

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Tuesday, February 19, 2013

TIME: 9:00 —11:30 a.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 236 Hukill (Identical H 4013, Compare S 518)	Tax Refund Programs; Deleting caps on tax refunds for qualified defense contractors and space flight businesses and for qualified target industry businesses, etc. CM 02/19/2013 Favorable ATD AP	Favorable Yeas 11 Nays 0
2	SB 292 Richter (Similar CS/H 55)	Deceptive and Unfair Trade Practices; Requiring a claimant to provide a demand letter to the motor vehicle dealer as a condition precedent to initiating civil litigation against such dealer under the Florida Deceptive and Unfair Trade Practices Act; providing that a dealer and its employees, agents, principals, sureties, and insurers are not required to pay attorney fees in certain circumstances; providing that payment or offer of payment of the damages does not constitute an admission of wrongdoing or liability, is protected from introduction as evidence in a civil litigation, and releases the dealer from any claim, suit, and action, etc. CM 02/19/2013 Fav/CS JU	Fav/CS Yeas 7 Nays 4
3	SB 358 Simmons (Identical H 219)	Professional Sports Franchises; Adding Major League Soccer to the meaning of the term "league"; providing that a previously certified applicant is not eligible for an additional certification under certain circumstances; requiring the Department of Economic Opportunity to reserve two new facility certifications for new Major League Soccer franchises, etc. CM 02/19/2013 Favorable AFT AP	Favorable Yeas 11 Nays 0

Consideration of proposed committee bill:

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Tuesday, February 19, 2013, 9:00 —11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7016	Department of Economic Opportunity; Revising requirements for various annual reports submitted to the Governor and Legislature, including the annual report of the Department of Economic Opportunity, the annual report of Enterprise Florida, Inc., and the annual incentives report; revising the department's duties to administer the Small Cities Community Development Block Grant Loan Guarantee Program; requiring the department to impose a penalty against a claimant who is overpaid reemployment assistance benefits due to fraud by the claimant and providing for deposit of moneys collected for such penalties in the Unemployment Compensation Trust Fund, etc.	Submitted as Committee Bill

Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, www.flsenate.gov

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 Commerce and Tourism

BILL: SB 236

INTRODUCER: Senator Hukill

SUBJECT: Tax Refund Programs

DATE: February 18, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	Favorable
2.	_____	_____	ATD	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 236 removes the limitation on the maximum amount of tax refunds an individual participant of either the Qualified Defense Contractor and Spaceflight Business Tax Refund program or the Qualified Target Industry Tax Refund program may receive in all fiscal years.

This bill substantially amends ss. 288.1045 and 288.106, F.S.

II. Present Situation:

The Department of Economic Opportunity (DEO) offers several economic development incentive programs aimed at addressing the specific needs of businesses as they look to expand or locate in Florida. These programs facilitate economic development projects by providing qualified businesses with opportunities to receive tax refunds, tax credits, tax exemptions, and cash grants. Two of such programs are the Qualified Defense Contractor and Space Flight Business Tax Refund¹ and the Qualified Target Industry Tax Refund.²

Qualified Defense and Space Contractor Tax Refund Program

The Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program concept was created in 1993 by Executive Order No. 93-118, signed by Governor Chiles on August 13, 1993. The order was intended to be a response to the state's concerns that reductions in federal defense spending could result in losses to high-wage, high-technology jobs in Florida.

¹ Section 288.1045, F.S.

² Section 288.106, F.S.

The Legislature codified the QDSC program in law in 1996,³ originally designating the program as the Qualified Defense Contractor Tax Refund program. The program has been amended several times in the intervening years. In 2008, the program was amended to include space flight businesses as eligible participants in the program and the program was renamed to reflect the inclusion of space flight businesses. The program is set to expire on June 30, 2014, under current law.^{4, 5}

The QDSC program targets the following types of projects:

- New or consolidated Department of Defense (DOD) contracts;
- Conversion of DOD production jobs to non-defense production jobs;
- Projects involving the reuse of defense-related facilities for specific activities; or
- Contracts for the manufacturing, processing, and assembly of space flight products; and other activities related to space flight.

Depending on the type of projects, applicants must show that the project increases or creates jobs, the jobs pay a certain average annual wage, and other related information.

The QDSC program's incentive is a tax refund of \$3,000 per job created or retained, or \$6,000 per job if the business's project is located within a rural county or an enterprise zone. An additional \$1,000 refund payment for each job created or retained is allowed if the business pays an average wage of 150 percent of the average private sector wage in the area, or an additional \$2,000 per-job bonus if the business pays an average wage equal to at least 200 percent of the average private sector wage in the area.

In order to qualify for an award, an applicant business must receive a 20 percent match of the total award from the local government of jurisdiction where the project is to be located. The program requires that an applicant business provide a resolution by the local government governing body, which recommends the applicant be approved for the program and also commits to fund 20 percent of the annual tax refund. An exemption from this requirement is provided for projects locating in a county designated as part of the Rural Economic Development Initiative if the county's governing body adopts a resolution requesting exemption from the requirement for local financial support. Projects receiving the local match exemption may only receive 80 percent of the total tax refund award.

A business may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement in any fiscal year, and no more than \$2.5 million in tax refunds in any fiscal year. Additionally, a business may not receive more than \$7 million in tax refunds under the program. If a business reaches the cap, it does not qualify for additional projects or refund payments under the program.

If a business does not meet its job creation objectives, it may still receive a prorated share of the refund minus a 5 percent penalty if it creates at least 80 percent of the jobs, pays at least 90 percent of the wages, and meets all other requirements of its performance agreement.

³ Ch. 96-348, L.O.F.

⁴ Ch. 2008-89, L.O.F.

⁵ Section 288.1045, F.S.

A qualified defense contract or spaceflight business may claim refunds from one or more of the following taxes paid:

- Corporate income taxes;
- Sales and use taxes;
- Intangible personal property taxes;
- Excise taxes paid on documents;
- Ad valorem taxes;
- Corporate income taxes; and
- Certain state communication services taxes.

Since the QDSC program's inception, 33 QDSC applications have been approved, 15 contracts have been executed, and 5 projects have been completed, meaning that the business has met the terms of its contract and received all eligible incentive payments. Of those 15 executed contracts, 6 remain active, meaning they are eligible to receive tax refunds through the QDSC program. These 6 projects have committed to create 418 cumulative jobs. The 5 completed projects cumulatively created 1,521 new jobs, exceeding their initial commitment to create 795 new jobs.⁶ In Fiscal Year 2011-2012, \$2,180,000 in QDSC incentives were awarded, of which \$1,744,000 was awarded by the state.⁷

Qualified Target Industry Tax Refund Program

The Qualified Target Industry Tax Refund (QTI) program was created by the Legislature in 1994⁸ to encourage the recruitment or creation of higher-paying, higher-skilled jobs in the state by awarding eligible businesses tax refunds in exchange for creating jobs in certain target industries. The refund award level is based on wages paid, number of jobs created, and the location in the state that the business chooses to locate or expand. The QTI program is set to expire on June 30, 2020, under current law.

In order to qualify for the program, an applicant business must fall into one of Florida's target industry categories, which are developed by DEO and Enterprise Florida, Inc. (EFI). A diagram of targeted industries is below:⁹

⁶ An active incentive project means a business is currently performing and in good standing.

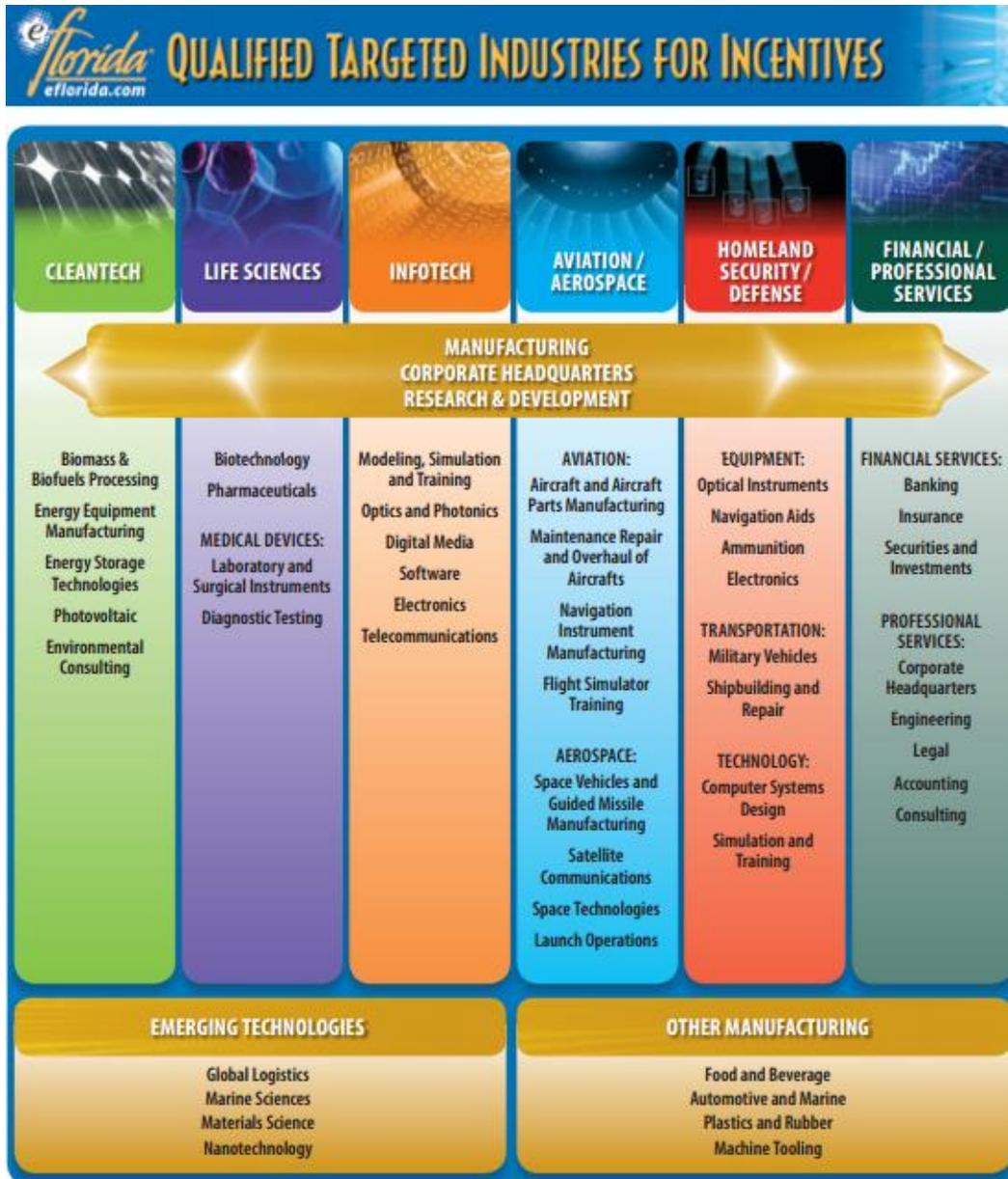
The status of each incentive falls within one of six categories: active, inactive, terminated, vacated, withdrawn, or complete.

⁷ Information in this paragraph obtained from Enterprise Florida Inc.'s 2012 Annual Incentives Report. Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf, (last visited January 22, 2013).

⁸ Ch. 94-136, L.O.F., codified as s. 288.601, F.S.

⁹ The diagram is from the 2011 DEO State Job Creation Plan. Available at:

http://www.eflorida.com/download/state_of_Florida_job_creation_plan.pdf, (last visited on January 18, 2013).



Additionally, a business must:

- Agree to create 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. DEO may grant a waiver to an existing business located in an enterprise zone or rural county.
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area or of the statewide private sector average wage. DEO may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area or for manufacturing project.
- Receive a commitment of a 20 percent local match. Local matching funds may include funds from public or private sources. The form of the commitment must be included in a resolution passed by the county commission of the county where the project will be located. If local

financial support is less than 20 percent, DEO reduces the state award by the same amount.¹⁰
¹¹ If an applicant business's project will be located in a brownfield, a rural city, or a rural community, the 20 percent match requirement may be waived.

The QTI program offers a tax refund of \$3,000 per created job. The per-job tax refund increases to \$6,000 if the business is located within a rural county or an enterprise zone. The program allows for tax refunds in addition to the standard awards:

- \$1,000 per job if the business pays an average annual wage of at least 150 percent of the average private sector wage in the area the project is located;
- \$2,000 per job if the business pays an average annual wage of at least 200 percent of the average private sector wage in the area the project is located;
- \$1,000 per job if the local financial support is equal to that of the state's incentive award; and
- \$2,000 per job if the business falls within one of the high-impact sectors designated under s. 288.108, F.S., or increases exports of its goods through a seaport or airport in the state by at least 10 percent in value or tonnage in each of the years that the business receives a tax refund.

A qualified target industry business may not receive more than \$1.5 million in refunds in a single fiscal year, or more than \$2.5 million if the project is located in an enterprise zone. Additionally, a qualified target industry business may not receive more than \$7 million in refund payments in all fiscal years, or more than \$7.5 million if the project is located in an enterprise zone.

A qualified target industry business may claim refunds from one or more of the following taxes paid:

- Sales and use taxes;
- Documentary stamp taxes;
- Ad valorem taxes;
- Corporate income taxes;
- Insurance premium taxes;
- Intangible personal property taxes; and
- Certain state communication taxes under ch. 202, F.S.

Since the inception of the QTI program, 1,134 QTI applications have been approved, 967 contracts have been executed, and 97 agreements have been completed. Of those 967 projects, 335 remain active, meaning they are eligible to receive tax refunds through the QTI program. These 335 projects have committed to create 45,157 jobs cumulatively. The 97 completed agreements cumulatively created 19,694 new jobs, above the initial commitment to create 19,094

¹⁰ Effective July 1, 2011, through June 30, 2014, DEO may reduce the local financial support requirements by one-half for a qualified target industry business located in Bay County, Escambia County, Franklin County, Gadsden County, Gulf County, Jefferson County, Leon County, Okaloosa County, Santa Rosa County, Wakulla County, or Walton County.

¹¹ Effective July 1, 2011, through June 30, 2014, DEO may waive any or all wage or local financial support requirements for QTI businesses relocating from another state to a Disproportionately Affected County. DEO may also increase the QTI refund incentive to \$6,000 per job for such businesses. The Disproportionately Affected Counties are: Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, and Walton County.

new jobs. In Fiscal Year 2011-2012, \$58,063,500 in QTI incentives were awarded, of which \$46,450,800 was awarded by the state.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 288.1045, F.S., to remove the limitation which restricts a qualified applicant from receiving more than \$7 million in tax refunds in all fiscal years it participates in the Qualified Defense Contractor and Spaceflight Business Tax Refund program.

Section 2 amends s. 288.106, F.S., to remove the limitation which restricts a qualified target industry business from receiving more than \$7 million in refund payments in all fiscal years it participates in the Qualified Target Industry Tax Refund program, or more than \$7.5 million if the project is located in an enterprise zone.

Section 3 provides that the bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill has not been evaluated by the Revenue Estimating Conference.

The bill removes the lifetime cap for the amount of tax refund payments a single qualified business may receive in the QDSC and QTI tax refund programs. However, a qualified business would still be limited to the maximum annual tax refund amount of \$1.5 million or \$2.5 million depending on the program and the circumstances. In addition, the annual statutory funding cap of \$35 million pursuant to s. 288.095(3)(a), F.S., would still apply. Both programs will continue to be subject to annual legislative appropriations.

¹² Information in this paragraph obtained from Enterprise Florida Inc.'s 2012 Annual Incentives Report. Available at: Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf, (last visited January 22, 2013).

B. Private Sector Impact:

Businesses may receive an unlimited amount of QDSC or QTI tax refunds over its lifetime. However, awards for QDSC and QTI are still limited to annual award limitations and appropriations.

C. Government Sector Impact:

The bill is not expected to increase the resource demands of the Department of Economic Opportunity.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations
Appropriations Subcommittee on Education
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

January 17, 2013

The Honorable Nancy Detert
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Madam Chair Detert:

Senate Bill 236, relating to Tax Refund Programs has been referred to the Commerce and Tourism Committee. I am requesting your consideration on placing SB 236 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Jennifer Hrdlicka, Staff Director of the Commerce and Tourism Committee
Patty Blackburn, Administrative Assistant of the Commerce and Tourism Committee
Charlie Anderson, Legislative Assistant for Senator Nancy Detert

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/13

Meeting Date

Topic Caps on QTI and QDSC

Bill Number SB236
(if applicable)

Name Chris Snow

Amendment Barcode _____
(if applicable)

Job Title Senior Director of Government Relations

Address 1580 Waldo Palmer Lane
Street

Phone 321-474-9754

Tallahassee FL
City State Zip

E-mail CSnow@spaceflorida.gov

Speaking: For Against Information

Representing Space Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/13

Meeting Date

Topic SPACE : DEFENCE CONTRACTORS

Bill Number SB 236
(if applicable)

Name JEFF SHARKEY

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT, CAPITAL ALLIANCE GROUP

Address 106 E. COLLEGE # 640

Phone 850 224 1600

Street

RTT

City

FL

State

32301

Zip

E-mail JEFF@SHARKEYCORP.COM

Speaking: For Against Information

Representing SPACE X

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/13

Meeting Date

Topic Tax Credits

Bill Number 236
(if applicable)

Name Stephen Shiver

Amendment Barcode _____
(if applicable)

Job Title Partner

Address _____
Street

Phone 222 8900

City

State

Zip

E-mail ss@cardenaspartners

Speaking: For Against Information

Representing Associated Industries

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/13

Meeting Date

Topic QDSC/RTI TAX REFUND PROGRAMS

Bill Number 23C
(if applicable)

Name TODD STEIBLY

Amendment Barcode _____
(if applicable)

Job Title _____

Address 301 S. BRIMMING ST.

Phone (850) 577-9090

Street

TALLAHASSEE, FL 32311

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing LOCKHEED MARTIN

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)

2-19-13

Meeting Date

Topic _____

Bill Number 236

(if applicable)

Name AMY EVANCHO

Amendment Barcode _____

(if applicable)

Job Title PRESIDENT & CEO

Address 3802 SPECTRUM BLVD

Phone 954-319-2435

Street

TAMPA FL 33612

E-mail zevancho@fedc.net

City

State

Zip

Speaking: For Against Information

Representing FLORIDA ECONOMIC DEVELOPMENT COUNCIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/29/12

Meeting Date

Topic Tax Refund Programs

Bill Number SB 236
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 S Bronough St
Street

Phone 850-521-1235

Tallahassee FL 32301
City *State* *Zip*

E-mail CJohnson@flchamber.com

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
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 Commerce and Tourism

BILL: CS/SB 292

INTRODUCER: Commerce and Tourism Committee, Senator Richter and others

SUBJECT: Deceptive and Unfair Trade Practices

DATE: February 19, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	Fav/CS
2.			JU	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 292 provides a procedure for addressing claims against motor vehicle dealers under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). Specifically, it requires claimants to provide a written demand to motor vehicle dealers at least 30 days prior to filing suit or initiating arbitration under the established procedure for the filing and handling of such notices and claims.

This bill amends the following section of the Florida Statutes: 501.975, F.S.
 This bill creates the following section of the Florida Statutes: 501.98, F.S.

II. Present Situation:

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA), found in part II of ch. 501, F.S., prohibits unfair methods of competition, as well as deceptive acts or practices, in the conduct of trade or commerce.¹ The expressed purpose of the act is to:

¹ Section 501.204, F.S.

- Simplify, clarify, and modernize the law governing consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices;
- Protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce; and
- Make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.²

The statute provides that an enforcing agency may pursue violations of this law. Enforcing authority is defined as the office of state attorney if the violation occurs in or affects the judicial circuit under the office's jurisdiction, or the Department of Legal Affairs (department) if the violation occurs in or affects more than one judicial circuit or if the office of the state attorney defers to the department in writing, or fails to act upon a violation within 90 days after a written complaint has been filed with the state attorney.³ The enforcing authority may bring:

- An action to obtain declaratory judgment that an act or practice violates the FDUTPA;
- An action to enjoin any person who has violated, is violating, or is otherwise likely to violate the FDUTPA; and
- An action on behalf of one or more consumers or governmental entities for the actual damages caused by an act or practice in violation of the FDUTPA.⁴

Under the FDUTPA, aggrieved individuals may bring an individual action to obtain a declaratory judgment that a practice or act violates the FDUTPA and to enjoin a person who has violated, is violating, or is likely to violate the provisions of this act.

The statute further provides that a prevailing party may recover reasonable attorney fees and court costs from the nonprevailing party.⁵ An individual may recover if he or she has suffered a loss; the enforcing authority may recover attorney fees and costs if the losing party is found to have acted in bad faith or raised issues of law or fact that were not justiciable. However, no damages, fees, or costs may be recovered from a retailer, who in good faith disseminated the claims of a manufacturer or wholesaler without having actual knowledge that it violated the law.⁶

In 2001, the Legislature enacted legislation that directly addressed unfair or deceptive acts or practices perpetrated by a motor vehicle dealer.⁷ The law provides a number of actions undertaken by a dealer that would constitute unfair or deceptive acts or practices and would be actionable under the FDUTPA. Some of those acts or practices include, but are not limited to:

- Representing the previous usage or status of a vehicle is something that it was not, or making usage or status representations unless the dealer has correct information regarding the history of the vehicle to support the representations.
- Representing the quality of care, regularity of servicing or general condition of a vehicle unless known by the dealer to be true and supportable by material fact.

² Section 501.202, F.S.

³ Section 501.203(2), F.S.

⁴ Sections 501.207, F.S. Damages are not recoverable under this section against a retailer who, in good faith, disseminates the claims of a manufacturer or wholesaler without actual knowledge that it violated FTUDPA.

⁵ Section 501.2105, F.S.

⁶ Section 501.211, F.S.

⁷ Chapter 2001-196, L.O.F., codified as part VI, ch. 501, F.S.

- Representing orally or in writing that a particular vehicle has not sustained structural or substantial skin damage unless the statement is made in good faith and the vehicle has been inspected by the dealer or his or her agent to determine whether the vehicle has incurred such damage.
- Altering or changing the odometer mileage of a vehicle.
- Failing to honor a provided express or implied warranty unless properly disclaimed.
- Misrepresenting warranty coverage, application period, or any warranty transfer cost or conditions to a customer.⁸

Several states have mandated some form of pre-suit notice under their respective Unfair and Deceptive Acts statutes, and Mississippi requires a pre-suit dispute resolution process.⁹

III. Effect of Proposed Changes:

Section 1 provides for the substitution of the citation of s. 501.976, F.S., to “this part,” in the introductory clause of s. 501.975, F.S. This would allow this definition to apply to the statute created in section 2.

Section 2 creates s. 501.98, F.S., to establish a procedure for filing a claim for unfair and deceptive trade practices against a motor vehicle dealer, including a pre-suit demand letter.

Demand Letter

Prior to initiating any civil litigation or arbitration against a motor vehicle dealer¹⁰ under ch. 501, F.S., a claimant must provide the dealer with written notice of the claimant’s intent to initiate litigation at least 30 days prior to filing his or her lawsuit. The demand letter, which must be completed in good faith, must:

- State the name, address, and telephone number of the claimant.
- State the name and address of the dealer.
- Describe the underlying facts of the claim, including a statement describing each item for which actual damages are claimed.
- State the amount of damages claimed.
- To the extent available, be accompanied by all transaction or other documents upon which the claim is based.

The demand letter must contain sufficient information to reasonably put the dealer on notice as to the nature of the claim and the relief sought.

The demand letter must be delivered to the dealer by the United States Postal Service or other nationally recognized carrier, return receipt requested, at the address where the subject vehicle

⁸ For a complete list of practices or acts by a dealer that constitute unfair or deceptive acts or practices and are actionable under the FDUTPA, see s. 501.976, D.S.

⁹ Carolyn L. Carter, *Consumer Protection in the States: A 50 State Report on UDAP Statutes*; National Consumer Law Center (February 2009). Those states requiring some form of pre-suit notice are Alabama, California, Georgia, Indiana, Maine, Massachusetts, Texas, West Virginia, and Wyoming. http://www.nclc.org/images/pdf/udap/report_50_states.pdf (last visited February 12, 2013).

¹⁰ In this section, the term “dealer” refers to a dealer, its employees, agents, principals, sureties, or insurers.

was purchased or leased, where the transaction occurred, or any address at which the dealer regularly conducts business.

The demand letter expires 30 days after receipt of the letter by the dealer, unless renewed by the claimant, and does not limit the damages the claimant may claim in subsequent civil litigation, including arbitration.

Civil Litigation and Arbitration

The claimant is precluded from initiating civil litigation or arbitration if, within 30 days of receipt of the demand letter, the dealer pays the claimant:

- The amount of actual damages claimed in the demand letter; and
- A surcharge of \$500, if the claimant is represented by an attorney.

A dealer is not required to pay attorney fees in a civil action or arbitration brought under the FDUTPA if:

- Within 30 days after receipt of the demand letter, the dealer notifies the claimant, in writing, and a court or arbitrator agrees, that the amount sought in the demand letter is not reasonable in light of the facts or if the demand letter includes items and amounts not properly recoverable under the law; or
- The claimant fails to sufficiently comply with the notice requirements; however, a demand letter will be deemed satisfactory if it contains sufficient information to reasonably put the dealer on notice as to the nature of the claim and the relief sought such that the dealer could respond appropriately.

The bill provides that a dealer's payment of damages claimed in the demand letter, as well as any required surcharge, is not an admission of wrongdoing or liability by the dealer and is inadmissible as evidence under s. 90.408, F.S.,¹¹ and releases the dealer from liability. However, it does not serve as a release from liability for items that are not included in the demand letter and not recoverable under FDUTPA.

If a claimant initiates litigation or arbitration prior to complying with the demand letter provisions, upon timely motion, the court or arbitrator must stay the action until the claimant complies. Attorney fees and costs incurred prior to such compliance are not recoverable.

Statute of Limitation

Any time limitation¹² on initiating civil litigation under ch. 501, F.S., is tolled for 30 days after the date of delivery of the demand letter or for such other period agreed to, in writing, by the parties after the demand letter is received by the dealer.

¹¹ Section 90.408, F.S., provides that "evidence or an offer to compromise a claim which was disputed as to validity or amount, as well as any relevant conduct or statements made in negotiations concerning a compromise, is inadmissible to prove liability or absence of liability for the claim or its value."

¹² The specific time limitation associated with a specific cause of action can be found in s. 95.11, F.S.

Notice to Consumer

Under the provisions of the bill, the dealer must provide the consumer written notice of the requirements of the demand letter. If the dealer fails to provide the notice to the consumer, any civil litigation or arbitration arising out of that transaction would not be subject to the demand letter provisions provided in the bill. The bill specifies that the notice must be in a font size no smaller than that of the predominant text on the page in which the claim is disclosed, or if it is disclosed by itself, in a font size of at least 12 points. The bill does not specify when the notice must be provided to the consumer.

Exemptions

The provisions of this bill do not apply to any action brought as a class action and ultimately certified as a class action. The bill also does not apply to any action brought by the enforcing authority.¹³

Section 3 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article 1, Section 21 of the Florida Constitution, provides that “the courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.” Pre-suit notice requirements have been prescribed, by statute, for numerous causes of action.¹⁴ Courts have upheld such pre-suit notice requirements¹⁵ and have generally required that provisions be interpreted by the courts in a manner that favors access.¹⁶

¹³ Section 501.503(2), F.S., defines enforcing authority as the office of the state attorney if the violation occurs in or affects the judicial circuit under the office’s jurisdiction or the Department of Legal Affairs if the violation occurs in or affects more than one judicial circuit or if the office of the state attorney defers to the department in writing, or fails to act upon a violation within 90 days after a written complaint has been filed with the state attorney.

¹⁴ See ss. 400.0233, 429.293, 558.004, 627.736(10), 766.106, F.S.

¹⁵ *Lindberg v. Hospital Corp. of America*, 545 So.2d 1384 (Fla. 4th DCA 1989), *approved by* 571 So.2d 446 (Fla. 1990).

¹⁶ *Weinstock v. Groth*, 629 So.2d 835, 838 (Fla. 1993).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of the State Court Administrator's 2013 Judicial Impact Statement, CS/SB 292 would facilitate pre-suit disposition of matters that are otherwise actionable in court. The bill will assist in diverting those court resources that would otherwise be engaged to other cases pending in the system.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 292 provides that the requirements, as created by this bill, for filing a civil lawsuit against a dealer under parts II or VI, of ch. 501, F.S., will not apply to a claim for actual damages brought and certified as a maintainable class action. However, because the language limits this exclusion to only a certified class action, concern exists that this will continue to encourage the "picking off" of the named class representative¹⁸ during the pre-certification phase of a class-action suit.^{19,20} The consequence for removing the class representative by a tender or offer of payment for his or her damages results in the class representative's claim becoming moot, which will result in a dismissal of the entire class action.²¹

¹⁷ Office of State Courts Administrator, *2013 Judicial Impact Statement* (Jan. 18, 2013) (on file with the Senate Commerce and Tourism Committee).

¹⁸ The named class representative refers to the plaintiff filing on behalf of members of the class that are similarly situated.

¹⁹ The four prerequisites for maintaining a class action are as follows: (1) the members of the class must be so numerous that is impractical to join each member; (2) the claim or defense must raise questions of law or fact that are common to the individual members; (3) the claim or defense of the representative parties must be typical of those that would be asserted by each member of the class. Fla. R. Civ. P. 1.220(a).

²⁰ "The purpose of the class action is to provide litigants who share common questions of law and fact with an economically viable means of addressing their needs in court." *Johnson v. Plantation Gen. Hosp. Ltd. P'ship*, 641 So.2d 58, 60 (Fla. 1994).

²¹ *Taran v. Blue Cross Blue Shield of Fla., Inc.*, 685 So.2d 1004, 1006 (Fla. 3d. DCA 1997) (quoting *O'Shea v. Littleton*, 414 U.S. 488, 494 (1974)) ("If none of the named plaintiffs purporting to represent a class establishes a requisite case or controversy with the defendant, none may seek relief on behalf of himself or any other member of the class.") (holding trial court could rule on standing before considering whether to certify class).

Federal case law has developed with respect to this issue and some courts have implemented legal tests for averting the dismissal of a class action during the pre-certification stage.²² In Florida, the state of the current law remains unclear; however, the Third District Court of Appeal has briefly stated “a [defendant] cannot simply try to ‘pick off’ a named class representative.”²³

The bill prescribes three places that the demand letter may be sent. This may result in litigation related to the proper delivery of the demand letter.

The bill does not specify when the notice must be provided to the consumer.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

CS by Commerce and Tourism on February 19, 2013:

The committee substitute does the following:

- Adds arbitration as an action that may not be undertaken without first adhering to the notice provisions provided.
- Provides that the amount of damages claimed must be stated in the demand letter.
- Changes the address to which the demand letter must be sent to the “address where the subject vehicle was purchased or leased or where the subject transaction occurred, or any address at which the dealer regularly conducts business.”
- Amends the condition under which the surcharge may be paid. It may only be paid if an attorney represents the claimant and the surcharge is now \$500 rather than the lesser of 10 percent of the claim or \$500.
- Provides that the demand letter expires 30 days after receipt by the dealer. The claimant may renew the demand letter without limiting the damages the claimant may later demand in any subsequent litigation.
- Removes the offer of payment of the claim as a basis to release the dealer from liability in connection to the claim.
- Provides that payment of a claim does not release a dealer from liability for damages not included in the demand letter and not recoverable under law.
- Allows for the tolling of time to file a lawsuit to be changed from the 30 days provided in the bill, if agreed upon by the parties, in writing, and signed after the dealer receives the demand letter.
- Provides that upon a timely motion by the dealer that a claimant has not complied with the demand letter requirements, the court or arbitrator will stay an action until the claimant complies. Attorney fees and costs incurred prior to compliance with this section are not recoverable.
- Provides the font size for the written notice to the consumer.

²² *Weiss v. Regal Collections*, 385 F.3d 337, 348 (3d Cir. 2004) (holding that where a defendant makes an offer for an individual claim that has the effect of mootng class relief asserted in the complaint, absent undue delay in filing a motion for class certification, the appropriate course is to relate the certification motion back to the filing of the class complaint).

²³ *Allstate Indemnity Co. v. De la Rosa*, 800 So.2d 245, 246 (Fla. 3d DCA 2001), *review denied*, 823 So.2d 122 (Fla. 2002).

B. Amendments:

None.

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



666404

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 501.975, Florida Statutes, is amended to read:

501.975 Definitions.—As used in this part ~~s. 501.976~~, the term ~~following terms shall have the following meanings~~:

(1) "Customer" includes a customer's designated agent.

(2) "Dealer" means a motor vehicle dealer as defined in s. 320.27, but does not include a motor vehicle auction as defined in s. 320.27(1)(c)4.



666404

13 (3) "Replacement item" means a tire, bumper, bumper fascia,
14 glass, in-dashboard equipment, seat or upholstery cover or trim,
15 exterior illumination unit, grill, sunroof, external mirror and
16 external body cladding. The replacement of up to three of these
17 items does not constitute repair of damage if each item is
18 replaced because of a product defect or damaged due to vandalism
19 while the new motor vehicle is under the control of the dealer
20 and the items are replaced with original manufacturer equipment,
21 unless an item is replaced due to a crash, collision, or
22 accident.

23 (4) "Threshold amount" means 3 percent of the
24 manufacturer's suggested retail price of a motor vehicle or
25 \$650, whichever is less.

26 (5) "Vehicle" means any automobile, truck, bus,
27 recreational vehicle, or motorcycle required to be licensed
28 under chapter 320 for operation over the roads of Florida, but
29 does not include trailers, mobile homes, travel trailers, or
30 trailer coaches without independent motive power.

31 Section 2. Section 501.98, Florida Statutes, is created to
32 read:

33 501.98 Demand letter.-

34 (1) As a condition precedent to initiating any civil
35 litigation, including arbitration, arising under this chapter
36 against a motor vehicle dealer, which may also include its
37 employees, agents, principals, sureties, and insurers, a
38 claimant must give the dealer a written demand letter at least
39 30 days before initiating the litigation.

40 (2) The demand letter, which must be completed in good
41 faith, must:



666404

42 (a) State the name, address, and telephone number of the
43 claimant.

44 (b) State the name and address of the dealer.

45 (c) Describe the underlying facts of the claim, including a
46 statement describing each item for which actual damages are
47 claimed.

48 (d) State the amount of damages claimed.

49 (e) To the extent available to the claimant, be accompanied
50 by all transaction or other documents upon which the claim is
51 based.

52
53 In any challenge to the claimant's compliance with this
54 subsection, the demand letter shall be deemed satisfactory if it
55 contains sufficient information to reasonably put the dealer on
56 notice of the nature of the claim and the relief sought.

57 (3) The demand letter must be delivered by the United
58 States Postal Service or by a nationally recognized carrier,
59 return receipt requested, to the address where the subject
60 vehicle was purchased or leased or where the subject transaction
61 occurred, or any address at which the dealer regularly conducts
62 business.

63 (4) Notwithstanding any provision of this chapter:

64 (a) A claimant may not initiate civil litigation, including
65 arbitration, against a dealer or its employees, agents,
66 principals, sureties, or insurers for a claim arising under this
67 chapter related to, or in connection with, the transaction or
68 event described in the demand letter if, within 30 days after
69 receipt of the demand letter, the dealer pays the claimant the
70 amount sought in the demand letter, plus a surcharge of \$500, if



666404

71 the claimant is represented by an attorney.

72 (b) A dealer and its employees, agents, principals,
73 sureties, and insurers may not be required to pay the attorney
74 fees of the claimant in any action brought under this chapter
75 if:

76 1. The dealer, within 30 days after receipt of the demand
77 letter, notifies the claimant in writing, and a court or
78 arbitrator agrees, that the amount sought in the demand letter
79 is not reasonable in light of the facts of the transaction or
80 event described in the demand letter or if the demand letter
81 includes items and amounts not properly recoverable under this
82 chapter; or

83 2. The claimant fails to sufficiently comply with this
84 section; however, to the extent that there is a challenge to the
85 sufficiency of the demand letter, the demand letter shall be
86 deemed satisfactory if it contains sufficient information to
87 reasonably put the dealer on notice of the nature of the claim
88 and the amount and relief sought such that the dealer could
89 appropriately respond.

90 (5) The demand letter required by this section expires 30
91 days after receipt by the dealer, unless renewed by the
92 claimant, and does not place a limitation on the damages that
93 the claimant may claim in subsequently maintained civil
94 litigation, including arbitration. Payment of the damages
95 claimed in the demand letter and the required surcharge as set
96 forth in this section within 30 days of receipt of the demand
97 letter:

98 (a) Does not constitute an admission of any wrongdoing or
99 liability by the dealer.



666404

100 (b) Is protected under s. 90.408 from introduction as
101 evidence during any civil litigation, including arbitration.

102 (c) Releases the dealer and its employees, agents,
103 principals, sureties, and insurers from any claim, suit, or
104 other action that could be brought arising out of, or in
105 connection with, the specific transaction, event, or occurrence
106 described in the demand letter; but does not serve as a release
107 as to items of damages that are not included in the demand
108 letter and not recoverable under this chapter.

109 (6) The applicable time limitations for initiating an
110 action under this chapter are tolled for 30 days after the date
111 of delivery of the demand letter to the dealer pursuant to
112 subsection (3), or such other period agreed to in writing and
113 signed by the parties after the demand letter is received by the
114 dealer.

115 (7) This section does not apply to any action brought as a
116 class action that is ultimately certified as a class action or
117 any action brought by the enforcing authority.

118 (8) If a claimant initiates civil litigation, including
119 arbitration, without first complying with the provisions of this
120 section, the court or arbitrator shall stay the action upon
121 timely motion until the claimant complies with this section.
122 Attorney fees and court or arbitration costs incurred by the
123 claimant before compliance with this section are not recoverable
124 under this chapter.

125 (9) This section applies only to civil litigation,
126 including arbitration, arising out of a transaction for which
127 the dealer has provided the following written notice to the
128 consumer, which must be in a font size no smaller than that of



666404

129 the predominant text on the page in which the claim is
130 disclosed, or if it is disclosed by itself, in a font size of at
131 least 12 points:

132
133 "Section 501.98, Florida Statutes, requires that, at
134 least 30 days before bringing any claim against a
135 motor vehicle dealer for an unfair or deceptive trade
136 practice, a consumer must provide the dealer with a
137 written demand letter stating the name, address, and
138 telephone number of the consumer; the name and address
139 of the dealer; a description of the facts that serve
140 as the basis for the claim; the amount of damages
141 claimed; and copies of any documents in the possession
142 of the consumer which relate to the claim. Such notice
143 must be delivered by the United States Postal Service
144 or by a nationally recognized carrier, return receipt
145 requested to the address where the subject vehicle was
146 purchased or leased or where the subject transaction
147 occurred, or any address at which the dealer regularly
148 conducts business."

149
150 Section 2. This act shall take effect July 1, 2013.

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

152 And the title is amended as follows:

153 Delete everything before the enacting clause
154 and insert:

155 A bill to be entitled
156 An act relating to deceptive and unfair trade
157 practices; amending s. 501.975, F.S.; making technical



666404

158 changes; creating s. 501.98, F.S.; requiring a
159 claimant to provide a demand letter to the motor
160 vehicle dealer as a condition precedent to initiating
161 civil litigation against such dealer under the Florida
162 Deceptive and Unfair Trade Practices Act; providing
163 for requirements and expiration of the demand letter;
164 providing exceptions for liability for payment of
165 attorney fees; providing for the tolling of applicable
166 time limitations for initiating actions; providing an
167 additional opportunity for claimants to comply with
168 specified provisions; providing that attorney fees and
169 other costs incurred by a claimant before compliance
170 with certain provisions are not recoverable; providing
171 for applicability; requiring that a specified notice
172 be provided to consumers before provisions may apply;
173 providing an effective date.



629328

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Abruzzo) recommended the following:

Senate Amendment to Amendment (666404)

Delete line 89
and insert:

appropriately respond. Nothing in this chapter shall affect the consumer's right to attorney fees in meritorious cases.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

January 21, 2013

The Honorable Nancy Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Detert:

Senate Bill 292, related to Deceptive and Unfair Trade Practices, has been referred to the Committee on Commerce and Tourism. I would appreciate the placing of this bill on the committee's agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-19-13

Meeting Date

Topic F-OUTPA

Bill Number 292

Name Jimmy Gustafson

Amendment Barcode 629328 (if applicable)
A - A amendment WD (if applicable)

Job Title _____

Address 1567 Cristobal Drive

Phone 850-251-4011

Tallahassee
Street City State Zip

E-mail jwg@searcy.law.com

Speaking: For Against Information

Representing FJA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

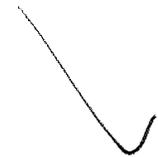
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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)

2/19/13
Meeting Date



Topic DECEPTIVE & UNFAIR TRADE PRACTICES ACT-AUTOS

Bill Number 292
(if applicable)

Name TARAS S. RUDNITSKY

Amendment Barcode _____
(if applicable)

Job Title ATTORNEY

Address 145 MIDDLE STREET, SUITE 1111
Street

Phone 407-323-4949

LAKE MARY FL 32746
City State Zip

E-mail Taras@HelpingFloridaConsumers.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)

2/19/13
Meeting Date

Topic Dealer Demands Bill

Bill Number SB 292
(if applicable)

Name Compton Cramer

Amendment Barcode _____
(if applicable)

Job Title Auto Dealer

Address 900 US 41 By-Pass South

Phone 941-486-8888

Street

VENICE
City

FL
State

34285
Zip

E-mail ctaypec@aol.com

Speaking: For Against Information

Representing CRAMER Toyota + Honda

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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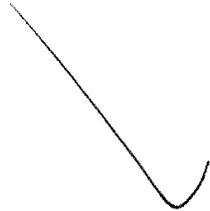
S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-19-13

Meeting Date



Topic Dealer Demand Bill

Bill Number 292
(if applicable)

Name John Forehand

Amendment Barcode _____
(if applicable)

Job Title Dealer General Counsel

Address 16165 S. Dixie Hwy

Phone 850/443-0085

Street

Miami FL 33157

City

State

Zip

E-mail john.forehand@
southmotors.net

Speaking: For Against Information

Representing South Motors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-19-13

Meeting Date

Topic

Car Dealers Bill

Bill Number

SB 292

Name

Peggie Garcia

Amendment Barcode

666409

(if applicable)

(if applicable)

Job Title

Address

PO BOX 11069

Phone

933-7150

Street

Tallahassee

FLA

32302

E-mail

peggiegarcia.law@
yahoo.com

City

State

Zip

Speaking:

For

Against

Information

Representing

FLA. Justice Association

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

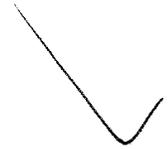
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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)



Meeting Date _____

Topic Deceptive Acts & Practices

Bill Number 292
(if applicable)

Name Alice Vickers

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 623 Beard St.

Phone 850 556-3121

Street
Tallahassee, FL 32303
City State Zip

E-mail alice@fcam.org

Speaking: For Against Information

Representing FL Consumer Action Network

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)

2/19/13
Meeting Date

Topic Dealer Demand Letter

Bill Number SB292
(if applicable)

Name Alex Kurkin

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 18251 NE 29 Ave Suite 303

Phone 305-929-8500

Street
Aventura FL 33180
City *State* *Zip*

E-mail akurkin@KFB-LAW.COM

Speaking: For Against Information

Representing FADA

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)

2-19-13

Meeting Date

Topic FDUTPA

Bill Number 292

Name Jimmy Gustafson

Amendment Barcode 666404
(if applicable)
A
~~L~~
(if applicable)

Job Title _____

Address 1567 Cristobal Drive

Phone 850-251-4011

Tallahassee FL 32303
City State Zip

E-mail jwg@searaylaw.com

Speaking: For Against Information

Representing FJA

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.



PLEASE FILL OUT THE ENTIRE FORM AND SUBMIT TWO COPIES
TO THE COMMITTEE/SUBCOMMITTEE ADMINISTRATIVE
ASSISTANT AT THE MEETING

TYPE OR PRINT CLEARLY

**COMMITTEE/SUBCOMMITTEE APPEARANCE
RECORD**

Bill Number SB 292 Date 2/19/13

Name Ron Book

Title _____

Address 204 West Jefferson

City TLH State/Zip 32301

Phone Number 888-224-3427

Representing Automation

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 Commerce and Tourism

BILL: SB 358

INTRODUCER: Senator Simmons and others

SUBJECT: Professional Sports Franchises

DATE: February 18, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	Favorable
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 358 allows for the certification of two Major League Soccer franchise facilities by the Department of Economic Opportunity (DEO) as new professional sports franchise. The two franchises that meet eligibility criteria would be eligible to receive a sales tax distribution payment of approximately \$2 million per year for 30 years.

This bill substantially amends s. 288.1162, F.S.

II. Present Situation:

Professional Sports in Florida

Florida currently has 9 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League (NFL). The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Tampa Bay Rays baseball franchise of the Major League Baseball (MLB) league. The Rays franchise began in 1998. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life Stadium	1987	Miami-Dade

Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Tampa Bay Times Forum	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas

In addition to the nine major professional sports teams, Florida is also home to 33 Minor League franchises in various sports and three Arena Football League teams. MLB’s Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.

State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. Applicants qualifying as new professional sports franchises must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for

new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise;

- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually;
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise’s facility will generate \$2 million annually;
- The city or county where the franchise’s facility is located in has certified by resolution after a public hearing that the applicant franchise serves a public purpose; and
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise’s facility.

Any applicant who meets the abovementioned criteria as verified by DEO is eligible to receive monthly payments from the state of \$166,667 for not more than 30 years,¹ for an annual payment totaling \$2,000,004. The Department of Revenue disburses the payments.

Payments may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:²

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments to date
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ³	06/94	06/2023	\$39,166,745
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	05/2024	\$37,333,408
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	06/2025	\$35,166,737
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	08/2025	\$34,833,403
BB&T Center	Broward County	Florida Panthers	08/96	07/2026	\$33,000,066

¹ Section 212.20(6)(d)6.b., F.S.

² DEO, *Professional Sports Franchises*, (January 8, 2013), (on file with the Commerce and Tourism Committee).

³ The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	12/2026	\$32,166,731
American Airlines Arena	BPL, LTD	Miami Heat	03/98	03/2028	\$29,666,726
Amway Center	City of Orlando	Orlando Magic	02/08	01/2038	\$10,000,020

Major League Soccer

The Major League Soccer (MLS) professional sports league began its inaugural season in 1996. The league began play with 10 franchises, and has since expanded to 19 teams across the country, split into Western and Eastern conferences. Fourteen of the 19 franchises play in soccer-specific stadiums. Summary information on each franchise is listed below:

Team	Location	Joined League	Venue	Venue Soccer Capacity ⁴	Soccer-Specific Venue?
Columbus Crew	Columbus, OH	1996	Columbus Crew Stadium	20,145	Yes
D.C. United	Washington, D.C.	1996	RFK Stadium	23,865	No
New England Revolution	Foxborough, MA	1996	Gillette Stadium	22,385	No
New York Red Bulls	Harrison, NJ	1996	Red Bull Arena	25,189	Yes
Sporting Kansas City	Kansas City, MO	1996	Sporting Park	18,467	Yes
Colorado Rapids	Commerce City, CO	1996	Dick's Sporting Goods Park	18,087	Yes
FC Dallas	Frisco, TX	1996	FC Dallas Stadium	21,500	Yes
Los Angeles Galaxy	Carson, CA	1996	Home Depot Center	27,000	Yes
San Jose Earthquakes	Santa Clara, CA	1996	Buck Shaw Stadium	10,300	Yes
Chicago Fire	Bridgeview, IL	1998	Toyota Park	20,000	Yes
C.D. Chivas USA	Carson, CA	2005	Home Depot Center	27,000	Yes
Real Salt Lake	Sandy, UT	2005	Rio Tinto Stadium	20,008	Yes
Houston Dynamo	Houston, TX	2006	BBVA Compass Stadium	22,000	Yes

⁴ Frank Dell' Apa, *MLS 2012 season preview*, (March 8, 2012), The Boston Globe, available at: <http://www.bostonglobe.com/sports/2012/03/08/mls-glance/vNsUdDaKbOpYrrQLIrMKdO/story.html?camp=pm>, (last visited on January 31, 2013). For multi-purpose stadiums, capacity number reflects only maximum seating for soccer games.

Toronto FC	Toronto, ON, Canada	2007	BMO Field	21,800	Yes
Seattle Sounders FC	Seattle, WA	2009	CenturyLink Field	38,500	No
Philadelphia Union	Chester, PA	2010	PPL Park	18,500	Yes
Portland Timbers	Portland, OR	2011	Jeld-Wen Field	20,323	No
Vancouver Whitecaps FC	Vancouver, BC, Canada	2011	BC Place	21,500	No
Montreal Impact	Montreal, QC, Canada	2012	Saputo Stadium	20,341	Yes

MLS in Florida

Florida has previously been the home to two now-defunct MLS franchises, the Tampa Bay Mutiny and the Miami Fusion F.C. The Tampa Bay franchise began as one of MLS's original teams in 1996 before declining attendance and failure to find a local owner led to the team's closing down in 2001.⁵ The Miami Fusion F.C. began in 1998, playing their games in Ft. Lauderdale's Lockhart Stadium before also closing down along with Tampa Bay in 2001 as part of MLS league contraction.⁶

Orlando and MLS

Recent press articles have indicated that stakeholders in Orlando are interested in locating a new MLS franchise in the city. In November MLS Commissioner Dan Garber indicated MLS was interested in expanding to the southeastern U.S., with Orlando among the cities under consideration. Orlando has interest in constructing a soccer-specific stadium as part of an effort to land an MLS franchise.⁷ Orlando City, a professional soccer team in Orlando part of the USL-PRO professional league recently announced an agreement with MLS franchise Sporting Kansas City to serve as an affiliate organization, allowing reserve players to be loaned from Kansas City to the Orlando team.⁸ It has been mentioned that Orlando City owner Phil Rawlins has interest in moving the club up to the MLS should the league expand to Orlando.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 288.1162, F.S., relating to professional sports franchises. The bill expands the definition of "league" to include Major League Soccer, allowing MLS franchises applicants to apply for certification as a new or retained professional sports franchise facility. The bill clarifies that any franchise or facility that has been previously certified is not eligible for

⁵ MLS, *Tampa Bay Mutiny*, available at: <http://www.mlssoccer.com/history/club/tampabay>, (last visited on January 31, 2013).

⁶ MLS, *Miami Fusion F.C.*, available at: <http://www.mlssoccer.com/history/club/miami>, (last visited on January 31, 2013).

⁷ David Royse, *Bill seeks subsidy for proposed Orlando soccer stadium*, (January 31, 2013), available at: http://blogs.orlandosentinel.com/news_politics/2013/01/bill-seeks-subsidy-for-proposed-orlando-soccer-stadium.html, (last visited on January 31, 2013).

⁸ Press Release: "Orlando City to Become USL Affiliate of Major League Soccer's Sporting Kansas City," (on file with the Senate Commerce and Tourism Committee).

⁹ *Supra* note 7.

additional certification. Further, the bill directs DEO to reserve two facility certifications for new MLS franchises. The two MLS franchises would be in addition to the 8 previously certified new or retained professional sports franchise facilities. Any MLS franchise facility designated under this section would be eligible for a monthly sales tax distribution payment of \$166,667, for an annual payment of \$2,000,004 for 30 years. The certified applicants would each receive approximately \$60 million over 30 years.

Section 2 provides that the bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill has not been evaluated by the Revenue Estimating Conference.

If an MLS franchise is certified by DEO, the Department of Revenue would distribute a monthly sales tax distribution payment of approximately \$2 million per year. This will create a recurring loss to general revenue of approximately \$2 million per year for up to 30 years, for a total of \$60 million. This total could expand to a loss of \$4 million per year if two such facilities are certified, for a total loss to General Revenue of \$120 million over 30 years.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is not expected to increase resource demands on the Department of Economic Opportunity or the Department of Revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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



955932

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Detert) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 46 and 47
insert:

(9) For each certified applicant, the department must recertify every 5 years that the facility is open, continues to be used by the new or retained professional sports franchise, and is meeting the minimum projections for attendance and sales tax revenue as required at the time of original certification. If the facility is not certified as meeting the minimum projections, it may be decertified by the department.

(a) A certified applicant has 60 days after it receives a



955932

13 notice of intent to decertify from the department to petition
14 for review of the decertification. Within 45 days after receipt
15 of the request for review, the department must notify a
16 certified applicant of the outcome of the review.

17 (b) The department shall notify the Department of Revenue
18 that a certified applicant is decertified within 10 days after
19 the order of decertification becomes final. The Department of
20 Revenue shall immediately stop the payment of any funds under
21 this section that were not encumbered by the certified applicant
22 for the public purpose to pay or pledge for the payment of debt
23 service on, or to fund debt service reserve funds, arbitrage
24 rebate obligations, or other amounts payable with respect to,
25 bonds issued for the acquisition, construction, reconstruction,
26 or renovation of such facility or for the reimbursement of such
27 costs or the refinancing of bonds issued to pay for the
28 acquisition, construction, reconstruction, or renovation of a
29 facility for a new or retained professional sports franchise.

30 (c) The department shall order a decertified applicant to
31 repay all of the unencumbered state funds received under this
32 section and any interest that accrued on those funds. The
33 repayment must be made within 60 days after the decertification
34 order becomes final. These funds shall be deposited into the
35 General Revenue Fund.

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41

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

And the directory clause is amended as follows:

Delete lines 13 - 15

and insert:



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42 Section 1. Paragraphs (c) and (h) of subsection (4) and
43 subsection (6) are amended, and subsection (9) is added to
44 section 288.1162, Florida Statutes, to read:

45
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete line 9

49 and insert:

50 League Soccer franchise; providing for recertification
51 by the Department of Economic Opportunity every five
52 years; providing for decertification of an applicant;
53 providing for notice; providing for certain
54 distributions to be discontinued; providing an
55 effective date.



The Florida Senate

Committee Agenda Request

RECEIVED

JAN 23 2013

COMMERCE

To: Senator Nancy Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 23, 2013

I respectfully request that **Senate Bill 358**, relating to Professional Sports Franchises, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 10

cc: Jennifer Hrdlicka, Staff Director

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/13

Meeting Date

Topic Major League Soccer

Bill Number SB 358
(if applicable)

Name Kathy Russell

Amendment Barcode _____
(if applicable)

Job Title Dir. of Gov Relations

Address 460 S Orange Ave

Phone (407) 383-2075

Street

Orlando, FL 32801

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing City of Orlando

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 Commerce and Tourism

BILL: SPB 7016
INTRODUCER: Commerce and Tourism Committee
SUBJECT: Department of Economic Opportunity
DATE: February 18, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	cm SPB 7016 as introduced
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SPB 7016 proposes to consolidate reports and reporting dates for various required economic development program reports by the Department of Economic Opportunity (DEO or department), Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.

The bill grants rulemaking authority to DEO to develop guidelines for the administration of the Florida Small Cities Community Development Block Grant program and revises provisions to give DEO greater flexibility in administering the program.

In order to comply with federal requirements, the bill assesses a 15 percent penalty on individuals who fraudulently collect unemployment benefits and reenacts language providing penalties for disclosure of confidential information that was inadvertently repealed in 2012. It extends the operational deadline for the Reemployment Assistance Claims and Benefits Information System to June 30, 2014. The bill also provides that any excess assessments on deposit in the Audit and Warrant Clearing Trust Fund for the payment of interest on federal advances are transferred to the Unemployment Compensation Trust Fund 4 months after all federal advances and associated interest are paid.

The bill specifies that the Governor will serve ex officio as a nonvoting member of the Florida Tourism Industry Marketing Corporation (Visit Florida) board of directors.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 20.60, 220.194, 288.012, 288.061, 288.0656, 288.095, 288.106, 288.1081, 288.1082, 288.1088, 288.1089, 288.1226, 288.1253, 288.1254, 288.1258, 288.714, 288.7771, 288.903, 288.906,

288.907, 288.92, 288.95155, 290.0056, 290.014, 290.0411, 290.042, 290.044, 290.0455, 290.046, 290.047, 290.0475, 290.048, 331.3051, 331.310, 443.1113, 443.131, 443.151, 443.191, 443.1715, and 446.50.

II. Present Situation:

Department of Economic Opportunity Reports

Presently, there are multiple reporting requirements for the state's various economic development programs and activities. Some entities are required to submit reports to the Governor, Legislature, and/or DEO and the report due dates lack uniformity.

DEO is required to produce an annual report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes information on the state's business climate and economic development, as well as an identification of problems and recommendations.¹

Section 288.906, F.S., requires EFI to produce an annual report, as well as a separate Annual Incentives Report. The annual report includes broad organizational information including:

- A description of EFI's operations and accomplishments, including its divisions and the interactions with local and private economic development organizations.
- An evaluation of progress toward achieving organizational goals and specific performance outcomes.
- Methods for implementing and funding EFI's operations.
- An assessment of direct job creation benefits for welfare transition program participants or other programs designed to assist the long-term unemployed in finding work.
- The results of a customer satisfaction survey of businesses served.
- Annual compliance and financial audit information.

EFI is also required to produce an Annual Incentives Report² that requires, among other things, an analysis of the economic benefits that actually occurred based on actual private investment, jobs created, and wages paid over the previous 3 years. The Annual Incentives Report compares the projected impacts of each incentive program over the previous 3 years to the confirmed, realized results. The Division of Strategic Business Development within DEO is required to assist EFI in the preparation of the Annual Incentives Report.³

Florida has multiple reporting requirements for its economic development programs. These reports are required to be submitted separately from the EFI annual report, the Annual Incentives report, and the DEO annual report. The list of statutorily required reports and their due dates are as follows:

¹ Section 20.60(10), F.S.

² Section 288.907, F.S.

³ Section 288.907(2), F.S.

Date	Report
January 1	<ul style="list-style-type: none"> • DEO Annual Report submitted to the Governor and Legislature (s. 20.60, F.S.) • Displaced Homemaker plan and report submitted to the Governor and Legislature (s. 446.50, F.S.)
February 1	<ul style="list-style-type: none"> • Annual reports on enterprise zones submitted to DEO (s. 290.014(1), F.S.)
March 1	<ul style="list-style-type: none"> • Report encompassing annual reports on enterprise zones, as well as an analysis of activities and accomplishments of each enterprise zone submitted to the Governor and Legislature (s. 290.014(2), F.S.)
August 31	<ul style="list-style-type: none"> • Black Business Loan Program Annual Report submitted to Governor and Legislature (s. 288.714, F.S.)
September 1	<ul style="list-style-type: none"> • Rural Economic Development Initiative submitted to Governor or Legislature (s. 288.0656, F.S.) • Space Florida annual performance report submitted to the Governor and Legislature (s. 331.3051, F.S.)
October 1	<ul style="list-style-type: none"> • State of Florida International Offices submitted to DEO (s. 288.012, F.S.) • Entertainment Financial Incentive Annual Report submitted to Governor and Legislature (s. 288.1254, F.S.)
October 15	<ul style="list-style-type: none"> • Reports on each division of EFI (s. 288.92, F.S.)
November 30	<ul style="list-style-type: none"> • Florida Space Business Incentive Act annual report submitted to the Governor and Legislature, beginning in 2014 (s. 220.194, F.S.) • Space Florida annual operations report submitted to the Governor and Legislature (s. 331.310, F.S.)

<p>December 1</p>	<ul style="list-style-type: none"> • Report on information on the causes of a business’s failure to complete its qualified target industry tax refund program agreement submitted to the Governor and Legislature (s. 288.106, F.S.) • Report detailing the relationship between tax exemptions and film industry growth submitted to the Legislature (s. 288.1258, F.S.) • Enterprise Zone Development Agency report submitted to DEO (s. 290.0056, F.S.) • EFI Annual Report, due <i>before</i> this date, submitted to the Governor and Legislature (s. 288.906)
<p>December 30</p>	<ul style="list-style-type: none"> • EFI Annual Incentives Report submitted to the Governor and Legislature (s. 288.907, F.S.) • Annual report on the Economic Development Trust Fund submitted to the Governor and Legislature (s. 288.095) • Office of Film and Entertainment annual travel and expenses report submitted to the Legislature (s. 288.1253, F.S)
<p>December 31</p>	<ul style="list-style-type: none"> • Economic Gardening Technical Assistance Pilot Program submitted to the Governor and the Legislature (s. 288.1082)

<p>Miscellaneous or multiple dates</p>	<ul style="list-style-type: none"> • Quick Action Closing Fund, reported within 6 months of validation of contract performance submitted to Governor and Legislature (s. 288.1088, F.S.) • Innovation Incentive Fund, reported within 90 days of the conclusion or termination of an award submitted to the Governor and Legislature and a report summarizing the activities and accomplishments of grant recipients during the previous 12 months due as part of the DEO annual report (s. 288.1089, F.S.) • Economic Gardening Business Loan Pilot Program, reports are due June 30 and December 31 submitted to the Governor and Legislature (s. 288.1081, F.S.) • Florida Export Finance Corporation, report due as part of DEO report on the Economic Development Trust Fund (s. 288.7771, F.S.) • Florida Small Business Technology Growth Program report on the financial status of the program due as part of the DEO annual report (s. 288.95155, F.S.)
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Florida Small Cities Community Development Block Grant Program

The Community Development Block Grant (CDBG) Program is a federally funded housing and community development program that targets assistance to low and moderate income populations. Administered by the U.S. Department of Housing and Urban Development (HUD), the program provides annual grants on a formula basis to units of local government and states. Eligible program activities include housing rehabilitation and preservation, economic development, and water and sewer facilities construction. Local governments in urban areas apply and receive funds directly from HUD. Rural or smaller area governments also receive grants but these funds are first funneled through the state. In Florida, this competitive rural distribution mechanism is known as the Florida Small Cities Community Block Grant Program (Small Cities CDBG) which is administered by DEO.

Background

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (Title I). The program was enacted in 1974 under the Housing and Community Development Act (HCDA). Prior to this point in time, numerous federal programs addressed community development issues.⁴

The primary objective of HCDA is the development of viable urban communities.⁵ These viable communities are achieved by providing persons of low and moderate income with decent housing, a suitable living environment, and expanded economic opportunities.

To achieve these goals, federal CDBG regulations set forth eligible activities and the national objectives that each activity must meet.⁶ As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met. According to HUD, recent regulation changes represent a trend toward greater flexibility in the CDBG program. These changes include providing:

- greater flexibility regarding new construction;
- enhanced flexibility in the area of economic development; and
- increasingly manageable administrative requirements.⁷

Federal CDBG Program Areas

While there is a range of eligible CDBG funding programs,⁸ three of the principal ones are the Entitlement Program, the State Administered Small Cities Program, and the Section 108 Loan Guarantee Program.

- Entitlement Program

The Entitlement Program provides formula grants to metropolitan cities and urban counties and is the largest component of the CDBG Program receiving 70 percent of CDBG appropriations.⁹ HUD is the administrator; there is no state involvement. An entitlement entity is defined as a city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein). Participating entitlement governments automatically receive an annual allocation of CDBG funds directly from HUD. The grant amounts are determined by the higher of two formulas: 1) data based on overcrowded housing, population, and poverty; or 2) data based on age of housing, population growth lag, and poverty.¹⁰

⁴ U.S. Department of Housing and Urban Development, “*Basically CDBG*” *Course Training Manual: Overview of the Program* (November 2007), available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/training/basicallycdbg (last visited February 5, 2013).

⁵ *Ibid.*

⁶ The regulations implementing the CDBG Program are found at 24 C.F.R. Part 570.

⁷ HUD, “*Basically CDBG*.”

⁸ These include Disaster Recovery Assistance from Presidentially-declared disasters, Neighborhood Stabilization aimed at home foreclosures, and a Brownfields Economic Development Initiative used to spur the return of brownfields to productive economic reuse.

⁹ HUD, “*Basically CDBG*.”

¹⁰ *Ibid.*

- State Administered Small Cities Program
The State Administered Small Cities Program provides CDBG grants to state governments who then provide CDBG assistance to non-entitlement communities within their jurisdiction (i.e., cities with fewer than 50,000 residents and counties with fewer than 200,000 residents). Each state annually develops funding priorities and criteria for selecting projects. DEO administers Florida's Small Cities CDBG.
- Section 108 Loan Guarantee Program
Section 108 is the loan guarantee provision of the CDBG program. CDBG entitlement communities are eligible to apply directly for assistance through the program while CDBG non-entitlement communities apply through their state administered small cities program. Section 108 loans are not risk-free. The principal security for the loan guarantee is a pledge by the entitlement community or a pledge by the state in the case of a non-entitlement community of its current and future CDBG funds.¹¹

Florida Small Cities Community Development Block Grant Program

Communities in the state with populations below the entitlement thresholds must compete for funding by submitting applications through the Small Cities CDBG. For federal fiscal year 2012, there are more than 240 communities eligible to participate in the program for the federal fiscal year 2012 funding cycle.¹² DEO annually develops funding priorities and criteria for selecting Small Cities CDBG projects subject to statutory provisions and applicable rules.¹³

Established in 1983, the intent of Florida's Small Cities CDBG resonates with the federal CDBG legislation. The primary purposes of the program outlined in s. 290.0411, F.S., include community development and project planning activities to maintain viable communities, revitalize existing communities, expand economic development and employment opportunities, and improve housing conditions and expand housing opportunities, providing direct benefit to persons of low or moderate income.

While federal regulations "give maximum feasible deference to the state's interpretation of the statutory requirements" of CDBG, Florida's Small Cities CDBG is bound by the national objectives and eligible activities of the federal act.¹⁴

Small Cities CDBG HUD Allocation

¹¹ U.S. Department of Housing and Urban Development, *Section 108 Loan Guarantee Program*, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108 (last visited February 5, 2013). In federal fiscal year 2010, nationwide, HUD approved thirty-five Section 108 guaranteed loan commitments, in the aggregate amount of \$165,880,000.

¹² For a list of eligible communities, see <http://www.floridajobs.org/fhcd/cdbg/Files/Misc/EligibleCommunities.pdf> (last visited February 5, 2013).

¹³ Small Cities CDBG is administered in accordance with ss. 290.0401-290.049, F.S., ch. 73C-23, F.A.C., (formerly 9B-43), and 24 C.F.R. 570, Subpart I.

¹⁴ 24 C.F.R. s. 570.480(c).

HUD determines the amount of the Small Cities CDBG funding allocation using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other states.¹⁵ Each year since 1983, Florida has received between \$18 and \$35 million from HUD for the program.¹⁶ Florida's federal fiscal year 2012 allocation is \$22,887,374.

Categories of Funding

Section 290.044, F.S., specifies certain grant program categories for the Small Cities CDBG and allows DEO to define the broad community objectives served by each category. Major grant categories and DEO's defined objectives are:¹⁷

- Commercial Revitalization (CR) – The objective of the CR category is to revitalize commercial areas that are showing signs of decline by addressing problems causing deterioration or decline. Activities that achieve this objective include installation or reconstruction of streets, utilities, parks, and other necessary public improvements, selling or leasing land in commercial areas for public use, correction of architectural barriers to handicap access, and repair and rehabilitation of building facades. CR grants are submitted annually.
- Economic Development (ED) - ED objectives include promoting investment of private capital, retaining local economic enterprises, and providing long-term jobs with growth potential primarily for very low-, low-, and moderate-income persons. Activities that achieve this objective include acquisition of real property, construction, or rehabilitation of commercial and industrial buildings, the purchase of capitalized machinery and equipment, and activities designed to provide job training and job placement. ED grants may be submitted at any time. Applicants may have up to two open ED grants.¹⁸
- Housing (H) - The objective of the H category is to improve housing conditions and expand housing opportunities for very low-, low- and moderate-income persons. Activities that achieve this objective include rehabilitation of housing or publicly owned or acquired properties, demolition of dilapidated housing, code enforcement, and weatherization and energy-efficiency improvements. Sewer and water hookups are complimentary housing category activities. H grants are submitted annually.

¹⁵ U.S. Department of Housing and Urban Development, *Community Development Block Grant – CDBG*, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs (last visited February 5, 2013).

¹⁶ Florida Department of Economic Opportunity, *Florida Small Cities Community Development Block Grant Program*, available at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited February 5, 2013).

¹⁷ Florida Department of Economic Opportunity, *State of Florida Annual Action Plan for Programs Funded by the U.S. Department of Housing and Urban Development, Federal Fiscal Year 2012 (Draft)*, available at <http://www.floridajobs.org/fhcd/cdbg/Files/ConsolidatedPlan/DRAFT2012AnnualActionPlan.pdf> (last visited February 5, 2013). Local governments may also apply for a Planning and Design Specifications grant for architectural and engineering plans and specifications associated with Commercial or Neighborhood Revitalization projects. The maximum award is \$70,000.

¹⁸ Rule 73C-23.0041(6)(f), F.A.C., stipulates that an ED project must meet a national objective through the creation or retention of jobs, of which 51 percent must be jobs for persons from low to moderate-income households and must provide a public benefit by creating or retaining a number of full time equivalent jobs that divided into the subgrant amount results in a cost per job of under \$35,000.

- Neighborhood Revitalization (NR) – The objective of the NR category is to revitalize declining neighborhoods. An NR project may involve street paving, improvements to deteriorating infrastructure, or construction, or rehabilitation of neighborhood facilities that provide health, social, or recreational services. NR grants are submitted annually.¹⁹

Beyond the major funding categories, s. 290.044, F.S., also permits DEO to annually set aside a portion of Small Cities CDBG funding for use in executive order declared emergencies or natural disasters. Funds not allocated under the emergency-related set-aside by the last quarter of the state fiscal year are distributed to unfunded applications from the other categories.

Local governments applying for Small Cities CDBG funds must consider national and state goals and objectives when developing applications for funding. Applications may reflect more than one activity, but each eligible activity must meet at least one of the three national objectives (i.e., benefit low- and moderate-income persons, eliminate slum or blight, or meet an urgent need). Examples of *ineligible* Small Cities CDBG activities include buildings for the general conduct of government, general government expenses, purchase of equipment with a useful life of less than five years, and operating and maintenance expenses.²⁰

Funding Allocation Priorities

The State of Florida Annual Action Plan for programs funded by HUD delineates the distribution, allocation, priorities, and specific objectives for the Small Cities CDBG program. The following chart reflects the planned distribution of federal fiscal year 2012 Small Cities CDBG funds.²¹

2012 Allocation	\$22,887,374
State Administration (unmatched)	\$100,000
2% State Administration (matched with GR)	\$457,747
2.5% Emergency Set-Aside	\$572,184
1% Training/TA	\$228,874
Total Pass Through	\$21,528,569
Neighborhood Revitalization (41%)	\$8,826,713
Housing Rehabilitation (16%)	\$3,444,571
Economic Development (40%)	\$8,611,428
Commercial Revitalization (3%)	\$645,857

¹⁹ While grant requests for Housing, Neighborhood Revitalization, and Commercial Revitalization, are submitted annually, communities may only apply if they have no open grants in one of these three categories.

²⁰ Florida Department of Economic Opportunity, *Small Cities CDBG Application Process, FFY 2012*, available at <http://www.floridajobs.org/fhcd/cdbg/Files/Application/SmallCitiesCDBGApplicationProcess.pdf> (last visited February 5, 2013).

²¹ DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*. Amounts in the table are rounded to the nearest dollar.

Should eligible requests for funds be insufficient to fully utilize all funds allocated to a category, the balance of the funds in that category may be reallocated to the category receiving the greatest number of applications or to economic development activities.²²

Grant Ceilings

Section 290.047(2), F.S., directs DEO to establish Small Cities CDBG ceilings by rule.²³ The local government’s low- and moderate-income (LMI) population determines the maximum amount of funds for which they can apply. Population groupings are based on HUD modified census figures summarizing low- and moderate-income. The population groupings and grant ceilings are shown below.

LMI Population	Grant Ceiling
1-499	\$600,000
500-1,249	\$650,000
1,250-3,999	\$700,000
4,000-10,549	\$750,000
10,550 and above	\$750,000

Maximum Small Cities CDBG administration costs are statutorily capped at 15 percent for housing grants and 8 percent for all other program category grants.²⁴ A schedule of maximum engineering costs is adopted by DEO consistent with the schedule used by the U.S. Farmer’s Home Administration or another comparable schedule.²⁵

Grant Selection Criteria and Process

Upon receipt of an application, an initial review is conducted by the department to determine if threshold criteria have been met.²⁶ This review is used as a screening method to ensure compliance with minimum application requirements. Specific criteria established by s. 290.0475, F.S., governs the basis upon which DEO may reject an application without regard to scoring. These criteria are:

- the application is not received by the specified deadline date;
- the proposed project activities fail to meet one of the three national objectives;
- the proposed activities are not eligible;
- the proposed activities are not in compliance with the adopted local comprehensive plan;
- the applicant has an open Housing, Neighborhood or Commercial Revitalization CDBG;
- the local government is not in compliance with citizen participation requirements; or
- information provided in the application that affects eligibility or scoring is misrepresented.

²² *Ibid.*

²³ See Rule 73C-23.0041, F.A.C.

²⁴ Section 290.047 (3), F.S. These requirements do not preclude a local government from contributing their own funds to cover administrative costs.

²⁵ Section 290.047(6), F.S.

²⁶ *Ibid.*

Section 290.046(3), F.S., establishes grant application ranking components and their respective score weighting:

- Community need (25 percent) measures the extent of poverty in the community and the condition of physical structures. Each application, regardless of program category is scored on the same community need criteria.²⁷
- Project impact (65 percent) measures the direct benefit received by persons of low income and persons of moderate income, the extent to which the problem identified is addressed by the proposed activities, and the extent to which resources other than the funds being applied for are being used to carry out the proposed activities. Project impact criteria are unique to each program category.²⁸
- Equal opportunity employment and housing performance (10 percent) measures outstanding efforts in this area.

While the Small Cities CDBG Program does not require local governments to provide matching funds, the competitive scoring criteria do favor applications that leverage other funds. Local government general revenue, as well as other loan and grant funds, may be counted as leveraged funds.

DEO awards no grant until it has determined, based upon a site visit, that a project or activities are eligible, in accordance with the description contained in the application, and that any open Economic Development grant is on schedule.²⁹

Local Government Citizen Participation Requirements

Section 290.046, F.S., and federal regulations, set out the requirements local governments must follow to obtain citizen input for Small Cities CDBGs. Local governments submitting a CDBG application must comply with citizen participation requirements as provided in the HCDA of 1974, as amended. To ensure compliance, these provisions are incorporated in grant applications, the scoring system and award agreements.³⁰ Prior to the submission of an application for funding, local governments must:

- publicize information concerning the amount of funds available to the local government and the range of activities that may be undertaken,
- hold at least one public hearing to obtain citizens' views on community development needs,
- publish a notice concerning the proposed application advising citizens of its location and notifying them that it is available for inspection and comment,
- consider any comments and views expressed by citizens on the proposed application and, if appropriate, modify the proposed application, and

²⁷ Rule 73C-23.0041(10)(b)4., F.A.C., specifies three factors to determine community need: 1) the number of low and moderate income persons, 2) the number of persons below poverty level, and 3) the number of year-round housing units with 1.01 or more persons per room.

²⁸ Section 290.046(3)(d), F.S., further provides that the criteria used to measure the direct benefit to persons of low income and persons of moderate income shall represent no less than 42 percent of the points assigned to the program impact factor.

²⁹ Section 290.046(2)(d), F.S. For final rankings for federal fiscal year 2012 applications, see <http://floridajobs.org/fhcd/cdbg/Files/Misc/FinalScoresFFY2012Applications.pdf> (last visited February 6, 2013).

³⁰ DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*.

- hold at least one public hearing on the proposed application prior to its submission to the state.³¹

In addition, a Citizen's Advisory Task Force must be established to provide input throughout the project process.³² At least three of the task force members are required to be residents of the jurisdiction where the proposed project or activities are to be implemented. No task force members may be elected officials and only one may be an employee of the local government.³³ Failure to meet these or any other citizen participation requirements will result in the rejection of an application pursuant to s. 290.0475(6), F.S.

Section 108 Loan Guarantee Program

The Section 108 Loan Guarantee Program is authorized under Section 108 of the HCDA of 1974, as part of the CDBG Program.³⁴ In 1997, the Florida Legislature passed changes to the Small Cities CDBG Program which currently allows statewide Section 108 Loans of up to five times Florida's most recent HUD allocation.³⁵

HUD sells bonds on the private market and uses the proceeds to fund Section 108 loans through the state to local governments. The local government may loan the funds to third parties to undertake eligible CDBG activities, typically economic development, or use the funds for other eligible CDBG activities. As part of the process, the state pledges future CDBG allocations as secondary collateral to secure the loan.³⁶ Section 290.0455, F.S., provides that the maximum amount of loan guarantee commitment that any eligible local government may receive may be limited to \$7,000,000.³⁷

HUD has approved three section 108 loans since the inception of Florida's Small Cities CDBG.³⁸ In 2001, HUD approved the first Section 108 Loan for a major economic development project in the City of Alachua (Alachua County). This loan of \$2,250,000 provided infrastructure for the development of a Dollar General Distribution Center that created 448 new jobs for low- and moderate-income citizens. The City of Key West addressed critical housing needs with a \$16 million loan that was approved in 2003. The project funded the rehabilitation of 144 housing units at Poinciana Plaza, a former military base housing area.

In 2004, the City of Sebring received a loan for \$5,250,000 to restore a hotel, the historic Harder Hall. In late 2006, the developer for the project, Joran Realty, experienced financial shortfalls, filed bankruptcy, and ceased work on the project. The city, who now holds possession of the property, foreclosed on the loan. The value of the property is reported to exceed the loan amount

³¹ Section 290.046(5), F.S.

³² Section 290.046(6), F.S.

³³ See Rule 73C-23.0041(3)(b), F.A.C.

³⁴ 42 U.S.C. s. 5308.

³⁵ Chapter 97-278, s. 45, Laws of Fla. (creating s. 290.0455, F.S., effective July 1, 1997). The current maximum loan amount is approximately \$115 million.

³⁶ DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*.

³⁷ 24 C.F.R. s. 570.705.

³⁸ Florida Department of Economic Opportunity, *Florida Small Cities Community Development Block Grant (CDBG) Program, Performance and Evaluation Report for FFY 2000-2010* (June 30, 2011) (on file with the Senate Commerce and Tourism Committee). Information from this and the next paragraph are drawn from the report.

owed. The hotel and accompanying property are currently being marketed for sale and proceeds will be used to pay back the loan. The city reports that it is current with interest payments to HUD.

DEO Recommendation on Small Cities CDBG: January 2012

Chapter 2011-142 L.O.F., directed the department to provide recommendations for further reorganization and streamlining of economic development and workforce functions that improve the effectiveness and operation of economic development and workforce programs. In January of 2012, DEO released a Report on Further Streamlining & Reorganization of Florida's Economic Development & Workforce Functions. As one of its recommendations, DEO suggested revisions to the Florida Small Cities Community Development Block Grant Act in ch. 290, F.S.

The department's explanation for this recommendation included the following:

The Florida Small Cities Community Development Block Grant Act currently contains a number of provisions that restrict the program's ability to be flexible, agile or foster DEO's economic development emphasis. Revisions to the Act would allow DEO greater latitude to craft the program toward a more effective economic development outcome and would remove burdensome and unnecessary requirements beyond those required in the Code of Federal Regulations.

The desired outcome is to remove unnecessary regulation and competitive CDBG grant scoring criteria from statute and to put more of the framework of the CDBG grant scoring criteria in rule so that DEO has more agility and flexibility to work with our stakeholders to put more of an economic development focus on the Small Cities CDBG program and streamline the process for the other grant categories as well.³⁹

Reemployment Assistance

Background

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.⁴⁰ Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA)⁴¹ FUTA collections go to the states for costs related to

³⁹ Florida Department of Economic Opportunity, *Report on Further Streamlining & Reorganization of Florida's Economic Development & Workforce Functions* (January 1, 2012) available at <http://www.floridajobs.org/about%20awi/12.31.2011%20-%20DEO%20Streamlining%20Report%20Jan%202012.pdf> (last visited February 6, 2013).

⁴⁰ USDOL, Employment and Training Administration, *State Unemployment Insurance Benefits*, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited February 6, 2013).

⁴¹ FUTA is codified at 26 U.S.C.

the administration of state unemployment insurance and job service programs. In addition, FUTA pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.⁴²

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with FUTA or Social Security Act requirements. Florida's unemployment insurance program was created by the Legislature in 1937.⁴³ The program was rebranded as the "reemployment assistance program" in 2012.⁴⁴ The Department of Economic Opportunity (DEO) is the current agency responsible for administering Florida's reemployment assistance (RA) laws, primarily through its Division for Workforce Services. DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.⁴⁵

In Florida, Reemployment Assistance (RA) benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee's wages.⁴⁶ The calculation for determining each employer's tax rate is statutorily set, and takes into consideration an employer's "experience" (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.

The Internal Revenue Service charges each liable employer a federal unemployment tax of 6.0 percent of employees' annual wages.⁴⁷ If, however, a state program meets the federal requirements and has no delinquent federal loans, employers are eligible for up to a 5.4 percent tax credit, making the net tax rate 0.6 percent. Employers file an annual return with the Internal Revenue Service each January for taxes on the first \$7,000 of employee's annual wages during the previous year.

The USDOL provides DEO with administrative resource grants from the taxes collected from employers pursuant to FUTA. These grants are used to fund the operations of the state's program, including the processing of claims for benefits by DEO, state unemployment tax collections performed by DOR, appeals conducted by DEO and the Reemployment Assistance Appeals Commission, and related administrative functions.

Unfortunately, due to the past few years of high unemployment in Florida, more funds have been paid out of the Unemployment Compensation Trust Fund than have been collected. The trust fund fell into deficit in August 2009, and since that time, the state has requested over \$2 billion

⁴² USDOL, Employment and Training Administration, [Unemployment Insurance Tax Topic](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp), available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited February 6, 2013).

⁴³ Chapter 18402, L.O.F.

⁴⁴ Chapter 2012-30, L.O.F.

⁴⁵ Section 443.1316, F.S.

⁴⁶ Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the "wage base" will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

⁴⁷ 26 U.S.C. s. 3301.

in federal advances in order to continue to fund unemployment compensation claims. Through voluntary repayment and partial loss of the federal tax credit, Florida has substantially paid down its debt.⁴⁸ It is estimated that all federal advances should be repaid by mid-2013.⁴⁹

Federal advances accrue interest on a federal fiscal year basis (October to September), and such interest is due no later than September 30 each year. The interest rate for 2013 is 2.5765 percent.⁵⁰ The Revenue Estimating Conference estimated on January 15, 2013, that the interest due for 2013 would be \$9.6 million.⁵¹

The interest due on advances cannot be paid from funds from the Unemployment Compensation Trust Fund. In order to repay the interest, a state may make an appropriation from general revenue, issue bonds, or impose an assessment on employers.⁵² In 2010, the Legislature imposed an additional assessment on employers to pay interest on federal advances.⁵³

Section 443.131(5)(b), F.S., sets forth the calculations for the assessment. To determine the additional rate for the assessment, the formula divides the estimated amount of interest owed by 95 percent of total wages paid by employers for the previous year ending June 30. To determine an employer's payment amount, the formula multiplies an employer's taxable wages by the additional rate. DOR is required to calculate and bill the assessment prior to February 1 of the year, based upon the interest estimated by the Revenue Estimating Conference. An employer has 5 months to pay the assessment, by June 30. The assessments are paid into the Audit and Warrant Clearing Trust Fund and may earn interest; any interest earned is part of the balance available to pay the interest due to the federal government.

Reemployment Assistance Claims and Benefits Information System

In 2009, the Legislature authorized the Department of Economic Opportunity to upgrade and enhance its Unemployment Compensation Claims and Benefits Information System.⁵⁴ The statute provides a project completion date of no later than June 30, 2013.

In early 2012, the vendor indicated that an extension of the timeline would be required. The vendor paid \$1,965,000 in liquidated damages and provided a credit of \$2,500,000 to cover the

⁴⁸ As of February 4, 2013, Florida had an outstanding advance balance of slightly less than \$685 million. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct's Title XII Advance Activities Schedule at http://treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm (last visited February 6, 2013).

⁴⁹ The most recent forecast by the Revenue Estimating Conference shows repayment of all federal advances by June 2013. On file with the Senate Commerce and Tourism Committee.

⁵⁰ The interest rate charged is equal to the fourth calendar quarter yield on the Unemployment Trust Fund for the previous year, capped at 10 percent. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct's Unemployment Trust Fund Quarterly Yields at http://treasurydirect.gov/govt/rates/rates_tfr.htm (last visited on February 6, 2013).

⁵¹ Revenue Estimating Conference forecast, available at <http://edr.state.fl.us/content/revenues/reports/unemployment-compensation-trust-fund/UnemploymentCompensationTax2013InterestDueonFederalAdvancesRevised.pdf> (last visited February 6, 2013).

⁵² The option of issuing bonds to repay the interest may be unavailable to Florida, See Art. VII, s. 11, Fla. Const.

⁵³ Section 443.131(5), F.S. Section 4, ch. 2010-1, L.O.F.

⁵⁴ Chapter 2009-73, L.O.F. At the time, the Unemployment Compensation program was housed in the Agency for Workforce Innovation, whose functions were transferred to the Department of Economic Opportunity in 2011.

costs incurred by DEO caused by the delay. After negotiations and a corrective action plan, the revised project schedule calls for an October 28, 2013, implementation date.⁵⁵

Fraudulent Claims

A fraudulent claim is one that knowingly contains a false or fraudulent statement or fails to disclose a material fact for the purpose of obtaining or increasing reemployment benefits.⁵⁶ A claimant found to be collecting benefits fraudulently is disqualified from received benefits beginning the week that the fraudulent claim was made. The disqualification will continue for a period not to exceed 1 year after DEO discovered the fraud and until any resulting overpayment of benefits has been recouped. Reemployment Assistance fraud can also be prosecuted as a third degree felony.

Federal law requires states to assess a penalty, of at least 15 percent of the amount of the erroneous payment, on any claimant who fraudulently obtained benefits.⁵⁷ Florida does not currently assess a penalty for fraudulent overpayments.

Confidentiality

Information received from an employing unit or individual that reveals an employing unit's or individual's identity under the administration of the RA program is confidential and exempt from disclosure.⁵⁸

In 2012, the statute was amended and the language that made disclosure of such confidential information a second-degree misdemeanor was inadvertently repealed.⁵⁹ Federal regulations require Florida to provide penalties for the unlawful disclosure of confidential information related to reemployment assistance.⁶⁰

Florida Tourism Industry Marketing Corporation

The Florida Tourism Industry Marketing Corporation, also known as Visit Florida, is the not for profit corporation that acts as the direct support organization for EFI.⁶¹ Visit Florida is

⁵⁵ See Project Connect, Executive Steering Committee Meeting Minutes for August 8, 2012, http://sitefinity.floridajobs.org/Unemployment/UC_ModernizationProject/documents/MinutesAgendas/20120808%20RA%20ESC%20Meeting%20Minutes%20%20FINAL.pdf (last visited February 7, 2013).

⁵⁶ Sections 443.071 and 443.101(6), F.S., discuss fraud and associated penalties.

⁵⁷ 42 U.S.C. s. 503(a)(11).

⁵⁸ Section 443.1715, F.S. This subsection authorizes a number of exceptions for disclosure. Information may be released to the extent necessary for presentation of a claim or upon written authorization of a claimant who has a workers' compensation claim pending or is receiving compensation benefits. Public employees may receive this information in the performance of their public duties but must maintain the confidentiality of the information. A claimant or his or her legal representative is entitled to this information, to the extent necessary, to present a claim at a hearing before an appeals referee or the commission. DEO or DOR may provide a copy of any report submitted by an employer to the employer or a copy of any report submitted by the claimant to the claimant, upon request. Confidential information may also be released pursuant to 20 C.F.R. part 603.

⁵⁹ Chapter 2012-30, L.O.F.

⁶⁰ 20 C.F.R. part 603.

⁶¹ Section 288.1216, F.S. Chapter 2011-142, L.O.F.

responsible for the execution of tourism promotion and marketing services, functions, and programs for the state.

The Visit Florida board of directors consists of 31 tourist industry-related members, appointed by EFI, in conjunction with DEO. Sixteen of its members are appointed to represent all geographic areas of the state in an equitable manner, with at least two members from each region.⁶² An additional 15 members are prescribed as follows: one from the statewide rental car industry, seven from tourist-related statewide associations, three from county destination marketing organizations, one from the cruise industry, one from an automobile and travel services membership organization that has at least 2.8 million members in Florida, one representative from the airline industry, and one representative from the space tourism industry, who will each serve for a term of 2 years.

III. Effect of Proposed Changes:

Agency Reporting Consolidation

SPB 7016 consolidates several independent program reports and reporting dates.

DEO Annual Report

The bill makes several changes to the DEO annual report. (**Section 1, amends s. 20.60, F.S.**) The report's due date is changed from January 1 to November 1. The department is directed to include supplements to its annual report on several programs. As a result, the independent due dates for each of the reports are removed. The programs to be included in the DEO annual report are:

- Displaced Homemaker program. (**Section 40, amends s. 446.50, F.S.**)
- Enterprise Zone program. (**Sections 23 and 24**).
 - Changes the due date of each enterprise zone development agency's report to DEO from December 1 to October 1. (**Section 23, amends s. 290.0056, F.S.**)
 - Changes the due date of the Department of Revenue's report on the usage and revenue impacts, by county, of state incentives relating to enterprise zones from February 1 to October 1. (**Section 24, amends s. 290.014, F.S.**)
- Economic Gardening Business Loan Pilot Program. (**Section 10, amends s. 288.1081, F.S.**)
- Economic Gardening Technical Assistance Pilot Program. (**Section 11, amends s. 288.1082, F.S.**)
- Black business loan program. (**Section 18, amends s. 288.714, F.S.**)
- Rural Economic Development Initiative. (**Section 7, amends s. 288.0656, F.S.**)

EFI Annual Report

The bill requires EFI to include, as a supplement in its annual report, information on: (**Section 2, amends s. 288.906, F.S.**)

- State of Florida International Offices. (**Section 5, amends s. 288.012, F.S.**)
- Florida Export Finance Corporation annual report. (**Section 19, amends s. 288.7771, F.S.**)

⁶² Section 288.1216(4)(a), F.S., prescribes six regions of the state and the counties encompassed in those regions.

Additionally, under current law EFI division reports are due independently on October 1, for inclusion in the EFI annual report. The bill repeals this independent due date. (**Section 21, amends s. 288.92, F.S.**)

Annual Incentives Report

The bill revises the duties of EFI to require the Annual Incentives Report to be a joint report by EFI and DEO. (**Section 20, amends s. 288.903, F.S.**) The report is currently produced by EFI alone using data supplied by DEO.

Information on the Economic Development Trust Fund is required to be included in the Annual Incentives Report. The information is currently required under s. 288.095(3)(c), F.S. The bill repeals this paragraph (**Section 8**) and incorporates the information into the Annual Incentives Report. (**Section 3, amends s. 288.907, F.S.**) The information includes:

- The types of projects supported;
- Tax refunds or other payments made out of the Economic Development Incentives Account for each project supported;
- A separate analysis of the impact of tax refunds on Enterprise Zones, rural communities, brownfield areas, and distressed urban communities; and
- The name and tax refund amounts for each business receiving a qualified target industry or qualified defense space contractor and space flight business tax refund.

Several other stand-alone program reports are incorporated as supplements to the Annual Incentives Report. As a result, the independent due dates for the reports are removed. The reports required to be included as supplements to the Annual Incentives Report include:

- Florida Space Business Incentives Act annual report (**Section 4, amends s. 220.194, F.S.**), beginning in 2014.
- Information on the causes of a business's failure to complete its qualified target industry incentive agreement. (**Section 9, amends s. 288.106, F.S.**)
- Information relating to Innovation Incentive Program recipients, including the evaluation as to whether the recipients were catalysts for additional economic development. (**Section 13, amends s. 288.1089, F.S.**)
- Florida Small Business Technology Growth Program annual report. (**Section 22, amends s. 288.95155, F.S.**)

Validation of contractor performance for all incentive programs is currently required as part of the Annual Incentives Report. The bill adds a cross-reference to s. 288.061, F.S., clarifying that validation of contractor performance is to be included in the Annual Incentives Report. (**Section 3, amends s. 288.907, F.S.**)

The bill clarifies that DEO, rather than EFI, is responsible for validating contractor performance for the Quick Action Closing Fund incentives and that such information is to be included in the Annual Incentives Report. Current law requires the contractor performance validation to be reported within 6 months of completion. This requirement is deleted by the bill. (**Section 12, amends s. 288.1088, F.S.**)

Validation of contractor performance for the Innovation Incentive Program recipients is required to be included in the Annual Incentives Report. The current law requirement that a report on contractor performance be submitted within 90 days of an agreement's conclusion is repealed. **(Section 13, amends s. 288.1089, F.S.)**

Office of Film and Entertainment Annual Report

The bill changes the due date of the Office of Film and Entertainment's (OFE) Annual Report on the entertainment industry financial incentive program from October 1 to November 1. **(Section 16, amends s. 288.1254, F.S.)** The OFE Annual Report is also required to include the OFE expenditures report **(Section 15, amends s. 288.1253, F.S.)** and the report detailing the relationship between tax exemptions and incentives to industry. **(Section 17, amends s. 288.1258, F.S.)**

Space Florida Annual Report

The bill changes the due date for the Space Florida annual performance report from September 1 to November 30 **(Section 33, amends s. 331.3051, F.S.)**, and requires the Space Florida annual operations report to be included in the performance report. **(Section 34, amends s. 331.310, F.S.)**

Florida Small Cities Community Development Block Grant Programs

Section 25 amends the legislative intent and purpose of the Small Cities Community Development Block Grant Program Act to include economic need as one of the factors to make a Florida community eligible to participate in the program and includes economic development programs as an activity for such communities to undertake. **(amends s. 290.0411, F.S.)**

Section 26 amends s. 290.042, F.S., to clarify the definitions of "administrative closeout" and "person of low or moderate income" by including a reference to the definition used in the Code of Federal Regulations.

Program Funding and Distribution of Funds (Section 27)

The bill amends s. 290.044, F.S., to provide DEO rule-making authority to establish guidelines for the distribution of the Small Cities CDBG program funds through a competitive selection process. DEO is directed to define broad community development objectives for the distribution of CDBG funds that are consistent with the national objectives, as established by federal law. Current provisions requiring applicants to compete against each other in grant program categories and the categories themselves are repealed. SPB 7016 provides that emergency set-aside funds are to only be used when no other federal, state, or local disaster funds are available.

Section 108 Loan Guarantee Program (Section 28)

The bill focuses on reducing risks associated with the Section 108 loan guarantee program by amending s. 290.0455, F.S. Specifically, it requires an applicant approved by HUD to receive a

Section 108 loan to enter into an agreement with DEO which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default. DEO must review all Section 108 loan applications in the order received, provided the applications meet all eligibility requirements and have been deemed financially feasible by a DEO-approved loan underwriter. If the statewide maximum available for loan guarantees has not been met, DEO may submit the application to HUD with a recommendation that the loan be approved, with or without conditions, or denied.

The bill reduces the maximum amount of an individual loan guarantee commitment from \$7 million to \$5 million and decreases the maximum statewide amount of loan guarantees from five times to two times the amount the most recent grant received by DEO under the Florida Small Cities CDBG program. If a local government defaults on a Section 108 loan requiring DEO to reduce its annual grant award to pay the annual debt service on the loan, any future CDBG program funds that the local government receives must be reduced in the amount equal to the amount of the state's grant award used in payment of debt service on the loan.

If a local government, who has received a Section 108 loan through the Florida Small Cities CDBG program, is granted entitlement community status by HUD, then the local government must pledge its entitlement allocation as a guarantee of its previous loan and request HUD to release DEO as guarantor of the loan.

Grant Application Procedures and Requirements (Section 29)

Section 290.046, F.S., is amended to grant DEO rule-making authority to establish application procedures for the Florida Small Cities CDBG program. Eligible local governments may only submit one application for a noneconomic development project during an application cycle. An eligible local government may apply for an economic development grant up to three times each funding cycle and is permitted to have more than one open economic development grant.

DEO is directed to establish minimum criteria pertaining to the number of jobs created for low- or moderate-income persons, the degree of private sector financial commitment, the economic feasibility of the proposed project, and any other criteria it deems appropriate. A grant may not be awarded until DEO has completed a site visit to verify the information contained in the award application.

DEO must rank each application received based on criteria established by rule. The rule must allow DEO to consider factors such as community need, unemployment, poverty levels, low and moderate income populations, health and safety, and the condition of physical structures. The rankings must incorporate a procedure intended to reduce or eliminate any existing population-related bias that places exceptionally small communities at a competitive disadvantage. Project funding must be determined by the rankings established in each application cycle. If, at the conclusion of a funding cycle, economic development funding remains, those funds will be awarded to eligible projects on a first-come, first-served basis until funding for this category is fully obligated.

The bill repeals the requirement that a local government establish a citizen advisory board to provide input relative to all phases of the project process. However, current law citizen

participation provisions required by HUD are retained. Those provisions include conducting an initial public hearing to inform the public of the available funding opportunities and eliciting input on community needs; publishing a summary of the proposed application so that the public can examine the contents of the application and submit comments; and conducting a second public hearing to obtain public comment about the proposed application and make appropriate modifications.

Establishment of Grant Ceilings (Section 30)

The bill amends s. 290.047, F.S., to provide that DEO must promulgate rules to establish grant ceilings, the maximum percentage of block grants funds that may be spent on administrative costs, and the grant administration procurement procedures for eligible local governments.

An eligible local government is prohibited from contracting with the same individual or business entity for more than one service to be performed in connection with a Small Cities CDBG, unless it can demonstrate that the individual or business entity is the sole source of the service or is the responsive proposer whose proposal is determined, in writing from a competitive process, to be the most advantageous to the local government. DEO must adopt a rule that provides a methodology to determine the maximum amount of block grant funds that an eligible local government may spend on architectural and engineering costs.

Rejection of Applications (Section 31)

The bill amends s. 290.0475, F.S., to update references to statutes and department rule. It repeals a provision that an application is deemed ineligible if it is found to contain a misrepresentation of information that is not attributable to a mathematical error that may be readily corrected by computation of numbers or formulas provided in the application.

General Powers of the Department (Section 32)

Section 290.048(5), F.S., which grants DEO the power to adopt and enforce requirements concerning an applicant's written description of a service area, is repealed. Also repealed is s. 290.048(7), F.S., which grants DEO the power to establish an advisory committee to solicit participation in the design, administration, and evaluation of the program.

Reemployment Assistance

The bill amends s. 443.1113, F.S., to extend the operational deadline for the Reemployment Assistance Claims and Benefits Information System to June 30, 2014. (Section 35)

The bill amends s. 443.131, F.S., to provide that no assessment will be levied against contributing employers if the amount of assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of interest. The bill further provides that any assessments that remain on deposit, including associated interest, four months after all federal advances and associated interest have been repaid are to be transferred to the Unemployment Compensation Trust Fund. The provisions relating to interest assessments on federal advances will expire on July 1, 2014. (Section 36)

The bill amends s. 443.151, F.S., to impose a penalty equal to 15 percent of the amount overpaid, on any claimant who fraudulently receives reemployment benefits. (**Section 37**) This provision will bring Florida into compliance with federal law. Any amounts collected for penalties are to be deposited into the Unemployment Compensation Trust Fund. (**Section 38, amends s.443.191, F.S.**)

Section 443.1715, F.S., is amended to restore penalties for the disclosure of confidential information that were inadvertently repealed in 2012. This provision will bring Florida into compliance with federal law. (**Section 39**)

Florida Tourism and Industry Marketing Corporation

Section 14 amends s. 288.1226, F.S., to provide that the Governor will serve as an ex-officio, non-voting member of the Board of Directors of the Florida Tourism and Industry Marketing Corporation (Visit Florida).

Section 41 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The transfer of any remaining funds after the final federal interest payment is made to the Unemployment Compensation Trust Fund may have a positive minimal impact on employer contribution rates.

The collection of penalties related to fraudulent claims may have a positive impact on the balance of the Unemployment Compensation Trust fund.

B. Private Sector Impact:

To the extent that more eligible local governments apply for and receive funding for eligible activities under the Florida Small Cities CDBG Program, the private sector will benefit.

Also, see Tax/Fee Issues.

C. Government Sector Impact:

Reemployment Assistance

Failure to implement the federal requirement for fraud penalties by October 2013 may lead to sanctions against the state that could include the loss of federal administrative grants to DEO.

The transfer of remaining funds after the final payment federal interest payment is made to the Unemployment Compensation Trust Fund would reduce the amount of administrative costs for the Department of Revenue associated with crediting employers who paid assessments in the previous year.

Department of Economic Opportunity Reports

In regards to the streamlining of reports, the bill is not expected to impact the resource demands of the Department of Economic Opportunity, Enterprise Florida, Inc., the Office of Film and Entertainment, or Space Florida, and may improve efficiency by streamlining reporting requirements, deleting duplicative reports, and consolidating reporting due dates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes DEO to adopt rules relating to the guidelines for the distribution of Small Cities CDBG Program grants; application procedures; grant ceilings; the maximum percentage of funds which can be spent on administrative costs by a local government; and the methodology used to determine the maximum amount of funding that may be spent on architectural and engineering costs by an eligible local government.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/13
Meeting Date

Topic Report Consolidation

Bill Number SPB 7016
(if applicable)

Name Chris Snow

Amendment Barcode _____
(if applicable)

Job Title Senior Director of Government Relations

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Street

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Speaking: For Against Information

Representing Space Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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2/19/13

Meeting Date

Topic _____

Bill Number 7016
(if applicable)

Name Bill Wilson

Amendment Barcode _____
(if applicable)

Job Title Director of Legislative Affairs

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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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