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill may make the petition process less costly, and more available to taxpayers. The Revenue Estimating Conference reports that the bill will have an impact of less than \$200,000, annually, on the amount of fees collected by clerks of VABs.¹⁹

B. Private Sector Impact:

By allowing the use of a single petition for multiple items of tangible personal property, the bill may alleviate the burden of multiple \$15 filings for taxpayers who file petitions for a VAB hearing.

C. Government Sector Impact:

While the DOR reports no significant operational impact to the DOR,²⁰ it is undetermined whether the bill will have an impact on the overall number of additional petitions filed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 194.011 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁹ Revenue Estimating Conference, *Analysis of HB651/SB806* (adopted Feb. 14, 2014).

²⁰ DOR, *Legislative Bill Analysis for SB 806* (Feb. 18, 2014).

By Senator Bradley

7-00913C-14

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1 A bill to be entitled
2 An act relating to value adjustment board proceedings;
3 amending s. 194.011, F.S.; requiring the clerk of the
4 value adjustment board to have available and
5 distribute specified forms; authorizing the owner of
6 multiple items of tangible personal property to file a
7 joint petition with the value adjustment board under
8 certain circumstances; requiring the property
9 appraiser to include the property record card in an
10 evidence list for a value adjustment board hearing
11 under certain circumstances; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraphs (a) and (f) of subsection (3) and
17 paragraph (b) of subsection (4) of section 194.011, Florida
18 Statutes, are amended to read:

19 194.011 Assessment notice; objections to assessments.—

20 (3) A petition to the value adjustment board must be in
21 substantially the form prescribed by the department.
22 Notwithstanding s. 195.022, a county officer may not refuse to
23 accept a form provided by the department for this purpose if the
24 taxpayer chooses to use it. A petition to the value adjustment
25 board shall describe the property by parcel number and shall be
26 filed as follows:

27 (a) The clerk of the value adjustment board and the
28 property appraiser shall have available and shall distribute
29 forms prescribed by the Department of Revenue on which the

7-00913C-14

2014806__

30 petition shall be made. Such petition shall be sworn to by the
31 petitioner.

32 (f) An owner of contiguous, undeveloped parcels, or an
33 owner of multiple items of tangible personal property, may file
34 with the value adjustment board a single joint petition if the
35 property appraiser determines such parcels or items of tangible
36 personal property to be ~~are~~ substantially similar in nature.

37 (4)

38 (b) No later than 7 days before the hearing, if the
39 petitioner has provided the information required under paragraph
40 (a), and if requested in writing by the petitioner, the property
41 appraiser shall provide to the petitioner a list of evidence to
42 be presented at the hearing, together with copies of all
43 documentation to be considered by the value adjustment board and
44 a summary of evidence to be presented by witnesses. The evidence
45 list must contain the property appraiser's property record card
46 ~~if provided by the clerk~~. Failure of the property appraiser to
47 timely comply with the requirements of this paragraph shall
48 result in a rescheduling of the hearing.

49 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/2014

Meeting Date

Topic VALUE ADJUSTMENT BOARD PROCEEDINGS

Bill Number SB 806
(if applicable)

Name ROGER A. SUGGS

Amendment Barcode _____
(if applicable)

Job Title CLAY COUNTY PROPERTY APPRAISER

Address 477 HOUSTON ST.

Phone 904-813-4024

Street

GREEN COVE SPRINGS FL 32043

E-mail rsuggs@ocpa.com

City

State

Zip

Speaking: For Against Information

Representing FLORIDA ASSOCIATION OF PROPERTY APPRAISERS, INC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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: February 6, 2014

I respectfully request that **Senate Bill # 806**, relating to Value Adjustment Board Proceedings, 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/SB 544

INTRODUCER: Agriculture Committee and Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
3.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 544 creates a new section of law within ch. 790, F.S., to allow the Department of Agriculture and Consumer Services (department) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications. The applicant information would be electronically input and transmitted to the department's Division of Licensing headquarters in Tallahassee for processing and subsequent issuance by mail only. Currently, it is the department's responsibility to issue concealed weapon and firearm licenses to qualified applicants.¹

County tax collectors who are interested in being appointed by the department will submit a written application for acceptance. Upon approval of the tax collector's qualifications by the department, the Division of Licensing then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

¹ Section 790.0601(1), F.S.

II. Present Situation:

The Department of Agriculture and Consumer Services (DACCS, or department) is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.² As of the end of fiscal year (FY) 2012-2013, there were 1,098,458 valid Florida concealed weapon licenses.³ During FY 2012-2013, the department received 96,840 new license applications, 2,153 applications for license renewal, and the department issued 99,606 new concealed weapon licenses and 2,239 renewals.⁴ During FY 2013-2014, the department received 107,666 new license applications and 2,172 applications for license renewal, and issued 109,971 new concealed weapon licenses and 2,265 renewals.⁵

Concealed Weapon License Application Requirements

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.⁶

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by the department, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by FDLE to the FBI for assistance in completing the required background check.⁷ Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁸

Section 790.06(6)(c), F.S., requires the department to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. The department typically meets this requirement except under circumstances explained on the link to "Frequently

² *Id.*

³ DACCS, *Concealed Weapon or Firearm License Reports*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Concealed-Weapon-License/Statistical-Reports> (last visited Feb. 25 10, 2014).

⁴ *Id.*

⁵ *Id.*

⁶ Section 790.06(1)-(5), F.S.

⁷ E-mail correspondence with the Department of Agriculture and Consumer Services (Jan. 16, 2014).

⁸ Section 790.06(6)(b), F.S.

Asked Questions” on the department webpage. The most common reasons for delay and the department response to those issues are explained as follows:⁹

- If we find that your application is incomplete for some reason (a missing answer to a question; check made out for the wrong amount; no firearms training documentation; etc.), we will notify you by letter of this problem and request that you provide us with the missing information or documentation.
- If law enforcement authorities determine that your fingerprints are insufficiently legible to complete a proper background check, we will send you a letter requesting a second fingerprint submission as required by law. If your second fingerprint submission is also deemed illegible, we can then ask the FBI to conduct a name-based background check.
- If the background check results we receive from law enforcement authorities reflect a potentially disqualifying crime without a final disposition, we will send you a letter requesting that you provide us with court documents indicating the final disposition.

The department has made a “Fast Track Processing” system available to applicants in 8 regional offices.¹⁰ During an appointment, the applicant can fill out and submit the application, have their fingerprints scanned electronically, have their picture taken and make their payment. Staff reviews the application for completeness at the regional office before it is submitted to the department’s Division of Licensing for final processing. Renewal concealed weapon licenses require far less documentation and therefore can be completed much faster either via a regional office or mail in. In fact, if a renewal is done in one of the eight regional offices, with few exceptions, the limited processing work can be done onsite and the renewal license is issued to the waiting applicant.¹¹

County Tax Collector Authority

Article VIII, Section 1(d) of the Florida Constitution provides that Tax Collectors are elected County Officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹² County tax collections are supervised by the state Department of Revenue.¹³ Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.¹⁴

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with the department contemplated by the bill include:

⁹ DACS, *Frequently Asked Questions*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Frequently-Asked-Questions> (last visited Feb. 25, 2014).

¹⁰ The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. DACS, *Regional Office Locations*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹¹ DACS, *Fast Track Processing*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹² Section 192.001(4), F.S.

¹³ See generally Ch. 195, F.S.; s. 197.603, F.S.

¹⁴ Section 197.103, F.S.

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁵
- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁶
- DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.¹⁷
- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.¹⁸
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department’s agent to accept applications for licenses or renewals of licenses to practice professions that fall within DBPR jurisdiction.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 790.06, F.S., to authorize the department to appoint any of Florida’s 64 elected tax collectors to accept new and renewal concealed weapon or firearm license applications.

Section 2 creates s. 790.0625, F.S., to allow the department to appoint elected county tax collectors to accept applications on behalf of the Division of Licensing for concealed weapon or firearm licenses. The applicant information would be electronically input and transmitted to the division in Tallahassee for processing and subsequent issuance by mail only.

County tax collectors who are interested in being appointed by the department will submit a request to the division. The division then has the discretion to enter into a Memorandum of Understanding with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector’s records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.²⁰

¹⁵ Section 288.037, F.S.

¹⁶ Section 320.03, F.S.

¹⁷ Section 322.135, F.S., s. 328.73, F.S.

¹⁸ Section 379.352, F.S.

¹⁹ Section 455.213, F.S.

²⁰ Section 790.335, F.S., states: “PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.” Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by the tax collector are to be remitted to the department weekly.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625, F.S., to administer fingerprints for license applicants.

The bill prohibits persons who are not appointed by the department from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625, F.S.

The bill makes no changes to eligibility criteria or license application requirements.

Section 3 appropriates the sums of \$707,608 in recurring and \$105,503 in nonrecurring funds from the Division of Licensing Trust Fund to the department for the 2014-2015 fiscal year. It also authorizes 11 full-time positions for the purpose of implementing the provisions of the bill.

Section 4 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons applying for a new concealed weapon or firearm license would be charged a \$22 convenience fee and those applying for a renewal would pay a \$12 renewal application fee by participating tax collectors.

C. Government Sector Impact:²¹

The department expects an increase in the number of concealed weapon and firearm license applicants and renewals given the convenience of being able to apply or renew at a local tax collector rather than having only eight regional offices or the mail as options. The department estimates that an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund from additional tax collector offices receiving and initially processing the increase in applications.

The department has indicated that implementation will require 11 additional positions at a total cost of \$728,721 in year one, with recurring costs of \$687,218 thereafter. These costs would be paid from the Division of Licensing Trust Fund.

EXPENDITURES	FY 14-15	FY 16-16	FY 16-17
Salaries and Benefits:			
4 Compliance Officers	157,863	157,863	157,863
4 Corp Doc Records Examiners	148,080	148,080	148,080
2 Systems Programmer II - SES	119,154	119,154	119,154
1 Accountant I	39,466	39,466	39,466
Expenses:			
11 Professional Expense Packages	68,871	68,871	68,871
Operating Capital Outlay:			
Electronic Fingerprinting Scanners (\$15,000 per unit; estimate 10 purchases per year over three years for participating tax collectors	150,000	150,000	150,000
Special Category:			
11 Human Resources Allocations	3,784	3,784	3,784
Non-Recurring Expenses:			
11 Professional Expenses Packages	41,503	0	0
TOTAL OPERATING COSTS:	\$728,721	\$687,218	\$687,218

Tax collectors choosing to apply to be appointed to receive new and renewal license applications would staff the receiving and initial application processing function with existing or new staff as determined by the tax collector. Without knowing the exact number of interested and eligible tax collectors, the DACS analysis uses an arbitrary estimate of 30 tax collectors. The department currently plans on providing one \$15,000 electronic fingerprint scanner to each tax collector appointed; the annual maintenance and

²¹ Information contained in this portion of this bill analysis is from DACS, Division of Licensing, *Senate Bill 544 Agency Analysis* (Jan. 23, 2014).

future replacement will be the responsibility of the tax collector. Additional information technology equipment required for each tax collector office includes a minimum of two personal computers, a camera and document imaging scanner, among other equipment costing approximately \$3,000 for a minimum set up. This minimum equipment set up would be the tax collector's responsibility.

As currently envisioned, applicant electronic fingerprint background checks would be transmitted by tax collectors directly to Florida Department of Law Enforcement (FDLE). In this scenario, the tax collectors would have the option of either having FDLE bill them directly for the cost and charging the concealed weapon license applicant a fee to cover the FDLE cost (which includes the FBI fee) plus any additional amount to defray tax collector costs or transmitting the electronic fingerprints and having the applicant pay FDLE on their own, within 30 days. The sheriff's offices give applicants this option when conducting fingerprint background checks.

Network connectivity to transmit applicant information will be provided via a standard My Florida Net (MFN) connection available to all state agencies. This MFN connection is currently in place in tax collector locations where driver licenses and motor vehicle tags are issued. No additional cost would be incurred and the data transmission would be encrypted via this secure network.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

This bill creates section 790.0625 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Agriculture on February 17, 2014:

The committee substitute includes two appropriations and authorizes 11 full-time positions to implement the provisions of the bill.

B. Amendments:

None.

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

By the Committee on Agriculture; and Senators Simpson, Latvala, Bean, Benacquisto, Hays, Brandes, Bradley, Negron, Dean, Evers, Stargel, and Galvano

575-01837-14

2014544c1

1 A bill to be entitled
2 An act relating to licensure to carry a concealed
3 weapon or firearm; amending s. 790.06, F.S.;
4 authorizing an applicant for a license to carry a
5 concealed weapon or firearm to submit the application
6 to an appointed tax collector; creating s. 790.0625,
7 F.S.; defining terms; authorizing the Department of
8 Agriculture and Consumer Services to appoint tax
9 collectors to accept applications for new or renewal
10 licenses to carry a concealed weapon or firearm on
11 behalf of the Division of Licensing of the Department
12 of Agriculture and Consumer Services; requiring a tax
13 collector seeking appointment to submit a written
14 request to the division; providing requirements for
15 the request; requiring the division and an appointed
16 tax collector to enter into a memorandum of
17 understanding; authorizing the department or the
18 division to rescind a memorandum of understanding at
19 any time; providing that certain personal identifying
20 information of applicants for licensure is
21 confidential and exempt; establishing license fees for
22 new and renewal applications; requiring an appointed
23 tax collector to remit fees to the department;
24 prohibiting a tax collector from maintaining a list or
25 record of concealed weapon or firearm licensees or
26 applicants; prohibiting a person from processing a
27 concealed weapon or firearm application for a fee or
28 compensation unless he or she has been appointed by
29 the department to do so; providing for criminal

575-01837-14

2014544c1

30 penalties; providing an appropriation; authorizing a
31 specified number of full-time equivalent positions
32 with associated salary rate within the department;
33 providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Subsection (5) of section 790.06, Florida
38 Statutes, is amended to read:

39 790.06 License to carry concealed weapon or firearm.—

40 (5) The applicant shall submit to the Department of
41 Agriculture and Consumer Services or an approved tax collector
42 pursuant to s. 790.0625:

43 (a) A completed application as described in subsection (4).

44 (b) A nonrefundable license fee of up to ~~not to exceed~~ \$70, if
45 he or she has not previously been issued a statewide license, ~~or~~
46 of up to ~~a nonrefundable license fee not to exceed~~ \$60 for renewal
47 of a statewide license. The cost of ~~Costs for~~ processing ~~the set~~
48 ~~of~~ fingerprints as required in paragraph (c) is ~~shall be~~ borne
49 by the applicant. However, an individual holding an active
50 certification from the Criminal Justice Standards and Training
51 Commission as a "law enforcement officer," "correctional
52 officer," or "correctional probation officer" as defined in s.
53 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the
54 licensing requirements of this section. If such ~~any~~ individual
55 ~~holding an active certification from the Criminal Justice~~
56 ~~Standards and Training Commission as a "law enforcement~~
57 ~~officer," a "correctional officer," or a "correctional probation~~
58 ~~officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~

575-01837-14

2014544c1

59 ~~(9)~~ wishes to receive a concealed weapons or firearms license,
60 he or she ~~such person~~ is exempt from the background
61 investigation and all background investigation fees, but must
62 ~~shall~~ pay the current license fees regularly required to be paid
63 by nonexempt applicants. Further, a law enforcement officer, a
64 correctional officer, or a correctional probation officer as
65 defined in s. 943.10(1), (2), or (3) is exempt from the required
66 fees and background investigation for a period of 1 year after
67 his or her ~~subsequent to the date of retirement of said officer~~
68 ~~as a law enforcement officer, a correctional officer, or a~~
69 ~~correctional probation officer.~~

70 (c) A full set of fingerprints of the applicant
71 administered by a law enforcement agency or the Division of
72 Licensing of the Department of Agriculture and Consumer Services
73 or an approved tax collector pursuant to s. 790.0625.

74 (d) A photocopy of a certificate, or an affidavit, or
75 document as described in paragraph (2) (h).

76 (e) A full frontal view color photograph of the applicant
77 taken within the preceding 30 days, in which the head, including
78 hair, measures 7/8 of an inch wide and 1 1/8 inches high.

79 Section 2. Section 790.0625, Florida Statutes, is created
80 to read:

81 790.0625 Appointment of tax collectors to accept
82 applications for a concealed weapon or firearm license; fees;
83 penalties.-

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

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

87 (b) "Division" means the Division of Licensing of the

575-01837-14

2014544c1

88 Department of Agriculture and Consumer Services.

89 (2) The department, at its discretion, may appoint tax
90 collectors, as defined in s. 1(d) of Art. VIII of the State
91 Constitution, to accept applications on behalf of the division
92 for concealed weapon or firearm licenses. Such appointment shall
93 be for specified locations that will best serve the public
94 interest and convenience in applying for these licenses.

95 (3) A tax collector seeking to be appointed to accept
96 applications for new or renewal concealed weapon or firearm
97 licenses must submit a written request to the division stating
98 his or her name, address, telephone number, each location within
99 the county at which the tax collector wishes to accept
100 applications, and other information as required by the division.

101 (a) Upon receipt of a written request, the division shall
102 review it and at its discretion may decline to enter into a
103 memorandum of understanding or, if approved, enter into a
104 memorandum of understanding with the tax collector to accept
105 applications for new or renewal concealed weapon or firearm
106 licenses on behalf of the department.

107 (b) The department or the division may rescind a memorandum
108 of understanding for any reason at any time.

109 (4) All personal identifying information that is provided
110 pursuant to s. 790.06 and contained in the records of a tax
111 collector appointed under this section is confidential and
112 exempt as provided in s. 790.0601.

113 (5) A tax collector appointed under this section may
114 collect and retain a convenience fee of \$22 for each new
115 application and \$12 for each renewal and shall remit weekly to
116 the department the license fees for deposit in the Division of

575-01837-14

2014544c1

117 Licensing Trust Fund.

118 (6) (a) A tax collector appointed under this section may not
119 maintain a list or record of persons who apply for or are
120 granted a new or renewal license to carry a concealed weapon or
121 firearm. A violation of this paragraph is subject to s. 790.335.

122 (b) A person may not handle an application for a concealed
123 weapon or firearm for a fee or compensation of any kind unless
124 he or she has been appointed by the department to do so.

125 (7) A person who willfully violates this section commits a
126 misdemeanor of the second degree, punishable as provided in s.
127 775.082 or s. 775.083.

128 Section 3. For the 2014-2015 fiscal year, there is
129 appropriated to the Department of Agriculture and Consumer
130 Services the sums of \$707,608 in recurring and \$105,503 in
131 nonrecurring funds from the Division of Licensing Trust Fund,
132 and 11 full-time equivalent positions with associated salary
133 rate of 295,751 are authorized for the purpose of implementing
134 this act.

135 Section 4. This act shall take effect July 1, 2014.

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-5-14

Meeting Date

Topic TAX Collectors - CW Licenses

Bill Number SB-544 (if applicable)

Name MARION P. HAMMER

Amendment Barcode (if applicable)

Job Title

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

E-mail

City

State

Zip

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14

Meeting Date

Topic CW permit Processing

Bill Number 544
(if applicable)

Name Tim Qualls

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 265 S Monroe

Phone 222-7206

Street

Tally

FL

32201

City

State

Zip

E-mail TQualls@FLTA.org

Speaking: For Against Information

Representing Florida Tax Collectors Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14

Meeting Date

Topic CW Permit Processing

Bill Number 544
(if applicable)

Name Carole Jean Jordan

Amendment Barcode _____
(if applicable)

Job Title Indian River Tax Collector

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Tax Collector's office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14

Meeting Date

Topic CW Permit Processing
Name Randy Mask
Job Title Sumter County Tax Collector

Bill Number 544
(if applicable)

Amendment Barcode _____
(if applicable)

Address _____
Street Sumterville FL
City *State* *Zip*

Phone _____

E-mail _____

Speaking: For Against Information

Representing Tax Collectors Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic Licensure to Carry a Concealed Weapon

Bill Number SB 544
(if applicable)

Name Jonathan Rees

Amendment Barcode _____
(if applicable)

Job Title Deputy Legislative Affairs Director

Address 400 S. Monroe St.

Phone (850) 617-7700

Tallahassee FL 32399
City State Zip

E-mail Jonathan.Rees@FreshFromFlorida.com

Speaking: For Against Information

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 926

INTRODUCER: Senator Simpson

SUBJECT: Wage Dispute Protection

DATE: February 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 926 creates s. 448.111, F.S., to govern county and state regulation of wage theft. The bill provides requirements for county ordinances regulating wage theft and authorizes county funding to assist in addressing claims of wage theft. The bill provides an exemption for county ordinances enacted by a certain date, but otherwise preempts further regulation of wage theft to the state.

The bill provides definitions for “legal services organization” and “wage theft.”

II. Present Situation:

Wage Theft

“Wage theft” is a general term sometimes used to describe the failure of an employer to pay any portion of wages due to an employee. Wage theft encompasses a variety of employer violations of federal and state law resulting in lost income to an employee. Wage theft may occur if:

- An employee is paid below the state or federal minimum wage;
- An employee is paid partial wages or not paid at all;
- A non-exempt employee is not paid time and a half for overtime hours;
- An employee is required to work off the clock;
- An employee has their time card altered;
- An employee is misclassified as an independent contractor; or
- An employee does not receive a final paycheck after the termination of employment.

Employee Protection: Federal and State

A variety of federal and state laws protect employees from wage theft. Federal laws are administered by the United States Department of Labor, and may be enforced by federal authorities or by private lawsuits.¹ The Fair Labor Standards Act (FLSA)² is the federal law most often used to address wage theft. State court actions to recover unpaid wages can be brought under Florida's minimum wage laws or through a common law breach of contract claim.

Federal Protection of Employees: Fair Labor Standards Act

The FLSA establishes a federal minimum wage, which is the lowest hourly wage that can be paid in the United States. Currently, the federal minimum wage is \$7.25 per hour.³ A state may set the rate higher than the federal minimum but not lower.⁴

The FLSA also requires employers to pay one and one-half times regular wages for any time worked in excess of 40 hours during a workweek.⁵ In addition, it establishes standards for recordkeeping and child labor. The FLSA applies to most classes of workers, but a major exception is that it does not apply to most employees of businesses doing less than \$500,000 in annual business.⁶

The FLSA provides for enforcement in three separate ways:

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

An employer who violates section 206 (minimum wage) or section 207 (maximum hours) of the FLSA is liable to the employee for the amount of the unpaid wages and may be liable for liquidated damages equal to the amount of the unpaid wages.

State Protection of Employees

State law provides for protection of employees, including anti-discrimination,⁷ work safety,⁸ and a state minimum wage. Article X, s. 24(c) of the Florida Constitution provides that "Employers shall pay Employees Wages no less than the Minimum Wage for all hours worked in Florida."

If an employer does not pay the state minimum wage, the constitution provides that an employee may bring a civil action in a court of competent jurisdiction for the amount of the wages

¹ Links to most federal laws and regulations that affect wage and hour issues are located at www.dol.gov/whd/reg-library.htm (last visited February 28, 2014).

² 29 U.S.C. ch. 8.

³ The U.S. Department of Labor Wage and Hour Division provides information about the minimum wage and minimum wage laws at <http://www.dol.gov/whd/minimumwage.htm> (last visited February 28, 2014).

⁴ 29 U.S.C. s. 218(a).

⁵ 29 U.S.C. s. 207(a)(1).

⁶ The U.S. Department of Labor provides lists of the types of employees covered and exempt from the FLSA at <http://www.dol.gov/compliance/guide/minwage.htm#who> (last visited February 28, 2014).

⁷ Section 760.10, F.S.

⁸ Sections 448.20-26 and 487.2011-2071, F.S.

withheld. If the employee prevails, in addition to the unpaid wages, a court may also award the employee liquidated damages in the amount of the wages withheld and reasonable attorney's fees and costs. Further, any employer that willfully violates the minimum wage law is fined \$1,000 for each violation. The Attorney General is also empowered to bring a civil action to enforce the state's minimum wage laws.

The current state minimum wage is \$7.93 per hour, which is higher than the federal minimum wage.⁹ Federal law requires the payment of the higher of the federal or state minimum wage.¹⁰

Chapter 448, F.S., includes the Florida Minimum Wage Act, which implements the constitutional minimum wage requirements. Chapter 448, F.S., also prohibits an employer from retaliating against the employee for enforcing his or her rights, and it preserves the rights that an employee has under any collective bargaining agreement or employee contract.¹¹

In addition to remedies under state minimum wage laws, an employee may bring a common law breach of contract claim for unpaid wages. Section 448.08, F.S., allows the court to award attorney's fees and costs to the prevailing party in an action for unpaid wages.

Home Rule and Preemption

Article VIII, sections 1 and 2 of the State Constitution establish two types of local governments: counties¹² and municipalities. Local governments have wide authority to enact various ordinances to accomplish their local needs.¹³ Under home rule powers, a municipality or county may legislate concurrently with the Legislature on any subject that has not been preempted to the state.

Preemption reserves the power to legislate on specific topics exclusively to the state and thereby abrogates the typical broad home-rule powers of local governments.¹⁴ Florida law recognizes two types of preemption: express and implied.¹⁵ Express preemption requires that a statute contain specific language of preemption directed to the particular subject at issue.¹⁶

In the absence of express preemption a court may still find that the state's regulation of an area of law is so pervasive as to constitute implied preemption.¹⁷ However, courts are careful when imputing intent on behalf of the Legislature to preclude a local government from using its home rule powers.¹⁸ Factors that point to a pervasive legislative scheme include the nature of the subject matter, the need for state uniformity, and the scope and purpose of the state legislation.¹⁹

⁹ See http://www.floridajobs.org/minimumwage/Announcement_2014.pdf (last visited February 28, 2014).

¹⁰ 29 U.S.C. §218(a).

¹¹ Section 448.105, F.S.

¹² Florida has both charter and non-charter counties.

¹³ Article VIII of the State Constitution establishes the powers of charter counties, non-charter counties, and municipalities. Chapters 125 and 166, F.S., provide additional powers and constraints on counties and municipalities.

¹⁴ *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See *Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

¹⁸ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

¹⁹ *Id.*

A court will then consider whether strong public policy reasons exist for finding an area to be preempted by the Legislature.²⁰ Regulation of public records is an example of an area where the courts have found implied preemption.²¹

Currently, there is no express preemption of wage laws to the federal or state government. It is unclear whether a court would find that the existing laws regarding employee wages are an implied preemption of the subject.

Local Regulation of Wage Theft

Florida's two most populous counties, Miami-Dade County and Broward County, have passed ordinances dealing with wage theft claims. Alachua County has also passed a wage theft ordinance.²² In addition, Palm Beach County has passed a resolution condemning wage theft and has created a program for wage theft claimants to be represented by the Legal Aid Society of Palm Beach County.²³

Miami-Dade's ordinance,²⁴ passed in February 2010, was one of the first local wage theft ordinances in the United States. The ordinance is administered by the county's Department of Small Business Development (SBD) and provides a local process for employees to file claims for unpaid wages. The process cannot be used if the employee has made a claim under state or federal law; however, a claim under the ordinance does not preclude later claims under state or federal law. The ordinance only applies to claims for payment of more than \$60 in wages, and claims must be filed within one year after the last day the unpaid work was performed. Claims that are not resolved before the hearing are heard by a hearing examiner who is deemed to be qualified to hear wage theft matters. If the hearing officer determines by a preponderance of the evidence that back wages are owed, the employee must be awarded three times the amount of the wages found to be owed and the employer must pay the county's administrative processing costs and costs of the proceeding. If the employee is not successful, neither party reimburses the county's costs.

Broward County's ordinance took effect on January 2, 2013.²⁵ It provides a process that is similar to Miami-Dade County's ordinance, but that has some significant differences. These differences include:

- A claim cannot be considered unless the employee gave the employer written notice of the failure to pay wages within 60 days of the date the wages were due and the employer had a minimum of 15 days to pay or resolve the claim before it was filed.

²⁰ *Tallahassee Memorial Regional Medical Center, Inc. v. Tallahassee Medical Center Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

²¹ *See Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

²² Gainesville Sun, *County commission passes wage-theft ordinance Tuesday*, published April 17, 2013, http://www.alligator.org/news/local/article_7074e0f8-a710-11e2-bf3b-0019bb2963f4.html (last visited February 28, 2014).

²³ Sun-Sentinel, *Palm Beach County renews compromise wage theft effort*, published January 15, 2014, http://articles.sun-sentinel.com/2014-01-15/news/sfl-palm-beach-county-renews-compromise-wage-theft-effort-20140115_1_wage-county-commission-low-income-workers (last visited February 28, 2014).

²⁴ Miami Dade County, Fla., Code ch. 22.

²⁵ Broward County Code of Ordinances, ch. 20½, Non-Payment of Earned Wages.

- A successful claimant is awarded double the amount of unpaid wages, rather than triple wages as in the Miami-Dade County ordinance.
- In addition to paying the county's costs as is required by the Miami-Dade County ordinance, a losing employer is also required to reimburse the employee for reasonable costs and attorney's fees incurred in connection with the hearing.
- Like the Miami-Dade County ordinance, an unsuccessful claimant is not required to pay either the employer's or the county's costs. However, under the Broward County ordinance the employee must be ordered to pay the employer's reasonable costs and attorney's fees and the county's costs if the hearing officer finds that the claim had no basis in law or fact.

Alachua County's ordinance was implemented on January 1, 2014. It is similar to the Broward ordinance in several respects. It also provides that an employee must contact an employer regarding a claim within sixty days of the date that wages were due to be paid and allow the employer 15 days to respond. The ordinance awards twice the amount of unpaid wages to a successful claimant. However, the Alachua County ordinance requires that a complaint be filed within 180 days of the date that wages were due to be paid (as opposed to one year). The Alachua County ordinance does not provide a minimum dollar threshold that claims must meet in order to be filed.

Palm Beach County has also considered passing a wage theft ordinance since a proposed ordinance was brought before the commissioners in February 2011. Following that time, Palm Beach County supported a Wage Recovery Program administered by the Legal Aid Society of Palm Beach County. The Legal Aid Society program assists employees in collecting unpaid wages through existing civil or administrative remedies. On January 11, 2014, the commission passed a resolution renewing a contract for \$104,000 with the Legal Aid Society to manage the Wage Recovery Program.²⁶ According to the society, the program has recovered approximately \$200,000 in back wages.²⁷

Small Claims Court Costs

Fees for filing an action in Small Claims Court, which is a part of the County Court, are set by s. 34.041(1)(a), F.S., as follows:

- \$50 for claims less than \$100;
- \$75 for claims from \$100 - \$500;
- \$170 for claims from \$500.01 - \$2500; and
- \$295 for claims of more than \$2,500.

In addition to the filing fee, the claimant must serve the employer with notice of the suit. Process may be served on a Florida defendant by certified mail, which costs approximately six dollars. If that is unsuccessful, process must be served by the sheriff or an authorized process server. The cost for service by the sheriff is \$40 as provided in s. 30.231(1)(a), F.S.

²⁶ Sun-Sentinel, *Palm Beach County renews compromise wage theft effort*, published January 15, 2014, http://articles.sun-sentinel.com/2014-01-15/news/sfl-palm-beach-county-renews-compromise-wage-theft-effort-20140115_1_wage-county-commission-low-income-workers (last visited February 28, 2014).

²⁷ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 448.111, F.S., to authorize county ordinances regulating wage theft so long as the ordinances meet certain requirements. If a county determines that local regulation of wage theft is necessary, it may adopt an ordinance with the following provisions:

- The county partners with a local legal services organization (LSO) to establish a process for addressing wage theft claims by the LSO.
- Upon a request for assistance by an individual that has experienced wage theft, the LSO shall determine whether the individual has a bona fide claim.
- The LSO notifies the individual's employer and provides the employer with an opportunity to resolve the matter.
- The LSO works with the employee and employer to resolve the issue informally and quickly. Informal resolution may include obtaining attorney fees and costs from the employer.
- The LSO shall file court actions as appropriate and refer unresolved claims to local pro bono or other counsel for resolution.
- The county establishes a reporting mechanism to receive regular reports regarding the LSO's work on cases of wage theft.

An LSO is defined in the bill as "an organization that provides free or low-cost legal services to qualified persons and meets the minimum standards established by The Florida Bar for providing such services, including a legal practice clinic operated by an accredited Florida law school." An LSO qualifies as "local" under the bill if it is located within the relevant county or within an adjoining county.

The bill defines "wage theft" as "an illegal or improper underpayment or nonpayment of an individual employee's wage, salary, commission, or other similar form of compensation within a reasonable time after the date on which the employee performed the work to be compensated."

The bill authorizes counties to dedicate county funds to assist the LSO in addressing claims of wage theft.

The bill expressly preempts to the state any other regulation of wage theft by a county, municipality, or other political subdivision that exceeds the provisions described above. However, the bill provides an exemption from preemption for local ordinances governing wage theft that were enacted on or before January 1, 2014.

Section 2 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

As noted in the discussion of the effects of the bill, the Florida Constitution sets forth certain requirements and remedies regarding minimum wage claims. This bill cannot be interpreted to preclude an employee from exercising those state constitutional rights, which are currently implemented in ch. 448, F.S.

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

None.

B. Private Sector Impact:

If counties utilize the authority provided by this bill to enact new ordinances and to assist legal services organizations in addressing wage theft claims, it is likely that this bill will result in an increase in the number of claims. As a result, this bill may have an impact on both employees seeking payment of allegedly unpaid compensation and employers who are sued for payment of unpaid wages.

C. Government Sector Impact:

If counties utilize the authority provided by this bill to enact new ordinances regulating wage theft and to assist legal services organizations in addressing such claims, the bill may increase costs to the judiciary as a result of the increased number of claims.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 448.111 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Simpson

18-01390-14

2014926__

1 A bill to be entitled
2 An act relating to local regulation of wage theft;
3 creating s. 448.111, F.S.; defining terms; providing
4 requirements for county ordinances regulating wage
5 theft; authorizing county funding to assist in
6 addressing claims of wage theft; preempting further
7 regulation of wage theft to the state; providing an
8 exception for an ordinance enacted by a specified
9 date; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 448.111, Florida Statutes, is created to
14 read:

15 448.111 Local regulation of wage theft.-

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

17 (a) "Legal services organization" means an organization
18 that provides free or low-cost legal services to qualified
19 persons and meets the minimum standards established by The
20 Florida Bar for providing such services, including a legal
21 practice clinic operated by an accredited Florida law school.

22 (b) "Wage theft" means an illegal or improper underpayment
23 or nonpayment of an individual employee's wage, salary,
24 commission, or other similar form of compensation within a
25 reasonable time after the date on which the employee performed
26 the work to be compensated. A wage theft occurs when an employer
27 fails to pay a portion of the wages, salary, commissions, or
28 other similar forms of compensation due to an employee within a
29 reasonable time after the date on which the employee performed

18-01390-14

2014926__

30 the work, according to the current applicable rate and the pay
31 schedule of the employer established by policy or practice.

32 (2) LOCAL ORDINANCES; REQUIRED PROVISIONS.—Upon the
33 determination by a county that a local solution to wage theft is
34 necessary, the county may adopt a local ordinance that includes
35 the following provisions:

36 (a) The county shall partner with a local legal services
37 organization for the purpose of establishing a local process
38 through which claims of wage theft shall be addressed by the
39 legal services organization. The county may partner with a legal
40 services organization located within the county itself or within
41 an adjoining county.

42 (b) An individual who has experienced wage theft may
43 contact the legal services organization for assistance in
44 recovering wages. The legal services organization shall
45 determine whether the individual has a bona fide claim for
46 unpaid wages.

47 (c) The legal services organization shall notify the
48 employer and provide the employer with an opportunity to resolve
49 the matter of unpaid wages in the manner deemed most appropriate
50 to each claim. The notification may occur by telephone, written
51 correspondence, or any other means deemed appropriate by the
52 legal services organization.

53 (d) The legal services organization shall work with the
54 employee and employer to resolve the issue informally but
55 expeditiously. The informal resolution may include obtaining
56 attorney fees and costs from the employer.

57 (e) The legal services organization shall file court
58 actions as appropriate and refer unresolved claims to local pro

18-01390-14

2014926__

59 bono or other counsel for resolution.

60 (f) The county shall establish a reporting mechanism
61 through which the county receives regular reports regarding the
62 legal services organization's work on cases of wage theft. The
63 county may require monthly, quarterly, or annual reports, or any
64 combination thereof.

65 (3) FUNDING.—The county may dedicate county funds to assist
66 the legal services organization in addressing claims of wage
67 theft.

68 (4) PREEMPTION.—Except as provided in subsection (5), any
69 regulation of wage theft by a county, municipality, or other
70 political subdivision that exceeds the provisions in this
71 section is preempted to the state.

72 (5) CURRENT ORDINANCES.—Notwithstanding subsection (4), a
73 local ordinance governing wage theft which was enacted on or
74 before January 1, 2014, is not preempted by this section.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/05/2014

Meeting Date

Topic Wage Theft Bill Number SB 926
Name Francesca Menes Amendment Barcode _____ (if applicable)
Job Title Policy and Advocacy Coordinator
Address 2800 Biscayne Blvd, Suite 800 Phone 305-571-7054
Miami, Florida 33137 E-mail _____
City State Zip

Speaking: For Against Information

Representing Florida Wage Theft Task Force

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-5-2014
Meeting Date

Topic LOCAL REGULATION OF WAGE THEFT

Bill Number SB0926
(if applicable)

Name JAMES F BROWN

Amendment Barcode _____
(if applicable)

Job Title CITY LETTER CARRIER

Address 3043 ANTIQUE OAKS CIR #171
Street
WINTER PARK FL 32792
City State Zip

Phone 407-701-2574

E-mail FREDBROWNS@ME.COM

Speaking: For Against Information

Representing MYSELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/5/2014

Meeting Date

Topic SB 0926/ wage theft

Bill Number SB 0926
(if applicable)

Name Janice Humphrey

Amendment Barcode _____
(if applicable)

Job Title teacher

Address 30543 Anumation
Street

Phone 813-389-2099

City

State

Zip

E-mail yorkiej2747@a
hotmail.com

Speaking: For Against Information

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

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

3-5-14
Meeting Date

Topic Wage theft

Bill Number SB 926
(if applicable)

Name Jeffrey W. Mitchell

Amendment Barcode _____
(if applicable)

Job Title Guideway "Track Inspector" Transit
Miami-Dade

Address 15731 SW 92 Ave

Phone 786 586 7851

Street
Palmetto Bay FL 33157
City State Zip

E-mail 291unionman@gmail.com

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
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3/5/2014

Meeting Date

Topic Wage Theft

Bill Number SB 926
(if applicable)

Name Rep-My Self BRIAN DAVIS

Amendment Barcode _____
(if applicable)

Job Title Bus Operator

Address 2395 N.W 79th TER

Phone 786-586-0266

Street

MIAMI
City

FL
State

33147
Zip

E-mail bkoltman@jphoe.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-5-14

Meeting Date

Topic WAGE THEFT

Bill Number 9260
(if applicable)

Name JEFFREY TOWNSLEY

Amendment Barcode _____
(if applicable)

Job Title BUS-OPERATOR (MIAMI-DADE TRANSIT)

Address 1876 N.W. 52ND ST.

Phone 786-271-9676

Street

MIAMI
City

FLORIDA
State

33142
Zip

E-mail JT PEN 1 @ AOL.COM

Speaking: For Against Information

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/5/14
Meeting Date

Topic Wage Theft

Bill Number SB 926
(if applicable)

Name Janice Hill

Amendment Barcode
(if applicable)

Job Title Educator

Address 4313 Ashton Meadows Way

Phone (813) 782-5171

Street Wesley Chapel FL 33543
City State Zip

E-mail janiceg1947@hotmail

Speaking: For Against Information

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-5-14
Meeting Date

Topic 3 large theft

Bill Number SB926
(if applicable)

Name Cynthia Van Zandt

Amendment Barcode _____
(if applicable)

Job Title SRP

Address 25448 Gedy Dr

Phone _____

Street

FDL
City

FL
State

34639
Zip

E-mail _____

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

3/5/14

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

Meeting Date

Topic Wage Theft

Bill Number SB 926
(if applicable)

Name Rebecca Camunas

Amendment Barcode _____
(if applicable)

Job Title teacher

Address 26220 Pheasant Run

Phone (813) 451-0038

Street

Wesley Chapel

City

State

Zip

E-mail rcamunas@gmail.com

Speaking: For Against Information

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/5/14
Meeting Date

Topic Wage Helt

Bill Number 926
(if applicable)

Name Reginald Ivory

Amendment Barcode _____
(if applicable)

Job Title USA Tech.

Address 2215 S.S. 46th
Street

Phone 352 215 9838

Gainesville Fla. 32641
City State Zip

E-mail Reginald54@hotmail.com

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/5/2014
Meeting Date

Topic Wage Theft

Bill Number 926
(if applicable)

Name Tara J. Bryan

Amendment Barcode _____
(if applicable)

Job Title Dispatch Clerk

Address 205 N.E. 44th Street
Street

Phone 352-219-7784

Gainesville FL 32641
City State Zip

E-mail bryant1985@gmail.com

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
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3-5-2014

Meeting Date

Topic Wage Theft

Bill Number 926
(if applicable)

Name Desiree M. Heyliger

Amendment Barcode _____
(if applicable)

Job Title Transit Operator

Address 2222 UW 65th Road

Phone _____

Street

Gainesville, FL

City

State

32653

Zip

E-mail Dheyli@upho.com

Speaking: For Against Information

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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3-5-14

Meeting Date

Topic Local Regulation of Wage Theft

Bill Number SB 0926
(if applicable)

Name Willie Bailey

Amendment Barcode _____
(if applicable)

Job Title _____

Address 868 1 N.W 3rd Street

Phone 954-804-4560

Street

Pembroke Pines

FL

33024

City

State

Zip

E-mail Willie.bailey@federationmembers.org

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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03-05-14
Meeting Date

Topic WAGE THEFT

Bill Number 926
(if applicable)

Name KEVIN BYRNE

Amendment Barcode _____
(if applicable)

Job Title _____

Address 256 SE TODD AVENUE
Street

Phone 772 979 5899

PORT ST LUCIE FL 34983
City State Zip

E-mail Kevinjbyrne54@gmail.com

Speaking: For Against Information

Representing MYSELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/5/11

Meeting Date

Topic Local Reg. of Wage Theft

Bill Number SB 0926
(if applicable)

Name Steve Hall

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3270 2619 CORNINE DR.

Phone 407 896 9941

Street

Orlando FL 32807

City

State

Zip

E-mail SHVOTE@AOL.COM

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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3-5-2014
Meeting Date

Topic LOCAL REGULATION OF WAGE THEFT

Bill Number SB 0926
(if applicable)

Name SCOTT KILPATRICK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3270 NORTEK BLVD
Street

Phone 850 303 4764

MARIANNA FL 32448
City State Zip

E-mail _____

Speaking: For Against Information

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

03-05-2014

Meeting Date

Topic Wage Theft

Bill Number SB0926
(if applicable)

Name Joseph Tate

Amendment Barcode _____
(if applicable)

Job Title Retiree

Address 5973 Copper Creek Dr.

Phone 904-765-3746

Jacksonville FL 32218
Street City State Zip

E-mail jojotate@bellsouth.net

Speaking: For Against Information

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

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3/5/2014
Meeting Date

Topic Wage theft

Bill Number SB 926
(if applicable)

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Amendment Barcode _____
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Speaking: For Against Information

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

but this is personal

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3/5/14

Meeting Date

Topic Wage Theft

Bill Number SB 926
(if applicable)

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Amendment Barcode _____
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Speaking: For Against Information

Representing SEIU Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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March 5, 2014
Meeting Date

Topic Local Regulation of Wage Theft

Bill Number SB 926
(if applicable)

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Amendment Barcode _____
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Street

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E-mail dorene@floridalegal.org

Speaking: For Against Information Waive in Opposition

Representing Florida Legal Services, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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3-5-14

Meeting Date

Topic WAGE Dispute

Bill Number SB 976
(if applicable)

Name KARI HEBRANK

Amendment Barcode _____
(if applicable)

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City State Zip

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mgmt-con

Speaking: For Against Information

Representing FLORIDA HOME BUILDERS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
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3/5/14

Meeting Date

Topic Wage protection

Bill Number 926
(if applicable)

Name Warren Husband

Amendment Barcode _____
(if applicable)

Job Title —

Address PO Box 10909
Street

Phone 850 205 9000

Tallahassee FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Associated General Contractors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

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3/5/14
Meeting Date

Topic Wage Protection

Bill Number 926
(if applicable)

Name Warren Husband

Amendment Barcode _____
(if applicable)

Job Title —

Address PO Box 10909
Street

Phone (850) 205 9000

Tallahassee FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Restaurant and Lodging Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

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3.5.14

Meeting Date

Topic Wage Theft

Bill Number 926 (if applicable)

Name Sarah Busk

Amendment Barcode (if applicable)

Job Title

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Phone 222 8900

Street TLH FL 32301 City State Zip

E-mail sjb@cardenaspartners.com

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

Representing Associated Industries of Florida

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

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

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

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THE FLORIDA SENATE
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Meeting Date _____

Topic wage Protection

Bill Number 9260
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 S Bronough St
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL chamber of commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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3/5/14
Meeting Date

Topic Local Regulation of Wage Theft

Bill Number 926

(if applicable)

Name Chris Scoonover

Amendment Barcode

(if applicable)

Job Title Lobbyist

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Phone 222-9075

Street

TLH

FL

32303

City

State

Zip

E-mail cscoonover@capcityconsult.com

Speaking: For Against Information

Representing Office Depot

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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3/5/14

Meeting Date

Topic Wage Theft

Bill Number 926
(if applicable)

Name Karen Woodall

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Job Title _____

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Speaking: For Against Information

Representing FL Center for Fiscal & Economic Policy, FL New Majority, Farmworker Self-Help

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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3/05/14
Meeting Date

Topic Wage Theft

Bill Number 926
(if applicable)

Name Rich Templin

Amendment Barcode _____
(if applicable)

Job Title Legislative and Political Director

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Street

Phone 850-224-6826

Tallahassee
City

FL
State

32301
Zip

E-mail _____

Speaking: For Against Information

Representing Florida AFL - CIO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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3/5/14

Meeting Date

Topic Wage Dispute Policy

Bill Number 926
(if applicable)

Name Samantha Padgett

Amendment Barcode _____
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Job Title General Counsel

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Tallahassee FL 32301

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State

Zip

E-mail samantha@fla.org

Speaking: For Against Information

Representing Florida Retail Federation

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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3-5-2014
Meeting Date

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

Topic WAGE T

Bill Number SB 926
(if applicable)

Name LARRY DUPREE

Amendment Barcode _____
(if applicable)

Job Title _____

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TAMPA FL 33617
City State Zip

E-mail _____

Speaking: For Against Information

Representing SEIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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3/5/14
Meeting Date

Topic Wage Recovery Legislation Bill Number 926
(if applicable)

Name Carol Bowen Amendment Barcode _____
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City State Zip

Speaking: For Against Information

Representing Associated Builders + 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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3-5-14

Meeting Date

Topic Wage Theft

Bill Number SB 926
(if applicable)

Name Ken Williams

Amendment Barcode _____
(if applicable)

Job Title _____

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Street

Phone 813-886-1753

Tampa FL 33634
City State Zip

E-mail _____

Speaking: For Against Information

Representing self

Appearing at request of Chair: Yes No

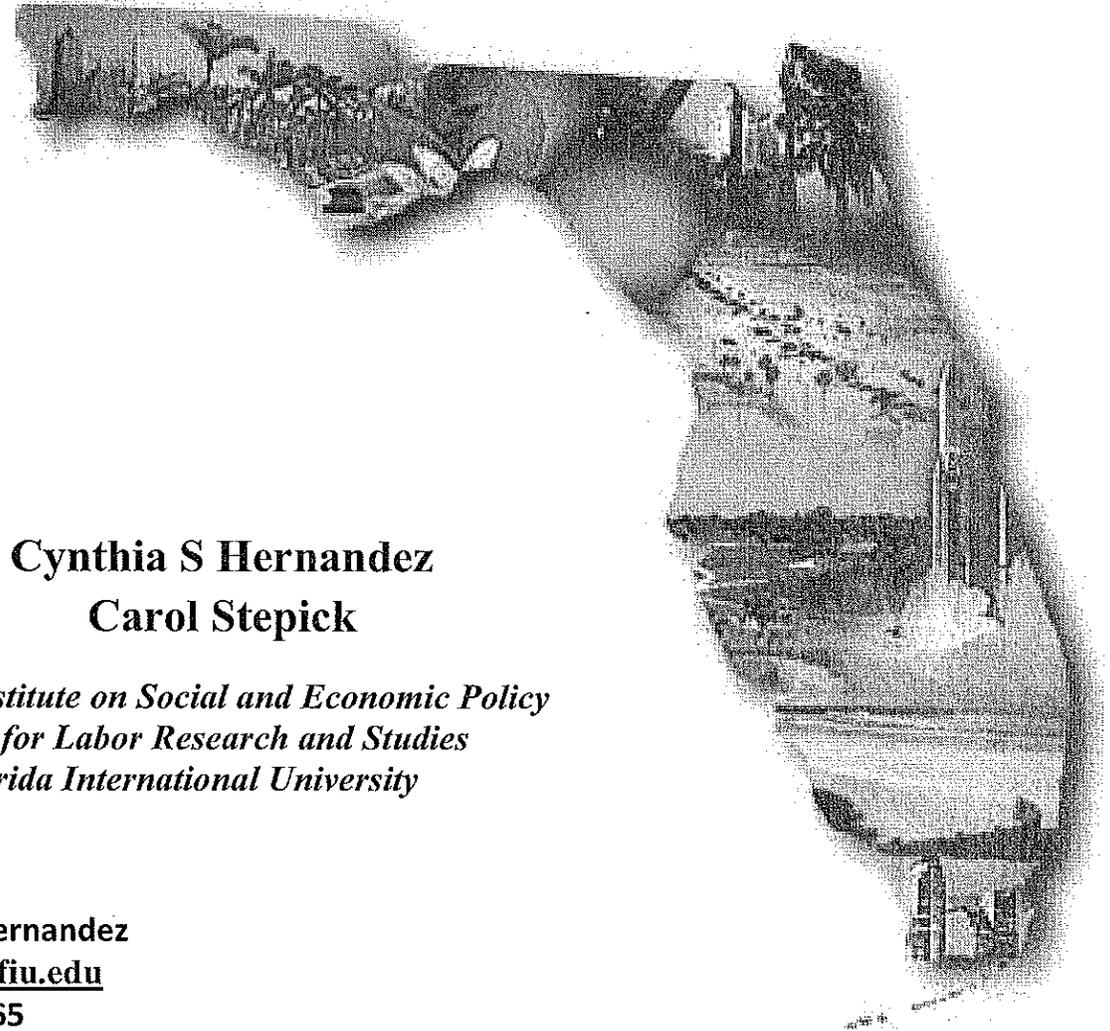
Lobbyist registered with Legislature: Yes No

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

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Wage Theft: An Economic Drain on Florida

How Millions of Dollars are Stolen from Florida's Workforce



**Cynthia S Hernandez
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This research was graciously funded by the Sociological Initiatives Foundation and the Unitarian Universalist Veatch Program at Shelter Rock

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Executive Summary

This is the second in a series of reports monitoring the growing problem of wage theft in Florida. Using previously unanalyzed data from the U.S. Department of Labor's Wage and Hour Division and separate data from various community organizations, this report shows evidence of a widespread problem across a broad spectrum of industries in Florida. The industries especially impacted are those commonly thought of as the core of Florida's economy—tourism, retail trade, and construction. Moreover, it appears more likely to affect those workers who can least afford it. Workers who receive low wages seem to be more likely to have their wages stolen by employers and as demonstrated in this report this is a large number of people. But, even this data does not account for the full magnitude of the problem, as an unknown number of cases go unreported. Indeed, as data on wage theft accumulates, the more it becomes clear how widespread wage theft is in the state of Florida and throughout the state's industries.

Wage theft is defined as workers not receiving wages that they are legally owed. It occurs in different forms including unpaid overtime, not being paid at least the minimum wage, working during meal breaks, misclassification of employees as independent contractors, forcing employees to work off the clock, altering time cards or pay stubs, illegally deducting money from employees' pay checks, paying employees late, or simply not paying employees at all. Unfortunately, many employers know they can get away with wage theft and have little fear of sanction. Enforcement mechanisms are weak, due to lack of dedicated enforcement capacity at the state level, limited capacity of local branches of the Federal Department of Labor, and the gaps in U.S. labor laws that leave many employees unprotected.

The data from this report reveal that:

- **Over \$28 million of unpaid wages have been recovered** by the U.S. Department of Labor Wage and Hour Division in Florida, Miami-Dade's Wage Theft Ordinance and community groups throughout Florida.
- The primary pillars of Florida's economy are undermined by widespread theft of employees' wages. **Florida's key industries have the highest numbers of reported wage violations—tourism, retail trade and construction.**
- An average of **3,036 wage violations per year are reported** to the U.S. Department of Labor's Wage and Hour Division in Florida (DOL-WHD).
- In spite of ample evidence of widespread wage theft among low income workers, as of December 2011, the **Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law** enacted in 2004.
- Since the full implementation of the Miami-Dade County Wage Theft Ordinance in September 2010, the Miami-Dade County's Small Business Development agency has recovered nearly **\$400,000 in unpaid wages for 313 workers** who unlawfully had their wages withheld from them.
- Out of the six counties we analyzed, **the largest number of cases were in Miami-Dade County followed by Hillsborough, Broward, Pinellas, Palm Beach and Orange counties** in that order.

Overall, the data suggest that the primary pillars of Florida's economy are undermined by widespread theft of employees' wages. Florida's key industries have the highest numbers of reported wage violations—tourism, retail trade and construction. Tourism, represented by *Accommodation and Food Services* in official data, has been a core focus of Florida's economy for nearly a century and it has the highest frequency of reported wage violations. Retail trade has been a growing generator of employment in Florida for decades. Jobs in both tourism and retail tend to pay relatively low wages. Thus, when there is theft from wages that are already relatively low, employees and their families are likely to suffer even more severely. The third industry plagued by wage theft, construction, does offer higher average wages than either tourism or retail trade, but the averages conceal considerable variation. While wages in the construction industry are higher on average than tourism or retail trade, much construction work is done through subcontracting with often only verbal agreements between a subcontractor and employees; and wages are often paid in cash. Under these conditions, it is relatively easy and common for subcontractors to not pay employees the wages they are due.

The wage theft stories collected by community based organizations offer a glimpse into the impact of wage theft on individual employees. They demonstrate the unscrupulous competitive advantage that some employers gain by ignoring the law and causing suffering most often among those who can least afford it. When we consider that many employees who lose wages to wage theft earn at or near minimum wage with no benefits like health insurance we can imagine that the loss of even a small amount of earnings imposes real hardship. In the six most populous Florida counties, the Department of Labor's Wage and Hour Division recovered wages just under \$16 million dollars. The average amount of recovered wages is \$651 per employee who made a claim, more than a full week's work for someone earning \$15 an hour, and more than two weeks work for someone earning the minimum wage. This average is a significant amount of money for an individual employee to lose over the course of a year. But, any loss of legitimately earned wages is a significant financial loss and a violation not only of the law but also of the social contract between employee and employer that is fundamental to a market economy.

This analysis of wage theft cases also raises the question of whether a county and state economy can be healthy and grow while tolerating an unjust business model that avoids contributing to tax revenues. The employers who fail to follow the laws concerning their employees create an unfair business environment that penalizes those who do follow the law. Maintaining a level playing field for businesses is critical to maintaining a competitive business environment and to economic growth. The dishonest business model of practicing wage theft puts law abiding employers at a competitive disadvantage and undermines Florida's efforts to attract business.

This report reveals that through the efforts of the U.S. Department of Labor's Wage and Hour Division, Miami-Dade County's Wage Theft Ordinance, and community organizations throughout Florida, millions of dollars of unpaid wages have been recovered. Yet, all indicators are that much more can be done by simply enforcing existing wage and hour laws and by creating a statewide process that address the problem, since Florida has no state equivalent to a Department of Labor to investigate wage and hour complaints and does not have staff to enforce its minimum wage law. The evidence accumulating of a spreading illegal and ultimately an anti-business practice raises serious questions for a state economy and local economies hoping to attract businesses and employees to grow.

Wage Theft: An Economic Drain to Florida

This is the second in a series of reports monitoring the growing problem of wage theft in Florida.¹ This report shows evidence of a widespread problem that affects a vast array of industries and a large number of Florida's workforce. The data in this report demonstrate the remarkable number and diversity of wage theft cases that have been reported to community organizations, Miami-Dade's Wage Theft Program, and of the U.S. Department of Labor's Wage and Hour Division of the Florida offices. But, even this does not account for the full magnitude of the problem, as an unknown number of cases go unreported. Wage theft affects seemingly all industries in Florida, but especially those that are commonly thought of as the core of Florida's economy—tourism, construction, and retail trade. Moreover, it appears more likely to affect those who can least afford it. Those employees who receive low wages seem to be more likely to have their wages stolen by employers.

Wage theft is defined as employees not receiving wages that they are legally owed. It occurs in different forms including unpaid overtime, not being paid at least the minimum wage, working during meal breaks, misclassification of employees as independent contractors, forcing employees to work off the clock, altering time cards or pay stubs, illegally deducting money from workers pay checks, paying workers late, or simply not paying employees at all. Unfortunately, many employers know they can get away with wage theft and have little fear of sanction.

Enforcement mechanisms are weak due to lack of dedicated enforcement capacity at the state level, limited capacity of local branches of the federal Department of Labor, and to the gaps in U.S. labor laws that leave some of Florida's workforce unprotected.

The problem of wage theft is gaining attention around the nation, and evidence suggests it occurs in all industries and to employees at all wage levels. A study by the National Employment Law Project in 2008 surveyed 4,387 workers in the three largest U.S. cities—Chicago, Los Angeles, and New York, and

Examples of Recent Florida Wage Theft Cases

"In May 2010, my brother worked for a month, Monday to Saturday, from 7am until 7pm. His job was at a commercial construction site of a major supermarket in the southern region. The manager on the site never paid him time and time again. The manager eventually left for Orlando and the workers never got their money." -Jonathan, West Palm Beach County

"One of my co-workers has worked up to a month without pay; he is told by the subcontractor that he won't get paid until the contractor pays him. They've even changed their telephone numbers as to not be found." -James, Delray Beach

"I was working for a telemarketing company. There were several instances, at least 3, in which my check bounced when I tried to deposit it into my account." -Martha, Lake Worth

"I know that other businesses in this area are not paying their workers their full wages. This makes it very difficult for me to stay in business because I'm not cutting down on labor costs." -Jan, Miami-Dade

found that 68% of those surveyed had experienced at least one pay-related violation in the previous work week. The average worker lost an average of \$2,634 annually, which translated into wage theft of 15% of their earnings, or an estimated combined loss of more than \$56.4 million dollars per week due to wage theft.² Wage theft is not a phenomenon isolated to remote sectors of either the United State's economy or geography. The issue can be found in large and mid-sized American cities as well as in suburban and rural areas.³

The lack of data on wage theft in Florida has kept wage theft in the shadows until recently. This report presents data from the Federal Department of Labor Wage and Hour Division branches in Florida, the Miami-Dade Wage Theft Program, and local Florida community based organizations that track incidences of wage theft among their members and community residents. Through the efforts of community based organizations detailed in this report, we see growing evidence that the number of unreported cases may be very large. Many cases are never reported to any agency because employees are unaware of their rights or afraid to come forward for fear of retribution. In addition, large numbers of cases are not recorded by any government agency because the employee's occupation or the employer's business falls outside the jurisdiction of U.S. laws to protect employees. This means that the true impact of wage theft in Florida is unknown but is likely very large. The data from this report reveals that over \$28 million dollars have been recovered by efforts to secure proper payment of wage theft cases in Florida in just two and a half years. If this is the amount that was recovered from cases that were reported to the relatively unknown agencies who work on wage theft cases, we hypothesize that the number of actual unpaid wages is significantly more because most people are unlikely to report their claims or know where to go to make a report. This means that employees, families, and their communities are losing millions of dollars that are vital to their economic health.

The true extent of wage theft in Florida remains unknown because many workers do not file complaints.

Since 2006, the Research Institute on Social and Economic Policy (RISEP)⁴ at Florida International University has been working with the Florida Wage Theft Task Force (WTTF)⁵ to create a database of wage violations collected by community organizations throughout Miami-Dade County. The database has grown to include cases reported by other organizations from other counties in Florida. The purpose of the database is to document the extent of wage theft, to quantify how much lost wages have been recovered, and to see which industries in Florida are most affected by the problem.

In the first report released in November 2010, we presented data on wage theft cases brought to We Count! and El Sol, two community organizations in Miami-Dade County and Palm Beach County respectively, and we also included data reported by the U.S. Department of Labor Wage and Hour Division (WHD) offices in these two counties. That report revealed that nearly 4,000 wage violations had occurred and over \$3 million dollars had been recovered in unpaid wages, from September 2006 through March 2010 in those two counties. The data in the first report showed that wage theft happened primarily in low-wage industries, for example in restaurants and hotels, but that it was also happening in professional and higher salary businesses, such as

legal services, and architecture and accounting firms, public and private schools, and medical professional and para-professional services.⁶

This report presents previously unanalyzed data on wage theft in Florida. The first focus is on two and a half years of enforcement data reported by the Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) for the entire state and for Miami-Dade, Palm Beach, Broward, Orange, Hillsborough and Pinellas Counties. We also analyze data on wage theft cases collected from six community organizations in three counties for different time periods, and data from the Miami-Dade County Small Business Development Agency (SBD), which oversees Miami-Dade County's Wage Theft Ordinance, for the period from March 2010 just after the ordinance, was first passed until January 6, 2011. The community organizations' data reflect wage theft cases not reported to WHD, either because they are cases that do not fall under WHD's jurisdiction--meaning that the WHD was unable to help workers because they were not covered under federal labor laws, or the victims did not know about or were afraid to approach WHD.

The number of reported cases demonstrates the magnitude of the problem in various parts of the state. At the same time, because we know that many employees simply do not file complaints for unpaid wages, the sheer number of wage theft cases presented in this report by the DOL's Wage and Hour Division, Miami-Dade's SBD, and community organizations may be only a fraction of the true magnitude of wage theft in Florida.

The implications for the economic well-being of workers, the honest competition among businesses, and the potential for a negative impact on attracting new enterprise and workers to Florida are undeniably serious.

Wage and Hour Laws and Their Enforcement

Existing Federal Laws

America's workplace laws are failing to protect the nation's workforce.⁷ The Fair Labor Standards Act (FLSA) was signed into law in 1938. It requires, among other things, that employers pay their employees at least a federal minimum wage (currently \$7.25 per hour), and pay overtime for hours worked more than a standard work week (currently 1.5 times the regular wage for over 40 hours worked per week). It also restricts child labor and requires employers to maintain accurate records of all hours worked and wages paid to employees. However, FLSA applies only to employers who, "engage in interstate commerce, produce goods for interstate commerce, or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce," generally above a \$500,000 per year threshold.⁸ It does not cover hospital, school, or government workers or workers at small, local firms, including contractors for larger companies. Other federal labor laws such as the Agricultural Worker Protection Act,⁹ the Davis-Bacon Act,¹⁰ and others also contain exemptions that exclude millions of workers in the U.S. from wage and hour protections.

Limited Enforcement of Existing Laws

Recent government and policy reports have noted that across the country enforcement of labor laws have been inadequate, resulting in an increase in workplace violations such as wage theft.¹¹ Although the Obama Administration launched a major national campaign to address wage theft and has increased the budget and the number of investigators in the U.S. Department of Labor's Wage and Hour Division, the number of investigators is still grossly inadequate compared to the American workforce. A report by a non-partisan research institute in Ohio found that for every 146,000 U.S. workers, there is one Wage and Hour Division investigator.¹² The Wage and Hour Division does not have sufficient capacity to deal with all the cases of wage theft or other workplace violations that occur across our country.

Nationally, there is one Wage and Hour Division investigator for every 146,000 workers. In Florida there are 1.2 million workers for every WHD investigator, over eight times the national average.

With only six investigators for the entire state of Florida, it is safe to say the capacity of the WHD offices is limited.¹³ In fact, in Florida in December 2010, in Florida there were 1.2 million workers for every WHD investigator, over eight times as many as the national average.¹⁴ A June 2009 report released by the Government Accountability Office (GAO) found that Miami's Wage and Hour – Department of Labor (WHD-DOL) office failed to return multiple phone calls and record all cases in its database. The Miami WHD-DOL investigator told an undercover GAO researcher that because of the office's backlog, it would take eight to ten months to start an investigation of a new case.¹⁵

The majority of the wage theft cases documented by Miami-Dade's Small Business Development Agency and community organizations, and presented in this report, show that the WHD-DOL could not accept their cases, often because workers were not covered under federal labor laws. The WHD-DOL lacks the jurisdiction to help many workers recover their unpaid wages. In an interview with a newly hired Wage and Hour investigator, the frustration of not being able to help all workers was apparent. "It's so frustrating at times because I wish I had more jurisdiction to help people who are not covered by federal laws."¹⁶

The lack of resources within the WHD-DOL in Florida has created a major backlog of cases. This is a cause of concern, given that the Fair Labor Standards Act has a two-year statute of limitations, except in the case of a willful violation, in which case a 3-year statute applies. In other words, unless the violations are willful, back wages may only be recovered within two years of when the violations occurred. This means that employees only have two years to collect their unpaid wages from the time the violation took place.¹⁷ Consequently, every day that the WHD delays an investigation, the claimants risk of becoming ineligible to collect unpaid wages increases.

In 2000, the Florida legislature voted on an initiative of then governor Jeb Bush to dismantle the state's Department of Labor and Employment Security (DOLES). The state reorganized DOLES' functions and established the not-for profit corporation Workforce Florida and the Agency for Workforce Innovation (AWI). AWI handles several of the former DOLES' responsibilities, but not wage and hour complaints. Currently, Florida has no state equivalent to a Department of Labor to investigate wage and hour complaints and does not have staff to enforce its minimum wage law (currently set at the rate of \$7.67 per hour).¹⁸ As of December 2011, the Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law enacted in 2004.¹⁹

As of December 2011, the Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law enacted in 2004.

State wage and hour enforcement is an important protection for Florida's workforce. Employers also benefit from enforcement since it levels the playing field and keeps those employers who do not follow the law and pay the full wages due to their employees from gaining an advantage over those who do.²⁰ Federal and state minimum wage laws have numerous exemptions that exclude millions of workers in Florida from protections against employers who withhold their earnings.²¹ For those employees who are not covered under federal and state labor laws there are very few avenues for redress.²² The combination of exemptions and inadequate enforcement for those who are covered leaves Florida's workforce vulnerable to wage theft and other forms of labor violations.

Very recently one Florida County responded to the federal and state deficiencies and enacted an effective enforcement mechanism. The Miami-Dade County Ordinance, overseen by the county Small Business Development Agency, is filling an important gap by taking cases that cannot be resolved elsewhere. The Wage Theft Ordinance is an effective enforcement mechanism and an exception to the lack of recourse faced by many victims of wage theft.

Responses to Wage Theft

The Miami-Dade Wage Theft Ordinance

In 2006, several community-based organizations whose clients and members were experiencing wage theft came together to address the problem and create solutions.

Coordinated by the Florida Immigrant Coalition (FLIC),²³

these community organizations coalesced into the South Florida Wage Theft Task Force. Since then, more organizations including labor unions, faith based, immigrant rights, legal advocates, and university groups across three counties joined the task force and renamed it the Florida Wage Theft Task Force (WTTF). The task force's mission is to create solutions to remedy wage theft.

Need to File a Wage Theft Claim?

Visit Miami-Dade's
Small Business Development Agency at:
<http://www.miamidade.gov/sba/home.asp>

Miami-Dade County's Wage Theft Ordinance has recovered nearly \$400,000 in unpaid wages for 313 employees whose wages were unlawfully withheld from them.

On February 18, 2010, Miami-Dade County commissioners voted 10 to 0 for the passage of the first county wide Wage Theft Ordinance in Florida. This law established a policy of intolerance for wage theft and seeks to recover lost wages and punish employers who choose to break the law. To accomplish these goals, the ordinance provided for the creation of a readily accessible mechanism that allows county residents to report employers who have not paid all of the wages legally earned to their employees.

The Small Business Development Agency (SBD) was designated to administer and oversee the Wage Theft Ordinance. The SBD is also charged with overseeing and enforcing the county's Living Wage Ordinance. Under the Wage Theft Ordinance, the SBD established a review and implementation process that first attempts to conciliate any claims by notifying the employer of the filed claim and asking both parties to provide supporting documents. The employer must provide payment records. If they fail to do so they have violated federal labor laws. Should SBD staff be unable to reconcile a claim, the case is sent to a hearing examiner.²⁴ If a hearing examiner finds an employer guilty of violating the Wage Theft Ordinance, the employer becomes liable for the original wage owed, plus an additional amount equal to two times the wages owed as compensation to the employee.²⁵ Additionally, the employer will be liable to the county for the cost of the hearing examiner and administrative fees. The threshold for filing a claim is \$60 of unpaid wages and there is no cost for filing. The Miami-Dade Wage Theft Ordinance covers all employees in the county, including those who are not covered under the federal or state laws.

The majority of the employees who have filed wage complaints with the SBD were not covered by the federal and state minimum wage laws, meaning that the WHD of the DOL could not take their cases. In fact, the SBD estimates that 60 to 80 percent of its incoming cases have been referred from the Wage and Hour Division in Miami. Since the full implementation of the Miami-Dade County Wage Theft Ordinance in September 2010, the SBD has recovered nearly \$400,000 in unpaid wages for 131 workers who unlawfully had their wages withheld from them.²⁶

In November 2010, an employee was able to recover \$7,000 for 3 months worth of unpaid wages under Miami-Dade County's Wage Theft Ordinance. The employer initially refused to pay but later conciliated with the Small Business Development Agency that oversees the Ordinance. The employee sought help at the Department of Labor's Wage and Hour Office, but after weeks of trying to submit a claim, she was finally informed that they could not help her because she was not covered under the Fair Labor Standards Act. *"Thanks to the Miami-Dade Ordinance, I was able to recover the money that I earned. I know of many other workers who have suffered from this type of abuse and the county needs to protect workers against employers who do not pay their employees,"* she stated.¹

The Miami-Dade Ordinance fills a gap by handling cases that the Federal Department of Labor cannot. In a Miami Herald article, Will Garnitz, director of the Miami office of the U.S. Department of Labor states, “federal labor law only applies to those business connected directly or indirectly to interstate or foreign commerce. For those people who work in places where the federal law doesn’t apply, where are they supposed to go?” he asked.²⁷

It is still too early to evaluate how much of a deterrent to wage theft the Ordinance will be. In the meantime, it is an accessible and effective enforcement mechanism for employees without other recourse to recuperate wages owed, but not paid.²⁸

Florida’s U.S. Department of Labor Wage & Hour Division (WHD)

Although Miami-Dade’s Wage Theft Ordinance has helped and continues to help workers in Miami-Dade County recover wages owed to them, wage theft is a problem that affects the entire state of Florida. In this section we present data reported by the Wage and Hour Division (WHD) of the U.S. Department of Labor in Florida from September 2008 to January 2011. The WHD publicly reports the raw data on their website which includes: names and addresses of businesses that have violated FLSA, number of employees affected by the violation, the number of case violations, the wages employers agreed to pay, the number of employees paid, and the North American Industry Classification (NAICS) industry code for each offending business. The WHD does not record data on cases for which employers refuse to pay wages that are owed, does not report amounts claimed to be owed by employees, nor cases that fall outside of their jurisdiction. In this report, we analyzed the WHD data using SPSS²⁹ to quantify the number of wage violations, the number of employees who were employed in the violations, the industries in which the wage violations occurred, and the money that was agreed to be paid by the violating employers to the affected employees.

Table 1 lists the cases in different industries that have been reported by the WHD from September 2008 to January 2011, for the entire state of Florida. The industries are listed in descending order from the industry with the largest number of wage violations to the industry with the least number of wage violations. It shows that the total number of reported wage violations in the state of Florida between September 2008 and January of 2011, was 9,109, an average of 3,036 wage violations per year. Overall, the data suggest that the primary industrial pillars of Florida’s economy are undermined by widespread theft of employees’ wages.

Table 1 demonstrates that Florida’s key industries have the highest numbers of reported wage violations—*Accommodation and Food Services, Retail Trade and Construction*. *Accommodation and Food Services* have been a core focus of Florida’s economy for nearly a century and it has the highest frequency of wage violations. This industry includes: hotels, restaurants, bars, casinos, food service caterers, and other food serving establishments. Together these businesses employ a large proportion of Florida’s workforce and are fundamental to Florida’s tourism trade. Moreover, these businesses tend to pay relatively low wages. Thus, when there is wage theft from wages that are already relatively low, workers are likely to suffer even more severely. The *Construction* industry on which Florida’s recurring housing booms have been based had the third largest number of violations. While wages in the *Construction* industry are higher on average than some other industries, much work is done through subcontracting with often only verbal

agreements between a subcontractor and workers, and wages are often paid in cash. Under these conditions, it is relatively easy and common for subcontractors to not pay workers the wages they are due. Because construction jobs nose-dived when the housing bubble burst, wage theft violations have probably also decreased. Table 1, however, reports wage theft violations **after** the housing bubble burst.

Table 1. WHD-DOL Wage Theft Cases in Florida Sept 2008-Jan 2001	
Industry	Number of Wage Theft Cases
Accommodation and Food Services	1,680
Retail Trade	904
Construction	870
Healthcare and Social Assistances	825
Administrative Support & Waste Management & Remediation Services	810
Agriculture, Forestry, Fishing & Hunting	504
Other services (except public administration)	466
Manufacturing	456
Transportation & Warehousing	408
Educational Services	385
Professional, Scientific & Technical Services	363
Investigation & Security Services	271
Real Estate & Rental & Leasing	214
Finance & Insurance	209
Information	181
Public Administration	163
Wholesale Trade	162
Art, Entertainment and Recreations	138
Utilities	38
Missing Info*	24
Mining	17
Private Household	13
Management of Companies & Enterprises	8
Total	9,109
Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP * The Wage and Hour enforcement data provides the North American Industry Classification System (NAICS) code for each case. However, we could not locate the industries using the codes provided by the WHD for these cases.	

In between Florida's construction booms and busts, retail trade remains a relatively stable and increasing component of Florida's economy. Yet, it, too, contains considerable wage theft. In *Retail Trade*, wage theft violations are likely to consist of not paying employees time and a half for overtime or asking employees to begin work before clocking in at the beginning of the day and continuing to work after clocking out at the end of the day. As with the *Accommodation and Food Services* industry, the *Retail Trade* industry pays relatively low wages and employees losing wages owed to them is likely to cause undue suffering.

The industries with the smallest number of reported wage violations were *Private Households* with 13 cases. One of the occupations under the *Private Household* industry represents domestic workers who work as cooks, maids, chauffeurs, gardeners, and nannies. Emerging research, including the community organizations' data presented below, shows that domestic workers employed in the

Private Households industry may be among the most abused workforce in terms of wage violations, but because they are among the most isolated and vulnerable workers and are often not covered by federal or state laws, they are simply not reporting their cases or the WHD-DOL is unable to take their cases because of limited or lack of jurisdiction.

For example, live-in domestic workers are excluded from overtime pay and home care workers are completely excluded from both overtime pay and minimum wage provisions.³⁰

Table 2 presents the amount of unpaid wages recovered in each industry for all cases reported by the WHD-DOL in Florida, from September of 2008 to January 2011. The total amount of money recovered in Florida in 2 ½ years was \$28 million dollars. The types of wage violations and amounts included are described below.

Industry	Total Recovered Wages by Industry	Number of Wage Theft Cases	Average Amount Recovered Per Employee
Accommodation and Food Services	\$4,275,053	1,680	\$2,545
Administrative Support & Waste Management & Remediation Services	\$4,166,846	810	\$5,144
Construction	\$3,750,299	870	\$4,311
Healthcare and Social Assistances	\$2,495,817	825	\$3,025
Retail Trade	\$1,855,967	904	\$2,053
Manufacturing	\$1,691,324	456	\$3,709
Professional, Scientific & Technical Services	\$1,492,536	363	\$4,112
Transportation & Warehousing	\$1,189,379	408	\$2,915
Other services (except public administration)	\$1,167,725	466	\$2,506
Investigation & Security Services	\$875,350	271	\$3,230
Information	\$829,915	181	\$4,585
Educational Services	\$795,116	385	\$2,065
Art, Entertainment and Receptions	\$682,189	138	\$4,943
Real Estate & Rental & Leasing	\$654,092	214	\$3,057
Agriculture, Forestry, Fishing & Hunting	\$592,458	504	\$1,176
Finance & Insurance	\$496,032	209	\$2,373
Wholesale Trade	\$469,643	162	\$2,899
Public Administration	\$407,500	163	\$2,500
Utilities	\$218,775	38	\$5,757
Missing Info	\$97,321	24	\$4,055
Mining	\$33,099	17	\$1,947
Management of Companies & Enterprises	\$17,774	8	\$2,222
Private Household	\$8,884	13	\$683
Total	\$28,263,094	9,109	\$3,103

Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP

Accommodation and Food Services, the industry with the most documented wage violations, is also the industry with the largest amount of recovered unpaid wages, over \$4 million dollars, an average of \$2,545 of recovered wages for every one of the 1,680 affected employees working in this industry. Workers in the *Administrative Support and Waste Management and Remediation Service* industry received the second largest amount of recovered wages. The average amount of recovered wages per affected worker employed in this industry was \$5,144. This is more than double what a worker in the *Accommodation and Food Service* industry recovered and is because workers in this industry earn nearly double the annual wages of workers in the *Accommodation and Food Service* industry.³¹

The largest average amount of recovered back wages per employee at \$5,757 dollars was reported for the *Utilities* industry. We hypothesize that this may be due to the wage structure of the utilities industries where workers are more likely to earn higher wages, and as a result, recover more money when unpaid wages are awarded. The second largest average amount of recovered back wages per affected worker at \$4,943 dollars was reported for the *Art, Entertainment and Recreation* industry. Workers in this industry are employed as writers, musicians, theatre performers, athletes, or agents and managers.

The smallest amount of money recovered both in terms of the industry and per affected worker was in *Private Households*. Domestic workers clearly are not reporting wage abuse to the WHD and for those who do only a very few cases are falling within the agency's jurisdiction. As a consequence across the entire state only \$8,884 was recovered for the total industry. This represents an average of \$683 in recovered wages per worker whose cases were reported. From Table 2 we can see that the average amount of wages recovered by the 9,109 workers who filed a wage violation claim is \$3,103 dollars per employee.

While millions of dollars have been recovered for Florida workers through the Wage and Hour Division of the U.S. Department of Labor in just the last 2 ½ years, it is important to note that not all workers who have experienced wage theft are covered under the agency's jurisdiction nor do all workers come forth to report this abuse. We know from previous research and the organizations that serve different worker groups that the majority of workers who have experienced wage violations are not likely to report their complaints because they fear retaliation from their employers. They believe they will lose their jobs, and they fear harassment and discrimination, including threats of being reported for deportation.

The total amount of money recovered in unpaid wages in Florida in just under 2½ years was over \$28 million dollars.

Examples of Successfully Resolved Cases Mediated by WHD-DOL

Off the Clock Work Still Counts:

In August 2010, the WHD recovered \$433,819 dollars in back wages owed to 69 employees of Walt Disney Parks and Resorts in Orange County, Florida. Disney agreed to pay their employees following an investigation that uncovered violations of the Fair Labor Standards Act. These violations included requiring employees to work off the clock and not paying them for that time, and having employees work through their meal times. Wage and Hour Deputy Administrator Nancy Leppink said, "While Walt Disney has specific rules regarding off-clock work, an investigation conducted by the Department of Labor's Wage and Hour Division found that managers within the company were not adhering to those important policies. It is not enough to have policies. Management must also ensure that all supervisors are implementing them."¹

Not Paying for Overtime:

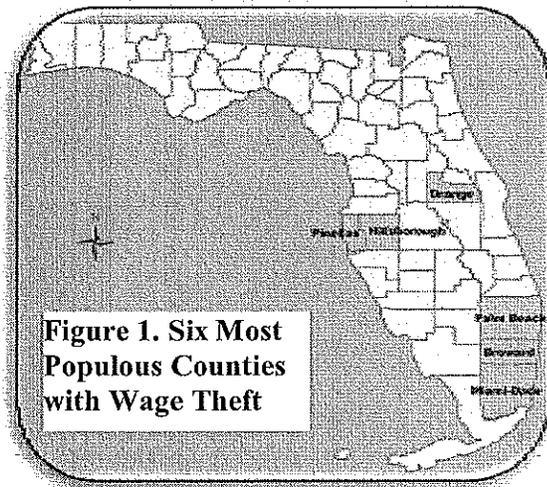
In February 2011, WHD-DOL recovered \$60,000 in back wages from Los Avina Mexican Restaurants in Alachua and Levy Counties. In violation of the Fair Labor Standards Act (FLSA), the owner failed to pay the minimum wage and overtime compensation to five of its employees. The owner also failed to keep complete and accurate records of employees' work hours and wages, as required by FLSA.

Stiffing Employees:

In August 2009, after not being paid a month's worth of wages, 49 employees of Miami manufacturer Hoover Industries received \$44,485 in back wages from the company. The company agreed to pay their employees following an investigation by the WHD. The director of the Miami WHD office stated, "We are pleased that after explaining the FLSA rules to the company and our intention to prevent them from shipping their production to their customers, the company agreed to meet its legal obligations to its employees. These actions have enabled us to seek justice for these vulnerable workers."

Wage and Hour Division Data by County

In this section we examine six of Florida's most populous and economically important counties where we see that the numbers of reported cases are extremely high, but have differing patterns. The data presented is from the WHD-DOL in Miami-Dade, Palm Beach, Hillsborough, Pinellas and Orange Counties (highlighted in Figure 1).



As can be seen in Table 3, the largest amounts of wages were recovered in Miami-Dade County at \$5,920,338, respectively it was the county with the largest number of employees affected by wage theft at 7,641. The smallest amount of recovered wages for the six counties reported in this section was in Orange County with \$1,028,290. Although Orange County had the smallest amounts of recovered wages, it had 221 more wage theft cases than Palm Beach County.

Table 3 also shows the average amount that each employee recovered in wages. Comparing Tables 2 and 3, we see that recovered wages are much higher on average statewide than they are in the most populous counties. We unfortunately do not know if that is because the fewer cases outside of the larger counties are more egregious or if it is more difficult to recover wages in the largest counties. Among the five most populous counties, the largest average amount of wage recovery per worker at \$775 was reported for employees in Miami-Dade, followed by Hillsborough with \$694 per worker. The lowest amount was in Orange County with \$428 in average wages recovered per employee.

County	Total Wages Recovered	Number of Employees with Wage Theft Cases	Average Wages Recovered Per Employee
Miami-Dade	\$5,920,338	7,641	\$775
Hillsborough	\$3,266,775	4,705	\$694
Broward	\$2,246,687	3,894	\$577
Pinellas	\$1,874,978	3,615	\$519
Palm Beach	\$1,578,701	2,181	\$724
Orange	\$1,028,290	2,402	\$428

Source: U.S. Department of Labor. Wage and Hour enforcement data analyzed by RISEP

The variation in cases among these six counties is still unexplained. These differences may be due to several factors including levels of awareness about wage theft as an illegal and dishonest practice among workers and employers, levels of awareness about where to go to for help and to report wage theft, different concentrations of businesses and industries practicing wage theft, different socio-economic and cultural profiles of the workforces, and different degrees of worker organization in different industries in different counties. As more local governments and community based organizations become involved in addressing wage theft and public education and awareness about wage theft increases locally, the patterns of cases reported for each of these counties may change.

In Table 4 we continue our analysis of the six counties by looking at the total amount recovered in wages by industry. The table is color-coded to highlight those industries in each of the six counties that had the highest rates of wage theft as recovered by the WHD-DOL in Florida. As mentioned above, the largest total amount of wages recovered, at \$5,920,338, was reported in Miami-Dade County, while the smallest amount at \$1,028,290 was reported in Orange County. The largest total amount of wages recovered was from the *Accommodation and Food Service* industry due to the very large amounts reported for that industry in Miami-Dade (\$1,104,568), Hillsborough (\$643,183), Broward (\$506,228), and Palm Beach (\$300,856) counties.

As cited earlier in this report, the WHD reports wage violations most frequently in the *Accommodation and Food Service* industry; and it is in this industry that the largest total of recovered wages for all six counties was reported, reaching close to \$3 million dollars over two and a half years.

High levels of wage violations were also reported by the WHD for workers in the *Construction* industry in Miami-Dade, Hillsborough, Broward, Pinellas, and Palm Beach counties. This industry had the second largest total of recovered wages at just under \$2 million dollars. Total recovered wages for workers in the *Administrative Support, and Waste Management, and Remediation Service* were also high at over \$1.5 million dollars. The amount of total recovered wages in this industry was highest in Miami-Dade, Hillsborough, and Orange Counties.

Table 4
Wages Recovered by Industry by County
Sept 2008 to Jan 2011

Industry	Miami-Dade	Hillsborough	Broward	Pinellas	Palm Beach	Orange	Total
Accommodation and Food Services	\$1,104,568	\$634,183	\$506,228	\$284,444	\$300,856	\$63,649	\$2,893,928
Administrative Support & Waste Management & Remediation Services	\$670,636	\$499,785	\$72,441	\$126,600	\$22,578	\$139,306	\$1,531,346
Agriculture, Forestry, Fishing & Hunting	\$35,986	\$19,792	\$0	\$0	\$5,758	\$20	\$61,556
Art, Entertainment and Recreations	\$271,944	\$21,201	\$983	\$16,416	\$151,363	\$4,407	\$466,313
Construction	\$689,493	\$371,708	\$385,672	\$302,007	\$170,974	\$18,344	\$1,938,199
Educational Services	\$116,135	\$71,550	\$53,120	\$23,940	\$17,191	\$16,150	\$298,086
Finance & Insurance	\$33,844	\$26,038	\$40,797	\$115,883	\$2,036	\$8,607	\$227,206
Healthcare and Social Assistances	\$499,083	\$314,027	\$177,149	\$325,378	\$92,268	\$88,136	\$1,496,041
Information	\$371,946	\$126,256	\$22,708	\$54,274	\$68,084	\$8,960	\$652,227
Investigation & Security Services	\$259,137	\$157,641	\$19,327	\$3,146	\$145,602	\$158,872	\$743,724
Management of Companies & Enterprises	\$0	\$664	\$0	\$0	\$0	\$14,289	\$14,953
Manufacturing	\$521,145	\$76,418	\$138,725	\$286,701	\$24,913	\$8,119	\$1,056,022
Mining	\$1,395	\$464	\$1,050	\$0	\$810	\$708	\$4,427
Missing Info	\$280	\$218	\$0	""	\$0	\$0	\$1,132
Other services (except Public admin)	\$400,383	\$126,158	\$102,649	\$27,443	\$89,105	\$57,213	\$802,953
Private Household	\$1,557	\$0	\$0	\$0	\$3,864	\$0	\$5,422
Professional, Scientific & Technical Services	\$347,190	\$150,786	\$245,984	\$53,068	\$13,272	\$194,682	\$1,004,983
Public Administration	\$33,371	\$28,928	\$2,742	\$5,499	\$8,240	\$24,456	\$103,235
Real Estate & Rental & Leasing	\$51,534	\$53,897	\$83,328	\$25,450	\$247,261	\$41,296	\$502,767
Retail Trade	\$279,000	\$341,275	\$55,393	\$142,807	\$68,622	\$110,670	\$997,766
Transportation & Warehousing	\$154,665	\$68,731	\$170,830	\$65,883	\$60,561	\$67,943	\$588,612
Utilities	\$0	\$121,931	\$0	\$1,311	\$5,190	\$1,441	\$129,873
Wholesale Trade	\$77,047	\$55,124	\$167,562	\$14,092	\$80,154	\$1,019	\$394,999
Total	\$5,920,338	\$3,266,774	\$2,246,688	\$1,874,978	\$1,578,702	\$1,028,290	\$15,915,77

Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP

Color Legend:

- Red—industry with largest amount of recovered wages
- Green—industry with 2nd largest amount of recovered wages
- Blue—industry with 3rd largest amount of recovered wages

In Pinellas County, the patterns of recovered wages by industry varied from the patterns in the other counties. There workers in the *Healthcare and Social Assistances* (\$325,378) and *Manufacturing* (\$286,701) industries along with construction workers (\$302,007) recovered the highest amounts of wages. This differed from the patterns of wages recovered for workers in other counties where the *Accommodation and Food Services* and *Administrative Support, and Waste Management, and Remediation Service* industries accounted for the largest amounts of recovered wages. Among the industries accounting for the largest amounts of recovered wages the pattern in Orange County varied distinctly. There the industry from which the largest amount of wages were recovered was *Professional, Scientific, and Technical Services* (\$194,682) followed by the *Investigation and Security Service* industry (\$158,872).

In Palm Beach County the *Real Estate, and Rental, and Leasing* industry represented the second largest category of recovered wages (\$247,261). Further demonstrating that wage theft is not confined to the low wage industries, the *Professional, Scientific, and Technical Services* industry was in the top three industries in which where the highest amounts of wages were recovered in Broward and Orange Counties.

The total amount of recovered wages in all of the industries combined for all six counties was just under \$16 million dollars. If we divide this amount by the total number of workers who were reported by the WHD as having experienced wage violations for the six counties (from Table 3), the average amount of recovered wages is \$651 per employee, more than a full week's work for someone earning \$15 an hour and more than two weeks work for someone earning the minimum wage. This average is a significant amount of money for an individual employee to lose over the course of a year. But, any loss of legitimately earned wages is a significant financial loss and a violation not only of law but also of the social contract between employee and employer that is fundamental to a market economy.

Community Organizations Combat Wage Theft

The wage theft cases reported by the Wage and Hour Division of the DOL presented in the previous sections of this report may be just "the tip of the iceberg." In this next section we present information on wage theft cases that were not reported to the WHD-DOL or Miami-Dade's Wage Theft Program.³² As such, they provide complementary data to that of the WHD-DOL and indicate how wage theft is truly widespread. These wage theft cases were collected by several community-based organizations in Miami-Dade, Palm Beach, and Hillsborough Counties.

The organizations in Miami-Dade are all founding members of the Florida Wage Theft Task Force and have worked over the years to document wage theft cases and collect back wages owed to their members. These organizations are We Count!, The Farmworkers Association of Florida, The American Friends Service Committee, and Americans for Immigrant Justice, formerly known as the Florida Immigrant Advocacy Center.

In Palm Beach County, El Sol Neighborhood Resource Center and People Engaged in Active Community Efforts have been collecting wage theft stories. These community organizations have been meeting with county commissioners for over a year in an effort to create a local county ordinance that would address the issue of wage theft in Palm Beach County.

The Florida Institute on Community Studies in Hillsborough County began to document wage theft case in January 2011. Each organization started systematically collecting case information and joined the wage theft database project at different times, and each has differing capacity for data collection tasks. Recently, most of these organizations started using a standardized intake form and with the help of RISEP are systematically entering their cases into a collaborative database.³³ Participation in the database will continue to expand as more organizations throughout the state join it.

Each organization in the three counties has unique information to contribute that is slightly different from the data reported by the WHD and Miami-Dade's SBD office, but which illustrates the wage abuses experienced by the workforce that fall outside the WHD jurisdiction or are not reported to WHD or the SBD. Because each organization's data is from different time periods and reported in different ways, we could not combine it all into one comprehensive table.

Nevertheless, some trends do emerge from their experiences. First, as with the WHD data, wage theft is not confined to a single or just a few industries. It is a widespread practice visible wherever anyone gathers data on it. *Construction* still stands out as an industry that is always among the most plagued by wage theft and the *Accommodation and Food Services* industry is nearly as frequent. Complaints from workers in private domestic service, which like for the *Accommodation and Food Services* industry, is considered low skilled and low paid work, emerge more prominently in the reports from community organizations than in the WHD data. This leads us to hypothesize that wage theft in this sector is more widespread than available data indicate.

Wage theft does appear to be more common, although not unique to industries that have lower average wages. Thus, workers who earn the least and are likely to suffer the most if they are cheated out of their wages are the ones most likely to suffer wage theft.

Miami-Dade County Organizations

We Count!

We Count!³⁴ is a founding member of the Florida Wage Theft Task Force. It is a multi-ethnic organization based in Homestead, the southern region of Miami Dade County. Staff and members are devoted to obtaining social and economic justice for immigrants and working people through learning about their civil and worker rights, supporting each other, developing leadership, and taking action to improve their lives. Over the past five years We Count! has helped workers recover unpaid wages and launched a campaign called “Mi Trabajo Vale!” (My Work is Valuable!) to encourage immigrant workers in the region to speak up about wage theft. At the time the data for this report was collected, We Count! had one full time staff and seven part-time member volunteers who assisted workers in recovering unpaid wages from employers. A pro-bono attorney from Florida Legal Services also assisted with wage theft cases.

In this report, we present cases collected by We Count! from August 2006 to January 2011. These are not cases reported by the WHD or the SBD, although We Count! has started referring more and more cases to the SBD.³⁵ Table 5 presents the wage theft cases reported by We Count! by industry. Over 62% of these cases were in the *Construction* industry, followed by cases in the *Agriculture* industry (29%). These figures correlate with the workforce population of WeCount!’s membership, many of whom are day laborers working for construction or landscaping and plant nursery businesses. Homestead is home to the largest concentration of plant nurseries in the state; thus the industry relies heavily on experienced agricultural workers, many of whom are cross-trained as landscapers and plant nursery workers.³⁶ The *Administrative Support and Waste Management, and Remediation Services* industry, which includes workers in cleaning and pest control occupations, comprised 5% of their cases (n=10), and 4% (n= 8) of their total wage theft cases were working in the *Accommodation and Food Services* industry.

Industry	Number of Cases
Construction	131
Agriculture	61
Administrative Support and Waste Management and Remediation Services	10
Accommodation and Food Services	8
Total	210

Source: We Count! Wage Theft Cases, data analyzed by RISBP

Table 6 shows the number of wage theft cases and range of unpaid wages claimed by workers seeking help from We Count! between August 2006 to January 2011.³⁷ The largest percentage of the workers (34.3%) claimed they were owed between \$60 and \$499, while 32.9% of the workers were owed between \$1,000 and \$4,999 dollars. Two workers were owed more than \$10,000 in unpaid wages. For workers earning at or close to the minimum wage any loss of earned wages is a serious loss with significant impact on individual and family well-being

Amount Owed	Number of Cases
\$0-\$59	2
\$60-\$499	72
\$500-\$999	49
\$1,000-\$4,999	69
\$5,000-\$9,999	8
\$10,000+	2
Missing info*	8
Total	210

Source: We Count! Wage Theft Cases, data analyzed by RISEP
*We Count! had 8 cases that did not report amount owed.

Staff and member volunteers at We Count! actively work on recovering unpaid wages. As seen in Table 6, We Count! documented a total of 210 wage theft cases during this time period. An additional 12 cases were referred to Miami-Dade County’s Small Business Development Agency for reconciliation under the Wage Theft Ordinance and are not included in this table.

Total Amount Owed in Unpaid Wages	Amount Recovered	Amount Still Owed
\$267,409	\$68,607	\$198,802

Source: We Count! Wage Theft Cases, data analyzed by RISEP

As Table 7 shows, the total amount owed to all of the workers reporting their cases to We Count! was \$267,409, while the total amount recovered was \$68,607. The amount recovered thus far, is 26% of the total amount claimed. The amount of wages still claimed by workers as owed to them is \$198,802. We Count! data suggest that only about one-quarter of lost wages are recuperated for those workers who report their claims. No analysis yet has been done on the ratio of claimed to recovered wages among cases addressed by the SBD or the WHD-DOL.

Dealing with wage theft is extremely challenging for community based organizations. When asked for this report what were the challenges in recovering unpaid wages We Count’s full-time staff member assigned to this task responded,

The hardest challenges are when offending employers do not keep records on their employees. An employer will negate that a particular employee worked for him [or her]. Another challenge is when workers, particularly day laborers, who are hired for a day or two worth of work do not obtain

information from the employer hiring them. This makes the case very difficult because we have very little information to go on.³⁸

Lack of accurate record keeping by businesses is important not only because of wage theft but also because businesses that do not keep accurate records on their workers and payroll, are additionally not maintaining accurate records for taxation.

The Farmworkers Association of Florida

The Farmworkers Association of Florida (FWAF) is a community organization that has offices in diverse agricultural communities and organizes and reaches out to farmworkers in 15 different counties in the state. The Florida City office in the southern region of Miami-Dade County has been actively engaged on the issue of wage theft for several years. FWAF is also a member of the Florida Wage Theft Task Force. As its name implies FWAF serves the agricultural workforce that is so important to the overall state economy and to various regions within the state. The mission of FWAF is to build capacity among farmworkers and rural low-income communities to respond to and gain control over the social, political, economic, workplace, health and environmental justice issues that impact their lives.³⁹

FWAF's Florida City office has been helping workers on wage theft cases since 2006 and began systematically documenting cases in March 2009. The cases presented in this report were reported to FWAF's Florida City office from March 2009 through December 2010. These cases are neither part of the data reported by the U.S. DOL Wage and Hour Division, nor part of the cases referred to the SBD under the Miami-Dade County anti-wage theft ordinance.

From March 2009 until December 2009, FWAF's Florida City office had received 8 reports of unpaid wages. By the end of December 2010, the same office had documented 97 more cases. FWAF attributes the surge in cases starting in 2010 to the growing awareness of wage theft precipitated by the media coverage of the Florida Wage Theft Task Force's efforts. Following a press conference after the passage of the Miami-Dade Wage Theft Ordinance, in which FWAF publicly announced its services, their office in south Miami Dade County began receiving calls and reports from workers all over the county. FWAF both independently helps workers and employers reconcile cases, and refers other cases to Miami-Dade's Small Business Development Agency.

Table 8 shows FWAF's total number of unpaid wage cases and the amount owed as well as the industries relevant to the reported cases. Workers in the *Construction* industry reported 40% (n=42) of the total cases and 29% of the total amount of unpaid wages owed. The average amount owed each employee in this industry was \$1,579. Thirteen workers (12% of all cases) in the *Accommodation and Food Services* industry reported the highest amount of wages owed per employee (\$4,488).

Table 8
Wage Theft Cases and Amount Owed Reported by
The Farmworkers Association of Florida
Mar 2009 to Dec 2010

Industry	Number of Wage Theft Cases	Amount Owed in Unpaid Wages	Average Wages Owed per Employee
Construction	42	\$66,321	\$1,579
Missing Info	17	\$31,024	\$1,825
Accommodation & Food Services	13	\$58,345	\$4,488
Agriculture	9	\$16,853	\$1,873
Transportation & Warehousing	6	\$24,677	\$4,113
Private Household	5	\$19,400	\$3,880
Health Care and Social Assistance	4	\$3,388	\$847
Administrative Support & Waste Management & Remediation Services	3	\$952	\$317
Educational Services	2	\$3,400	\$1,700
Retail Trade	2	\$1,129	\$565
Professional, Scientific, & Technical Services	1	\$465	\$465
Utilities	1	\$700	\$700
Total	105	\$226,652	\$2,159

Source: Farmworkers Association of Florida's cases, data analyzed by RISEP

Wages lost by workers in the *Transportation and Warehousing* industry accounted for the second largest average amount owed per employee with \$4, 113, yet only six cases were reported to FWF. The cases reported under the *Private Household* industry were five domestic workers who claimed to be owed a total of \$19,400 in unpaid wages. The average wage owed to the five domestic workers was \$3,880 per person. The cases in the *Health Care and Social Assistance* industry were four caregivers working in nursing home facilities. The total reported amount owed for all four cases was \$3,388 in unpaid wages. The *Educational Services* industry accounted for two cases but the average amount owed per employee was \$1,700. One worker in the *Professional, Scientific and Technical Services* and another worker in the *Utilities* industries reported their cases to FWF.

The total amount owed for all 105 cases was \$226,652 in unpaid wages.⁴⁰ This averages to \$2,159 in unpaid wages per employee who filed a wage theft claim with FWF's South Florida office. From this data we can see that the majority of wage theft victims coming to FWF for assistance were not farmworkers, but rather workers in various industries. In FWF's data we see a few domestic workers, one of the most isolated and vulnerable workforce populations in Florida. Because their contact information was prominently listed in publicity surrounding passage of the Miami-Dade county ordinance, individuals from all over the county contacted FWF's Florida City office. This may have been because some workers believed they would be

addressed in Spanish by FWAF staff, but only in English if they contacted the SBD. Some individuals may have felt more secure contacting an office known to serve immigrant workers rather than calling a government agency. Whatever the reason, the responses from workers in industries as diverse as *Construction* and *Educational Services* show how wage theft is not confined to the lowest income groups of workers, but is instead a business model that victimizes workers across industries and wage levels.

The American Friends Service Committee

The American Friends Service Committee (AFSC) is a Quaker organization that includes people of various faiths who are committed to social justice, peace and humanitarian services.⁴¹ AFSC has offices across the U.S. and abroad. The information presented in this section was collected by AFSC's Miami and Florida City-based offices. AFSC collaborates with local communities and other community based organizations, to increase awareness of the rights of immigrants and to promote economic development among them. AFSC has a long history of working among Miami-Dade County farm workers and other low income immigrant workers.

The American Friends Service Committee in Miami was one of the founding members of the Florida Wage Theft Task Force, and was the first organization in the area to work on wage theft cases. In 2005, AFSC received reports on dozens of wage theft cases from day laborers working in the *Agriculture* industry. Since then, AFSC has provided assistance to workers seeking to recover their unpaid wages.

The data on wage theft reported by the American Friends Service Committee was collected from August 2009 until June 2010.⁴² Starting in August 2009 AFSC began to use a standardized information intake process and by the end of June 2010, they had documented a total of 96 wage theft cases.

Table 9 shows AFSC's total number of cases, the total amount that was owed to workers by industry, and the percent of the total amount of wages owed by industry. The American Friends Service Committee reported a total of \$252,594 in unpaid wages for the 96 workers. Each worker who reported a wage theft claim was owed an average of \$2,631.⁴³ Nearly half (49%) of the total number of cases reported by the AFSC were workers with wage theft claims in the *Construction* industry. The total amount owed to construction workers was \$107,136 dollars in unpaid wages, or 42% of the total amount that was owed for all 96 cases.

Table 9
Number of Wage Theft Cases and Amount Owed
Reported by the American Friends Service Committee
Aug 2009-Jun 2010

Industry	Number of Cases	Amount Owed in Unpaid Wages	Average Wages Owed per Employee
Construction	47	\$107,136	\$2,279
Missing Info	13	\$24,350	\$1,873
Agriculture	10	\$21,880	\$2,188
Accommodation & Food Services	9	\$25,796	\$2,866
Private Household	7	\$36,376	\$5,197
Transportation & Warehousing	5	\$15,625	\$3,125
Investigation & Security Services	2	\$11,131	\$5,566
Retail Trade	2	\$7,800	\$3,900
Health Care & Social Assistance	1	\$2,500	\$2,500
Total	96	\$252,594	\$2,631

Source: American Friends Service Committee's cases, data analyzed by RISEP

Although the seven workers in the *Private Household* industry represented only about 7% of the total cases reporting to the AFSC, the total amount owed to these seven workers was 14% of the total owed to all workers. The workers in this industry claimed the second largest amount owed of all the industries listed (\$36,376 in unpaid wages), and was also the second largest in terms of the average wage owed per employee at \$5,197 per worker.

Only two employees in the *Investigation and Security Services* industry filed cases with AFSC, yet this industry had the largest amount owed per worker at \$5,566 each. One worker in the *Health Care and Social Assistance* industry filed a wage theft claim for \$2,500.

The AFSC staff continues to negotiate and conciliate cases with employers before using the SBD as a final mechanism to recuperate unpaid wages.

Americans for Immigrant Justice / Florida Immigrant Advocacy Center

Americans for Immigrant Justice, previously named The Florida Immigrant Advocacy Center (FIAC), located in Miami, Florida, is a not-for-profit legal assistance organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities.⁴⁴ In 2007, Americans for Immigrant Justice (AIJ) created the Workplace Justice Project (WJP) to empower low-income immigrant women. The WJP litigates cases of wage violations and human trafficking. The WJP also works closely with private attorneys and government agencies, such as Miami's office of the WHD-DOL, and often refers cases to them when AIJ cannot conciliate cases.

AIJ is a founding member of the Florida Wage Theft Task Force. Through its WJP, it has trained former clients who have worked as domestic workers and have experienced wage theft to be part of an advocacy team, reaching out to other marginalized and vulnerable domestic workers.

Americans for Immigrant Justice's WJP data presented in this section were collected by AIJ staff, the WJP advocacy team, and law student interns and recorded in 2009 and 2010. Although AIJ collected information on about 75 wage theft cases, only 27 of these were fully complete and reported to RISEP for this report.⁴⁵ Table 10 shows that the *Private Household* industry represented 44% of all of AIJ-WJP's documented wage theft cases. These individuals were working as nannies, maids, cooks, or taking care of elders.

Table 10 Unpaid Wage Theft Cases by Industry Americans for Immigrant Justice- Workplace Justice Project 2009-2010	
Industry	Number of Cases
Private Household	12
Accommodation and Food Services	6
Construction	3
Administrative Support & Waste Management & Remediation Services	2
Investigation & Security Services	2
Transportation & Warehousing	2
Total	27

Source: Florida Immigrant Advocacy-WJP's cases, data analyzed by RISEP

AIJ-WJP's collected details from those who suffered wage theft and which reveal the difficulties workers face in receiving wages owed them. A female domestic worker had been brought to Florida from Peru on a B1 Domestic Worker Visa. She signed an employment contract, which was presented to the U.S. Embassy in Peru as part of the visa process. In the contract the employer promised she would work reasonable hours, receive minimum wage, receive benefits, and have her travel and visa costs paid by the employer. When she arrived in the U.S., she was told by her employer she would work seven days per week, 14-hour-plus days, and would receive only \$300 per month from which \$50 would be deducted to repay the employer for travel and visa costs. AIJ brought the case to the Miami office of the WHD-DOL to investigate the case. The employer refused to pay the owed wages and the WHD chose not to take legal action against the employer. The employer retaliated and threatened to have the worker arrested and deported, even after she had stopped working for the employer. As of this writing, her case is unresolved.

The employer of a woman, who had worked as a hotel housekeeper, denied her and her co-workers time and a half pay rate for overtime work. With the help of AIJ, she joined her co-workers in a class-action lawsuit to recover \$2,330 in unpaid overtime and \$318.75 in unpaid minimum wage. The lawsuit is still pending.

A business owner of a small construction company had been hired to provide labor for a restoration project as a sub-contractor to other larger construction companies. The sub-contractor hired approximately 50 workers to work on the project, which took nearly a year to complete. Toward the end of the project the contractor failed to pay the sub-contractor \$30,000 for the work that had been completed by his work crew. Finally, the sub-contractor had to let go all but 17 of his crew because he could not pay them. AIJ referred the business owner to a private attorney and the outcome is still not determined.

A clerical office worker for a small labor supply company realized after she started working that she was earning only \$5 per hour, \$2.25 below the state's minimum wage at the time. Before leaving her job, she asked her employer for the \$210 difference between what she had been paid and what she should have earned at the minimum wage. The employer delayed payment of the owed wages and came up with a series of excuses for why he would not pay her. Eventually the woman found AIJ and, with the help from law school interns at Florida International University's Human Rights Clinic, the employer agreed to pay the full amount he owed to his former employee.

A security guard worked for a small company that repaired tractor trailers. The employer continuously paid his employee late and would not pay the full amount that the employee had earned. Subsequently, the employer fired the security guard, yet the employer still owed him \$18,645 in unpaid back wages. AIJ initially sent a letter to the company, made visits to the business, and called the employer repeatedly to resolve the matter. However, the employer refused to pay. AIJ then contacted Miami's WHD-DOL, but that office determined that they could not establish jurisdiction because the employer's business was too small to be covered by the Fair Labor Standards Act (FLSA) and investigators declined to take the case. The case remains unresolved and no monies have been recovered for the security guard worker. These stories are typical of the thousands of individuals victimized by wage theft. Only two of these cases were resolved with restoration of wages earned.

The wage theft cases documented in Miami-Dade County are examples of employees who, because they work in occupations or for businesses outside the jurisdiction of the WHD-DOL, have no recourse to recuperate wages owed to them. The community organizations, along with the Small Business Development Agency, that oversees Miami-Dade's Wage Theft Ordinance, have been able to assist employees who would otherwise have no other recourse when their employers illegally withhold wages.

Wage theft has been a hidden problem; however, two local studies in Miami-Dade County have systematically investigated wage theft in two different and important industries, the plant nursery industry and the restaurant industry. These studies reached workers who were unaware of their rights or too intimidated to report their cases as well as those not covered by FLSA provisions. They add to the growing evidence of how widespread and insidious wage theft has become. Because wage theft is not only a problem confronted by workers, but also constitutes unfair competition to honest employers, these studies included interviews with employers to obtain their perspective on the issue.

Restaurant Opportunities Center

On March 2011, the Restaurant Opportunities Center United (ROC) and the Miami-Dade Restaurant Industry Coalition released a report showing that nearly half of the 580 Miami restaurant workers surveyed had experienced overtime wage violations. Additionally, 21.8% of the restaurant workers surveyed had experienced minimum wage violations, 27.1% had worked off the clock without being paid, and 15.5% reported that management took a share of their tips.⁴⁶ Interviews with employers revealed some employers were practicing wage theft because it was profitable. A restaurant manager with over 15 year in the industry described the restaurant's tip distribution scheme in which the restaurant owner illegally was taking almost a third of the tips pooled by the restaurant employees: "There is a point system [for distributing tips]--10 dollars for the waiter, 5 for the owner, and 3.50 for busboy. So if the waiter makes \$100, the owner makes \$50 and the busboy \$35."⁴⁷

Research Institute on Social and Economic Policy

In 2007, the Research Institute on Social and Economic Policy (RISEP) at Florida International University conducted interviews with employers in the plant nursery industry and found that three of the 15 interviewed employers admitted to knowingly committing wage theft because they knew there were no enforcement mechanisms and they could thus "get away with it." The other 12 employers explained how they were put at a competitive disadvantage because they paid their employees their earned wages. One employer commented,

"I know that other businesses in this area are not paying their workers their full wages. This makes it very difficult for me stay in business because I'm not cutting down on labor costs."⁴⁸

Two employers were ignorant of the actual state minimum wage. One employer responded:

"I'm not sure what the current minimum wage rate is. I think it just went up, but I don't pay my employees whatever amount that is because they are willing to work for a lot less. Besides if you pay them the minimum wage then you will be putting them out of a job because then all the jobs will be sent to Mexico."⁴⁹

One employer admitted to ignoring laws that businesses are required to follow:

"In order to be in this business [plant nursery industry], you have to lie and cheat when it comes to dealing with the government. It is too hard to stay in business if you follow all the laws. I can't be paying them time and half if they [workers] work more than forty hours per week. - - If the government was actually enforcing these laws then they could just shut your business down."⁵⁰

Certainly more research is needed to better understand employers' perspectives. However, underpaying the minimum wage or not paying workers at all might be rationalizations for other poor business practices that honest employers are not using. The RISEP study found that employers practicing wage theft also admitted to circumventing other laws protecting the health and safety of workers and economic reporting to government agencies. These studies were conducted only in Miami-Dade County. No research has yet been conducted on wage theft in other Florida counties. However, mounting evidence of wage theft in other regions is starting to accumulate from looking at WHD-DOL data by county and from reports from community based organizations.

Palm Beach County Organizations

Two community organizations, El Sol Neighborhood Resource Center (El Sol), a worker center in Jupiter, and People Engaged in Active Community Efforts (P.E.A.C.E), a faith-based organization joined efforts in early 2010 to address the issue of how the problem of wage theft negatively impacts their members and communities in Palm Beach County. These two community organizations are actively working to pass a local countywide wage theft ordinance, similar to the Wage Theft Ordinance passed in Miami Dade County. While the Ordinance passed on the first reading in 2011, the public hearing was rescheduled for March of 2012. In its place, the Legal Aid Society of Palm Beach County was asked to handle wage theft cases as a pilot project.⁵¹

In a recent comparative study by P.E.A.C.E, which compared how wage theft cases were being handled in Palm Beach County by the Legal Aid Society of Palm Beach with Miami-Dade's Wage Theft Program under the Wage Theft Ordinance. The findings were that Miami-Dade County had a recovery rate of 46 % compared to only 2.5% by the Legal Aid Society in Palm Beach County. The report concludes that having an actual county ordinance that addresses wage theft rather than depending upon pro bono attorneys was much more effective in recovering unpaid wages for employees.⁵²

El Sol Neighborhood Resource Center

El Sol was founded in 2006 out of the need to raise the voice of the immigrant population in Jupiter, Palm Beach County. Per an agreement with the town of Jupiter, El Sol can only offer their services to Jupiter's residents. El Sol's core service is its Day Labor Program, in which workers come to the center in search of jobs. El Sol registers and categorizes the workers by skill levels. This model provides safe and efficient solutions to unemployed workers in need of employment and to contractors and business owners in need of workers. El Sol is trusted in the community by both workers and business owners.

Since 2006, workers have come forward with complaints of not being paid their wages. Many of the workers reporting their complaints to El Sol of not being paid their wages were not asserting their right to overtime pay, but were simply trying to recover what had been promised to them as a wage.

During the early stages of their wage recovery experience, El Sol tested different remedies to recover unpaid wages, from using small claims court to referring cases to the Legal Aid Society of Palm Beach County, visiting the State Attorney, and seeking assistance from the Jupiter Police, to help recover unpaid wages. At that time, both the Legal Aid Society and the Jupiter Police declined to take on any of El Sol's wage theft cases.⁵³ The other methods proved to be either too costly or lengthy, or simply led to dead ends.⁵⁴ Some of the larger cases of at least \$300 or more were referred to private attorneys because most attorneys will not take cases involving smaller amounts. Currently, most of El Sol's wage theft cases have been handled by El Sol's pro-bono legal clinic, which tries to recover wages through calls and letters to non-paying employers.

Between August 2006 and August 2010, El Sol reported 148 cases of wage theft.⁵⁵ The total amount of wages owed from these cases was \$153,650 dollars. Recently, El Sol has experienced an upsurge in wage theft cases reported to them by their members, and it is estimated that on average they receive one wage theft case per week due to the current economic downturn.

One recent case illustrates some of what is happening under current economic conditions. Three young men were hired by a contractor whose business is cleaning foreclosed homes. The contractor promised to pay \$100 a day to the three employees, but often the employees worked more than 13 hours per day. For the first couple of months after being hired the employees were paid regularly, although they never received overtime pay. In addition to not receiving overtime pay, the contractor failed to pay the employees during their last month of employment. At the end of the month, the contractor insisted that he would pay them, but the employees are still owed their earned wages and their unpaid overtime. The contractor has not returned any of their telephone calls.

People Engaged in Active Community Efforts

People Engaged in Active Community Efforts (P.E.A.C.E) is comprised of 24 member faith congregations charged with the mission of effectively fighting injustices in Palm Beach County. Each year, P.E.A.C.E. organizations conduct a "listening process" with their members to uncover problems facing their communities. Wage theft was a notable problem that surfaced from home visits with members. According to a report written by P.E.A.C.E in 2010, wage theft was prominently mentioned in 54 of the approximately 90 house visits that they conducted across Palm Beach County in the preceding year.⁵⁶ In this section, we present direct quotes from workers who experienced wage theft; the quotes were collected by P.E.A.C.E members during these home visits. Their names have been changed in this report to protect confidentiality.

Wage Theft Is Happening to All Kinds of Floridians

"In May 2010, my brother worked for a month, Monday to Saturday, from 7am until 7pm. His job was at a commercial construction site of a major supermarket in the southern region. The manager on the site never paid him time and time again. The manager eventually left for Orlando and the workers never got their money."

-Jonathan, Holy Name of Jesus Catholic Church, West Palm Beach County

"I worked an extra shift at a convenience store and never got paid. When I asked what had happened, I was told that all I would receive was my regular paycheck and no overtime."

-Fran, Our Lady Queen of Peace Catholic Church, Delray Beach

"I am familiar with several gardeners having agreed to purchase plants and trees for a landscaping project. The job was finished and there was no one there to pay them. The employer got away with not paying them for their work and owing them the purchase of the plants and trees."

-Maria, Unitarian Universalist of Boca Raton

"My career expertise is in the accounting and auditing field. I have witnessed several evidences of wage theft on various levels."

-Peter, Holy Name of Jesus Catholic Church, West Palm Beach County

"I've had wage theft happen to me several times. I work and don't get paid, or I work and get paid less than what was agreed upon. I feel powerless."

-Alberto, Our Lady Queen of Peace Catholic Church, Delray Beach

"I was working for a telemarketing company. There were several instances, at least three, in which my check bounced when I tried to deposit it into my account."

-Chris, St. Andrew Episcopal Church, Lake Worth

"I got a job at an ice cream store. I got under the minimum wage without being aware of it until I was finally given my pay check. The owner thought it was okay to do what he did."

-Lucia, Unitarian Universalists of Boca Raton

In the following section we introduce an organization from Hillsborough County which had reconciled a few wage theft cases in 2003; it was not until this year that they began to formally document wage theft cases and joined the Florida Wage Theft Task Force.

Hillsborough County

Florida Institute for Community Studies

In November 2010, the Florida Immigrant Coalition (FLIC) included in their annual statewide congress a workshop on “Wage Theft” that focused on the successful passage of the Miami-Dade Wage Theft Ordinance. At the end of the workshop several organizations from Hillsborough and Pinellas Counties expressed interest in learning more about wage theft. In early January 2011, the Florida Wage Theft Task Force joined these organizations for a meeting in Tampa organized by the Florida Institute for Community Studies (FICS) to explore the issue in their region of the state.

The Florida Institute for Community Studies⁵⁷ was created in 2002 to form strategic partnerships with communities across Florida. Founded by a combination of activists and scholars, FICS works with community partners to conduct research, work on programs and participate in trainings and education. FICS’s staff and volunteer community advisors write strategic plans following a social development model that builds on identified strengths to address the community’s needs. Wage theft was an issue that FICS came across as they worked on topics as apparently disparate as health and afterschool programs. In spite of limited resources to focus on wage theft as a central project, FICS began to systematically document wage theft cases starting in January 2011.

In a recent interview with FICS’ director, she states:

“We know wage theft is an issue in our communities. As we start to probe more with our members, we are learning that our members are not getting paid for their work and this is a real problem. We have probably had at least 30 cases across the different industries - construction workers to farmworkers and restaurant employees - who were owed thousands of dollars. I estimate that nearly 70% of the people we work with have probably experienced wage theft.”⁵⁸

FICS staff was unaware of the Wage and Hour Division of the DOL and is sure the people they work with are unaware of any recourse for when an employer illegally withholds wages.

Conclusion

This report compiles and describes data from various sources showing that wage theft is widespread and increasing throughout the state and across industries. The more we look, the more wage theft cases we find.

This report reveals that millions of dollars of unpaid wages have been recovered and because we know that a large percentage of Florida's workforce is not covered by federal or state laws, the number of cases that go unreported and the amount of unpaid wages is likely to be two to three times what we report on. This implies that nearly \$60 to \$90 million dollars are lost and never recovered.

The wage theft stories collected by community based organizations offer a glimpse into the impact of wage theft on individual workers. When we consider that many workers who lose wages to wage theft earn at or near minimum wage with no benefits like health insurance, we can imagine that the loss of even a small amount of earnings imposes real hardship.

The evidence accumulating of a spreading anti-legal and, ultimately an anti-business practice raises serious questions for a state economy and local economies hoping to attract businesses and workforce to grow. What are the actual impacts on individual employees, honest employers, local budgets and the state's economy? Why does Florida withhold adequate funding for enforcement of existing labor laws? It also raises the question of can a county and state economy be healthy and grow while tolerating such an unjust business model that avoids contributing to tax revenues?

Questions about the cost of doing business in Florida and the risks of working in the state will also increase as more evidence of a climate of tolerance for wage theft and its impact on employees and honest employers becomes more widely known. Why do some industries appear more prone to the practice than others, especially those reliant on lower skilled, lower paid employees. Why are higher-skilled, higher paid employees also being victimized? Why do some jobs within industry sectors appear to make employees more vulnerable? We think it is because many of those employees are not protected by our labor laws and because there is no statewide mechanism to address the glaring problem of wage theft. We challenge policy makers to consider the ramifications of Florida becoming a glaring example of a state that tolerates and even encourages wage theft.

These same employers are with impunity breaking laws that not only protect employees, but also are critical to maintaining a fairly competitive business environment so critical in a capitalist society. They also serve to account for lower tax revenues as a result of many employers practicing wage theft. This dishonest business model puts law-abiding employers at a competitive disadvantage.

Endnotes

¹ To read the first report please see: Hernandez, Cynthia S. 2010. *Wage Theft in Florida: A Real Problem with Real Solutions*. Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁵ Bernhardt, Milkman et al., 2010. Broken Laws, Unprotected Workers. Read report at: <http://www.nelp.org/page/-/brokenlaws/BrokenLawsReport2009.pdf?nocdn=1>

³ Angee A. and Hernandez, C. *Planting Seeds of Justice: Combating Wage Theft among South Florida's Plant Nursery Workers* (2007). Read report at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

⁴ RISEP studies issues of concern to working families and low-income communities in Florida. At Florida International University we are a resource and a model for the University community by conducting problem solving research together with local communities that provides the tools for those directly affected to participate more fully in the public debate. Found at www.risep-fiu.org

⁵ The Florida Wage Theft Task Force members include: Florida Immigrant Coalition, We Count!, South Florida Inter-faith Worker Justice, Florida Legal Services, Inc, Florida Immigrant Advocacy Center, Unite-Here, Restaurant Opportunity Center-Miami, Women's Fund of Miami-Dade, South Florida AFL-CIO, Farm worker Association of Florida, South Florida Jobs with Justice, Service Employees International Union, American Friends Service Committee, Florida Institute for Community Studies, El Sol- Worker Resource Center, and the Research Institute on Social and Economic Policy.

⁶ See Hernandez, Cynthia S. 2010. *Wage Theft in Florida: A Real Problem with Real Solutions*. Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁷ Ibid.

⁸ United States Department of Labor, "Elaws - Employment Law Guide A Companion to the FirstStep Employment Law Advisor," Sept. 2009.

⁹ The Agricultural Worker Protection Act applies only to agricultural workers. It does not set a minimum wage, but provides for notice of terms and conditions of employment, transportation and housing safety, and payment of wages when due. 29 U.S.C. statute 1801 et. seq.

¹⁰ Read more on the Davis-Bacon Act at: <http://www.dol.gov/whd/contracts/dbra.htm>

¹¹ See, for example: Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives (June 2009).

¹² Schiller and DeCarlo. *Investigating Wage Theft: A Survey of the States*. Policy Matters Ohio (2010). Read report at: <http://www.policymattersohio.org/pdf/InvestigatingWageTheft2010.pdf>

¹³ Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives. June 2009.

¹⁴ We divided the December 2010 figures for non-agricultural employment estimates from the Agency for Workforce Innovation by the number of DOL Wage and Hour investigators. Employment estimates for Florida can be found at: <http://www.labormarketinfo.com/>

¹⁵ Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives. June 2009.

¹⁶ Phone interview with Cynthia S Hernandez. 12 Jan. 2011 Interviewee's name has been omitted to protect confidentiality.

¹⁷ The Federal Labor Standards Act, statute of limitations Read more at: <http://www.dol.gov/elaws/esa/flsa/screen74.asp>

¹⁸ The Florida Department of Business and Professional Regulation has six investigators who enforce the state's child labor law. The department has 16 investigators who enforce Florida's farm labor registration act, whose requirements include that workers be paid on a timely basis, that wage statements are provided and that payroll records be maintained. Found at: www.myfloridalicense.com/dbpr/reg/farmLabor.html. Two of these 16 also enforce the child labor law.

¹⁹ Analysis of Florida House Bill 241 Fact Sheet. National Employment Law Project (March 2011).

²⁰ Schiller and DeCarlo. *Investigating Wage Theft: A Survey of the States*. Policy Matters Ohio (2010). Read report at: <http://www.policymattersohio.org/pdf/InvestigatingWageTheft2010.pdf>

²¹ Analysis of Florida House Bill 241 Fact Sheet. National Employment Law Project (March 2011).

²² In this report, we do not elaborate on the complexity of employment and labor laws. For a more detailed summary of Florida's lack of enforcement or remedies for wage theft, please read the Amicus Curiae Brief. *Florida Retail Federation, Inc vs. Miami-Dade County, Florida*, No.104-42326 CA 30, 2010 (11th Cir. Florida. Dec. 3, 2010). Found at: http://www.floridalegal.org/cjp/documents/101203_19_ACB.pdf

²³ The Florida Immigrant Coalition (FLIC) is a statewide immigrant rights organization. FLIC seeks equal rights for immigrants and integration into the civic and cultural life of Florida communities. The Coalition believes in the empowerment of immigrants and the unification of immigrant communities to develop an amplified voice for immigrant rights. The Coalition fulfills this vision by uniting urban, rural, religious, legal, and community-based organizations to advance our mission. Found at: <http://www.floridaimmigrant.org/default.asp?PageNum=57>

²⁴ The SBD has a pool of retired judges who have been designated as hearing officers.

²⁵ Miami-Dade Wage Theft Ordinance. Chapter 22 of the Code of Miami-Dade County, Florida; Prohibiting Wage Theft. Found at <http://www.miamidade.gov/govaction/matter.asp?matter=093228&file=true&yearFolder=Y2009>

²⁶ As of January 6, 2012, enforcement of the Wage Theft Ordinance has secured \$398,045.90 in unpaid wages for 131 workers. This information was obtained from the Small Business Development Agency of Miami-Dade County.

²⁷ Sanchez, Melissa. (2011, August 8). County budget woes threaten worker advocate. *The Miami Herald*.

²⁸ Smith, Jeanette. Victory in Miami-Dade County (2010). Wage Theft Toolkit found at: <http://wagetheft.org/>

²⁹ Statistical Package for the Social Sciences is a computer program used for statistical analysis.

³⁰ For coverage of the Fair Labor Standards Act read more at, 29 USC §201 et seq.; 29 CFR Parts 5.10 to 794 or found at: <http://www.dol.gov/compliance/guide/minwage.htm>

³¹ According to the Quarterly Census of Employment and Wages for 2009, the annual average wage for workers in the Administrative Support and Waste Management and Remediation Service was \$31,410, while workers in the Accommodation and Food Services industry were earning \$18,379. Found at: <http://www.labormarketinfo.com/Library/QCEW.htm>

³² For coverage of the Fair Labor Standards Act read more at: <http://www.dol.gov/compliance/guide/minwage.htm>. See exemptions listed at 29 U.S.C. Statues 203, 206, and 213.

³³ If you are part of an organization that might be interested in participating in the wage theft database or would like more information about it, please contact Cynthia S Hernandez, RISEP research associate, at Cynthia.Hernandez1@fiu.edu or (305)348-2614 and (786) 301-6665.

³⁴ We Count! is a multiethnic organization in the area of Homestead, Florida that works to achieve social and economic justice by bringing immigrants, students and working people together to inform themselves about their rights, support each other, develop their leadership, and take action to improve their lives. Found at: <http://www.we-count.org/>

³⁵ Some of We Count!'s same data was presented in the previous report and cases between September 2010 and January 2011 have been added to that data in this report.

³⁶ Angee A. and Hernandez, C. *Planting Seeds of Justice: Combating Wage Theft among South Florida's Plant Nursery Workers* (2007). Read report at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

³⁷ We Count's data are for the amounts of wages claimed by workers whereas the Wage and Hour Division of the U.S. DOL enforcement data is for the amounts employers agreed to pay back in settlements arbitrated by the WHD.

³⁸ Personal interview with We Count! organizer and Cynthia S Hernandez. December 2010.

³⁹ The Farmworker Association of Florida was founded in 1983 in response to devastating freezes decimating the citrus crop in Central Florida and impacting farmworkers' livelihoods. The organization incorporated in 1986 and expanded statewide in 1992. FWF's policy change efforts over the years have improved living and working conditions for Florida's estimated 300,000 farmworkers, and include passage of the historic Florida Right to Know Act, among other successes. Their programs include: Pesticide Health and Safety Trainings for Farmworkers; Pesticide Exposure Recognition; Diagnosis and Treatment Trainings for Health Care Providers at Migrant Clinics; Advocacy for Policy Change to Improve Farmworkers Living and Working Conditions; Community-based participatory research projects on farmworker health; Immigrants' and Workers' Rights Advocacy; Vocational Rehabilitation for Farmworkers; Education and Peer Support for Pregnant and Post-partum low-income, minority women; Disaster Preparedness and Relief; Youth Empowerment Program; HIV/AIDS Education and Prevention for Hispanic and Haitian Youth; Education and Empowerment for Latino Small Farmers; Leadership Development Outreach; and Collaboration with Student and Youth groups to raise awareness about farmworker issues. Found at: <http://www.floridafarmworkers.org/>

⁴⁰ Although the Farmworkers Association of Florida has helped workers recover their unpaid wages, we could not report on this amount because they do not keep track of this information.

⁴¹ The American Friends Service Committee was founded in 1917 during World War I. In accordance with the Quaker faith, the new organization gave young, conscientious objectors ways to serve without enlisting in the military or taking lives. They drove ambulances, ministered to the wounded, and stayed on in Europe after the armistice to rebuild war-ravaged communities. In 1947, AFSC was a co-recipient of the Nobel Peace Prize. Found at: <http://www.afsc.org/office/miami-fl>

⁴² Prior to August 2009, the American Friends Service Committee did not systematically document wage theft cases. Because of the lack of information available for the cases that AFSC worked from 2006 until August of 2009, those cases cannot be presented in this report.

⁴³ The American Friends Service Committee did not keep records on how much is recovered.

⁴⁴ Florida Immigrant Advocacy Center (FIAC) was founded in 1996 because of pending restrictions and funding cuts to Legal Services Corporation (LSC) funded agencies, which prevented many organizations in the state of Florida from serving the immigrant population. Sweeping changes in immigration law and welfare reform also increased the demand for services from FIAC. Since its inception, FIAC has met many challenges faced by immigrants, not only by representing individual clients with difficult cases, but also by influencing policy decisions, encouraging favorable clarifications of rulings, participating in effective and ongoing dialogue with senior immigration officials in Washington, and litigating or otherwise challenging patterns and practices of abuse. Since its founding, FIAC has closed nearly 75,000 cases and has become a national trendsetter in the immigration field. FIAC has grown from ten employees and a \$400,000 budget to a staff of more than fifty and a budget approaching \$4 million. FIAC's Workplace Justice Project (WJP) also supports innovative community economic development by providing advice to immigrant-led social entrepreneurial projects, such as a co-operative catering business founded and run by some of FIAC's former domestic worker clients. By confronting abuses, empowering grassroots leaders, and expanding opportunities, the WJP helps domestic workers transform their lives and their community. Found at :<http://www.fiacfla.org/aboutus.html>

⁴⁵ Law interns are currently working on writing up case summaries that we will include in future wage theft reports.

⁴⁶ The Restaurant Opportunities Center of Miami. *Behind the Kitchen Door: The Social Impact of Inequality in Miami's Growing Restaurant Industry* (2011). Read report at: http://www.rocunited.org/files/1101_BKD_MIAMI_final.pdf

⁴⁷ Ibid.

⁴⁸ Interview with Cynthia S Hernandez. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁴⁹ Interview with Cynthia S Hernandez and Alejandro Angee. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁵⁰ Interview with Cynthia S Hernandez and Alejandro Angee. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁵¹ Boother, J. and DMello J. A Comparative Study of the Wage Theft Project of Legal Aid Society of Palm Beach County with Miami-Dade's Wage Theft Program. (2011).

⁵² Ibid.

⁵³ Jill Hanson, Letter to Palm Beach County Commissioners (February 2011).

⁵⁴ Litigation is rarely an option for low-wage workers because filing lawsuits is an added expense that they cannot afford. The amount recovered in most cases is relatively low compared to the amount that they would have to pay in attorneys' fees or other expenses in filing lawsuits. And even if a worker wins a judgment, he or she still has to collect the judgment and this can be an added expense.

⁵⁵ See Hernandez, Cynthia S. *Wage Theft in Florida: A Real Problem with Real Solutions* (2010). Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁵⁶ People Engaged in Active Community Efforts (P.E.A.C.E) Report on Wage Theft in Palm Beach County. This unpublished report was presented to the Palm Beach County Commission (2010).

⁵⁷ The Florida Institute for Community Studies (FICS) offers programs for parents and youth. FICS believes that community-based participatory research is integral to their mission. Based on their research, community advisory boards write strategic plans that build on the identified strengths to reduce the identified risks through consensus. Found at: <http://www.ficsinc.org/>

⁶⁷ Personal interview with Cynthia S Hernandez. February 2010.

⁶⁸ See the Florida Agency for Workforce Innovation website at www.floridajobs.org/minimumwage for more information on how Florida's minimum wage is determined each year.

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--2009. United States, Government Accountability Office, *Department of Labor: Wage and Hour Division Needs Improved Investigative Processes and Ability to Suspend Statute of Limitations to Better Protect Workers Against Wage Theft*, 2.

--2010. "Just Pay: Improving Wage and Hour Enforcement at the United States Department of Labor." The national Employment Law Project. Found at: <http://www.nelp.org/page/-/Justice/2010/JustPayReport2010.pdf?nocdn=1>

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--2011. "Fact Sheet: An Analysis of Florida House Bill 241." National Employment Law Project.

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 3/5/2014 1:31:52 PM

Ends: 3/5/2014 3:11:16 PM Length: 01:39:25

1:32:02 PM Call to order
1:32:53 PM Tab 2 SB 720 Senator Galvano's legislative aide Ally
1:33:36 PM Amendment 1 barcode 199272
1:34:35 PM Roll call on SB 730
1:34:45 PM Bill passes
1:34:51 PM Tab 3 SB 378 Senator Abruzzo
1:35:47 PM Amendment 1 barcode 280972
1:36:11 PM Senator Soto
1:37:18 PM Roll call on SB 378
1:37:46 PM Tab 4 SB 358 Senator Ring's legislative aide J.J Piskadlo
1:39:37 PM Senator Hukill
1:40:36 PM Roll call on SB 358
1:40:57 PM Bill passes
1:41:00 PM Tab 5 SB 392 Senator Brandes
1:41:38 PM Senator Smith
1:42:13 PM Speaker H. Lee Moffitt representing AAA - The Auto Club Group
1:47:22 PM Senator Thompson
1:47:51 PM Senator Thrasher
1:51:11 PM Senator Soto
1:53:31 PM Senator Latvala
1:55:02 PM Senator Hukill
1:58:38 PM Roll call on SB 392
1:58:52 PM Bill passes
1:58:58 PM Tab 1 SB 626 Senator Hay's legislative aide Nanci Cornwell
1:59:49 PM Amendment 1 barcode 188614
2:00:59 PM Senator Soto
2:01:39 PM Senator Smith
2:02:49 PM Senator Bradley
2:11:51 PM Senator Hukill
2:13:34 PM Roll call on SB 626
2:13:48 PM Bill passes
2:13:56 PM Tab 6 SB 586 Senator Altman's legislative aide Rick Kendust
2:15:22 PM Speaker David Cullen representing Sierra Club Florida
2:16:39 PM Senator Bradley
2:18:59 PM Senator Soto
2:20:05 PM Senator Hukill
2:21:33 PM Roll call on SB 586
2:21:44 PM Bill passes
2:21:56 PM Tab 8 SB 806 Senator Bradley
2:23:00 PM Roll call on SB 806
2:23:11 PM Bill passes
2:23:26 PM Tab 7 SB 846 Senator Latvala
2:26:05 PM Senator Smith
2:26:54 PM Amendment 1 barcode 318152
2:27:48 PM Senator Bradley
2:28:18 PM Speaker Kraig Conn representing Florida League of Cities
2:30:14 PM Amendment 1 withdrawn
2:30:17 PM Amendment 2 barcode 579214
2:30:52 PM Amendment 3 barcode 368688
2:31:16 PM Senator Smith
2:31:44 PM Amendment 4 barcode 401810
2:32:15 PM Amendment 5 barcode 775920

2:33:29 PM Amendment to amendment 5 barcode 147526
2:34:03 PM Amendment 6 barcode 233736
2:34:41 PM Amendment 7 barcode 516268
2:35:24 PM Amendment 8 barcode 883636
2:37:19 PM Roll call on SB 846
2:37:33 PM Bill passes
2:37:57 PM Tab 9 SB 544 Senator Simpson
2:39:21 PM Speaker Carol Jordan representing Tax Collectors Office
2:40:05 PM Speaker Marion Hammer representing NRA
2:41:39 PM Roll call on SB 544
2:41:43 PM Bill passes
2:41:54 PM Tab 10 SB 926 Senator Simpson
2:44:15 PM Senator Soto
2:45:34 PM Senator Latvala
2:49:49 PM Speaker Samantha Padgett representing Florida Retail Federation
2:51:58 PM Senator Thompson
2:52:54 PM Senator Smith
2:53:26 PM Speaker Rich Templin representing Florida AFL - CIO
2:59:44 PM Senator Latvala
3:01:45 PM Speaker Karen Woodall representing FL Center for Fiscal and Economic Policy
3:07:21 PM Senator Thrasher
3:08:57 PM Senator Thompson
3:10:02 PM Roll call on SB 926
3:10:24 PM Bill passes
3:11:12 PM Adjournment