The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Monday, April 1, 2013
TIME: 12:30 —3:00 p.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 518** Hukill (Compare H 391, H 4013, H 5601, S 236, CS/S 316)	Economic Business Incentives; Revising the sales tax exemption from the sales tax for certain business purchases of industrial machinery and equipment and spaceport activities; deleting the limitation on the maximum amount of tax refunds a business may receive under the qualified defense contractor and space flight business tax refund program; deleting the limitation on the maximum amount of tax refunds a business may receive under the tax refund program for qualified target industry businesses; revising requirements relating to the review, approval, and award of funds under the Innovation Incentive Program, etc. CM 04/01/2013 Fav/CS AFT AP	Fav/CS Yeas 11 Nays 0
2	**SB 582** Galvano (Similar CS/H 357)	Manufacturing Development; Establishing the Manufacturing Competitiveness Act; authorizing local governments to establish a local manufacturing development program that provides for master development approval for certain sites; requiring the Department of Economic Opportunity to develop a model ordinance containing specified information and provisions; requiring the department, in cooperation with participating agencies, to establish a manufacturing development coordinated approval process for certain manufacturers, etc. CM 04/01/2013 Fav/CS CA ATD AP	Fav/CS Yeas 11 Nays 0
3	**SB 1012** Hays (Similar CS/H 663)	Economic Gardening Technical Assistance Program; Expanding the Economic Gardening Technical Assistance Pilot Program into a statewide program; requiring the Department of Economic Opportunity to contract with the Florida Economic Gardening Institute at the University of Central Florida to administer the program, etc. CM 04/01/2013 Favorable ATD AP	Favorable Yeas 11 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1588** Evers (Similar CS/H 485)	Used Tires; Prohibiting the sale of unsafe used tires by used tire retailers; providing what constitutes an unsafe used tire; providing for the deposit and use of the penalties collected, etc. CM 04/01/2013 Fav/CS AG AP	Fav/CS Yeas 11 Nays 0
5	**SB 1710** Evers (Similar H 4055)	Sales and Use Tax on Protection Services; Deleting provisions imposing the tax on detective, burglar protection, and other protection services, etc. CM 04/01/2013 Favorable AFT AP	Favorable Yeas 11 Nays 0
6	**CS/SB 102** Banking and Insurance / Detert (Identical CS/H 95)	Charitable Contributions; Defining the terms “charitable contribution” and “qualified religious or charitable entity or organization”; providing that a transfer of a charitable contribution that is received in good faith by a qualified religious or charitable entity or organization is not a fraudulent transfer, etc. BI 03/14/2013 Fav/CS CM 04/01/2013 Favorable RC	Favorable Yeas 10 Nays 1
7	**SB 356** Abruzzo (Identical H 509, Compare CS/H 635, S 1046)	Financial Guaranty Insurance Corporations; Providing that Financial Guaranty Insurance Corporations include licensed mutual insurers as well as licensed stock insurers, etc. BI 03/20/2013 Favorable CM 04/01/2013 Favorable	Favorable Yeas 11 Nays 0
8	**SB 566** Detert (Similar H 493)	Security of Protected Consumer Information; Authorizing the representative of a protected consumer to place a security freeze on the protected consumer’s consumer record; requiring a consumer reporting agency to provide written confirmation of a security freeze within a specified period; prohibiting a consumer reporting agency from stating or implying that a security freeze reflects a negative credit history or rating; requiring a consumer reporting agency to remove a security freeze under specified conditions, etc. BI 03/20/2013 Favorable CM 04/01/2013 Fav/CS JU	Fav/CS Yeas 11 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**CS/SB 810** Banking and Insurance / Simmons (Similar CS/H 343)	Wrap-up Insurance Policies; Providing that wrap-up insurance policies may include workers' compensation claim deductibles equal to or greater than a specified amount if specified standards are met, etc. BI 03/14/2013 Fav/CS CM 04/01/2013 Fav/CS	Fav/CS Yeas 11 Nays 0
10	**SB 1700** Latvala (Identical H 4045)	Agricultural Lands; Repealing provisions relating to the mapping and monitoring of agricultural lands by the Department of Economic Opportunity, etc. AG 03/18/2013 Favorable CM 04/01/2013 Favorable	Favorable Yeas 11 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.		
	Executive Director, Department of Economic Opportunity		
11	Panuccio, Jesse (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 10 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.		
	Board of Directors, Enterprise Florida, Inc.		
12	Davis, Julius D. (Tampa)	09/30/2016	Recommend Confirm Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	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: CS/SB 518

INTRODUCER: Commerce and Tourism Committee and Senator Hukill

SUBJECT: Economic Business Incentives

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	**Fav/CS**
2.			AFT	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 518 expands the sales tax exemption for machinery and equipment for new or expanding businesses to all businesses by eliminating the 5 percent productivity requirement for expanding businesses to qualify for the tax exemption.

The bill 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.

The bill substantially amends ss. 212.08, 288.1045, 288.106, 212.0602, 220.183, 290.0056, 290.007, 624.5105, and 1011.94, F.S..

II. Present Situation:

Sales Tax Exemption for Machinery and Equipment

Florida is one of 13 states plus the District of Columbia that levy some form of tax on the purchase of machinery and equipment used for manufacturing.[1] However, Florida does provide a sales tax exemption on such purchases[2] when the machinery and equipment is purchased for certain uses by new and expanding manufacturing businesses.[3]

For new businesses, the purchase must be made for:

- Exclusive use by a new business in spaceport activities;[4] and
- Use by a new business that manufacturers, processes, compounds, or produces for sale items of tangible personal property at fixed locations.

The new business must prove to the Department of Revenue (DOR) that the items are going to be used in a new business. The purchases have to be made before the date the business begins productive operations and delivery of the tax-exempt items must be made within 12 months of that date.

For expanding businesses, the purchase must be made for:

- Exclusive use by an expanding facility engaged in spaceport activities; or
- Use in an expanding manufacturing facility or plant unit which manufacturers, processes, compounds, or produces for sale items of tangible personal property at fixed locations in Florida.

The expanding business must prove to DOR that the items will be used to increase the productive output of the expanded facility or business by 5 percent or more. Productive output is measured for a 12-month period selected by the business after installing the machinery or equipment (within 2 years of the installation) that is compared to the output level for the 12-months immediately preceding the installation of the items.[5]

Businesses must apply to DOR for a temporary tax permit, which must be returned to DOR after all the machinery and equipment is purchased. If a qualifying business fails to apply for the permit or if DOR incorrectly determines that the business was not qualified for the permit, a business can still receive the exemption through a tax refund. DOR may conduct an audit to ensure that the purchases were made pursuant to the requirements for the exemption. If DOR finds that the purchases did not meet the requirements for the exemption, the amount of taxes exempted at the time of purchase become immediately due, plus penalties and interest.

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[1] The 13 others are: AL, AR, CA, DC, HI, KY, MN, MS, NV, NM, NC, ND, and SD. Source: National Conference of State Legislatures, *Multistate Quick Answer Charts: Sales and Use Taxes*, (on file with the Senate Commerce and Tourism Committee).

[2] Exempt purchases are limited to tangible personal property that has a depreciable life of 3 or more years. See s. 212.08(5)(b)6.a., F.S.

[3] Section 212.08(5)(b), F.S. This exemption does apply to phosphate or other solid minerals severance, mining, or processing operations.

[4] The term "spaceport activities" is defined in s. 212.02(22), F.S.

[5] Section 212.08(5)(b)6.b., F.S.

In addition to the exemption for new and expanding manufacturing businesses, industrial machinery and equipment purchased by an expanding business that manufactures tangible personal property pursuant to federal procurement regulations at fixed locations is also exempt, provided the items are used to increase productive output by 10 percent or more. Production must begin no later than 2 years following the installation of the industrial machinery and equipment.[6] This exemption operates as a refund of previously paid taxes.

The exemptions do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, or any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

Further, business property purchased for use by a business located in an enterprise zone is exempt from sales and use tax. The exemption inures to the business in the form of a refund of taxes previously paid.[7]

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. The Legislature codified the QDSC program in law in 1996,[8] 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.[9, 10]

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.

[6] Section 212.08(5)(d), F.S. This exemption is limited to federal contracts with the U.S. Department of Defense, the Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons.
[7] Section 212.08(5)(h), F.S. "Business property" does not include industrial machinery and equipment eligible for the exemption for new and expanding businesses.
[8] Ch. 96-348, L.O.F.
[9] Ch. 2008-89, L.O.F.
[10] Section 288.1045, F.S.

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. Applicants must also receive a 20 percent match from the local government for any award unless exempt.

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.

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.

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.

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.[11] In FY 2011-2012, $2,180,000 in QDSC incentives were awarded, of which $1,744,000 was awarded by the state.[12]

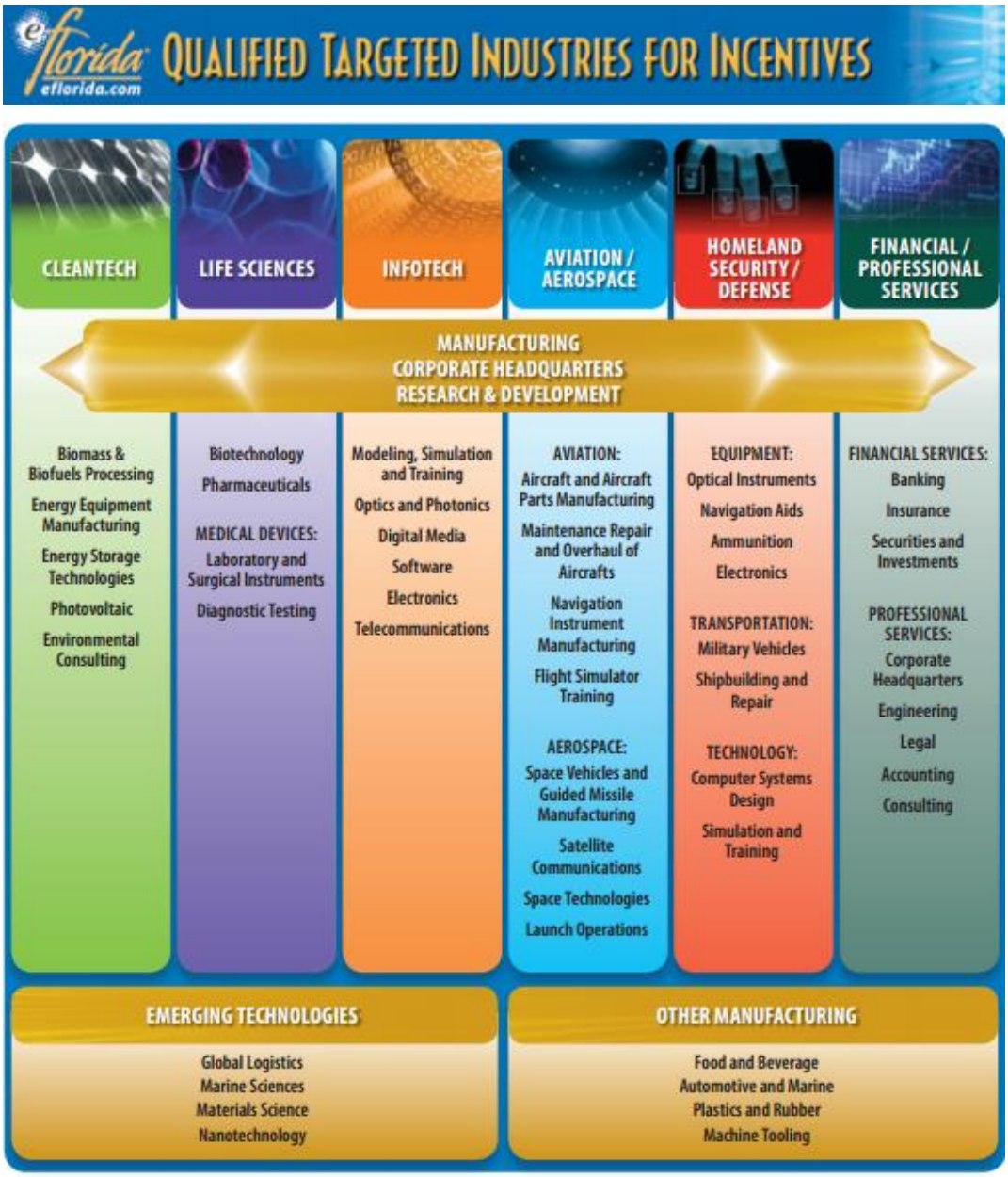
[11] An active incentive project means a business is currently performing and in good standing.
The status of each incentive falls within one of six categories: active, inactive, terminated, vacated, withdrawn, or complete.
[12] Information in this paragraph obtained from Enterprise Florida, Inc.'s, 2012 Annual Incentives Report. Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf, (last visited March 11, 2013).

Qualified Target Industry Tax Refund Program

The Qualified Target Industry Tax Refund (QTI) program was created by the Legislature in 1994[13] 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.

In order to qualify for the program, an applicant business must fall into one of Florida's target industry categories, which are developed by the Department of Economic Opportunity (DEO) and Enterprise Florida, Inc. (EFI). A diagram of targeted industries is below:[14]

[13] Ch. 94-136, L.O.F., codified as s. 288.601, F.S.
[14] 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 March 11, 2013).



Applicants must show that the project increases or creates jobs, the jobs pay a certain average annual wage, and other related information. Applicants must also receive a 20 percent match from the local government for any award unless exempt.

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 new jobs. In FY 2011-2012, $58,063,500 in QTI incentives were awarded, of which $46,450,800 was awarded by the state.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 212.08(5), F.S., to expand the availability of the sales tax exemption for machinery and equipment from new or expanding businesses to all businesses. Under the bill, industrial machinery and equipment is exempt from sales tax when it is purchased for use in Florida by a business that manufactures, processes, compounds, or produces for sale tangible personal property at a fixed location.

At the time of purchase, in order to use the exemption, the purchaser has to present a signed certificate that states that the exempt items are for exclusive use as provided above. The certificate relieves the seller of any liability to collect the tax, and if DOR later determines that tax was due, it must pursue payment from the purchaser. The exemption is available for use at any time; under current law, qualified businesses receive a temporary exemption permit.

[15] 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 March 11, 2013).

Such expansion eliminates the 5 percent productivity requirement for expanding businesses to use the sales tax exemption. The bill deletes the exemption for businesses participating in spaceport activities that increase productivity by at least 5 percent. The bill deletes the exemption for machinery and equipment used under federal procurement contracts. The specific exemptions are no longer needed as a result of the expansion of the sales tax exemption for machinery and equipment to all businesses.

The bill eliminates the provisions to apply to DOR for a tax exemption permit. The bill also eliminates audit authority for DOR to review exempt purchases for adherence to the law. The bill eliminates rulemaking authority for DOR.

The bill makes conforming changes to the sales tax exemptions for business property used in an enterprise zone and for electrical energy used in an enterprise zone.

Section 2 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. This section takes effect July 1, 2013.

Section 3 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. This section takes effect July 1, 2013.

Sections 4, **5**, **6**, **7**, **8**, and **9** amend ss. 212.0602, 220.183, 290.0056, 290.007, 624.5105, and 1011.94, F.S., to correct cross-references.

Section 10 provides an effective date of January 1, 2014, except as otherwise provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution, governs laws that require counties and municipalities to spend funds or limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (c) of this provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce the percentage of a state

tax shared with counties and municipalities. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (d) provides an exemption from these provisions. Laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 (which is $1.9 million for FY 2012-2013[16]), are exempt.[17]

The Revenue Estimating Conference has not evaluated the effects of this bill. As such, the bill's effect may have a significant impact on the ability of counties and municipalities to generate and share tax revenues, as DEO projects that the bill will reduce local revenues by $13 million in FY 2013-2014, and create a recurring negative impact of $26 million annually. Therefore, this bill requires passage by 2/3 of the membership of each chamber.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

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

DEO projects that the bill will reduce state revenues by $57.7 million in FY 2013-2014, and $115.3 million each year thereafter. DEO projects the bill will reduce local revenues by $13 million in FY 2013-2014, and $26 million each year thereafter.[18]

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 for all economic development

[16] Based on the Demographic Estimating Conference's population adopted on February 7, 2013. The post-conference packet can be found at: http://edr.state.fl.us/Content/conferences/population/FDEC-Post-Conference%20Packet-201302.pdf, (last visited on March 11, 2013).
[17] *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf, (last visited on March 11, 2013).
[18] Department of Economic Opportunity, *Agency Bill Analysis: SB 518*, (February 4, 2013), (on file with the Senate Commerce and Tourism Committee).

tax refund programs would still apply.[19] Both programs will continue to be subject to annual legislative appropriations.

B. Private Sector Impact:

Businesses and consumers would likely benefit from the expansion of the machinery and equipment sales tax exemption.

A business 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 expanded machinery equipment sales tax exemption expected to have minimal operational impact on the Department of Revenue and the Department of Economic Opportunity.

The removal of QDSC and QTI lifetime caps is not expected to increase the resource demands of DEO.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Related to the sales tax exemption for machinery and equipment, the bill does not provide any requirements for the "signed certificate" to be used to receive the exemption. It is unclear how a certificate is obtained and who signs it. The bill also eliminates audit authority for DOR to review exempt purchases for adherence to the law. Additionally, by eliminating specified rulemaking authority for DOR, the department does not have specific authority to adopt rules to implement these provisions of the bill.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on April 1, 2013:
The CS makes the following changes:

- Clarifies the exemption for machinery and equipment is for use in this state only.
- Repeals the exemptions for industrial machinery and equipment purchased for use by businesses participating in spaceport activities that use the materials to increase productivity by at least 5 percent.

[19] Section 288.095(3)(a), F.S.

- Repeals the exemption for machinery and equipment purchased for use under federal procurement contracts.
- Clarifies the threshold for businesses located in an enterprise zone to receive an increased refund on business property is for businesses that employ at least 20 percent or more of its workers from residents of an enterprise zone.
- Removes requirements related to release of Innovation Incentive Program funds.
- Corrects several cross-references.
- Changes the effective date from July 1, 2014, to January 1, 2014, unless otherwise specified.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
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The Committee on Commerce and Tourism (Hukill) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraphs (e) through (q) of subsection (5) of
6 section 212.08, Florida Statutes, are redesignated as paragraphs
7 (d) through (p), respectively, and paragraphs (b), (d), and (h)
8 of that subsection and paragraph (f) of subsection (15) of that
9 section are amended, to read:
10 212.08 Sales, rental, use, consumption, distribution, and
11 storage tax; specified exemptions.—The sale at retail, the
12 rental, the use, the consumption, the distribution, and the

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storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) *Machinery and equipment used by manufacturers* ~~*to increase productive output*~~.—

1. Industrial machinery and equipment purchased for ~~exclusive~~ use in this state by ~~a new business in spaceport activities as defined by s. 212.02 or for use in new~~ businesses that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter if, at the time of purchase, the purchaser furnishes the seller with a signed certificate stating that the items to be exempted are for exclusive use as provided in this paragraph. The certificate relieves the seller of the responsibility of collecting the tax on the sale of such items and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption ~~upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state~~. ~~Such purchases must be made before the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months after that date.~~

~~2. Industrial machinery and equipment purchased for exclusive use by an expanding facility which is engaged in spaceport activities as defined by s. 212.02 or for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of~~

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42 ~~tangible personal property at fixed locations in this state are~~
43 ~~exempt from any amount of tax imposed by this chapter upon an~~
44 ~~affirmative showing by the taxpayer to the satisfaction of the~~
45 ~~department that such items are used to increase the productive~~
46 ~~output of such expanded facility or business by not less than 5~~
47 ~~percent.~~
48 ~~3.a. To receive an exemption provided by subparagraph 1. or~~
49 ~~subparagraph 2., a qualifying business entity shall apply to the~~
50 ~~department for a temporary tax exemption permit. The application~~
51 ~~shall state that a new business exemption or expanded business~~
52 ~~exemption is being sought. Upon a tentative affirmative~~
53 ~~determination by the department pursuant to subparagraph 1. or~~
54 ~~subparagraph 2., the department shall issue such permit.~~
55 ~~b. The applicant shall maintain all necessary books and~~
56 ~~records to support the exemption. Upon completion of purchases~~
57 ~~of qualified machinery and equipment pursuant to subparagraph 1.~~
58 ~~or subparagraph 2., the temporary tax permit shall be delivered~~
59 ~~to the department or returned to the department by certified or~~
60 ~~registered mail.~~
61 ~~c. If, in a subsequent audit conducted by the department,~~
62 ~~it is determined that the machinery and equipment purchased as~~
63 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
64 ~~criteria mandated by this paragraph or if commencement of~~
65 ~~production did not occur, the amount of taxes exempted at the~~
66 ~~time of purchase shall immediately be due and payable to the~~
67 ~~department by the business entity, together with the appropriate~~
68 ~~interest and penalty, computed from the date of purchase, in the~~
69 ~~manner prescribed by this chapter.~~
70 ~~d. If a qualifying business entity fails to apply for a~~

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71 ~~temporary exemption permit or if the tentative determination by~~
72 ~~the department required to obtain a temporary exemption permit~~
73 ~~is negative, a qualifying business entity shall receive the~~
74 ~~exemption provided in subparagraph 1. or subparagraph 2. through~~
75 ~~a refund of previously paid taxes. No refund may be made for~~
76 ~~such taxes unless the criteria mandated by subparagraph 1. or~~
77 ~~subparagraph 2. have been met and commencement of production has~~
78 ~~occurred.~~
79 ~~4. The department shall adopt rules governing applications~~
80 ~~for, issuance of, and the form of temporary tax exemption~~
81 ~~permits; provisions for recapture of taxes; and the manner and~~
82 ~~form of refund applications, and may establish guidelines as to~~
83 ~~the requisites for an affirmative showing of increased~~
84 ~~productive output, commencement of production, and qualification~~
85 ~~for exemption.~~
86 2.~~5.~~ The exemption does ~~exemptions provided in~~
87 ~~subparagraphs 1. and 2. do~~ not apply to machinery or equipment
88 purchased or used by electric utility companies, communications
89 companies, oil or gas exploration or production operations,
90 publishing firms that do not export at least 50 percent of their
91 finished product out of the state, any firm subject to
92 regulation by the Division of Hotels and Restaurants of the
93 Department of Business and Professional Regulation, or any firm
94 that does not manufacture, process, compound, or produce for
95 sale items of tangible personal property ~~or that does not use~~
96 ~~such machinery and equipment in spaceport activities as required~~
97 ~~by this paragraph~~. The exemption applies ~~exemptions provided in~~
98 ~~subparagraphs 1. and 2. shall apply~~ to machinery and equipment
99 purchased for use in phosphate or other solid minerals

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100 severance, mining, or processing operations.
101 3.~~6.~~ For the purposes of the exemption, the term ~~exemptions~~
102 ~~provided in subparagraphs 1. and 2., these terms have the~~
103 ~~following meanings:~~
104 ~~a.~~ “Industrial machinery and equipment” means tangible
105 personal property or other property that has a depreciable life
106 of 3 years or more and ~~that~~ is used as an integral part in the
107 manufacturing, processing, compounding, or production of
108 tangible personal property for sale ~~or is exclusively used in~~
109 ~~spaceport activities~~. A building and its structural components
110 are not industrial machinery and equipment unless the building
111 or structural component is so closely related to the industrial
112 machinery and equipment that it houses or supports that the
113 building or structural component can be expected to be replaced
114 when the machinery and equipment are replaced. Heating and air-
115 conditioning systems are not industrial machinery and equipment
116 unless the sole justification for their installation is to meet
117 the requirements of the production process, even though the
118 system may provide incidental comfort to employees or serve, to
119 an insubstantial degree, nonproduction activities. The term
120 includes parts and accessories for industrial machinery and
121 equipment ~~only to the extent that the exemption thereof is~~
122 ~~consistent with the provisions of this paragraph~~.
123 ~~b. “Productive output” means the number of units actually~~
124 ~~produced by a single plant, operation, or product line in a~~
125 ~~single continuous 12-month period, irrespective of sales.~~
126 ~~Increases in productive output shall be measured by the output~~
127 ~~for 12 continuous months selected by the expanding business~~
128 ~~after completion of the installation of such machinery or~~

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129 ~~equipment over the output for the 12 continuous months~~
130 ~~immediately preceding such installation. However, in no case may~~
131 ~~such time period begin later than 2 years after completion of~~
132 ~~the installation of the new machinery and equipment. The units~~
133 ~~used to measure productive output shall be physically comparable~~
134 ~~between the two periods, irrespective of sales.~~
135 ~~(d) *Machinery and equipment used under federal procurement*~~
136 ~~*contract.*~~
137 ~~1. Industrial machinery and equipment purchased by an~~
138 ~~expanding business which manufactures tangible personal property~~
139 ~~pursuant to federal procurement regulations at fixed locations~~
140 ~~in this state are exempt from the tax imposed in this chapter~~
141 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
142 ~~of the department that such items are used to increase the~~
143 ~~implicit productive output of the expanded business by not less~~
144 ~~than 10 percent. The percentage of increase is measured as~~
145 ~~deflated implicit productive output for the calendar year during~~
146 ~~which the installation of the machinery or equipment is~~
147 ~~completed or during which commencement of production utilizing~~
148 ~~such items is begun divided by the implicit productive output~~
149 ~~for the preceding calendar year. In no case may the commencement~~
150 ~~of production begin later than 2 years following completion of~~
151 ~~installation of the machinery or equipment.~~
152 ~~2. The amount of the exemption allowed shall equal the~~
153 ~~taxes otherwise imposed by this chapter on qualifying industrial~~
154 ~~machinery or equipment reduced by the percentage of gross~~
155 ~~receipts from cost-reimbursement type contracts attributable to~~
156 ~~the plant or operation to total gross receipts so attributable,~~
157 ~~accrued for the year of completion or commencement.~~

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158 ~~3. The exemption provided by this paragraph shall inure to~~
159 ~~the taxpayer only through refund of previously paid taxes. Such~~
160 ~~refund shall be made within 30 days of formal approval by the~~
161 ~~department of the taxpayer's application, which application may~~
162 ~~be made on an annual basis following installation of the~~
163 ~~machinery or equipment.~~
164 ~~4. For the purposes of this paragraph, the term:~~
165 ~~a. "Cost-reimbursement type contracts" has the same meaning~~
166 ~~as in 32 C.F.R. s. 3-405.~~
167 ~~b. "Deflated implicit productive output" means the product~~
168 ~~of implicit productive output times the quotient of the national~~
169 ~~defense implicit price deflator for the preceding calendar year~~
170 ~~divided by the deflator for the year of completion or~~
171 ~~commencement.~~
172 ~~c. "Eligible costs" means the total direct and indirect~~
173 ~~costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding~~
174 ~~general and administrative costs, selling expenses, and profit,~~
175 ~~defined by the uniform cost-accounting standards adopted by the~~
176 ~~Cost-Accounting Standards Board created pursuant to 50 U.S.C. s.~~
177 ~~2168.~~
178 ~~d. "Implicit productive output" means the annual eligible~~
179 ~~costs attributable to all contracts or subcontracts subject to~~
180 ~~federal procurement regulations of the single plant or operation~~
181 ~~at which the machinery or equipment is used.~~
182 ~~e. "Industrial machinery and equipment" means tangible~~
183 ~~personal property or other property that has a depreciable life~~
184 ~~of 3 years or more, that qualifies as an eligible cost under~~
185 ~~federal procurement regulations, and that is used as an integral~~
186 ~~part of the process of production of tangible personal property.~~

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187 ~~A building and its structural components are not industrial~~
188 ~~machinery and equipment unless the building or structural~~
189 ~~component is so closely related to the industrial machinery and~~
190 ~~equipment that it houses or supports that the building or~~
191 ~~structural component can be expected to be replaced when the~~
192 ~~machinery and equipment are replaced. Heating and air-~~
193 ~~conditioning systems are not industrial machinery and equipment~~
194 ~~unless the sole justification for their installation is to meet~~
195 ~~the requirements of the production process, even though the~~
196 ~~system may provide incidental comfort to employees or serve, to~~
197 ~~an insubstantial degree, nonproduction activities. The term~~
198 ~~includes parts and accessories only to the extent that the~~
199 ~~exemption of such parts and accessories is consistent with the~~
200 ~~provisions of this paragraph.~~
201 ~~f. "National defense implicit price deflator" means the~~
202 ~~national defense implicit price deflator for the gross national~~
203 ~~product as determined by the Bureau of Economic Analysis of the~~
204 ~~United States Department of Commerce.~~
205 ~~5. The exclusions provided in subparagraph (b)5. apply to~~
206 ~~this exemption. This exemption applies only to machinery or~~
207 ~~equipment purchased pursuant to production contracts with the~~
208 ~~United States Department of Defense and Armed Forces, the~~
209 ~~National Aeronautics and Space Administration, and other federal~~
210 ~~agencies for which the contracts are classified for national~~
211 ~~security reasons. In no event shall the provisions of this~~
212 ~~paragraph apply to any expanding business the increase in~~
213 ~~productive output of which could be measured under the~~
214 ~~provisions of sub-subparagraph (b)6.b. as physically comparable~~
215 ~~between the two periods.~~

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216 (g) ~~(h)~~ *Business property used in an enterprise zone.*—
217 1. Business property purchased for use by businesses
218 located in an enterprise zone which is subsequently used in an
219 enterprise zone is ~~shall be~~ exempt from the tax imposed by this
220 chapter. This exemption inures to the business only through a
221 refund of previously paid taxes. A refund shall be authorized
222 upon an affirmative showing by the taxpayer, to the satisfaction
223 of the department, that the requirements of this paragraph have
224 been met.
225 2. To receive a refund, the business must file ~~under oath~~
226 with the governing body or enterprise zone development agency
227 that has ~~having~~ jurisdiction over the enterprise zone where the
228 business is located, as applicable, an application, under oath,
229 which includes:
230 a. The name and address of the business claiming the
231 refund.
232 b. The identifying number assigned pursuant to s. 290.0065
233 to the enterprise zone in which the business is located.
234 c. A specific description of the property for which a
235 refund is sought, including its serial number or other permanent
236 identification number.
237 d. The location of the property.
238 e. The sales invoice or other proof of purchase of the
239 property, showing the amount of sales tax paid, the date of
240 purchase, and the name and address of the sales tax dealer from
241 whom the property was purchased.
242 f. Whether the business is a small business as defined by
243 s. 288.703.
244 g. If applicable, the name and address of each permanent

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245 employee of the business, including, for each employee who is a
246 resident of an enterprise zone, the identifying number assigned
247 pursuant to s. 290.0065 to the enterprise zone in which the
248 employee resides.
249 3. Within 10 working days after receipt of an application,
250 the governing body or enterprise zone development agency shall
251 review the application to determine if it contains all the
252 information required pursuant to subparagraph 2. and meets the
253 criteria set out in this paragraph. The governing body or agency
254 shall certify all applications that contain the information
255 required pursuant to subparagraph 2. and meet the criteria set
256 out in this paragraph as eligible to receive a refund. If
257 applicable, the governing body or agency shall also certify if
258 20 percent of the employees of the business are residents of an
259 enterprise zone, excluding temporary and part-time employees.
260 The certification must ~~shall~~ be in writing, and a copy of the
261 certification must ~~shall~~ be transmitted to the executive
262 director of the Department of Revenue. The business is ~~shall be~~
263 responsible for forwarding a certified application to the
264 department within the time specified in subparagraph 4.
265 4. An application for a refund pursuant to this paragraph
266 must be submitted to the department within 6 months after the
267 tax is due on the business property that is purchased.
268 5. The amount refunded on purchases of business property
269 under this paragraph shall be the lesser of 97 percent of the
270 sales tax paid on such business property or $5,000, or, if ~~no~~
271 ~~less than~~ 20 percent or more of the employees of the business
272 are residents of an enterprise zone, excluding temporary and
273 part-time employees, the amount ~~refunded on purchases of~~

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274 ~~business property under this paragraph~~ shall be the lesser of 97
275 percent of the sales tax paid on such business property or
276 $10,000. A refund must ~~approved pursuant to this paragraph shall~~
277 be made within 30 days after formal approval by the department
278 of the application for the refund. A refund may not be granted
279 ~~under this paragraph~~ unless the amount to be refunded exceeds
280 $100 in sales tax paid on purchases made within a 60-day time
281 period.
282 6. The department shall adopt rules governing the manner
283 and form of refund applications and may establish guidelines as
284 to the requisites for an affirmative showing of qualification
285 for exemption under this paragraph.
286 7. If the department determines that the business property
287 is used outside an enterprise zone within 3 years after ~~from~~ the
288 date of purchase, the amount of taxes refunded to the business
289 purchasing such business property is ~~shall~~ immediately ~~be~~ due
290 and payable to the department by the business, together with the
291 appropriate interest and penalty, computed from the date of
292 purchase, in the manner provided by this chapter.
293 Notwithstanding this subparagraph, business property used
294 exclusively in:
295 a. Licensed commercial fishing vessels,
296 b. Fishing guide boats, or
297 c. Ecotourism guide boats
298
299 that leave and return to a fixed location within an area
300 designated under s. 379.2353, Florida Statutes 2010, are
301 eligible for the exemption ~~provided under this paragraph~~ if all
302 requirements of this paragraph are met. Such vessels and boats

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303 must be owned by a business that is eligible to receive the
304 exemption ~~provided under this paragraph~~. This exemption does not
305 apply to the purchase of a vessel or boat.
306 8. The department shall deduct an amount equal to 10
307 percent of each refund granted under this paragraph from the
308 amount transferred into the Local Government Half-cent Sales Tax
309 Clearing Trust Fund pursuant to s. 212.20 for the county area in
310 which the business property is located and shall transfer that
311 amount to the General Revenue Fund.
312 9. For the purposes of this exemption, the term "business
313 property" means new or used property defined as "recovery
314 property" in s. 168(c) of the Internal Revenue Code of 1954, as
315 amended, except:
316 a. Property classified as 3-year property under s.
317 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;
318 b. Industrial machinery and equipment as defined in
319 subparagraph (b)3. ~~sub-subparagraph (b)6.a.~~ and eligible for
320 exemption under paragraph (b);
321 c. Building materials as defined in sub-subparagraph
322 (g)8.a.; and
323 d. Business property having a sales price of under $5,000
324 per unit.
325 10. This paragraph expires on the date specified in s.
326 290.016 for the expiration of the Florida Enterprise Zone Act.
327 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—
328 (f) For the purpose of the exemption provided in this
329 subsection, the term "qualified business" means a business that
330 ~~which~~ is:
331 1. First occupying a new structure to which electrical

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332 service, other than that used for construction purposes, has not
333 been previously provided or furnished;
334 2. Newly occupying an existing, remodeled, renovated, or
335 rehabilitated structure to which electrical service, other than
336 that used for remodeling, renovation, or rehabilitation of the
337 structure, has not been provided or furnished in the three
338 preceding billing periods; or
339 3. Occupying a new, remodeled, rebuilt, renovated, or
340 rehabilitated structure for which a refund has been granted
341 pursuant to paragraph (5)(f) ~~(5)(g)~~.
342 Section 2. Effective July 1, 2013, paragraph (c) of
343 subsection (2) of section 288.1045, Florida Statutes, is
344 amended, and present paragraphs (d) through (h) of that
345 subsection are redesignated as paragraphs (c) through (g),
346 respectively, to read:
347 288.1045 Qualified defense contractor and space flight
348 business tax refund program.—
349 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—
350 ~~(c) A qualified applicant may not receive more than $7~~
351 ~~million in tax refunds pursuant to this section in all fiscal~~
352 ~~years.~~
353 Section 3. Effective July 1, 2013, paragraph (c) of
354 subsection (3) of section 288.106, Florida Statutes, is amended
355 to read:
356 288.106 Tax refund program for qualified target industry
357 businesses.—
358 (3) TAX REFUND; ELIGIBLE AMOUNTS.—
359 (c) A qualified target industry business may not receive
360 refund payments of more than 25 percent of the total tax refunds

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361 specified in the tax refund agreement under subparagraph
362 (5)(a)1. in any fiscal year. Further, a qualified target
363 industry business may not receive more than $1.5 million in
364 refunds under this section in any single fiscal year, or more
365 than $2.5 million in any single fiscal year if the project is
366 located in an enterprise zone. ~~A qualified target industry~~
367 ~~business may not receive more than $7 million in refund payments~~
368 ~~under this section in all fiscal years, or more than $7.5~~
369 ~~million if the project is located in an enterprise zone.~~
370 Section 4. Section 212.0602, Florida Statutes, is amended
371 to read:
372 212.0602 Education; limited exemption.—To facilitate
373 investment in education and job training, there is also exempt
374 from the taxes levied under this chapter, subject to the
375 provisions of this section, the purchase or lease of materials,
376 equipment, and other items or the license in or lease of real
377 property by any entity, institution, or organization that is
378 primarily engaged in teaching students to perform any of the
379 activities or services described in s. 212.031(1)(a)9., that
380 conducts classes at a fixed location located in this state, that
381 is licensed under chapter 1005, and that has at least 500
382 enrolled students. Any entity, institution, or organization
383 meeting the requirements of this section shall be deemed to
384 qualify for the exemptions under ~~in~~ ss. 212.031(1)(a)9. and
385 212.08(5)(e) ~~212.08(5)(f)~~ and (12), and to qualify for an
386 exemption for its purchase or lease of materials, equipment, and
387 other items used for education or demonstration of the school's
388 curriculum, including supporting operations. ~~Nothing in~~ This
389 section does not ~~shall~~ preclude an entity described in this

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390 section from qualifying for any other exemption provided under
391 ~~for in~~ this chapter.
392 Section 5. Paragraph (c) of subsection (1) of section
393 220.183, Florida Statutes, is amended to read:
394 220.183 Community contribution tax credit.—
395 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
396 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
397 SPENDING.—
398 (c) The total amount of tax credit which may be granted for
399 all programs approved under this section, s. 212.08(5)(o)
400 ~~212.08(5)(p)~~, and s. 624.5105 is $10.5 million annually for
401 projects that provide homeownership opportunities for low-income
402 households or very-low-income households as those terms are
403 defined in s. 420.9071~~(19) and (28)~~ and $3.5 million annually
404 for all other projects.
405 Section 6. Paragraph (a) of subsection (9) of section
406 290.0056, Florida Statutes, is amended to read:
407 290.0056 Enterprise zone development agency.—
408 (9) The following powers and responsibilities shall be
409 performed by the governing body creating the enterprise zone
410 development agency acting as the managing agent of the
411 enterprise zone development agency, or, contingent upon approval
412 by such governing body, such powers and responsibilities shall
413 be performed by the enterprise zone development agency:
414 (a) To review, process, and certify applications for state
415 enterprise zone tax incentives pursuant to ss. 212.08(5)(f), (g)
416 ~~212.08(5)(g), (h)~~, and (15); 212.096; 220.181; and 220.182.
417 Section 7. Subsections (4) and (5) of section 290.007,
418 Florida Statutes, are amended to read:

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419 290.007 State incentives available in enterprise zones.—The
420 following incentives are provided by the state to encourage the
421 revitalization of enterprise zones:
422 (4) The sales tax exemption for building materials used in
423 the rehabilitation of real property in enterprise zones provided
424 in s. 212.08(5)(f) ~~212.08(5)(g)~~.
425 (5) The sales tax exemption for business equipment used in
426 an enterprise zone provided in s. 212.08(5)(g) ~~212.08(5)(h)~~.
427 Section 8. Paragraph (c) of subsection (1) of section
428 624.5105, Florida Statutes, is amended to read:
429 624.5105 Community contribution tax credit; authorization;
430 limitations; eligibility and application requirements;
431 administration; definitions; expiration.—
432 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—
433 (c) The total amount of tax credit which may be granted for
434 all programs approved under this section and ss. 212.08(5)(o)
435 ~~212.08(5)(p)~~ and 220.183 is $10.5 million annually for projects
436 that provide homeownership opportunities for low-income
437 households or very-low-income households as those terms are
438 defined in s. 420.9071~~(19) and (28)~~ and $3.5 million annually
439 for all other projects.
440 Section 9. Subsection (1) of section 1011.94, Florida
441 Statutes, is amended to read:
442 1011.94 University Major Gifts Program.—
443 (1) The ~~There is established a~~ University Major Gifts
444 Program is established. The purpose of the program is to enable
445 each university to provide donors with an incentive in the form
446 of matching grants for donations for the establishment of
447 permanent endowments and sales tax exemption matching funds

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448 received pursuant to s. 212.08(5)(i) ~~212.08(5)(j)~~, which must be
449 invested, with the proceeds of the investment used to support
450 libraries and instruction and research programs, as defined by
451 the Board of Governors.
452 Section 10. Except as otherwise expressly provided in this
453 act, and except for this section which shall take effect upon
454 becoming law, this act shall take effect January 1, 2014.
455
456 ========== T I T L E A M E N D M E N T ==========
457 And the title is amended as follows:
458 Delete everything before the enacting clause
459 and insert:
460 A bill to be entitled
461 An act relating to economic business incentives;
462 amending s. 212.08, F.S.; revising the sales tax
463 exemption for certain business purchases of industrial
464 machinery and equipment; deleting certain limitations
465 on, and procedural requirements relating to, the
466 exemption; deleting the sales tax exemption for
467 machinery and equipment used for certain federal
468 procurement contracts; conforming cross-references;
469 amending s. 288.1045, F.S.; deleting the limitation on
470 the maximum amount of tax refunds a business may
471 receive under the qualified defense contractor and
472 space flight business tax refund program; amending s.
473 288.106, F.S.; deleting the limitation on the maximum
474 amount of tax refunds a business may receive under the
475 tax refund program for qualified target industry
476 businesses; amending ss. 212.0602, 220.183, 290.0056,

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477 290.007, 627.5105, and 1011.94, F.S.; conforming
478 cross-references; providing effective dates.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DOROTHY L. HUKILL
8th District

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

February 7, 2013

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

Dear Madam Chair Detert:

Senate Bill 518 relating to Economic Business Incentives has been referred to the Commerce and Tourism Committee. I am requesting your consideration on placing SB 518 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Dorothy L. Hukill, 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)

4/1/2013
Meeting Date

Topic: Manufacturing Tax Exemption on Equipment

Bill Number: SB 518 *(if applicable)*

Name: Rheb Harbison

Amendment Barcode: 233250 *(if applicable)*

Job Title: Senior Government Consultant

Address: 215 S. Monroe Street, Suite 500
Street

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

Phone: 850-224-1585

E-mail: rharbison@carltonfields.com

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

Representing: Associated Industries of Florida

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

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

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

of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing sales tax exemption

Bill Number: 518 *(if applicable)*

Name: Nancy ~~Stewart~~ Stephen

Amendment Barcode: *(if applicable)*

Job Title:

Address: 1535 Killeam Center Blvd
Street

TLH, FL 32309
City, State, Zip

Phone: 850-385-7805

E-mail:

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

Representing: Manufacturers Association of Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2013
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 *(if applicable)*

Name: Richard Reeves

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 201 S. Monroe St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 513-0004

E-mail: richard@scggov.com

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

Representing: Gulf Power

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing sales tax exemption

Bill Number: 518 (if applicable)

Name: Ron Avery

Amendment Barcode: (if applicable)

Job Title: Owner, Ronco

Address: 3400 AGRICULTURAL CENTER DR
Street

ST. AUGUSTINE FL 32092
City State Zip

Phone: 904-669-3152

E-mail: RAVERY@RONCOGROUP.COM

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

Representing: Manufacturers Association of Florida

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: ECONOMIC BUSINESS INCENTIVES

Bill Number: 518 *(if applicable)*

Name: CAROLE DUNCANSON

Amendment Barcode: *(if applicable)*

Job Title:

Address: 325 S ADAMS ST
Street

TALLA FL 32301
City *State* *Zip*

Phone: 566 9056

E-mail: CAROLECD@AOL.COM

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

Representing: FLA MANUFACTURING EXTENSION PARTNERSHIP

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: ECONOMIC BUSINESS INCENTIVES

Bill Number: 518 *(if applicable)*

Name: CAROLE DUNCANSON

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 225 S ADAMS ST
Street

TALLA FL 32301
City *State* *Zip*

Phone: 5669056

E-mail: CAROLECD@AOL.COM

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

Representing: PRINTING ASSOC OF FLA

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 (if applicable)

Name: Harry Duncanson

Amendment Barcode: (if applicable)

Job Title: Vice President

Address: 950 SE 8 Street
Street

Hialeah FL 33010
City State Zip

Phone: 954-401-5933

E-mail: HarryDunc@Comcast.net

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

Representing: Dynacolor Graphics Division of Franklin Dodd Communications

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2013
Meeting Date

Topic: Economic Development Incentives

Bill Number: SB 518 (if applicable)

Name: Donna Simmons

Amendment Barcode: (if applicable)

Job Title: Dir, State Gov't Relations

Address: 106 E College Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 681-6785

E-mail:

Speaking: [✓] For [ ] Against [ ] Information (waive in support)

Representing: TECO Energy

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 *(if applicable)*

Name: Ron Pierce

Amendment Barcode: *(if applicable)*

Job Title: President - RSA Consulting Group

Address: 235 W. Brandon Blvd., Suite 640
Street

Brandon, FL 33511
City, State, Zip

Phone: 813-777-5578

E-mail: ron@rsaconsultinglk.com

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

Representing: Tampa Bay Partnership

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-13
Meeting Date

Topic: Economic Business Incentives

Bill Number: SB 518 (if applicable)

Name: Cameron Cooper

Amendment Barcode: (if applicable)

Job Title: Director of External Affairs

Address: 106 E. College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-521-1422

E-mail: Cameron.Cooper@pgnmail.com

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

Representing: Progress Energy

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic _____

Bill Number SB 518 *(if applicable)*

Name John Ray

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 113 South Monroe Street, Suite 107
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850.445.5044

E-mail jray@johnrayconsulting.com

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

Representing Florida Medical Manufacturers Consortium

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 (if applicable)

Name: John Holley

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: _____
Street

_____
City State Zip

Phone: _____

E-mail: _____

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

Representing: Florida Power & Light

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing Tax Exemption

Bill Number: 518 (if applicable)

Name: Richard Schwab

Amendment Barcode: (if applicable)

Job Title:

Address:
Street

City State Zip

Phone: 850-838-6178

E-mail: richard@marigoniinc.com

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

Representing: National Federation of Independent Business

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic

Bill Number SB 518 (if applicable)

Name STU POLLINS

Amendment Barcode (if applicable)

Job Title

Address THE CAPITOL
Street

TALLAHASSEE
City State Zip

Phone 850-717-9497

E-mail STU.POLLINS@LASBS.STATE.FL.US

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

Representing GOVERNOR'S OFFICE

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: M+E Tax Exemption

Bill Number: SB 518 *(if applicable)*

Name: Chris Snow

Amendment Barcode: *(if applicable)*

Job Title: Senior Director of Government Relations

Address: 1580 Waldo Palmer Lane
Street

Tallahassee, FL
City, State, Zip

Phone: 321 474 9754

E-mail: csnow@spaceflorida.gov

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

Representing: Space Florida

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Topic: MANUFACTURING TAX EXEMPTION

Bill Number: S 518 (if applicable)

Name: MICHAEL RUBIN

Amendment Barcode: _____ (if applicable)

Job Title: VP GOVT AFFAIRS

Address: 502 E JEFFERSON (Street)

TALL FL (City, State, Zip)

Phone: _____

E-mail: _____

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

Representing: FLORIDA PORTS COUNCIL

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-13
Meeting Date

Topic _____

Bill Number SB 518 *(if applicable)*

Name ~~Herb~~ Michelle Curtis

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address _____
Street

Perry FL
City *State* *Zip*

Phone _____

E-mail _____

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

Representing Buckeye

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-13
Meeting Date

Topic: MANUFACTURING SALES TAX

Bill Number: SB 518 *(if applicable)*

Name: DAVID HART

Amendment Barcode: *(if applicable)*

Job Title: EXEC VP

Address: 136 S. BRONOUGH ST
Street

TALLANASSEE FL 32301
City *State* *Zip*

Phone: 850.521-1200

E-mail: dhart@flchamber.com

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

Representing: FL CHAMBER

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Business Incentives

Bill Number: S18 (if applicable)

Name: KRISTOPHER BROWNING

Amendment Barcode: _____ (if applicable)

Job Title: Associate, Barney Bishop Consulting

Address: 204 South Monroe St. Suite 201
Street

Tallahassee, FL 32301
City, State, Zip

Phone: (850) 907-3436

E-mail: KRISTOPHER@barneybishop.com

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

Representing: Economic Development Commission of Florida's Space Coast + Astrotech Space Operations

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 *(if applicable)*

Name: Beth Kirkland

Amendment Barcode: _____ *(if applicable)*

Job Title: Chairman

Address: 3950 Shumard Oak Blvd
Street

Tallahassee FL 32311
City *State* *Zip*

Phone: (850) 212-1056

E-mail: bethkirkland@live.com

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.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: manufacturing sales tax exemption

Bill Number: 518 (if applicable)

Name: Terry Hattaway

Amendment Barcode: (if applicable)

Job Title: Public Affairs Manager

Address: 215 County Road 216
Street

Palatka, FL
City, State, Zip

Phone: 386-329-5682

E-mail: raymond.hadaway@gapac.com

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

Representing: Georgia-Pacific

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing Sales Tax Exemption

Bill Number: 518 *(if applicable)*

Name: DAVID DANIEL

Amendment Barcode: *(if applicable)*

Job Title:

Address: 311 E. PARK AVE
Street

TLH FL 32301
City *State* *Zip*

Phone: 224-5091

E-mail:

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

Representing: Johnson & Johnson

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: MANUFACTURERS SALES TAX EXEMPTION

Bill Number: SB 518 (if applicable)

Name: RANDY MILLER

Amendment Barcode: _____ (if applicable)

Job Title: EX. VICE PRESIDENT

Address: 227 S. ADAMS ST
Street

TALLAHASSEE, FL 32301
City State Zip

Phone: _____

E-mail: _____

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

Representing: FLORIDA RETAIL FEDERATION

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing sales tax exemption

Bill Number: 518 (if applicable)

Name: Sam Varn

Amendment Barcode: (if applicable)

Job Title: President/Owner AWARDS4U

Address: 1387 E. Lafayette St.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-878-7187

E-mail: SAM@AWARDS4U.com

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

Representing:

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing sales tax exemption

Bill Number: 518 (if applicable)

Name: Arthur Avalos

Amendment Barcode: (if applicable)

Job Title: President & CEO

Address: 3615 Hartsfield Rd
Street

Tallahassee Fl 32303
City State Zip

Phone: 850 877 7650

E-mail: Arthur@kingtools.com

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

Representing: King Arthur's Tools

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Development

Bill Number: SB 518 (if applicable)

Name: Jerry Sansom

Amendment Barcode: (if applicable)

Job Title:

Address: PO Box 98
Street

Cocoa, Fl. 32923
City, State, Zip

Phone: 321-777-8130

E-mail: fishhawk@aol.com

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

Representing: Northrop Grumman

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: Economic Business Incentives

Bill Number: 518 (if applicable)

Name: Sam Rosenberg

Amendment Barcode: _____ (if applicable)

Job Title: Operations Manager

Address: 2503 Jackson Bluff Rd.
Street

Tallahassee, FL 32304
City, State, Zip

Phone: 850-325-6862

E-mail: samr@roseprinting.com

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

Representing: Rose Printing Company

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: manufacturing sales tax exemption

Bill Number: 518 (if applicable)

Name: Anthony Fedd

Amendment Barcode: (if applicable)

Job Title: SITE DIRECTOR

Address: 1181 N. MADISON ST.
Street

QUINCY, FL 32352
City, State, Zip

Phone: 850.627.5268

E-mail: ANTHONY.FEDD@BASF.COM

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

Representing: BASF

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 1, 2013
Meeting Date

Topic: Support of bill - waive in support

Bill Number: 518 *(if applicable)*

Name: Bill Wilson

Amendment Barcode: _____ *(if applicable)*

Job Title: DEO, Director of Legislative Affairs

Address: 107 E. Madison St.
Street

Tall, Fl, 32399
City *State* *Zip*

Phone: (850) 245-7370

E-mail: bill.wilson@deo.myflorida.com

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

Representing: DEO

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

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

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

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S-001 (10/20/11)

The Florida Senate

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 582

INTRODUCER: Commerce and Tourism Committee and Senator Galvano

SUBJECT: Manufacturing Development

DATE: April 3, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	**Fav/CS**
2.			CA	
3.			ATD	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 582 creates the "Manufacturing Competitiveness Act," and authorizes local governments to adopt a local manufacturing development program to grant master development approval for the development, expansion, or modification of manufacturing facilities located within its jurisdiction. The Department of Economic Opportunity (department) is tasked with developing a model ordinance for use by local governments by December 1, 2013.

If the local government enacts an ordinance establishing a local manufacturing development program, it must be submitted to the department within 20 days of enactment. The ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan received by the local government is vested and entitled to participate in the coordinated approval process.

The bill directs the participating agencies[1] to establish a manufacturing development coordinated approval process. The approval process must provide for coordinated and simultaneous review of

[1] The bill defines participating agencies as the Department of Environmental Protection, Department of Transportation, Fish and Wildlife Conservation Commission, and water management districts.

applications for permits by the participating agencies, under their respective authorities. A manufacturer may convene a meeting with one or more of the participating agencies to facilitate the process. The bill provides that each participating agency must take final agency action on the application within 60 days after the application is filed, unless the deadline is waived or a federally delegated permitting program mandates a different deadline. If an application is not approved or denied within 60 days, it is deemed approved.

If a participating agency plans to deny an application, it must notify the manufacturer in writing and convene an informal meeting to facilitate a resolution, unless waived by the manufacturer. Throughout the process, the manufacturer may initiate an administrative hearing under ch. 120, F.S.

This bill creates ss. 163.325, 163.3251, 163.3252, 163.3253, and 288.111, F.S.

II. Present Situation:

Manufacturing Industry in Florida

Florida's manufacturing industry includes companies in traditional manufacturing industries, such as plastics, food processing and printing, as well as those that are engaged in innovative technologies, like electronics, medical devices, and aviation/aerospace. The state is home to nearly 18,000 manufacturers accounting for approximately 5 percent of Florida's gross domestic product.[2] The manufacturing industry employs more than 311,000 individuals in Florida.[3]

Enterprise Florida, Inc. (EFI), has identified manufacturing as a targeted industry, along with corporate headquarters, research and development, clean technologies, life sciences, information technology, aviation/aerospace, homeland security/defense, financial/professional services, and emerging technologies. Of the 122 economic development incentive contracts project commitments by EFI for FY 2011-2012, manufacturing ranked highest in terms of the number of project commitments by industry with 38, and expected capital investment with over $425 million and contracted to create 2,474 jobs paying an average annual wage of $37,352.[4]

Permits

Currently, the responsibility for issuance of permits for the development, expansion, or modification of manufacturing facilities resides in several state agencies, as well as local governments.

State Permits

[2] Enterprise Florida, Inc., *The Florida Economy* (Jan. 2013), *available at* http://www.eflorida.com/IntelligenceCenter/download/ER/SI_Florida_Economy_Glance.pdf (last visited Mar. 27, 2013).
[3] *Id.*
[4] Enterprise Florida, Inc., *2012 Annual Incentives Report* (2012), *available at* http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited on March 27, 2013).

The Department of Transportation (DOT), Fish and Wildlife Conservation Commission (FWC), Department of Environmental Protection (DEP), and water management districts[5] may each have responsibilities in the permitting process.

DOT is responsible for regulating work activities that impact state roads, such as access permits,[6] utility permits,[7] and drainage permits,[8] among other things. FWC is responsible for is responsible for protecting threatened or endangered species.[9] DEP works in conjunction with the water management districts to regulate and issue permits for such programs as stormwater management, surface water management, and consumptive use of water.[10] DEP also issues permits for items relating to air quality, among other things.

Current State Expedited Permitting Programs

Section 403.973, F.S., directs DEP to create and implement regional permit action teams for the purpose of expediting the review of permit applications and local comprehensive plan amendments for certain projects.[11] Section 380.0657, F.S., directs DEP and the water management districts to adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified as a target industry business.[12]

The DOT has implemented One Stop Permitting process for the permits it administers. DOT staff indicates that most applications are processed within 30 days of receipt of the completed application.[13]

Local Permits

Local governmental agencies are responsible for issuing building permits within their respective jurisdictions. Chapter 163, F.S., requires local governments to adopt comprehensive plans and land development regulations to regulate the development and growth in their jurisdictions. However, no uniform, statutory process exists for local governments to approve master development plans for manufacturing facilities.

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[5] There are five water management districts: Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District, and Southwest Florida Water Management District.
[6] Section, s 335.18 – 335.199, F.S.
[7] Section 337.401, F.S.
[8] Section 334.044(15), F.S.
[9] Section 379.2291, F.S.
[10] DEP, Water Management Districts, *available at* http://www.dep.state.fl.us/secretary/watman/default.htm (last visited March 11, 2013).
[11] Those projects that may apply for expedited permitting under this provision include businesses creating at least 50 jobs (or at least 25 jobs if the project is located in an enterprise zone or in a county with limited population), projects located in a designated brownfield area, projects that are a part of the state-of-the-art biomedical research institution and campus, and certain projects relating to the production of biofuels. Certain other projects may be considered for expedited permitting at the request of the local government.
[12] Section 288.106, F.S.
[13] Department of Transportation, *Legislative Bill Review HB 357* (Feb. 11, 2013) (on file with the Senate Commerce and Tourism Committee).

III. Effect of Proposed Changes:

Section 1 creates s. 163.325, F.S., and provides that the act may be cited as the "Manufacturing Competitiveness Act (the act)."

Section 2 creates s. 163.3251, F.S., and provides definitions for terms used in the act. The section defines the terms "department," "local government development approval," "local manufacturing development program," "manufacturer," "participating agency," and "state development approval."

Section 3 creates s. 163.3252, F.S., and provides the process local governments may use to implement a local manufacturing develop program. Specifically, a local government is authorized to adopt an ordinance to establish a local manufacturing development program through which it can grant master development approval to manufacturers for the development or expansion of sites at specified locations within the local government's geographic boundaries.

The establishment of a local manufacturing development program is voluntary; however, if a local government elects to establish one, it must submit a copy of the ordinance establishing the program to the department within 20 days of enactment of the ordinance.

The department must develop a model ordinance[14] by December 1, 2013, which must include:

- Application procedures for a manufacturer to apply for a master development plan and procedures for the local government to review and approve a master development plan;
- Identification of those areas within the local government's jurisdiction which are subject to the program;
- Minimum elements for a master development plan, including but not limited to:
  - A site map;
  - A list proposing the site's land uses;
  - Maximum square footage, floor area ratio, and building heights for future development on the site;
  - Development conditions;
  - A list of development impacts which the local government will require to be addressed in a master development plan, such as drainage, wastewater, vehicular and pedestrian entrance and exit from the site, and offsite transportation impacts;
  - A provision vesting any existing development rights authorized by the local government prior to approval of a master development plan, if requested by the manufacturer;
  - If required, a provision stating that the expiration date of the master development plan may not be earlier than 10 years after the plan's adoption;
  - A provision limiting the circumstances that require an amendment to an approved master development plan, such as the enactment of a state or local law that addresses a direct and immediate threat to public safety or a revision to the master development plan initiated by the manufacturer;
  - A provision limiting the scope of review for an amendment to a master development plan to a review of the proposed amendment and no other provisions of the plan;

[14] A local government is not required to adopt the model ordinance.

- A provision stating that during the term of a master development plan, a local government may not require additional local development approvals other than a building permit to ensure compliance with the state building code and any other applicable state-mandated life and safety code,
- A provision requiring the manufacturer, prior to commencement of work, to submit a certification signed by an appropriate professional attesting that the construction or site development work complies with the master development plan; and
- A provision establishing the form the local government will use to certify that a manufacturer is eligible to participate in the local manufacturing development program adopted by that jurisdiction.

Any local ordinance established must be consistent with the department's model ordinance and must establish procedures for the review and approval of a master development plan, the development of the site in a manner consistent with the master development plan without requiring additional local approvals other than building permits, and the certification that a manufacturer is eligible to participate in the local manufacturing development program.
If the local government has enacted an ordinance prior to the effective date of the act, it is deemed to have established a local manufacturing development program, as long as it meets the minimum standards, as outlined above. A copy of such an ordinance must be submitted to the department on or before September 1, 2013.

If a local government establishes a local development program ordinance, the ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan submitted prior to the effective date of the repeal is vested and remains subject to the local manufacturing development plan in effect at the time the application is submitted.

Section 4 creates s. 163.3253, F.S., which outlines the manufacturing development coordinated approval process (process). Participating agencies[15] must coordinate the manufacturing development approval process for manufacturers that are developing or expanding in a jurisdiction that has a local manufacturing development process. The participating agencies must coordinate, collaborate, and simultaneously review applications for the following state development approvals: wetland or environmental permits, surface water management permits, stormwater permits, consumptive water use permits, wastewater permits, air emission permits, permits relating to listed species, highway or roadway access permits, and any other state development approval within the scope of a participating agency's authority.

At the time the manufacturer files its application for state development approval with a participating agency, it must also file proof that its development or expansion is located in the jurisdiction of a local government that has a local development-manufacturing program. If the local government repeals its local manufacturing development program, a manufacturer that has submitted its application for a state or local government development application prior to the date of repeal, remains eligible to participate in the process. During the process, if a manufacturer requests a meeting with one or more of the participating agencies, such participating agency must convene and attend such meeting.

[15] The bill defines "participating agencies" as the Department of Environmental Protection, Department of Transportation, Fish and Wildlife Conservation Commission, and water management districts.

If a participating agency determines that the application is incomplete, it must notify the applicant in writing. Unless the manufacturer waives the deadline in writing, a request for additional information from a participating agency must be provided to the manufacturer within 20 days after the application is filed with the agency. If a participating agency fails to request additional information within the 20-day period, it cannot later deny the application based on the manufacturer's failure to provide such information. Once the manufacturer has responded to the request for additional information, the participating agency has 10 days to make a second request for additional information, but such request is limited to obtaining clarification of the manufacturer's response.

Unless the manufacturer waives the deadline in writing, each participating agency must take final agency action on a state development approval within 60 days after a complete application is filed.[16] If a participating agency intends to deny an application, it must notify the manufacturer and timely convene an informal meeting to facilitate a resolution, unless waived by the manufacturer in writing. An application will be deemed approved if the approving agency failed to act within the specified time frames unless the time limit is waived by the manufacturer in writing:

- Within the 60-day period;
- Within the time allowed by a federally-delegated permit program; or
- Within 45 days of a recommended order issued under ss.120.569 and 120.57, F.S.[17]

If a manufacturer seeks to claim approval by default, it must notify the clerk of the participating agency in writing. No action may be taken by the manufacturer until such notification is received by the clerk.

The timeframes described above do not apply to permit applications for federally-delegated or approved permitting programs to the extent they are prohibited by, or inconsistent with, such program requirements.

If the manufacturer initiates a proceeding under ch. 120, F.S., it may, at any time, demand an expeditious resolution by noticing the administrative law judge (ALJ) and all other parties to the proceeding. The ALJ must set the matter for hearing within 30 days of receipt of the notice.

Section 5 creates s. 288.111, F.S., and provides that the department will develop materials identifying local governments that have established local manufacturing development programs. Enterprise Florida, Inc., must provide these materials to prospective, new, expanding, and relocating manufacturing businesses seeking to conduct business in Florida. Other state agencies are also authorized to distribute such materials.

Section 6 provides that this act shall take effect July 1, 2013.

[16] The 60-day period is tolled if a proceeding is initiated under ch. 120, F.S.
[17] Section 120.569, F.S., requires the agency to issue a final order within 90 days of the recommended order. Section 120.57, F.S., requires a final order to be issued within 30 days of the recommended order.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Manufacturers may benefit in those communities that implement a local manufacturing development program.

C. Government Sector Impact:

The department may incur costs associated with developing the model ordinance and the materials identifying those local governments that establish a local manufacturing program, as provided in the bill.

To the extent that local governments adopt a local manufacturing development program, the streamlined process may reduce administrative costs for those communities.[18]

VI. Technical Deficiencies:

The bill requires that participating agencies simultaneously review applications for various state development approvals, but does not address how such a simultaneous review among participating agencies would function, or what repercussions would exist for participating agencies who fail to simultaneously review applications.

The bill may need to be clarified to indicate that the initial review period does not begin until the appropriate application fee is received.

VII. Related Issues:

None.

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[18] *Id.*

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on April 1, 2013:
The committee substitute does the following:

- Places provisions of the bill under ch. 163, F.S., rather than ch. 288, F.S.
- Adds a definition for the term "department."
- Deletes the definition for the term "local government."
- Removes the Department of Economic Opportunity from the coordinated manufacturing development approval process.
- Deletes the grant of rule-making authority to the Department of Economic Opportunity.
- Requires Enterprise Florida, Inc., to distribute materials that identify local governments that have established a local manufacturing development program, as provided in the bill, to prospective, new, expanding, and relocating manufacturers seeking to conduct business in Florida.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 163.325, Florida Statutes, is created to
6 read:
7 163.325 Short title.—Sections 163.325-163.3253 may be cited
8 as the "Manufacturing Competitiveness Act."
9 Section 2. Section 163.3251, Florida Statutes, is created
10 to read:
11 163.3251 Definitions.—As used in ss. 163.3251-163.3253, the
12 term:

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13 (1) “Department” means the Department of Economic
14 Opportunity.
15 (2) “Local government development approval” means a local
16 land development permit, order, or other approval issued by a
17 local government, or a modification of such permit, order, or
18 approval, which is required for a manufacturer to physically
19 locate or expand and includes, but is not limited to, the review
20 and approval of a master development plan required under s.
21 163.3252(2)(c).
22 (3) “Local manufacturing development program” means a
23 program enacted by a local government for approval of master
24 development plans under s. 163.3252.
25 (4) “Manufacturer” means a business that is classified in
26 Sectors 31-33 of the National American Industry Classification
27 System (NAICS) and is located, or intends to locate, within the
28 geographic boundaries of an area designated by a local
29 government as provided under s. 163.3252.
30 (5) “Participating agency” means:
31 (a) The Department of Environmental Protection.
32 (b) The Department of Transportation.
33 (c) The Fish and Wildlife Conservation Commission, when
34 acting pursuant to statutory authority granted by the
35 Legislature.
36 (d) Water management districts.
37 (6) “State development approval” means a state or regional
38 permit or other approval issued by a participating agency, or a
39 modification of such permit or approval, which must be obtained
40 before the development or expansion of a manufacturer’s site,
41 and includes, but is not limited to, those specified in s.

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42 163.3253(1).
43 Section 3. Section 163.3252, Florida Statutes, is created
44 to read:
45 163.3252 Local manufacturing development program; master
46 development approval for manufacturers.—A local government may
47 adopt an ordinance establishing a local manufacturing
48 development program through which the local government may grant
49 master development approval for the development or expansion of
50 sites that are, or are proposed to be, operated by manufacturers
51 at specified locations within the local government's geographic
52 boundaries.
53 (1)(a) A local government that elects to establish a local
54 manufacturing development program shall submit a copy of the
55 ordinance establishing the program to the department within 20
56 days after the ordinance is enacted.
57 (b) A local government ordinance adopted before the
58 effective date of this act establishes a local manufacturing
59 development program if it satisfies the minimum criteria
60 established in subsection (3) and if the local government
61 submits a copy of the ordinance to the department on or before
62 September 1, 2013.
63 (2) By December 1, 2013, the department shall develop a
64 model ordinance to guide local governments that intend to
65 establish a local manufacturing development program. The model
66 ordinance, which need not be adopted by a local government, must
67 include:
68 (a) Procedures for a manufacturer to apply for a master
69 development plan and procedures for a local government to review
70 and approve a master development plan.

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71 (b) Identification of those areas within the local
72 government's jurisdiction which are subject to the program.
73 (c) Minimum elements for a master development plan,
74 including, but not limited to:
75 1. A site map.
76 2. A list proposing the site's land uses.
77 3. Maximum square footage, floor area ratio, and building
78 heights for future development on the site, specifying with
79 particularity those features and facilities for which the local
80 government will require the establishment of maximum dimensions.
81 4. Development conditions.
82 (d) A list of the development impacts, if applicable to the
83 proposed site, which the local government will require to be
84 addressed in a master development plan, including, but not
85 limited to:
86 1. Drainage.
87 2. Wastewater.
88 3. Potable water.
89 4. Solid waste.
90 5. Onsite and offsite natural resources.
91 6. Preservation of historic and archeological resources.
92 7. Offsite infrastructure.
93 8. Public services.
94 9. Compatibility with adjacent offsite land uses.
95 10. Vehicular and pedestrian entrance to and exit from the
96 site.
97 11. Offsite transportation impacts.
98 (e) A provision vesting any existing development rights
99 authorized by the local government before the approval of a

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100 master development plan, if requested by the manufacturer.
101 (f) Whether an expiration date is required for a master
102 development plan and, if required, a provision stating that the
103 expiration date may not be earlier than 10 years after the
104 plan's adoption.
105 (g) A provision limiting the circumstances that require an
106 amendment to an approved master development plan to the
107 following:
108 1. Enactment of state law or local ordinance addressing an
109 immediate and direct threat to the public safety that requires
110 an amendment to the master development order.
111 2. Any revision to the master development plan initiated by
112 the manufacturer.
113 (h) A provision stating that the scope of review for any
114 amendment to a master development plan is limited to the
115 amendment and does not subject any other provision of the
116 approved master development plan to further review.
117 (i) A provision stating that, during the term of a master
118 development plan, the local government may not require
119 additional local development approvals for those development
120 impacts listed in paragraph (d) that are addressed in the master
121 development plan, other than approval of a building permit to
122 ensure compliance with the state building code and any other
123 applicable state-mandated life and safety code.
124 (j) A provision stating that, before commencing
125 construction or site development work, the manufacturer must
126 submit a certification, signed by a licensed architect,
127 engineer, or landscape architect, attesting that such work
128 complies with the master development plan.

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129 (k) A provision establishing the form that will be used by
130 the local government to certify that a manufacturer is eligible
131 to participate in the local manufacturing development program
132 adopted by that jurisdiction.
133 (3) A local manufacturing development program ordinance
134 must, at a minimum, be consistent with subsection (2) and
135 establish procedures for:
136 (a) Reviewing an application from a manufacturer for
137 approval of a master development plan.
138 (b) Approving a master development plan, which may include
139 conditions that address development impacts anticipated during
140 the life of the development.
141 (c) Developing the site in a manner consistent with the
142 master development plan without requiring additional local
143 development approvals other than building permits.
144 (d) Certifying that a manufacturer is eligible to
145 participate in the local manufacturing development program.
146 (4)(a) A local government that establishes a local
147 manufacturing development program may not abolish the program
148 until it has been in effect for at least 24 months.
149 (b) If a local government repeals its local manufacturing
150 development program ordinance:
151 1. Any application for a master development plan which is
152 submitted to the local government before the effective date of
153 the repeal is vested and remains subject to the local
154 manufacturing development program ordinance in effect when the
155 application was submitted; and
156 2. The manufacturer that submitted the application is
157 entitled to participate in the manufacturing development

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158 coordinated approval process established in s. 163.3253.
159 Section 4. Section 163.3253, Florida Statutes, is created
160 to read:
161 163.3253 Coordinated manufacturing development approval
162 process.—Participating agencies shall coordinate the
163 manufacturing development approval process, as set forth in this
164 section, for manufacturers that are developing or expanding in
165 the jurisdiction of a local government that has a local
166 manufacturing development program.
167 (1) Participating agencies shall collaborate and coordinate
168 the simultaneous review of applications for the following state
169 development approvals:
170 (a) Wetland or environmental resource permits.
171 (b) Surface water management permits.
172 (c) Stormwater permits.
173 (d) Consumptive water use permits.
174 (e) Wastewater permits.
175 (f) Air emission permits.
176 (g) Permits relating to listed species.
177 (h) Highway or roadway access permits.
178 (i) Any other state development approval within the scope
179 of a participating agency's authority.
180 (2)(a) When filing its application for state development
181 approval, a manufacturer shall file with each participating
182 agency proof that its development or expansion is located in the
183 jurisdiction of a local government that has a local
184 manufacturing development program.
185 (b) If a local government repeals its local manufacturing
186 development program ordinance, a manufacturer developing or

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187 expanding in that jurisdiction remains entitled to participate
188 in the process if the manufacturer submitted its application for
189 a local government development approval before the effective
190 date of repeal.
191 (3) At any time during the process, if a manufacturer
192 requests a meeting with one or more participating agencies to
193 facilitate the process, such participating agency shall convene
194 and attend such meeting.
195 (4) If a participating agency determines that an
196 application is incomplete, the participating agency shall notify
197 the applicant, in writing, of the additional information
198 necessary to complete the application.
199 (a) Unless the deadline is waived in writing by the
200 manufacturer, a participating agency shall provide a request for
201 additional information to the manufacturer within 20 days after
202 the date the application is filed with the participating agency.
203 (b) If the participating agency does not request additional
204 information within the 20-day period, the participating agency
205 may not subsequently deny the application based on the
206 manufacturer’s failure to provide additional information.
207 (c) Within 10 days after the manufacturer’s response to the
208 request for additional information, a participating agency may
209 make a second request for additional information for the sole
210 purpose of obtaining clarification of the manufacturer’s
211 response.
212 (5)(a) Unless the deadline is waived in writing by the
213 manufacturer, each participating agency shall take final agency
214 action on a state development approval within its authority
215 within 60 days after a complete application is filed. The 60-day

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216 period is tolled by the initiation of a proceeding under ss.
217 120.569 and 120.57.
218 (b) A participating agency shall notify the manufacturer if
219 the agency intends to deny a manufacturer's application and,
220 unless waived in writing by the manufacturer, the participating
221 agency shall timely convene an informal meeting to facilitate a
222 resolution.
223 (c) Unless waived in writing by the manufacturer, if a
224 participating agency does not approve or deny an application
225 within the 60-day period, within the time allowed by a federally
226 delegated permitting program, or, if a proceeding is initiated
227 under ss. 120.569 and 120.57, within 45 days after a recommended
228 order is submitted to the agency and the parties, the state
229 development approval within the authority of the participating
230 agency is deemed approved. A manufacturer seeking to claim
231 approval by default under this subsection shall notify, in
232 writing, the clerk of the participating agency of that intent. A
233 manufacturer may not take action based on the default approval
234 until such notice is received by the agency clerk.
235 (d) At any time after a proceeding is initiated under ss.
236 120.569 and 120.57, the manufacturer may demand expeditious
237 resolution by serving notice on an administrative law judge and
238 all other parties to the proceeding. The administrative law
239 judge shall set the matter for final hearing no more than 30
240 days after receipt of such notice. After the final hearing is
241 set, a continuance may not be granted without the written
242 agreement of all parties.
243 (6) Subsections (4) and (5) do not apply to permit
244 applications governed by federally delegated or approved

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245 permitting programs to the extent that subsections (4) and (5)
246 impose timeframes or other requirements that are prohibited by
247 or inconsistent with such federally delegated or approved
248 permitting programs.
249 Section 5. Section 288.111, Florida Statutes, is created to
250 read:
251 288.111 Information concerning local manufacturing
252 development programs.—The department shall develop materials
253 that identify each local government that establishes a local
254 manufacturing development program under s. 163.3252. The
255 materials, which the department may elect to develop and
256 maintain in electronic format or in any other format deemed by
257 the department to provide public access, must be updated at
258 least annually. Enterprise Florida, Inc., shall, and other state
259 agencies may, distribute the materials to prospective, new,
260 expanding, and relocating manufacturing businesses seeking to
261 conduct business in this state.
262 Section 6. This act shall take effect July 1, 2013.
263
264 ========== T I T L E A M E N D M E N T ==========
265 And the title is amended as follows:
266 Delete everything before the enacting clause
267 and insert:
268 A bill to be entitled
269 An act relating to manufacturing development; creating
270 s. 163.325, F.S.; providing a short title;
271 establishing the Manufacturing Competitiveness Act;
272 creating s. 163.3251, F.S.; providing definitions;
273 creating s. 163.3252, F.S.; authorizing local

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274 governments to establish a local manufacturing
275 development program that provides for master
276 development approval for certain sites; providing
277 specific time periods for action by local governments;
278 requiring the Department of Economic Opportunity to
279 develop a model ordinance containing specified
280 information and provisions; requiring a local
281 manufacturing development program ordinance to include
282 certain information; providing certain restrictions on
283 the termination of a local manufacturing development
284 program; creating s. 163.3253, F.S.; requiring
285 participating agencies to establish a manufacturing
286 development coordinated approval process for certain
287 manufacturers; requiring participating agencies to
288 coordinate and review applications for certain state
289 development approvals; requiring participating
290 agencies to convene and attend a meeting when
291 requested by a certain manufacturer; providing for
292 requests for additional information and specifying
293 time periods; requiring participating agencies to take
294 final action on applications within a certain time
295 period; requiring participating agencies to facilitate
296 the resolution of certain applications; providing for
297 approval by default; providing for applicability with
298 respect to permit applications governed by federally
299 delegated or approved permitting programs; creating s.
300 288.111, F.S.; requiring the department to develop
301 materials that identify local manufacturing
302 development programs; requiring Enterprise Florida,

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303 Inc., and authorizing other state agencies, to
304 distribute such material; providing an effective date.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR BILL GALVANO
26th District

February 8, 2013

Senator Nancy Detert
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Madam Chair Detert:

I respectfully request that SB 582, Manufacturing Development, be scheduled for a hearing in the Commerce and Tourism Committee at your earliest convenience.

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

Sincerely,

Bill Galvano

cc: Jennifer Hrdlicka
Patty Blackburn

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

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: Manufacturing Development

Bill Number: 582 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 South Bronough Street
Street

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

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: Manufacturing Development

Bill Number: SB 582 *(if applicable)*

Name: Martha Chumbler

Amendment Barcode: 519432 *(if applicable)*

Job Title: Attorney

Address: 215 S. Monroe Street, Suite 500
Street

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

Phone: 850-224-1585

E-mail: mchumbler@carltonfields.com

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

Representing: Associated Industries of Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Manufacturing development

Bill Number: 582 (if applicable)

Name: Nancy ~~Stewart~~ Stephen

Amendment Barcode: (if applicable)

Job Title:

Address: 1535 Killearn Center Blvd
Street

TLH FL 32309
City State Zip

Phone: 850-385-7805

E-mail:

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

Representing: Manufacturers Association of Florida

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 1012

INTRODUCER: Senator Hays

SUBJECT: Economic Gardening

DATE: March 29, 2013 REVISED:

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

I. Summary:

SB 1012 makes the Economic Gardening Technical Assistance Pilot Program permanent. It directs the Department of Economic Opportunity to contract with the University of Central Florida's Economic Gardening Institute to implement the program. The bill expands eligibility for the program to larger small businesses by modifying the eligibility requirements:

- The business must have employed at least 10 persons but no more than 99 persons at the end of the preceding fiscal year. The bill removes the requirement for the business to have maintained its principal place of business in state for at least the previous 2 years.
- The business must have generated at least $1 million but not more than $50 million in annual revenue during the preceding fiscal year. The bill removes the requirement that the business qualifies for the qualified target industry business program under s. 288.106, F.S.
- During 2 of the previous 6 years the business must have increased *either* its number of full-time equivalent employees in Florida *or* its gross revenue.
- The business generates a minimum of 51 percent of its revenue outside Florida, is located in a rural community as defined in s. 288.0656, F.S., or is classified within a qualifying NAICS code.

The bill appropriates $2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program for FY 2013-2014.

This bill substantially amends ss. 288.1081 and 288.1082, F.S.

II. Present Situation:

Economic Gardening

"Economic gardening" is a long-term, economic development strategy designed to grow jobs by encouraging entrepreneurial activity in a community, region, or state. In contrast to traditional "economic hunting" strategies aimed at recruiting businesses from outside the community, economic gardening focuses on the job creation potential of small local businesses that already exist in the community.

The concept of economic gardening was pioneered in 1987 by the City of Littleton, Colorado, during a statewide recession.[1] It is based on research by M.I.T. and the Federal Reserve Bank of Kansas City economists, which shows that the vast majority of new jobs in a local economy are produced by the community's small local businesses, specifically a small group of high-growth businesses called "gazelles."[2] These second-stage companies have grown past the start-up phase, but have not reached maturity.[3] They usually generate between $1 million and $50 million in annual revenue and employ between 10 and 100 employees depending on the industry. Second-stage companies are significant job creators and often have global or national markets, meaning these businesses bring outside dollars into the community. At this stage of the business cycle, businesses are focused on developing new markets, refining business models, and accessing competitive intelligence.[4]

Economic gardening focuses on three main elements:[5]

- *Information*: The survival and growth of small businesses depends on access to critical information. Access to free or affordable information and consulting services is thus extremely valuable. Programs can provide access to information on markets, customers, and competitors, such as business databases, GIS (geographic information system), and search engine marketing.
- *Infrastructure*: This element focuses on building and supporting the development of community assets essential to commerce and overall quality of life. In addition to basic physical infrastructure, this element includes quality of life infrastructure (e.g., parks, open spaces, and historical preservation) and intellectual infrastructure that provide educational opportunities to help keep companies competitive.
- *Connections*: Entrepreneurs benefit significantly from interaction and exchange among business owners and resource providers, such as trade associations, think tanks, and academic institutions. Examples of strategies that improve connectivity include business

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[1] *See* Steve Quello and Graham Toft, *Economic Gardening: Next Generation Applications for a Balanced Portfolio Approach to Economic Growth* (Dec. 2006), *available at* http://www.sba.gov/advo/research/sbe_06_ch06.pdf (last visited March 27, 2013).

[2] Kelly Edmiston, Federal Reserve Bank of Atlanta, *Economic Gardening Helps Communities Grow Their Own Jobs*, Vol. 18, No. 1, 2008, at 2, *available at* http://www.frbatlanta.org/pubs/partners/partners-no_1_2008-economic_gardening_helps_communities_grow_their_own_jobs.cfm (last visited March 27, 2013).

[3] Edward Lowe Foundation, *Economic Gardening – An entrepreneur-oriented approach to economic prosperity* (2012), *available at* http://edwardlowe.org/edlowenetwp/wp-content/themes/implementprogram/downloads/infosheets/EconomicGardening.pdf (last visited March 27, 2013).

[4] *See supra* note 3.

[5] *See* Christian Gibbons, The IEDC Economic Development Journal, *Economic Gardening*, Vol. 9, No. 3, Summer 2010 (on file with the Senate Committee on Commerce and Tourism).

roundtables, peer-to-peer learning sessions, and mentoring programs that partner new business owners with accomplished businesses in their industry.

Florida's Economic Gardening Initiatives

In 2009, the Legislature created a two-pronged economic gardening initiative.[6] The first component is the Economic Gardening Business Loan Pilot Program[7] which provides low-interest short-term loans to eligible businesses to assist them with their infrastructure, networking, and mentoring needs. The second component of the economic gardening initiative is the Economic Gardening Technical Assistance Pilot Program,[8] the purpose of which is to stimulate investment in the state's economy by providing technical assistance for eligible businesses.

The eligibility requirements for a business seeking technical assistance are the same as those under the Economic Gardening Business Loan Pilot Program: [9]

- It must be a for-profit, privately held, investment-grade business that employs between 10 and 50 persons.
- The business has been in existence in Florida for a period of at least 2 years.
- The business generates between $1 million and $25 million in annual revenue.
- The business is eligible for the Qualified Targeted Industry (QTI) tax refund program pursuant to s. 288.106, F.S.[10]
- During 3 of the last 5 years, the company has experienced steady growth in its gross revenues and employment.

The Department of Economic Opportunity (DEO) was directed to select by competitive bid, a third-party contractor to implement the technical assistance pilot program.[11] Selection criteria for the contractor included the ability to implement the program on a statewide basis; the capability to provide counseling services, access to technology and information, marketing services and advice, business management support, and similar services; and whether the contractor qualifies for matching funds to provide the technical assistance.[12] The law also authorized the third-party contractor to promote the general business or industrial interests of the state.[13]

Twice a year, DEO must review the third-party contractor's progress and determine if it is meeting its contractual requirements. If not, DEO may terminate the contract and re-bid.[14]

The technical assistance provided by the pilot program, includes, but is not limited to:

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[6] Chapter 2009-13, L.O.F., *codified at* ss. 288.1081 and 288.1082, F.S.
[7] Section 288.1081, F.S.
[8] Section 288.1082, F.S.
[9] *See* ss. 288.1081(3)(a), F.S., and 288.1082(4)(a), F.S.
[10] A key requirement of the QTI program is that businesses must pay an annual average wage of at least 115 percent of the average private sector wage in the area where the business is located or the statewide private sector average wage. *See* s. 288.106(4)(b), F.S.
[11] Section 288.1082(2), F.S.
[12] Section 288.1082(2), F.S.
[13] Section 288.1082(6), F.S.
[14] Section 288.1082(7), F.S.

- Access to free or affordable information and consulting services, including information on markets, customers, and competitors, such as databases, geographic information systems, and search engine marketing.
- Development of business connections, including interaction and exchange between business owners and resource providers, which may include trade associations, academic institutions, business roundtables, peer-to-peer learning sessions, and mentoring programs. [15]

The third-party contractor is directed to select eligible businesses in more than one industry cluster and, where possible, in different regions of the state.[16] Any business receiving the technical assistance must sign an agreement with the third-party contractor committing to the following minimum conditions, on a basis determined by the contractor:

- Attending a minimum number of meetings with the third-party contractor.
- Reporting job-creation data.
- Providing financial data.[17]

Lastly, by December 31 of each year, DEO is required to submit an annual report detailing the progress of the technical assistance pilot program. This annual report must, at a minimum, include the number of businesses receiving assistance, the type and location of businesses assisted, and the number and wages of jobs created as a result of the business assistance provided, if any.[18]

University of Central Florida – Economic Gardening Institute (GrowFL)
DEO contracts with the University of Central Florida (UCF) to implement the Economic Gardening Technical Assistance Pilot Program. UCF established the Florida Economic Gardening Institute (GrowFL) when it was initially awarded the contract in 2009.

GrowFL provides services for second-stage companies, including economic gardening technical assistance, CEO Roundtables, CEO Forums, human resource webinars, workshops, and the "Florida Companies to Watch" recognition event. These activities are targeted to support the second-stage CEOs with operational and revenue-increasing strategies to improve business performance. Technical assistance is delivered through a centrally managed technical assistance team with access to various market research databases and tools to facilitate strategy, market research, web strategy, and search engine optimization. A typical technical assistance consultation is 40 hours and provided at no charge to the client. Work is also handled virtually with clients via conference calls and the use of an on-line collaboration system.[19]

[15] Section 288.1082(3), F.S.
[16] Section 288.1082(4)(b), F.S.
[17] Section 288.1082(5)(a), F.S.
[18] Section 288.1082(8), F.S.
[19] Florida Economic Gardening Institute at the University of Central Florida, *GrowFL Program Summary, November 2009 through September 1, 2011*, at 4, *available at* http://www.growfl.com/downloads/GrowFL-Final-Report-Summary-09-11.pdf (last visited March 27, 2013).

Department of Economic Opportunity - Mid-Year Program Report
In December 2012, DEO submitted a Mid-Year Program Report to the Legislature and the Governor, which covers July 1, 2012, through October 31, 2012. The report provided the following information:[20]

> Since July 1, 2012, 99 second-stage companies submitted applications to receive technical assistance. A total of 90 companies within 19 counties were accepted, and applications from nine companies were being processed. The industries represented are classified by North American Industry Classification System as follows:

NAICS Description	NAICS Code	Number of Companies
Administrative and Support Services	56	3
Finance and Insurance Services	52	5
Information Industries	51	8
Management of Companies	55	4
Manufacturing	31	29
Professional, Scientific and Technical Services	54	36
Wholesale Trade	42	5
Total Number of Companies		**90**

Office of Program Policy Analysis and Government Accountability - Evaluation of the Florida Economic Gardening Technical Assistance Pilot Program
In 2009, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA), by December 31, 2012, to review the technical assistance pilot program and its effectiveness in expanding targeted businesses, and provide a report to the Legislature and the Governor.[21] In December 2012, OPPAGA published its report, which in summary stated:

- GrowFL experienced several implementation obstacles, including difficulty attracting participants and assessing companies' eligibility. Consequently, the program served a significant number of ineligible companies and was unable to determine eligibility for many others.
- Companies that received multiple services were more likely to grow after pilot program participation, and most survey respondents found GrowFL services helpful. OPPAGA also found eligible companies were more likely to increase employees and wages than those that did not meet the program's statutory eligibility requirements. In addition, statistical modeling showed eligible program participants had greater than predicted employment growth in one of three quarters in 2011, with no statistically significant difference in the other two quarters.

[20] Florida Department of Economic Opportunity, *Economic Gardening Technical Assistance Pilot Program (Mid-Year) Report*, December 18, 2012, at 3 (on file with the Senate Committee on Commerce and Tourism).
[21] Section 4, ch. 2009-13, L.O.F.

- During OPPAGA's review, GrowFL took several steps to address OPPAGA's concerns about program implementation and eligibility determination. However, OPPAGA recommended future contracts with the Economic Gardening Institute include additional provisions to improve program reporting and assessment. [22]

Economic Gardening Funding History
In 2009, the Legislature appropriated up to $1.5 million to implement the Economic Gardening Technical Assistance Pilot Program during FY 2009-2010.[23] In 2010, the Legislature appropriated $2 million for FY 2010-2011, but in 2011 although the Legislature appropriated $2 million for FY 2011-2012, the Governor vetoed the appropriation.[24] In 2012, the Legislature appropriated $2 million from the State Economic Enhancement and Development Trust Fund for the Economic Gardening Technical Assistance Program for FY 2012-2013.[25]

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 288.1081 and 288.1082, F.S., to make the Economic Gardening Technical Assistance Program (Technical Assistance Program) permanent, rather than temporary. DEO is directed to contract with the University of Central Florida's Economic Gardening Institute to implement the Technical Assistance Program.[26]

As required in current law, to be eligible to participate in the Technical Assistance Program a business must be a for-profit, privately held, investment-grade business. The bill modifies other eligibility requirements as follows:

- The business must have employed at least 10 persons but no more than 99 persons at the end of the preceding fiscal year. Current law caps the number of employees at 50 persons. The bill removes the requirement that the business has maintained its principal place of business in state for at least the previous 2 years.
- The business must have generated at least $1 million but not more than $50 million in annual revenue during the preceding fiscal year. Current law caps the generated amount of revenue at $25 million. The bill removes the requirement that the business qualifies for the qualified target industry program under s. 288.106, F.S.
- During 2 of the previous 6 years the business must have increased *either* its number of full-time equivalent employees in Florida *or* its gross revenue. Current law requires a business to have increased *both* its number of full-time equivalent employees in this state *and* its gross revenue during 3 of the previous 5 years.

[22] The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *GrowFL Participants that Received Multiple Services and Met Eligibility Requirements Experienced Higher Growth*, Report No. 12-14, December 2012, *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1214rpt.pdf (last visited March 27, 2013).
[23] Section 3, ch. 2009-13, L.O.F.
[24] *See supra* note 22 at 3.
[25] Specific Appropriation 2280B, s.6, ch. 2012-118, L.O.F.
[26] The Economic Gardening Business Loan Pilot Program remains a temporary program.

An additional eligibility requirement is added to require that a business generate a minimum of 51 percent of its revenue outside Florida, be located in a rural community as defined in s. 288.0656, F.S., or be classified within a qualifying NAICS code.

The bill identifies the qualifying NAICS codes as any NAICS code within any of the following NAICS sectors:

- 31-33, Manufacturing;
- 42, Wholesale Trade;
- 51, Information;
- 52, Finance and Insurance;
- 54, Professional, Scientific, and Technical Services;
- 55, Management of Companies and Enterprises; or
- 56, Administrative and Support and Waste Management and Remediation Services.[27]

Section 3 appropriates $2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the bill during FY 2013-2014.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

More small businesses will be eligible to receive technical assistance through GrowFL.

[27] According to GrowFL, the industries identified as qualified target industries under s. 288.106, F.S., are captured under the NAICS codes listed above. *See supra* note 20.

C. Government Sector Impact:

The bill appropriates $2 million in recurring funds from General Revenue to the University of Central Florida to fund and implement the Economic Gardening Technical Assistance Program during FY 2013-2014.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The OPPAGA report found that the current eligibility requirements were an obstacle to attracting and approving businesses and that GrowFL was serving ineligible businesses.[28] The changes made by the bill to expand the eligibility requirements will resolve these issues.

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.

[28] *Supra* note 22 at 4.

The Florida Senate

Committee Agenda Request

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

Jennifer Hrdlicka, Staff Director
CC: Patty Blackburn, Administrative Assistant

Subject: Committee Agenda Request

Date: February 26, 2013

I respectfully request that **Senate Bill #1012**, relating to Economic Gardening Technical Assistance Program, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Alan Hays
Florida Senate, District 11

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: Economic Gardening Technical Assistance Program

Bill Number: 1012 *(if applicable)*

Name: Leticia M Adams

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Infrastructure Policy

Address: 136 South Bronough Street
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-544-6866

E-mail: ladams@flchamber.com

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

Representing: Florida Chamber of Commerce

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic gardening

Bill Number: 1012 *(if applicable)*

Name: Nancy ~~Stewart~~ Stephen

Amendment Barcode: *(if applicable)*

Job Title:

Address: 1535 Killearn Center Blvd
Street

TLH, FL 32309
City, State, Zip

Phone: 850-385-7805

E-mail:

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

Representing: Manufacturers Association of Florida

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Gardening

Bill Number: 1012 (if applicable)

Name: Beth Kirkland

Amendment Barcode: _____ (if applicable)

Job Title: Chairman

Address: 3950 Shumard Oak Blvd
Street

Tallahassee FL 32311
City State Zip

Phone: (850) 212-1056

E-mail: bethkirkland@live.com

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Gardening

Bill Number: 1012 *(if applicable)*

Name: Arthur Aveling

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT & CEO

Address: 3645 HARTSFIELD RD
Street

TALLAHASSEE FL 32303
City *State* *Zip*

Phone: 850 · 877 · 7650

E-mail: arthur@kingtools.com

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

Representing: KING ARTHUR'S TOOLS

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Economic Gardening

Bill Number: 1012 (if applicable)

Name: Sam Varn

Amendment Barcode: (if applicable)

Job Title: President / Owner AwardsAll

Address: 1387 E. Lafayette St.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-878-7187

E-mail: sam@awardsall.com

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

Representing:

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

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

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

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

S-001 (10/20/11)

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 1588

INTRODUCER: Commerce and Tourism Committee and Senator Evers

SUBJECT: Used tires

DATE: April 1, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Malcolm	Hrdlicka	CM	**Fav/CS**
2.			AG	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 1588 makes it unlawful for any used tire retailer to sell unsafe used tires. The bill provides conditions under which a used tire is considered unsafe, including if the tire:

- Is worn to 2/32 of an inch or less of tread depth;
- Has any damage that exposes the reinforcing plies of the tire;
- Has an improper repair, such as an improperly sealed puncture; a repair to the tread shoulder, belt edge, sidewall, or bead area; or a puncture repair larger than 1/4 of an inch; or
- Has its identification number defaced or removed.

The sale or offer of sale of an unsafe tire constitutes an unfair and deceptive trade practice under the Florida Deceptive and Unfair Trade Practices Act.[1]

This bill creates general law not contained in a designated section of the Florida Statutes.

[1] *See* Part II, ch. 501, F.S.

II. Present Situation:

According to one estimate, approximately 10 percent of tires sold in the U.S. annually are used tires.[2] Used tires are generally less expensive for the consumer and provide a greater profit margin for the retailer.[3] Although, federal regulations require tire manufacturers to mark each new tire with a tire identification number that indicates the week and year the tire was manufactured, [4] used tires are not subject to any federal standards.[5] Similarly, the sale of used tires is not regulated in Florida.

While there is no state regulation of used tires, the Rubber Manufacturers Association (RMA) has issued a tire industry service bulletin that lists conditions under which a used tire should never be installed on a vehicle. These conditions include:

- Any punctures or other penetrations, whether repaired or not. This is not meant to preclude the proper repair of a tire installed on a consumer's vehicle when the consumer is aware of the tire's history;
- Any innerliner or bead damage;
- Indication of internal separation, such as bulges or local areas of irregular/fast treadwear indicating possible tread or belt separation;
- Indication of run-flat, under inflated and/or overloaded damage (e.g., innerliner abrasion, mid- to upper sidewall abrasion and stamping deterioration, delamination, or discoloration, excessive tread shoulder wear, etc.).
- Any damage or wear exposing the body material of the tire — cuts, cracks, bulges, scrapes, ozone cracking/weather checking, impact damage, punctures, splits, snags, etc;
- Defaced or removed DOT tire identification number (TIN), which is located on the tire sidewall;
- Involved in a recall or a replacement program;
- Inadequate tread depth for continued service (i.e., nearly worn out). Tires with a tread depth of 2/32" or less at any point on the tire are worn out;
- Currently mounted on a rim that is bent, dented, cracked or otherwise damaged;
- Evidence of improper storage;
- Chemical, fire, excessive heat damage, or other environmental damage;
- Designated as a "scrap tire" or otherwise not intended for continued highway service;
- Evidence of prior use of tire repair sealant;
- Altered to look like new tires (e.g., a regrooved tread); and
- Labeled on the sidewall as "Not For Highway Use," "NHS," "For Racing Purposes Only," "Agricultural Use Only," "SL" (service limited agricultural tire), or any other indication that the tire is barred from use on public thoroughfares.[6]

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[2] Safety Research & Strategies, *Used Tires: A Booming Business with Hidden Dangers*, 2007, *available at* http://www.safetyresearch.net/Library/Used_Tires.htm (last visited March 27, 2013).
[3] *Supra* note 1.
[4] 49 CFR §571.139.
[5] Ronald Montoya, *How Old – and Dangerous – Are Your Tires?* (Nov. 18, 2011) *available at* http://www.edmunds.com/car-care/how-old-and-dangerous-are-your-tires.html (last visited March 27, 2013).
[6] Rubber Manufacturers Association, Passenger and Light Truck Used Tires, *available at* http://www.rma.org/tire_safety/tire_maintenance_and_safety/used_tires (last visited March 28, 2013).

The RMA also offers criteria for proper used tire repair, including:

- Repairs should be limited to the tread area only;
- Punctures cannot be greater than 1/4 inch (6mm) in diameter;
- Repairs must be performed by removing the tire from the rim/wheel assembly to perform a complete inspection to assess all damage that may be present;
- Repairs cannot overlap; and
- A rubber stem, or plug, must be applied to fill the puncture and a patch must be applied to seal the inner liner. A common repair unit is a one-piece unit with a stem and patch portion. A plug by itself is an unacceptable repair.[7]

III. Effect of Proposed Changes:

Section 1 makes it unlawful for any used tire retailer to sell unsafe used tires. The bill excludes retailers who sell used tires for recapping. A used tire is considered unsafe if it:

- Is worn to 2/32 of an inch or less of tread depth;
- Has any damage that exposes the reinforcing plies of the tire;
- Has an improper repair, such as an improperly sealed puncture; a repair to the tread shoulder, belt edge, sidewall, or bead area; or a puncture repair larger than 1/4 of an inch;
- Has evidence that a temporary tire sealant has been used and there is no evidence of a subsequent proper repair;
- Has its identification number defaced or removed;
- Has inner liner or bead damage; or
- Has any indication of internal separation.

The sale or offer of sale of an unsafe tire constitutes an unfair and deceptive trade practice under the Florida Deceptive and Unfair Trade Practices Act.

Section 2 provides that the bill takes effect on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[7] Rubber Manufacturers Association, Puncture Repair Procedures for Passenger and Light Truck Tires, *available at* http://www.rma.org/tire_safety/tire_maintenance_and_safety/tire_repair (last visited March 28, 2013).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent used tire retailers are currently selling used tires that would be considered unsafe under the bill, they may see a reduction in revenues or may be subject to civil penalties up to $10,000 and liability for damages in private civil suits.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Violations of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) can be enforced either by a state attorney, the Department of Legal Affairs, or a private suit filed by an individual.[8] A state attorney or the Department of Legal Affairs may bring an action to enjoin the unfair practice or to recover actual damages on behalf of one or more harmed consumers.[9] Willful FDUTPA violations are subject to civil penalties up to $10,000 per violation.[10] Additionally, private suits under FDUTPA may recover actual damages, plus attorney's fees and court costs.[11]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism Committee on April 1, 2013:
The committee substitute:

- Corrects a misspelled word;
- Removes tires that have been recalled pursuant to federal regulations from being considered unsafe used tires under the bill;
- Removes the civil penalty and distribution of fines into the General Inspection Trust Fund; and
- Makes the sale or offer for sale of unsafe used tires an unfair and deceptive trade practice under part II of ch. 501, F.S.

[8] Sections 501.203(2), 501.211, F.S.
[9] Section 501.207, F.S.
[10] Section 501.2075, F.S.
[11] Section 501.211, F.S.

B. Amendments:

None.

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

764114

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 19
4 and insert:
5 (b) Has any damage exposing the reinforcing plies of the

599822

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 34 - 38
4 and insert:
5 (f) Has inner liner or bead damage; or
6 (g) Has an indication of internal separation, such as
7 bulges or local areas of irregular tread wear.

805232

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 39 - 46
and insert:
(3) A person who sells or offers for sale an unsafe used tire in violation of this section commits an unfair and deceptive trade practice as defined in part II of chapter 501.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 5 - 6
and insert:

805232

13 tire; providing that a person who sells or offers for
14 sale an unsafe used tire commits an unfair and
15 deceptive trade practice; providing

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/61/13
Meeting Date

Topic: Unsafe Tires

Bill Number: SB 1588 (if applicable)

Name: Ray Colens

Amendment Barcode: (if applicable)

Job Title: Govt Affairs Rep.

Address: Street

City State Zip

Phone: 954-492-9092

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2013
Meeting Date

Topic: USED TIRES

Bill Number: 1588 *(if applicable)*

Name: RICHARD GENTRY

Amendment Barcode: *(if applicable)*

Job Title:

Address: 2305 BRAEBURN CIRCLE
Street

Tall, FL 32309
City *State* *Zip*

Phone: 850-251-1837

E-mail:

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

Representing: AMERICAN Rubber ASSOC.

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

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

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S-001 (10/20/11)

The Florida Senate

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 1710

INTRODUCER: Senator Evers

SUBJECT: Sales and Use Tax on Protection Services

DATE: March 29, 2013 REVISED:

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

I. Summary:

SB 1710 repeals the sales tax levied on detective, burglar protection, or protection services.

This bill amends s. 202.05, F.S.

II. Present Situation:

Currently, under s. 212.05, F.S., anyone who provides detective, burglar protection, or protection services defined under North American Industry Classification System (NAICS) numbers 561611, 561612, 561613, and 561621 provides a taxable service and is required to charge a 6 percent tax on the total taxable sales price of the service.[1]

The Department of Revenue (DOR) defines "detective, burglar protection and other protection services" as

> those services which are rendered to minimize or prevent loss or damage to life, limb, or property and are of a kind typically performed by security or alarm system companies, or are those investigative services which are rendered to obtain evidence or other information for legal, business, employment, or personal purposes of a kind typically performed by detective or investigative agencies.[2]

Examples of services that are subject to the tax include:

[1] *See* 12A-1.0092, F.A.C.
[2] *Supra* note 1.

- Armored car service;
- Bodyguard (personal protection) services;
- Burglar alarm monitoring and maintenance;
- Detective agency services;
- Fingerprinting services;
- Fire alarm monitoring and maintenance;
- Guard dogs, detection dogs, and other dogs for protection or investigative services (not including training), with or without a handler;
- Guard, patrol, and parking or other facility services;
- Investigation services (except credit);
- Lie detection or polygraph services;
- Missing person tracing services;
- Passenger screening services; and
- Skip tracing services.[3]

The amount of taxable sales includes all expenses (including any taxes paid on those expenses) necessary for the performance of the service.[4]

Services are exempt from the tax when performed within this state but used outside this state by the purchaser or when the purchaser's primary benefit of the services is outside this state.[5] The seller must maintain a log documenting any transaction where services are performed in this state but used by a purchaser outside this state.[6] Services provided by a law enforcement officer who is performing approved duties in the scope of his employment by a law enforcement agency are exempt from the tax.[7]

III. Effect of Proposed Changes:

Section 1 amends s. 212.05, F.S., to repeal the sales tax levied on detective, burglar protection, or protection services defined under North American Industry Classification System (NAICS) numbers 561611, 561612, 561613, and 561621. The bill also removes the requirement that sellers of these services maintain a monthly log documenting transactions for which sales tax was not collected because the service was either used outside the state or the purchaser's primary benefit was outside the state.

Section 2 provides that the bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

---

[3] Department of Revenue, *Sales and Use Tax on Detective, Burglar Protection and Other Protection Services: What Service Providers Need to Know*, 1 (Aug. 2010), *available at* http://dor.myflorida.com/dor/forms/2010/gt800018.pdf (last visited March 28, 2013).
[4] *Supra* note 3 at 1.
[5] Section 212.05(1)(i)a.3.
[6] Section 212.05(1)(i)a.5; *supra* note 1.
[7] Section 212.05(1)(i)a.; *supra* note 1.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to preliminary staff analysis, repeal of the tax on detective, burglar protection, and other protection services will result in an estimated revenue loss of $144 million based on 2011 tax remittances.

B. Private Sector Impact:

Businesses and consumers that provide or use detective, burglar protection, and other protection services may benefit from the reduced tax assessment on those services.

C. Government Sector Impact:

According to DOR, the bill will have an insignificant operational impact on the agency.[8]

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.

[8] Department of Revenue, *Agency Bill Analysis: SB 1710* (March 13, 2013) (on file with the Senate Commerce and Tourism Committee).

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraphs (j) through (m) of subsection (1) of
6 section 212.05, Florida Statutes, are redesignated as paragraphs
7 (i) through (l), respectively, and present paragraph (i) of that
8 subsection is amended, to read:
9 212.05 Sales, storage, use tax.—It is hereby declared to be
10 the legislative intent that every person is exercising a taxable
11 privilege who engages in the business of selling tangible
12 personal property at retail in this state, including the

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13 business of making mail order sales, or who rents or furnishes
14 any of the things or services taxable under this chapter, or who
15 stores for use or consumption in this state any item or article
16 of tangible personal property as defined herein and who leases
17 or rents such property within the state.
18 (1) For the exercise of such privilege, a tax is levied on
19 each taxable transaction or incident, which tax is due and
20 payable as follows:
21 ~~(i)1. At the rate of 6 percent on charges for all:~~
22 ~~a. Detective, burglar protection, and other protection~~
23 ~~services (NAICS National Numbers 561611, 561612, 561613, and~~
24 ~~561621). Any law enforcement officer, as defined in s. 943.10,~~
25 ~~who is performing approved duties as determined by his or her~~
26 ~~local law enforcement agency in his or her capacity as a law~~
27 ~~enforcement officer, and who is subject to the direct and~~
28 ~~immediate command of his or her law enforcement agency, and in~~
29 ~~the law enforcement officer's uniform as authorized by his or~~
30 ~~her law enforcement agency, is performing law enforcement and~~
31 ~~public safety services and is not performing detective, burglar~~
32 ~~protection, or other protective services, if the law enforcement~~
33 ~~officer is performing his or her approved duties in a~~
34 ~~geographical area in which the law enforcement officer has~~
35 ~~arrest jurisdiction. Such law enforcement and public safety~~
36 ~~services are not subject to tax irrespective of whether the duty~~
37 ~~is characterized as "extra duty," "off-duty," or "secondary~~
38 ~~employment," and irrespective of whether the officer is paid~~
39 ~~directly or through the officer's agency by an outside source.~~
40 ~~The term "law enforcement officer" includes full-time or part-~~
41 ~~time law enforcement officers, and any auxiliary law enforcement~~

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42 ~~officer, when such auxiliary law enforcement officer is working~~
43 ~~under the direct supervision of a full-time or part-time law~~
44 ~~enforcement officer.~~
45 ~~b. nonresidential cleaning, excluding cleaning of the~~
46 ~~interiors of transportation equipment, and nonresidential~~
47 ~~building pest control services (NAICS National Numbers 561710~~
48 ~~and 561720).~~
49 ~~2. As used in this paragraph, "NAICS" means those~~
50 ~~classifications contained in the North American Industry~~
51 ~~Classification System, as published in 2007 by the Office of~~
52 ~~Management and Budget, Executive Office of the President.~~
53 ~~3. Charges for detective, burglar protection, and other~~
54 ~~protection security services performed in this state but used~~
55 ~~outside this state are exempt from taxation. Charges for~~
56 ~~detective, burglar protection, and other protection security~~
57 ~~services performed outside this state and used in this state are~~
58 ~~subject to tax.~~
59 ~~4. If a transaction involves both the sale or use of a~~
60 ~~service taxable under this paragraph and the sale or use of a~~
61 ~~service or any other item not taxable under this chapter, the~~
62 ~~consideration paid must be separately identified and stated with~~
63 ~~respect to the taxable and exempt portions of the transaction or~~
64 ~~the entire transaction shall be presumed taxable. The burden~~
65 ~~shall be on the seller of the service or the purchaser of the~~
66 ~~service, whichever applicable, to overcome this presumption by~~
67 ~~providing documentary evidence as to which portion of the~~
68 ~~transaction is exempt from tax. The department is authorized to~~
69 ~~adjust the amount of consideration identified as the taxable and~~
70 ~~exempt portions of the transaction; however, a determination~~

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71 ~~that the taxable and exempt portions are inaccurately stated and~~
72 ~~that the adjustment is applicable must be supported by~~
73 ~~substantial competent evidence.~~
74 ~~5. Each seller of services subject to sales tax pursuant to~~
75 ~~this paragraph shall maintain a monthly log showing each~~
76 ~~transaction for which sales tax was not collected because the~~
77 ~~services meet the requirements of subparagraph 3. for out-of-~~
78 ~~state use. The log must identify the purchaser's name, location~~
79 ~~and mailing address, and federal employer identification number,~~
80 ~~if a business, or the social security number, if an individual,~~
81 ~~the service sold, the price of the service, the date of sale,~~
82 ~~the reason for the exemption, and the sales invoice number. The~~
83 ~~monthly log shall be maintained pursuant to the same~~
84 ~~requirements and subject to the same penalties imposed for the~~
85 ~~keeping of similar records pursuant to this chapter.~~
86 Section 2. Subsection (4) of section 212.0501, Florida
87 Statutes, is amended to read:
88 212.0501 Tax on diesel fuel for business purposes;
89 purchase, storage, and use.—
90 (4) Except as otherwise provided in s. 212.05 (1)(j)
91 ~~212.05(1)(k)~~, a licensed sales tax dealer may elect to collect
92 such tax pursuant to this chapter on all sales to each person
93 who purchases diesel fuel for consumption, use, or storage by a
94 trade or business. If ~~When~~ the licensed sales tax dealer has not
95 elected to collect such tax on all such sales, the purchaser or
96 ultimate consumer is ~~shall be~~ liable for the payment of tax
97 directly to the state.
98 Section 3. Paragraph (v) of subsection (7) of section
99 212.08, Florida Statutes, is amended to read:

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100 212.08 Sales, rental, use, consumption, distribution, and
101 storage tax; specified exemptions.—The sale at retail, the
102 rental, the use, the consumption, the distribution, and the
103 storage to be used or consumed in this state of the following
104 are hereby specifically exempt from the tax imposed by this
105 chapter.
106 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
107 entity by this chapter do not inure to any transaction that is
108 otherwise taxable under this chapter when payment is made by a
109 representative or employee of the entity by any means,
110 including, but not limited to, cash, check, or credit card, even
111 when that representative or employee is subsequently reimbursed
112 by the entity. In addition, exemptions provided to any entity by
113 this subsection do not inure to any transaction that is
114 otherwise taxable under this chapter unless the entity has
115 obtained a sales tax exemption certificate from the department
116 or the entity obtains or provides other documentation as
117 required by the department. Eligible purchases or leases made
118 with such a certificate must be in strict compliance with this
119 subsection and departmental rules, and any person who makes an
120 exempt purchase with a certificate that is not in strict
121 compliance with this subsection and the rules is liable for and
122 shall pay the tax. The department may adopt rules to administer
123 this subsection.
124 (v) *Professional services.*—
125 ~~1.~~ Also exempted are professional, insurance, or personal
126 service transactions that involve sales as inconsequential
127 elements for which no separate charges are made.
128 1.~~2.~~ The personal service transactions exempted under this

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129 paragraph ~~pursuant to subparagraph 1.~~ do not include ~~exempt~~ the
130 sale of information services involving the furnishing of
131 printed, mimeographed, or multigraphed matter, or matter
132 duplicating written or printed matter in any other manner, other
133 than professional services and services of employees, agents, or
134 other persons acting in a representative or fiduciary capacity
135 or information services furnished to newspapers and radio and
136 television stations. As used in this subparagraph, the term
137 "information services" includes the services of collecting,
138 compiling, or analyzing information of any kind or nature and
139 furnishing reports thereof to other persons.
140 2.~~3.~~ This exemption does not apply to any service warranty
141 transaction taxable under s. 212.0506.
142 ~~4. This exemption does not apply to any service transaction~~
143 ~~taxable under s. 212.05(1)(i).~~
144 Section 4. This act shall take effect July 1, 2013.
145
146 ========== T I T L E A M E N D M E N T ==========
147 And the title is amended as follows:
148 Delete everything before the enacting clause
149 and insert:
150 A bill to be entitled
151 An act relating to the sales and use tax on services;
152 amending s. 212.05, F.S.; deleting provisions relating
153 to the imposition and application of the sales and use
154 tax to detective, burglar protection, and other
155 protection services, nonresidential cleaning services,
156 and nonresidential building pest control services;
157 amending ss. 212.0501 and 212.08, F.S.; conforming

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158 cross-references; providing an effective date.

The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 11, 2013

I respectfully request that **Senate Bill #1710**, relating to Sales and Use Tax on Protection Services, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Greg Evers

Senator Greg Evers
Florida Senate, District 2

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-13
Meeting Date

Topic _____

Bill Number SB 1710 *(if applicable)*

Name Burt Hodge

Amendment Barcode _____ *(if applicable)*

Job Title Investigator

Address 842 E. Park Av
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850. 561-3990

E-mail burt@stateinformationbureau.com

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

Representing Florida Association of Licensed Investigators

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-1-13
Meeting Date

Topic: Repeal Sales Tax on Private Detective

Bill Number: SB 1710 *(if applicable)*

Name: John Krause

Amendment Barcode: *(if applicable)*

Job Title: Private Investigator

Address: P.O. Bx 11678
Street

P'Cola, Fl 32524
City, State, Zip

Phone:

E-mail:

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

Representing: Private Investigators (FAPI) Fl

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

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

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S-001 (10/20/11)

The Florida Senate

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 102

INTRODUCER: Banking and Insurance Committee and Senator Detert

SUBJECT: Charitable Contributions

DATE: April 1, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oh	Burgess	BI	**Fav/CS**
2.	Siples	Hrdlicka	CM	**Favorable**
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 102 amends the Florida Uniform Fraudulent Transfer Act (FUFTA) to provide protection against creditors' clawback actions for charitable contributions received in good faith by qualified religious or charitable organizations. A charitable contribution made by a natural person, however, is subject to clawback actions if received within 2 years of the commencement of an action under FUFTA, a bankruptcy petition, or an insolvency proceeding, unless the transfer was consistent with the debtor's practices in making charitable contributions or the transfer did not exceed 15 percent of the debtor's gross annual income. The bill defines "charitable contribution" and "qualified religious or charitable entity" consistent with how those terms are defined in the Internal Revenue Code.

This bill substantially amends ss. 213.758, 718.704, 721.05, 726.102, and 726.109, F.S.

II. Present Situation:

Florida Uniform Fraudulent Transfer Act

According to the National Conference of Commissioners on Uniform State Laws, the Uniform Fraudulent Transfer Act (UFTA) has been enacted by 43 states, as well as the District of Columbia and the U.S. Virgin Island.[1] Florida adopted UFTA in 1987.[2] The Florida Uniform Fraudulent Transfer Act (FUFTA) provides a creditor with a means to reach assets that a debtor has transferred to another person to keep the assets from being used to satisfy a debt to the creditor, and defines the circumstances for application of the law. Under FUFTA, a transfer made or an obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

- With actual intent to hinder, delay, or defraud any creditor of the debtor; or
- Without receiving a reasonably equivalent value in exchange of the transfer or obligation, and the debtor:
  - was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
  - intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.[3]

In the situations described above, FUFTA provides a statutory remedy for creditors, primarily through a "clawback" action, whereby a prevailing creditor may have a debtor's fraudulent transfer or obligation made to a third party voided and surrendered back to the creditor. This remedy is subject to a 4 year statute of limitations, unless otherwise specified in s. 726.110, F.S.

FUFTA also provides protection for an innocent third party transferee, by specifying that a transfer is not voidable when the transferee is "a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee."[4] However, FUFTA does not provide a specific exception for transfers received by charitable organizations, which generally do not give value in exchange for contributions. As a result, a charitable organization can be subject to a clawback action under FUFTA, even when it has already spent the contribution to provide its charitable service. Under an Illinois law that is similar to Florida's, the U.S. Court of Appeals for the Seventh Circuit ruled in favor of a creditor in a clawback action, even though the charitable organization received the contribution in good faith.[5]

---

[1] Uniform Law Commission, Legislative Fact Sheet – Fraudulent Transfer Act, *available at* http://uniformlaws.org/LegislativeFactSheet.aspx?title=Fraudulent%20Transfer%20Act (last visited Mar. 28, 2013).
[2] Chapter 87-79, L.O.F. The short title for ch. 726, F.S., is the "Uniform Fraudulent Transfer Act."
[3] Section 726.105, F.S.
[4] Section 726.109, F.S.
[5] *Scholes v. Lehmann*, 56 F.3d 750, 761 (7th Cir. 1995).

Federal Bankruptcy Code

Like the UFTA, the Federal Bankruptcy Code[6] (code) allows certain fraudulent transfers made by a debtor to be voided. However, unlike the FUFTA, which relies on individual creditors to bring actions to void the transfer, the code empowers the bankruptcy trustee to bring the action to void the transfers for the benefit of all the debtor's creditors. The three most important sections of the Bankruptcy Code dealing with fraudulent transactions are ss. 548, 544, and 727.

Section 548
Section 548 of the code deals exclusively with fraudulent transfers and allows a bankruptcy trustee to void transactions involving actual or constructive fraud.[7] The elements that must be proved to void a fraudulent transfer under this provision are substantially similar to those that are required under the FUFTA. Section 548 also parallels the FUFTA by providing a "value" defense which is virtually identical to the defense provided by FUFTA, and is available to a transferee that takes in good faith for a reasonably equivalent value.[8] A transfer or contribution to a charitable or religious organization is not voidable if it does not met the "value" defense when:

- The transfer was consistent with the practices of the debtor; or
- The transfer did not exceed 15 percent of the debtor's gross annual income.[9]

Unlike the FUFTA, however, a bankruptcy trustee may void only fraudulent transfers that occur within 2 years (1 year for cases commenced before April 20, 2005) from the date of the filing of the bankruptcy petition. A bankruptcy trustee seeking to void a transfer that occurred more than 1 year before a debtor's petition must rely on Section 544 of the code.

Section 544
Section 544 of the code is commonly referred to as the "strong-arm clause" and generally allows a bankruptcy trustee to set aside pre-bankruptcy transfers that are voidable under applicable state law.[10] The strong-arm clause is primarily designed to protect unsecured creditors against unrecorded or unperfected interests and secret liens or any other prepetition claims against the debtor's assets at the time the case is commenced. The trustee has the rights and powers of a hypothetical creditor or purchaser, whether or not such a creditor or purchaser exists, to avoid certain transfers or obligations of the debtor.[11]

The statute of limitations that applies to actions under Section 544, which also applies in Florida, would allow a transfer to be voided up to 4 years after it was made. Moreover, for actions based on actual fraud, the limitation period is the longer of 4 years or 1 year after the transfer reasonably could have been discovered.[12]

Section 727

[6] 11 U.S.C. s. 101 et. seq.
[7] 11 U.S.C. s. 548.
[8] 11 U.S.C. s. 548(c).
[9] 11 U.S.C. s. 548(a)(2)
[10] 11 U.S.C. s. 544
[11] 8A C.J.S. *Bankruptcy* s. 705
[12] See s. 726.110(1), F.S.

Under Section 727, a bankruptcy debtor may be denied a discharge from debts if the debtor transferred property either within 1 year before the bankruptcy petition or during the bankruptcy case with actual intent to hinder, delay, or defraud a creditor. The effect of this penalty is to deny the debtor the benefits of bankruptcy and to allow creditors to continue to pursue the debtor even after bankruptcy. Some courts have interpreted this 1-year period broadly and denied a discharge based on transfers before the 1-year period if there is proof of "continuing concealment" by the debtor.[13]

III. Effect of Proposed Changes:

Section 1 amends s. 726.102, F.S., to create definitions for the terms "charitable contribution" and "qualified religious or charitable entity or organization consistent" with the definitions in the IRC. Charitable contributions are limited to cash or financial instruments.

Section 2 amends s. 726.109, F.S., to provide that the transfer of a charitable contribution received by a qualified religious or charitable entity or organization in good faith is not a fraudulent transfer.

The bill, however, provides that a charitable contribution from a natural person is a fraudulent transfer if it was received within 2 years of the earlier of the commencement of an action under FUFTA, the filing of a bankruptcy petition, or the commencement of an insolvency action. The bill then provides an exception for a transfer from a natural person if:

- The transfer was consistent with the practices of the debtor; or
- The transfer was received in good faith and the contribution did not exceed 15 percent of the gross annual income of the debtor.

Sections 3, 4, and 5 amend ss. 213.758, 718.704, and 721.05, F.S., respectively, to correct cross-references.

Section 6 provides an effective date of July 1, 2013, and specifies that it will apply to all charitable contributions made on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[13] An example of "continuing concealment" is when a debtor nominally transfers an asset before the 1-year period prior to bankruptcy, but retains an interest in it even after the bankruptcy filing (8B C.J.S. *Bankruptcy* s. 1035). See, *e.g.*, *In the Matter of Hazen*, 37 B.R. 329 (M.D. Fla. 1983), denying debtor discharge because it failed to list in its bankruptcy schedules its remaining interest in assets fraudulently transferred to trust, even though fraudulent transfer occurred more than one year before bankruptcy.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, creditors would not be able to void certain transfers that they currently are able to void. Thus, fewer assets may be available to make creditors whole. However, charities may feel more secure about transfers they receive.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Banking and Insurance on March 14, 2013:
The CS makes the following changes:

- The original bill provided that a transfer of a charitable contribution received in good faith by a qualified religious or charitable entity is not a fraudulent transfer under ch. 726, F.S.; the CS specifically identifies s. 726.105(1)(b), F.S., rather than the entire chapter generally.
- The CS provides technical conforming changes, replacing the original bill's use of the term "transferor" with the term "debtor."
- The CS amends the effective date to July 1, 2013, and provides that bill applies prospectively to all charitable contributions made on or after that date.

B. Amendments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/13
Meeting Date

Topic: Clawback Legislation

Bill Number: 102 (if applicable)

Name: Michael Sheedy

Amendment Barcode: (if applicable)

Job Title: Director of Public Policy

Address: 201 W. Park Ave.
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-205-6824 ~~850-222-3803~~

E-mail:

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

Representing: Florida Conference of Catholic Bishops

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 356

INTRODUCER: Senator Abruzzo

SUBJECT: Financial Guaranty Insurance Corporations

DATE: April 1, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Favorable**
2.	Siples	Hrdlicka	CM	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

SB 356 allows a mutual insurance company to transact financial guaranty insurance business in Florida.

This bill substantially amends ss. 627.971 and 627.972, F.S.

II. Present Situation:

Organization of Insurance Companies

A prerequisite for authorization to transact insurance in this state is that an insurer must be an incorporated stock insurer, an incorporated mutual insurer, or a reciprocal insurer.[1] Florida law provides the following definitions for these three types of insurers:

- A stock insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders.[2]
- A mutual insurer is an incorporated insurer without permanent capital stock, the governing body of which is elected in accordance with part I of ch. 628, F.S.[3] A mutual insurance company is owned by its policyholders.[4]

[1] Section 624.404, F.S.
[2] Section 628.021, F.S.
[3] Section 628.031, F.S.
[4] Section 628.301, F.S.

- A reciprocal insurer is an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance[5] among themselves.[6]

Financial Guaranty Insurance

Financial guaranty insurance is a surety bond, insurance policy, an indemnity contract issued by an insurer, or a similar guaranty, under which loss is payable once the insured claimant, obligee, or indemnitee provides proof of an occurrence of:

- The failure, as a result of a financial default or insolvency of an obligor on a debt instrument or other monetary obligation[7] to make principal, interest, premium, dividend, or purchase price payments when due;
- Changes in interest rate levels or the differential in interest rates between various markets or products;
- Changes in currency exchange rates;
- Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or
- Other events that the Office of Insurance Regulation determines are substantially similar to any of the foregoing. [8]

A financial guaranty insurance company may only be organized as a stock insurer, in the same manner as a stock property and casualty insurer.[9] To transact financial guaranty insurance in Florida, the insurer must have an initial surplus to policyholders of $50 million when initially licensed and maintains a surplus of at least $35 million.[10] The insurer must also establish a specified contingency reserve, and meet other requirements.[11] Financial guaranty insurance corporations are subject to all provisions of the Florida Insurance Code applicable to property and casualty insurance, to the extent they are not inconsistent with part XX, ch. 627, F.S.[12] An authorized property and casualty insurer may also transact such insurance if it has a total policyholder surplus of greater than $100 million, not more than 20 percent of its total net premiums and policyholder surplus is used to transact financial guaranty insurance, and other conditions are met.[13]

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[5] Reciprocal insurance consists of interexchange among persons (subscribers) of reciprocal agreements of indemnity that are effectuated through an attorney in fact common to all subscribers. s. 629.011, F.S.
[6] Section 629.021, F.S.
[7] An "other monetary obligation" includes common or preferred stock guaranteed under a surety bond, insurance policy, or indemnity contract. The insurance is available whether the obligation is incurred directly or as guarantor by or on behalf of another obligor who also defaulted.
[8] See Section 627.971, F.S.
[9] Section 627.972(1), F.S.
[10] Section 627.972(2), F.S.
[11] Section 627.972(3)-(5), F.S.
[12] Section 627.972(1)(c), F.S.
[13] Section 672.973(1), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 627.971, F.S., to add mutual insurer to the definition of a financial guaranty insurance corporation that will allow mutual insurers to be licensed to transact financial guaranty insurance business in Florida.

Section 2 amends s. 627.972, F.S., to provide that a financial guaranty insurance corporation may be organized as a mutual insurer. If the corporation is organized as a mutual insurer, it must be organized and licensed in accordance with the provisions of the Florida Insurance Code.

Section 3 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that mutual insurers become licensed to transact financial guaranty insurance business in this state, there will be a positive impact.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/01/2013	.	
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	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Between lines 53 and 54
4 insert:
5 Section 3. Subsection (7) of section 617.01401, Florida
6 Statutes, is amended to read:
7 617.01401 Definitions.—As used in this chapter, the term:
8 (7) "Distribution" means the payment of a dividend or any
9 part of the income or profit of a corporation to its members,
10 directors, or officers.
11 (a) A donation or transfer of corporate assets or income to
12 or from another not-for-profit corporation qualified as tax-

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13 exempt under s. 501(c) of the Internal Revenue Code or a
14 governmental organization exempt from federal and state income
15 taxes, if such corporation or governmental organization is a
16 member of the corporation making such donation or transfer, is
17 not a distribution for purposes of this chapter.
18 (b) A dividend or distribution by a not-for-profit
19 insurance company subsidiary to its mutual insurance holding
20 company organized under part III of chapter 628, directly or
21 indirectly through one or more intermediate holding companies
22 authorized under that part, is not a distribution for the
23 purposes of this chapter.
24 Section 4. Subsection (5) is added to section 628.371,
25 Florida Statutes, to read:
26 628.371 Dividends to stockholders.—
27 (5) A dividend or distribution by a not-for-profit
28 insurance company subsidiary to its mutual insurance holding
29 company, directly or indirectly through one or more intermediate
30 holding companies, pursuant to part III of this chapter, which
31 meets the requirements of this section and which apply to a
32 stock insurer, is permitted under this section.
33 Section 5. Section 628.703, Florida Statutes, is reordered
34 and amended to read:
35 628.703 Definitions.—For purposes of this part:
36 (2) ~~(1)~~ "Mutual insurance holding company" means an
37 incorporated entity without permanent capital stock which ~~that~~
38 is organized under this part and whose members are determined in
39 accordance with this part.
40 (5) ~~(2)~~ "Subsidiary insurance company" means:
41 (a) A stock insurance company, of which the majority of the

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42 voting shares of the capital stock ~~of which~~ are at all times
43 owned by a mutual insurance holding company. As used in ~~For~~
44 ~~purposes of~~ this part, the term "majority of the voting shares
45 of the capital stock" means the shares of the capital stock of
46 such company which carry the right to cast a majority of the
47 votes entitled to be cast by all of the outstanding shares of
48 the capital stock for the election of directors. The ownership
49 of a majority of the voting shares of the capital stock of a
50 former mutual reorganized insurance company which are required
51 by this part to be at all times owned by a mutual insurance
52 holding company includes indirect ownership through one or more
53 intermediate holding companies. However, indirect ownership
54 through one or more intermediate holding companies may ~~shall~~ not
55 result in a mutual insurance holding company owning less than
56 the equivalent of a majority of the voting shares of the capital
57 stock of the former mutual reorganized insurance company; or
58 (b) A not-for-profit insurance company or nonprofit health
59 care plan, of which the majority of the voting membership
60 interests are at all times owned by a mutual insurance holding
61 company, which entitles the mutual insurance holding company to
62 elect the board of directors of the not-for-profit insurance
63 company or nonprofit health care plan. This also applies to the
64 indirect ownership of the not-for-profit insurance company or
65 nonprofit health care plan through one or more intermediate
66 holding companies. A not-for-profit insurance company subsidiary
67 resulting from reorganization into a not-for-profit mutual
68 insurance company under this part, or which is subsequently
69 organized as an additional subsidiary insurance company of the
70 holding company, is subject to the Florida Insurance Code and

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71 chapter 617 applies to the organization of such company.
72 (1) ~~(3)~~ "Intermediate holding company" means:
73 (a) A holding company that ~~which~~ is a subsidiary of a
74 mutual insurance holding company, and which directly or through
75 a subsidiary intermediate holding company owns a majority of the
76 voting shares of the capital stock of one or more subsidiary
77 insurance companies; or
78 (b) A holding company that is a not-for-profit corporation
79 and a subsidiary of a mutual insurance holding company, of which
80 a majority of the voting membership interests entitled to elect
81 the board of directors of such corporation are owned, directly
82 or through a subsidiary intermediate holding company, by the
83 mutual insurance holding company.
84 (3) "Nonprofit health care plan" means a not-for-profit
85 domestic or foreign hospital or medical and surgical service
86 plan or corporation that is licensed in one or more states,
87 issues no capital stock, and is engaged in the business of
88 providing prepaid indemnity or health care benefits.
89 (4) "Paid premiums" means all premiums paid for insurance
90 by a member of a mutual insurance holding company to a
91 subsidiary insurance company.
92 Section 6. Subsection (5) of section 628.707, Florida
93 Statutes, is amended to read:
94 628.707 Applicability of general corporation statutes.—The
95 applicable statutes of this state relating to the powers and
96 procedures of domestic private corporations formed for profit
97 shall apply to domestic mutual insurance holding companies,
98 except:
99 (5) In the case of the reorganization of a ~~any~~ mutual

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100 insurance company organized as a not-for-profit ~~nonprofit~~
101 corporation under chapter 617, a mutual insurance holding
102 company organized under this part shall be deemed to be a not-
103 for-profit ~~nonprofit~~ corporation.
104 Section 7. Subsection (1) of section 628.715, Florida
105 Statutes, is amended to read:
106 628.715 Merger and acquisitions.—Subject to applicable
107 requirements of this chapter, a mutual insurance holding company
108 may:
109 (1)(a) Merge or consolidate with, or acquire the assets of,
110 a mutual insurance holding company licensed pursuant to this
111 part ~~act~~ or any similar entity organization pursuant to laws of
112 any other state;
113 (b) Either alone or together with one or more intermediate
114 ~~stock~~ holding companies, or other subsidiaries, directly or
115 indirectly acquire the stock of a stock insurance company or a
116 mutual insurance company that reorganizes under this part ~~act~~ or
117 the law of its state of organization;
118 (c) Together with one or more of its ~~stock insurance~~
119 ~~company~~ subsidiaries, acquire the assets of a stock insurance
120 company or a mutual insurance company, or the membership
121 interests of a not-for-profit insurance company or nonprofit
122 health care plan;
123 (d) Acquire a stock insurance company through the merger of
124 the ~~such~~ stock insurance subsidiary with a stock insurance
125 company or interim stock insurance company subsidiary of the
126 mutual insurance holding company, or acquire a not-for-profit
127 insurance company or nonprofit health care plan through the
128 merger of such entities with a mutual insurance company, or with

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129 a not-for-profit insurance company subsidiary of the mutual
130 insurance holding company or intermediate holding company;
131 (e) Acquire the stock or assets of any other person to the
132 same extent as would be permitted for any not-for-profit
133 corporation under chapter 617 or, if the mutual insurance
134 holding company writes insurance, a mutual insurance company;
135 (f) Jointly, with a domestic or foreign mutual insurance
136 company that ~~which~~ redomesticates pursuant to s. 628.520, file
137 an application with the office, pursuant to ~~the provisions of~~
138 this part, to merge the domestic or foreign mutual insurance
139 company policyholder's membership interests into the mutual
140 insurance holding company. The reorganizing mutual insurance
141 company may merge with the mutual insurance holding company's
142 stock subsidiary or continue its corporate existence as a
143 domestic stock insurance company subsidiary. The members of the
144 foreign mutual insurance company may approve in a
145 contemporaneous vote both the redomestication plan and the
146 agreement for merger and reorganization; or
147 (g) Merge or consolidate with, or acquire the assets of, a
148 domestic or foreign reciprocal insurance company, a group self-
149 insurance fund, or any other similar entity.
150 Section 8. Subsection (1) of section 628.727, Florida
151 Statutes, is amended to read:
152 628.727 Membership.—
153 (1) Membership in a mutual insurance holding company shall
154 be determined in accordance with the mutual insurance holding
155 company's articles of incorporation and bylaws and ~~shall~~ be
156 based upon each member holding a policy of insurance with a
157 subsidiary insurance company or a health maintenance contract

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158 with a subsidiary health maintenance organization. Group
159 certificateholders may also be members of the mutual insurance
160 holding company if specified in the bylaws. The articles of
161 incorporation and bylaws may provide for one or more classes of
162 members and may restrict the voting or other rights of a class
163 of policyholders of a nonprofit health care plan from receiving
164 distributions pursuant to this chapter if the assets of the
165 nonprofit health care plan may not be treated as assets
166 available for distribution.
167
168 ========== T I T L E A M E N D M E N T ==========
169 And the title is amended as follows:
170 Delete lines 2 - 5
171 and insert:
172 An act relating to mutual insurance corporations;
173 amending ss. 627.971 and 627.972, F.S.; providing that
174 such corporations include licensed mutual insurers as
175 well as licensed stock insurers; amending s.
176 617.01401, F.S.; revising the definition of the term
177 “distribution” to exclude a not-for-profit insurance
178 company subsidiary from ch. 617, F.S., relating to
179 non-for-profit corporations; amending s. 628.371,
180 F.S.; providing that certain dividends or
181 distributions by a not-for-profit insurance company to
182 its mutual insurance holding company which meet
183 certain requirements are permitted under pt. I of ch.
184 628, F.S., relating to stock and mutual insurers;
185 amending s. 628.703 F.S.; amending definitions
186 relating to mutual insurance holding companies to add

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187 provisions for not-for-profit insurance companies and
188 nonprofit health care plans; amending s. 628.707,
189 F.S.; conforming terminology; amending s. 628.715,
190 F.S.; adding not-for-profit insurance companies and
191 nonprofit health plans to provisions relating to
192 mergers and acquisitions; amending s. 628.727, F.S.;
193 authorizing the articles of incorporation and bylaws
194 of a mutual insurance holding company to restrict
195 certain rights of policyholders to receive
196 distributions;

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 20th, 2013

The Honorable Nancy C. Detert
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

I respectfully request that Senate Bill 356, relating to the Mutual Insurers, be placed on the Commerce and Tourism agenda. This legislation allows a financial guaranty insurance corporation to be organized as a mutual insurance company.

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

Sincerely,

Senator Joseph Abruzzo

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

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

4-1-13 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic _____ Bill Number 356 (if applicable)

Name Paul Sanford Amendment Barcode _____ (if applicable)

Job Title _____

Address 106 S. Monroe St Phone _____
Street

Tallahassee, FL 32301 E-mail _____
City State Zip

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

Representing Build America Mutual, Florida Blue

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic: Financial Guaranty Insurance Corps.

Bill Number: 356 *(if applicable)*

Name: Melanie Bostick

Amendment Barcode: 974786 *(if applicable)*

Job Title: Vice President

Address: 113 E. College Ave, Suite 300
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: (850) 841-1726

E-mail: melanie@libertypartnersfl.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Humana, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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 566

INTRODUCER: Commerce and Tourism Committee and Senator Detert

SUBJECT: Security of Protected Consumer Information

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	**Favorable**
2.	Malcolm	Hrdlicka	CM	**Fav/CS**
3.			JU	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 566 establishes a procedure by which a guardian of a person younger than 16 years of age or a guardian or representative of a person represented by a guardian or representative can request that a consumer reporting agency place a security freeze on the protected consumer's record. The security freeze prohibits consumer reporting agencies from releasing the consumer's record or any information contained within the record, such as a credit score, without the authorized consent of the consumer's representative except in certain circumstances. The security freeze is designed to protect a consumer by preventing an unauthorized person from opening lines of credit in the consumer's name.

The bill requires that the representative requesting a security freeze submit a request to the consumer reporting agency, provide sufficient proof of identification, and pay the agency a $10 fee. The fee is waived if the representative submits a copy of a valid police or investigative report about the unlawful use of the protected consumer's identifying information. A consumer reporting agency's willful failure to comply with the security freeze will result in an administrative fine of $500. A person who obtains a consumer record under false pretenses or knowingly without a permissible purpose is liable for damages to the consumer for at least $1,000, and to the consumer reporting agency for at least $1,000.

The bill also requires consumer reporting agencies to provide written notice of the availability of a security freeze for people younger than 16 years of age or represented by a legally appointed guardian or representative.

This bill amends s. 501.005, F.S.

II. Present Situation:

Fair Credit Reporting Act
The federal Fair Credit Reporting Act (FCRA)[1] governs the collection, assembly, and use of consumer report information and establishes the framework for the credit reporting system in the United States. The FCRA was enacted to (1) prevent the misuse of sensitive consumer information by limiting access to those with a legitimate need for the information; (2) improve the accuracy and integrity of consumer reports; and (3) promote the efficiency of the nation's banking and consumer credit systems.

Consumer reports are used by financial institutions, insurance companies, employers, and other entities in determining a consumer's eligibility for certain products and services. Information included in consumer reports generally may include a consumer's credit and payment history, as well as demographic and identifying information and public record information (e.g., arrests, judgments, and bankruptcies).

In 2003, the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the FCRA.[2] The FACT Act added several sections to assist consumers and businesses in combating identity theft and reducing the damage when identity theft occurs. The FACT Act established a national fraud alert system and ordered credit reporting agencies to adopt rules for the disposition of consumer report information and how companies should respond to the "red flag" indicators of identity theft. [3]

Security freezes
In response to concerns regarding identity theft, 47 states, including Florida, have adopted laws that allow a consumer to freeze access to his or her credit report and prevent anyone from trying to open a new account or new credit.[4] A security freeze restricts a consumer reporting agency from releasing a credit report or any information from the report without authorization from the consumer. A freeze also requires authorization to change information—such as the consumer's name, date of birth, Social Security number, and address—in a consumer report. A security freeze remains on a credit report until the consumer removes it. Generally, a person can temporarily remove the freeze to open a new credit account or apply for a loan. To do this, a consumer provides the consumer reporting agency with a special personal identifying number (PIN), which is required to verify the consumer's identity. States have created exemptions for specified organizations that still can access credit report information even if a freeze is in place.

[1] 15 U.S.C. s. 1681 et seq.
[2] P.L. 108-159, H.R. 2622, 108th Cong. (Dec. 4, 2003).
[3] Fraud alerts do not prevent a potential creditor from obtaining the consumer report and may not prevent new credit accounts. *See* 15 U.S.C. s. 1681c-1, m(e).
[4] Consumers Union, *Consumers Union's Guide to Security Freeze Protection*, *available at* http://defendyourdollars.org/document/guide-to-security-freeze-protection (last visited March 24, 2013).

Typically, these organizations include law enforcement agencies, child support enforcement entities, insurance companies, and subsidiaries and affiliates of companies that have existing accounts with the consumer.

Florida Statutes Relating to Security Freezes

Currently, s. 501.005, F.S., allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer reporting agency. Generally, the security freeze prohibits the consumer reporting agency from releasing the consumer's credit report or any information contained within the report without the authorization of the consumer.[5] A consumer reporting agency may charge a fee, not to exceed $10, when a consumer elects to place, temporarily lift, or remove a security freeze on his or her credit report. However, the law prohibits a consumer reporting agency from charging a fee to a consumer 65 years or older or to a victim of identity theft for the placement or removal of a security freeze.

In addition to any other penalties or remedies provided under law, a person who is aggrieved by a violation of the provisions of s. 501.005, F.S., may bring a civil action as follows:

- Any person who willfully fails to comply with any requirement imposed under s. 501.005, F.S., with respect to any consumer is liable to that consumer for actual damages sustained by the consumer as a result of the failure of not less than $100 and not more than $1,000, plus the cost of the action and attorney's fees.
- Any person who is negligent in failing to comply with any requirement imposed under s. 501.005, F.S., with respect to any consumer is liable to that consumer for any actual damages sustained by the consumer because of the failure of not less than $100 and not more than $1,000.

Additionally, any individual who obtains a consumer report under false pretenses or knowingly without a permissible purpose is liable to the consumer for actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000, whichever is greater. Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose is also liable to the agency for actual damages sustained by the agency or $1,000, whichever is greater. Punitive damages may be assessed for willful violations of s. 501.005, F.S. Lastly, if a court finds an unsuccessful pleading or motion was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees incurred for the work performed in responding to the pleading or motion.

Child Identity Theft

A 2011 study estimated that 140,000 instances of identity fraud are perpetrated on minors in the United States each year.[6] An identity thief will typically apply for credit with a child's Social Security number, but with a different name and date of birth. As a result, the identity theft may

[5] Section 501.005(12), F.S., allows for the release of information otherwise protected by a security freeze to the existing creditors of the consumer, persons who have been granted access to the information according to law, state agencies acting within their lawful investigatory or regulatory authority, law enforcement agencies, persons maintaining credit monitoring services or who provide credit reports to consumers on their request, persons designated by court order, for credit prescreening or insurance underwriting purposes, and to certain other specified entities.

[6] ID Analytics, *More than 140,000 Children Could be Victims of Identity Fraud Each Year* (News Release July 12, 2011), *available at* http://www.idanalytics.com/news-and-events/news-releases/2011/7-12-2011.php (last visited March 25, 2013).

go undetected for years. While parents typically apply for a Social Security number for their child shortly after birth, credit reporting agencies do not create credit files until an individual uses his or her Social Security number to apply for credit for the first time.

Identity thieves use a minor's social security number or fabricate a social security number that coincidentally has been assigned to a child in order to obtain employment, apply for government benefits, open new accounts, or apply for credit.[7] A child's unused social security number is valuable to a thief because it typically lacks a previous credit history and can be paired with any name and birth date. Because parents typically do not monitor their child's credit, a child's identity can be used to obtain goods and services over many years without the parents' knowledge. The identity theft may not be detected until the child becomes an adult, seeks employment, or applies for student or car loans.

Current statutory security freezes only apply to existing consumer credit reports. Because minors generally do not have credit history they do not have credit reports and thus cannot get a security freeze.[8] A credit history can be established for a minor through a parent adding the minor as a joint account holder. According to Experian, the agency does not knowingly disclose a minor's credit history; however, minors may request a copy of their credit report after the age of 14.[9] Parents or legal guardians may request a credit report for their minor by providing documentation that they are the parent or guardian. When a minor reaches the age of 18, the credit report becomes available for access by authorized persons.

In addition to the penalties and remedies under s. 501.005, F.S., relating to credit reports and security freezes for adults, s. 817.568, F.S., addresses criminal penalties for the unauthorized use of personal identification information. In regards to minors, s. 817.568, F.S., makes it a second-degree felony for:

- Any person to willfully and without authorization fraudulently use personal identification information concerning an individual who is less than 18 years of age without first obtaining the consent of that individual or of his or her legal guardian.
- Any person who is in the relationship of parent or legal guardian, or who otherwise exercises custodial authority over an individual who is less than 18 years of age, to willfully and fraudulently use personal identification information of that individual.

III. Effect of Proposed Changes:

Section 1 creates s. 501.0051, F.S., to establish a process to allow the institution of a security freeze for a person younger than 16 years of age or a person represented by a guardian or other advocate.

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[7] Federal Trade Commission Consumer Information, *Child Identity Theft* (Aug. 2012), *available at* http://www.consumer.ftc.gov/articles/0040-child-identity-theft (last visited March 25, 2013).

[8] A spokesman for TransUnion and Equifax has explained that a security freeze "applies to a credit file, not a social security number." Carrins, Ann, *Why It's Not Easy to Freeze Your Child's Credit File*, The New York Times, (Sept. 21, 2011), *available at* http://bucks.blogs.nytimes.com/2011/09/21/why-its-not-easy-to-freeze-your-childs-credit-file/ (last visited March 25, 2013).

[9] *See* Experian website at http://www.experian.com/ask-experian/20110914-credit-reports-not-established-based-on-age.html (last visited March 25, 2013).

Definitions for the terms "consumer reporting agency" and "consumer report" are identical to the definitions in s. 501.005, F.S. The term "protected consumer" means a person younger than 16 years of age or a person represented by a guardian or other advocate pursuant to ch. 39,[10] ch. 393,[11] ch. 744,[12] or ch. 914,[13] F.S. A "record" is defined as a compilation of information that identifies a protected consumer and may not be created or used to consider the protected person's creditworthiness or eligibility for other financial services. A record is created if a consumer does not have a credit report. The definition of security freeze is similar to the current definition found in s. 501.005, F.S., and also includes a notice placed on the protected consumer's record that prohibits the consumer reporting agency from releasing the record except as provided in s. 501.0051, F.S.

Security Freeze

The bill authorizes the representative of a protected consumer to place a security freeze on a protected consumer's record by submitting a request to the consumer reporting agency, providing sufficient proof of identification, and paying the agency a $10 fee. The representative would submit a request to a consumer reporting agency in the manner prescribed by the agency. The fee is waived if the representative submits a copy of a valid investigative report, incident report, or complaint with law enforcement about the unlawful use of the protected consumer's identifying information.

The consumer reporting agency is required to place a security freeze on a consumer's record within 30 calendar days of the request. If no consumer report already exists for a protected consumer, the consumer reporting agency is required to create a consumer record. The consumer reporting agency is required to send a written confirmation of the security freeze within 10 business days after creating the security freeze. Once the security freeze is in effect, a consumer reporting agency is not authorized to change the name, address, date of birth, or Social Security number without sending written confirmation to the consumer within 30 calendar days after the change is posted to the protected consumer's record. The consumer reporting agency is also required to provide instructions for removing the security freeze and a unique personal identifier for use in removing the security freeze. The consumer reporting agency is authorized to charge a fee not to exceed $10 if the representative loses the personal identifier and a new identifier must be issued.

The bill also delineates the procedures and documents required of the representative or protected consumer for the removal of the security freeze. A representative must provide sufficient proof of identification, unique personal identifier, and payment of the $10 fee. A protected consumer must provide proof of identification as well as documentation that the authority for the representative to act on behalf of the protected consumer is no longer valid.

Certain persons and entities, for specified reasons, are allowed to access a consumer record that is subject to a security freeze. These exemptions are similar to the exemptions found in s. 501.005, F.S. However, the bill also allows access and use of a consumer's record for personal insurance policy information and noncredit information used for insurance purposes.

[10] Chapter 39, F.S., pertains to proceedings relating to children.
[11] Chapter 393, F.S., relates to developmental disabilities.
[12] Chapter 744, F.S., relates to guardianships.
[13] Chapter 914, F.S., relates to witnesses and criminal proceedings, including guardian ad litems.

The section requires a consumer reporting agency that violates a security freeze by releasing information without proper authorization to notify the representative of the protected consumer within 5 business days after the discovery or notification of the release.

Penalties and Remedies
The bill provides that a consumer reporting agency that willfully fails to comply with the bill's requirements would be subject to an administrative fine of $500 issued by the Department of Agriculture and Consumer Services. The bill provides a private right of action for certain violations. A person who obtains a record under false pretenses or knowingly without a permissible purpose is liable to the representative and protected consumer for the greater of either $1,000 or the actual damages sustained. A person who obtains a record under false pretenses or knowingly without a permissible purpose is liable to the consumer reporting agency for actual damages sustained by the agency or $1,000, whichever is greater.

Written Disclosures
The bill requires credit reporting agencies to provide a written disclosure of the availability of placing a security freeze on a protected consumer's record. The disclosure provides notice provides that if a person is a custodial parent or legal guardian of a minor younger than 16 years of age or a guardian or advocate of an incapacitated, disabled, or protected person under ch. 39, ch. 393, ch. 744, or ch. 914, F.S., they have the right to place a security freeze on the consumer report of the person in their care. If there is no credit report, the parent, guardian, or advocate may request the creation of a consumer record and the placement of a security freeze on the consumer record. The disclosure warns that using a security freeze may delay or prohibit access to credit, insurance, employment, or other services, and it explains that a security freeze does not apply to entities with which the protected consumer has an existing account. The disclosure provides the procedure for stopping the security freeze and releasing the credit record and credit report. It also provides notice of the rights and remedies available under the bill.

Section 2 provides that the bill will take effect September 1, 2013.

<u>Other Potential Implications</u>:

The bill does not provide the same remedies and penalties found in the security freeze provisions of s. 501.005, F.S. Section 501.005, F.S., authorizes the assessment of punitive damages for willful violations of that section. Section 501.005, F.S., provides that any person who is negligent in failing to comply with the provisions of that section is liable to the consumer for any actual damages sustained by the consumer because of the failure of not less than $100 and not more than $1,000. Section 501.005, F.S., also allows the court to award reasonable attorney's fees to the prevailing party in an action that was filed in bad faith or for purposes of harassment.

Currently, s. 501.005, F.S., exempts certain transactions from the security freeze, thereby allowing access to information contained in a credit file or report. The bill, which is applicable to protected consumers, including minors, contains similar exemption found in s. 501.005, F.S., except that the bill also allows the use of the protected consumer records by a consumer reporting agency's database or file that is used exclusively for personal insurance policy information and noncredit information used for insurance purposes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Credit reporting agencies may incur additional costs to establish security freezes for minors and other individuals covered under the bill. However, according to the Department of Agriculture and Consumer Services, Maryland passed similar legislation in 2012, which required compliance by the agencies; therefore, costs to the agencies to comply with the bill should be minimal.[14]

With the increasing incidence of child identity theft, the creation of security freezes on credit records of minors under age 16 and other persons represented by a guardian or advocate without an existing credit report may provide additional safeguards by deterring identity theft.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services believes the bill will have no fiscal impact on the department.[15]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Pursuant to s. 501.005, F.S., a request for a security freeze must be submitted in writing by certified mail to the consumer reporting agency. However, the bill provides that the

[14] Department of Agriculture and Consumer Services, *House Bill 493 Agency Analysis* (Feb. 1, 2013) (on file with the Senate Committee on Commerce and Tourism).
[15] *Supra* note 14.

representative would submit a request to a consumer reporting agency in the manner prescribed by the agency. It is unclear whether each consumer reporting agency would require certified mail or some other method, such as email.

The bill requires the consumer reporting agency to place a security freeze on a credit record within 30 calendar days after confirming authenticity of such a request. Section 501.005, F.S., relating to security freezes on credit reports, requires a consumer reporting agency to place a freeze within 5 business days after receiving a request for a security freeze on a credit report.

A request for the removal of a security freeze on a credit record must be completed within 30 calendar days, rather than 3 business days as required for security freezes of reports under s. 501.005, F.S. This could result in a significant delay for a teenager applying for a car loan, seeking employment, or applying for an apartment lease, even if the parents are co-signing for the loan or lease.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism Committee on April 1, 2013:
The committee substitute:

- Sets the Department of Agriculture and Consumer Services' authority to impose an administrative fine on consumer reporting agencies at $500, instead of up to $500;
- Clarifies the civil remedy available under the bill;
- Increases the actual damages a protected consumer and his or her representative may recover against identity thieves;
- Clarifies that certain required time-frames are "calendar days" rather than "business days";
- Creates mandatory disclosures specifically within the new statute for protected consumer security freezes;
- Clarifies that a "protected consumer" includes a person who has had a guardian or other representative appointed pursuant to ch. 914, F.S.;
- Clarifies that liability for obtaining a consumer record under false pretenses or knowingly without a permissible purpose is the greater of actual damages to the representative and protected consumer or $1000; and
- Makes a technical correction by changing the word "failure" to "violation."

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
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	.	

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

1 **Senate Amendment (with title amendment)**
2 Delete everything after the enacting clause
3 and insert:
4 Section 1. Section 501.0051, Florida Statutes, is created
5 to read:
6 501.0051 Protected consumer security freeze.—
7 (1) As used in this section, the term:
8 (a) "Consumer reporting agency" has the same meaning as
9 provided in 15 U.S.C. s. 1681a(f).
10 (b) "Consumer report" has the same meaning as provided in
11 15 U.S.C. s. 1681a(d).
12 (c) "Protected consumer" means a person younger than 16

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13 years of age at the time a security freeze request is made or a
14 person represented by a guardian or other advocate pursuant to
15 chapter 39, chapter 393,chapter 744, or chapter 914.
16 (d) “Record” means a compilation of information that:
17 1. Identifies a protected consumer;
18 2. Is created by a consumer reporting agency exclusively
19 for the purpose of complying with this section; and
20 3. May not be created or used to consider the protected
21 consumer’s credit worthiness, credit standing, credit capacity,
22 character, general reputation, personal characteristics, or
23 eligibility for other financial services.
24 (e) “Representative” means the custodial parent or legal
25 guardian of a protected consumer, including a guardian appointed
26 pursuant to s. 914.17.
27 (f) “Security freeze” means:
28 1. A notice that is placed on the protected consumer’s
29 consumer report that prohibits a consumer reporting agency from
30 releasing the consumer report, credit score, or any information
31 contained within the consumer report to a third party without
32 the express authorization of the representative; or
33 2. A notice that is placed on the protected consumer’s
34 record that prohibits the consumer reporting agency from
35 releasing the protected consumer’s record except as provided in
36 this section, if a consumer reporting agency does not have a
37 file pertaining to the protected consumer.
38 (g) “Sufficient proof of authority” means documentation
39 that shows that a representative has authority to act on behalf
40 of a protected consumer. Sufficient proof of authority includes,
41 but is not limited to, a court order, valid power of attorney,

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42 or a written notarized statement signed by a representative that
43 expressly describes the authority of the representative to act
44 on behalf of the protected consumer.
45 (h) "Sufficient proof of identification" means
46 documentation that identifies a protected consumer or a
47 representative of a protected consumer. Sufficient proof of
48 identification includes, but is not limited to, a copy of a
49 social security card, a certified or official copy of a birth
50 certificate, a copy of a valid driver license, or a government-
51 issued photo identification.
52 (2) A representative may place a security freeze on a
53 protected consumer's consumer record by:
54 (a) Submitting a request to a consumer reporting agency in
55 the manner prescribed by that agency;
56 (b) Providing the agency with sufficient proof of authority
57 and sufficient proof of identification; and
58 (c) Paying the agency a fee as authorized under this
59 section.
60 (3) If a consumer reporting agency does not have a consumer
61 report pertaining to a protected consumer when the consumer
62 reporting agency receives a request for a security freeze under
63 subsection (2), the consumer reporting agency shall create a
64 record for the protected consumer and place a security freeze on
65 the record.
66 (4) A consumer reporting agency shall place a security
67 freeze on a consumer record within 30 calendar days after
68 confirming the authenticity of a security freeze request made in
69 accordance with this section.
70 (5) The consumer reporting agency shall send a written

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71 confirmation of the security freeze to the representative within
72 10 business days after instituting the security freeze and shall
73 provide the representative with instructions for removing the
74 security freeze and a unique personal identifier to be used by
75 the representative when providing authorization for removal of a
76 security freeze.
77 (6) A consumer reporting agency may not state or imply to
78 any person that a security freeze on a protected consumer's
79 consumer record reflects a negative credit score, negative
80 credit history, or a negative credit rating.
81 (7) A consumer reporting agency shall remove a security
82 freeze placed on a consumer record of a protected consumer only
83 in the following instances:
84 (a) Upon request of a representative pursuant to paragraph
85 (8)(a).
86 (b) Upon request of a protected consumer pursuant to
87 paragraph (8)(b).
88 (c) If the security freeze was instituted due to a material
89 misrepresentation of fact by a representative. If a consumer
90 reporting agency intends to remove a security freeze pursuant to
91 this paragraph, the consumer reporting agency shall notify the
92 representative in writing before removing the security freeze.
93 (8) A security freeze placed in accordance with this
94 section shall remain in place until a representative or
95 protected consumer requests that it be removed. A consumer
96 reporting agency shall remove a security freeze within 30
97 calendar days after receiving a request for removal from a
98 protected consumer or representative.
99 (a) A representative submitting a request for removal must

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100 provide the following:
101 1. Sufficient proof of identification and sufficient proof
102 of authority as determined by the consumer reporting agency.
103 2. The unique personal identifier provided by the consumer
104 reporting agency pursuant to subsection (5).
105 3. Payment of a fee as authorized by this section.
106 (b) A protected consumer submitting a request for removal
107 must provide the following:
108 1. Sufficient proof of identification as determined by the
109 consumer reporting agency.
110 2. Documentation that the sufficient proof of authority for
111 the protected consumer's representative to act on behalf of the
112 protected consumer is no longer valid.
113 (9) This section does not apply to use of a consumer record
114 by the following persons or for the following reasons:
115 (a) A state agency acting within its lawful investigative
116 or regulatory authority.
117 (b) A state or local law enforcement agency investigating a
118 crime or conducting a criminal background check.
119 (c) Any person administering a credit file monitoring
120 subscription service to which the protected consumer has
121 subscribed.
122 (d) Any person for the purpose of providing the protected
123 consumer's consumer report upon the representative's request.
124 (e) Any person with a court order lawfully entered.
125 (f) Any insurance company for use in setting or adjusting a
126 rate, adjusting a claim, or underwriting for insurance purposes.
127 (g) A consumer reporting agency's database or file which
128 consists entirely of information concerning, and is used

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129 exclusively for, one or more of the following:
130 1. Criminal record information.
131 2. Personal loss history information.
132 3. Fraud prevention or detection.
133 4. Tenant screening.
134 5. Employment screening.
135 6. Personal insurance policy information.
136 7. Noncredit information used for insurance purposes.
137 (h) A check services company that issues authorizations for
138 the purpose of approving or processing negotiable instruments,
139 electronic funds transfers, or similar methods of payment.
140 (i) A deposit account information service company that
141 issues reports regarding account closures due to fraud,
142 substantial overdrafts, automatic teller machine abuse, or
143 similar negative information regarding a protected consumer to
144 an inquiring financial institution, as defined in s. 655.005 or
145 in federal law, for use only in reviewing a representative's
146 request for a deposit account for the protected consumer at the
147 inquiring financial institution.
148 (j) A consumer reporting agency that acts only as a
149 reseller of credit information by assembling and merging
150 information contained in the database of another consumer
151 reporting agency or multiple consumer reporting agencies and
152 does not maintain a permanent database of credit information
153 from which new consumer reports are produced. However, a
154 consumer reporting agency shall honor any security freeze placed
155 or removed by another consumer reporting agency.
156 (k) A fraud prevention services company issuing reports to
157 prevent or investigate fraud.

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158 (10)(a) A consumer reporting agency may charge a reasonable
159 fee, not to exceed $10, to a representative who elects to place
160 or remove a security freeze.
161 (b) A consumer reporting agency may charge a reasonable
162 fee, not to exceed $10, if the representative fails to retain
163 the original personal identifier provided by the consumer
164 reporting agency and the agency must reissue the personal
165 identifier or provide a new personal identifier to the
166 representative.
167 (c) A consumer reporting agency may not charge any fee
168 under this section to a representative of a protected consumer
169 who is a victim of identity theft if the representative submits,
170 at the time the security freeze is requested, a copy of a valid
171 investigative report or incident report or complaint with a law
172 enforcement agency about the unlawful use of the protected
173 consumer's identifying information by another person.
174 (11) If a security freeze is in effect, a consumer
175 reporting agency may not change any of the following official
176 information in the consumer record without sending a written
177 confirmation of the change to the representative within 30
178 calendar days after the change is posted to the protected
179 consumer's record:
180 (a) The protected consumer's name.
181 (b) The protected consumer's address.
182 (c) The protected consumer's date of birth.
183 (d) The protected consumer's social security number.
184
185 Written confirmation is not required for technical
186 corrections of a protected consumer's official information,

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187 including name and street abbreviations, complete spellings, or
188 transposition of numbers or letters. In the case of an address
189 change, the written confirmation must be sent to both the new
190 address and the former address.
191 (12) If a consumer reporting agency violates a security
192 freeze placed in accordance with this section by releasing
193 information subject to a security freeze without proper
194 authorization, the consumer reporting agency shall, within 5
195 business days after discovering or being notified of the release
196 of information, notify the representative of the protected
197 consumer in writing. The notice shall state the specific
198 information released, and provide the name, address, and other
199 contact information of the recipient of the information.
200 (13) A consumer reporting agency that willfully fails to
201 comply with any requirement imposed under this section with
202 respect to a representative or protected consumer is subject to
203 an administrative fine in the amount of $500 issued pursuant to
204 the administrative procedures established in chapter 120 by the
205 Department of Agriculture and Consumer Services.
206 (14) A person who is aggrieved by a violation of the
207 provisions of this section may bring a civil action as
208 authorized by this subsection.
209 (a) Any person who obtains a record under false pretenses
210 or knowingly without a permissible purpose is liable to the
211 representative and protected consumer for damages of at least
212 $1,000 or the actual damages sustained by the protected consumer
213 as a result of the violation, whichever is greater.
214 (b) Any person who obtains a record from a consumer
215 reporting agency under false pretenses or knowingly without a

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216 permissible purpose is liable to the consumer reporting agency
217 for actual damages sustained by the consumer reporting agency or
218 $1,000, whichever is greater.
219 (15) Any written disclosure by a consumer reporting agency,
220 pursuant to 15 U.S.C. s. 1681g, to any representative and
221 protected consumer residing in this state must include a written
222 summary of all rights the representative and protected consumer
223 have under this section and, in the case of a consumer reporting
224 agency that compiles and maintains records on a nationwide
225 basis, a toll-free telephone number which the representative can
226 use to communicate with the consumer reporting agency. The
227 information set forth in paragraph (b) of the written summary of
228 rights must be in at least 12-point boldface type. The written
229 summary of rights required under this section is sufficient if
230 it is substantially in the following form:
231 (a) If you are the custodial parent or legal guardian of a
232 minor younger than 16 years of age or a guardian or advocate of
233 an incapacitated, disabled, or protected person under chapter
234 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,
235 you have a right to place a security freeze on the consumer
236 report of the person you are legally authorized to care for. If
237 no consumer report exists, you have a right to request a record
238 to be created and a security freeze to be placed on the record.
239 A record with a security freeze is intended to prevent the
240 opening of credit accounts until the security freeze is removed.
241 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
242 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE
243 CONSUMER RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT THE
244 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION

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245 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
246 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
247 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
248 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
249 EXTENSION OF CREDIT AT POINT OF SALE.
250 (c) When you place a security freeze on the protected
251 consumer's record you will be provided a process to use if you
252 choose to remove the freeze on the record or authorize the
253 release of the record. To provide that authorization, you must
254 contact the consumer reporting agency and provide all of the
255 following:
256 1. The personal identification required by the consumer
257 reporting agency.
258 2. Sufficient proof of authority over the protected
259 consumer.
260 3. Payment of a fee.
261 (d) A consumer reporting agency must authorize the release
262 of the record no later than 30 calendar days after receiving the
263 above information, or the consumer report no later than 3
264 business days after receiving the above information.
265 (e) A security freeze does not apply to a person or entity,
266 or its affiliates, or collection agencies acting on behalf of
267 the person or entity with which the protected consumer has an
268 existing account that requests information in the protected
269 consumer's consumer report for the purposes of reviewing or
270 collecting the account. Reviewing the account includes
271 activities related to account maintenance, monitoring, credit
272 line increases, and account upgrades and enhancements.
273 (f) You have the right to bring a civil action as

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274 authorized by s. 501.0051, Florida Statutes, which governs the
275 security of protected consumer information.
276 Section 2. This act shall take effect September 1, 2013.
277
278
279 ========== T I T L E A M E N D M E N T ==========
280 And the title is amended as follows:
281 Delete everything before the enacting clause
282 and insert:
283 A bill to be entitled
284 An act relating to security of protected consumer
285 information; creating s. 501.0051, F.S.; providing definitions;
286 authorizing the representative of a protected consumer to place
287 a security freeze on the protected consumer's consumer record;
288 requiring a consumer reporting agency to establish a record if
289 the protected consumer does not have an existing consumer
290 report; requiring a consumer reporting agency to provide written
291 confirmation of a security freeze within a specified period;
292 prohibiting a consumer reporting agency from stating or implying
293 that a security freeze reflects a negative credit history or
294 rating; requiring a consumer reporting agency to remove a
295 security freeze under specified conditions; providing for
296 applicability; authorizing a consumer reporting agency to charge
297 a fee for placing or removing a security freeze and for
298 reissuing personal identification information; prohibiting a fee
299 under certain circumstances; requiring written notification to
300 change specified information in a protected consumer's record;
301 providing exemptions; requiring a consumer reporting agency to
302 notify a representative and provide specified information if the

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303 consumer reporting agency violates a security freeze; providing
304 penalties and civil remedies; providing written disclosure
305 requirements for consumer reporting agencies pertaining to
306 protected consumer security freezes; providing an effective
307 date.
308

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-13
Meeting Date

Topic: SECURITY of PROTECTED CONSUMERS

Bill Number: SB 566 *(if applicable)*

Name: JUSTIN Hollis

Amendment Barcode: *(if applicable)*

Job Title: LEGISLATIVE AFFAIRS / Dept of Ag

Address: PL-10
Street

City *State* *Zip*

Phone: 617 7722

E-mail:

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

Representing: DEPT OF AGRICULTURE

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

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/CS/SB 810

INTRODUCER: Commerce and Tourism Committee, Banking and Insurance Committee, and Senator Simmons

SUBJECT: Wrap-up Insurance Policies

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Fav/CS**
2.	Malcolm	Hrdlicka	CM	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 810 authorizes a wrap-up insurance policy for a nonpublic construction project to have a workers' compensation deductible of $100,000 or more if:

- The workers' compensation minimum standard premium calculated on the combined payrolls for all entities covered by the wrap-up policy exceeds $500,000;
- The estimated cost of construction at each specified worksite is $25 million or more;
- The insurer pays the first dollar of a workers' compensation claim without a deductible;
- The reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims;
- The insurer complies with specified workers' compensation filing requirements; and
- The insurer has a program to have the first-named insured reimburse the insurer for losses paid within the deductible.

This bill creates s. 627.4138, F.S.

II. Present Situation:

Wrap-Up Insurance Policies

Historically, for large construction projects, the project owners, the contractors, and the subcontractors purchase insurance independently to protect against their own potential financial losses related to the project. The contractor includes the cost of insurance in its bid and recovers the cost under the contract in the amount paid by the project owner. Under this arrangement, a contractor with a good safety record sometimes receives a rebate from its insurer as part of the provisions of the insurance contract. Because the contractor's cost of insurance has been recovered as part of the construction contract, any subsequent insurance rebates received by the contractor generate additional profits. In addition, a contractor with a good safety record can sometimes be awarded an additional bonus from the project owner.

In contrast to the traditional arrangement, consolidated insurance programs, often referred to as "wrap-up" insurance, are offered in the insurance market for large construction projects. Wrap-up insurance is a program or series of insurance policies purchased by one party (either the project owner or general contractor) to cover itself and all of its subordinate contractors and subcontractors for operations at a specific project site. Under wrap-up insurance, one party is responsible for purchasing insurance coverage that applies to all parties performing work, instead of the more traditional situation in which each party purchases its own coverage. Wrap-up policies may provide various coverages, but most commonly are used to provide workers' compensation and general liability coverage.

Wrap-up policies generally take the form of one of two types of consolidated insurance programs. In a contractor-controlled insurance program (CCIP), the general contractor purchases coverage for itself and each of its subcontractors. In an owner-controlled program (OCIP), the project owner purchases insurance to cover itself and all of its contractors and subcontractors. Under an OCIP, the project owner would receive any rebates that may be received from the insurer, based on the project's safety record.

In 1999, the U.S. General Accounting Office (GAO) published a report analyzing the advantages and disadvantages of wrap-up insurance for large construction projects. Based on an analysis of six large transportation projects, the report identified the following advantages and disadvantages of wrap-up insurance policies.[1]

Advantages

- Cost savings attributable to greater purchasing power and economies of scale available for large, labor-intensive projects.
- Elimination of overlap in coverage that can otherwise occur among the contractors and subcontractors insuring for the same accidents.
- More efficient claims handling processes and less litigation because a single insurer is used for reporting claims, conducting investigations, settling claims, and providing payment of claims.

[1] U.S. General Accounting Office, "Transportation Infrastructure: Advantages and Disadvantages of Wrap-Up Insurance for Large Construction Projects," Report No. GAO/RCED-99-155 (June 1, 1999), *available at* http://www.gao.gov/products/RCED-99-155 (last visited March 28, 2013).

- Facilitation of a well-managed, centralized safety program that results in fewer injuries.

Disadvantages

- Increased administrative costs. Although it may result in overall cost savings, the purchaser of the wrap-up product must devote additional resources related to emphasizing job safety, controlling losses, and managing claims.
- Potential for large premium payments at the start of a construction project and the establishment of a special reserve to ensure funds are available to pay deductible requirements on claims.

Workers' Compensation Insurance Policies with Large Deductibles

Large deductible workers' compensation insurance policies are regulated by the Office of Insurance Regulation (OIR) under Rule 69O-189.006, F.A.C. The rule establishes guidelines for large deductible (a deductible of $100,000 or more per claim) workers' compensation filings. In order to qualify for a large deductible policy, an employer must have a workers' compensation standard premium of at least $500,000.[2] Under large deductible programs, the carrier is obligated to pay the claim from the first dollar, but the insured (the employer) then reimburses the workers' compensation carrier, for each claim, for losses paid within the deductible.

The OIR reports that the typical large deductible policy will have a deductible credit that ranges from 30 to 90 percent.[3] As a result, the premiums paid by employers that purchase large deductible policies will be a fraction of the premiums paid for other workers' compensation plans. An ancillary effect of the availability of large deductible plans is that an increasing number of very large employers have ceased being individually self-insured and instead buy large deductible products.

The OIR notes that in some recent insolvencies there have been problems with large deductible policies and the lack of collectible collateral. The remaining obligations of insolvent companies are paid by the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA),[4] which is ultimately covered by assessments against all workers' compensation policyholders in Florida.[5]

Limited Availability of Wrap-Up Policies With Large Deductibles

Though remote, the possibility currently exists that a Florida wrap-up policy for a nonpublic construction project could provide for a large deductible for workers' compensation claims. Among the criteria to be met would be that each entity covered under the wrap-up policy has a

---

[2] Before the availability of large deductible programs, retrospective rating plans were the dominant rating plan for large employers. Under a retrospective rating plan, the final premium paid by the employer is based on the actual loss experience of the employer during the policy, plus insurer expenses and an insurance charge. If the employer controls the amount of claims, it pays lower premiums.

[3] *See* Office of Insurance Regulation, Analysis of HB 343, (Feb. 11, 2013) (on file with the Senate Committee on Commerce and Tourism).

[4] FWCIGA's purpose is to provide a mechanism for the payment of covered claims, to avoid excessive delay in payment, and to avoid financial loss to claimants in the event of the insolvency of a member insurer. *See* http://www.fwciga.org.

[5] For additional discussion on employer and insurer solvency concerns and large deductible policies *see* "Workers' Compensation Large Deductible Study," NAIC/IAIABC Joint Working Group Study (March 2006), *available at* http://www.naic.org/store/free/WCD-OP.pdf (last visited March 28, 2013).

minimum workers' compensation standard premium of $500,000.[6] Satisfaction of this requirement would likely be rare, as every entity on a construction project would need to be an extremely large employer and small subcontractors would be excluded.

III. Effect of Proposed Changes:

Section 1 creates s. 627.4138, F.S., regarding wrap-up insurance policies for nonpublic construction projects. The bill defines a "wrap-up insurance policy" to mean a consolidated insurance program or series of insurance policies issued to the nonpublic owner or general contractor (or a combination of the two) of a construction project through a consolidated insurance program that provides workers' compensation coverage, various forms of liability coverage, or a combination of such coverages for the contractors and subcontractors working at a specified contracted work site of the construction project.

The bill authorizes a wrap-up insurance policy to include a deductible of $100,000 or more for workers' compensation claims if all of the following prerequisites are met:

- The workers' compensation minimum standard premium calculated on the combined payrolls for all entities covered by the wrap-up policy exceeds $500,000;
- The estimated cost at each specified contracted worksite is $25 million or more;
- The insurer pays the first dollar of a workers' compensation claim without a deductible;
- The reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims;
- The insurer complies with all workers' compensation filing requirements under ch. 440, F.S., for losses, including those below the deductible limit;
- The insurer files unit statistical reports with the National Council on Compensation Insurance (NCCI) which show all losses, including those below the deductible limit;
- Any unit statistical reports needed to calculate an experience modification factor for the insured are filed with the NCCI;
- The insurer complies with NCCI aggregate financial calls, detail claim information calls, unit statistical reporting, and other required calls; and
- The insurer establishes a program for having the first-named insured, whether the owner, the general contractor, or a combination thereof, reimburse the insurer for losses paid within the deductible.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[6] *See* Rule 69O-186.006, F.A.C.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Office of Insurance Regulation anticipates the bill will greatly expand the use of large deductibles for wrap-ups. Currently, workers' compensation wrap-up construction project policies require that the general contractor and all sub-contractors on the project receive individual policies because the workers' compensation law prohibits any employer from being added as an "additional insured" on any other employer's policy.[7]

The bill safeguards the payment of workers' compensation benefits to injured workers by requiring the insurer to pay the first dollar of a workers' compensation claim without applying the deductible and specifying that the failure of a policyholder to reimburse an insurer for the deductible does not affect the insurer's obligation to pay claims.

C. Government Sector Impact:

According to the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA), large deductible policies were a factor in three of the seven liquidations that occurred from January 2009, through June 2012, requiring reimbursement from the association. The FWCIGA incurred losses of approximately $49 million due to the three companies. If the FWCIGA requires additional funds to pay its obligations, it will levy assessments on workers' compensation insurers, who are authorized to include assessments as an appropriate factor in the making of rates.[8]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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[7] *Supra* note 3.

[8] Florida Workers' Compensation Insurance Guaranty Association, *Workshop on Proposal for Large Deductible Legislation* (March 12, 2013) (presentation available on file with the Senate Committee on Commerce and Tourism).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Commerce and Tourism Committee on April 1, 2013:
The committee substitute:

- Clarifies that a wrap-up insurance policy can include a deductible of $100,000 or more for workers' compensation claims if, in addition to other requirements, the estimated cost at each specified contracted worksite is $25 million or more; and
- Clarifies that the insurer must have a program for having the first-named insured reimburse the insurer for losses paid within the deductible.

CS by Banking and Insurance Committee on March 14, 2013:
The CS specifies that a wrap up policy is a consolidated insurance program for non-public construction projects and makes the owner and general contractor of a non-public construction project responsible for reimbursing an insurer for workers' compensation costs paid within the policy's large deductible.

B. Amendments:

None.

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

967904

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 32 - 33
4 and insert:
5 (b) The estimated cost of the construction to be performed
6 at each specified contracted worksite of a construction project
7 is $25 million or more;

533530

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 53
4 and insert:
5 first-named insured, whether the owner, the general contractor,
6 or a combination thereof,

The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 19, 2013

I respectfully request that **Senate Bill 810**, relating to Wrap-Up Insurance Policies, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2013
Meeting Date

Topic _____

Bill Number SB 810 *(if applicable)*

Name Gerald Wester

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 101 E College Av Suite 301
Street

_____
City *State* *Zip*

Phone 8504457256

E-mail _____

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

Representing American Insurance Associatio

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

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

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

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

S-001 (10/20/11)

The Florida Senate

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 1700

INTRODUCER: Senator Latvala

SUBJECT: Agricultural Lands

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Halley	AG	**Favorable**
2.	Malcolm	Hrdlicka	CM	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

SB 1700 repeals the requirement that the Department of Economic Opportunity (DEO) map and monitor the state's agricultural land base as neither DEO, nor its predecessor agency, ever implemented the program and it is not considered necessary due to other mapping programs.

The bill repeals s. 604.006, F.S.

II. Present Situation:

The Legislature first passed a law in 1984 requiring that the state's agricultural land base be mapped and monitored to determine whether there was a net decline in the amount of available agricultural land.[1] That duty was initially assigned to the Department of Community Affairs and transferred to the Department of Economic Opportunity (DEO) as part of a governmental reorganization in 2011.[2] DEO has not performed that function and reports that it was never implemented by the prior responsible agency.[3] There appears to be no need for this mapping program as the Department of Agriculture and Consumer Services indicates that the following mapping programs provide updated information about the state's land base:

- Florida Forever program project mapping;
- Florida Forest Service additions and inholdings mapping;

[1] Chapter 84-225, L.O.F.
[2] Chapter 2011-142, L.O.F.
[3] Department of Economic Opportunity, *Bill Analysis SB 1700* (March 8, 2013) (on file with the Senate Committee on Commerce and Tourism).

- Mapping for leases, easements, and other land uses on state owned land;
- Mapping for state management purposes to include roads, trails, improvement, plantings, etc.;
- Mapping for Rural and Family Land easements;
- Mapping for Forest Legacy project proposals;
- Mapping for Federal Real Property Profile project proposals;
- Mapping for Board of Trustees agenda items and Acquisition Restoration Council items;
- GPS drawings of state lands management boundaries, etc.;
- Mapping Burn Bans;
- Mapping Fire Danger Index;
- Mapping Keetch-Byram Drought Index; and
- Mapping Fires.[4]

III. Effect of Proposed Changes:

Section 1 repeals s. 604.006, F.S., which required DEO to create a program for mapping and monitoring the agricultural lands in the state to establish whether a net decline in the amount of available agricultural land was occurring.

Section 2 provides that the bill will take effect on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[4] E-mail from Department of Agriculture and Consumer Services (March 14, 2013) (on file with the Senate Committee on Commerce and Tourism).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 1, 2013
Meeting Date

Topic: Waive in support

Bill Number: 1700 *(if applicable)*

Name: Bill Wilson

Amendment Barcode: *(if applicable)*

Job Title: DEO, Director of Legislative Affairs

Address: 107 E. Madison Street
Street

Tall — FL — 32399
City — *State* — *Zip*

Phone: (850) 245-7370

E-mail: bill.wilson@deo.myflorida.com

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

Representing: DEO

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

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

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

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

S-001 (10/20/11)

A black and white copy of this document is not official.

584

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Jesse Panuccio

is duly appointed

Executive Director,
Department of Economic Opportunity

for a term beginning on the
Eighth day of January, A.D., 2013,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Thirtieth day of January, A.D., 2013.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

3039

RICK SCOTT
GOVERNOR

RECEIVED
13 JAN 25 PM 2:27
DIVISION OF ELECTIONS
SECRETARY OF STATE

January 25, 2013

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have amended the following appointment under the provisions of Section 20.60, Florida Statutes:

Mr. Jesse M. Panuccio
107 East Madison Street
Suite 212
Tallahassee, Florida 32399

as Executive Director of the Department of Economic Opportunity, succeeding Hunting F. Deutsch, subject to confirmation by the Senate. This appointment is effective January 8, 2013, for a term ending at the pleasure of the Governor.

Sincerely,

Rick Scott
Governor

RS/jrp

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

103378

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation.
The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

13 JAN 23 PM 2:46

DIVISION OF ELECTIONS
SECRETARY OF STATE

1-18-13
Date Completed

1. Name: Mr. Panuccio M.
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 107 East Madison Street Suite 212 Tallahassee
Street Office # City
FL 32399 (850) 245-7298
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 2050 Gardenbrook Lane Tallahassee Leon
Street City County
FL 32301 (850) 692-3179
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
2050 Gardenbrook Lane	Tallahassee, FL	Feb. 2011	Present
1200 N. Veitch St.	Arlington, VA	Oct. 2007	Jan. 2011

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
1200 N. Veitch St.	Arlington, VA	Oct. 2007	Jan. 2011
480 N. Wall Street	Salt Lake City, UT	Aug. 2006	Aug. 2007
44 Martin Street	Cambridge, MA	Aug. 2004	May 2006*
Harvard Law School	Cambridge, MA	Aug. 2003	May 2004*
(See attached)			

5. Date of Birth: Nov. 1, 1980 Place of Birth: New Jersey

6. Social Security Number: _____

7. Driver License Numl _____ suing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

Questionnaire for Senate Confirmation (attachment)

Continuation of Question #4.(B)

Duke University Durham, NC Jan. 2003 – May 2003*
Hotel At. George Student Housing NYC, NY Jan. 2002 – June 2002
GW University Washington, DC Summer 2002

*During summers between school years (college & law), I lived in various locations, but cannot recall each of these temporary addresses. The locations were in Pompano Beach, FL; Montgomery, AL; and Washington, D.C.

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? 2011

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon B. Current Party Affiliation: Republican

12. Education

A. High School: Morris Hills High School, Rockaway, NJ (Name and Location) Year Graduated: 1999

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
Duke University	1999-2003	BA
Harvard Law School	2003-2006	JD

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service:

B. Branch or Component:

C. Date & type of discharge:

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of $150 or less was paid.) Yes ☐ No ☐ If Yes" give details:

Date	Place	Nature	Disposition
I received a speeding ticket in Virginia on 4/2/00, but my records do not reflect the amount of the fine, so I cannot definitively answer "yes" or "no" to this question as worded. Other than the speeding ticket, the answer is "no."			

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address	Type of Business	Occupation/Job Title	Period of Employment
DEO, Tallahassee, FL	Government	Executive Director	Jan. 2013 - present
EOG, Tallahassee, FL	Government	General Counsel	Mar. 2012 - Jan. 2013
EOG, Tallahassee, FL	Government	Deputy General Counsel	Feb. 2011 - Mar. 2012
Cooper & Kirk, PLLC	Law Firm	Associate	2007 - 2011

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position	Employing Agency	Period of Employment
See answer to #15.		

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

During the last two years in the EOG legal office, I have gained a deep understanding of how state agencies function. Working closely with the Governor has also allowed me to understand and appreciate his vision for a government that is transparent, accountable, and efficient. In addition, because DEO is chiefly a compliance and monitoring agency, my background as an attorney will serve me well in this position.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ■ No ☐ If "Yes", list:

My BA is in Public Policy. I also have a JD.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ■
If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

N/A

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?
Yes ☐ No ■ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ■ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
General Counsel, EOG	Mar. 2012	N/A	State
Deputy General Counsel, EOG	Feb. 2011	N/A	State

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended	Meetings Missed	Reason for Absence

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date	Nature of Violation	Disposition

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒
If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

_____

_____

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date
Law License	10/20/2006	FL Supreme Court	N/A

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business	Your Relationship to Business	Business' Relationship to Agency

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ■ If "Yes", explain:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ■

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ■

B. Name of agency or entity you lobbied and the principal(s) you represented:

Agency Lobbied	Principal Represented
Note that I am presently submitting a "lobbyist" registration to the extent that it is required of the	
Executive Director of DEO.	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

Name	Mailing Address	Zip Code	Area Code/Phone Number
David Thompson			
Charlie Trippe			
Michael Sevi			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
Florida Bar	651 E. Jefferson St., Tallahassee, FL 32301	Member	10/06 - present*
Federalist Society	1015 18th St., NW, DC 20036	Member	2003 - present
Republican Nat'l Lawyers Assn	POB 18965, DC 20036	Member	2004 & intermittent
Life University Bd. of Trustees	1269 Barclay Cir, Marietta, GA 30060		2009 - present

* Membership in the Florida Bar is required by law in order to practice law in the state of Florida.

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ■ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ■ No ☐

RECEIVED
13 JAN 23 PM 3:20
DIVISION OF ELECTIONS
SECRETARY OF STATE

CERTIFICATION

STATE OF FLORIDA
COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Jesse Panuccio, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 22nd day of January 2013

Bridgett Jackson
Signature of Notary Public-State of Florida

BRIDGETT JACKSON
MY COMMISSION # DD 865282
EXPIRES: June 12, 2013
Bonded Thru Notary Public Underwriters

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: June 12, 2013

Personally Known ☐ **OR** Produced Identification ☑

Type of Identification Produced

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.)_____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OFANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Jesse Panuccio

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Commerce & Tourism

DATE: April 1, 2013

Amended

A black and white copy of this document is not official

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Julius D. Davis

is duly appointed a member of the

Board of Directors,
Enterprise Florida, Inc.

for a term beginning on the
Fifteenth day of January, A.D., 2013,
until the Thirtieth day of September, A.D., 2016
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-Sixth day of March, A.D., 2013.

GREAT SEAL OF THE STATE OF FLORIDA
IN GOD WE TRUST

Ken Detzner

Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered the word VOID will appear

'State of Florida' appears in small letters across the face of this 8½ x 11" document

RICK SCOTT
GOVERNOR

RECEIVED
13 MAR 25 PM 4:49
DIVISION OF ELECTIONS
SECRETARY OF STATE

March 21, 2013

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have amended the following appointment under the provisions of Section 288.901, Florida Statutes:

Julius D. Davis
220 West 7th Avenue
Tampa, Florida 33602

as a member of the Board of Directors, Enterprise Florida, Inc., succeeding Frederick W. Leonhardt, subject to confirmation by the Senate. This appointment is effective January 15, 2013, for a term ending September 30, 2016.

Sincerely,

Rick Scott
Governor

RS/jfl

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

Date Completed

1. Name: Mr. Davis Julius Darren
   Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 220 West 7th Avenue, Suite 210 Tampa
   Street Office # City

   Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 10011 Cypress Shadow, Tampa Hillsborough
   Street City County

   Florida 33647
   Post Office Box State Zip Code Area Code/Phone Number

   Specify the preferred mailing address: Business ■ Residence ☐ Fax # 813-227-8751 (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
10011 Cypress Shadow, Tampa, Florida		2005	Present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
312 Webster Street , Apt 2306	Houston, Texas	2010	2012

5. Date of Birth: January 9, 1969 Place of Birth: Tampa, Florida

6. Social Security Number:

7. Driver License Number: ing State: February 2, 2010

8. Have you ever used or been known by any other legal name? Yes ☐ No ■ If "Yes" Explain

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9. Are you a United States citizen? Yes ■ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? 1969

11. Are you a registered Florida voter? Yes ■ No ☐ If "Yes" list:

A. County of Registration: Hillsborough B. Current Party Affiliation: Democrat

12. Education

A. High School: Chamberlain High , Tampa Year Graduated: 1987
(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
University of South Florida	1987-1993	Bachelor of Science in Electrical Engineering
Florida A&M University	1993-1995	None
University of South Florida	2012- Current	Seeking Masters in Business Adminstration

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ■ If "Yes" list:

A. Dates of Service:

B. Branch or Component:

C. Date & type of discharge:

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of $150 or less was paid.) Yes ☐ No ■ If Yes" give details:

Date	Place	Nature	Disposition

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address	Type of Business	Occupation/Job Title	Period of Employment
VoltAir, 220 West 7th Avenue	Engineering Firm	Engineer/ President & CEO	7 years

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ■
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position	Employing Agency	Period of Employment

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Julius Davis is faithful and committed as a native to Florida in all his involvement in the local community and throughout the State of Florida. Julius is the President & CEO of VoltAir Consulting Engineers founded in 2006. He is responsible for the marketing and the day to day operations of the company. He is actively involved in the community and is currently a board member for Hillsborough Community College, YMCA Advisory Board, Greater Tampa Chamber, University of Tampa Board of Fellows, City of Tampa Planning Arts Committee, and First Baptist Church of College Hill

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ■ No ☐ If "Yes", list:

Bachelor of Science in Electrical Engineering
Florida Board of Professional Engineers Certification
Leadership in Energy and Environmental Design (LEED) Accredited Professional
Seek Masters in Business Administration through the USF Executive MBA Program (2014)

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ■ No ☐
If "Yes", list:

Small Business Administration 2012 Champion of the Year for the State of Florida and USA Region IV
Greater Tampa Chamber of Commerce 2011 Small Business of the Year Finalist
Hillsborough County 2011 Minority Business of the Year
Tampa Bay 2011 Fast Fifty Company (Ranked # 17)

D. Identify all association memberships and association offices held by you that relate to this appointment:

Board member for Hillsborough Community College, YMCA Advisory Board,Greater Tampa Chamber of Commerce, University of Tampa Board of Fellows, City of Tampa Planning Arts Committee, and First Baptist Church of College Hill. Active member of BioFlorida, Society of American Military Engineers, Associated Builders and Contractors, St. Petersburg Chamber of Commerce, American Institute of Architects , and 100 Black Men

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?
Yes ☐ No ■ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ■ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended	Meetings Missed	Reason for Absence

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ■ If "Yes", give details:

Date	Nature of Violation	Disposition

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ■ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ■
If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ■ If "Yes", explain:

_____

_____

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ■ No ☐
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date
Professional Engineer #58005	February 1, 2002	Board of Professional Engineers	None

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☐ If "Yes", explain:

Name of Business	Your Relationship to Business	Business' Relationship to Agency
VoltAir Consulting Engineers	President & CEO	City of Tampa- Continuing Engineering Services contracl
VoltAir Consulting Engineers	President & CEO	University of South Florida -Continuing Engineering Services contract
VoltAir Consulting Engineers	President & CEO	Hillsborough Community College Continuing Engineering Services contract

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ■ If "Yes", explain:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ■

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ■

B. Name of agency or entity you lobbied and the principal(s) you represented:

Agency Lobbied	Principal Represented

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

Name	Mailing Address	Zip Code	Area Code/Phone Number
Mark House ,			
James Jackson , Jr. ,			
Robert R. Ricketts ,			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
VoltAir Consulting Engineers,	220 West 7th Avenue, Suite 210, Tampa,	President & CEO	2006- Present
Omega Psi Phi Fraternity, Inc,	P.O. Box 6122, Tampa,	Youth Program Chair	2010-Present
COMTO,	1875 Ist Street NW, Washington, DC	Member (Tampa)	2007- Present
AMAC ,	2001 Jefferson Davis Highway, Arlington, VA	Conference Planning Committee	2009- Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ■ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ■ No ☐

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CERTIFICATION

STATE OF FLORIDA
COUNTY OF Hillsborough

Before me, the undersigned Notary Public of Florida, personally appeared Julius D. Davis, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 28th day of January, 2013.

Signature of Notary Public-State of Florida

TAKAYA C. JEFFERSON
MY COMMISSION # EE064168
EXPIRES February 14, 2015
(407) 398-0153 FloridaNotaryService.com

Takaya C. Jefferson
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: February 14, 2015

Personally Known [x] **OR** Produced Identification [ ]

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.)_____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OFANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

VOLT AIR
CONSULTING ENGINEERS

March 29, 2013

Chair Nancy Detert
Florida Senate
Capitol Office:
416 Senate Office Building
Tallahassee, Florida 32399

Re: Senate Confirmation Hearing

Dear Chair Detert:

I am writing in regards to the Senate confirmation hearing scheduled for April 1, 2013. I am unable to attend. VoltAir is shortlisted for a project at the Orlando Airport and our presentation is during the time of the hearing. Please accept my apology for not being able to attend. Thank you for the opportunity.

Sincerely,

Julius D. Davis, PE, LEED AP
President & CEO
VoltAir Consulting Engineers

TAMPA:
220 West 7th Avenue, Suite 210
Tampa, FL 33602
FX: 813.227.8751

Toll Free: 888.891.9713

HOUSTON:
5100 Westheimer Road, Suite 200
Houston, TX 77056
FX: 713.588.4516