

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Ring, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, April 2, 2013
TIME: 4:00 —6:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bean, Benacquisto, Bradley, Hukill, Montford, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 442 Commerce and Tourism / Thompson (Similar H 1199)	Black Cultural Tourism Enhancement Commission; Creating the Black Cultural Tourism Enhancement Commission within the Department of State; directing the commission to independently exercise its powers and duties; requiring the department to provide administrative and staff support services to the commission; authorizing the commission to establish or designate a direct-support organization for specified purposes, etc. CM 03/11/2013 Fav/CS GO 04/02/2013 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
2	CS/SB 774 Commerce and Tourism / Thompson (Compare CS/H 717)	Florida Civil Rights Act of 1992; Citing this act as the "Protect Our Women Act"; expanding the meaning of "sex" as the term relates to the Florida Civil Rights Act of 1992; specifying that a woman who is pregnant or who is affected by a medical condition related to pregnancy or childbirth must be treated the same for all employment-related purposes, including receipt of benefits, as an individual who has a medical condition unrelated to pregnancy or childbirth; extending the time for the Florida Commission on Human Relations to investigate complaints and determine reasonable cause, etc. CM 03/18/2013 Fav/CS GO 04/02/2013 Fav/CS JU RC	Fav/CS Yeas 8 Nays 0
<p>A proposed committee substitute for the following bill (SB 482) is expected to be considered:</p>			
3	SB 482 Dean (Identical H 551)	Other-personal-services Employment; Defining the term "other-personal-services employee"; authorizing the governing body of a county to employ other- personal-services employees, etc. CA 02/21/2013 Favorable GO 04/02/2013 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, April 2, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1042 Abruzzo (Similar CS/H 361)	Public Meetings/Criminal Justice Commissions; Providing an exemption from public meeting requirements for that portion of a meeting of a duly constituted criminal justice commission at which specified members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the commission; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/11/2013 Favorable GO 04/02/2013 Favorable RC	Favorable Yeas 8 Nays 0
5	SB 1066 Richter (Similar H 1115)	Public Records/Dental Workforce Surveys; Providing an exemption from public records requirements for information contained in dental workforce surveys submitted by dentists or dental hygienists to the Department of Health; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. HP 03/14/2013 Favorable GO 04/02/2013 Favorable RC	Favorable Yeas 8 Nays 0
6	SB 1490 Latvala (Compare CS/H 1149)	Business Entity Filing Fees; Requiring a corporation for profit, a limited liability company, a corporation not for profit, a domestic limited partnership, a foreign limited partnership, and a limited liability partnership, respectively, to submit a biennial report to the Department of State; providing for reduction of certain biennial report filing and supplemental corporate fees if the report is submitted by a specified date of the year in which the report is due; providing that the supplemental corporate fee is due in the year that the biennial report is submitted, etc. GO 04/02/2013 Fav/CS AFT AP	Fav/CS Yeas 8 Nays 0
7	CS/SB 544 Ethics and Elections / Braynon (Similar H 593)	Exemption from Legislative Lobbying Requirements; Revising the term "expenditure" to exclude the use of a public facility or public property that is made available by a governmental entity to a legislator for a public purpose, to exempt such use from legislative lobbying requirements, etc. EE 03/11/2013 Fav/CS GO 04/02/2013 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, April 2, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 464 Flores (Similar CS/H 263)	Disposition of Unclaimed Property; Authorizing the Department of Financial Services to adopt rules that allow an apparent owner of unclaimed property to submit a claim to the department electronically; providing for applicability with respect to specified property reported and remitted to the Chief Financial Officer, etc. BI 03/20/2013 Favorable GO 04/02/2013 Fav/CS	Fav/CS Yeas 8 Nays 0
9	CS/SB 714 Communications, Energy, and Public Utilities / Simmons (Similar CS/H 649)	Public Records/Proprietary Confidential Business Information; Providing an exemption from public records requirements for specified proprietary confidential business information held by an electric utility that is subject to ch. 119, F.S., in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources; providing for the retention of such information for a specified time; providing for future review and repeal of the exemption, etc. CU 03/06/2013 Fav/CS GO 04/02/2013 Favorable RC	Favorable Yeas 8 Nays 0
10	SB 684 Hays (Compare CS/H 307, CS/H 1017)	Preference in Award of State Contracts; Expanding provisions that require an agency, university, college, school district, or other political subdivision of the state to provide preferential consideration to a Florida business in awarding competitively bid contracts to purchase personal property to include the purchase of construction services; requiring counties and municipalities to provide such preferential consideration; providing that for specified competitive solicitations the authority to grant preference supersedes any local ordinance or regulation that restricts specified contractors from competing for an award based upon certain conditions, etc. GO 04/02/2013 Favorable CA AP RC	Favorable Yeas 6 Nays 2

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Tuesday, April 2, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 1496 Judiciary / Thrasher (Similar H 937, H 1297, Compare CS/H 935, Link CS/S 1494)	Public Records/False Claims Against the State/Department of Legal Affairs; Providing an exemption from public records requirements for a complaint and other information held by the Department of Legal Affairs pursuant to an investigation of a violation of provisions relating to false claims against the state; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; specifying conditions under which an investigation is considered completed, etc. JU 03/18/2013 Fav/CS GO 04/02/2013 Favorable RC	Favorable Yeas 8 Nays 0
12	CS/SB 546 Commerce and Tourism / Ring (Similar CS/H 705)	Targeted Economic Development; Expanding the purpose of the Institute for the Commercialization of Public Research to include the commercialization of products developed by an innovation business; authorizing the institute to create corporate subsidiaries; providing conditions under which the institute may develop or accrue certain interests in companies or products; specifying conditions under which the institute may deliver and charge for services; requiring that the institute create the Florida Technology Seed Capital Fund, etc. CM 03/18/2013 Fav/CS GO 04/02/2013 Favorable AP	Favorable Yeas 7 Nays 0
13	SB 1246 Bean (Identical H 853)	Public Retirement Plans; Providing that a consolidated government that has entered into an interlocal agreement to provide police protection services to a municipality within its boundaries is eligible to receive the premium taxes reported for the municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying the tax as provided by law, etc. GO 04/02/2013 Favorable CA AFT AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Tuesday, April 2, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	SB 1004 Brandes (Identical H 1133)	Public Data; Requiring each agency to submit an inventory of public data in its custody to the Secretary of State; requiring the Secretary of State to establish a website by a specified date; authorizing the Department of State to use fees collected and deposited in the Records Management Trust Fund to pay for the administration of the website, etc. GO 04/02/2013 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/CS/SB 442

INTRODUCER: Governmental Oversight and Accountability Committee, Commerce and Tourism Committee, and Senator Thompson

SUBJECT: Black Cultural Tourism Enhancement Commission

DATE: April 3, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>ATD</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/CS/SB 442 creates the Black Cultural Tourism Enhancement Commission to provide assistance and resources to promote black cultural sites in the state.

The CS creates general law not contained in a designated section of the Florida Statutes.

II. Present Situation:

Florida has a variety of organizations and programs dedicated to culture, the arts, and tourism in Florida.

State Cultural Programs

Under Florida law, the Secretary of the Department of State (DOS) serves as the state’s chief cultural officer.¹ The Division of Cultural Affairs (division) within DOS is overseen by a director who serves at the secretary’s pleasure. The division has several responsibilities, including:

¹ Section 265.284, F.S.

- Sponsoring performances and exhibits;
- Promoting and encouraging the study and appreciation of arts and culture;
- Producing information materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with appropriate state agencies and other organizations.

In addition to the abovementioned responsibilities, the division is responsible for administering and awarding several grant programs relating to arts and culture. The grant programs administered by the division include:

- Cultural Endowment Program²- A matching grant program for local cultural endowments to supply day-to-day operating expenses. Applicants and their foundations must be approved by the division. Applicants may request \$240,000 of State Matching Share funding, which must be approved through the legislative appropriations process. No funding has been made available for the program since 2002.³
- Cultural Facilities Program⁴- A grant program to assist counties, municipalities, and nonprofits in the acquisition, renovation, or construction of cultural facilities. Applications are ranked by the Florida Council on Arts and Culture within DOS and approved by the Secretary of State. High-ranking applications are presented as part of DOS's legislative budget request.⁵ For FY 2012-2013, \$3,630,822 in Cultural Facilities Program grants have been awarded to date.⁶
- General Program Support Grants⁷- A grant program to assist in the funding of general program support for organizations and local governments that have cultural program activities. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of DOS's legislative budget request.⁸ For FY 2012-2013, \$5,000,000 in General Program Support grants have been awarded to date.⁹
- Specific Cultural Project Grants¹⁰- A grant program to assist organizations and local governments in the funding of specific cultural projects. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of DOS's legislative budget request.¹¹ No Specific Cultural Project award dollars have been awarded for FY 2012-2013.¹²

² Section 265.606, F.S.

³ Division of Cultural Affairs, "2013-2014 Cultural Endowment: Priority List for State Matching Share," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.endowment-ranked-list.cfm>, (last visited on March 6, 2013).

⁴ Section 265.701, F.S.

⁵ Division of Cultural Affairs, "2013-2014 Cultural Facilities: Ranked Application List," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.facilities-ranked-list.cfm>, (last visited on March 6, 2013).

⁶ Division of Cultural Affairs, "Grant Awards and Recommendations" page, available at: <http://www.florida-arts.org/resources/awards/>, (last visited on March 6, 2013).

⁷ Section 265.286(5)(a), F.S.

⁸ Division of Cultural Affairs, "Ranked Application List for 2013-2014 General Program Support," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.gps-ranked-list.cfm>, (last visited on March 6, 2013).

⁹ *Supra* note 6.

¹⁰ Section 265.286(5)(b), F.S.

¹¹ Division of Cultural Affairs, "Ranked Application List for 2013-2014 Specific Cultural Project," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.scp-ranked-list.cfm>, (last visited on March 6, 2013).

¹² *Supra* note 6.

- State Touring Presenters Grants¹³ - A grant program to assist artists and organizations in traveling the state to perform and participate in cultural activities. Awards for FY 2012-2013 are still being determined.¹⁴
- Individual Artist Grant Program¹⁵ - A grant program supporting exceptionally talented Florida artists. Awards for FY 2012-2013 are still being determined.¹⁶

Florida Council on Arts and Culture¹⁷

The Florida Council on Arts and Culture (council) is a 15-member advisory body created within DOS to advise the Secretary of State on issues relating to cultural grant funding and other issues regarding culture in Florida. The council advocates for arts and culture by encouraging the study and preservation of arts and cultural activities and by encouraging participation in such activities.

The council is also responsible for handling all nominations for the Florida Artists Hall of Fame, which is located on the Plaza Level in the Capitol rotunda.¹⁸

In 2005, DOS and the council developed a strategic plan for continuing the development of arts and culture in the state, known as “Culture Builds Florida.”¹⁹ The plan focused on linking arts and cultural heritage into four major areas: strengthening the economy, promoting learning and wellness, building leadership, and advancing design and development.

Citizens for Florida Arts, Inc.

Citizens for Florida Arts, Inc., (CFA) is a citizen support organization established by the division for the purpose of providing assistance, funding, and promotional support.²⁰ CFA is intended to enhance current state programs relating to the arts and to create new arts opportunities, and is not intended to replace current state arts funding.

Tourism Promotion

Florida’s tourism promotion and marketing services, functions, and programs are carried out by VISIT Florida in conjunction with Enterprise Florida, Inc.’s, Division of Tourism Marketing.²¹ The Florida Tourism Industry Marketing Corporation, known as VISIT Florida, is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc.²² VISIT Florida is overseen by a 31-member board of directors, appointed by Enterprise Florida, Inc., and the Department of Economic Opportunity, who are tourism-industry professionals from regions across the state.

¹³ Section 265.286(5)(c), F.S.

¹⁴ *Supra* note 6.

¹⁵ Section 265.286(5)(d), F.S.

¹⁶ *Supra* note 6.

¹⁷ Section 265.285, F.S.

¹⁸ Section 265.2865, F.S.

¹⁹ Department of State, *Florida Council on Arts and Culture*, (2005), available at: <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf>, (last visited on March 6, 2013).

²⁰ Section 265.703, F.S.

²¹ Section 288.923, F.S.

²² Section 288.1226, F.S.

VISIT Florida markets the state to domestic and foreign consumers, “works with major travel journalists, represents the state at domestic and international travel trade shows and promotes the state to travel agents, tour operators and consumers all over the world.”²³ VISIT Florida also compiles official travel statistics, tracks tourism market trends, and conducts other research on the tourism market to improve effective advertising and marketing of the state’s tourism resources. VISIT Florida also operates the state’s five Official Florida Welcome Centers.

VISIT Florida and Enterprise Florida, Inc.’s, Division of Tourism Marketing are jointly responsible for developing a 4-year marketing plan for the purposes of marketing the state’s tourism assets. The marketing plan must detail strategies for:

- Continuing overall tourism growth;
- Expanding new or under-represented tourist markets;
- Maintaining traditional and loyal tourist markets;
- Coordinating efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and designations, and other private sector partners to create a four-season advertising campaign;
- Developing techniques or promotions to build repeat visitation by targeted segments of the tourist population;
- Considering innovative sources of state funding for tourism marketing;
- Promoting nature-based tourism and heritage tourism; and
- Developing a component to address emergency response to natural and manmade disasters from a marketing standpoint.

In order to implement the marketing plan, VISIT Florida and the Division of Tourism Marketing are directed to construct the plan in an “annual and ongoing nature,” and the concepts outlined should be carried forward in an on-going and updated manner. The plan must include specific recommendations and performance metrics for VISIT Florida to base its actual performance against.

In addition to state-level tourism marketing and promotion activities carried out by VISIT Florida and the Division of Tourism Marketing, counties may establish tourism promotion agencies for the purpose of attracting guests to the county. Local tourism promotion agencies may use tourist development tax revenues to fund marketing and promotion activities.²⁴

VIVA Florida 500

VIVA Florida 500 is a statewide initiative lead by DOS. According to DOS, VIVA Florida 500 will provide “a unique opportunity to strengthen tourism, spur economic development, and educate the world about the state’s significant history and heritage.”²⁵ VIVA Florida 500 begins in 2013 to celebrate the 500th anniversary of the arrival of Juan Ponce de Leon, who named the

²³ VISIT Florida, *About VISIT Florida website*, available at: http://www.visitflorida.com/about_visit_florida, (last visited on March 6, 2013).

²⁴ Section 125.0104, F.S.

²⁵ Department of State, *VIVA Florida 500 Press Brief*, available at: <http://www.vivaflorida.org/Media2/Press-Brief>, (last visited on March 6, 2013).

region La Florida. VIVA Florida 500 will serve as a “platform for Cultural, Heritage and Nature-based Activities/Tourism/Events.” DOS’s strategic goals for Viva Florida 500 are:²⁶

- Provide leadership and facilitate collaboration;
- Create and grow productive public and private partnerships;
- Expand outreach and education;
- Host events in all 67 counties; and
- Stimulate Cultural Heritage Tourism.

Over 200 events and activities are planned statewide in partnership with several agencies and statewide resources. This list includes but is not limited to: VISIT Florida, Florida Lottery, Florida Department of Transportation, Florida Department of Business and Professional Regulation, Florida Department of Agriculture and Consumer Services, The Florida Humanities Council, España-Florida Foundation 500 Years, Florida State Parks, and the Florida Association of Museums.

III. Effect of Proposed Changes:

Section 1 creates the Black Cultural Tourism Enhancement Commission (commission) as a new budget entity. The commission is to be administratively housed within the Department of State (DOS), but is to operate as an independent entity to exercise its powers and duties. DOS is directed to provide administrative and staff support services to the commission.

Duties of the Commission

The bill directs the commission to perform several duties, including:

- Provide financial and technical support services to certain facilities and events;
- Provide training and technical assistance for staff at the state’s black cultural tourism sites in order to develop tour guides and tour operators for the sites;
- Provide resources and technical assistance to educators for teaching black history, promoting the state’s black cultural sites as historic venues, and supporting tourism through student tours of black cultural and historical sites; and
- Serve as a resource for VISIT Florida in order to expand cultural tourism in the state.

Commission Membership

The bill specifies the commission is composed of 13 members who each serve 4-year terms. The commission is made up of the following:

- Three members appointed by the Governor (two of whom initially serve 2-year terms):
 - One of whom represents an institution of higher learning;
 - One of whom represents the Florida African-American Heritage Preservation Network; and
 - One of whom represents business and civic interests in the African-American community.
- Two members appointed by the President of the Senate (one of whom initially serves a 2-year term):

²⁶ Kerri Post, *Viva Florida 500 Presentation to the Senate Commerce and Tourism Committee*, (January 15, 2013), available at: http://flsenate.gov/PublishedContent/Committees/2012-2014/CM/MeetingRecords/MeetingPacket_1966.pdf, (last visited on March 6, 2013).

- One of whom is involved in instructional design in a school district or in an institution of higher learning; and
- One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Speaker of the House of Representatives (one of whom initially serves a 2-year term);
 - One of whom has a substantial history of community service in the performing or visual arts in the African-American community; and
 - One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Secretary of State (one of whom initially serves a 2-year term), who are directors of museums of African-American history or black archives and research centers in this state.
- Two members appointed by the Commissioner of Education (one of whom initially serves a 2-year term), who are members of the Commissioner of Education's African American History Task Force.
- Two members appointed by the Florida Conference of Black State Legislators, one of whom is a representative of a philanthropic foundation and one of whom is a member of the clergy.

Members may be subsequently reappointed to another 4-year term. Members serve without compensation, but are entitled to reimbursement for per diem travel expenses.

Direct Support Organization

The commission is permitted to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the commission.

Section 2 provides for 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:

None.

C. Government Sector Impact:

According to DOS, the bill will have an indeterminate impact on administrative and other resource demands as it relates to providing administrative and staff support services.²⁷

Fiscal impact will likely be negative, depending on the frequency of commission meetings, travel by staff and commission members, and other financial assistance needed to implement the provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 20.052, F.S., governs the creation of new advisory bodies, commissions, and boards.

The bill allows the commission to establish or designate a direct-support organization (DSO), but does not provide specific standards and guidelines for how the DSO should be created or operated. If it is the intent of the Legislature to have a DSO to support the commission created by the bill, the Legislature may wish to consider creating the DSO directly, to specify its powers, duties, and responsibilities.

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 Governmental Oversight and Accountability Committee on April 2, 2013:

The CS specifies the professional backgrounds of the 13 members to be appointed to the commission.

CS by Commerce and Tourism on March 11, 2013:

The CS specifies that each member of the commission serve a term of 4 years. The CS designates 6 members who each initially serve a term of 2 years to create staggered terms. The CS also clarifies that a member may be appointed to a subsequent term.

B. Amendments:

None.

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

²⁷ Department of State, *Agency Bill Analysis: SB 442*, (February 1, 2013), (on file with the Senate Commerce and Tourism Committee).



601052

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Smith) recommended the following:

Senate Amendment

Delete lines 41 - 50
and insert:

(3) (a) The commission is composed of 13 members who are
appointed in the following manner:

1. The Governor shall appoint three members, one of whom
represents an institution of higher learning, one of whom
represents the Florida African-American Heritage Preservation
Network, and one of whom represents business and civic interests
in the African-American community.

2. The President of the Senate shall appoint two members,



601052

13 one of whom is involved in instructional design in a school
14 district or in an institution of higher learning and one of whom
15 is an employee of a museum of African-American history in this
16 state.

17 3. The Speaker of the House of Representatives shall
18 appoint two members, one of whom has a substantial history of
19 community service in the performing or visual arts in the
20 African-American community and one of whom is an employee of a
21 museum of African-American history in this state.

22 4. The Secretary of State shall appoint two members who are
23 directors of museums of African-American history or black
24 archives and research centers in this state.

25 5. The Commissioner of Education shall appoint two members
26 who are members of the Commissioner of Education's African
27 American History Task Force.

28 6. The Florida Conference of Black State Legislators shall
29 appoint two members, one of whom is a representative of a
30 philanthropic foundation and one of whom is a member of the
31 clergy.

By the Committee on Commerce and Tourism; and Senator Thompson

577-02203-13

2013442c1

A bill to be entitled

An act relating to relating to the Black Cultural Tourism Enhancement Commission; creating the commission within the Department of State; directing the commission to independently exercise its powers and duties; requiring the department to provide administrative and staff support services to the commission; providing the powers and duties of the commission; providing for the appointment and terms of commission members; providing for the reimbursement of per diem and travel expenses for commission members; authorizing the commission to establish or designate a direct-support organization for specified purposes; providing an effective date.

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

Section 1. Black Cultural Tourism Enhancement Commission.-

(1) There is created the Black Cultural Tourism Enhancement Commission. The commission shall be administratively housed within the Department of State but shall independently exercise the powers and duties specified in this section. The department staff shall provide administrative and staff support services to the commission.

(2) The commission shall:

(a) Provide financial and technical assistance to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development in the state through the marketing of the state's black cultural sites.

Page 1 of 3

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

577-02203-13

2013442c1

(b) Provide training and technical assistance for staff members of the state's black cultural sites in order to develop tour guides and tour operators for the sites.

(c) Provide resources and technical assistance for educators of the state related to the teaching of black history, promote the state's black cultural sites as historical venues, and support tourism in the state through student tours of the sites.

(d) Serve as a resource for the Florida Tourism Industry Marketing Corporation in order to expand cultural tourism in the state.

(3) (a) The commission is composed of 13 members who are appointed in the following manner:

1. Three members appointed by the Governor.

2. Two members appointed by the President of the Senate.

3. Two members appointed by the Speaker of the House of Representatives.

4. Two members appointed by the Secretary of State.

5. Two members appointed by the Commissioner of Education.

6. Two members appointed by the Florida Conference of Black State Legislators.

(b) A member of the commission shall be appointed for a term of 4 years, except that at the time of the initial appointment, two members appointed by the Governor, one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, one member appointed by the Secretary of State, and one member appointed by the Commissioner of Education shall be appointed for a term of 2 years. A member may be appointed to a subsequent term.

Page 2 of 3

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

577-02203-13

2013442c1

59 (4) Members of the commission shall serve without
60 compensation but are entitled to reimbursement for per diem and
61 travel expenses as provided in s. 112.061, Florida Statutes.

62 (5) The commission may establish or designate a direct-
63 support organization that may receive grants, bequests, and
64 other resources to support the state's black cultural sites and
65 the functions of the commission.

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

APPEARANCE RECORD

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

4/2/13 Meeting Date

Topic Commission Cultural Enhancement Bill Number 0442
Name Altheaese Barnes Amendment Barcode
Job Title Executive Director
Address 2619 Summerwood Street Tallahassee Phone 850 681-7881
City State Zip E-mail

Speaking: For Against Information
Representing Florida African American Heritage Network
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting.
This form is part of the public record for this meeting. S-001 (10/20/11)

APPEARANCE RECORD

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

2 Feb 2013 Meeting Date

Topic Support of Margolis Amendment SB 442
Name Jarvis V. Rosier Sergeant Major Ret Amendment Barcode
Job Title Director United States Colored Troops (USCT) Living History Association
Address P.O. Box 6912 Phone 850-509-0295
Street Tallahassee FL 323 E-mail JROSIER2@Yahoo.com
City State Zip

Speaking: For Against Information
Representing Florida African American Heritage Network
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting.
This form is part of the public record for this meeting. S-001 (10/20/11)

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic Cultural Enhancement

Bill Number SB 942
(if applicable)

Name Maggie Lewis Butler

Amendment Barcode _____
(if applicable)

Job Title Vice Chair Leon County School Board

Address 419 Mercury Dr.

Phone (850) 294-0729

Tallahassee FL 32305
City State Zip

E-mail lewis m @ leon schools.net

Speaking: For Against Information

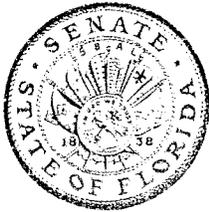
Representing Task Force + The Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on General
Government, Vice Chair
Community Affairs, Vice Chair
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

SENATOR GERALDINE F. THOMPSON
12th District

RECEIVED
MAR 18 2013

JOINT COMMITTEE:
Joint Administrative Procedures Committee

March 18, 2013

GOVERNMENTAL OPERATIONS

The Honorable Jeremy Ring
405 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Ring,

I respectfully request SB 442—Black Cultural Tourism Enhancement Commission be placed on the agenda of the Committee on Governmental Oversight and Accountability as soon as possible.

This bill creates the Black Cultural Tourism Enhancement Commission within the Department of State. The commission would market the state's black cultural sites by providing assistance to facilities and events with the objective of expanding tourism, creating jobs, and stimulating economic development.

The commission would also provide resources and technical assistance to state educators related to teaching black history, promoting black cultural sites as historical venues, and promoting tours of these sites.

Thank you for your consideration.

Sincerely,

Geraldine F. Thompson

Senator Geraldine Thompson, District 12
GT:dr

cc: Joe McVaney

REPLY TO:
511 W. South Street, Suite 204, Orlando, Florida 32805
224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

II. Present Situation:

Title VII Civil Rights Act of 1964¹

Title VII of the Civil Rights Act of 1962 (Title VII) prohibits discrimination on the basis of race, color, religion, national origin, or sex. Title VII covers employers with 15 or more employees and outlines a number of unlawful employment practices. For example, Title VII makes it unlawful for employers to refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, based on race, color, religion, national origin, or sex.

Pregnancy Discrimination Act²

In 1976, the United States Supreme Court ruled in *General Electric Co. v. Gilbert*³ that Title VII did not include pregnancy under its prohibition against unlawful employment practices. The Pregnancy Discrimination Act (PDA), passed in 1978, amended Title VII to define the terms “because of sex” or “on the basis of sex,” to prohibit discrimination against a woman due to pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.⁴ Under the PDA, an employer cannot discriminate against a woman on the basis of pregnancy in hiring, fringe benefits (such as health insurance), pregnancy and maternity leave, harassment, and any other term or condition of employment.⁵ The PDA further provides that its provisions do not require an employer to pay for health insurance benefits for abortion, except in specified circumstances, and do not preclude an employer from providing abortion benefits.

Florida Civil Rights Act of 1992

The Florida Civil Rights Act of 1992 (FCRA) was enacted to “secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status...”⁶ FCRA provides protection from discrimination in the areas of education, employment, housing, and public accommodations.

Similar to Title VII, the FCRA specifically provides a number of actions that, if undertaken by an employer, would be considered unlawful employment practices.⁷ For example, it is unlawful to discharge or fail to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment based on an individual’s race, color, religion, sex, national origin, age, handicap, or marital status. Unlike Title VII, the

¹ 42 U.S.C. 2000e. et. seq.

² Pub. L. No. 95-555, 95th Cong. (Oct. 31, 1978).

³ 429 U.S. 125, 145 (1976).

⁴ The PDA defines the terms “because of sex” or “on the basis of sex” to include pregnancy, childbirth, or related conditions and women who are affected by pregnancy, childbirth, or related conditions. It further states that these individuals must be treated the same for employment purposes, including the receipt of benefits, as any other person who is not so infected but has similar ability or inability to work.

⁵ For more information, see U.S. Equal Employment Opportunity Commission, *Facts about Pregnancy Discrimination*, <http://www.eeoc.gov/facts/fs-preg.html> (last visited March 13, 2013).

⁶ Section 760.01, F.S.

⁷ Section 760.10, F.S. Note that this section does not apply to a religious corporation, association, educational institution, or society which conditions employment opportunities to members of that religious corporation, association, educational institution, or society.

FCRA has not been amended to specifically include a prohibition against pregnancy discrimination.

Pregnancy Discrimination in Florida

Although Title VII expressly includes pregnancy status as a component of sex discrimination, the FCRA does not. The fact that the FCRA is patterned after Title VII but failed to include this provision has caused division among both federal and state courts as to whether the Florida Legislature intended to provide protection on the basis of pregnancy status. Since the Florida Supreme Court has not yet considered the issue, the ability to bring a claim based on pregnancy discrimination varies among the jurisdictions.

The earliest case to address the issue of pregnancy discrimination under the FCRA was *O'Laughlin v. Pinchback*.⁸ In this case, the plaintiff alleged that she was terminated from her position as a correctional officer based on pregnancy. The First District Court of Appeals held that the Florida Human Rights Act was preempted by Title VII, as amended, as it stood as “an obstacle to the accomplishment and execution of the full purposes and objectives of Congress by not recognizing that discrimination against pregnant employees is sex based discrimination.”⁹ By preempting the Florida statute, the court did not reach the question of whether the Florida law prohibits pregnancy discrimination. However, the court did note that Florida law had not been amended to include a prohibition against pregnancy-based discrimination.

The court in *Carsillo v. City of Lake Worth*¹⁰ found that since the FCRA is patterned after Title VII, which considers pregnancy discrimination to be sex discrimination, the FCRA also bars such discrimination. The court recognized that the Florida statute had never been amended, but concluded that since Congress’ original intent was to prohibit this type of discrimination, it was unnecessary for Florida to amend its statute to import the intent of the law after which it was patterned.

The court in *Delva v. Continental Group, Inc.*¹¹ held that FCRA does not prohibit pregnancy discrimination based on the *O'Laughlin* court’s analysis that the FCRA had not been amended to include pregnancy status. The issue before the court was narrowly defined to whether the FCRA prohibited discrimination in employment on the basis of pregnancy; therefore, it did not address the preemption holding in *O'Laughlin*. The court certified the conflict with the *Carsillo* case to the Florida Supreme Court.¹²

Federal courts interpreting the FCRA have similarly wrestled with whether pregnancy status is covered by its provisions.¹³ Like the state courts, the federal courts finding that the FCRA does

⁸ 579 So.2d 788 (Fla. 1st DCA 1991). This case was brought under the Florida Human Rights Act of 1977, which was the predecessor to the Florida Civil Rights Act of 1992, and was also patterned after Title VII.

⁹ *Id.* at 792.

¹⁰ 995 So.2d 1118 (Fla. 4th DCA 2008), *rev. denied*, 20 So.3d 848 (Fla. 2009).

¹¹ 96 So.3d 956 (Fla. 3d DCA 2012), *reh'g denied*.

¹² The case was filed with the Florida Supreme Court on October 16, 2012 and assigned case number SC12-2315.

¹³ Federal courts finding that the FCRA does not include a prohibition against pregnancy discrimination include: *Frazier v. T-Mobile USA, Inc.*, 495 F.Supp.2d 1185, (M.D. Fla. 2003), *Boone v. Total Renal Laboratories, Inc.*, 565 F.Supp.2d 1323 (M.D. Fla. 2008), and *DuChateau v. Camp Dresser & McKee, Inc.*, 822 F.Supp.2d 1325 (S.D. Fla. 2011). Federal courts finding that FCRA does provide protection against pregnancy discrimination include *Jolley v. Phillips Educ. Grp. of Cent.*

provide a cause of action based on pregnancy discrimination did so because the FCRA is patterned after Title VII, which bars pregnancy discrimination. The courts finding that the FCRA does not prohibit pregnancy discrimination primarily did so because the Legislature has not amended the FCRA to specifically protect pregnancy status.

Florida Commission on Human Relations

The Florida Commission on Human Relations (commission) is an administrative body that is charged with carrying out the purposes of the FCRA. The commission is comprised of 12 members who are appointed by the Governor, subject to Senate confirmation.¹⁴ The commission is administratively housed within the Department of Management Services (department); however, the commission is not subject to the control, supervision, or direction of the department.¹⁵ The commission is statutorily authorized to receive, initiate, investigate, hold hearings on, and act upon complaints alleging any discriminatory practice under the FCRA.¹⁶

III. Effect of Proposed Changes:

The bill adds to the FCRA a new basis upon which employment discrimination is prohibited. Specifically, it provides that it is an unlawful employment practice for an employer to discharge or to fail or refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of or on the basis of pregnancy, childbirth, or a related medical condition.

The bill further requires a woman affected by pregnancy, childbirth, or a related medical condition to be treated the same for all employment-related purposes, including receipt of benefits under fringe benefits programs, as other persons not so affected but similar in their ability or inability to work.

The bill specifies that its provisions do not require an employer to pay health insurance benefits for abortion.

The bill's language is patterned after portions of the federal Pregnancy Discrimination Act. The bill will clarify legislative intent as to whether pregnancy discrimination is prohibited under the FCRA.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds, reduce the authority that counties

Fla., Inc., 1996 WL 529202 (M.D. Fla. 1996), *Terry v. Real Talent, Inc.*, 2009 WL 3494476 (M.D. Fla. 2009), and *Constable v. Agilysys, Inc.*, 2011 WL 2446605 (M.D. Fla. 2011).

¹⁴ Section 760.03, F.S.

¹⁵ Section 760.04, F.S.

¹⁶ Section 760.06, F.S.

or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 774 will clear up court conflicts and reduce the need to litigate whether pregnancy status is protected under the FCRA.

C. Government Sector Impact:

According to the commission, this bill will not impact their workload and would not create any administrative costs.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

Individuals may currently bring claims for pregnancy discrimination under Title VII in federal courts.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

CS/CS by Governmental Oversight and Accountability on April 2, 2013:

The CS/CS:

- Removes a provision titling the act the “Protect Our Women Act.”
- Removes an amendment to include pregnancy or related conditions in a definition of the term “sex,” upon which basis employment discrimination is currently prohibited, and instead creates a separate prohibition against employment discrimination on the basis of pregnancy or related conditions.

¹⁷ Commission, *SB 774 Staff Analysis*.

- Removes a provision extending the time frame in which the commission must complete an investigation from 180 days to 240 days.

CS by Commerce and Tourism on March 18, 2013:

The CS removes provisions that allow the commission or an administrative law judge to include an award for punitive and compensatory damages in its recommended order.

B. Amendments:

None.

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



737182

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Smith) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) is added to subsection (1) of
section 760.10, Florida Statutes, to read:

760.10 Unlawful employment practices.—

(1) It is an unlawful employment practice for an employer:

(c) To discharge or to fail or refuse to hire an individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of or on the basis of pregnancy,



737182

13 childbirth, or a related medical condition. A woman affected by
14 pregnancy, childbirth, or a related medical condition shall be
15 treated the same for all employment-related purposes, including
16 receipt of benefits under fringe benefit programs, as other
17 persons not so affected but similar in their ability or
18 inability to work. This paragraph does not require an employer
19 to pay health insurance benefits for abortion.

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

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause
25 and insert:

26 A bill to be entitled
27 An act relating to discrimination; amending s. 760.10,
28 F.S.; prohibiting employment discrimination on the
29 basis of pregnancy, childbirth, or a related medical
30 condition; providing an exception for certain
31 benefits; providing an effective date.

By the Committee on Commerce and Tourism; and Senators Thompson, Clemens, Soto, Sobel, Joyner, Abruzzo, Margolis, Ring, Gibson, and Braynon

577-02583-13

2013774c1

1 A bill to be entitled
 2 An act relating to the Florida Civil Rights Act of
 3 1992; providing a short title; amending s. 760.02,
 4 F.S.; expanding the meaning of "sex" as the term
 5 relates to the Florida Civil Rights Act of 1992;
 6 specifying that a woman who is pregnant or who is
 7 affected by a medical condition related to pregnancy
 8 or childbirth must be treated the same for all
 9 employment-related purposes, including receipt of
 10 benefits, as an individual who has a medical condition
 11 unrelated to pregnancy or childbirth; amending s.
 12 760.11, F.S.; extending the time for the Florida
 13 Commission on Human Relations to investigate
 14 complaints and determine reasonable cause; specifying
 15 powers of the commission and administrative law judges
 16 to enter proposed orders to prohibit practices that
 17 violate the Florida Civil Rights Act of 1992;
 18 providing that attorney fees be calculated consistent
 19 with federal case law; extending the time before a
 20 complainant may proceed with civil or administrative
 21 action when the commission fails to conciliate or
 22 determine whether there is reasonable cause; providing
 23 an effective date.

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

26
 27 Section 1. This act may be cited as the "Protect Our Women
 28 Act."

29 Section 2. Present subsections (1), (5), (6), (7), (8),

Page 1 of 5

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

577-02583-13

2013774c1

30 (9), and (10) of section 760.02, Florida Statutes, are reordered
 31 and redesignated as subsections (7), (9), (10), (5), (6), (8),
 32 and (1), respectively, and a new subsection (12) is added to
 33 that section, to read:

34 760.02 Definitions.—For the purposes of ss. 760.01-760.11
 35 and 509.092, the term:

36 (12) "Sex" means the biological state of being a male, a
 37 female, or a female who is pregnant or affected by any medical
 38 condition related to pregnancy or childbirth. A female who is
 39 pregnant or who is affected by a medical condition related to
 40 pregnancy or childbirth shall be treated the same for all
 41 employment-related purposes as an individual not so affected who
 42 has a similar ability or inability to work.

43 Section 3. Subsections (3), (6), (7), and (8) of section
 44 760.11, Florida Statutes, are amended to read:

45 760.11 Administrative and civil remedies; construction.—

46 (3) Except as provided in subsection (2), the commission
 47 shall investigate the allegations in the complaint. Within 240
 48 ~~180~~ days after ~~of~~ the filing of the complaint, the commission
 49 shall determine if there is reasonable cause to believe that
 50 discriminatory practice has occurred in violation of the Florida
 51 Civil Rights Act of 1992. When the commission determines whether
 52 ~~or not~~ there is reasonable cause, the commission shall promptly
 53 notify by registered mail ~~shall promptly notify~~ the aggrieved
 54 person and the respondent of the reasonable cause determination,
 55 the date of such determination, and the options available under
 56 this section.

57 (6) Any administrative hearing brought pursuant to
 58 paragraph (4) (b) shall be conducted under ss. 120.569 and

Page 2 of 5

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

577-02583-13

2013774c1

59 120.57. The commission may hear the case provided that the final
 60 order is issued by members of the commission who did not conduct
 61 the hearing or the commission may request that it be heard by an
 62 administrative law judge pursuant to s. 120.569(2)(a). If the
 63 commission elects to hear the case, it may be heard by a
 64 commissioner. If the commissioner, after the hearing, finds that
 65 a violation of the Florida Civil Rights Act of 1992 has
 66 occurred, the commissioner shall issue an appropriate proposed
 67 order in accordance with chapter 120 prohibiting the
 68 discriminatory practice and providing affirmative relief from
 69 the effects of the practice, including back pay. If the
 70 administrative law judge, after the hearing, finds that a
 71 violation of the Florida Civil Rights Act of 1992 has occurred,
 72 the administrative law judge shall issue an appropriate
 73 recommended order in accordance with chapter 120 prohibiting the
 74 discriminatory practice and providing affirmative relief from
 75 the effects of the practice, including back pay. Within 90 days
 76 after ~~of~~ the date the recommended or proposed order is rendered,
 77 the commission shall issue a final order by adopting, rejecting,
 78 or modifying the recommended order as provided under ss. 120.569
 79 and 120.57. The 90-day period may be extended with the consent
 80 of all the parties. An administrative hearing pursuant to
 81 paragraph (4)(b) ~~may~~ must be requested no later than 35 days
 82 after the date of determination of reasonable cause by the
 83 commission. In any action or proceeding under this subsection,
 84 the commission, in its discretion, may allow the prevailing
 85 party a reasonable attorney ~~attorney's~~ fee as part of the costs.
 86 Attorney ~~It is the intent of the Legislature that this provision~~
 87 ~~for attorney's fees must be calculated interpreted~~ in a manner

Page 3 of 5

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

577-02583-13

2013774c1

88 consistent with federal case law involving a Title VII action.
 89 (7) If the commission determines that there is not
 90 reasonable cause to believe that a violation of the Florida
 91 Civil Rights Act of 1992 has occurred, the commission shall
 92 dismiss the complaint. The aggrieved person may request an
 93 administrative hearing under ss. 120.569 and 120.57, but any
 94 such request must be made within 35 days after ~~of~~ the date of
 95 determination of reasonable cause and any such hearing shall be
 96 heard by an administrative law judge and not by the commission
 97 or a commissioner. If the aggrieved person does not request an
 98 administrative hearing within the 35 days, the claim will be
 99 barred. If the administrative law judge finds that a violation
 100 of the Florida Civil Rights Act of 1992 has occurred, he or she
 101 shall issue an appropriate recommended order to the commission
 102 prohibiting the discriminatory practice and recommending
 103 affirmative relief from the effects of the practice, including
 104 back pay. Within 90 days after ~~of~~ the date the recommended order
 105 is rendered, the commission shall issue a final order by
 106 adopting, rejecting, or modifying the recommended order as
 107 provided under ss. 120.569 and 120.57. The 90-day period may be
 108 extended with the consent of all the parties. In any action or
 109 proceeding under this subsection, the commission, in its
 110 discretion, may allow the prevailing party a reasonable attorney
 111 ~~attorney's~~ fee as part of the costs. Attorney ~~It is the intent~~
 112 ~~of the Legislature that this provision for attorney's fees must~~
 113 ~~be calculated interpreted~~ in a manner consistent with federal
 114 case law involving a Title VII action. In the event the final
 115 order issued by the commission determines that a violation of
 116 the Florida Civil Rights Act of 1992 has occurred, the aggrieved

Page 4 of 5

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

577-02583-13

2013774c1

117 person may bring, within 1 year after ~~of~~ the date of the final
118 order, a civil action under subsection (5) as if there has been
119 a reasonable cause determination or accept the affirmative
120 relief offered by the commission, but not both.

121 (8) ~~If in the event that~~ the commission fails to conciliate
122 or determine whether there is reasonable cause on any complaint
123 under this section within 240 ~~180~~ days after ~~of~~ the filing of
124 the complaint, an aggrieved person may proceed under subsection
125 (4), as if the commission determined that there was reasonable
126 cause.

127 Section 4. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Vice Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GERALDINE F. THOMPSON

12th District

March 18, 2013

The Honorable Jeremy Ring
405 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

RECEIVED
MAR 18 2013

GOVERNMENTAL OPERATIONS

Dear Chair Ring,

I respectfully request *SB 774—Florida Civil Rights Act of 1992* be placed on the agenda of the Committee on Governmental Oversight and Accountability as soon as possible.

Over the years, most federal and state courts have held that Florida's Civil Rights Act does not protect pregnant women against discrimination by an employer. Most recently, such a ruling was made by the 3rd District Court of Appeals which noted Florida's failure to amend its human rights law to prohibit pregnancy-based discrimination.

This bill would give pregnant women victimized by discrimination in the workplace protection under the Florida Civil Rights Act.

Thank you for your consideration.

Sincerely,

Senator Geraldine Thompson, District 12
GT:dr

cc: Joe McVaney

REPLY TO:

- 511 W. South Street, Suite 204, Orlando, Florida 32805
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: PCS/SB 482 (646822)

INTRODUCER: Committee on Governmental Oversight and Accountability

SUBJECT: Other-Personal-Services Employment

DATE: April 1, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Favorable
2.	Naf	McVaney	GO	Pre-meeting
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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

I. Summary:

PCS/SB 482 (646822) appears to clarify authority of counties relating to employees. It specifies that the county power to employ personnel includes the authority to determine benefits, if any, for different types of employee positions. It also specifies that the Florida Retirement System Act governs the retirement benefits available to an employee under the Florida Retirement System.

This bill substantially amends section 125.01, Florida Statutes.

II. Present Situation:

County Powers Relating to Employment

The Florida Constitution grants counties broad home rule authority.

Charter Counties

Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.¹

¹ FLA. CONST. art. VIII, s. 1(g).

Staff is not aware of a general or special law that preempts a charter county's authority to hire OPS employees.

Non-Charter Counties

Non-charter county governments may exercise those powers of self-government that are provided by general or special law.²

The Florida Statutes specify powers of self-government for non-charter counties, unless such powers are preempted on a particular subject by general or special law.³ Such powers include, but are not limited to, the authority to:

- Employ personnel;⁴
- Perform any act not specifically enumerated that is not inconsistent with law and is in the common interest of the people of the county;⁵ and
- Exercise all powers and privileges not specifically prohibited by law.⁶

Staff is not aware of a law that prohibits a non-charter county from hiring OPS employees.

Florida Retirement System Eligibility

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits.⁷ It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities.⁸

Participation in the FRS is compulsory for all officers and employees of those employers.⁹

“Officer or employee” means any person receiving salary payments for work performed in a regularly established position.¹⁰ “Regularly established position” means:

- With respect to a state employer, a position that is authorized and established pursuant to law and is compensated from a salaries and benefits appropriation,¹¹ or an authorized¹² established position that is compensated from a salaries account.¹³

² FLA. CONST. art. VIII, s. 1(f).

³ See s. 125.01, F.S.

⁴ Section 125.01(3)(a), F.S.

⁵ Section 125.01(1)(w), F.S.

⁶ *Id.*

⁷ See ch. 121, F.S.

⁸ Florida Retirement System Participating Employers for Plan Year 2012-13, prepared by the Department of Management Services, Division of Retirement, Revised September 2012, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/informational_booklets. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system (*id.*).

⁹ Section 121.051(1), F.S.

¹⁰ Section 121.021(11), F.S.

¹¹ Pursuant to s. 216.011(1)(mm), F.S., which defines “salaries and benefits” to mean the appropriation category used to fund the monetary or cash-equivalent compensation for work performed by state employees for a specific period of time, and provides that benefits shall be as provided by law.

¹² As provided by s. 216.262(1)(a), F.S.

¹³ Section 121.021(52)(a), F.S. A salaries account is as provided in s. 216.011(1)(nn), F.S., which defines “salary” to mean the cash compensation for services rendered for a specific period of time.

- With respect to a local agency employer (district school board, county agency, Florida College System institution, municipality, metropolitan planning organization, charter school, charter technical career center, or special district),¹⁴ a regularly established position that will be in existence for a period beyond 6 consecutive months, except as provided by rule.¹⁵

An employee in a temporary position may not be a member of the FRS. “Temporary position” means:

- With respect to a state employer, a position that is compensated from an OPS account.¹⁶
- With respect to a local agency employer, a position that will exist for less than 6 consecutive months, or other position determined by rule, regardless of whether it will exist for 6 consecutive months or longer.¹⁷ The relevant rule provides that the following positions are also deemed temporary, regardless of the length of existence:
 - Certain instructional positions established with no guarantee of continuation beyond one term.
 - If acceptable agency documentation is maintained, certain student positions, work-study positions, substitute teacher positions, on-call positions, positions related to federal programs, non-salaried elected positions, OPS non-instructional community college positions, temporary emergency-related positions, and instructional positions filled by exchange teachers.¹⁸

III. Effect of Proposed Changes:

The bill amends a current provision that specifies that counties have all implied powers necessary or incident to carrying out the powers enumerated in s. 125.01, F.S., including the authority to *employ personnel*, expend funds, enter into contractual obligations, and purchase or lease and sell or exchange real or personal property,¹⁹ by:

- Specifying that the authority to employ personnel includes the authority to determine available benefits for types of positions, if any, including, but not limited to, insurance coverage and paid leave; and
- Specifically acknowledging that the provisions of ch. 121, F.S., including compulsory membership of employees meeting certain criteria, govern the retirement benefits available to an employee under the Florida Retirement System.

The bill, therefore, appears to clarify existing authority of counties relating to employees.

The bill’s effective date is July 1, 2013.

¹⁴ Does not include a water management district operating pursuant to ch. 373, F.S. which has a separate definition for “regularly established position” in s. 121.021(52)(c), F.S.

¹⁵ Section 121.021(52)(b), F.S.

¹⁶ Section 121.021(53)(a), F.S. Section 216.011(1)(dd), F.S., defines “other-personal-services” to mean the appropriation category used to fund the compensation for services rendered by a person who is not filling an established position. The term includes, but is not limited to, services of temporary employees, student or graduate assistants, persons on fellowships, part-time academic employees, board members, and consultants and other services specifically budgeted by each agency, or by the judicial branch, in this category. A person paid from OPS appropriations is not eligible for membership in a state retirement system.

¹⁷ Section 121.021(53)(b), F.S.

¹⁸ Rule 60S-1.004(5)(b), F.A.C.

¹⁹ The provision is s. 125.01(3)(a), F.S.

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. The bill's explicit specification that counties may determine benefits, if any, for different types of positions may result in benefits cost savings for any county that currently provides the same benefits for all types of positions.

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.)

PCS (646822) by Governmental Oversight and Accountability on April 2, 2013:

The PCS differs substantially from the original bill but is designed to accomplish the same intent. The original bill explicitly states that counties may employ other-personal-services (OPS) employees, defines "OPS employee" to mean a temporary employee,

requires maintenance of records relating to OPS employees, and requires salary payments to be in compliance with the federal Fair Labor Standards Act and state law. The bill does not appear to address county employee benefits.²⁰

The PCS, alternatively, specifically states that county powers include the authority to determine available benefits, if any, for different types of employee positions, subject to Florida Retirement System Act provisions.

B. Amendments:

None.

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

²⁰ See the Senate Governmental Oversight and Accountability Committee Staff Analysis for SB 482 (dated April 1, 2013).



646822

585-03082A-13

Proposed Committee Substitute by the Committee on Governmental
Oversight and Accountability

A bill to be entitled

An act relating to county employees; amending s.

125.01, F.S.; providing that the governing body of a
county has authority to determine available benefits
of county employees; specifying the applicability of
ch. 121, F.S., to such employees; providing an
effective date.

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

Section 1. Paragraph (a) of subsection (3) of section
125.01, Florida Statutes, is amended to read:

125.01 Powers and duties.—

(3) (a) The enumeration of powers herein ~~may shall~~ not be
deemed exclusive or restrictive, but ~~is shall be~~ deemed to
incorporate all implied powers necessary or incident to carrying
out such powers enumerated, including, specifically, authority
to employ personnel, expend funds, enter into contractual
obligations, and purchase or lease and sell or exchange real or
personal property. The authority to employ personnel includes
the authority to determine available benefits for different
types of positions, if any, including, but not limited to,
insurance coverage and paid leave. The provisions of chapter
121, which include compulsory membership in the Florida
Retirement System of employees meeting certain criteria, govern
the retirement benefits available to such employees under the
Florida Retirement System.



646822

585-03082A-13

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

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 Governmental Oversight and Accountability

BILL: CS/SB 482

INTRODUCER: Committee on Governmental Oversight and Accountability and Senator Dean

SUBJECT: Other-Personal-Services Employment

DATE: April 2, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Favorable
2.	Naf	McVaney	GO	Fav/CS
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 482 appears to clarify authority of counties relating to employees. It specifies that the county power to employ personnel includes the authority to determine benefits, if any, for different types of employee positions. It also specifies that the Florida Retirement System Act governs the retirement benefits available to an employee under the Florida Retirement System.

This bill substantially amends section 125.01, Florida Statutes.

II. Present Situation:

County Powers Relating to Employment

The Florida Constitution grants counties broad home rule authority.

Charter Counties

Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.¹

¹ FLA. CONST. art. VIII, s. 1(g).

Staff is not aware of a general or special law that preempts a charter county's authority to determine benefits for different types of employment positions, except that certain positions are governed by the Florida Retirement System Act as discussed below.

Non-Charter Counties

Non-charter county governments may exercise those powers of self-government that are provided by general or special law.²

The Florida Statutes specify powers of self-government for non-charter counties, unless such powers are preempted on a particular subject by general or special law.³ Such powers include, but are not limited to, the authority to:

- Employ personnel;⁴
- Perform any act not specifically enumerated that is not inconsistent with law and is in the common interest of the people of the county;⁵ and
- Exercise all powers and privileges not specifically prohibited by law.⁶

Staff is not aware of a law that prohibits a non-charter county from determining benefits for different types of employment positions, except that certain positions are governed by the Florida Retirement System Act as discussed below.

Florida Retirement System Eligibility

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits.⁷ It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities.⁸

Participation in the FRS is compulsory for all officers and employees of those employers.⁹ "Officer or employee" means any person receiving salary payments for work performed in a regularly established position.¹⁰ "Regularly established position" means:

- With respect to a state employer, a position that is authorized and established pursuant to law and is compensated from a salaries and benefits appropriation,¹¹ or an authorized¹² established position that is compensated from a salaries account.¹³

² FLA. CONST. art. VIII, s. 1(f).

³ See s. 125.01, F.S.

⁴ Section 125.01(3)(a), F.S.

⁵ Section 125.01(1)(w), F.S.

⁶ *Id.*

⁷ See ch. 121, F.S.

⁸ Florida Retirement System Participating Employers for Plan Year 2012-13, prepared by the Department of Management Services, Division of Retirement, Revised September 2012, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/informational_booklets. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system (*id.*).

⁹ Section 121.051(1), F.S.

¹⁰ Section 121.021(11), F.S.

- With respect to a local agency employer (district school board, county agency, Florida College System institution, municipality, metropolitan planning organization, charter school, charter technical career center, or special district),¹⁴ a regularly established position that will be in existence for a period beyond 6 consecutive months, except as provided by rule.¹⁵

An employee in a temporary position may not be a member of the FRS. “Temporary position” means:

- With respect to a state employer, a position that is compensated from an OPS account.¹⁶
- With respect to a local agency employer, a position that will exist for less than 6 consecutive months, or other position determined by rule, regardless of whether it will exist for 6 consecutive months or longer.¹⁷ The relevant rule provides that the following positions are also deemed temporary, regardless of the length of existence:
 - Certain instructional positions established with no guarantee of continuation beyond one term.
 - If acceptable agency documentation is maintained, certain student positions, work-study positions, substitute teacher positions, on-call positions, positions related to federal programs, non-salaried elected positions, OPS non-instructional community college positions, temporary emergency-related positions, and instructional positions filled by exchange teachers.¹⁸

III. Effect of Proposed Changes:

The bill amends a current provision that specifies that counties have all implied powers necessary or incident to carrying out the powers enumerated in s. 125.01, F.S., including the authority to *employ personnel*, expend funds, enter into contractual obligations, and purchase or lease and sell or exchange real or personal property,¹⁹ by:

- Specifying that the authority to employ personnel includes the authority to determine available benefits for types of positions, if any, including, but not limited to, insurance coverage and paid leave; and

¹¹ Pursuant to s. 216.011(1)(mm), F.S., which defines “salaries and benefits” to mean the appropriation category used to fund the monetary or cash-equivalent compensation for work performed by state employees for a specific period of time, and provides that benefits shall be as provided by law.

¹² As provided by s. 216.262(1)(a), F.S.

¹³ Section 121.021(52)(a), F.S. A salaries account is as provided in s. 216.011(1)(nn), F.S., which defines “salary” to mean the cash compensation for services rendered for a specific period of time.

¹⁴ Does not include a water management district operating pursuant to ch. 373, F.S. which has a separate definition for “regularly established position” in s. 121.021(52)(c), F.S.

¹⁵ Section 121.021(52)(b), F.S.

¹⁶ Section 121.021(53)(a), F.S. Section 216.011(1)(dd), F.S., defines “other-personal-services” to mean the appropriation category used to fund the compensation for services rendered by a person who is not filling an established position. The term includes, but is not limited to, services of temporary employees, student or graduate assistants, persons on fellowships, part-time academic employees, board members, and consultants and other services specifically budgeted by each agency, or by the judicial branch, in this category. A person paid from OPS appropriations is not eligible for membership in a state retirement system.

¹⁷ Section 121.021(53)(b), F.S.

¹⁸ Rule 60S-1.004(5)(b), F.A.C.

¹⁹ The provision is s. 125.01(3)(a), F.S.

- Specifically acknowledging that the provisions of ch. 121, F.S., including compulsory membership of employees meeting certain criteria, govern the retirement benefits available to an employee under the Florida Retirement System.

The bill, therefore, appears to clarify existing authority of counties relating to employees.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. The bill's explicit specification that counties may determine benefits, if any, for different types of positions may result in benefits cost savings for any county that currently provides the same benefits for all types of positions.

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 Governmental Oversight and Accountability on April 2, 2013:

The CS differs substantially from the original bill but is designed to accomplish the same intent. The original bill explicitly states that counties may employ other-personal-services (OPS) employees, defines “OPS employee” to mean a temporary employee, requires maintenance of records relating to OPS employees, and requires salary payments to be in compliance with the federal Fair Labor Standards Act and state law. The bill does not appear to address county employee benefits.²⁰

The CS, alternatively, specifically states that county powers include the authority to determine available benefits, if any, for different types of employee positions, subject to Florida Retirement System Act provisions.

- B. **Amendments:**

None.

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

²⁰ See the Senate Governmental Oversight and Accountability Committee Staff Analysis for SB 482 (dated April 1, 2013).

By Senator Dean

5-00644-13

2013482__

1 A bill to be entitled
2 An act relating to other-personal-services employment;
3 defining the term "other-personal-services employee";
4 authorizing the governing body of a county to employ
5 other-personal-services employees; providing
6 conditions; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Other-personal-services employment; counties.-
11 (1) As used in this section, the term "other-personal-
12 services employee" means a temporary employee of the governing
13 body of a county.
14 (2) The governing body of a county may employ a qualified
15 individual in other-personal-services employment. For each
16 other-personal-services employee, the governing body of a county
17 shall:
18 (a) Maintain employee records identifying, at a minimum,
19 the person employed, the hire date, the type of other-personal-
20 services employment, and the number of hours worked per week.
21 (b) Determine the appropriate rate of pay and ensure that
22 all payments are in compliance with the federal Fair Labor
23 Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.,
24 and applicable state law.
25 Section 2. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHARLES S. DEAN, SR.
5th District

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

March 29, 2013

The Honorable Jeremy Ring
405 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Dear Chairman Ring:

Thank you for allowing Senate Bill 482, relating to Other-Personal-Services Employment, to be placed on your agenda. Unfortunately, I will be unable to attend the Committee meeting and would like to request your permission to allow my aide, Chase Daniels, to present this bill in my place.

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

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator, District 5

Cc: Joe McVaney, Staff Director

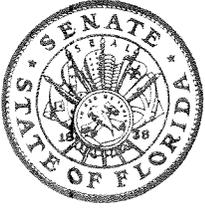
REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR CHARLES S. DEAN, SR.
5th District

February 21, 2013

The Honorable Jeremy Ring
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

RECEIVED

FEB 21 2013

GOVERNMENTAL OPERATIONS

Dear Chairman Ring:

I respectfully request you place Senate Bill 482, relating to Other-Personal-Services Employment, on your Governmental Oversight and Accountability Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: Joe McVaney, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1042

INTRODUCER: Senator Abruzzo

SUBJECT: Public Meetings/Criminal Justice Commissions

DATE: April 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.	Naf	McVaney	GO	Favorable
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1042 creates a public meetings exemption for that portion of a meeting of a local criminal justice commission (commission) at which public and private sector members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the commission, provided that at any public meeting at which such matter is being considered the commission members publicly disclose the fact that the matter has been discussed.

The bill specifies that the exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the exemption as required by the Florida Constitution.

Because the bill creates a new public meetings exemption, the bill requires a two-thirds vote of each house of the Legislature for passage.

This bill creates a new, and as yet unnumbered, section of the Florida Statutes.

II. Present Situation:

Public Meetings Requirements

The Florida Constitution, in part, requires that all meetings of any local government at which official acts are to be taken or at which public business of such body is to be transacted or

discussed be open and noticed to the public.¹ Additionally, the Sunshine Law,² in part, requires all meetings of any board or commission of any local agency³ or authority at which official acts are to be taken to be noticed and open to the public.⁴

Only the Legislature may create an exemption to public meetings requirements.⁵ The Legislature may provide by general law passed by two-thirds vote of each chamber for the exemption of meetings from the requirements of Article I, Section 24, of the Florida Constitution, provided the exemption:

- States with specificity the public necessity justifying the exemption (public necessity statement); and
- Is no broader than necessary to meet that public purpose.⁶

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.⁷ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁸ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.⁹

Criminal Justice Commissions

Staff is aware of only two counties in Florida that currently have a “criminal justice commission”: the Sarasota County Criminal Justice Commission and the Palm Beach County Criminal Justice Commission.¹⁰ Membership of these commissions is comprised of members of

¹ Article I, Section 24(b), of the Florida Constitution.

² Section 286.011, F.S. Section 286.011, F.S., has been construed to apply to any gathering, formal or informal, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by that board or commission. *See generally Hough v. Stembridge*, 278 So.2d 288 (Fla. 3rd DCA 1973).

³ Section 119.01(2), F.S., defines an ‘agency’ as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

⁴ Section 286.011(1)-(2), F.S. The intent of the Legislature is to “extend application of the ‘open meeting’ concept so as to bind every ‘board or commission’ of the state, or of any county or political subdivision over which it has dominion or control.” *City of Miami Beach v. Berns*, 245 So.2d 38, 40 (Fla. 1971).

⁵ Article I, Section 24(c), of the Florida Constitution.

⁶ *Id.*

⁷ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

⁸ Section 119.15(3), F.S.

⁹ Section 119.15(6)(b), F.S.

¹⁰ In 2004, the Board of County Commissioners of Sarasota County passed Resolution number 2004-251, creating the Sarasota County Criminal Justice Commission. The ordinance is available at: http://www.co.sarasota.fl.us/HumanServices/documents/Resolution_CJC_Revised_112004.pdf . In 1988, Palm Beach County enacted Ordinance No. 88-16, creating the Palm Beach County Criminal Justice Commission. The ordinance is available under the “CJC Directory” tab at <http://www.co.palm-beach.fl.us/criminaljustice/youth/>.

both the public¹¹ and private sectors. These members collaborate to improve the criminal justice system in their community.¹² The commissions discuss a multitude of issues relating to local criminal justice practices, policies, and program developments.¹³ Other issues discussed at commission meetings include jail population and overcrowding, tracking crimes in the community, and matters of general policing.¹⁴

Such commissions are subject to the Sunshine Law, and current law does not provide a public meetings exemption for their meetings. Consequently, discussions that occur among members of a commission, such as those involving a sheriff, a public defender, or a state attorney, which involve matters that may foreseeably come before or are currently being considered by the commission, must be properly noticed and should be conducted as an open meeting in accordance with the Sunshine Law.¹⁵ Discussions among public officials on issues that do not require action by the commission do not violate the Sunshine Law.¹⁶

III. Effect of Proposed Changes:

The bill creates a public meetings exemption for that portion of a meeting of a duly constituted criminal justice commission (commission) at which public and private sector members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may, foreseeably come before the commission, if the commission members publicly disclose the fact that the matter has been discussed at any public meeting at which such matter is being considered.

The bill defines “duly constituted criminal justice commission” to mean an advisory commission created by municipal or county ordinance whose membership is comprised of private and public sector persons and whose purpose is to examine local criminal justice issues.

The bill also provides the following definitions by reference to s. 119.011, F.S.:

- “Active” has the following meanings:
 - Criminal intelligence information is considered “active” as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
 - Criminal investigative information is considered “active” as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.
 - In addition, criminal intelligence and criminal investigative information are considered “active” while such information is directly related to pending prosecutions or appeals.

¹¹ *Id.*

¹² See <https://www.scgov.net/CJC/Pages/default.aspx> (Sarasota County) and <http://www.pbcgov.org/criminaljustice/aboutcjc> (Palm Beach County).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Attorney General Opinion 93-41.

¹⁶ *Id.*

- The word “active” does not apply to information in cases which are barred from prosecution under the provisions of s. 775.15, F.S., or other statute of limitation.¹⁷
- “Criminal intelligence information” means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.¹⁸
 - “Criminal investigative information” means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.¹⁹
 - “Criminal intelligence information” and “criminal investigative information” do not include:
 - The time, date, location, and nature of a reported crime.
 - The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h), F.S.
 - The time, date, and location of the incident and of the arrest.
 - The crime charged.
 - Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h), F.S., and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1), F.S., until released at trial if it is found that the release of such information would be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness, and impair the ability of a state attorney to locate or prosecute a codefendant.
 - Information and indictments except as provided in s. 905.26, F.S.²⁰

The extent to which access to such information may be provided to commission members is governed by s. 119.071, F.S. Generally, such information is exempt from public disclosure,²¹ meaning that an agency (the custodian of the record with the power to receive or communicate the record) is not prohibited from disclosing the record in all circumstances.²² Some of this information is confidential and exempt,²³ which means that this information may not be released by an agency to anyone other than to the persons or entities designated in the statute.²⁴

The bill specifies that the public meetings exemption is subject to the Open Government Sunset Review Act and provides the following statement of public necessity for the exemption as required by the Florida Constitution:

The Legislature finds that it is a public necessity that the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss

¹⁷ Section 119.011(3)(d), F.S.

¹⁸ Section 119.011(3)(a), F.S.

¹⁹ Section 119.011(3)(b), F.S.

²⁰ Section 119.011(3)(c), F.S.

²¹ Section 119.071(2)(c)1., F.S.

²² See *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991), *review denied*, 589 So.2d 289 (Fla. 1991).

²³ Section 119.071(2)(h) and (j)2., F.S.

²⁴ Attorney General Opinion 85-62.

active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the criminal justice commission be made exempt from public meeting requirements. If the meetings at which exempt information is discussed were open to the public, the purpose of the exemption from public records requirements found in chapter 119, Florida Statutes, would be defeated. The members of a criminal justice commission must be able to hear and discuss exempt information freely in order to make sound recommendations regarding strategies and activities that are best suited to protect the welfare of the people of this state. The ability to conduct meetings at which members can freely discuss and fully understand the details of active criminal intelligence information and active criminal investigative information is critical to the ability of a criminal justice commission to operate effectively.

The bill specifies that the exemption stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly created public meetings exemption. Because the bill creates a new public meetings exemption, the bill requires a two-thirds vote of each house of the Legislature for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created public meetings exemption. Because the bill creates a new public meetings exemption, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to impact state or local government revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Drafting Comments**

The bill creates a definition for “duly constituted criminal justice commission;” however, that term and the terms “criminal justice commission” and “commission” are used interchangeably in the bill. The Legislature may wish to add “or commission” to the definition and conform the bill’s terminology.

The bill provides the public meetings exemption applies if, at any public meeting of a duly constituted criminal justice commission at which exempt information is being considered, the commission members publicly disclose the fact that the matter has been discussed. This structure implies that such disclosure will always occur after the matter has been discussed. The Legislature may wish to instead provide that the commission members must publicly disclose the fact that the matter has been *or will be* discussed.

It is unclear whether the term “considered” in line 38 has the same meaning as does the term “discussed” in line 39, or whether “considered” instead implies, for example, that a duly constituted criminal justice commission is voting to make a recommendation based upon confidential and exempt information that the commission previously discussed in private pursuant to the bill’s public meetings exemption.

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

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

None.

B. Amendments:

None.

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

By Senator Abruzzo

25-00858A-13

20131042__

A bill to be entitled

An act relating to public meetings; providing definitions; providing an exemption from public meeting requirements for that portion of a meeting of a duly constituted criminal justice commission at which specified members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the commission; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Criminal justice commissions; public meetings exemption.-

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

(a) "Active" has the same meaning as provided in s. 119.011, Florida Statutes.

(b) "Criminal intelligence information" has the same meaning as provided in s. 119.011, Florida Statutes.

(c) "Criminal investigative information" has the same meaning as provided in s. 119.011, Florida Statutes.

(d) "Duly constituted criminal justice commission" means an advisory commission created by municipal or county ordinance whose membership is comprised of private and public sector persons and whose purpose is to examine local criminal justice issues.

25-00858A-13

20131042__

(2) That portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission is exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution, provided that at any public meeting of the criminal justice commission at which such matter is being considered, the commission members publicly disclose the fact that the matter has been discussed.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the criminal justice commission be made exempt from public meeting requirements. If the meetings at which exempt information is discussed were open to the public, the purpose of the exemption from public records requirements found in chapter 119, Florida Statutes, would be defeated. The members of a criminal justice commission must be able to hear and discuss exempt information freely in order to make sound recommendations regarding strategies and activities that are best suited to protect the welfare of the people of this state. The ability to conduct meetings at which members can

25-00858A-13

20131042__

59 freely discuss and fully understand the details of active
60 criminal intelligence information and active criminal
61 investigative information is critical to the ability of a
62 criminal justice commission to operate effectively.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 2, 2013

Meeting Date

Topic _____ Bill Number 1042
(if applicable)

Name Carlos Martinez Amendment Barcode _____
(if applicable)

Job Title Public Defender

Address 1320 NW 14th Street Phone 305-545-1600
Street

Miami FL 33125 E-mail cmartinez@pdmiami.com
City State Zip

Speaking: For Against Information

Representing Florida Public Defender Assoc.

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

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

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

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)

214 12013

Meeting Date

Topic _____ Bill Number 1042
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic Public Meetings / Criminal Justice Commission

Bill Number 1042
(if applicable)

Name Thomas Grigsby

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1490 Blockford Ct W

Phone 850 321 9684

Tallahassee FL 32317
City State Zip

E-mail tom@themogagroup.com

Speaking: For Against Information

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



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 12th, 2013

Senator Jeremy Ring
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Ring:

I respectfully request that Senate Bill 1042, relating to Criminal Justice Commissions, be placed on the Governmental Oversight and Accountability agenda. This legislation will protect the integrity of sensitive communications relative to active intelligence and/or investigations discussed by criminal justice commissions.

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

Sincerely,

A handwritten signature in cursive script that reads "Joseph Abruzzo".

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
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 Governmental Oversight and Accountability

BILL: SB 1066

INTRODUCER: Senator Richter

SUBJECT: Public Records/Dental Workforce Surveys

DATE: April 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	Favorable
2.	Naf	McVaney	GO	Favorable
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1066 makes confidential and exempt from public records requirements all personal identifying information contained in records provided by dentists or dental hygienists in response to dental workforce surveys and held by the Department of Health (DOH). The bill specifies circumstances under which the confidential and exempt information must be disclosed.

The bill provides for review and repeal of the exemption pursuant to the Open Government Sunset Review Act. The bill also provides a statement of public necessity as required by the Florida Constitution.

Because this bill creates a new public records exemption, it requires a two-thirds vote of each house of the Legislature for passage.

This bill creates two undesignated sections of law.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or

employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁰ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹¹ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(6)(b), F.S.

Workforce Surveys

The DOH currently administers an optional workforce survey which dentists and dental hygienists may complete as part of their licensure renewal. For the 2009-2010 licensing cycle, the first time that this survey was offered, 89 percent of all dentists with active licenses responded.¹³ The survey was expanded to include dental hygienists for the 2010-2011 licensing cycle, and 87.9 percent responded.¹⁴

Unlike dentists and dental hygienists, physicians are required to respond to physician workforce surveys as a condition of license renewal.¹⁵ All personal identifying information contained in records provided by physicians in response to these workforce surveys is confidential and exempt under s. 458.3193, F.S., concerning allopathic physicians, and s. 459.0083, F.S., concerning osteopathic physicians.

III. Effect of Proposed Changes:

The bill provides that all personal identifying information contained in records provided by dentists or dental hygienists licensed under ch. 466, F.S., in response to dental workforce surveys and held by the DOH is confidential and exempt¹⁶ from public records requirements. Such information must be disclosed:

- With the express written consent of the individual, to whom the information pertains, or the individual's legally authorized representative;
- By court order upon a showing of good cause; or
- To a research entity, if the entity seeks the record or data pursuant to a research protocol approved by the DOH.

Such a research entity must maintain the records or data in accordance with the approved research protocol, and enter into a purchase and data-use agreement with DOH. The agreement must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data remain the property of the DOH.

The bill authorizes the DOH to deny a research entity's request if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit.

¹³ DOH, *Report on the 2009-2010 Workforce Survey of Dentists*, available at: http://doh.state.fl.us/Family/dental/OralHealthcareWorkforce/2009_2010_Workforce_Survey_Dentists_Report.pdf (last viewed March 31, 2013).

¹⁴ DOH, *2013 Bill Analysis, Economic Statement, and Fiscal Note for SB 1066*, on file with the Senate Governmental Oversight and Accountability Committee.

¹⁵ Section 381.4018, F.S. Language requiring the submission of physician workforce surveys for license renewal can be found in s. 458.3191, F.S., for allopathic physicians and s. 459.0081, F.S., for osteopathic physicians.

¹⁶ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. See footnote 6.

The bill provides for repeal of the exemption pursuant to the Open Government Sunset Review Act on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.¹⁷

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to impact county or municipal government.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c), Art. I of the Florida Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c), Art. I of the Florida Constitution requires a public necessity statement for a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill could create a minimal fiscal impact for the DOH, because staff responsible for complying with public records requests could require training related to the new public records exemption. In addition, the DOH could incur costs associated with redacting the

¹⁷ Section 24(c), Art. I of the Florida Constitution.

confidential and exempt information prior to releasing a record. The costs would be absorbed, however, as they are part of the day-to-day responsibilities of the DOH.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Richter

23-00946-13

20131066__

A bill to be entitled

An act relating to public records; providing an exemption from public records requirements for information contained in dental workforce surveys submitted by dentists or dental hygienists to the Department of Health; providing exceptions to the exemption; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Confidentiality of certain information contained in dental workforce surveys.—

(1) All personal identifying information that is contained in records provided by dentists or dental hygienists licensed under chapter 466, Florida Statutes, in response to dental workforce surveys and held by the Department of Health is confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, except such information shall be disclosed:

(a) With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative.

(b) By court order upon a showing of good cause.

(c) To a research entity, if the entity seeks the records or data pursuant to a research protocol approved by the Department of Health, maintains the records or data in

Page 1 of 3

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

23-00946-13

20131066__

accordance with the approved protocol, and enters into a purchase and data-use agreement with the department, the fee provisions of which are consistent with s. 119.07(4), Florida Statutes. The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the department.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that personal identifying information concerning a dentist or dental hygienist licensed under chapter 466, Florida Statutes, who responds to a dental workforce survey be made confidential and exempt from disclosure. Candid and honest responses by licensed dentists or dental hygienists to the workforce survey will ensure that timely and accurate information is available to the Department of Health. The Legislature finds that the failure to maintain the confidentiality of such personal identifying information would prevent the resolution of important state interests to ensure the availability of dentists or dental hygienists in this state.

Page 2 of 3

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

23-00946-13

20131066__

59

Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/2013

Meeting Date

Topic _____ Bill Number 1066
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip
Speaking: For Against Information
Representing JUSTICE-2-JESUS

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/13

Meeting Date

Topic Public Records Exemption Bill Number 1066
(if applicable)
Name Casey Stoutamire Amendment Barcode _____
(if applicable)
Job Title Lobbyist
Address 118 E Jefferson St. Phone 850-224-1089
Street
Tallahassee FL 32301 E-mail cstoutamire
City State Zip @floridadental.org
Speaking: For Against Information
Representing Florida Dental Association

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

COMMITTEES:

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

JOINT COMMITTEE:

Joint Legislative Budget Commission

March 13, 2013

The Honorable Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

Senate Bill 1066, Public Records to a Dental Workforce Survey, has been referred to the Committee on Governmental Oversight and Accountability. I would appreciate the placing of this bill on the committee's agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

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

Garrett Richter

cc: Joe McVaney, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
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 Governmental Oversight and Accountability

BILL: CS/SB 1490

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Latvala

SUBJECT: Business Entity Filing Fees

DATE: April 3, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Fav/CS
2.			AFT	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1490 amends provisions related to corporations for profit, limited liability companies, corporations not for profit, and partnerships, by changing and standardizing filing fees across entity types.

This bill amends sections 607.0122, 608.452, 617.0122, 620.1109, and 620.81055 of the Florida Statutes, and repeals section 607.193 of the Florida Statutes.

II. Present Situation:

Florida law requires certain documents to be filed with the Division of Corporations (division) of the Department of State in order for a business to be organized as a corporation, partnership, or other commercial entity. Each registered business must submit an annual report to the division detailing updated contact information, identities of key persons related to the business, etc., along with a fee for filing the annual report. There are additional fees for other filings with the division which must be submitted in some circumstances (e.g., changing a designated agent,

dissolving the entity, articles of merger).¹ There is a great deal of variation in the cost associated with filing these forms depending on the type of business entity filing the form. For example, the cost to file a form changing a designated agent costs \$35 for a corporation and \$25 for a limited liability company (LLC). According to the division, there is no additional work or cost associated with processing this form if it comes from a corporation as compared to an LLC.

Corporations for Profit (Chapter 607)

In order to organize as a corporation for profit, the person wishing to organize must file articles of incorporation at a cost of \$35, and registration of a designated agent (recipient of service of process) at a cost of \$35, for a total of \$70 in startup fees. Each year the corporation must file an annual report by May 1; the annual report fee is \$61.25. In addition to the annual report fee, the corporation must remit annually a supplemental corporate fee in the amount of \$88.75.² The annual fees total \$150. In calendar year 2012, there were 109,107 filings to organize a new corporation, and 634,248 annual filings from existing corporations.³

Section 607.0122, F.S., specifies fees for filing documents and issuing certificates as follows:

Document	Fee
Articles of incorporation	\$35.00
Application for registered name	\$87.50
Application for renewal of registered name	\$87.50
Statement of change of registered agent or registered office or both if not included on annual report	\$35.00
Designation of and acceptance by registered agent	\$35.00
Agent's statement of resignation from active corporation	\$87.50
Agent's statement of resignation from inactive corporation	\$35.00
Amendment of articles of incorporation	\$35.00
Restatement of articles of incorporation with amendment of articles	\$35.00
Articles of merger or share exchange for each party thereto	\$35.00
Articles of dissolution	\$35.00
Articles of dissolution	\$35.00
Articles of revocation of dissolution	\$35.00
Application for reinstatement following administrative dissolution	\$600.00
Application for certificate of authority to transact business in this state by a foreign corporation	\$35.00
Application for amended certificate of authority	\$35.00
Application for certificate of withdrawal by a foreign corporation	\$35.00

¹ Sections 607.0122, 608.452, 617.0122, 620.81055, & 620.1109, F.S.

² Section 607.193, F.S.

³ Figures from Division of Corporations email on file with House Finance & Tax Subcommittee

Annual report	\$61.25
Articles of correction	\$35.00
Application for certificate of status	\$8.75
Certificate of domestication of a foreign corporation	\$50.00
Certified copy of document	\$52.50
Serving as agent for substitute service of process	\$87.50
Supplemental corporate fee	\$88.75
Any other document required or permitted to be filed by this act	\$35.00

Limited Liability Companies (Chapter 608)

In order to organize as an LLC, the person wishing to organize must file articles of organization at a cost of \$100 and registration of a designated agent at a cost of \$25, for a total of \$125 in startup costs. The cost for the annual report is \$50. The total annual fees, including the supplemental corporate fee, are \$138.75. In calendar year 2012, there were 169,450 new LLCs, and 495,418 annual reports filed by existing LLCs.

Section 608.452, F.S., specifies the fees in this chapter as follows:

Document	Fee
Furnishing a certified copy	\$30.00
Articles of corporation, articles of revocation of dissolution, or a foreign limited liability company's application for a certificate of authority to transact business	\$100.00
Certificate of merger of limited liability companies or other business entities per party (unless a specific fee is required in other applicable law)	\$25.00
Annual report	\$50.00
Application for reinstatement after an administrative or judicial dissolution or a revocation of authority to transact business	\$100.00
Certificate designating a registered agent or changing a registered agent	\$25.00
Registered agent's statement of resignation from active LLC	\$85.00
Registered agent's statement of resignation from dissolved LLC	\$25.00
Certificate of conversion of a LLC	\$25.00
Any other LLC document	\$25.00
Certificate of status	\$5.00

Corporations Not for Profit (Chapter 617)

In order to organize as a corporation not for profit, the person wishing to organize must file articles of incorporation at a cost of \$35 and registration of a designated agent at a cost of \$35, for a total of \$70 in startup costs. The cost of the annual report is \$61.25. Corporations not for

profit are not subject to the supplemental corporate fee. In calendar year 2012, there were 12,538 new corporations not for profit, and 137,858 annual reports by existing corporations not for profit.

Section 617.0122, F.S., specifies the fees in this chapter as follows:

Document	Fee
Articles of incorporation	\$35.00
Application for registered name	\$87.50
Application for renewal of registered name	\$87.50
Statement of change of registered agent or registered office or both if not included on annual report	\$35.00
Designation of and acceptance by registered agent	\$35.00
Agent's statement of resignation from active corporation	\$87.50
Agent's statement of resignation from inactive corporation	\$35.00
Amendment of articles of incorporation	\$35.00
Restatement of articles of incorporation with amendment of articles	\$35.00
Articles of merger or share exchange for each party thereto	\$35.00
Articles of dissolution	\$35.00
Articles of dissolution	\$35.00
Articles of revocation of dissolution	\$35.00
Application for reinstatement following administrative dissolution	\$175.00
Application for certificate of authority to transact business in this state by a foreign corporation	\$35.00
Application for amended certificate of authority	\$35.00
Application for certificate of withdrawal by a foreign corporation	\$35.00
Annual report	\$61.25
Articles of correction	\$35.00
Application for certificate of status	\$8.75
Certified copy of document	\$52.50
Serving as agent for substitute service of process	\$87.50
Certificate of conversion of a limited agricultural association to be a domestic corporation	\$35.00
Any other document required or permitted to be filed by this act	\$35.00

Limited Partnerships (Chapter 620, Part I)

In order to organize as a limited partnership, the people wishing to organize must file a certificate of limited partnership at a cost of \$965 and designation of a registered agent at a cost

of \$35 for total startup costs of \$1,000. The annual report fee is \$411.25. The total annual fee, including the supplemental corporate fee, is \$500. In calendar year 2012, there were 1,312 new limited partnerships and 19,308 annual filings by existing limited partnerships.

Section 620.1109, F.S., specifies the fees for limited partnerships as follows:

Document	Fee
Certified copy up to 50 pages (\$1.00 for each page over 50)	\$52.50
Original certificate of limited partnership	\$965.00
Original certificate for registration as a foreign limited partnership	\$965.00
Certificate of conversion	\$52.50
Certificate of merger	\$52.50
Reinstatement; for each calendar year the limited partnership was dissolved	\$500.00
Annual report	\$411.25
Certificate designating a registered agent	\$35.00
Certificate changing a registered agent or registered office address	\$35.00
Certificate resigning as a registered agent	\$87.50
Certificate of amendment or restatement of the certificate of limited partnership	\$52.50
Statement of termination	\$52.50
Notice of cancellation for foreign limited partnership	\$52.50
Certificate of status or authorization	\$8.75
Certificate of dissolution	\$52.50
Certificate of revocation of dissolution	\$52.50
Any other domestic or foreign limited partnership document	\$52.50

General Partnerships (Chapter 620, Part II)

In order to organize as a general partnership, the people wishing to organize must file a partnership registration statement at a cost of \$50. They do not need to register a designated agent. In the event that it is organized as a limited liability partnership, it must file an annual report at a cost of \$25. General partnerships are not subject to the supplemental corporate fee. In calendar year 2012, there were 23 filings for new general partnerships and 3,034 annual filings by existing limited liability partnerships.

Section 620.81055, F.S., specifies the fees for general partnerships as follows:

Document	Fee
Partnership registration statement	\$50.00
Statement of partnership authority	\$25.00

Statement of denial	\$25.00
Statement of dissociation	\$25.00
Statement of dissolution	\$25.00
Statement of qualification	\$25.00
Limited liability partnership annual report	\$25.00
Certificate of merger for each party thereto	\$25.00
Amendment to any statement or registration	\$25.00
Cancellation of any statement or registration	\$25.00
Certified copy of any recording or part thereof	\$52.50
Certificate of status	\$8.75
Certificate of conversion	\$25.00

Supplemental Corporate Fee, Late Fees, and Disposition of Revenues

When originally imposed, all of the fees discussed in this analysis were deposited into the Corporations Trust Fund, which was used to fund the operations of the division along with some cultural programs. In 1990, the Legislature added the supplemental corporate fee for some entity types and directed those revenues to be deposited into the General Revenue Fund. All filing fees were increased at that time, and a portion of the filing fees were directed into the General Revenue Fund. Late fees were also imposed (currently \$400), if the supplemental corporate fee was not remitted by May 1. When the Corporations Trust Fund was eliminated in 2003, all revenues collected pursuant to these chapters were redirected into the General Revenue Fund.

III. Effect of Proposed Changes:

The bill makes the fees for various filings uniform across all entity types. It combines the required initial filings, including the articles of incorporation, into one fee of \$70 for all entity types. It eliminates the supplemental corporate fee, and sets the annual report fee at \$150 for all entity types. The late fee, which previously only applied to corporations for profit, LLCs, and limited partnerships, would now apply to all entity types at a rate of \$400. The fee for seeking reinstatement after administrative dissolution is standardized at \$400. The fees for certified copies of documents and certificates of status are set at \$8.75, which mirrors the division’s current practice (though not current statute, which authorizes higher fees for certified copies). Certificates of domestication for foreign corporations are set at \$50. Other fees are set to \$35.

The bill sets fees as follows:

Document	Fee
Initial filing	\$70.00
Application for registered name	\$35.00
Application for renewal of registered name	\$35.00

Corporation's statement of change of registered agent or registered office or both if not included on the annual report	\$35.00
Agent's statement of resignation from active corporation	\$85.00
Agent's statement of resignation from inactive corporation	\$35.00
Amendment of articles of incorporation	\$35.00
Restatement of articles of incorporation with amendment of articles	\$35.00
Articles of merger or share exchange for each party thereto	\$35.00
Articles of dissolution	\$35.00
Articles of revocation of dissolution	\$35.00
Application for reinstatement following administrative dissolution	\$400.00
Application for amended certificate of authority	\$35.00
Application for certificate of withdrawal by a foreign corporation	\$35.00
Annual report	\$150.00
Articles of correction	\$35.00
Application for certificate of status	\$8.75
Certificate of domestication of a foreign corporation	\$50.00
Certified copy of document	\$8.75
Serving as agent for substitute service of process	\$35.00
Any other document required or permitted to be filed	\$35.00
Late Fee	\$400.00

Section 1 amends s. 607.1022, F.S. to change filing fees for corporations for profit.

Section 2 repeals s. 607.193, F.S., which authorizes the supplemental corporate fee.

Section 3 amends s. 608.452, F.S., to change filing fees for limited liability companies.

Section 4 amends s. 617.0122, F.S., to change filing fees for corporations not for profit.

Section 5 amends s. 620.1109, F.S., to change filing fees for limited partnerships.

Section 6 amends s. 620.81055, F.S., to change filing fees for general partnerships.

Section 7 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Indeterminate at this time. The Revenue Estimating Conference has not considered the fiscal impact of this legislation.

Limited Partnerships: decrease in initial filing fees and annual report filing fees.

LLCs: increase in most filing fees, annual report fees, and reinstatement fees.

Corporations for profit: decrease in reinstatement fees.

Corporations not for profit: increase in annual report fees, late fees (assessed for the first time), and reinstatement fees.

B. Private Sector Impact:

See *Tax/Fee Issues*, above.

C. Government Sector Impact:

The Department of State (department) advises that revenues are projected to be reduced by \$2,113,578, which is an estimate based on the actual filing activities from calendar year 2012. The estimate is the net result of the decreases in revenue for corporations for profit, limited liability companies, and partnerships, against increases resulting from the entities' filing fee more than doubling, their reinstatement fee more than doubling, and not for profits made subject to the \$400 late fee.⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴ Department of State bill analysis of SB 1490, dated March 28, 2013.

VIII. Additional Information:

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

CS by Governmental Oversight and Accountability on April 2, 2013:

The CS removes from the bill the change from annual to biennial reporting, the early filing discount, and the demonstrated hardship waiver.

- B. **Amendments:**

None.



509702

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 607.0122, Florida Statutes, is amended
to read:

607.0122 Fees for filing documents and issuing
certificates.—The Department of State shall collect the
following fees when the documents described in this section are
delivered to the department for filing:

(1) Initial filing, \$70, including:

(a) Articles of incorporation or application for



509702

13 certificate of authority to transact business in this state by a
14 foreign corporation.

15 (b) Designation of and acceptance by registered agent: ~~\$35.~~

16 (2) Application for registered name: \$35 ~~\$87.50.~~

17 (3) Application for renewal of registered name: \$35 ~~\$87.50.~~

18 (4) Corporation's statement of change of registered agent
19 or registered office or both if not included on the annual
20 report: \$35.

21 ~~(5) Designation of and acceptance by registered agent: \$35.~~

22 (5)(6) Agent's statement of resignation from active
23 corporation: \$85 ~~\$87.50.~~

24 (6)(7) Agent's statement of resignation from an inactive
25 corporation: \$35.

26 (7)(8) Amendment of articles of incorporation: \$35.

27 (8)(9) Restatement of articles of incorporation with
28 amendment of articles: \$35.

29 (9)(10) Articles of merger or share exchange for each party
30 thereto: \$35.

31 (10)(11) Articles of dissolution: \$35.

32 (11)(12) Articles of revocation of dissolution: \$35.

33 (12)(13) Application for reinstatement following
34 administrative dissolution: \$400 ~~\$600.~~

35 ~~(14) Application for certificate of authority to transact~~
36 ~~business in this state by a foreign corporation: \$35.~~

37 (13)(15) Application for amended certificate of authority:
38 \$35.

39 (14)(16) Application for certificate of withdrawal by a
40 foreign corporation: \$35.

41 (15)(17) Annual report: \$150 ~~\$61.25.~~



509702

42 ~~(16)-(18)~~ Articles of correction: \$35.
43 ~~(17)-(19)~~ Application for certificate of status: \$8.75.
44 ~~(18)-(20)~~ Certificate of domestication of a foreign
45 corporation: \$50.
46 ~~(19)-(21)~~ Certified copy of document: \$8.75 ~~\$52.50~~.
47 ~~(20)-(22)~~ Serving as agent for substitute service of
48 process: \$35 ~~\$87.50~~.
49 ~~(23)~~ ~~Supplemental corporate fee: \$88.75.~~
50 ~~(21)-(24)~~ Any other document required or permitted to be
51 filed by this act: \$35.
52 (22) A late charge of \$400 if the annual report fee is
53 remitted after May 1 except in circumstances in which a business
54 entity was administratively dissolved or its certificate of
55 authority was revoked due to its failure to file an annual
56 report and the entity subsequently applied for reinstatement and
57 paid the applicable reinstatement fee.
58 Section 2. Section 607.193, Florida Statutes, is repealed.
59 Section 3. Section 608.452, Florida Statutes, is amended to
60 read:
61 608.452 Fees of the Department of State.—The fees of the
62 Department of State under this chapter are as follows:
63 (1) For furnishing a certified copy, \$8.75 ~~\$30~~.
64 (2) For initial filing, \$70, including:
65 (a) Original articles of organization or a foreign limited
66 liability company's application for a certificate of authority
67 to transact business.
68 (b) A certificate designating a registered agent.
69 ~~(3)-(2)~~ For filing ~~original articles of organization,~~
70 articles of revocation of dissolution, \$35 ~~or a foreign limited~~



509702

71 ~~liability company's application for a certificate of authority~~
72 ~~to transact business, \$100.~~

73 ~~(4)~~⁽³⁾ For filing a certificate of merger of limited
74 liability companies or other business entities, ~~\$35~~ ^{\$25} per
75 constituent party to the merger, unless a specific fee is
76 required for a party in other applicable law.

77 ~~(5)~~⁽⁴⁾ For filing an annual report, ~~\$150~~ ^{\$50}.

78 ~~(6)~~⁽⁵⁾ For filing an application for reinstatement after an
79 administrative or judicial dissolution or a revocation of
80 authority to transact business, ~~\$400~~ ^{\$100}.

81 ~~(7)~~⁽⁶⁾ For filing a certificate ~~designating a registered~~
82 ~~agent or~~ changing a registered agent, ~~\$35~~ ^{\$25}.

83 ~~(8)~~⁽⁷⁾ For filing a registered agent's statement of
84 resignation from an active limited liability company, \$85.

85 ~~(9)~~⁽⁸⁾ For filing a registered agent's statement of
86 resignation from a dissolved limited liability company, ~~\$35~~ ^{\$25}.

87 ~~(10)~~⁽⁹⁾ For filing a certificate of conversion of a limited
88 liability company, ~~\$35~~ ^{\$25}.

89 ~~(11)~~⁽¹⁰⁾ For filing any other limited liability company
90 document, ~~\$35~~ ^{\$25}.

91 ~~(12)~~⁽¹¹⁾ For furnishing a certificate of status, ~~\$8.75~~ ^{\$5}.

92 (13) A late charge of \$400 if the annual report fee is
93 remitted after May 1 except in circumstances in which a business
94 entity was administratively dissolved or its certificate of
95 authority was revoked due to its failure to file an annual
96 report and the entity subsequently applied for reinstatement and
97 paid the applicable reinstatement fee.

98 Section 4. Section 617.0122, Florida Statutes, is amended
99 to read:



509702

100 617.0122 Fees for filing documents and issuing
101 certificates.—The Department of State shall collect the
102 following fees on documents delivered to the department for
103 filing:
104 (1) Initial filing, \$70, including:
105 (a) Articles of incorporation or application for
106 certificate of authority to transact business in this state by a
107 foreign corporation.
108 (b) Designation of and acceptance by registered agent: ~~\$35.~~
109 (2) Application for registered name: \$35 ~~\$87.50.~~
110 (3) Application for renewal of registered name: \$35 ~~\$87.50.~~
111 (4) Corporation's statement of change of registered agent
112 or registered office or both if not included on the annual
113 report: \$35.
114 ~~(5) Designation of and acceptance by registered agent: \$35.~~
115 (5)~~(6)~~ Agent's statement of resignation from active
116 corporation: \$85 ~~\$87.50.~~
117 (6)~~(7)~~ Agent's statement of resignation from inactive
118 corporation: \$35.
119 (7)~~(8)~~ Amendment of articles of incorporation: \$35.
120 (8)~~(9)~~ Restatement of articles of incorporation with
121 amendment of articles: \$35.
122 (9)~~(10)~~ Articles of merger for each party thereto: \$35.
123 (10)~~(11)~~ Articles of dissolution: \$35.
124 (11)~~(12)~~ Articles of revocation of dissolution: \$35.
125 (12)~~(13)~~ Application for reinstatement following
126 administrative dissolution: \$400 ~~\$175.~~
127 ~~(14) Application for certificate of authority to transact~~
128 ~~business in this state by a foreign corporation: \$35.~~



509702

129 ~~(13)-(15)~~ Application for amended certificate of authority:
130 \$35.

131 ~~(14)-(16)~~ Application for certificate of withdrawal by a
132 foreign corporation: \$35.

133 ~~(15)-(17)~~ Annual report: \$150 ~~\$61.25~~.

134 ~~(16)-(18)~~ Articles of correction: \$35.

135 ~~(17)-(19)~~ Application for certificate of status: \$8.75.

136 ~~(18)-(20)~~ Certified copy of document: \$8.75 ~~\$52.50~~.

137 ~~(19)-(21)~~ Serving as agent for substitute service of
138 process: \$35 ~~\$87.50~~.

139 ~~(20)-(22)~~ Certificate of conversion of a limited
140 agricultural association to a domestic corporation: \$35.

141 ~~(21)-(23)~~ Any other document required or permitted to be
142 filed by this chapter: \$35.

143 (22) A late charge of \$400 if the annual report fee is
144 remitted after May 1 except in circumstances in which a business
145 entity was administratively dissolved or its certificate of
146 authority was revoked due to its failure to file an annual
147 report and the entity subsequently applied for reinstatement and
148 paid the applicable reinstatement fee.

149

150 Any citizen support organization that is required by rule of the
151 Department of Environmental Protection to be formed as a
152 nonprofit organization and is under contract with the department
153 is exempt from any fees required for incorporation as a
154 nonprofit organization, and the Secretary of State may not
155 assess any such fees if the citizen support organization is
156 certified by the Department of Environmental Protection to the
157 Secretary of State as being under contract with the Department



509702

158 of Environmental Protection.

159 Section 5. Section 620.1109, Florida Statutes, is amended
160 to read:

161 620.1109 Department of State; fees. ~~In addition to the~~
162 ~~supplemental corporate fee of \$88.75 imposed pursuant to s.~~
163 ~~607.193,~~ The fees of the Department of State under this act are
164 as follows:

165 (1) For furnishing a certified copy, \$8.75 ~~\$52.50~~ for the
166 ~~first 15 pages plus \$1.00 for each additional page.~~

167 (2) For initial filing, \$70, including:

168 (a) An original certificate of limited partnership or an
169 original application for registration as a foreign limited
170 partnership.

171 (b) Designating a registered agent \$965.

172 ~~(3) For filing an original application for registration as~~
173 ~~a foreign limited partnership, \$965.~~

174 ~~(3)(4)~~ For filing certificate of conversion, \$35 ~~\$52.50~~.

175 ~~(4)(5)~~ For filing certificate of merger, \$35 ~~\$52.50~~ for
176 each party thereto.

177 ~~(5)(6)~~ For filing a reinstatement, \$400 ~~\$500~~ for each
178 ~~calendar year or part thereof the limited partnership was~~
179 ~~administratively dissolved or foreign limited partnership was~~
180 ~~revoked in the records of the Department of State.~~

181 ~~(6)(7)~~ For filing an annual report, \$150 ~~\$411.25~~.

182 ~~(7)(8)~~ For filing a certificate:

183 ~~(a) Designating a registered agent, \$35;~~

184 ~~(a)(b)~~ Changing a registered agent or registered office
185 address, \$35;

186 ~~(b)(c)~~ Resigning as a registered agent from an active



509702

187 limited partnership, \$85 ~~\$87.50~~; or
188 (c) Resigning as a registered agent from an inactive
189 limited partnership, \$35; or
190 (d) Of amendment or restatement of the certificate of
191 limited partnership, \$35. ~~\$52.50~~
192 (8)~~(9)~~ For filing a statement of termination, \$35 ~~\$52.50~~.
193 (9)~~(10)~~ For filing a notice of cancellation for foreign
194 limited partnership, \$35 ~~\$52.50~~.
195 (10)~~(11)~~ For furnishing a certificate of status or
196 authorization, \$8.75.
197 (11)~~(12)~~ For filing a certificate of dissolution, \$35
198 ~~\$52.50~~.
199 (12)~~(13)~~ For filing a certificate of revocation of
200 dissolution, \$35 ~~\$52.50~~.
201 (13)~~(14)~~ For filing any other domestic or foreign limited
202 partnership document, \$35 ~~\$52.50~~.
203 (14) A late charge of \$400 if the annual report fee is
204 remitted after May 1 except in circumstances in which a business
205 entity was administratively dissolved or its certificate of
206 authority was revoked due to its failure to file an annual
207 report and the entity subsequently applied for reinstatement and
208 paid the applicable reinstatement fee.
209 Section 6. Subsection (1) of section 620.81055, Florida
210 Statutes, is amended to read:
211 620.81055 Fees for filing documents and issuing
212 certificates; powers of the Department of State.—
213 (1) The Department of State shall collect the following
214 fees when documents authorized by this act are delivered to the
215 Department of State for filing:



509702

- 216 (a) Partnership registration statement: \$70 ~~\$50~~.
- 217 (b) Statement of partnership authority: \$35 ~~\$25~~.
- 218 (c) Statement of denial: \$35 ~~\$25~~.
- 219 (d) Statement of dissociation: \$35 ~~\$25~~.
- 220 (e) Statement of dissolution: \$35 ~~\$25~~.
- 221 (f) Statement of qualification: \$35 ~~\$25~~.
- 222 (g) Statement of foreign qualification: \$35 ~~\$25~~.
- 223 (h) Limited liability partnership annual report: \$150 ~~\$25~~.
- 224 (i) Certificate of merger for each party thereto: \$35 ~~\$25~~.
- 225 (j) Amendment to any statement or registration: \$35 ~~\$25~~.
- 226 (k) Cancellation of any statement or registration: \$35 ~~\$25~~.
- 227 (l) Certified copy of any recording or part thereof: \$8.75
- 228 ~~\$52.50~~.
- 229 (m) Certificate of status: \$8.75.
- 230 (n) Certificate of conversion: \$35 ~~\$25~~.
- 231 (o) Any other document required or permitted to be filed by
- 232 this act: \$35 ~~\$25~~.
- 233 (p) A late charge of \$400 if the annual report fee is
- 234 remitted after May 1 except in circumstances in which a limited
- 235 liability partnership's statement of qualification was revoked
- 236 due to its failure to file an annual report and the entity
- 237 subsequently applied for reinstatement and paid the applicable
- 238 reinstatement fee.

239 Section 7. This act shall take effect July 1, 2014.

240
241 ===== T I T L E A M E N D M E N T =====

242 And the title is amended as follows:

243 Delete everything before the enacting clause
244 and insert:



509702

245 A bill to be entitled
246 An act relating to business entity filing fees;
247 amending ss. 607.0122, 608.452, 617.0122, and
248 620.1109, F.S.; combining certain individual fees into
249 one initial filing fee, revising fees, and requiring
250 the imposition of a late charge under certain
251 circumstances for a corporation for profit, a limited
252 liability company, a corporation not for profit, a
253 domestic limited partnership, and a foreign limited
254 partnership, respectively; amending s. 620.81055,
255 F.S.; revising fees and requiring the imposition of a
256 late charge under certain circumstances for a limited
257 liability partnership; repealing s. 607.193, F.S.,
258 relating to supplemental corporate fees; providing an
259 effective date.

By Senator Latvala

20-01268A-13

20131490__

1 A bill to be entitled
 2 An act relating to business entity filing fees;
 3 amending ss. 607.0122, 608.452, 617.0122, 620.1109,
 4 and 620.81055, F.S.; requiring a corporation for
 5 profit, a limited liability company, a corporation not
 6 for profit, a domestic limited partnership, a foreign
 7 limited partnership, and a limited liability
 8 partnership, respectively, to submit a biennial report
 9 to the Department of State; revising report filing
 10 fees; providing for reduction of certain biennial
 11 report filing and supplemental corporate fees if the
 12 report is submitted by a specified date of the year in
 13 which the report is due; amending s. 607.193, F.S.;
 14 providing that the supplemental corporate fee is due
 15 in the year that the biennial report is submitted;
 16 providing that a late charge imposed on a supplemental
 17 report may be waived by the department in cases of
 18 demonstrated hardship; amending ss. 607.0121,
 19 607.0128, 607.01401, 607.0141, 607.0502, 607.0705,
 20 607.1420, 607.1421, 607.1509, 607.15101, 607.1530,
 21 607.1531, 607.15315, 607.1601, 607.1622, 608.448,
 22 608.4481, 608.4482, 608.4511, 608.509, 608.5101,
 23 608.512, 608.513, 608.5135, 617.0121, 617.0128,
 24 617.0141, 617.0502, 617.1420, 617.1421, 617.1509,
 25 617.1510, 617.1530, 617.1531, 617.1533, 617.1601,
 26 617.1622, 620.1115, 620.1209, 620.1210, 620.1809,
 27 620.1810, 620.1906, 620.1909, and 620.9003, F.S.;
 28 conforming provisions to changes made by the act;
 29 providing an effective date.

Page 1 of 35

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

20-01268A-13

20131490__

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsections (4), (17), and (23) of section
 34 607.0122, Florida Statutes, are amended to read:
 35 607.0122 Fees for filing documents and issuing
 36 certificates.—The Department of State shall collect the
 37 following fees when the documents described in this section are
 38 delivered to the department for filing:
 39 (4) Corporation's statement of change of registered agent
 40 or registered office or both if not included on the biennial
 41 ~~annual~~ report: \$35.
 42 (17) Biennial Annual report: \$122.50, which shall be
 43 reduced by 15 percent if filed by January 31 of the year the
 44 report is due ~~\$61.25~~.
 45 (23) Supplemental corporate fee: \$177.50, which shall be
 46 reduced by 15 percent if filed by January 31 of the year the
 47 biennial report is due ~~\$88.75~~.
 48 Section 2. Section 607.193, Florida Statutes, is amended to
 49 read:
 50 607.193 Supplemental corporate fee.—
 51 (1) In addition to any other taxes imposed by law, a
 52 biennial ~~an annual~~ supplemental corporate fee of \$177.50 ~~\$88.75~~
 53 is imposed on each business entity that is authorized to
 54 transact business in this state and is required to file a
 55 biennial ~~an annual~~ report with the Department of State under s.
 56 607.1622, s. 608.4511, or s. 620.1210.
 57 (2) (a) The business entity shall remit the supplemental
 58 corporate fee to the Department of State at the time it files

Page 2 of 35

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

20-01268A-13 20131490
 59 the ~~biennial annual~~ report required by s. 607.1622, s. 608.4511,
 60 or s. 620.1210.

61 (b) In addition to the fees levied under ss. 607.0122,
 62 608.452, and 620.1109 and the supplemental corporate fee, a late
 63 charge of \$400 shall be imposed if the supplemental corporate
 64 fee is remitted after May 1 of the year the biennial report is
 65 due, except in circumstances in which a business entity was
 66 administratively dissolved or its certificate of authority was
 67 revoked due to its failure to file a biennial ~~an annual~~ report
 68 and the entity subsequently applied for reinstatement and paid
 69 the applicable reinstatement fee. In cases of demonstrated
 70 hardship that prevented the timely filing of the supplemental
 71 corporate fee, the Department of State may waive the late charge
 72 of \$400.

73 (3) The Department of State shall adopt rules and prescribe
 74 forms necessary to carry out the purposes of this section.

75 Section 3. Subsection (4) of section 608.452, Florida
 76 Statutes, is amended to read:

77 608.452 Fees of the Department of State.—The fees of the
 78 Department of State under this chapter are as follows:

79 (4) For filing a biennial ~~an annual~~ report, \$100, which
 80 shall be discounted by 15 percent if filed by January 31 of the
 81 year in which the report is due ~~\$50~~.

82 Section 4. Subsections (4) and (17) of section 617.0122,
 83 Florida Statutes, are amended to read:

84 617.0122 Fees for filing documents and issuing
 85 certificates.—The Department of State shall collect the
 86 following fees on documents delivered to the department for
 87 filing:

20-01268A-13 20131490
 88 (4) Corporation's statement of change of registered agent
 89 or registered office or both if not included on the biennial
 90 ~~annual~~ report: \$35.

91 (17) Biennial ~~Annual~~ report: \$122.50, which shall be
 92 reduced by 15 percent if filed by January 31 of the year in
 93 which the report is due ~~\$61.25~~.

94
 95 Any citizen support organization that is required by rule of the
 96 Department of Environmental Protection to be formed as a
 97 nonprofit organization and is under contract with the department
 98 is exempt from any fees required for incorporation as a
 99 nonprofit organization, and the Secretary of State may not
 100 assess any such fees if the citizen support organization is
 101 certified by the Department of Environmental Protection to the
 102 Secretary of State as being under contract with the Department
 103 of Environmental Protection.

104 Section 5. Section 620.1109, Florida Statutes, is amended
 105 to read:

106 620.1109 Department of State; fees.—In addition to the
 107 supplemental corporate fee of \$177.50 ~~\$88.75~~ imposed pursuant to
 108 s. 607.193, the fees of the Department of State under this act
 109 are as follows:

110 (1) For furnishing a certified copy, \$52.50 for the first
 111 15 pages plus \$1.00 for each additional page.

112 (2) For filing an original certificate of limited
 113 partnership, \$965.

114 (3) For filing an original application for registration as
 115 a foreign limited partnership, \$965.

116 (4) For filing certificate of conversion, \$52.50.

20-01268A-13

20131490__

117 (5) For filing certificate of merger, \$52.50 for each party
118 thereto.

119 (6) For filing a reinstatement, \$500 for each calendar year
120 or part thereof the limited partnership was administratively
121 dissolved or foreign limited partnership was revoked in the
122 records of the Department of State.

123 (7) For filing a biennial ~~an annual~~ report, \$822.50;
124 however, the fee for filing the biennial report and the
125 supplemental report shall be reduced by 15 percent if the
126 biennial report is filed by January 31 of the year in which the
127 report is due ~~\$411.25~~.

128 (8) For filing a certificate:

129 (a) Designating a registered agent, \$35;

130 (b) Changing a registered agent or registered office
131 address, \$35;

132 (c) Resigning as a registered agent, \$87.50; or

133 (d) Of amendment or restatement of the certificate of
134 limited partnership, \$52.50;

135 (9) For filing a statement of termination, \$52.50.

136 (10) For filing a notice of cancellation for foreign
137 limited partnership, \$52.50.

138 (11) For furnishing a certificate of status or
139 authorization, \$8.75.

140 (12) For filing a certificate of dissolution, \$52.50.

141 (13) For filing a certificate of revocation of dissolution,
142 \$52.50.

143 (14) For filing any other domestic or foreign limited
144 partnership document, \$52.50.

145 Section 6. Paragraph (h) of subsection (1) of section

20-01268A-13

20131490__

146 620.81055, Florida Statutes, is amended to read:

147 620.81055 Fees for filing documents and issuing
148 certificates; powers of the Department of State.—

149 (1) The Department of State shall collect the following
150 fees when documents authorized by this act are delivered to the
151 Department of State for filing:

152 (h) Limited liability partnership biennial ~~annual~~ report:
153 \$50; however, the fee for filing the biennial report and the
154 supplemental report shall be reduced by 15 percent if the
155 biennial report is filed by January 31 of the year in which the
156 report is due ~~\$25~~.

157 Section 7. Subsection (1) of section 607.0121, Florida
158 Statutes, is amended to read:

159 607.0121 Forms.—

160 (1) The Department of State may prescribe and furnish on
161 request forms for:

162 (a) An application for certificate of status,

163 (b) A foreign corporation's application for certificate of
164 authority to transact business in the state,

165 (c) A foreign corporation's application for certificate of
166 withdrawal, and

167 (d) The biennial ~~annual~~ report, for which the department
168 may prescribe the use of the uniform business report, pursuant
169 to s. 606.06.

170
171 If the Department of State so requires, the use of these forms
172 shall be mandatory.

173 Section 8. Paragraph (d) of subsection (2) of section
174 607.0128, Florida Statutes, is amended to read:

20-01268A-13

20131490__

175 607.0128 Certificate of status.-

176 (2) A certificate of status or authorization sets forth:

177 (d) That its most recent biennial ~~annual~~ report required by
178 s. 607.1622 has been delivered to the department; and

179 Section 9. Subsection (20) of section 607.01401, Florida
180 Statutes, is amended to read:

181 607.01401 Definitions.—As used in this act, unless the
182 context otherwise requires, the term:

183 (20) "Principal office" means the office (in or out of this
184 state) where the principal executive offices of a domestic or
185 foreign corporation are located as designated in the articles of
186 incorporation or other initial filing until a biennial ~~an annual~~
187 report has been filed, and thereafter as designated in the
188 biennial ~~annual~~ report.

189 Section 10. Paragraph (b) of subsection (4) of section
190 607.0141, Florida Statutes, is amended to read:

191 607.0141 Notice.—

192 (4) Written notice to a domestic or foreign corporation
193 authorized to transact business in this state may be addressed:

194 (b) To the corporation or its secretary at its principal
195 office or electronic mail address as authorized and shown in its
196 most recent biennial ~~annual~~ report or, in the case of a
197 corporation that has not yet delivered a biennial ~~an annual~~
198 report, in a domestic corporation's articles of incorporation or
199 in a foreign corporation's application for certificate of
200 authority.

201 Section 11. Subsections (2) and (4) of section 607.0502,
202 Florida Statutes, are amended to read:

203 607.0502 Change of registered office or registered agent;

20-01268A-13

20131490__

204 resignation of registered agent.—

205 (2) Any registered agent may resign his or her agency
206 appointment by signing and delivering for filing with the
207 Department of State a statement of resignation and mailing a
208 copy of such statement to the corporation at its principal
209 office address shown in its most recent biennial ~~annual~~ report
210 or, if none, filed in the articles of incorporation or other
211 most recently filed document. The statement of resignation shall
212 state that a copy of such statement has been mailed to the
213 corporation at the address so stated. The agency is terminated
214 as of the 31st day after the date on which the statement was
215 filed and unless otherwise provided in the statement,
216 termination of the agency acts as a termination of the
217 registered office.

218 (4) Changes of the registered office or registered agent
219 may be made by a change on the corporation's biennial ~~annual~~
220 report form filed with the Department of State.

221 Section 12. Subsection (5) of section 607.0705, Florida
222 Statutes, is amended to read:

223 607.0705 Notice of meeting.—

224 (5) Notwithstanding the foregoing, no notice of a
225 shareholders' meeting need be given to a shareholder if:

226 (a) A biennial ~~An annual~~ report and proxy statements for
227 two consecutive annual meetings of shareholders; or

228 (b) All, and at least two checks in payment of dividends or
229 interest on securities during a 12-month period;

230 have been sent by first-class United States mail, addressed to
231 the shareholder at her or his address as it appears on the share
232

20-01268A-13 20131490

233 transfer books of the corporation, and returned undeliverable.
 234 The obligation of the corporation to give notice of a
 235 shareholders' meeting to any such shareholder shall be
 236 reinstated once the corporation has received a new address for
 237 such shareholder for entry on its share transfer books.

238 Section 13. Paragraph (a) of subsection (1) of section
 239 607.1420, Florida Statutes, is amended to read:

240 607.1420 Grounds for administrative dissolution.—

241 (1) The Department of State may commence a proceeding under
 242 s. 607.1421 to administratively dissolve a corporation if:

243 (a) The corporation has failed to file its biennial ~~annual~~
 244 report and pay the biennial ~~annual~~ report filing fee by 5 p.m.
 245 Eastern Time on the third Friday in September of the year in
 246 which the report is due;

247 Section 14. Subsection (1) of section 607.1421, Florida
 248 Statutes, is amended to read:

249 607.1421 Procedure for and effect of administrative
 250 dissolution.—

251 (1) If the Department of State determines that one or more
 252 grounds exist under s. 607.1420 for dissolving a corporation, it
 253 shall serve the corporation with notice of its intention to
 254 administratively dissolve the corporation. If the corporation
 255 has provided the department with an electronic mail address,
 256 such notice shall be by electronic transmission. Administrative
 257 dissolution for failure to file a biennial ~~an annual~~ report
 258 shall occur on the fourth Friday in September of the ~~each~~ year
 259 in which the report is due. The Department of State shall issue
 260 a certificate of dissolution to each dissolved corporation.
 261 Issuance of the certificate of dissolution may be by electronic

20-01268A-13 20131490

262 transmission to any corporation that has provided the department
 263 with an electronic mail address.

264 Section 15. Subsection (1) of section 607.1509, Florida
 265 Statutes, is amended to read:

266 607.1509 Resignation of registered agent of foreign
 267 corporation.—

268 (1) The registered agent of a foreign corporation may
 269 resign his or her agency appointment by signing and delivering
 270 to the Department of State for filing a statement of resignation
 271 and mailing a copy of such statement to the corporation at the
 272 corporation's principal office address shown in its most recent
 273 biennial ~~annual~~ report or, if none, shown in its application for
 274 a certificate of authority or other most recently filed
 275 document. The statement of resignation must state that a copy of
 276 such statement has been mailed to the corporation at the address
 277 so stated. The statement of resignation may include a statement
 278 that the registered office is also discontinued.

279 Section 16. Subsection (2) of section 607.15101, Florida
 280 Statutes, is amended to read:

281 607.15101 Service of process, notice, or demand on a
 282 foreign corporation.—

283 (2) A foreign corporation may be served by registered or
 284 certified mail, return receipt requested, addressed to the
 285 secretary of the foreign corporation at its principal office
 286 shown in its application for a certificate of authority or in
 287 its most recent biennial ~~annual~~ report if the foreign
 288 corporation:

289 (a) Has no registered agent or its registered agent cannot
 290 with reasonable diligence be served;

20-01268A-13

20131490__

291 (b) Has withdrawn from transacting business in this state
292 under s. 607.1520; or

293 (c) Has had its certificate of authority revoked under s.
294 607.1531.

295 Section 17. Subsection (1) of section 607.1530, Florida
296 Statutes, is amended to read:

297 607.1530 Grounds for revocation of authority to transact
298 business.—The Department of State may commence a proceeding
299 under s. 607.1531 to revoke the certificate of authority of a
300 foreign corporation authorized to transact business in this
301 state if:

302 (1) The foreign corporation has failed to file its biennial
303 ~~annual~~ report with the Department of State by 5 p.m. Eastern
304 Time on the third Friday in September of the year in which the
305 report is due.

306 Section 18. Subsection (1) of section 607.1531, Florida
307 Statutes, is amended to read:

308 607.1531 Procedure for and effect of revocation.—

309 (1) If the Department of State determines that one or more
310 grounds exist under s. 607.1530 for revocation of a certificate
311 of authority, the Department of State shall serve the foreign
312 corporation with notice of its intent to revoke the foreign
313 corporation's certificate of authority. If the foreign
314 corporation has provided the department with an electronic mail
315 address, such notice shall be by electronic transmission.
316 Revocation for failure to file a biennial ~~an annual~~ report shall
317 occur on the fourth Friday in September of the each year in
318 which the report is due. The department shall issue a
319 certificate of revocation to each revoked corporation. Issuance

Page 11 of 35

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

20-01268A-13

20131490__

320 of the certificate of revocation may be by electronic
321 transmission to any corporation that has provided the department
322 with an electronic mail address.

323 Section 19. Paragraph (b) of subsection (1) of section
324 607.15315, Florida Statutes, is amended to read:

325 607.15315 Revocation; application for reinstatement.—
326 (1)

327 (b) As an alternative, the foreign corporation may submit a
328 current biennial ~~annual~~ report, signed by the registered agent
329 and an officer or director, that ~~which~~ substantially complies
330 with the requirements of paragraph (a).

331 Section 20. Paragraph (g) of subsection (5) of section
332 607.1601, Florida Statutes, is amended to read:

333 607.1601 Corporate records.—

334 (5) A corporation shall keep a copy of the following
335 records:

336 (g) Its most recent biennial ~~annual~~ report delivered to the
337 Department of State under s. 607.1622.

338 Section 21. Section 607.1622, Florida Statutes, is amended
339 to read:

340 607.1622 Biennial ~~Annual~~ report for Department of State.—

341 (1) Each domestic corporation and each foreign corporation
342 authorized to transact business in this state shall deliver to
343 the Department of State for filing a sworn biennial ~~annual~~
344 report on such forms as the Department of State prescribes that
345 sets forth:

346 (a) The name of the corporation and the state or country
347 under the law of which it is incorporated;

348 (b) The date of incorporation or, if a foreign corporation,

Page 12 of 35

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

20-01268A-13 20131490__

349 the date on which it was admitted to do business in this state;
 350 (c) The address of its principal office and the mailing
 351 address of the corporation;
 352 (d) The corporation's federal employer identification
 353 number, if any, or, if none, whether one has been applied for;
 354 (e) The names and business street addresses of its
 355 directors and principal officers;
 356 (f) The street address of its registered office and the
 357 name of its registered agent at that office in this state;
 358 (g) Language permitting a voluntary contribution of \$5 per
 359 taxpayer, which contribution shall be transferred into the
 360 Election Campaign Financing Trust Fund. A statement providing an
 361 explanation of the purpose of the trust fund shall also be
 362 included; and
 363 (h) Such additional information as may be necessary or
 364 appropriate to enable the Department of State to carry out the
 365 provisions of this act.

366 (2) Proof to the satisfaction of the Department of State
 367 that on or before May 1 such report was deposited in the United
 368 States mail in a sealed envelope, properly addressed with
 369 postage prepaid, shall be deemed compliance with this
 370 requirement.

371 (3) If a biennial ~~an annual~~ report does not contain the
 372 information required by this section, the Department of State
 373 shall promptly notify the reporting domestic or foreign
 374 corporation in writing and return the report to it for
 375 correction. If the report is corrected to contain the
 376 information required by this section and delivered to the
 377 Department of State within 30 days after the effective date of

20-01268A-13 20131490__

378 notice, it is deemed to be timely filed.
 379 (4) Each report shall be executed by the corporation by an
 380 officer or director or, if the corporation is in the hands of a
 381 receiver or trustee, shall be executed on behalf of the
 382 corporation by such receiver or trustee, and the signing thereof
 383 shall have the same legal effect as if made under oath, without
 384 the necessity of appending such oath thereto.
 385 (5) The first biennial ~~annual~~ report must be delivered to
 386 the Department of State between January 1 and May 1 of the year
 387 following the calendar year in which a domestic corporation was
 388 incorporated or a foreign corporation was authorized to transact
 389 business. Subsequent ~~annual~~ reports must be delivered to the
 390 Department of State between January 1 and May 1 of the
 391 subsequent calendar years in which the report is due.
 392 (6) Information in the biennial ~~annual~~ report must be
 393 current as of the date the ~~annual~~ report is executed on behalf
 394 of the corporation.
 395 (7) If an additional updated report is received, the
 396 department shall file the document and make the information
 397 contained therein part of the official record.
 398 (8) Any corporation failing to file a biennial ~~an annual~~
 399 report ~~that which~~ complies with the requirements of this section
 400 shall not be permitted to maintain or defend any action in any
 401 court of this state until such report is filed and all fees and
 402 taxes due under this act are paid and shall be subject to
 403 dissolution or cancellation of its certificate of authority to
 404 do business as provided in this act.
 405 (9) The department shall prescribe the forms on which to
 406 make the biennial ~~annual~~ report called for in this section and

20-01268A-13 20131490__

407 may substitute the uniform business report, pursuant to s.
 408 606.06, as a means of satisfying the requirement of this part.
 409 Section 22. Paragraph (a) of subsection (1) of section
 410 608.448, Florida Statutes, is amended to read:
 411 608.448 Grounds for administrative dissolution.—
 412 (1) The Department of State may commence a proceeding under
 413 s. 608.4481 to administratively dissolve a limited liability
 414 company if:
 415 (a) The limited liability company has failed to file its
 416 biennial annual report and pay the biennial annual report filing
 417 fee by 5 p.m. Eastern Time on the third Friday in September of
 418 the year in which the report is due.
 419 Section 23. Subsection (1) of section 608.4481, Florida
 420 Statutes, is amended to read:
 421 608.4481 Procedure for and effect of administrative
 422 dissolution.—
 423 (1) If the Department of State determines that one or more
 424 grounds exist under s. 608.448 for dissolving a limited
 425 liability company, it shall serve the limited liability company
 426 with notice of its intent to administratively dissolve the
 427 limited liability company. If the limited liability company has
 428 provided the department with an electronic mail address, such
 429 notice shall be by electronic transmission. Administrative
 430 dissolution for failure to file a biennial an annual report
 431 shall occur on the fourth Friday in September of the each year
 432 in which the report is due. The Department of State shall issue
 433 a certificate of dissolution to each dissolved limited liability
 434 company. Issuance of the certificate of dissolution may be by
 435 electronic transmission to any limited liability company that

20-01268A-13 20131490__

436 has provided the department with an electronic mail address.
 437 Section 24. Paragraph (b) of subsection (1) of section
 438 608.4482, Florida Statutes, is amended to read:
 439 608.4482 Reinstatement following administrative
 440 dissolution.—
 441 (1)
 442 (b) As an alternative to the procedures of paragraph (a),
 443 an administratively dissolved limited liability company may
 444 submit a current biennial annual report, signed by the
 445 registered agent, that which substantially complies with the
 446 requirements of paragraph (a).
 447 Section 25. Section 608.4511, Florida Statutes, is amended
 448 to read:
 449 608.4511 Biennial Annual report for Department of State.—
 450 (1) Each domestic limited liability company and each
 451 foreign limited liability company authorized to transact
 452 business in this state shall deliver to the Department of State
 453 for filing a sworn biennial annual report on such forms as the
 454 Department of State prescribes that sets forth:
 455 (a) The name of the limited liability company and the state
 456 or country under the law of which it is organized.
 457 (b) The date of organization or, if a foreign limited
 458 liability company, the date on which it was admitted to do
 459 business in this state.
 460 (c) The street address and the mailing address of its
 461 principal office.
 462 (d) The limited liability company's federal employer
 463 identification number or, if none, whether one has been applied
 464 for.

20-01268A-13

20131490__

465 (e) The names and business, residence, or mailing address
466 of its managing members or managers.

467 (f) The street address of its registered office and the
468 name of its registered agent at that office in this state.

469 (g) Such additional information as may be necessary or
470 appropriate to enable the Department of State to carry out the
471 provisions of this chapter.

472 (2) Proof to the satisfaction of the Department of State
473 that on or before May 1 such report was deposited in the United
474 States mail in a sealed envelope, properly addressed with
475 postage prepaid, shall be deemed timely compliance with this
476 requirement.

477 (3) If a biennial ~~an annual~~ report does not contain the
478 information required by this section, the Department of State
479 shall promptly notify the reporting domestic or foreign limited
480 liability company in writing and return the report to it for
481 correction. If the report is corrected to contain the
482 information required by this section and delivered to the
483 Department of State within 30 days after the effective date of
484 notice, it is deemed to be timely filed.

485 (4) Each report shall be executed by the limited liability
486 company by a managing member or manager or, if the limited
487 liability company is in the hands of a receiver or trustee,
488 shall be executed on behalf of the limited liability company by
489 such receiver or trustee, and the signing thereof shall have the
490 same legal effect as if made under oath, without the necessity
491 of appending such oath thereto.

492 (5) The first biennial ~~annual~~ report shall be delivered to
493 the Department of State between January 1 and May 1 of the year

Page 17 of 35

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

20-01268A-13

20131490__

494 following the calendar year in which a domestic limited
495 liability company was organized or a foreign limited liability
496 company was authorized to transact business. Subsequent biennial
497 ~~annual~~ reports shall be delivered to the Department of State
498 between January 1 and May 1 of the subsequent calendar years in
499 which the report is due.

500 (6) Information in the biennial ~~annual~~ report shall be
501 current as of the date the biennial ~~annual~~ report is executed on
502 behalf of the limited liability company.

503 (7) Any limited liability company failing to file a
504 biennial ~~an annual~~ report that ~~which~~ complies with the
505 requirements of this section shall not be permitted to
506 prosecute, maintain, or defend any action in any court of this
507 state until such report is filed and all fees, penalties, and
508 taxes due under this chapter are paid and shall be subject to
509 dissolution or cancellation of its certificate of authority to
510 do business as provided in this chapter.

511 (8) The department shall prescribe the forms on which to
512 make the biennial ~~annual~~ report called for in this section and
513 may substitute the uniform business report, pursuant to s.
514 606.06, as a means of satisfying the requirement of this part.

515 Section 26. Subsection (1) of section 608.509, Florida
516 Statutes, is amended to read:

517 608.509 Resignation of registered agent or foreign limited
518 liability company.—

519 (1) The registered agent of a foreign limited liability
520 company may resign his or her agency appointment by signing and
521 delivering to the Department of State for filing the original
522 statement of resignation and mailing a copy of such statement to

Page 18 of 35

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

20-01268A-13 20131490__
 523 the limited liability company at the limited liability company's
 524 principal office address shown in its most recent biennial
 525 ~~annual~~ report or, if none, shown in its certificate of authority
 526 or most recently filed document. This statement of resignation
 527 shall state that a copy of such statement has been mailed to the
 528 limited liability company at the address so stated. The
 529 statement of resignation may include a statement that the
 530 registered office is also discontinued.

531 Section 27. Subsection (2) of section 608.5101, Florida
 532 Statutes, is amended to read:

533 608.5101 Service of process; notice or demand on a foreign
 534 limited liability company.—

535 (2) A foreign limited liability company may be served by
 536 registered or certified mail, return receipt requested,
 537 addressed to the secretary of the foreign limited liability
 538 company at its principal office shown in its application for a
 539 certificate of authority or in its most recent biennial ~~annual~~
 540 report if the foreign limited liability company:

541 (a) Has no registered agent or its registered agent cannot
 542 with reasonable diligence be served;

543 (b) Has withdrawn from transacting business in this state
 544 under s. 608.511; or

545 (c) Has had its certificate of authority revoked under s.
 546 608.513.

547 Section 28. Subsection (1) of section 608.512, Florida
 548 Statutes, is amended to read:

549 608.512 Grounds for revocation of authority to transact
 550 business.—The Department of State may commence a proceeding
 551 under s. 608.513 to revoke the certificate of authority of a

20-01268A-13 20131490__
 552 foreign limited liability company authorized to transact
 553 business in this state if:

554 (1) The foreign limited liability company has failed to
 555 file its biennial ~~annual~~ report with the Department of State by
 556 5 p.m. Eastern Time on the third Friday in September of the year
 557 in which the report is due.

558 Section 29. Subsection (1) of section 608.513, Florida
 559 Statutes, is amended to read:

560 608.513 Procedure for and effect of revocation.—

561 (1) If the Department of State determines that one or more
 562 grounds exist under s. 608.512 for revocation of a certificate
 563 of authority, the Department of State shall serve the foreign
 564 limited liability company with notice of its intent to revoke
 565 the foreign limited liability company's certificate of
 566 authority. If the foreign limited liability company has provided
 567 the department with an electronic mail address, such notice
 568 shall be by electronic transmission. Revocation for failure to
 569 file a biennial ~~an annual~~ report shall occur on the fourth
 570 Friday in September of the each year in which the report is due.
 571 The Department of State shall issue a certificate of revocation
 572 to each revoked foreign limited liability company. Issuance of
 573 the certificate of revocation may be by electronic transmission
 574 to any foreign limited liability company that has provided the
 575 department with an electronic mail address.

576 Section 30. Paragraph (b) of subsection (1) of section
 577 608.5135, Florida Statutes, is amended to read:

578 608.5135 Revocation; application for reinstatement.—

579 (1)

580 (b) As an alternative, the foreign limited liability

20-01268A-13 20131490__
 581 company may submit a current biennial ~~annual~~ report, signed by
 582 the registered agent and a manager or managing member, that
 583 ~~which~~ substantially complies with the requirements of paragraph
 584 (a).

585 Section 31. Subsection (1) of section 617.0121, Florida
 586 Statutes, is amended to read:

587 617.0121 Forms.—

588 (1) The Department of State may prescribe and furnish on
 589 request forms for:

590 (a) An application for certificate of status;7

591 (b) A foreign corporation's application for certificate of
 592 authority to conduct its affairs in the state;7

593 (c) A foreign corporation's application for certificate of
 594 withdrawal;7 and

595 (d) The biennial ~~annual~~ report, for which the department
 596 may prescribe the use of the uniform business report, pursuant
 597 to s. 606.06.

598 If the Department of State so requires, the use of these forms
 600 shall be mandatory.

601 Section 32. Paragraph (d) of subsection (2) of section
 602 617.0128, Florida Statutes, is amended to read:

603 617.0128 Certificate of status.—

604 (2) A certificate of status or authorization sets forth:

605 (d) That its most recent biennial ~~annual~~ report required by
 606 s. 617.1622 has been delivered to the department; and

607 Section 33. Subsection (5) of section 617.0141, Florida
 608 Statutes, is amended to read:

609 617.0141 Notice.—

20-01268A-13 20131490__
 610 (5) Written notice to a domestic or foreign corporation
 611 authorized to conduct its affairs in this state may be addressed
 612 to its registered agent at its registered office or to the
 613 corporation or its secretary at its principal office shown in
 614 its most recent biennial ~~annual~~ report or, in the case of a
 615 corporation that has not yet delivered a biennial ~~an-annual~~
 616 report, in a domestic corporation's articles of incorporation or
 617 in a foreign corporation's application for certificate of
 618 authority.

619 Section 34. Subsections (2) and (4) of section 617.0502,
 620 Florida Statutes, are amended to read:

621 617.0502 Change of registered office or registered agent;
 622 resignation of registered agent.—

623 (2) Any registered agent may resign his or her agency
 624 appointment by signing and delivering for filing with the
 625 Department of State a statement of resignation and mailing a
 626 copy of such statement to the corporation at its principal
 627 office address shown in its most recent biennial ~~annual~~ report
 628 or, if none, filed in the articles of incorporation or other
 629 most recently filed document. The statement of resignation shall
 630 state that a copy of such statement has been mailed to the
 631 corporation at the address so stated. The agency is terminated
 632 as of the 31st day after the date on which the statement was
 633 filed and unless otherwise provided in the statement,
 634 termination of the agency acts as a termination of the
 635 registered office.

636 (4) Changes of the registered office or registered agent
 637 may be made by a change on the corporation's biennial ~~annual~~
 638 report form filed with the Department of State.

20-01268A-13

20131490__

639 Section 35. Paragraph (a) of subsection (1) of section
640 617.1420, Florida Statutes, is amended to read:

641 617.1420 Grounds for administrative dissolution.—

642 (1) The Department of State may commence a proceeding under
643 s. 617.1421 to administratively dissolve a corporation if:

644 (a) The corporation has failed to file its biennial ~~annual~~
645 report and pay the biennial ~~annual~~ report filing fee by 5 p.m.
646 Eastern Time on the third Friday in September of the year in
647 which the report is due;

648 Section 36. Subsection (1) of section 617.1421, Florida
649 Statutes, is amended to read:

650 617.1421 Procedure for and effect of administrative
651 dissolution.—

652 (1) If the Department of State determines that one or more
653 grounds exist under s. 617.1420 for administratively dissolving
654 a corporation, it shall serve the corporation with notice of its
655 intent under s. 617.0504(2) to administratively dissolve the
656 corporation. If the corporation has provided the department with
657 an electronic mail address, such notice shall be by electronic
658 transmission. Administrative dissolution for failure to file a
659 biennial ~~an annual~~ report shall occur on the fourth Friday in
660 September of the each year in which the report is due. The
661 Department of State shall issue a certificate of dissolution to
662 each dissolved corporation. Issuance of the certificate of
663 dissolution may be by electronic transmission to any corporation
664 that has provided the department with an electronic mail
665 address.

666 Section 37. Subsection (1) of section 617.1509, Florida
667 Statutes, is amended to read:

Page 23 of 35

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

20-01268A-13

20131490__

668 617.1509 Resignation of registered agent of foreign
669 corporation.—

670 (1) The registered agent of a foreign corporation may
671 resign his or her agency appointment by signing and delivering
672 to the Department of State for filing a statement of resignation
673 and mailing a copy of such statement to the corporation at the
674 corporation's principal office address shown in its most recent
675 biennial ~~annual~~ report or, if none, shown in its application for
676 a certificate of authority or other most recently filed
677 document. The statement of resignation must state that a copy of
678 such statement has been mailed to the corporation at the address
679 so stated. The statement of resignation may include a statement
680 that the registered office is also discontinued.

681 Section 38. Subsection (2) of section 617.1510, Florida
682 Statutes, is amended to read:

683 617.1510 Service of process, notice, or demand on a foreign
684 corporation.—

685 (2) A foreign corporation may be served by registered or
686 certified mail, return receipt requested, addressed to the
687 secretary of the foreign corporation at its principal office
688 shown in its application for a certificate of authority or in
689 its most recent biennial ~~annual~~ report if the foreign
690 corporation:

691 (a) Has no registered agent or its registered agent cannot
692 with reasonable diligence be served;

693 (b) Has withdrawn from conducting its affairs in this state
694 under s. 617.1520; or

695 (c) Has had its certificate of authority revoked under s.
696 617.1531.

Page 24 of 35

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

20-01268A-13 20131490__

697 Section 39. Subsection (1) of section 617.1530, Florida
698 Statutes, is amended to read:

699 617.1530 Grounds for revocation of authority to conduct
700 affairs.—The Department of State may commence a proceeding under
701 s. 617.1531 to revoke the certificate of authority of a foreign
702 corporation authorized to conduct its affairs in this state if:

703 (1) The foreign corporation has failed to file its biennial
704 ~~annual~~ report with the Department of State by 5 p.m. Eastern
705 Time on the third Friday in September of the year in which the
706 report is due.

707 Section 40. Subsection (1) of section 617.1531, Florida
708 Statutes, is amended to read:

709 617.1531 Procedure for and effect of revocation.—

710 (1) If the Department of State determines that one or more
711 grounds exist under s. 617.1530 for revocation of a certificate
712 of authority, the Department of State shall serve the foreign
713 corporation with notice of its intent to revoke the foreign
714 corporation's certificate of authority. If the foreign
715 corporation has provided the department with an electronic mail
716 address, such notice shall be by electronic transmission.
717 Revocation for failure to file a biennial ~~an annual~~ report shall
718 occur on the fourth Friday in September of the each year in
719 which the report is due. The Department of State shall issue a
720 certificate of revocation to each revoked corporation. Issuance
721 of the certificate of revocation may be by electronic
722 transmission to any foreign corporation that has provided the
723 department with an electronic mail address.

724 Section 41. Paragraph (b) of subsection (1) of section
725 617.1533, Florida Statutes, is amended to read:

Page 25 of 35

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

20-01268A-13 20131490__

726 617.1533 Reinstatement following revocation.—

727 (1)

728 (b) In the alternative, the foreign corporation may submit
729 a current biennial ~~annual~~ report, signed by the registered agent
730 and an officer or director, ~~that which~~ substantially complies
731 with the requirements of paragraph (a).

732 Section 42. Paragraph (f) of subsection (5) of section
733 617.1601, Florida Statutes, is amended to read:

734 617.1601 Corporate records.—

735 (5) A corporation shall keep a copy of the following
736 records:

737 (f) Its most recent biennial ~~annual~~ report delivered to the
738 Department of State under s. 617.1622.

739 Section 43. Section 617.1622, Florida Statutes, is amended
740 to read:

741 617.1622 Biennial ~~Annual~~ report for Department of State.—

742 (1) Each domestic and each foreign corporation authorized
743 to conduct its affairs in this state shall deliver to the
744 Department of State for filing a sworn biennial ~~annual~~ report,
745 on such form as the Department of State prescribes, that sets
746 forth:

747 (a) The name of the corporation and the state or country
748 under the law of which it is incorporated;

749 (b) The date of incorporation or, if a foreign corporation,
750 the date on which it was admitted to conduct its affairs in this
751 state;

752 (c) The address of the principal office and the mailing
753 address of the corporation;

754 (d) The corporation's federal employer identification

Page 26 of 35

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

20-01268A-13 20131490__

755 number, if any, or, if none, whether one has been applied for;

756 (e) The names and business street addresses of its
757 directors and principal officers;

758 (f) The street address of its registered office in this
759 state and the name of its registered agent at that office; and

760 (g) Such additional information as may be necessary or
761 appropriate to enable the Department of State to carry out the
762 provisions of this act.

763 (2) The deposit of such report, on or before May 1, in the
764 United States mail in a sealed envelope, properly addressed with
765 postage prepaid, constitutes compliance with subsection (1).

766 (3) If a biennial ~~an annual~~ report does not contain the
767 information required by subsection (1), the Department of State
768 shall promptly notify the reporting domestic or foreign
769 corporation in writing and return the report to it for
770 correction. If the report is corrected to contain the
771 information required by subsection (1) and delivered to the
772 Department of State within 30 days after the effective date of
773 notice, it is deemed to be timely filed.

774 (4) Each biennial ~~annual~~ report must be executed by the
775 corporation by an officer or director or, if the corporation is
776 in the hands of a receiver or trustee, must be executed on
777 behalf of the corporation by such receiver or trustee, and the
778 signing of the biennial ~~annual~~ report shall have the same legal
779 effect as if made under oath, without the necessity of appending
780 such oath thereto.

781 (5) The first biennial ~~annual~~ report must be delivered to
782 the Department of State between January 1 and May 1 of the year
783 following the calendar year in which a domestic corporation was

20-01268A-13 20131490__

784 incorporated or a foreign corporation was authorized to conduct
785 affairs. Subsequent annual reports must be delivered to the
786 Department of State between January 1 and May 1 of the
787 subsequent calendar years in which the report is due.

788 (6) Information in the biennial ~~annual~~ report must be
789 current as of the date the biennial ~~annual~~ report is executed on
790 behalf of the corporation.

791 (7) If an additional report is received, the department
792 shall file the document and make the information contained
793 therein part of the official record.

794 (8) Any corporation that fails to file a biennial ~~an annual~~
795 report that ~~which~~ complies with the requirements of this section
796 may not maintain or defend any action in any court of this state
797 until such report is filed and all fees and taxes due under this
798 act are paid, and such corporation is subject to dissolution or
799 cancellation of its certificate of authority to conduct its
800 affairs as provided in this act.

801 (9) The department shall prescribe the forms on which to
802 make the biennial ~~annual~~ report called for in this section and
803 may substitute the uniform business report, pursuant to s.
804 606.06, as a means of satisfying the requirement of this
805 section.

806 Section 44. Subsection (3) of section 620.1115, Florida
807 Statutes, is amended to read:

808 620.1115 Change of registered agent or registered office.—

809 (3) The changes described in this section may also be made
810 on the limited partnership or foreign limited partnership's
811 biennial ~~annual~~ report filed with the Department of State.

812 Section 45. Paragraph (d) of subsection (1) and paragraph

20-01268A-13 20131490__

813 (d) of subsection (2) of section 620.1209, Florida Statutes, are
814 amended to read:

815 620.1209 Certificate of status.—

816 (1) The Department of State, upon request and payment of
817 the requisite fee, shall furnish a certificate of status for a
818 limited partnership if the records filed in the Department of
819 State show that the Department of State has filed a certificate
820 of limited partnership. A certificate of status must state:

821 (d) Whether the limited partnership's most recent biennial
822 ~~annual~~ report required by s. 620.1210 has been filed by the
823 Department of State.

824 (2) The Department of State, upon request and payment of
825 the requisite fee, shall furnish a certificate of status for a
826 foreign limited partnership if the records filed in the
827 Department of State show that the Department of State has filed
828 a certificate of authority. A certificate of status must state:

829 (d) Whether the foreign limited partnership's most recent
830 biennial ~~annual~~ report required by s. 620.1210 has been filed by
831 the Department of State.

832 Section 46. Section 620.1210, Florida Statutes, is amended
833 to read:

834 620.1210 Biennial ~~Annual~~ report for Department of State.—

835 (1) A limited partnership or a foreign limited partnership
836 authorized to transact business in this state shall deliver to
837 the Department of State for filing a biennial ~~an annual~~
838 report that states:

839 (a) The name of the limited partnership or, if a foreign
840 limited partnership, the name under which the foreign limited
841 partnership is registered to transact business in this state.

20-01268A-13 20131490__

842 (b) The street and mailing address of the limited
843 partnership or foreign limited partnership, the name of its
844 registered agent in this state, and the street address of its
845 registered office in this state.

846 (c) The name and business address of each general partner.
847 Each general partner that is not an individual must be organized
848 or otherwise registered with the Department of State as required
849 by law, must maintain an active status, and must not be
850 dissolved, revoked, or withdrawn.

851 (d) Federal Employer Identification number.

852 (e) Any additional information that is necessary or
853 appropriate to enable the Department of State to carry out the
854 provisions of this act.

855 (2) Information in a biennial ~~an annual~~ report must be
856 current as of the date the biennial ~~annual~~ report is delivered
857 to the Department of State for filing.

858 (3) The first biennial ~~annual~~ report must be delivered to
859 the Department of State between January 1 and May 1 of the year
860 following the calendar year in which a limited partnership was
861 formed or a foreign limited partnership was authorized to
862 transact business. A biennial ~~An annual~~ report must be delivered
863 to the Department of State between January 1 and May 1 of each
864 subsequent calendar year in which the report is due.

865 (4) If a biennial ~~an annual~~ report does not contain the
866 information required in subsection (1), the Department of State
867 shall promptly notify the reporting limited partnership or
868 foreign limited partnership and return the report to it for
869 correction. If the report is corrected to contain the
870 information required in subsection (1) and delivered to the

20-01268A-13 20131490__

871 Department of State within 30 days after the effective date of
872 the notice, it is timely delivered.

873 (5) If a filed biennial ~~annual~~ report contains the address
874 of a designated office, name of a registered agent, or
875 registered office address ~~that which~~ differs from the
876 information shown in the records of the Department of State
877 immediately before the filing, the differing information in the
878 biennial ~~annual~~ report is considered a statement of change under
879 s. 620.1115.

880 Section 47. Subsections (1) and (2) of section 620.1809,
881 Florida Statutes, are amended to read:

882 620.1809 Administrative dissolution.—

883 (1) The Department of State may dissolve a limited
884 partnership administratively if the limited partnership does
885 not:

886 (a) Pay any fee or penalty due to the Department of State
887 under this act;

888 (b) Deliver its biennial ~~annual~~ report to the Department of
889 State by 5 p.m. Eastern Time on the third Friday in September of
890 the year in which the report is due;

891 (c) Appoint and maintain a registered agent as required by
892 s. 620.1114; or

893 (d) Deliver for filing a statement of a change under s.
894 620.1115 within 30 days after a change has occurred in the name
895 of the registered agent or the registered office address.

896 (2) If the Department of State determines that a ground
897 exists for administratively dissolving a limited partnership,
898 the Department of State shall serve notice on the limited
899 partnership of its intent to administratively dissolve the

20-01268A-13 20131490__

900 limited partnership. If the limited partnership has provided the
901 department with an electronic mail address, such notice shall be
902 by electronic transmission. Administrative dissolution for
903 failure to file a biennial ~~an annual~~ report shall occur on the
904 fourth Friday in September of the each year in which the report
905 is due. The Department of State shall issue a certificate of
906 dissolution to each dissolved limited partnership. Issuance of
907 the certificate of dissolution may be by electronic transmission
908 to any limited partnership that has provided the department with
909 an electronic mail address.

910 Section 48. Subsections (2) and (3) of section 620.1810,
911 Florida Statutes, are amended to read:

912 620.1810 Reinstatement following administrative
913 dissolution.—

914 (2) As an alternative to submitting the form of
915 reinstatement referred to in subsection (1), the limited
916 partnership may submit a current biennial ~~annual~~ report, signed
917 by its registered agent and a general partner, ~~that which~~
918 contains the same information described in subsection (1).

919 (3) If the Department of State determines that the
920 application for reinstatement, or current biennial ~~annual~~ report
921 described in subsection (2), contains the information required
922 by subsection (1) and that the information is correct, the
923 Department of State shall reinstate the limited partnership.

924 Section 49. Paragraph (b) of subsection (1) and subsection
925 (2) of section 620.1906, Florida Statutes, are amended to read:

926 620.1906 Revocation of certificate of authority.—

927 (1) A certificate of authority of a foreign limited
928 partnership to transact business in this state may be revoked by

20-01268A-13 20131490__

929 the Department of State in the manner provided in subsections
 930 (2) and (3) if the foreign limited partnership does not:

931 (b) Deliver its biennial ~~annual~~ report to the Department of
 932 State by 5 p.m. Eastern Time on the third Friday in September of
 933 the year in which the report is due;

934 (2) If the Department of State determines that one or more
 935 grounds exist under this section for revocation of a foreign
 936 limited partnership, it shall notify the foreign limited
 937 partnership of its intent to revoke the foreign limited
 938 partnership's certificate of authority. If the foreign limited
 939 partnership has provided the department with an electronic mail
 940 address, such notice shall be by electronic transmission.
 941 Revocation for failure to file a biennial ~~an annual~~ report shall
 942 occur on the fourth Friday in September of the each year in
 943 which the report is due. The Department of State shall issue a
 944 certificate of revocation to each revoked foreign limited
 945 partnership. Issuance of the certificate of revocation may be by
 946 electronic transmission to any foreign limited partnership that
 947 has provided the department with an electronic mail address.

948 Section 50. Subsections (2) and (3) of section 620.1909,
 949 Florida Statutes, are amended to read:

950 620.1909 Reinstatement following administrative
 951 revocation.—

952 (2) As an alternative to submitting the form of
 953 reinstatement referred to in subsection (1), the foreign limited
 954 partnership may submit a current biennial ~~annual~~ report, signed
 955 by its registered agent and a general partner, that which
 956 contains the same information described in subsection (1).

957 (3) If the Department of State determines that the

20-01268A-13 20131490__

958 application for reinstatement or the current biennial ~~annual~~
 959 report described in subsection (2) contains the information
 960 required by subsection (1) and that the information is correct,
 961 it shall reinstate the foreign limited partnership's certificate
 962 of authority.

963 Section 51. Subsections (1), (2), and (3) of section
 964 620.9003, Florida Statutes, are amended to read:

965 620.9003 Biennial ~~Annual~~ report.—

966 (1) A limited liability partnership, and a foreign limited
 967 liability partnership authorized to transact business in this
 968 state, shall file a biennial ~~an annual~~ report in the office of
 969 the Secretary of State that which contains:

970 (a) The name of the limited liability partnership and the
 971 state or other jurisdiction under whose laws the foreign limited
 972 liability partnership is formed;

973 (b) The current street address of the partnership's chief
 974 executive office and, if different, the current street address
 975 of its principal office in this state, if there is one;

976 (c) The partnership's Federal Employer Identification
 977 Number, if any, or, if none, whether one has been applied for;
 978 and

979 (d) The name and street address of the partnership's
 980 current agent for service of process, who must be an individual
 981 resident of this state or other person authorized to do business
 982 in this state.

983 (2) A biennial ~~An annual~~ report must be filed between
 984 January 1 and May 1 of each year following the calendar year in
 985 which a partnership files a statement of qualification or a
 986 foreign partnership becomes authorized to transact business in

20-01268A-13

20131490__

987 this state.

988 (3) The Department of State may administratively revoke the
989 statement of qualification of a partnership that fails to file
990 its biennial ~~annual~~ report and pay the required filing fee by 5
991 p.m. Eastern Time on the third Friday in September of the year
992 in which the report is due. The Department of State shall serve
993 a 60-day notice on the limited liability partnership of its
994 intent to revoke the statement of qualification. If the
995 partnership has provided the department with an electronic mail
996 address, such notice shall be by electronic transmission.
997 Revocation for failure to file a biennial ~~an annual~~ report shall
998 occur on the fourth Friday in September of the ~~each~~ year in
999 which the report is due. The Department of State shall issue a
1000 certificate of revocation of the statement of qualification to
1001 each revoked partnership. Issuance of the certificate of
1002 revocation of the statement of qualification may be by
1003 electronic transmission to any partnership that has provided the
1004 department with an electronic mail address.

1005 Section 52. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

9-2-13

Meeting Date

Topic Corp. Filing Fees.

Bill Number 1490
(if applicable)

Name Bill Herrle

Amendment Barcode _____
(if applicable)

Job Title Exec. Director

Address 110 E Jeff
Street

Phone 681 0416

Talla. FL 32301
City State Zip

E-mail b.herrle@wfi.org

Speaking: For Against Information

Representing Nat. Fed. of Independent Business

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Community Affairs
Environmental Preservation and Conservation
Rules
Judiciary
Appropriations
Select Committee on Gaming

SENATOR JACK LATVALA
20th District

March 7, 2013

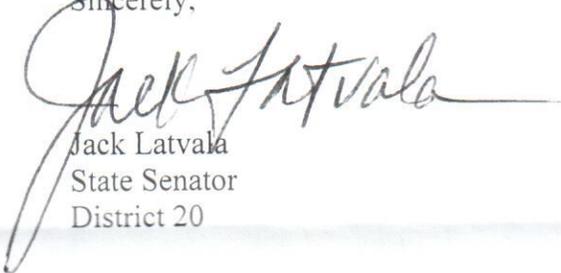
The Honorable Senator Jeremy Ring, Chair
Senate Committee on Governmental Oversight and Accountability
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Ring:

I respectfully request consideration of Senate Bill 1490 regarding Business Entity Filing Fees at your earliest convenience.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,



Jack Latvala
State Senator
District 20

Cc: Joe McVaney, Staff Director
Courtney Hicks, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201 Clearwater, FL 33763 (727) 793-2797
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 544

INTRODUCER: Committee on Ethics and Elections and Senator Braynon

SUBJECT: Legislative Lobbying Requirements

DATE: April 2, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/CS
2.	McVaney	McVaney	GO	Favorable
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 544 clarifies that the use of a public facility or public property provided from a governmental entity to a legislator for a public purpose is not an expenditure for purposes of the “legislative expenditure ban” in s. 11.045, F.S., regardless of whether the governmental entity is a principal. Unlike the current Rules of the Florida Senate Rules and Administrative Policy Manual of the Florida House of Representatives, this statutory exception does not include any requirement for approval by the presiding officers prior to the expenditure being made between the governmental entity and the legislator.

This bill substantially amends s. 11.045, Florida Statutes.

II. Present Situation:

Section 11.045, F.S., contains provisions requiring legislative lobbying registration and legislative lobbyist compensation reports, and it contains the “legislative expenditure ban.”

Section 11.045(4)(a), F.S., provides in pertinent part, that “no lobbyist or principal shall make, directly or indirectly, and no member or employee of the legislature shall knowingly accept,

directly or indirectly, any expenditure . . .” A “principal” is defined as “the person, firm, corporation, or other entity which has employed or retained a lobbyist.”¹ This appears to include governmental entities such as municipalities, counties, water management districts, universities, and colleges.

For purposes of this statute, the term “expenditure” means:

A payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term does not include contributions or expenditures reported pursuant to chapter 106 or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).²

The term “lobbying” means “influencing or attempting to influence legislative action or nonaction through oral or written communication or an attempt to obtain the goodwill of a member or employee of the Legislature.”³

The following penalties can be imposed for violation of the legislative expenditure ban:

- A fine of not more than \$5,000;
- Reprimand;
- Censure;
- Probation; and/or
- Prohibition on lobbying for a period not to exceed 24 months.⁴

Section 11.045(5), F.S., requires each house of the legislature to provide by rule a procedure for determining the applicability and interpretation of this section. To that end, the Florida Senate has adopted Senate Rule 9.8.

The pertinent portion of that Rule for this legislation is contained in Senate Rule 9.8, Part 1, section one, exception 6. The text of the rule reads:

6. Government to Government Expenditures

Real property or a facility owned or operated by a state or local public agency or entity that is a lobbying principal and transportation to, from, and at the location provided by that agency or entity may, with the prior approval of the respective state legislative presiding officer or his or her designee, be used without payment, by a member, committee, or staff of the Legislature for a public legislative

¹ Section 11.045(1)(i), F.S.

² Section 11.045(1)(c), F.S.

³ Section 11.045(1)(e), F.S.

⁴ Section 11.045(7), F.S.

purpose. Such purposes include publicly noticed legislative committee meetings and site visits to operations conducted by the public agency or entity. Allowable free uses also specifically include legislative district offices and sub-offices and the normally attendant utilities, parking, janitorial services, building maintenance, and telecommunications equipment and services common to a government building in which the office is located. Allowable free use does not extend to sports or entertainment venues; does not include food, beverages, or entertainment; and does not include free parking privileges at any location other than a district office or sub-office.

The Florida House of Representatives has included a similar approval process in its policies.⁵

III. Effect of Proposed Changes:

CS/SB 544 creates a statutory exception to the definition of “expenditure” for a “government-to-government use.” The Committee Substitute states that a “government-to-government use” is the “use of a public facility or public property that is made available by one governmental entity to a legislator for a public purpose, regardless of whether either is required to register any person as a lobbyist.”

This statutory exception does not include the requirement of approval by the presiding officers currently contained in the both the Senate Rules and Administrative Policy Manual for the House of Representatives.

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.

⁵Florida House of Representatives, “Administrative Policy Manual” dated November 2012, pages 9 and 10.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Ethics and Elections on March 11, 2013:

The CS differs from the original bill by permitting expenditures by a governmental entity, which are made for a public purpose, to a legislator rather than to another governmental entity.

B. Amendments:

None.

By the Committee on Ethics and Elections; and Senator Braynon

582-02221-13

2013544c1

1 A bill to be entitled
 2 An act relating to exemption from legislative lobbying
 3 requirements; amending s. 11.045, F.S.; revising the
 4 term "expenditure" to exclude the use of a public
 5 facility or public property that is made available by
 6 a governmental entity to a legislator for a public
 7 purpose, to exempt such use from legislative lobbying
 8 requirements; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (c) of subsection (1) of section
 13 11.045, Florida Statutes, is amended to read:
 14 11.045 Lobbying before the Legislature; registration and
 15 reporting; exemptions; penalties.—
 16 (1) As used in this section, unless the context otherwise
 17 requires:
 18 (c) "Expenditure" means a payment, distribution, loan,
 19 advance, reimbursement, deposit, or anything of value made by a
 20 lobbyist or principal for the purpose of lobbying. The term does
 21 not include:
 22 1. Contributions or expenditures reported pursuant to
 23 chapter 106 or federal election law, campaign-related personal
 24 services provided without compensation by individuals
 25 volunteering their time, any other contribution or expenditure
 26 made by or to a political party or affiliated party committee,
 27 or any other contribution or expenditure made by an organization
 28 that is exempt from taxation under 26 U.S.C. s. 527 or s.
 29 501(c)(4).

Page 1 of 2

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

582-02221-13

2013544c1

30 2. A government-to-government use, which is the use of a
 31 public facility or public property that is made available by a
 32 governmental entity to a legislator for a public purpose,
 33 regardless of whether the governmental entity is required to
 34 register any person as a lobbyist pursuant to this section.
 35 Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

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

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 Governmental Oversight and Accountability

BILL: CS/SB 464

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Flores

SUBJECT: Disposition of Unclaimed Property

DATE: April 3, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Burgess</u>	<u>BI</u>	Favorable
2.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 464 authorizes the Department of Financial Services to allow an apparent owner of unclaimed property to electronically submit a claim to the department. If the electronically submitted claim is for \$1,000 or less, the department may use an alternative method of identity verification. The bill also clarifies that property reported or remitted to the Chief Financial Officer pursuant to ss. 43.19, 45.032, 732.107, 733.816, and 744.534, F.S., is also subject to the unclaimed property provisions of s. 717.124, F.S.

This bill substantially amends section 717.124 of the Florida Statutes.

II. Present Situation:

Disposition of Unclaimed Property

Chapter 717 of the Florida Statutes provides for disposition of unclaimed property. In general, all intangible property, including any income less any lawful charges, which is held in the ordinary course of the holder's business, is presumed to be unclaimed when the owner fails to claim the property for more than 5 years after the property becomes payable or distributable, unless

otherwise provided in the chapter.¹ The time period for utility² deposits is different. Any deposit made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, including any interest less any lawful charges, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed unclaimed.³ Certain types of unclaimed property, including security deposits having a value of less than \$10, are not to be presumed unclaimed.⁴

Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property must file an annual report with the Department of Financial Services (DFS or department) that includes information on the identity and last known address of the apparent owner of the property, a description of the property, and the date the property became payable or returnable.⁵ At the same time the report is filed, the holder must deliver to the department all unclaimed property required to be reported.⁶

Upon the payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of the property.⁷ The department is required to use cost-effective means to make at least one active attempt to notify owners of unclaimed property accounts valued at more than \$250 with a reported address or taxpayer identification number. All other apparent owners get indirect or passive notice such as publication of the names of owners in the newspaper, on television, on the Internet, or through other promotional efforts.⁸

Generally, after the receipt of unclaimed property the department sells all non-cash property to the highest bidder at a public sale on the Internet or at a specified physical location wherever in the judgment of the department the most favorable market for the property involved exists.⁹ The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. The department also has the discretion to withhold from sale any unclaimed property that the department deems to be of benefit to the people of the state. Finally, if in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale and may be disposed of as the department determines appropriate.

All funds received, including the proceeds from sales, are deposited into the Unclaimed Property Trust Fund.¹⁰ The department is allowed to retain an amount not exceeding \$15 million from which it must make prompt payment of claims it allows and must pay the costs it incurred in administering and enforcing the chapter. All remaining funds received must be deposited into the State School Fund.

¹ Section 717.102(1), F.S.

² Section 717.101 (23), F.S., defines the term “utility” to mean a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

³ Section 717.108, F.S.

⁴ Section 717.117(1)(h), F.S.

⁵ Section 717.117, F.S.

⁶ Section 717.119, F.S.

⁷ Section 717.1201, F.S.

⁸ Section 717.118, F.S.

⁹ Section 717.122, F.S.

¹⁰ Section 717.123, F.S.

The department must record the name and last known address of each person appearing from the holder's reports to be entitled to the unclaimed property in the total amounts of \$5 or greater; the name and the last known address of each insured person or annuitant; and with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.

Unclaimed Property Claims

Section 717.124, F.S., provides that any person claiming an interest in any property delivered to the department may file a claim for the property. The claimant, or the claimant's representative, must provide the department with a legible copy of a valid driver's license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver's license at the time the original claim form is filed, the department must be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule.

The department is required to make a determination on the claim within 90 days. If a claim is determined in favor of the claimant, the department is to deliver or pay over to the claimant the property or the amount the department actually received or the proceeds if it has been sold by the department.

Existing Rulemaking Authority

Section 717.138, F.S., provides the department has authority to adopt rules pursuant to implement the provisions of chapter 717, F.S. The department may adopt rules to allow for electronic filing of fees, forms, and reports required by this chapter.

III. Effect of Proposed Changes:

The bill authorizes the Department of Financial Services to adopt rules that allow an apparent owner of unclaimed property to electronically submit a claim to the department, notwithstanding any other provision of law. The bill provides no standards or guidelines as to what those rules should contain. The department has indicated this will allow for greater efficiency,¹¹ which should help speed up the return of unclaimed property to owners.

The bill also applies the procedures of ch. 717, F.S., to property reported or remitted by the Chief Financial Officer pursuant to:

¹¹ DFS bill analysis dated January 30, 2013 (On file with the Senate Banking and Insurance Committee.)

- Section 43.19, F.S., Money Paid into Court; unclaimed funds: Provides that unclaimed funds held in the court registry for 5 years shall be deposited with the Chief Financial Officer to the credit of the State School Fund. Accounts/funds held in perpetuity.
- Section 45.032, F.S., Disbursement of Surplus Funds after Judiciary Sale: Provides that unclaimed funds as a result of a property foreclosure are to be deposited with the Chief Financial Officer. Accounts/funds held in perpetuity.
- Section 732.107, F.S., Escheat: Property held by an Estate without Heirs ‘escheats’ to the state. Accounts/funds can be claimed for 10 years, after which the funds permanently escheat.
- Section 733.816, F.S., Disposition of Unclaimed Property Held by Personal Representatives: Property held by a Personal Representative that cannot be distributed to a beneficiary is deposited into the court registry and then deposited with the Chief Financial Officer. Accounts/funds can be claimed for 10 years, after which the funds permanently escheat.
- Section 744.534, F.S., Disposition of Unclaimed Funds Held by Guardian: Property held by a Legal Guardian that cannot be distributed to a ward or ward’s estate is deposited into the court registry and then is deposited with the Chief Financial Officer. Accounts/funds can be claimed for 5 years, after which the funds permanently escheat.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Allowing for the electronic submission of claims may help speed up the return of unclaimed property to owners.

C. Government Sector Impact:

The bill may help DFS staff to analyze and process claims quicker.

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 Governmental Oversight and Accountability on April 2, 2013:

The CS specifies that if an electronically submitted claim for unclaimed property is for \$1,000 or less, the department may use an alternative method of identity verification.

B. Amendments:

None.



792180

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Montford) recommended the following:

Senate Amendment (with title amendment)

Between lines 12 and 13
insert:

Section 1. Subsection (3) is added to section 717.102,
Florida Statutes, to read:

717.102 Property presumed unclaimed; general rule.—

(3) This chapter does not apply to a retirement trust fund
or plan regulated under chapter 175 or chapter 185.

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

And the title is amended as follows:



792180

13 Between lines 2 and 3
14 insert:
15 amending s. 717.102, F.S.; providing for applicability
16 of the Florida Disposition of Unclaimed Property Act;



119024

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Benacquisto) recommended the following:

Senate Amendment

Delete lines 16 - 22
and insert:

(7) The department may allow an apparent owner to electronically submit a claim for unclaimed property to the department. If a claim is submitted electronically for \$1,000 or less, the department may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement. The department may adopt rules to implement this subsection.



119024

13 (8) This section applies to all unclaimed property reported
14 and remitted to the Chief Financial Officer, including, but not
15 limited to, property reported pursuant to ss. 43.19, 45.032,
16 732.107, 733.816, and 744.534.

By Senator Flores

37-00694-13

2013464__

1 A bill to be entitled

2 An act relating to disposition of unclaimed property;
3 amending s. 717.124, F.S.; authorizing the Department
4 of Financial Services to adopt rules that allow an
5 apparent owner of unclaimed property to submit a claim
6 to the department electronically; providing for
7 applicability with respect to specified property
8 reported and remitted to the Chief Financial Officer;
9 providing an effective date.

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

12
13 Section 1. Subsections (7) and (8) are added to section
14 717.124, Florida Statutes, to read:

15 717.124 Unclaimed property claims.—

16 (7) Notwithstanding any other provision of law, the
17 department may adopt rules that allow an apparent owner to
18 electronically submit a claim for unclaimed property to the
19 department.

20 (8) This section applies to property reported and remitted
21 to the Chief Financial Officer pursuant to ss. 43.19, 45.032,
22 732.107, 733.816, and 744.534.

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



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 21, 2013

I respectfully request that **Senate Bill #464**, relating to The Disposition of Unclaimed Property, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 37

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 Governmental Oversight and Accountability

BILL: CS/SB 714

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Simmons

SUBJECT: Public Records/Proprietary Confidential Business Information

DATE: April 2, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Geeker/Wiehle	Caldwell	CU	Fav/CS
2.	Naf	McVaney	GO	Favorable
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 714 creates a public records exemption for proprietary confidential business information held by an electric utility in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources.

The bill requires such proprietary confidential business information to be retained for one year after the due diligence review has been completed and the electric utility has decided whether or not to participate in the project.

The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the Florida Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for passage.

The bill substantially amends section 119.0713 of the Florida Statutes.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁰ It

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion* 85-62, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹¹ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²

Applicability of Public Records Requirements to Electric Utilities

The three types of electric utilities defined in s. 366.02(2), F.S., are the municipal electric utility, investor-owned electric utility, and rural electric cooperative. Any records produced or held by investor-owned utilities or rural electric cooperatives are unaffected by public records law, as both are privately owned. Municipal utilities, however, are owned by a municipality and their records are subject to public records law.

Public Records Exemptions for Municipal Electric Utility Records

Current law provides a variety of public records exemptions relating to utilities,¹³ but there is no current exemption that applies to proprietary confidential business information held by a municipal electric utility in conjunction with a due diligence review of projects related to the provision of electric service.

III. Effect of Proposed Changes:

This bill creates a new public records exemption for proprietary confidential business information held by an electric utility that is subject to chapter 119, F.S., in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d), F.S.,¹⁴ or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources. The bill provides that such information is confidential and exempt¹⁵ from s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution. Further, the bill requires that such information be retained for one year after the due diligence review has been completed and the electric utility has decided whether or not to participate in the project.

The bill defines “proprietary confidential business information” as:

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(6)(b), F.S.

¹³ See, e.g., ss. 119.0713(3) (municipal utility bids to provide an item or service to customers), 364.183 (telecommunications), 366.093 (investor-owned electric and natural gas utilities), 367.156 (water and wastewater utilities), and 368.108, F.S. (natural gas transmission companies).

¹⁴ Section 163.01(3)(d), F.S., defines an “electric project” as:

1. Any plant, works, system, facilities, and real property and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, which is located within or without the state and which is used or useful in the generation, production, transmission, purchase, sale, exchange, or interchange of electric capacity and energy, including facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing, or disposal of fuel and other materials of any kind for any such purposes.
2. Any interest in, or right to, the use, services, output, or capacity of any such plant, works, system, or facilities.
3. Any study to determine the feasibility or costs of any of the foregoing, including, but not limited to, engineering, legal, financial, and other services necessary or appropriate to determine the legality and financial and engineering feasibility of any project referred to in subparagraph 1. or subparagraph 2.

¹⁵ There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. See footnote 6.

[I]nformation, regardless of form or characteristics, which is owned or controlled by an electric utility that is subject to chapter 119, is intended to be and is treated by the entity that provided the information to the electric utility as private in that the disclosure of the information would cause harm to the providing entity or its business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

1. Trade secrets.
2. Internal auditing controls and reports of internal auditors.
3. Security measures, systems, or procedures.
4. Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
5. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

This definition is substantially similar to existing provisions of law defining proprietary confidential business information.¹⁶

The bill provides that the public record exemption created by the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and will be repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also provides a statement of public necessity as required by the Florida Constitution.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage of a new public records exemption; therefore, this bill requires a two-thirds vote for passage.

¹⁶ See, e.g., ss. 364.183 (telecommunications), 366.093 (investor-owned electric and natural gas utilities), 367.156 (water and wastewater utilities), and 368.108, F.S. (natural gas transmission companies).

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a law creating a new public records exemption to contain a public necessity statement justifying the exemption; therefore, this bill contains a public necessity statement.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill may expand opportunities for private sector entities to do business with municipal electric utilities by creating a public records exemption for proprietary confidential business information, as the exemption may encourage more private sector participation and sharing of information.

C. Government Sector Impact:

Out-of-state energy generators and other technology providers may be more inclined to enter into public-private partnerships in Florida; to the extent that such electric partnerships would potentially improve the delivery, cost, or diversification of fuel or renewable energy, government-owned electric utilities and their customers may benefit.

Electric utilities may experience a minimal fiscal impact, because staff responsible for complying with public records requests could require training related to the new public records exemption. In addition, electric utilities could incur costs associated with redacting the confidential and exempt information. Such costs would be absorbed, however, as they are part of the day-to-day responsibilities of the electric utilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not define “trade secrets.”

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 Communications, Energy, and Public Utilities on March 6, 2013:

Expressly defines the term proprietary confidential business information instead of defining it by cross-reference.

- Clarifies that proprietary confidential business information is “held by” an electric utility instead of “provided to.”
- Consistently states that proprietary confidential business information is both confidential and exempt.
- Requires that the proprietary confidential business information be retained for one year by the electric utility.
- Deletes “propriety” and replaces with “proprietary.”

- B. **Amendments:**

None.

By the Committee on Communications, Energy, and Public Utilities; and Senator Simmons

579-01973-13

2013714c1

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.0713, F.S.; providing an exemption from public
 4 records requirements for specified proprietary
 5 confidential business information held by an electric
 6 utility that is subject to ch. 119, F.S., in
 7 conjunction with a due diligence review of an electric
 8 project or a project to improve the delivery, cost, or
 9 diversification of fuel or renewable energy resources;
 10 providing for the retention of such information for a
 11 specified time; providing for future review and repeal
 12 of the exemption; providing a statement of public
 13 necessity; providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Subsection (4) is added to section 119.0713,
 18 Florida Statutes, to read:
 19 119.0713 Local government agency exemptions from inspection
 20 or copying of public records.—
 21 (4) (a) Proprietary confidential business information means
 22 information, regardless of form or characteristics, which is
 23 held by an electric utility that is subject to chapter 119, is
 24 intended to be and is treated by the entity that provided the
 25 information to the electric utility as private in that the
 26 disclosure of the information would cause harm to the providing
 27 entity or its business operations, and has not been disclosed
 28 unless disclosed pursuant to a statutory provision, an order of
 29 a court or administrative body, or private agreement that

Page 1 of 4

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

579-01973-13

2013714c1

30 provides that the information will not be released to the
 31 public. Proprietary confidential business information includes,
 32 but is not limited to:
 33 1. Trade secrets.
 34 2. Internal auditing controls and reports of internal
 35 auditors.
 36 3. Security measures, systems, or procedures.
 37 4. Information concerning bids or other contractual data,
 38 the disclosure of which would impair the efforts of the electric
 39 utility to contract for goods or services on favorable terms.
 40 5. Information relating to competitive interests, the
 41 disclosure of which would impair the competitive business of the
 42 provider of the information.
 43 (b) Proprietary confidential business information held by
 44 an electric utility that is subject to chapter 119 in
 45 conjunction with a due diligence review of an electric project
 46 as defined in s. 163.01(3)(d) or a project to improve the
 47 delivery, cost, or diversification of fuel or renewable energy
 48 resources is confidential and exempt from s. 119.07(1) and s.
 49 24(a), Art. I of the State Constitution.
 50 (c) All proprietary confidential business information
 51 described in paragraph (b) shall be retained for one year after
 52 the due diligence review has been completed and the electric
 53 utility has decided whether or not to participate in the
 54 project.
 55 (d) This subsection is subject to the Open Government
 56 Sunset Review Act in accordance with s. 119.15, and shall stand
 57 repealed on October 2, 2018, unless reviewed and saved from
 58 repeal through reenactment by the Legislature.

Page 2 of 4

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

579-01973-13

2013714c1

59 Section 2. (1) The Legislature finds that it is a public
 60 necessity that proprietary confidential business information
 61 held by an electric utility that is subject to chapter 119,
 62 Florida Statutes, in conjunction with a due diligence review of
 63 an electric project as defined in s. 163.01(3)(d), Florida
 64 Statutes, or a project to improve the delivery, cost, or
 65 diversification of fuel or renewable energy resources be made
 66 confidential and exempt from public records requirements. The
 67 disclosure of such proprietary confidential business
 68 information, such as trade secrets, internal auditing controls
 69 and reports, security measures, systems, or procedures, or other
 70 information relating to competitive interests, could injure the
 71 provider in the marketplace by giving its competitors detailed
 72 insights into its financial status and strategic plans, thereby
 73 putting the provider at a competitive disadvantage. Without this
 74 exemption, providers might be unwilling to enter into
 75 discussions with the utility regarding the feasibility of future
 76 contracting. This could, in turn, limit opportunities the
 77 utility might otherwise have for finding cost-effective or
 78 strategic solutions for providing electric service or improving
 79 the delivery, cost, or diversification of fuel or renewable
 80 energy. This would put public providers of electric utility
 81 services at a competitive disadvantage by limiting their ability
 82 to optimize services to their customers and adversely affecting
 83 the customers of those utilities by depriving them of
 84 opportunities for rate reductions or other improvements in
 85 services.

86 (2) Proprietary confidential business information derives
 87 actual or potential independent economic value from not being

Page 3 of 4

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

579-01973-13

2013714c1

88 generally known to, and not being readily ascertainable by
 89 proper means by, other persons who can derive economic value
 90 from its disclosure or use. A utility, in performing the
 91 appropriate due diligence review of electric projects or
 92 projects to improve the delivery, cost, or diversification of
 93 fuel or renewable energy sources, may need to obtain proprietary
 94 confidential business information. Without an exemption from
 95 public records requirements for this information, it becomes a
 96 public record when received by an electric utility and must be
 97 disclosed upon request. Disclosure of any proprietary
 98 confidential business information under the public records law
 99 would destroy the value of that property and cause economic harm
 100 not only to the entity or person providing the information, but
 101 to the ratepayers through reduced competition for the provision
 102 of vital electric utility services.

103 (3) In finding that the public records exemption created by
 104 this act is a public necessity, the Legislature also finds that
 105 the public and private harm in disclosing such proprietary
 106 confidential business information significantly outweighs any
 107 public benefit derived from disclosure of the information and
 108 that the exemption created by this act will enhance the ability
 109 of electric utilities to optimize their performance, thereby
 110 benefiting the ratepayers.

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

Page 4 of 4

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic Public Records / Confidential Business Info. Bill Number SB 714
Name Suzanne Goss Amendment Barcode _____
Job Title Government Relations Specialist
Address 21 W. Church St Phone 904-665-8331
Jacksonville FL 32202 E-mail gossSE@jea.com
City State Zip

Speaking: For Against Information

Representing JEA

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)

Apr. 12, 2013
Meeting Date

Topic Public Records Exemption Bill Number 714
Name Chip Merriam Amendment Barcode _____
Job Title Vice President
Address 6113 Pershing Ave Phone 407 4342201
Orlando FL 32824 E-mail cmerriam@ouc.com
City State Zip

Speaking: For Against Information

Representing Orlando Utilities Commission

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 Governmental Oversight and Accountability

BILL: SB 684

INTRODUCER: Senator Hays

SUBJECT: Preference in Award of State Contracts

DATE: April 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Favorable
2.			CA	
3.			AP	
4.			RC	
5.				
6.				

I. Summary:

SB 684 specifies that an existing preference for Florida-based businesses that currently applies to public entity purchases of commodities and services also applies to the purchase of construction services. The bill also provides that this preference preempts any local preference regulation in contracts for construction services in which state-appropriated funds are spent.

This bill substantially amends section 287.084 of the Florida Statutes.

II. Present Situation:

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services. The Department of Management Services (department) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.² The department establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state’s buying power.³

¹ Section 287.012(1), F.S., defines agency as “any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. ‘Agency’ does not include the university and college boards of trustees or the state universities and colleges.”

² See ss. 287.032 and 287.042, F.S.

³ *Id.*

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:⁴

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services.

For contracts for commodities or services in excess of \$35,000, agencies must utilize a competitive solicitation process.⁵ Section 287.012(6), F.S., provides that competitive solicitation means "the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement."

Local governmental units are not subject to the provisions of chapter 287, F.S.

Florida In-state Preference

State agencies, universities, colleges, school districts, and other political subdivisions are required to grant a preference in the award for contracts for the purchase of personal property, when competitive solicitation is required and when the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in another state, or political subdivision of that state.⁶ The preference is mandatory and is utilized by the procuring entity to award a preference to the lowest responsible and responsive vendor having a principal place of business in this state. The preference awarded is the same preference provided by the out-of-state bidder's home state.

If the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is another state, or political subdivision of that state, and that state does not award a preference for in-state vendors, state agencies, universities, colleges, school districts, and other political subdivisions must award a 5 percent preference to Florida based vendors.⁷

A vendor whose principal place of business is outside of this state must submit with the bid, proposal, or reply documents a written opinion of an attorney at law licensed to practice law in

⁴ See ss. 287.012(6) and 287.057, F.S.

⁵ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid.

⁶ Section 287.084(1)(a), F.S.

⁷ *Id.*

that foreign state as to the preferences, if any, granted by the law of that state to a business entity whose principal place of business is in that foreign state.⁸

Florida's preference law does not apply to transportation projects for which federal aid funds are available,⁹ or to counties or cities.¹⁰ It also does not apply in the award of contracts for the purchase of construction services.

Procurement of Construction Services

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The department is responsible for establishing by rule the following:¹¹

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Procedures for entering into performance-based contracts for the development of public facilities those contracts are determined to be in the best interest of the state.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.¹² Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the projected cost is in excess of \$300,000.¹³

Section 255.0525, F.S., requires the solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 to be publicly advertised in the Florida Administrative Weekly¹⁴ at least 21 days prior to the established bid opening. If the construction project is projected to exceed \$500,000, the advertisement must be published at least 30 days prior to the bid opening in the Florida Administrative Weekly, and at least once 30 days prior to the bid opening in a newspaper of general circulation in the county where the project is located.¹⁵

⁸ Section 287.084(2), F.S.

⁹ Section 287.084(1)(b), F.S.

¹⁰ Section 287.084(1)(c), F.S.

¹¹ Section 255.29, F.S.

¹² See chapters 60D-5.002 and 60D-5.0073, F.A.C.; see also s. 255.0525, F.S.

¹³ See s. 255.20(1), F.S. For electrical work, local governments must competitively bid projects estimated to cost more than \$75,000.

¹⁴ The Florida Administrative Weekly was renamed the Florida Administrative Register during the 2012 Session. Chapter 2012-63, L.O.F.

¹⁵ For counties, municipalities, and political subdivisions, similar publishing provisions apply. Section 255.0525(2), F.S.

Florida Preference to State Residents

Section 255.04, F.S., provides that every board of the state, county, or municipality that is charged with the duty of erecting or constructing any public administrative or institutional building must give preference, in the purchase of material and in letting contracts for the construction of such building, to materialmen, contractors, builders, architects, and laborers who reside within the state whenever such material can be purchased or the services or such materialmen, contractors, builders, architects, and laborers can be employed at no greater expense than that which would obtain if such purchase was made from, or contract let, or employment given to a person residing outside of the state.

Another statute provides a preference for the employment of state residents in construction contracts funded by money appropriated with state funds. Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications¹⁶ to those of non-residents.¹⁷ If a construction contract is funded by local funds, the contract may contain such a provision.¹⁸ In addition, the contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.¹⁹

III. Effect of Proposed Changes:

The bill amends the existing preference to Florida businesses in the purchase of commodities and services in Ch. 287, F.S., by applying the preference to construction services, and expanding the required application of the preference to counties and municipalities.

The bill adds a preemption provision that applies to any competitive solicitation in which payment for personal property or construction services is to be made partially or wholly from state-appropriated funds. The provision applies to any local ordinance or regulation that restricts a contractor who possesses a certificate of competency issued by the Department of Business and Professional Regulation²⁰ from competing for an award based upon:

- The vendor maintaining an office or place of business within a particular local jurisdiction;
- The vendor hiring employees or subcontractors from within a particular local jurisdiction; or
- The vendor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

In any solicitation subject to this provision, the public entity must disclose in the solicitation whether payment will come from state-appropriated funds, the amount of such funds, and the percentage of such funds compared to the total cost.

¹⁶ Section 255.099(1)(a), F.S., defines substantially equal qualifications as the "qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons."

¹⁷ Section 255.099(1), F.S.

¹⁸ *Id.*

¹⁹ Section 255.099(1)(b), F.S.

²⁰ Section 489.105(8), F.S.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provision of Art. VII, s. 18 of the State Constitution may apply because this bill requires cities and counties to spend money or take an action that requires the expenditure of money; however, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. The exceptions to the mandates provision of Art. VII, s. 18 of the State Constitution appear to be inapplicable because the bill does not articulate a threshold finding of serving an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Commerce Clause

The U.S. Constitution provides that Congress shall have the power to “regulate commerce... among the states.”²¹ The Commerce Clause acts not only as a positive grant of powers to Congress, but also as a negative constraint upon the states.²² When a state or local government is acting as a “market participant” rather than a “market regulator,” it is not subject to the limitations of the Commerce Clause.²³ A state is considered to be a “market participant” when it is acting as an economic actor such as a purchaser of goods and services.²⁴ Since the state is acting as a “market participant” under this bill, the in-state preference provisions herein are likely to be upheld as an exception to the Commerce Clause.

Equal Protection Clause

The United States Constitution provides that “[n]o State shall... deny to any person within its jurisdiction the equal protection of the laws.”²⁵ The expansion of the in-state preference provisions in this bill may constitute an equal protection violation. If such legislation is challenged, the court would use a rational basis test to determine the

²¹ U.S. Const. art. I, s. 8, cl. 3.

²² See *Gibbons v. Ogden*, 22 U.S. 1 (1824).

²³ *National Collegiate Athletic Ass’n v. Associated Press*, 18 So.3d 1201, 1211-1212 (Fla. 1st DCA 2009) (citing *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573, 578-579).

²⁴ *Id.*

²⁵ U.S. Const. amend. XIV, s. 1; see also FLA. Const. art. I, s. 2.

constitutionality of the alleged discriminatory treatment.²⁶ Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.²⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida-based businesses might obtain more public contracts.

C. Government Sector Impact:

Indeterminate. The application of the 5% Florida preference to construction contracts theoretically could increase costs of those projects, and the offsetting secondary economic benefits of awarding more contracts to Florida-based businesses are difficult to determine in advance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends a current preference applicable to purchases of personal property, located in Ch. 287, F.S., to apply to purchases of construction services. Public construction contracting is regulated in Ch. 255, F.S., which also includes two existing preferences. The construction preference would be better placed in Ch. 255, F.S.

Principal Place of Business

Current law does not provide for a definition of “principal place of business.” There are two competing tests to determine where a company’s principal place of business is located.

The first is the “substantial predominance” test, which analyzes the following criteria: the location of its employees, where sales took place, its production activities, its tangible property, its sources of income, the value of land owned and leased, and the replacement cost of assets located in a certain state.²⁸

The second test is the “nerve center test.” Under this test, a company’s principal places of business refers to the place where the corporation’s high level officers direct, control, and

²⁶ *Nordlinger v. Hahn*, 505 U.S. 1, 33-34 (1992) (stating that a “classification rationally furthers a state interest when there is some fit between the disparate treatment and the legislative purpose.”)

²⁷ *Id.*

²⁸ *Ghaderi v. United Airlines, Inc.*, 136 F.Supp.2d 1041, 1044-46 (N.D. Cal 2001).

coordinate the corporation's activities.²⁹ The Department of Management Services has previously utilized the "nerve center" test to determine the company's principal place of business.³⁰

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.

²⁹ *Hertz Corp v. Friend et al.*, 130 S.Ct. 1181 (2010).

³⁰ In a 2010 memorandum to purchasing directors, the department indicated it intended to use the nerve center test when applying the Florida based business preference found in s. 49 of ch. 2010-151, L.O.F., to both state term contracts and other department issued solicitations. Memorandum to Purchasing Directors, Department of Management Services, September 2, 2010 at 3.

By Senator Hays

11-00243B-13

2013684

1 A bill to be entitled
 2 An act relating to preference in award of state
 3 contracts; amending s. 287.084, F.S.; expanding
 4 provisions that require an agency, university,
 5 college, school district, or other political
 6 subdivision of the state to provide preferential
 7 consideration to a Florida business in awarding
 8 competitively bid contracts to purchase personal
 9 property to include the purchase of construction
 10 services; requiring counties and municipalities to
 11 provide such preferential consideration; providing
 12 that for specified competitive solicitations the
 13 authority to grant preference supersedes any local
 14 ordinance or regulation that restricts specified
 15 contractors from competing for an award based upon
 16 certain conditions; requiring a university, college,
 17 county, municipality, school district, or other
 18 political subdivision to make specified disclosures in
 19 competitive solicitation documents; providing for
 20 construction; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsection (1) of section 287.084, Florida
 25 Statutes, is amended to read:

26 287.084 Preference to Florida businesses.—

27 (1)(a) When an agency, university, college, school
 28 district, or other political subdivision of the state is
 29 required to make purchases of personal property or construction

Page 1 of 3

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

11-00243B-13

2013684

30 services through competitive solicitation and the lowest
 31 responsible and responsive bid, proposal, or reply is by a
 32 vendor whose principal place of business is in a state or
 33 political subdivision thereof which grants a preference for the
 34 purchase of such personal property or construction services to a
 35 person whose principal place of business is in such state, then
 36 the agency, university, college, school district, or other
 37 political subdivision of this state shall award a preference to
 38 the lowest responsible and responsive vendor having a principal
 39 place of business within this state, which preference is equal
 40 to the preference granted by the state or political subdivision
 41 thereof in which the lowest responsible and responsive vendor
 42 has its principal place of business. In a competitive
 43 solicitation in which the lowest bid is submitted by a vendor
 44 whose principal place of business is located outside the state
 45 and that state does not grant a preference in competitive
 46 solicitation to vendors having a principal place of business in
 47 that state, the preference to the lowest responsible and
 48 responsive vendor having a principal place of business in this
 49 state shall be 5 percent.

50 (b) Paragraph (a) does not apply to transportation projects
 51 for which federal aid funds are available.

52 (c)1. For a competitive solicitation in which payment for
 53 the personal property or construction services is to be made in
 54 whole or in part from funds appropriated by the state, this
 55 section preempts and supersedes any local ordinance or
 56 regulation that restricts a contractor certified under s.
 57 489.105(8) from competing for an award based upon:

58 a. The vendor maintaining an office or place of business

Page 2 of 3

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

11-00243B-13

2013684__

59 within a particular local jurisdiction;

60 b. The vendor hiring employees or subcontractors from
61 within a particular local jurisdiction; or

62 c. The vendor's prior payment of local taxes, assessments,
63 or duties within a particular local jurisdiction.

64 2. In any competitive solicitation subject to this section,
65 a university, college, county, municipality, school district, or
66 other political subdivision shall disclose in the solicitation
67 document whether payment will come from funds appropriated by
68 the state and, if known, the amount of such funds or the
69 percentage of such funds as compared to the anticipated total
70 cost of the personal property or construction services.

71 3. Except as provided in subparagraph 1., this section does
72 not prevent a university, college, county, municipality, school
73 district, or other political subdivision of this state from
74 awarding a contract to any vendor in accordance with applicable
75 state laws or local ordinances or regulations.

76 ~~(e) As used in this section, the term "other political~~
77 ~~subdivision of this state" does not include counties or~~
78 ~~municipalities.~~

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-13

Meeting Date

Topic State Contracts

Bill Number 684 (if applicable)

Name Marty Cassini

Amendment Barcode (if applicable)

Job Title Legislative Counsel

Address 115 S. Andrews Ave 426

Phone 954-357-7575

Street Fort Lauderdale FL 33301 City State Zip

E-mail mcassini@broward.org

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

Representing Broward County

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13

Meeting Date

Topic Fair Competition Act

Bill Number SB 684 (if applicable)

Name Carol Bowen

Amendment Barcode (if applicable)

Job Title VP Gov't Affairs

Address 3730 Cocumint Creek

Phone 954-465-6811

Street Cocumint Creek State Zip 33066 City State Zip

E-mail

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

Representing ABC

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)

4/2
~~6/84~~

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Preferences Bill Number 684
(if applicable)

Name Richard Watson Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address P.O. Box 10638 Phone 850 222-0000
Street

Tallahassee FL 32312 E-mail rdw@vwd.com
City State Zip

Speaking: For Against Information

Representing Associated Builders & Contractors

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

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

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

S-001 (10/20/11)

4/2/13

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic STATE CONTRACTING Bill Number 684
(if applicable)

Name JOFFREY SHARKEY Amendment Barcode _____
(if applicable)

Job Title Capitol Alliance Group

Address 100 E College Ave Phone 850 224 1660
Street

TH FL 32301 E-mail _____
City State Zip

Speaking: For Against Information

Representing NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

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

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

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

S-001 (10/20/11)

APPEARANCE RECORD

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

4/2/2013

Meeting Date

Topic _____

Bill Number 684
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

APPEARANCE RECORD

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

4/2/13

Meeting Date

Topic 684

Bill Number 684
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757

Phone 850 701 3701

Street

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: For Against Information

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Governmental Oversight and Accountability

CC: Joe McVaney, Staff Director
Courtney Hicks, Administrative Assistant

Subject: Committee Agenda Request

Date: February 14, 2013

I respectfully request that **Senate Bill #684**, relating to Preference in Award of State Contracts, be placed on the:

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

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

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

Error! Use the Home tab to apply Date to the text that you want to appear here.
Page 2

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 1496

INTRODUCER: Judiciary Committee and Senator Thrasher

SUBJECT: Public Records/Complaint and Information Requirement/Department of Legal Affairs

DATE: April 2, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin/Munroe</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Naf</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1496 creates a public records exemption for a complaint of a Florida False Claims Act (FFCA) violation and other information held by the Department of Legal Affairs pursuant to an investigation of the alleged violation. The exemption expires when the investigation is complete, unless the complaint and other information are otherwise protected by law.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

Because this bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for passage.

This bill is linked to SB 1494,¹ which substantially revises the authority of the Department of Legal Affairs to pursue fraud and other acts of misconduct under the FFCA.

¹ See Senate Staff Analysis and Economic Impact Statement for SB 1494 (2013 Reg. Sess.) by the Senate Committee on Judiciary (Mar. 15, 2013).

This bill substantially amends section 68.083 of the Florida Statutes.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.² The records of the legislative, executive, and judicial branches are specifically included.³

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act⁴ guarantees every person's right to inspect and copy any state or local government public record⁵ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁶

Only the Legislature may create an exemption to public records requirements.⁷ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁸ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹⁰

² FLA. CONST., art. I, s. 24(a).

³ *Id.*

⁴ Chapter 119, F.S.

⁵ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁶ Section 119.07(1)(a), F.S.

⁷ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁸ FLA. CONST., art. I, s. 24(c).

⁹ The bill may, however, contain multiple exemptions that relate to one subject.

¹⁰ FLA. CONST., art. I, s. 24(c).

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹¹ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹² The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹³

Florida False Claims Act

The Florida False Claims Act (FFCA)¹⁴ authorizes civil actions by individuals and the state against persons who file false claims for payment or approval with a state agency. The Florida Legislature enacted the FFCA in 1994 and the FFCA is modeled after the Federal Civil False Claims Act.¹⁵ Actions that violate the FFCA include:

- Submitting a false claim for payment or approval;¹⁶
- Making or using a false record to get a false or fraudulent claim paid or approved;¹⁷
- Conspiring to make a false claim or to deceive an agency to get a false or fraudulent claim allowed or paid;¹⁸ or
- Making or using a false record to conceal, avoid, or decrease payments owed to the state government.¹⁹

The penalty for violating the FFCA is \$5,500 to \$11,000 per claim, plus three times the amount of damages to the state government for FFCA violations.²⁰ The Department of Financial Services or the Department of Legal Affairs (DLA) may bring an action for a false claim or may join a private action brought on the grounds outlined in the statute.²¹

SB 1494

Under current law, the DLA may investigate false claims against the state but does not have subpoena powers. The DLA reports that the lack of subpoena authority can make it difficult for the department to determine if it is appropriate to intervene in a FFCA case.

¹¹ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

¹⁴ Section 68.081, F.S., *supra* note 1.

¹⁵ See House Staff Analysis and Economic Impact Statement for SB 1185 (1994 Reg. Sess.) by the House Committee on Judiciary (Mar. 15, 1994) and *see also*, Federal False Claims Act, currently codified at 31 U.S.C. ss. 3729-3733 (Supp IV. 2010).

¹⁶ Section 68.082(2)(a), F.S.

¹⁷ Section 68.082(2)(b), F.S.

¹⁸ Section 68.082(2)(c), F.S.

¹⁹ Section 68.082(2)(g), F.S.

²⁰ Section 68.082(2), F.S.

²¹ See Section 68.083, F.S.

The bill creates s. 68.0831, F.S., to grant the DLA discovery capabilities before the institution of a civil proceeding, if it has reason to believe that any person has testimony or evidence relevant to the investigation.²²

III. Effect of Proposed Changes:

The bill creates a public records exemption for a complaint of a violation of the FFCA and other information held by the DLA pursuant to an investigation of the alleged violation. Such complaint and information is confidential and exempt from public records requirements until the investigation is completed, unless the information is otherwise protected by law.

The bill provides that an investigation is completed when:

- The Department of Legal Affairs files its own action or closes its investigation without filing an action; or
- The *qui tam* action²³ is unsealed or voluntarily dismissed before unsealing.

In addition, the DLA may disclose the complaint and other information at any time to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities.

The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It provides a statement of public necessity as required by the Florida Constitution.

This bill takes effect on the same date as SB 1494 or similar legislation, which is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

²² See Senate Staff Analysis and Economic Impact Statement for SB 1494 (2013 Reg. Sess.) supra note.

²³ “*Qui tam* action” means “[a]n action brought under a statute that allows a private person to sue for a penalty, part of which the government or some specified public institution will receive.” BLACK’S LAW DICTIONARY (9th ed. 2009). See also s. 68.083(2), F.S. *Qui tam* cases usually arise from an employee of an institution such as a health care provider who discovers that violations of the FFCA are occurring. This is a type of whistleblower action. In a *qui tam* action under the FFCA, the employee will sue on behalf of the state to collect money that was illegally defrauded from the state. A private entity that brings a successful FFCA action on behalf of the state will receive an amount that the court decides is reasonable for collecting the civil penalty and damages. See ss. 68.085 and 68.086, F.S. The amount must not be less than 25 percent and not more than 30 percent of the proceeds recovered under a judgment. Section 68.085(3), F.S.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public records or open meetings exemption to pass by a two-thirds vote of the members present and voting in each house. This bill creates a public records exemption; therefore, a two-thirds vote is required.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a bill creating or expanding a public records or open meetings exemption to contain a public necessity statement. This bill creates a public records exemption; therefore, this bill includes a public necessity statement.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Financial Services (DFS) or the Department of Legal Affairs (DLA) may bring an action for a false claim, or may join a private action brought on the grounds outlined in the statute.²⁴ The public records exemption created by this bill applies only to information held by the DLA; however, the DFS states that it currently uses the public records exemption in s. 17.0401, F.S.,²⁵ when investigating false claim allegations²⁶

²⁴ See Section 68.083, F.S.

²⁵ Section 17.0401, F.S., provides a public records exemption for information relative to an investigation conducted by the DFS's Division of Accounting and Auditing pursuant to s. 17.04, F.S., including any consumer complaint. Section 17.04,

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 Judiciary on March 18, 2013:

The committee substitute revises the point in time at which the complaint and other information, which relate to an investigation under the Florida False Claims Act, are subject to disclosure under the public records laws. Under the committee substitute, the records are subject to the disclosure requirements under the public records laws once an investigation is complete. Other criteria that may have authorized the Department of Legal Affairs to maintain the confidential and exempt status of the records beyond the completion of the investigation were removed from the bill.

- B. **Amendments:**

None.

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

F.S., authorizes the Division of Accounting and Auditing to conduct investigations as it deems necessary to aid in the enforcement of the Chief Financial Officer's auditing duties.

²⁶ Email correspondence, dated April 1, 2013 (on file with the Senate Governmental Oversight and Accountability Committee).

By the Committee on Judiciary; and Senator Thrasher

590-02618-13

20131496c1

A bill to be entitled

An act relating to public records; amending s. 68.083, F.S.; providing an exemption from public records requirements for a complaint and other information held by the Department of Legal Affairs pursuant to an investigation of a violation of s. 68.082, F.S., relating to false claims against the state; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing for specified disclosure; specifying duration of the exemption; specifying conditions under which an investigation is considered completed; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (8) is added to section 68.083, Florida Statutes, to read:

68.083 Civil actions for false claims.—

(8) (a) Except as otherwise provided in this subsection, the complaint and other information held by the department pursuant to an investigation of a violation of s. 68.082 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(b) Information made confidential and exempt under

Page 1 of 3

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

590-02618-13

20131496c1

paragraph (a) may be disclosed by the department to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities.

(c) Information made confidential and exempt under paragraph (a) is no longer confidential and exempt once the investigation is completed, unless the information is otherwise protected by law.

(d) For purposes of this subsection, an investigation is completed:

1. Under subsection (1) once the department files its own action or closes its investigation without filing an action.

2. Under subsection (2) upon the unsealing of the qui tam action or upon the voluntary dismissal of the qui tam action prior to the unsealing.

Section 2. The Legislature finds that it is a public necessity that the complaint and other information held by the Department of Legal Affairs pursuant to an investigation of a violation of s. 68.082, Florida Statutes, relating to false claims against the state, be held confidential and exempt from public records requirements. Because a false claims investigation conducted by the Department of Legal Affairs may lead to the filing of an administrative or civil proceeding, the premature release of the complaint or other information held by the department could frustrate or thwart the investigation and impair the ability of the department to effectively and efficiently administer its duties under the Florida False Claims Act, ss. 68.081-68.092, Florida Statutes. This exemption also protects the reputation of the named defendant in the event the allegations of the qui tam complaint ultimately prove to be

Page 2 of 3

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

590-02618-13

20131496c1

59 unfounded. Without this exemption, a plaintiff can subject a
60 defendant to serious fraud allegations in the name of the state
61 merely by filing a qui tam complaint. Additionally, given the
62 department's subpoena powers for all qui tam investigations,
63 this exemption, which mirrors the existing statutory exemption
64 in s. 409.913(12), Florida Statutes, for information obtained
65 during investigations of Medicaid fraud and abuse claims, is
66 especially appropriate. Therefore, the Legislature finds that it
67 is a public necessity that the complaint and information held by
68 the Department of Legal Affairs pursuant to an investigation of
69 a violation of s. 68.082, Florida Statutes, relating to false
70 claims against the state, be held confidential and exempt from
71 public records requirements.

72 Section 3. This act shall take effect on the same date that
73 SB 1494 or similar legislation takes effect, if such legislation
74 is adopted in the same legislative session or an extension
75 thereof and becomes a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Community Affairs
Ethics and Elections
Gaming
Judiciary
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR JOHN THRASHER

6th District

March 20, 2013

Memorandum

To: Senator Jeremy Ring, Chairman
Senate Committee on Governmental Oversight and Accountability

Fm: Senator John Thrasher

Re: CS/Senate Bill 1496; Public Records Exemption/Florida False Claims Act

It will be appreciate if you will agenda my CS/Senate Bill 1496 for a hearing by the Senate Governmental Oversight and Accountability Committee at your earliest convenience.

Thank you for your consideration of this request.

REPLY TO:

- 113 Nature Walk Parkway, Suite 106, St. Augustine, Florida 32092 (904) 287-4222 FAX: 1-888-263-3475
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

II. Present Situation:

In 2007, the Legislature passed the Florida Capital Formation Act, in part to address the need to increase the availability of seed capital and early stage venture equity capital for emerging Florida companies.¹ The act created two state venture capital efforts: the Florida Opportunity Fund and the Institute for the Commercialization of Public Research.

Florida Opportunity Fund²

The Florida Opportunity Fund (FOF) was originally created in 2007 as a “fund of funds” program for the purpose of investing in seed and early stage venture capital funds managed by managers with demonstrated experience, expertise, and a successful history of investing venture capital funds, with a focus on venture capital opportunities in Florida. In order to receive an investment from the FOF, a venture capital fund must demonstrate a record of successful investment in Florida, be based in the state, or have an office staffed with a full-time, professional venture investment executive. Funds must have raised capital from other sources of at least twice the FOF’s investment. The Legislature provided an initial appropriation of \$29.5 million from the General Revenue Fund for FOF’s venture capital investment efforts.

The scope of the FOF’s purpose was expanded in 2009 to allow it to provide direct investments, including loans, in businesses and infrastructure projects that are Florida-based and operate in technology sectors that are strategic to Florida.³ In order to receive a direct investment, a business or infrastructure project must have raised capital from other sources of at least twice the FOF’s investment.

Enterprise Florida, Inc. (EFI), operates as the FOF’s sponsor and as its sole shareholder or member. FOF’s board of directors is composed of five members, appointed by the EFI board of directors. Members of the FOF’s board of directors must have expertise in the areas of selection and supervision of early stage investment managers or in the fiduciary management of investment funds and other areas of expertise.

Florida First Partners manages the FOF’s, operating three investment programs including: the Fund-of-Funds Program; the Clean Energy Investment Program; and the Florida Venture Capital Program.⁴ The Fund-of-Funds Program invests in seed and early-stage venture capital funds that target investments in Florida.⁵ The Clean Energy Investment Program promotes the adoption of energy efficient or renewable energy products and technologies. The program is administered by the Florida Department of Agriculture and Consumer Services’ Office of Energy, and provides several project funding structures including project financing, asset-based lending, mezzanine financing, and equity investments. The program targets funding opportunities ranging from

¹ Chapter 2007-189, L.O.F., codified as ss. 288.9621-288.9625, F.S.

² Section 288.9624, F.S.

³ Chapter 2009-51, L.O.F.

⁴ Florida Opportunity Fund homepage, available at: <http://www.floridaopportunityfund.com/HomePage.asp>, (last visited on February 11, 2013).

⁵ Fund of Funds Program website, available at: <http://www.floridaopportunityfund.com/About.asp>, (last visited on February 11, 2013).

\$500,000 to \$5 million.⁶ The Florida Venture Capital Program provides funding opportunities including equity investments and convertible debt instruments ranging from \$1 million to \$3 million. The program seeks to provide funding for emerging Florida companies with perceived long-term growth potential. Investments are directed to businesses in Florida's targeted industries, including: aerospace and aviation; alternative and clean energy technology; financial and professional services; homeland security and defense; information technology; life sciences; and manufacturing.⁷

Institute for the Commercialization of Public Research⁸

The Institute for the Commercialization of Public Research (the institute) was established as a non-profit corporation to assist in the commercialization efforts at Florida's universities by working collaboratively with the technology licensing and commercialization offices of Florida's public universities and private research institutions receiving public funds.⁹

The institute has primary locations at the University of Florida in Gainesville and Florida Atlantic University in Boca Raton. The institute is governed by a board of directors, who are responsible for the institute's funds, presenting the institute's annual report, and managing the institute's general affairs. The board of directors is composed of: the executive director of the Department of Economic Opportunity; the president of the university where the institute is located, or in the case where the institute is located at multiple universities, the presidents' agreed upon designee; and three directors appointed by the Governor.

The institute matches commercially-viable technologies with management talent and capital, and showcases technologies and companies originating from publicly supported organizations across the state. The institute focuses on technologies and companies in Florida's target industries.¹⁰

Before the institute facilitates a company or organization's efforts to commercialize its products, it must be accepted by the institute through an application process. Publicly supported organizations may recommend that a company attempting to commercialize its research, technology, or patents be accepted by the institute. Upon acceptance by the institute, a company receives mentoring and other services, which includes developing marketing information on the company, using institute resources to attract capital investment into the company, and other resources that may encourage effective management, growth, capitalization technology protection, or marketing or business success.

In 2011 the institute received a \$10 million appropriation, which it used primarily to develop and implement the Seed Capital Accelerator Program.¹¹ The accelerator program offers repayable

⁶ Clean Energy Program website, available at: <http://www.floridaopportunityfund.com/EnergyAbout.asp>, (last visited on February 11, 2013). Funding for this program was provided by the U.S. Department of Energy through the American Recovery and Reinvestment Act.

⁷ Florida Venture Capital Program website, available at: <http://www.floridaopportunityfund.com/VentureAbout.asp>, (last visited on: February 11, 2013). Funding for this program is provided through the federal Small Business Jobs Act of 2010 and the State Small Business Credit Initiative.

⁸ Section 288.9625, F.S.

⁹ Florida Institute for the Commercialization of Public Research, *Annual Report 2011*, (June 30, 2011). (On file with the Senate Commerce and Tourism Committee).

¹⁰ *Id.*

loans ranging from \$50,000-\$300,000 to qualified companies approved by the institute. Companies must provide a 1:1 match against the loan through private capital sources.¹²

In addition to its charge of matching publicly-developed research with private commercialization efforts, the institute is also required to implement and administer the Research Commercialization Matching Grant Program.¹³ The grant program is designed to provide matching funds for projects and businesses that have been awarded or are applying for Phase I or Phase II federal Small Business Innovation Research Program grants and Small Business Technology Transfer Program grants through the U.S. Small Business Administration's Office of Technology.

The institute is prohibited from charging a fee for services provided.

By December of each year, the institute is required to submit an annual report on its activities to the Governor and the Legislature.

III. Effect of Proposed Changes:

Section 1 amends s. 288.9625, F.S., relating to the Institute for the Commercialization of Public Research (the institute). The bill expands the purpose of the institute to include the commercialization of products developed by innovation businesses as defined by s. 288.1089, F.S. Current law defines an innovation business as "a business expanding or locating in this state that is likely to serve as a catalyst for the growth of an existing or emerging technology cluster or will significantly impact the regional economy in which it is to expand or locate."¹⁴ Innovation businesses may qualify for the Innovation Incentive Program.

The bill allows the institute to deliver and charge for services to private companies and affiliated organizations, so long as the services do not interfere with the institute's core mission. The bill prohibits the institute from using its capital to support private companies whose products were not developed by a publicly supported college, university, research institute, or other organization.

Section 2 creates s. 288.96255, F.S., to allow the institute to create a corporate subsidiary to be named the Florida Technology Seed Capital Fund (the fund). The institute is directed to administer the fund. Administrative costs are to be determined by the fund's investor advisory board. The bill specifies that the fund's purposes are:

- Fostering greater private sector investment funding;
- Encouraging seed-stage investments in start-up companies; and
- Advising companies on restructuring existing management, operations, or production to attract business opportunities.

¹¹ Chapter 2011-76, L.O.F.

¹² Institute for the Commercialization of Public Research website, "Seed Capital Accelerator Program" page, available at: <http://www.florida-institute.com/index.cfm?fuseaction=funding.scap>, (last visited on February 12, 2013).

¹³ Section 288.9552, F.S.

¹⁴ Section 288.1089(2)(h), F.S.

The bill allows the fund to make seed-stage equity investments in companies. Any proceeds resulting from the sale of the equity held by the fund in companies must be returned to the fund for reinvestment.

The bill requires the institute to establish an investor advisory board composed of venture capital professionals and early-stage investors to guide and advise the fund's management, and to make funding recommendations. The institute is also directed to hire employees with expertise to manage the fund's activity.

Investment proposals are required to be evaluated based on investment industry best practices. The bill provides the requirements that the institute must consider prior to approving an investment by the fund. In order for a company to be approved for investment, it must:

- Have a strong intellectual property position, a capable management team, readily identifiable paths to market or commercialization, significant job growth potential, the ability to provide other sources of capital to leverage the state's investment, and the potential to attract additional funding;
- Be identified by a publicly funded research institution;
- Operate in a targeted industry as designated pursuant to s. 288.106(2), F.S.;
- Be identified and approved by a private-sector lead investor who has demonstrated due diligence in evaluating the company; and
- Be recommended by the investor advisory board and fund manager.

Once a company has been approved by the institute, an investment of between \$50,000 and \$300,000 can be made if the company provides a one-to-one private sector match. Additional seed investments require a two-to-one private sector match, and can reach a cumulative total of up to \$500,000 for a single company.

The services offered by the institute through the fund include:

- Providing companies with value-added support services, such as business plan development and preparation of investor presentations;
- Encouraging appropriate investment funds to become preapproved to match investment funds;
- Marketing the state as an attractive early-stage investment location; and
- Collaborating with state economic development organizations, national seed and angel funds associations, and other innovation associations to enhance the state's entrepreneurial ecosystem.

The bill requires the institute to evaluate the activities and results of the fund, and must take into account in the evaluation that seed investment horizons span from 3 to 7 years.

Section 3 provides for 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:

To the extent that the bill will assist additional start-ups and early stage-companies, and facilitate technology development, the bill could have a positive impact on the private sector.

C. Government Sector Impact:

The bill has an indeterminate impact on the Institute for the Commercialization of Public Research.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Current law provides a public records exemption for specified records held by the Institute for the Commercialization of Public Research (institute).¹⁵ This bill creates the Florida Technology Seed Capital Fund (fund) as a corporate subsidiary of the institute. It is unclear whether the existing public records exemption for the institute would also apply to public records held by a newly-created subsidiary such as the fund. Because the bill appears to assign the institute all responsibilities relating to the fund, however, it is possible that the institute, not the fund, would be the custodian of any related public records. Even if that is the case, it is unclear whether public records generated in relation to the fund would constitute an expansion of the records currently protected by the institute's public records exemption.

The bill provides that the institute must create the fund; the Legislature could directly create the fund.

¹⁵ Section 288.9627(2), F.S.

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 March 18, 2013:

- Removes the requirement for the fund to consist of \$50 million.
- Removes the requirement that administrative fees may not exceed 5 percent of the total appropriation for the fund and instead states that administrative costs are to be determined by the investor advisory board.
- Specifies that a company operating in a targeted industry designated under s. 288.106(2), F.S., is a requirement for investment by the fund rather than a company operating in a targeted industry as designated by Enterprise Florida, Inc.
- Clarifies provisions relating to the initial investment and private-sector matching fund requirements.

- B. **Amendments:**

None.

By the Committee on Commerce and Tourism; and Senator Ring

577-02586A-13

2013546c1

A bill to be entitled

An act relating to targeted economic development; amending s. 288.9625, F.S.; expanding the purpose of the Institute for the Commercialization of Public Research to include the commercialization of products developed by an innovation business; authorizing the institute to create corporate subsidiaries; providing conditions under which the institute may develop or accrue certain interests in companies or products; specifying conditions under which the institute may deliver and charge for services; expanding the institute's reporting requirements to include information on assistance given to an innovation business; creating s. 288.96255, F.S.; requiring that the institute create the Florida Technology Seed Capital Fund; providing for the purpose of the fund; providing for certain administrative costs of the fund; requiring professional managers to manage the fund; providing for an investor advisory board to advise and guide the managers and to make funding recommendations; requiring the institute to administer the fund and providing criteria for its administration; providing for responsibilities of the institute; providing for an annual evaluation of the activities and results of funding; providing an effective date.

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

Page 1 of 6

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

577-02586A-13

2013546c1

Section 1. Subsections (2), (9), (10), and paragraph (a) of subsection (11) of section 288.9625, Florida Statutes, are amended to read:

288.9625 Institute for the Commercialization of Public Research.—There is established at a public university or research center in this state the Institute for the Commercialization of Public Research.

(2) The purpose of the institute is to assist in the commercialization of products developed by the research and development activities of an innovation business, as defined in s. 288.1089; a publicly supported college, university, or research institute; or any other publicly supported organization in this universities and colleges, research institutes, and publicly supported organizations within the state. The institute shall ~~operate to~~ fulfill its purpose ~~and~~ in the best interests of the state. The institute:

- (a) ~~Is Shall be~~ a corporation primarily acting as an instrumentality of the state pursuant to s. 768.28(2), for the purposes of sovereign immunity;
- (b) Is not an agency within the meaning of s. 20.03(11);
- (c) Is subject to the open records and meetings requirements of s. 24, Art. I of the State Constitution, chapter 119, and s. 286.011;
- (d) Is not subject to the provisions of chapter 287;
- (e) Shall be governed by the code of ethics for public officers and employees as set forth in part III of chapter 112;
- (f) ~~May Is not authorized to~~ create corporate subsidiaries;
- (g) Shall support existing commercialization efforts at state universities; and

Page 2 of 6

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

577-02586A-13

2013546c1

59 (h) ~~May shall~~ not supplant, replace, or direct existing
60 technology transfer operations or other commercialization
61 programs, including incubators and accelerators.

62 (9) The institute ~~may shall~~ not develop or accrue any
63 ownership, royalty, patent, or other such rights over or
64 interest in companies or products in the institute except in
65 connection with financing provided directly to client companies
66 and shall maintain the confidentiality ~~secrecy~~ of proprietary
67 information.

68 (10) The institute ~~may shall~~ not charge for services
69 provided rendered to state universities and affiliated
70 organizations, community colleges, or state agencies; however,
71 the institute may deliver and charge for services to private
72 companies and affiliated organizations if providing a service
73 does not interfere with the core mission of the institute. The
74 institute may not use its capital in support of private
75 companies or affiliated organizations whose products were not
76 developed by research and development activities of a publicly
77 supported college, university, or research institute, or any
78 other organization.

79 (11) By December 1 of each year, the institute shall issue
80 an annual report concerning its activities to the Governor, the
81 President of the Senate, and the Speaker of the House of
82 Representatives. The report shall include the following:

83 (a) Information on any assistance ~~and activities~~ provided
84 by the institute to an innovation business, as defined in s.
85 288.1089; a publicly supported college, university, or research
86 institute; or any other publicly supported organization ~~assist~~
87 ~~publicly supported universities, colleges, research institutes,~~

577-02586A-13

2013546c1

88 ~~and other publicly supported organizations~~ in the state.

89 Section 2. Section 288.96255, Florida Statutes, is created
90 to read:

91 288.96255 Florida Technology Seed Capital Fund; creation;
92 duties.-

93 (1) The Institute for the Commercialization of Public
94 Research shall create the Florida Technology Seed Capital Fund
95 as a corporate subsidiary. The purpose of the fund is to foster
96 greater private-sector investment funding, to encourage seed-
97 stage investments in start-up companies, and to advise companies
98 on restructuring existing management, operations, or production
99 to attract advantageous business opportunities. The proceeds of
100 a sale of the equity held by the fund shall be returned to the
101 fund for reinvestment.

102 (2) The institute shall administer the Florida Technology
103 Seed Capital Fund. Administrative costs paid out of the fund
104 shall be determined by the investor advisory board.

105 (3) The institute shall employ professionals who have both
106 technical and business expertise to manage fund activity. The
107 institute shall establish an investor advisory board comprised
108 of venture capital professionals and early-stage investors from
109 this and other states who shall advise and guide the fund
110 management and make funding recommendations.

111 (4) The institute shall use a thorough and detailed process
112 that is modeled after the best practices of the investment
113 industry to evaluate a proposal. In order to approve a company
114 for investment, the institute must consider whether:

115 (a) The company has a strong intellectual property
116 position, a capable management team, readily identifiable paths

577-02586A-13

2013546c1

117 to market or commercialization, significant job-growth
118 potential, the ability to provide other sources of capital to
119 leverage the state's investment, and the potential to attract
120 additional funding;

121 (b) The company has been identified by a publicly funded
122 research institution;

123 (c) The start-up company operates in a target industry
124 designated pursuant to the procedure specified in s. 288.106(2);

125 (d) The company has been identified by an approved private-
126 sector lead investor who has demonstrated due diligence typical
127 of start-up investments in evaluating the potential of the
128 company; and

129 (e) The advisory board and fund manager have reviewed and
130 recommended that the proposal be approved.

131 (5) (a) Seed funds may be invested if the institute approves
132 a company and the initial seed-stage investment. The initial
133 seed-stage investment must be at least \$50,000, but may not be
134 greater than \$300,000. The initial seed-stage investment
135 requires a one-to-one private-sector match of the investment.

136 (b) Additional seed funds may be invested in a company if
137 approved by the institute. The cumulative total of investment in
138 a single company may not exceed \$500,000. Any additional
139 investment amount requires a two-to-one private-sector match of
140 investment.

141 (6) The institute may:

142 (a) Provide a company with value-added support services in
143 the areas of business plan development and strategy, the
144 preparation of investor presentations, and other critical areas
145 identified by the institute to increase its chances for long-

577-02586A-13

2013546c1

146 term viability and success.

147 (b) Encourage appropriate investment funds to become
148 preapproved to match investment funds;

149 (c) Market the attractiveness of the state as an early-
150 stage investment location; and

151 (d) Collaborate with state economic-development
152 organizations, national associations of seed and angel funds,
153 and other innovation-based associations to create an enhanced
154 state entrepreneurial ecosystem.

155 (7) The institute shall annually evaluate the activities
156 and results of the funding, taking into consideration that seed
157 investment horizons span from 3 to 7 years.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13
Meeting Date

Topic SB-546

Bill Number 546
(if applicable)

Name Jamie Grooms

Amendment Barcode _____
(if applicable)

Job Title CEO

Address 747 NE 2nd Ave

Phone 352-514-5779

Gainesville, FL
Street City State Zip

E-mail Jamie.Grooms@Florida-Institute.com

Speaking: For Against Information

Representing Florida Institute for the Commercialization of Public Research

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Governmental Oversight and Accountability

BILL: SB 1246

INTRODUCER: Senator Bean

SUBJECT: Public Retirement Plans

DATE: April 2, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AFT	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1246 provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to another incorporated municipality, in its entirety, is eligible to receive the premium taxes reported for the other municipality under certain circumstances. The bill authorizes the municipality receiving the police protection services to enact an ordinance levying the premium tax as provided by law and to distribute those premium tax revenues reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

The bill may have an indeterminate negative fiscal impact on the state General Revenue Fund and corresponding indeterminate positive fiscal impact on local government revenues by shifting these tax revenues from the state to the local governments.

This bill substantially amends sections 185.03 and 185.08 of the Florida Statutes.

II. Present Situation:

State Excise Tax on Casualty Insurance Premiums

Chapter 185, F.S., provides funding for municipal police officers' pension plans. It provides for a "uniform retirement system" with defined benefit retirement plans for municipal police officers and sets standards for the operation and funding of these pension systems.¹ Each municipality with a municipal police officers' retirement trust fund is authorized to assess an excise tax of

¹ Section 185.01, F.S.

.85 percent of the gross amount of receipts of premiums from policyholders on casualty insurance policies covering property within its corporate limits.² Revenues from this excise tax are one of the funding sources for police officers' pension plans. Currently, a municipality is eligible to receive state premium taxes (or excise taxes) only on those premiums for casualty insurance policies covering property within its municipal limits even if providing police protection services outside of its municipal limits.³

In order to qualify for the premium taxes, a police officers' pension plan must meet certain requirements in ch. 185, F.S.⁴ The Department of Management Services (DMS) oversees and monitors these pension plans; however, day-to-day operational control rests with local boards of trustees.⁵ Any premium taxes collected by and distributed to a municipality for funding police officers' pension plans have a negative impact on the General Revenue Fund because those premium taxes paid by an insurance company under ch. 185, F.S., to a municipality are allowed as a credit against premium taxes the insurance company must pay to the state under s. 624.509, F.S.

State Excise Tax on Property Insurance

Under current law, a municipality may receive another municipality's premium tax revenues (associated with the tax on property insurance premiums) when there is an interlocal agreement in place to provide fire protection services.⁶ The municipality receiving fire services must levy the tax authorized by ch. 175, F.S., and copies of the interlocal agreement and the municipal ordinance levying the tax must be provided to the Division of Retirement within DMS.

Consolidation

Consolidation involves combining city and county governments so that the boundaries of the county and an affected city or cities become the same. Consolidation can be total or partial. Total consolidation occurs when all independent governmental units within a county are assimilated into the consolidated government. When some of the governments remain independent, the consolidation is partial. Nationally, few successful city-county consolidations exist. According to the National Association of Counties, only 31 of the 3,066 county governments in the United States are combined city/county governments.

Section 3, Article VIII, of the Florida Constitution, reads as follows:

Consolidation. —The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas

² Section 185.08, F.S.

³ *Id.*

⁴ *See* ss. 185.10, 185.085, F.S.

⁵ Section 185.05, F.S.

⁶ Section 175.041, F.S.

whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

Prior to 1933, the Florida Constitution of 1885 was silent on the subject of consolidation. The 1933 Legislature passed a constitutional amendment specifically declaring its own power to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters. The electorate of Florida adopted this amendment in 1934.

The voters of the City of Jacksonville and Duval County did not adopt a municipal charter pursuant to this constitutional provision until 1967, and to date, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate. Section 9, of Article VIII, of the Constitution of 1885, establishes the Jacksonville/Duval County consolidated charter.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 185.03 and 185.08, F.S., respectively, to allow a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, to receive the distribution of premium tax revenues related to casualty insurance premiums covering property within the municipality. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

This chapter applies only to municipalities organized and established pursuant to the laws of the state, and does not apply to the unincorporated areas of any county or counties or to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Department of Revenue (DOR) will be notified by the Division of Retirement (within the Department of Management Services) of any additional taxing jurisdiction as a result of the language of this bill. DOR will need to add those jurisdictions to the insurance premium tax form in the annual form process. The form will be adopted in a rule in the annual form adoption process. Additionally, this bill will require changes to the Insurance Premium Database to determine situs of premiums for allocation purposes.

B. Private Sector Impact:

None. Although the bill authorizes a municipality to enact a tax on insurance premiums, the municipal taxes are fully credited against the state taxes on insurance premiums.

C. Government Sector Impact:

The bill specifies that a consolidated government is entitled to premium tax distributions provided by chapter 185, F.S. As a result, this bill may have a negative fiscal impact on state revenues because state premium taxes paid by a casualty insurer to fund a municipal police officers' retirement plan are credited against the premium taxes paid to the state by the insurance company.⁷ The negative fiscal impact on state revenues is indeterminate, but likely minimal.

The bill may result in a positive fiscal impact on local governments because the bill provides that a consolidated government may collect premium tax revenues collected by the municipality receiving police protection services if the consolidated government provides a municipal police officer retirement plan, as provided for in chapter 185, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2005, the Legislature made similar changes to ch. 175, F.S., relating to the Firefighters' Pension Trust Fund. Sections 175.041 and 175.101, F.S., allow a municipality to receive excise tax monies for firefighter pension plans from another municipality if there is an interlocal agreement in place to provide fire protection services.

⁷ Section 624.509(4), F.S.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Bean

4-00935-13

20131246__

A bill to be entitled

An act relating to public retirement plans; amending ss. 185.03 and 185.08, F.S.; specifying applicability of ch. 185, F.S., to certain consolidated governments; providing that a consolidated government that has entered into an interlocal agreement to provide police protection services to a municipality within its boundaries is eligible to receive the premium taxes reported for the municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying the tax as provided by law; providing an effective date.

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

Section 1. Subsection (2) of section 185.03, Florida Statutes, is amended to read:

185.03 Municipal police officers' retirement trust funds; creation; applicability of provisions; participation by public safety officers.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(2) ~~(a) The provisions of This chapter applies shall apply~~ only to municipalities organized and established pursuant to the laws of the state, and ~~does said provisions shall~~ not apply to the unincorporated areas of ~~a any county or counties nor shall the provisions hereof apply~~ to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Page 1 of 3

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

4-00935-13

20131246__

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 2. Subsection (1) of section 185.08, Florida Statutes, is amended to read:

185.08 State excise tax on casualty insurance premiums authorized; procedure.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) (a) Each incorporated municipality in this state described and classified in s. 185.03, as well as each other city or town of this state which on July 31, 1953, had a lawfully established municipal police officers' retirement trust fund or city fund, by whatever name known, providing pension or relief benefits to police officers as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereafter engage in or carry on, the business of casualty insurance as shown by records of the Office of Insurance Regulation of the Financial Services Commission, an

Page 2 of 3

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

4-00935-13

20131246

59 excise tax in addition to any lawful license or excise tax now
60 levied by each of the ~~said~~ municipalities, respectively,
61 amounting to .85 percent of the gross amount of receipts of
62 premiums from policyholders on all premiums collected on
63 casualty insurance policies covering property within the
64 corporate limits of such municipalities, respectively.

65 (b) With respect to the distribution of premium taxes, a
66 single consolidated government consisting of a former county and
67 one or more municipalities, consolidated pursuant to s. 3 or s.
68 6(e), Art. VIII of the State Constitution, is also eligible to
69 participate under this chapter. The consolidated government
70 shall notify the division when it has entered into an interlocal
71 agreement to provide police services to a municipality within
72 its boundaries. The municipality may enact an ordinance levying
73 the tax as provided in this section. Upon being provided copies
74 of the interlocal agreement and the municipal ordinance levying
75 the tax, the division may distribute any premium taxes reported
76 for the municipality to the consolidated government as long as
77 the interlocal agreement is in effect.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/13 Meeting Date

Topic Public Retirement Plans Bill Number 1246 (if applicable)
Name Jim Tolley Amendment Barcode (if applicable)
Job Title

Address 345 west madison st. Phone
Street
City Tallahassee FL 32301 State Zip E-mail

Speaking: [X] For [] Against [] Information
Representing Florida Professional Firefighters
Appearing at request of Chair: [] Yes [] No Lobbyist registered with Legislature: [] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Public Retirement Pensioning Bill Number SB 1246 (if applicable)
Name Paige Carter-Smith Amendment Barcode (if applicable)
Job Title Governmental Consultant

Address 502 N. Adams St Phone 850) 222-6050
Street
City Tallahassee FL 32301 State Zip E-mail Paige@govmnc.net

Speaking: [X] For [] Against [] Information
Representing Jacksonville Police Fire Pension
Appearing at request of Chair: [] Yes [] No Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 4, 2013

I respectfully request that **Senate Bill # 1246**, relating to Public Retirement Plans, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

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 Governmental Oversight and Accountability

BILL: CS/SB 1004

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brandes

SUBJECT: Public Data

DATE: April 2, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	McVaney	GO	Fav/CS
2.			ATD	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1004 creates public data inventory requirements.

Current law requires state executive branch agencies and local governments subject to the Public Records Act (Act) to prepare inventories of public records in their custody for use by the Department of State in its duties under the Act. This bill creates an unnumbered section of law with additional public data inventory and reporting requirements for the legislative and executive branches of government. Specifically, each subject governmental entity must submit an inventory of all public data in its custody to the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State by January 1, 2014, and every 6 months thereafter.

The bill requires specified information to be included in the public data inventories.

The bill authorizes the Department of State:

- To use fees in the Records Management Trust Fund to implement the bill.
- To adopt rules to implement and administer the bill.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Public Records Access Requirements

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ (Act) guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵ The "custodian of public records" is the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.⁶ The Act does not apply to legislative or judicial records.⁷

Only the Legislature may create an exemption to public records requirements.⁸ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹¹

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

⁵ Section 119.07(1)(a), F.S.

⁶ Section 119.011(5), F.S.

⁷ See *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992).

⁸ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ The bill may, however, contain multiple exemptions that relate to one subject.

¹¹ FLA. CONST., art. I, s. 24(c).

Public Records Act: Retention and Inventory Requirements

The Act requires the Division of Library and Information Services of the Department of State (Division) to adopt rules to establish retention schedules and a disposal process for public records, with which other agencies must comply.¹² The Act also authorizes the Division to advise public officials on problems related to the preservation, creation, filing, and public accessibility of public records in their custody.¹³ To assist the Division, public officials must prepare an inclusive inventory of categories of public records in their custody. The Division must establish a time period for the retention or disposal of each series of records.¹⁴

Pursuant to its authority under the Act, the Division has developed a “Basics of Records Management Handbook” (handbook).¹⁵ In pertinent part, the handbook provides guidelines for record inventory procedures. The guidelines specify that, at a minimum, each inventory should identify and describe each record series created and maintained by the agency.¹⁶

A record series is a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use.¹⁷ Examples of record series might be personnel files, equipment maintenance and repair records, or procurement files. The handbook provides that the following information should be compiled for each record series:

- Record series title, which summarizes the form, function, and/or subject of the records.
- Description, which identifies the purpose and function of the record series with regard to the agency’s operation.
- Inclusive dates.
- Volume, which is usually expressed in terms of cubic feet.
- Retention schedule.
- Whether the record series constitutes “vital records,” which are those that are essential to the continuation of operations in an agency in the event of a disaster or emergency.¹⁸

Agencies do not currently submit their public record inventories to the Division because the relevant statute does not explicitly require them to do so.¹⁹

Records Management Trust Fund

The Florida State Archives is created within the Division to preserve public records (as defined in the Act), manuscripts, and other archival material that the Division determines has sufficient historical or other value to warrant their continued preservation and that have been accepted by

¹² Section 119.021(2)(a)-(b), F.S.

¹³ Section 119.021(2)(d), F.S.

¹⁴ *Id.*

¹⁵ Available online at <http://dlis.dos.state.fl.us/barm/handbooks/basics.pdf> (last viewed March 30, 2013).

¹⁶ “Basics of Records Management Handbook,” Department of State, at page 12.

¹⁷ Rule 1B-24, F.A.C.

¹⁸ “Basics of Records Management Handbook,” Department of State, at pages 12-13.

¹⁹ Phone call with Department of State staff on April 1, 2013.

the Division for deposit in its custody.²⁰ The Division may establish and maintain a schedule of fees which include, but are not limited to, restoration of archival materials, storage of archival materials, special research services, and publications.²¹

There is also created within the Division a records and information management program, which is tasked with a variety of duties relating to records and information management, preservation, and storage.²² The Division may charge fees for supplies and services, including, but not limited to, shipping containers, pickup, delivery, reference, and storage. Such fees must be based upon the actual cost of the supplies or service.²³

The Records Management Trust Fund is created within the Division to support the programs of the state archives and records and information management programs. It is funded with fees the Division collects for records management and archival services.²⁴

III. Effect of Proposed Changes:

The bill creates an unnumbered section of law that requires additional public record inventory requirements to those currently required by the Act.

The bill requires each agency to submit an inventory of all public data in its custody to the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State by July 1, 2014, and every 6 months thereafter. It defines “public data” to mean any document, paper, letter, map, book, tape, photograph, film, sound recording, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the official business of an agency. It defines “agency” to mean any committee, unit, or office of the legislative branch of government as described in ch. 11, F.S.,²⁵ any commission, unit, or office of the executive branch of government as described in ch. 14, F.S.,²⁶ or any agency as described in ch. 20, F.S.²⁷

²⁰ Section 257.35(1), F.S.

²¹ Section 257.35(5), F.S.

²² Section 257.36(1), F.S.

²³ Section 257.36(3), F.S.

²⁴ Section 257.375, F.S.

²⁵ Appears to include the Office of Legislative Services, Joint Legislative Auditing Committee, Auditor General, Office of Program and Policy Analysis and Government Accountability, Legislative Budget Commission, and Government Efficiency Task Force.

²⁶ Appears to include the Executive Office of the Governor, Division of Emergency Management, Statewide Office for Suicide Prevention, Administration Commission, Agency for Enterprise Information Technology, Florida Commission on the Status of Women, Citizen’s Assistance Office, Florida Commission on Community Service, and Office of Chief Inspector General. It may also include the Suicide Prevention Coordinating Council and Florida Faith-based and Community-based Advisory Council.

²⁷ Section 20.03(11), F.S., defines “agency” to mean an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit or entity of government. Therefore, the subject agencies in ch. 20, F.S., appear to be the Department of State, Department of Legal Affairs, Department of Financial Services, Department of Agriculture and Consumer Services, Department of Education, Board of Governors of the State University System, Department of Business and Professional Regulation, Department of Children and Families, Agency for Persons with Disabilities, Department of Law Enforcement, Department of Revenue, Department of Management Services, Department of Transportation, Department of Highway Safety and Motor Vehicles, Department of Environmental Protection, State Board of Administration, Department of Citrus, Florida Citrus Commission, Department of Corrections, Department of Juvenile Justice, Department of the Lottery, Parole Commission, Fish and Wildlife Conservation Commission, Department of

The bill's inventory requirements, therefore, apply to a different group of governmental entities than do the existing Act requirements, which apply to state executive branch agencies and local governments.

The range of information required by the bill is also different from that currently required by the Act, or by Division rule. The bill authorizes the Secretary of State to develop guidelines for the processing and submission of the public data inventories; however, each inventory must include the following information for each type or category of data held by the agency:

- A description of the data, including a record layout.
- The format, source, quality, and accuracy of the data.
- Whether the data is currently available to the public without a public records request, and, if it is available, the format and venue in which it is available.
- A description of data not currently available to the public without a public records request, but which the agency recommends be made publicly available.
- A description of all data that is confidential or exempt from the requirements of s. 119.07(1), F.S., or s. 24(a), Art. I of the Florida Constitution and the statutory citations that make such data confidential or exempt
- An explanation of any data-sharing activities with any other agency.

The bill authorizes the Department of State to use fees collected and deposited into the Records Management Trust Fund for the purpose of paying for costs it incurs in administering the bill's provisions.

The bill authorizes the Department of State to adopt rules to implement and administer the bill's provisions.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to impact county or municipal government.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is likely to require indeterminate costs for agencies that are required to comply with the bill's public data inventory requirements.

According to the Department of State (Department), the twice-a-year data collection coordination and training of agency staff would create costs. The Department stated in its original bill analysis²⁸ that it would require additional staffing to comply with the bill's requirements; it is unclear whether such additional staffing would be required by the CS.

Although the bill authorizes the Department to use funds from the Records Management Trust Fund to administer the bill's provisions, because the bill does not specifically authorize the collection of additional fees, the bill may still increase costs for the Department because the trust funds are collected from and used to recoup costs incurred by the performance of the Division of Library and Information Services' archival and records management duties.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Rulemaking**

The constitutional separation of powers doctrine prevents the Legislature from delegating its constitutional duties. Because legislative power involves the exercise of policy-related discretion over the content of law, any discretion given an agency to implement a rule must be "pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."²⁹

The bill grants rulemaking authority to the Department of State to implement provisions of the bill generally, and also grants specific authority to the Department of State to develop guidelines for the processing and submission of public data inventories. For clarity, the Legislature may wish to consolidate the two grants of rulemaking authority.

²⁸ Department of State Bill Analysis for Senate Bill 1004, on file with the Senate Governmental Oversight and Accountability Committee.

²⁹ *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

The bill appears to provide sufficient standards for the Department of State's implementation of the bill's provisions.

Drafting Comments

It is unclear what would be included in "any commission, unit, or office of the executive branch of government as described in ch. 14, F.S.". For example, it is unclear whether the Suicide Prevention Coordinating Council would constitute such a commission, unit, or office.

Trust Fund Fees

The bill provides that the Department of State may use fees collected and deposited into the Records Management Trust Fund (trust fund) to pay costs incurred by administering the bill's provisions. The trust fund, however, is funded with fees the Division collects for the provision of its statutorily-required archival and records management services. Such fees allow the Division to recoup the costs it incurs in the course of providing such services.

It is unclear whether the bill is intended to authorize the Division to collect additional fees for costs it incurs while implementing the bill's provisions.

Other Comments: Department of Revenue

In its bill analysis, the Department of Revenue states that given current resources, it would be difficult for it to implement the bill's provisions by July 1, 2014.³⁰

VIII. Additional Information:

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

CS by Governmental Oversight and Accountability on April 2, 2013:

The CS differs from the original bill in that it:

- Revises the governmental entities to which the bill applies by eliminating those described in ch. 25, 26, 27, 28, 30, 34, and 35, F.S., and adding those described in ch. 14, F.S.
- Adds the President of the Senate and the Speaker of the House of Representatives to those entities to whom the public data inventories must be submitted every 6 months.
- Revises the definition of "public data" for clarity.
- Does not include a requirement that the Secretary of State post public data inventories on a website.

B. Amendments:

None.

³⁰ Department of Revenue Bill Analysis for Senate Bill 1004, on file with the Senate Governmental Oversight and Accountability Committee.

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



493392

LEGISLATIVE ACTION

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

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Public data inventory.—

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

(a) “Agency” means any committee, unit, or office of the
legislative branch of government as described in chapter 11,
Florida Statutes, any commission, unit, or office of the
executive branch of government as described in chapter 14,
Florida Statutes, and any agency as described in chapter 20,
Florida Statutes.



493392

13 (b) "Department" means the Department of State.

14 (c) "Public data" means any document, paper, letter, map,
15 book, tape, photograph, film, sound recording, data processing
16 software, or other material, regardless of the physical form,
17 characteristics, or means of transmission, made or received
18 pursuant to law or in connection with the transaction of
19 official business by an agency.

20 (2) Each agency shall submit an inventory of all public
21 data in its custody to the President of the Senate, the Speaker
22 of the House of Representatives, and the Secretary of State by
23 January 1, 2014, and every 6 months thereafter. The department
24 may develop guidelines for the processing and submission of
25 public data inventories. Each inventory shall include the
26 following information for each type or category of data held by
27 the agency:

28 (a) A description of the data, including a record layout.

29 (b) The format, source, quality, and accuracy of the data.

30 (c) Whether the data is currently available to the public
31 without a public records request, and, if it is available, the
32 format and venue in which it is available.

33 (d) A description of data not currently available to the
34 public without a public records request, but which the agency
35 recommends be made publicly available.

36 (e) A description of all data that is confidential or
37 exempt from s. 119.07(1), Florida Statutes, or s. 24(a), Art. I
38 of the State Constitution and the statutory citations that make
39 such data confidential or exempt.

40 (f) An explanation of any data-sharing activities with any
41 other agency.

By Senator Brandes

22-00823A-13

20131004

A bill to be entitled

An act relating to public data; providing definitions; requiring each agency to submit an inventory of public data in its custody to the Secretary of State; specifying the information that must be included in each inventory; requiring the Secretary of State to establish a website by a specified date; establishing website requirements; authorizing the Department of State to use fees collected and deposited in the Records Management Trust Fund to pay for the administration of the website; granting rulemaking authority to the department; providing an effective date.

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

Section 1. Public data inventory.—

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

(a) "Agency" means any committee, unit, or office of the legislative branch of government as described in chapter 11, an agency as described in chapter 20, and any government entity under chapters 25, 26, 27, 28, 30, 34, and 35, Florida Statutes.

(b) "Public data" means any public record made or received in connection with the official business of an agency, unless otherwise made confidential or exempt pursuant to law.

(2) Each agency shall submit an inventory of all public data in its custody to the Secretary of State by July 1, 2014, and every 6 months thereafter. The Secretary of State may develop guidelines for the processing and submission of public

Page 1 of 3

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

22-00823A-13

20131004

data inventories. Each inventory shall include the following information for each type or category of data held by the agency:

(a) A description of the data, including a record layout.

(b) The format, source, quality, and accuracy of the data.

(c) Whether the data is currently available to the public without a public records request pursuant to chapter 119, Florida Statutes, and, if it is available, the format and venue in which it is available.

(d) A description of data not currently available to the public without a public records request pursuant to chapter 119, Florida Statutes, but which the agency recommends be made publicly available.

(e) A description of all data that is confidential or exempt from the requirements of s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution and the statutory citations that make such data confidential or exempt.

(f) An explanation of any data-sharing activities with any other agency.

(3) The Secretary of State shall establish a website on which the inventories of public data shall be posted by January 1, 2015. The website shall, at a minimum, include:

(a) For each agency, the information required under paragraph (2) (a).

(b) The relationship of the data reported by one agency to another agency's data, including, but not limited to, dependence, association, commonality, similarity, and affinity.

(c) A comparison of existing data distribution methods.

(4) The Department of State may use fees collected and

Page 2 of 3

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

22-00823A-13

20131004

59 deposited into the Records Management Trust Fund for the purpose
60 of paying for costs incurred by the department in administering
61 this section.

62 (5) The department may adopt rules to implement and
63 administer this section.

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

APPEARANCE RECORD

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

4/2/2013

Meeting Date

Topic _____

Bill Number 1004
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

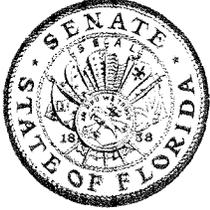
Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, Chair
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Education
Health Policy

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR JEFF BRANDES

22nd District

April 1, 2013

Jeremy Ring, Chairman
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Ring:

I respectfully request that my legislative assistant Chris Spencer be permitted to present my bill, SB 1004, regarding Public Data, before the Governmental Oversight and Accountability Committee on Tuesday, April 2nd at 4:00, in my absence.

I appreciate your consideration of this request; please contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Brandes".

Jeff Brandes

CC: Joe McVaney

REPLY TO:

- 3637 Fourth Street North, Suite 101, St. Petersburg, Florida 33704-1300 (727) 552-2745
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



The Florida Senate

Committee Agenda Request

RECEIVED
MAR 08 2013

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

GOVERNMENTAL OPERATIONS

Subject: Committee Agenda Request

Date: March 8, 2013

I respectfully request that **Senate Bill #1004**, relating to Public Data, be placed on the:

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



Senator Jeff Brandes
Florida Senate, District 22

Cc: Joe McVaney

CourtSmart Tag Report

Room: KN 412
Case: Governmental Oversight and Accountability Committee

Type:
Judge:

Started: 4/2/2013 4:07:30 PM
Ends: 4/2/2013 5:00:48 PM **Length:** 00:53:19

4:07:35 PM Roll Call
4:08:25 PM CS/SB 1496 by Sen. Thrasher
4:10:53 PM CS/SB 442 by Sen. Thompson
4:11:32 PM Amendment 601052
4:13:15 PM Althemese Barnes, Executive Director, FL. African American Heritage Network
4:15:00 PM Sgt. Major Jarvis Rosier, FL. African American Heritage Network
4:17:00 PM Comments - Sen. Montford
4:19:00 PM SB 774 by Sen. Thompson
4:20:30 PM Amendment 737182
4:22:00 PM SB 714 by Sen. Simmons
4:24:45 PM SB 482 by Sen. Dean
4:25:00 PM PCS 646822
4:26:30 PM SB 1042 by Sen. Abruzzo
4:27:30 PM Brian Pitts, Justice 2 Jesus
4:29:50 PM Comments - Sen. Smith
4:32:00 PM SB 1066 by Sen. Richter
4:32:30 PM Brian Pitts, Justice 2 Jesus
4:35:00 PM SB 544 by Sen. Braynon
4:36:00 PM SB 1490 by Sen. Latvala
4:37:00 PM Amendment 509702
4:39:00 PM SB 464 by Sen. Flores
4:39:30 PM Late filed amendment 119024
4:40:28 PM Brian Pitts, Justice 2 Jesus
4:42:00 PM Ashley Mayer, DFS
4:43:00 PM SB 1246 by Sen. Bean
4:45:00 PM SB 684 by Sen. Hays
4:46:20 PM Casey Cook, FL. League of Cities
4:47:00 PM Brian Pitts, Justice 2 Jesus
4:49:35 PM Questions - Sen. Montford
4:51:10 PM Comments - Sen. Smith
4:52:05 PM Comments - Sen. Montford
4:56:20 PM SB 546 by Sen. Ring
4:59:00 PM SB 1004 by Sen. Brandes



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEES:

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

SENATOR ALAN HAYS

11th District

April 1, 2013

Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Ring:

I respectfully request to be excused from tomorrow's committee meeting. I will do my best to attend. However; if I am unable to make it in time please excuse the absence. I am tied up in other committees and am afraid I will not make it to committee before you adjourn. I respectfully request to be excused or at the very least for my tardiness.

Thank you for your consideration of this request.

Sincerely,

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

Senator D. Alan Hays, DMD

District 11

CC: Senate President Don Gaetz
Christopher Clark, Staff Director Office of the President
Joe McVaney, Staff Director
Courtney Hicks, Administrative Assistant

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

Senator Jeremy Ring, Chair
April 1, 2013
Page 2